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HOUSE JOINT RESOLUTION NO. 30 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES HERRON, Chenault, Gara, Thompson, Austerman, Lynn, Hughes, Peggy Wilson, Tuck, Millett, Johnson, Edgmon, Isaacson, Feige, Tammie Wilson, Holmes, Pruitt, Olson

SENATORS Hoffman, Coghill, McGuire, Bishop, Egan, Giessel, Fairclough, Meyer, Micciche, Olson, Stevens, Kelly

**Amended: 3/18/14
Introduced: 2/26/14**

A RESOLUTION

1 **Requesting that the federal government and the United States Secretary of the Interior**
2 **reconsider the Izembek Land Exchange decision and approve the Izembek Land**
3 **Exchange, allowing the residents of King Cove to have road access to the Cold Bay**
4 **Airport for critical health and safety reasons and to improve the quality of their lives.**

5 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 **WHEREAS** the approximately 950 residents of King Cove need safe and reliable
7 surface access to the Cold Bay Airport for reasons of health, safety, and quality of life; and

8 **WHEREAS** that access would be a single-lane, gravel road with cable barriers on
9 both sides of the road that would traverse a small portion of the Izembek National Wildlife
10 Refuge, which surrounds King Cove and Cold Bay; and

11 **WHEREAS**, for three decades, the Aleut residents of King Cove and the state have
12 clashed with the federal government over the likely benefits and potential effects of the road;
13 and

14 **WHEREAS** the Omnibus Public Land Management Act of 2009 authorized a land

1 exchange to provide for the road, with an unprecedented offer of over 61,000 acres from the
2 State of Alaska and King Cove Corporation to the federal government for 206 acres and a
3 small parcel on Sitkanuk Island that would be used to construct a modest access road for daily
4 use by 15 to 20 vehicles; and

5 **WHEREAS**, in 2010, the legislature unanimously passed and Governor Parnell
6 signed into law House Bill No. 210, enacted as ch. 119, SLA 2010, approving the state's
7 participation in the Omnibus Public Land Management Act of 2009; and

8 **WHEREAS** the Omnibus Public Land Management Act of 2009 mandated an
9 Environmental Impact Statement be completed by the United States Fish and Wildlife Service
10 before the United States Secretary of the Interior could approve the Izembek Land Exchange
11 and issue a Record of Decision and Public Interest Finding; and

12 **WHEREAS** the Omnibus Public Land Management Act of 2009 designated the State
13 of Alaska, the Aleutians East Borough, the City of King Cove, the King Cove Corporation,
14 the Agdaagux Tribe of King Cove, and the Native Village of Belkofski as "Cooperating
15 Agencies" to work with the United States Fish and Wildlife Service to prepare an objective
16 and balanced Environmental Impact Statement as the basis for the Izembek Land Exchange
17 Record of Decision and Public Interest Finding; and

18 **WHEREAS**, for over four years, the Cooperating Agencies actively participated in
19 every step of the Environmental Impact Statement process by participating in over 100
20 meetings with United States Fish and Wildlife Service, by conducting and providing detailed
21 document reviews, and by maintaining an expectation for reasonable, balanced, and properly
22 vetted scientific findings of both the human and natural environments in the Izembek area and
23 conclusions under the Purpose and Need section of the Environmental Impact Statement
24 supporting "a transportation access alternative between the City of King Cove and the Cold
25 Bay Airport which is safe, reliable, and affordable"; and

26 **WHEREAS**, in March 2013, then United States Secretary of the Interior Ken Salazar
27 announced that the final Environmental Impact Statement selected the No Action alternative,
28 thus rejecting the Izembek Land Exchange and road connection from King Cove to the Cold
29 Bay Airport; and

30 **WHEREAS**, in announcing that decision, the official spokesperson of the United
31 States Fish and Wildlife Service publicly stated, "safety considerations are important, but they

1 were not a factor in this decision--at least not a factor we analyzed, since we only analyzed
2 the environmental impacts, which is what we were called upon to do since we are not a public
3 safety organization"; and

4 **WHEREAS** hearing this public admission that transportation accessibility and safety
5 concerns, particularly during times of medical emergency, do not matter to the United States
6 Fish and Wildlife Service was egregious to King Cove residents; and

7 **WHEREAS** the Cooperating Agencies protested the No Action alternative and
8 notified Secretary Salazar that his decision violated the federal government's and his official
9 trust responsibility to the Aleut people of King Cove, failed to analyze the value of over
10 61,000 acres of new federal land to be designated as refuge and wilderness land as part of the
11 Act, failed to provide an environmental justice analysis; violated substantial standards under
12 the National Environmental Policy Act of 1969, and violated various Presidential Executive
13 Orders regarding the trust and other responsibilities of the federal government to the Aleut
14 tribes and individual Alaska Native residents of King Cove; and

15 **WHEREAS**, with the support of the Alaska Congressional delegation, Governor
16 Parnell, and the legislature, Secretary Ken Salazar agreed to meet with King Cove residents
17 and listen to their factual responses and heart-felt emotions regarding the No Action
18 alternative; and

19 **WHEREAS** Secretary Salazar agreed to have his successor, United States Secretary
20 of Interior Sally Jewell, and Assistant Secretary of Indian Affairs Kevin Washburn, personally
21 visit King Cove in the summer of 2013 to tour the community and meet with local residents,
22 discuss with the community's health care providers the extreme difficulty of transporting
23 patients in times of emergency to the Cold Bay Airport for access to medical facilities and
24 providers in Anchorage, and conduct tribal consultation sessions with Agdaagux and
25 Belkofski tribe members, including discussions regarding the federal government's and the
26 Secretary's trust responsibility in the final Izembek Record of Decision and Public Interest
27 Finding; and

28 **WHEREAS** the Cooperating Agencies unanimously recommended the approval of
29 the land exchange as authorized by the United States Congress in the Omnibus Public Land
30 Management Act of 2009 and provided detailed information during the Environmental Impact
31 Statement process that made clear that no alternative other than approval of the land

1 exchange, which would include approval of the road corridor, could provide safe, reliable, and
2 affordable transportation access under the Purpose and Need section of the Environmental
3 Impact Study; and

4 **WHEREAS** the information provided in the Environmental Impact Statement process
5 included biological and technical information concerning environmental justice and
6 transportation considerations, which the federal government and the secretary purposefully
7 ignored; and

8 **WHEREAS**, unfortunately, those visits and that information had no effect on the
9 federal government's and Secretary Jewell's final decision, which she announced on
10 December 23, 2013, and her decision was simply to reaffirm the prior No Action alternative
11 recommended by the United States Fish and Wildlife Service in its proposed Final
12 Environmental Impact Statement; and

13 **WHEREAS**, in Secretary Jewell's decision, she claimed that other alternatives were
14 available to meet the Purpose and Need of the Environmental Impact Statement; however, she
15 did not contact the Cooperating Agencies, including the State of Alaska, the municipalities,
16 the tribes, or the King Cove Corporation, to provide those alternatives or make any attempt to
17 meet the needs of the Aleut and other residents of King Cove as required by the federal
18 government's trust responsibility to those Alaska Native residents, thereby blatantly violating
19 the federal government's trust responsibility to the Alaska Natives; and

20 **WHEREAS** the King Cove Access Project Environmental Impact Statement (2001-
21 2003) and the current Izembek Land Exchange Environmental Impact Statement (2010-2014)
22 considered, and then reconsidered, all possible marine, rail, air, and surface transportation
23 alternatives and properly concluded that a surface transportation alternative is the only
24 alternative that meets the Purpose and Need for safe, reliable, and affordable transportation;
25 and

26 **WHEREAS** the Secretary has been led to believe by the United States Fish and
27 Wildlife Service that a marine landing craft can provide the necessary transportation access
28 from the City of King Cove over Cold Bay and has not been willing to listen to the prevailing,
29 local marine knowledge that the wind, wave, and ice conditions in Cold Bay prevent that
30 alternative from being a plausible and realistic solution; and

31 **WHEREAS** the Secretary has shown no awareness or concern for the frightening,

1 precarious, and time-sensitive situations, including weather conditions, that affect emergency
2 medevacs by small plane, fishing vessel, or United States Coast Guard helicopter; and

3 **WHEREAS** the Secretary has violated her trust responsibilities by not selecting the
4 only transportation access alternative that meets the Purpose and Need, and consequently,
5 does not appear to understand that this "trust" is not a limitation on Alaska Natives' freedom
6 and rights; it is a limit on the federal government's power over Alaska Natives, and
7 specifically, a limit on the United States Department of the Interior's power over Alaska
8 Natives; and

9 **WHEREAS** the Secretary apparently does not know or care that the courts have
10 liberally construed legal rulings in favor of Alaska Natives and that all executive branch
11 decisions are subject to a "presumption of reviewability"; and

12 **WHEREAS** the Alaska Congressional delegation, Governor Parnell, the Aleutians
13 East Borough, the City of King Cove, the King Cove Corporation, and the Agdaagux and
14 Belkofski tribes have requested that Secretary Jewell reconsider her decision because it was
15 based on faulty information in the final Environmental Impact Statement, particularly the lack
16 of a transportation access alternative other than a road that meets the safe, reliable, and
17 affordable criteria of the Purpose and Need section of the Environmental Impact Statement;
18 the final Environmental Impact Statement did not include a proper Public Interest Finding as
19 required by the Omnibus Public Land Management Act of 2009, did not include any evidence
20 of honoring Secretary Salazar's commitment to have Assistant Secretary Washburn prepare a
21 report that "will address whether and to what extent the road is needed to meet medical
22 emergency requirements of King Cove," and did not meet the federal government's trust
23 responsibility to the Aleut residents of King Cove; and

24 **WHEREAS** the legislature finds the federal government's decision by Secretary
25 Jewell to be another insulting example of the federal government's overreach into the lives,
26 health, and safety of all Alaskans by making ill-informed and biased decisions about our lives
27 with regard to our unique natural and human environments, which have harmoniously
28 coexisted for centuries;

29 **BE IT RESOLVED** that the Alaska State Legislature requests and demands the
30 following actions from the federal government and United States Secretary of the Interior
31 Sally Jewell:

1 (1) reconsideration of the Izembek Land Exchange decision based on technical
2 and procedural deficiencies; and

3 (2) approval of the Izembek Land Exchange, allowing the residents of King
4 Cove to have road access to the Cold Bay Airport for critical health and safety reasons and to
5 improve the quality of their lives.

6 **COPIES** of this resolution shall be sent to the Honorable Barack Obama, President of
7 the United States; the Honorable Sally Jewell, United States Secretary of the Interior; the
8 Honorable Sean Parnell, Governor of Alaska; and the Honorable Lisa Murkowski and the
9 Honorable Mark Begich, U.S. Senators, and the Honorable Don Young, U.S. Representative,
10 members of the Alaska delegation in Congress.