

HB

210

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

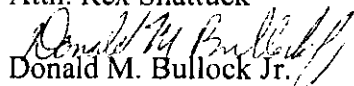
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 9, 2009

SUBJECT: Public Law 111-11 (Omnibus Public Land Management Act of 2009) (CSHB 210(RES); Work Order No. 26-LS0788\R)

TO: Representative Mark Neuman
Co-Chair of the House Resources Committee
Attn: Rex Shattuck

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

Enclosed is CSHB 210(RES) that incorporates the amendment adopted by the committee. Please review this draft carefully to ensure that it is consistent with the committee's intent.

Since HB 210 was introduced, the Omnibus Public Land Management Act of 2009 has been designated as Public Law 111-11.¹ References to the Omnibus Public Land Management Act of 2009 have been edited in the bill to reflect the Public Law number. The changes are nonsubstantive.

An editorial change was also made in sec. 11 to correctly reference effective date sections in the bill that provide for effective dates that are not immediate.

If you have any questions, please call me.

DMB:ljw
09-227.ljw

Enclosure

¹ The Library of Congress, *Thomas*, Summary for H.R. 146. The Internet address for *Thomas*, where the summary and status of bills in the United States Congress are available, is <http://thomas.loc.gov/> (accessed April 9, 2009).

CS FOR HOUSE BILL NO. 210(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES EDGMON, Johnson, Olson

A BILL

FOR AN ACT ENTITLED

1 **"An Act designating Kinzarof Lagoon as part of the Izembek State Game Refuge;**
2 **authorizing a land exchange with the federal government in which state land adjacent to**
3 **the Izembek National Wildlife Refuge and within the Alaska Peninsula National Wildlife**
4 **Refuge is exchanged for federal land to serve as a road corridor through the Izembek**
5 **National Wildlife Refuge and federal land located on Sitkinak Island; and providing for**
6 **an effective date."**

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 **PURPOSE.** In accordance with P.L. 111-11 (Omnibus Public Land Management Act
11 of 2009), the purposes of this Act are to

12 (1) add state land and water within and adjacent to Kinzarof Lagoon near Cold
13 Bay to the Izembek State Game Refuge; and

1 (2) authorize the Department of Natural Resources to exchange land near Cold
2 Bay and on Sitkinak Island near Kodiak with the federal government.

3 * **Sec. 2.** AS 16.20.030(a)(14) is amended to read:

4 (14) Izembek Refuge, including the tide and submerged land described
5 as follows:

6 (A) Township 58 South, Range 91 West, Seward Meridian

7 Sections 1 - 4

8 Sections 9 - 12

9 (B) Township 58 South, Range 90 West, Seward Meridian

10 Sections 1 - 9

11 Section 16

12 (C) Township 57 South, Range 91 West, Seward Meridian

13 Section 13

14 Sections 24 - 26

15 Sections 35 - 36

16 (D) Township 57 South, Range 90 West, Seward Meridian

17 Sections 1 - 36

18 (E) Township 57 South, Range 89 West, Seward Meridian

19 Sections 5 - 6

20 Section 12, N1/2, N1/2N1/2S1/2

21 (F) Township 56 South, Range 87 West, Seward Meridian

22 Sections 1 - 6

23 Sections 10 - 11

24 Sections 26 - 35

25 (G) Township 56 South, Range 88 West, Seward Meridian

26 Sections 1 - 23

27 Section 25

28 Sections 27 - 32

29 Section 36

30 (H) Township 55 South, Range 87 West, Seward Meridian

31 Sections 1 - 36

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

(I) Township 56 South, Range 89 West, Seward Meridian
Sections 1 - 36

(J) Township 55 South, Range 89 West, Seward Meridian
Sections 1 - 36

(K) Township 55 South, Range 88 West, Seward Meridian
Sections 1 - 36

(L) Township 55 South, Range 86 West, Seward Meridian
Sections 6 - 7

Sections 18 - 19

Sections 30 - 31

(M) Township 56 South, Range 90 West, Seward Meridian
(entire township)

(N) Township 57 South, Range 88 West, Seward Meridian

Sections 1 - 6;

* Sec. 3. AS 16.20.030(a)(14), as amended by sec. 2 of this Act, is amended to read:

(14) Izembek Refuge, including the tide and submerged land described
as follows:

(A) Township 58 South, Range 91 West, Seward Meridian
Sections 1 - 4

Sections 9 - 12

(B) Township 58 South, Range 90 West, Seward Meridian
Sections 1 - 9

Section 16

(C) Township 57 South, Range 91 West, Seward Meridian
Section 13

Sections 24 - 26

Sections 35 - 36

(D) Township 57 South, Range 90 West, Seward Meridian
Sections 1 - 36

(E) Township 57 South, Range 89 West, Seward Meridian
Sections 5 - 6

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

[SECTION 12, N1/2, N1/2N1/2S1/2]

(F) Township 56 South, Range 87 West, Seward Meridian

Sections 1 - 6

Sections 10 - 11

[SECTIONS 26 - 35]

(G) Township 56 South, Range 88 West, Seward Meridian

Sections 1 - 23

[SECTION 25]

Sections 27 - 32

[SECTION 36]

(H) Township 55 South, Range 87 West, Seward Meridian

Sections 1 - 36

(I) Township 56 South, Range 89 West, Seward Meridian

Sections 1 - 36

(J) Township 55 South, Range 89 West, Seward Meridian

Sections 1 - 36

(K) Township 55 South, Range 88 West, Seward Meridian

Sections 1 - 36

(L) Township 55 South, Range 86 West, Seward Meridian

Sections 6 - 7

Sections 18 - 19

Sections 30 - 31

(M) Township 56 South, Range 90 West, Seward Meridian

(entire township)

[(N) TOWNSHIP 57 SOUTH, RANGE 88 WEST, SEWARD

MERIDIAN

SECTIONS 1 - 6];

* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to read:

EXCHANGE OF STATE LAND FOR FEDERAL LAND. (a) Notwithstanding any other provision of law, the Department of Natural Resources shall convey all right, title, and

1 interest of the state to certain land adjacent to the Izembek National Wildlife Refuge,
 2 described as: Township 53 South, Range 85 West, Seward Meridian, and Township 54 South,
 3 Range 85 West, Seward Meridian, and totaling 43,000 acres more or less, to the federal
 4 government in exchange for federal land conveyed to the state. The federal land expected to
 5 be received in the exchange is described in (b) of this section.

6 (b) The land expected to be received from the federal government is

7 (1) all right, title, and interest in 206 acres more or less of federal land located
 8 within the Izembek National Wildlife Refuge for the purpose of a corridor for the construction
 9 and operation of a road between the communities of King Cove and Cold Bay, Alaska, in
 10 accordance with P.L. 111-11 (Omnibus Public Land Management Act of 2009), described as
 11 follows:

12 (A) Township 56 South, Range 87 West, Seward Meridian

13 Sections 19 - 21

14 Sections 26 - 28

15 Section 30

16 Section 35

17 (B) Township 56 South, Range 88 West, Seward Meridian

18 Sections 23 - 27

19 Section 34

20 (C) Township 57 South, Range 89 West, Seward Meridian

21 Section 2

22 Sections 10 - 11

23 Sections 14 - 15; and

24 (2) all right, title, and interest of 1,600 acres more or less of federal land on
 25 Sitkinak Island in Township 42 South, Range 31 West, Seward Meridian, Sections 9, 10, 15 -
 26 17, and 20 -21.

27 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
 28 read:

29 EXCHANGE OF LAND NOT SUBJECT TO AS 38.50. The exchange of state land
 30 under sec. 4 of this Act is not subject to AS 38.50, including any requirement that relates to
 31 the valuation or equalization of land.

1 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 **EFFECT OF VOIDED LAND EXCHANGE.** If the land exchange authorized by sec.
4 6402(a), P.L. 111-11 (Omnibus Public Land Management Act of 2009) is null and void under
5 sec. 6405, P.L. 111-11 (Omnibus Public Land Management Act of 2009),

6 (1) the land added to the Izembek State Game Refuge under sec. 2 of this Act
7 and removed under sec. 3 of this Act shall be returned to its land management status in effect
8 before the enactment of sec. 2 of this Act; and

9 (2) the land conveyed by the state under sec. 4 of this Act shall be returned to
10 its ownership status as it existed before the conveyance.

11 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 **CONDITIONAL EFFECT AND NOTIFICATION.** (a) Sections 1, 2, 4, and 5 of this
14 Act take effect only if the United States Secretary of the Interior determines that the land
15 exchange described in sec. 4 of this Act is in the public interest under secs. 6401 - 6406, P.L.
16 111-11 (Omnibus Public Land Management Act of 2009). The commissioner of natural
17 resources shall notify the lieutenant governor and the revisor of statutes of the determination
18 and the date of the determination by the United States Secretary of the Interior described in
19 this subsection.

20 (b) Sections 3 and 6 of this Act take effect only if the land exchange authorized by
21 sec. 6402(a), P.L. 111-11 (Omnibus Public Land Management Act of 2009) is null and void
22 under sec. 6405, P.L. 111-11 (Omnibus Public Land Management Act of 2009). The
23 commissioner of natural resources shall notify the lieutenant governor and the revisor of
24 statutes if the land exchange authorized by sec. 6402(a), P.L. 111-11 (Omnibus Public Land
25 Management Act of 2009) is null and void under sec. 6405, P.L. 111-11 (Omnibus Public
26 Land Management Act of 2009) and the date on which the land exchange is null and void.

27 * **Sec. 8.** If secs. 1, 4, and 5 of this Act take effect under sec. 7(a) of this Act, they take
28 effect on the date the United States Secretary of the Interior determines the land exchange is
29 in the public interest under sec. 6402, P.L. 111-11 (Omnibus Public Land Management Act of
30 2009).

31 * **Sec. 9.** If sec. 2 of this Act takes effect under sec. 7(a) of this Act, it takes effect on the

1 date the exchange of land described in sec. 4 of this Act is executed by the Department of
2 Natural Resources and the United States Department of the Interior. The commissioner of
3 natural resources shall notify the lieutenant governor and the revisor of statutes of the date the
4 exchange of land is made.

5 * **Sec. 10.** If secs. 3 and 6 of this Act take effect under sec. 7(b) of this Act, they take effect
6 on the date the land exchange authorized by sec. 6402(a), P.L. 111-11 (Omnibus Public Land
7 Management Act of 2009) is null and void under sec. 6405, P.L. 111-11 (Omnibus Public
8 Land Management Act of 2009).

9 * **Sec. 11.** Except as provided in secs. 8 - 10 of this Act, this Act takes effect immediately
10 under AS 01.10.070(c).

AMENDMENT

OFFERED IN THE HOUSE

To: HB210

By Representative Edgmon

Page 5, Lines 8 and 9:

Delete: "constructing a single-lane road"

Insert: "a corridor for the construction and operation of a road"

Page 5, Line 9:

After "Cold Bay, Alaska,"

Insert: "in accordance with the Omnibus Public Land Management Act of 2009, H.R. 146, 111th Cong. (2009) (enacted),"

adopted
4/08/09
H Res

Alaska State Legislature
REPRESENTATIVE BRYCE EDGMON
House District 37



Memorandum

Adak
Akutan
Aleknagik
Atka
Chignik
Chignik Lagoon
Chignik Lake
Clark's Point
Cold Bay
Dillingham
Egegik
Ekwok
False Pass
Ivanof Bay
King Cove
King Salmon
Koliganek
Manokotak
Naknek
Nelson Lagoon
New Stuyahok
Nikolski
Perryville
Pilot Point
Portage Creek
Port Heiden
St. George
St. Paul
Sand Point
South Naknek
Togiak
Twin Hills
Ugashik
Unalaska

Date: April 3, 2009
To: House Resources Committee Co-Chair Craig Johnson
From: Representative *Bryce Edgmon*
RE: HB210 Hearing Request

I respectfully request a hearing in the House Resources Committee on HB 210—Izembek State Game Refuge Land Exchange.

HB 210 will grant state authorization for a land exchange—already approved by Congress—between the State of Alaska and the federal government to allow a single-lane, unpaved road through the Izembek National Wildlife Refuge, connecting the village of King Cove to the Cold Bay airport.

However, it is important to note that at the federal level there are still two major processes that need to be completed before this transaction is final. These are the completion of an environmental impact statement and a finding by the Secretary of the Interior determining that the land exchange is in the public interest.

HB 210 therefore does more than execute at state level the transaction endorsed by Congress; it also provides compelling evidence to the Secretary of the Interior that the State of Alaska approves of this agreement to establish dependable access for King Cove residents to the Cold Bay airport primarily for health and safety purposes.

The following materials accompany this request:

- HB 143
- Sponsor Statement
- Sectional Summary
- Back-up documentation and correspondence from agencies and organizations

I thank you for your consideration of this request.

Sincerely,
Bryce Edgmon
Representative Bryce Edgmon



Sponsor

Statement

Representative Bryce Edgmon

HB 210: Izembek State Game Refuge Land Exchange

On March 30th President Obama signed the Omnibus Public Lands Management Act of 2009. This act includes Congressional approval for a land exchange between the State of Alaska and the federal government to allow a single-lane, unpaved road through the Izembek National Wildlife Refuge, connecting the village of King Cove to the Cold Bay airport.

HB 210 will grant state authorization for that exchange.

However, it is important to note that at the federal level there are still two major processes that need to be completed before this transaction is final. These are the completion of an environmental impact statement and a finding by the Secretary of the Interior determining that the land exchange is in the public interest.

HB 210 therefore does more than execute at state level the transaction endorsed by Congress; it also provides compelling evidence to the Secretary of the Interior that the State of Alaska approves of this agreement to establish dependable access for King Cove residents to the Cold Bay airport primarily for health and safety purposes.

In the agreement, the State will transfer approximately 43,000 acres of land in the Alaska Peninsula National Wildlife Refuge to the federal government in exchange for approximately 206 acres for the road corridor. The legislation also agrees to the receipt of 1600 acres of federal land located on Sitkinak Island to the State and provides for the designation of Kinzarof Lagoon as part of the Izembek State Game Refuge.

The residents of King Cove and Aleutians East Borough have strived toward this goal for more than a decade. The King Cove Corporation has agreed to provide approximately 19,000 acres of its ANCSA land to the federal government, at no cost, as part of this exchange. The Alaska Department of Natural Resources supports the transaction. Senator Murkowski, Congressman Young, and former Senator Stevens have championed this endeavor at the federal level over many years. Senator Begich also backs the plan.

It is now the State of Alaska's role to take this next important step. I respectfully ask for your support in concluding this agreement while also sending an important message to the Secretary of the Interior that Alaska endorses this exchange and all that it entails for the improved safety and quality of life for citizens in Southwestern Alaska.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 1, 2009

SUBJECT: Sectional summary for HB 210 that adds additional state land to the Izembek State Game Refuge and authorizes state land to be exchanged for federal land under the Omnibus Public Land Management Act of 2009 (Work Order No. 26-LS0788A)

TO: Representative Bryce Edgmon
Attn: Tim Clark

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. States that the purpose of the Act is to add state land and water near Kinzarof Lagoon to the Izembek State Game Refuge.

Section 2. Amends AS 16.20.030(a)(14) by adding the descriptions of land and water to be added to the Izembek State Game Refuge.

Section 3. Provides for the removal of the land added to the Izembek State Game Refuge in sec. 2 of the Act if the conditions in sec. 7(b) of the Act are satisfied.

Section 4. Requires the Department of Natural Resources to transfer land adjacent to the Izembek National Wildlife Refuge in exchange for federal land. Describes the land to be transferred by the department and the federal land expected to be received in exchange.

Section 5. States that the land exchange in sec. 4 of the Act is not subject to the provisions in AS 38.50 that would normally apply to an exchange of state land.

Section 6. Provides for the land added to the Izembek State Game Refuge in sec. 2 of the Act and the land conveyed under sec. 4 of the bill to be returned to its original status if the land exchange authorized by sec. 6402(a) of the Omnibus Public Land Management Act of 2009 becomes null and void under sec. 6405 of the federal Act.

Representative Bryce Edgmon
April 1, 2009
Page 2

Section 7. Subsection (a) makes secs. 1, 2, 4, and 5 of the Act take effect only if the United States Secretary of the Interior determines that the land exchange described in sec. 4 is in the public interest. Subsection (b) makes secs. 3 and 6 of the Act take effect if the land exchanged is voided under sec. 6405 of the Omnibus Public Land Management Act of 2009. Requires the commissioner of natural resources to notify the lieutenant governor and the revisor of statutes if and when the conditions in sec. 7 are satisfied.

Section 8. If secs. 1, 4, and 5 of the Act take effect, identifies the date on which those sections take effect.

Section 9. If sec. 2 takes effect, identifies the date on which sec. 2 takes effect.

Section 10. If secs. 3 and 6 take effect, identifies the date on which those sections take effect.

Section 11. Except as provided in secs. 7 - 10 of the Act, makes the Act take effect immediately.

DMB:plm
09-237.plm

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

SARAH PALIN, GOVERNOR

- P.O. BOX 111000
JUNEAU, ALASKA 99811-1000
PHONE: (907) 465-2400
FAX: (907) 465-3886
- 550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

April 14, 2008

The Honorable Jeff Bingaman
Chairman
U.S. Senate Committee on Energy and Natural Resources
302 Dirksen Senate Building
Washington, D.C. 20510

The Honorable Pete Domenici
Ranking Member
U.S. Senate Committee on Energy and Natural Resources
302 Dirksen Senate Building
Washington, D.C. 20510

Re: S 1680 – the Izembek and Alaska Peninsula Refuge and Wilderness Enhancement Act and King Cove Safe Access Act

Dear Chairman Bingaman and Ranking Member Domenici:

The State of Alaska supports S 1680, legislation that would authorize a land exchange between the State of Alaska, the U.S. Fish and Wildlife Service and King Cove Corporation to secure road access between the Alaskan communities of King Cove and Cold Bay. These communities are located on the Alaska Peninsula and are accessible only by air or water.

A priority for the Agdaagux Tribe of King Cove, the City of King Cove and the Aleutians East Borough is to construct a 27-mile road to Cold Bay, through the Izembek National Wildlife Refuge, to access the larger and safer airport at Cold Bay.

This overland link is necessary because both air and water access to King Cove is treacherous in the frequent stormy weather so common on the lower Alaska Peninsula. Cold Bay has a much larger, safer airport and the residents of King Cove need reliable access to the Cold Bay airport facility for health and safety, including emergency medical evacuations. A combination road and hovercraft system, established under the King Cove Health and Safety Act passed by Congress several years ago, has not safely nor efficiently resolved access problems.

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

The Honorable Jeff Bingaman
The Honorable Pete Domenici
April 14, 2008
Page 2 of 3

The need for this road link has been identified in land and transportation plans for at least twenty-five years, including the Alaska Department of Transportation's Southwest Alaska Transportation Plan, adopted in 2004.

The land exchange would add valuable and significant acreage to the Izembek and Alaska Peninsula National Wildlife Refuges. Much of the land that would be added to the refuges is currently owned by the State of Alaska. Specifically, the State of Alaska is offering to exchange 43,093 acres, or all of the state-owned land contained in two townships located northeast of Izembek Refuge, in exchange for a 206 acre easement dedicated to the State of Alaska, through the Izembek National Wildlife Refuge and Wilderness. The undeveloped state land being offered to the Refuge is surrounded on three sides by refuge lands and is habitat for brown bears and caribou. This state land includes the lower portion of the Cathedral River, which drains the western flanks of Pavlof Volcano. It is de facto wilderness land. This state land was included in a recent state oil and gas lease sale, although no bids were received on these tracts.

The 7,900 acres being offered to the Izembek Refuge by King Cove Corporation includes valuable waterfowl habitat that straddles Kinzarof Lagoon at the head of Cold Bay. This land is an inholding within the existing Izembek Wilderness area. The Corporation is also offering to sell an additional 10,800 acres of private lands to the U.S. Fish and Wildlife Service for the Refuge.

The road easement that the state would acquire will run approximately 13 miles through the Izembek National Wildlife Refuge. More than half of this road already exists as primitive roads that were originally built during World War II. The total length of new road through the Wilderness area is 6.3 miles. The exact location of the easement will be determined in consultation with the U.S. Fish and Wildlife Service.

The combined offers from the State of Alaska and the King Cove Corporation would add 51,000 acres to the Izembek and Alaska Peninsula National Wildlife Refuges. All of the state land that is being offered in this exchange would be designated Wilderness by this legislation.

The state would acquire approximately 206 acres that encompass the road. The state would also acquire a 1,600-acre federal inholding on Sitkinak Island, a predominantly state-owned island located south of Kodiak Island.

The State of Alaska recognizes the unique value of the Izembek National Wildlife Refuge. In 1972, the Alaska Legislature set aside the state-owned tidelands within Izembek Lagoon and adjacent offshore state lands as a State Game Refuge. These state lands contain eel grass beds that are the very heart of Izembek Refuge.

As part of this proposal, the state would add more than 4,000 acres of state-owned tidelands in Kinzarof Lagoon, at the head of Cold Bay, to the State Game Refuge. The exchange will require approval by our state legislature as the state lands are quite likely of unequal, but greater, fair market value than the federal lands being exchanged.

The Honorable Jeff Bingaman
The Honorable Pete Domenici
April 14, 2008
Page 3 of 3

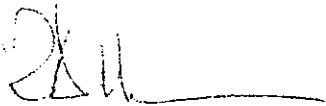
The state is well aware of concerns expressed by various groups who are opposed to this legislation. Some are concerned about the precedent set by building a road through a Wilderness Area. Yet, when the Alaska National Interest Lands Conservation Act was passed in 1980, Congress specifically recognized that transportation facilities may be needed across the 58 million acres of federal Wilderness lands in Alaska. The Alaska Lands Act requires Congressional approval for such transportation corridors through Wilderness.

There are also concerns about increased public access to the refuge wilderness. The refuge and wilderness area are already accessible from Cold Bay by existing local roads. Through planning and enforcement of existing refuge regulations, the impacts of the limited number of new users from King Cove can be mitigated.

The State of Alaska supports this legislation and stands ready to commit over 43,000 acres of state land to the National Wildlife Refuge and Wilderness system. We urge the Committee to approve this bill.

Thank you for the opportunity to comment on this legislation.

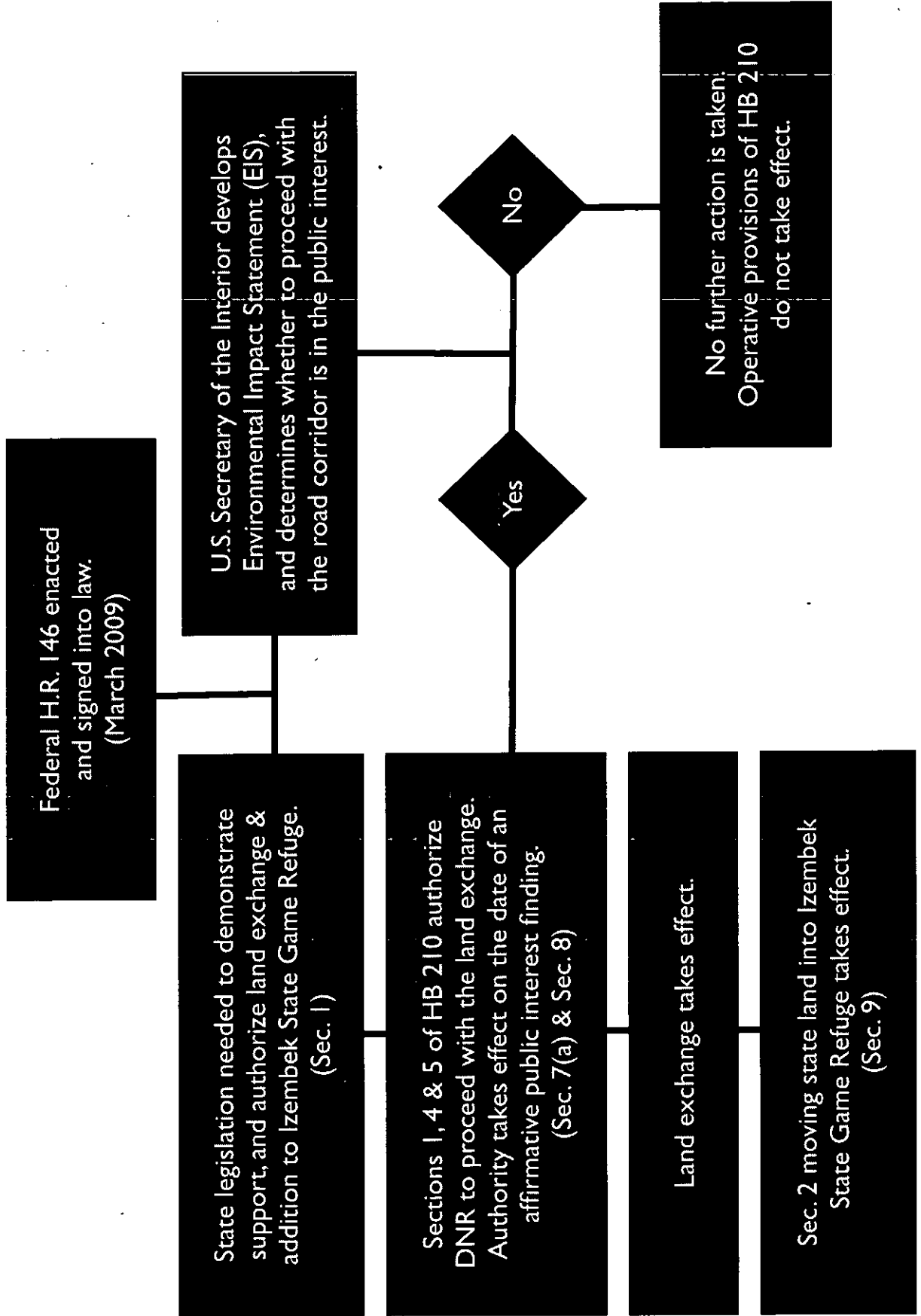
Sincerely,



Tom Irwin, Commissioner
Alaska Department of Natural Resources

cc: The Honorable Ted Stevens, United States Senate
The Honorable Lisa Murkowski, United States Senate
The Honorable Don Young, United States House of Representatives
The Honorable Sarah Palin, Governor, State of Alaska
Commissioner Denby Lloyd, Alaska Department of Fish and Game
Commissioner Leo von Scheben, Alaska Department of Transportation
and Public Facilities
Mr. John Katz, Office of the Governor, State of Alaska, Washington, D.C.
Mr. Dale Hall, Director, U.S. Fish and Wildlife Service
Mr. Tom Melius, Regional Director, U.S. Fish and Wildlife Service

HB 210 - King Cove Land Exchange Process



OMNIBUS PUBLIC LAND MANAGEMENT ACT OF 2009

Izembek National Wildlife Refuge Land Exchange

This summary and map document the lands that will be exchanged between the Federal Government, State of Alaska, and King Cove Corporation when the requirements contained in this act are completed, including final approval of State HB 210.

The State of Alaska will convey to the Federal government a total of 43,093 acres. These acres come from the following State-owned lands (see attached map):

1. Map Ref. ID #1 – T 53S R85W-SM – 22,498 acres
2. Map Ref. ID #2 – T 54S R85W-SM – 20,595 acres

The King Cove Corporation (KCC) will convey and/or relinquish approximately 18,730 acres of KCC lands to the Federal government. These acres are as follows:

1. Map Ref. ID #4 – Portion of land adjacent Kinzarof Lagoon referred to as the "bookends" - approximately 2,500 acres.
2. Map Ref. ID #3 – Portion of land surrounding Mortensen's Lagoon, north to Cold Bay, but not including any road section from Cold Bay to Mortensen Lagoon (17(b)(2) easement per ANCSA) - approximately 10,800 acres.
3. Map Ref. ID #5 – King Cove relinquishes selections totaling approximately 5,430 acres of their ANSCA entitlement within the Izembek National Wildlife Refuge.

The Federal government will convey the following lands to the State of Alaska:

1. Map. Ref. ID #A – 100' to 150' wide corridor of land through a portion of the Izembek National Wildlife Refuge consisting of approximately 206 acres.
2. Approximately 1,600 acres of federally-owned lands on Sitkinak Island adjacent to Kodiak Island (not shown on the map).

STATE OF ALASKA

SARAH PALIN, GOVERNOR

DEPARTMENT OF FISH AND GAME

333 Raspberry Road
Anchorage, AK 99518-1599
PHONE: (907) 267-2182
FAX: (907) 267-2433

MEMORANDUM

TO: Kerry Howard, Director
Division of Habitat

Doug Larsen, Director
Division of Wildlife Conservation

FROM: Mark Fink, Division of Habitat, Special Areas Plan
Joe Meehan, Division of Wildlife Conservation, Liaison
Coordinator

DATE: February 12, 2009

SUBJECT: Kinzarof Lagoon and additions to the Izembek State Game Refuge

*Fink
could be something
that was not intended
by sponsor.*

Per your request, this memo confirms our support for adding Kinzarof Lagoon to the Izembek State Game Refuge. Like Izembek Lagoon, Kinzarof supports important eelgrass beds and other habitats used by a variety of fish and wildlife species. "The eelgrass beds at Izembek and Kinzarof Lagoons are extremely important foraging habitat for many migratory waterfowl species as well as other species of animals. Prominent grazers of eelgrass include brant, Canada goose, emperor goose, tundra swan, northern pintail, and American wigeon. Mallards, northern pintails, and green-winged teal forage on eelgrass seeds. Snails and crabs are abundant invertebrate grazers. The invertebrate fauna that live attached to or amongst the eelgrass are food for benthic and demersal fishes, sea stars, crabs, Steller's eiders and other ducks, gulls, shorebirds, and sea otters." "In addition to eelgrass habitat, the nonvegetated mud and sand flats and sandy beaches associated with Izembek and Kinzarof Lagoons are important habitats for intertidal invertebrates, shorebirds, terns, and gulls." (Izembek National Wildlife Refuge, Final Report of the 2004 Biological Program Review, 10 June 2008). Birds often move back and forth between Izembek Lagoon and Kinzarof Lagoon during fall staging in response to tide levels between the two lagoons. In winter, birds frequent Kinzarof Lagoon during periods of increased ice cover in Izembek Lagoon (2008 pers. comm. K. Sowl, FWS).

The addition of Kinzarof Lagoon to the state refuge is compatible with the protection of the fish and wildlife resources of the existing state refuge and administratively would compliment our current refuge management efforts.

Should legislative action move forward on this addition, we have several refuge boundary adjustments that we would also like to address. The statutory boundary does not include all of the state tidelands in Izembek Lagoon. Parcels that were inadvertently left out of the original state refuge boundary should be added to the refuge. In addition, we recommend the inclusion of three marine areas adjacent to the

refuge that provide important habitat for fish and wildlife: 1) nearshore habitat along the Bristol Bay coast to the northeast and southwest of the Izembek Lagoon entrance, 2) Big, Middle and Small lagoons at the head of Morzhovoi Bay, and 3) the northern portion of Bechevin Bay, including Hook Bay. All these areas contain eelgrass beds or other habitats critical to the perpetuation of the fish and wildlife species dependant on Izembek Lagoon. Protection of these areas through legislative designation would compliment the conservation efforts of both the state game refuge and the Izembek National Wildlife Refuge programs.

If you have any questions or need more specific details on these areas, please let us know.

cc:

Tina Cuning, Commissioner's Office

Brad Palach, SF

Ellen Simpson, SF

Tom Brookover, SF

Mike Daigneault, HAB

Tom Rothe, DWC

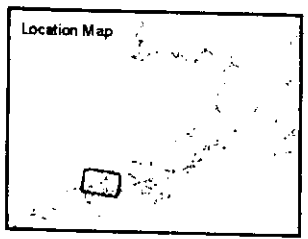
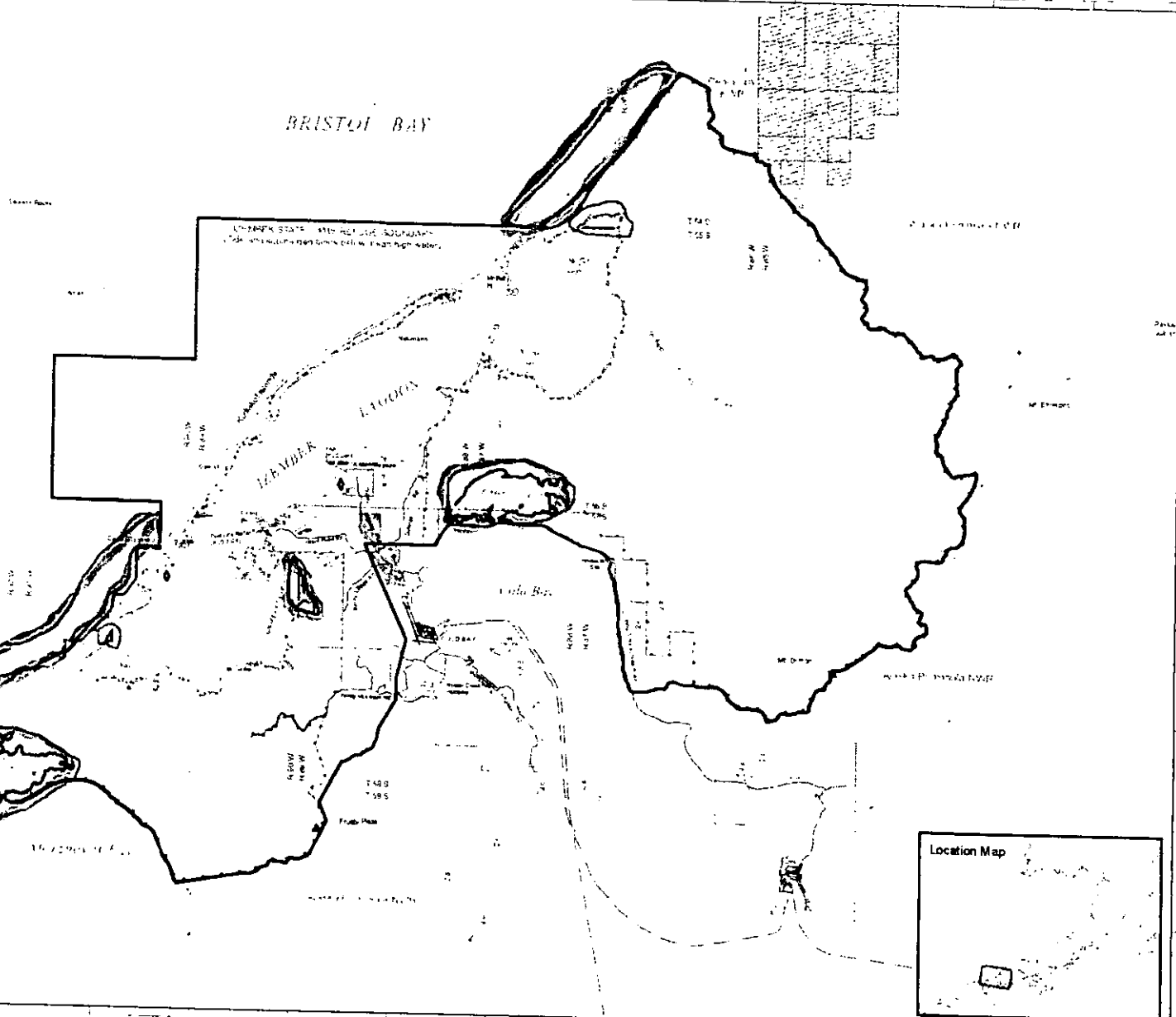
Grant Hilderbrand, DWC

Gino Delfrate, DWC

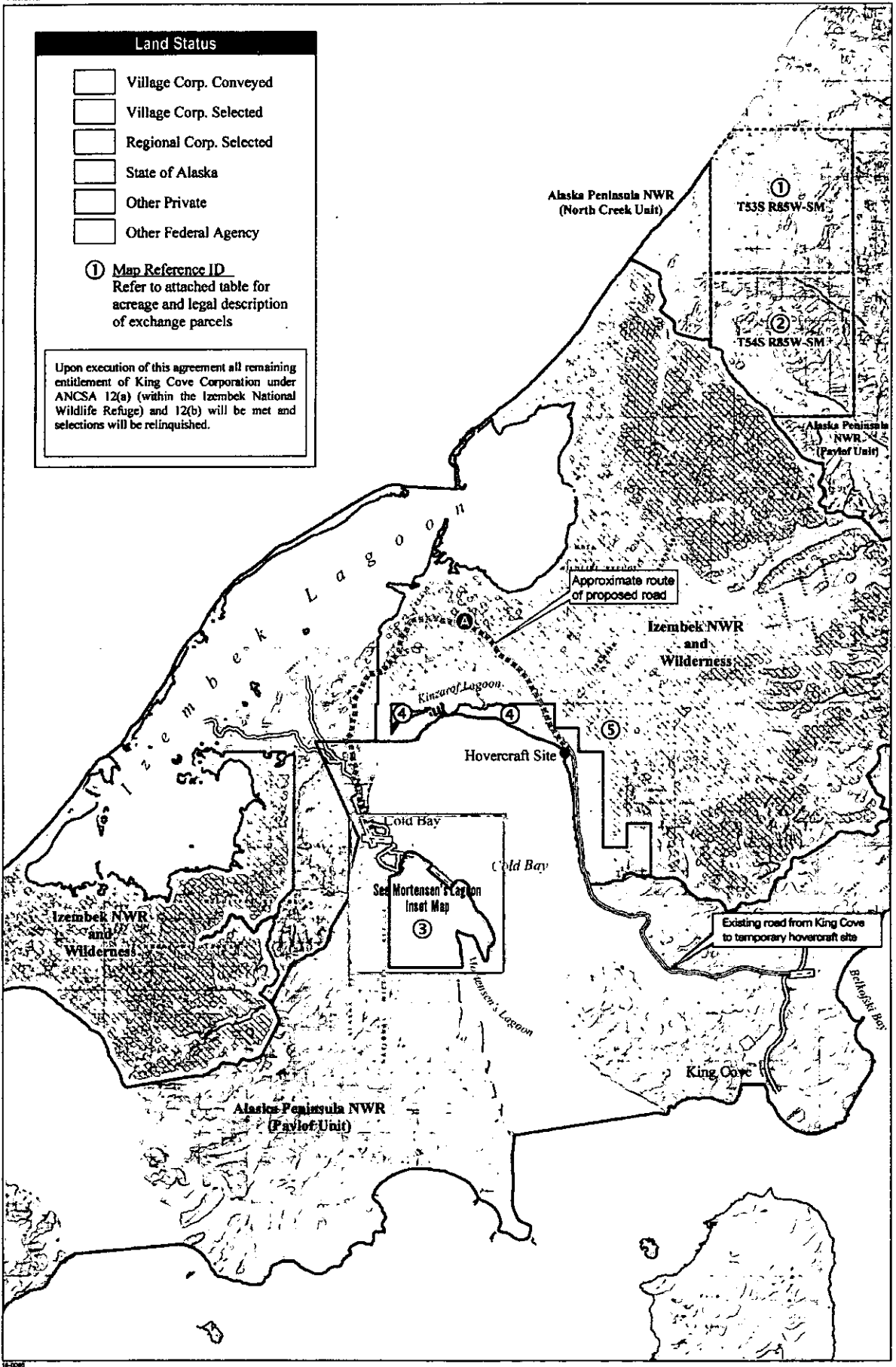
MAP 2 IZEMBEK State Game Refuge Land Status

Legend

- | | |
|----------------------|--------------------|
| Federal Lands | Other Lands |
| Military | Native |
| FAA Withdrawal | Private |
| USFWS | Municipal |
| State Lands | 14(h)(1) Sites |
| State | |
-
- Izembek SGR Boundary
 - Izembek NWR Wilderness Area
 - Izembek National Wildlife Refuge
 - Steller's Elder Critical Habitat
 - City Boundary
 - Oil & Gas Lease
 - Tidal Conveyances
 - Disposable Interest
 - Historic Site
 - Shipwreck
 - Airport
 - Road
 - Manne Highway
 - 17(b) Easments
 - 65' Road
 - 25' Trail
 - 1 Acre Site



Izembek and Alaska Peninsula National Wildlife Refuges
Alaska



#1

AMENDMENT

OFFERED IN THE HOUSE RESOURCES COMMITTEE

To: HB210

Introduced by Representative Edgmon

Insert a new section after sec. 4 to read:

“Notwithstanding any other provision of law, the road described in sec. 4 (b) of this Act is deemed compatible with state fish and game management of the Izembek State Game Refuge.”

Renumber subsequent sections accordingly.

Omnibus Public Land Management Act of 2009

Subtitle E--Izembek National Wildlife Refuge Land Exchange

SEC. 6401. DEFINITIONS.

In this subtitle:

- (1) **CORPORATION**- The term 'Corporation' means the King Cove Corporation.
- (2) **FEDERAL LAND**- The term 'Federal land' means--
 - (A) the approximately 206 acres of Federal land located within the Refuge, as generally depicted on the map; and
 - (B) the approximately 1,600 acres of Federal land located on Sitkinak Island, as generally depicted on the map.
- (3) **MAP**- The term 'map' means each of--
 - (A) the map entitled 'Izembek and Alaska Peninsula National Wildlife Refuges' and dated September 2, 2008; and
 - (B) the map entitled 'Sitkinak Island-Alaska Maritime National Wildlife Refuge' and dated September 2, 2008.
- (4) **NON-FEDERAL LAND**- The term 'non-Federal land' means--
 - (A) the approximately 43,093 acres of land owned by the State, as generally depicted on the map; and
 - (B) the approximately 13,300 acres of land owned by the Corporation (including approximately 5,430 acres of land for which the Corporation shall relinquish the selection rights of the Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) as part of the land exchange under section 6402(a)), as generally depicted on the map.
- (5) **REFUGE**- The term 'Refuge' means the Izembek National Wildlife Refuge.
- (6) **SECRETARY**- The term 'Secretary' means the Secretary of the Interior.
- (7) **STATE**- The term 'State' means the State of Alaska.
- (8) **TRIBE**- The term 'Tribe' means the Agdaagux Tribe of King Cove, Alaska.

SEC. 6402. LAND EXCHANGE.

(a) In General- Upon receipt of notification by the State and the Corporation of the intention of the State and the Corporation to exchange the non-Federal land for the Federal land, subject to the conditions and requirements described in this subtitle, the Secretary may convey to the State all right, title, and interest of the United States in and to the Federal land. The Federal land within the Refuge shall be transferred for the purpose of constructing a single-lane gravel road between the communities of King Cove and Cold Bay, Alaska.

(b) Compliance With National Environmental Policy Act of 1969 and Other Applicable Laws-

(1) IN GENERAL- In determining whether to carry out the land exchange under subsection (a), the Secretary shall--

(A) comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) except as provided in subsection (c), comply with any other applicable law (including regulations).

(2) ENVIRONMENTAL IMPACT STATEMENT-

(A) IN GENERAL- Not later than 60 days after the date on which the Secretary receives notification under subsection (a), the Secretary shall initiate the preparation of an environmental impact statement required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) REQUIREMENTS- The environmental impact statement prepared under subparagraph (A) shall contain--

(i) an analysis of--

(I) the proposed land exchange; and

(II) the potential construction and operation of a road between the communities of King Cove and Cold Bay, Alaska; and

(ii) an evaluation of a specific road corridor through the Refuge that is identified in consultation with the State, the City of King Cove, Alaska, and the Tribe.

(3) COOPERATING AGENCIES-

(A) IN GENERAL- During the preparation of the environmental impact statement under paragraph (2), each entity described in subparagraph (B) may participate as a cooperating agency.

(B) AUTHORIZED ENTITIES- An authorized entity may include--

(i) any Federal agency that has permitting jurisdiction over the road described in paragraph (2)(B)(i)(II);

(ii) the State;

(iii) the Aleutians East Borough of the State;

- (iv) the City of King Cove, Alaska;
- (v) the Tribe; and
- (vi) the Alaska Migratory Bird Co-Management Council.

(c) Valuation- The conveyance of the Federal land and non-Federal land under this section shall not be subject to any requirement under any Federal law (including regulations) relating to the valuation, appraisal, or equalization of land.

(d) Public Interest Determination-

(1) CONDITIONS FOR LAND EXCHANGE- Subject to paragraph (2), to carry out the land exchange under subsection (a), the Secretary shall determine that the land exchange (including the construction of a road between the City of King Cove, Alaska, and the Cold Bay Airport) is in the public interest.

(2) LIMITATION OF AUTHORITY OF SECRETARY- The Secretary may not, as a condition for a finding that the land exchange is in the public interest--

(A) require the State or the Corporation to convey additional land to the United States; or

(B) impose any restriction on the subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3113)) of waterfowl by rural residents of the State.

(e) Kinzaroff Lagoon- The land exchange under subsection (a) shall not be carried out before the date on which the parcel of land owned by the State that is located in the Kinzaroff Lagoon has been designated by the State as a State refuge, in accordance with the applicable laws (including regulations) of the State.

(f) Designation of Road Corridor- In designating the road corridor described in subsection (b)(2)(B)(ii), the Secretary shall--

(1) minimize the adverse impact of the road corridor on the Refuge;

(2) transfer the minimum acreage of Federal land that is required for the construction of the road corridor; and

(3) to the maximum extent practicable, incorporate into the road corridor roads that are in existence as of the date of enactment of this Act.

(g) Additional Terms and Conditions- The land exchange under subsection (a) shall be subject to any other term or condition that the Secretary determines to be necessary.

SEC. 6403. KING COVE ROAD.

(a) Requirements Relating to Use, Barrier Cables, and Dimensions-

(1) LIMITATIONS ON USE-

(A) IN GENERAL- Except as provided in subparagraph (B), any portion of the road constructed on the Federal land conveyed pursuant to this subtitle shall be used primarily

for health and safety purposes (including access to and from the Cold Bay Airport) and only for noncommercial purposes.

(B) *EXCEPTIONS*- Notwithstanding subparagraph (A), the use of taxis, commercial vans for public transportation, and shared rides (other than organized transportation of employees to a business or other commercial facility) shall be allowed on the road described in subparagraph (A).

(C) *REQUIREMENT OF AGREEMENT*- The limitations of the use of the road described in this paragraph shall be enforced in accordance with an agreement entered into between the Secretary and the State.

(2) *REQUIREMENT OF BARRIER CABLE*- The road described in paragraph (1)(A) shall be constructed to include a cable barrier on each side of the road, as described in the record of decision entitled 'Mitigation Measure MM-11, King Cove Access Project Final Environmental Impact Statement Record of Decision' and dated January 22, 2004, unless a different type barrier is required as a mitigation measure in the Record of Decision for Final Environmental Impact Statement required in section 6402(b)(2).

(3) *REQUIRED DIMENSIONS AND DESIGN FEATURES*- The road described in paragraph (1)(A) shall--

(A) have a width of not greater than a single lane, in accordance with the applicable road standards of the State;

(B) be constructed with gravel;

(C) be constructed to comply with any specific design features identified in the Record of Decision for Final Environmental Impact Statement required in section 6402(b)(2) as Mitigation Measures relative to the passage and migration of wildlife, and also the exchange of tidal flows, where applicable, in accordance with applicable Federal and State design standards; and

(D) if determined to be necessary, be constructed to include appropriate safety pullouts.

(b) *Support Facilities*- Support facilities for the road described in subsection (a)(1)(A) shall not be located within the Refuge.

(c) *Federal Permits*- It is the intent of Congress that any Federal permit required for construction of the road be issued or denied not later than 1 year after the date of application for the permit.

(d) *Applicable Law*- Nothing in this section amends, or modifies the application of, section 1110 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3170).

(e) *Mitigation Plan*-

(1) *IN GENERAL*- Based on the evaluation of impacts determined through the completion of the environmental impact

statement under section 6402(b)(2), the Secretary, in consultation with the entities described in section 6402(b)(3)(B), shall develop an enforceable mitigation plan.

(2) **CORRECTIVE MODIFICATIONS-** The Secretary may make corrective modifications to the mitigation plan developed under paragraph (1) if--

(A) the mitigation standards required under the mitigation plan are maintained; and

(B) the Secretary provides an opportunity for public comment with respect to any proposed corrective modification.

(3) **AVOIDANCE OF WILDLIFE IMPACTS-** Road construction shall adhere to any specific mitigation measures included in the Record of Decision for Final Environmental Impact Statement required in section 6402(b)(2) that--

(A) identify critical periods during the calendar year when the refuge is utilized by wildlife, especially migratory birds; and

(B) include specific mandatory strategies to alter, limit or halt construction activities during identified high risk periods in order to minimize impacts to wildlife, and

(C) allow for the timely construction of the road.

(4) **MITIGATION OF WETLAND LOSS-** The plan developed under this subsection shall comply with section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) with regard to minimizing, to the greatest extent practicable, the filling, fragmentation or loss of wetlands, especially intertidal wetlands, and shall evaluate mitigating effect of those wetlands transferred in Federal ownership under the provisions of this subtitle.

SEC. 6404. ADMINISTRATION OF CONVEYED LANDS.

(1) **FEDERAL LAND-** Upon completion of the land exchange under section 6402(a)--

(A) the boundary of the land designated as wilderness within the Refuge shall be modified to exclude the Federal land conveyed to the State under the land exchange; and

(B) the Federal land located on Sitkinak Island that is withdrawn for use by the Coast Guard shall, at the request of the State, be transferred by the Secretary to the State upon the relinquishment or termination of the withdrawal.

(2) **NON-FEDERAL LAND-** Upon completion of the land exchange under section 6402(a), the non-Federal land conveyed to the United States under this subtitle shall be--

(A) added to the Refuge or the Alaska Peninsula National Wildlife Refuge, as appropriate, as generally depicted on the map; and

(B) administered in accordance with the laws generally applicable to units of the National Wildlife Refuge System.

(3) WILDERNESS ADDITIONS-

(A) IN GENERAL- Upon completion of the land exchange under section 6402(a), approximately 43,093 acres of land as generally depicted on the map shall be added to--

(i) the Izembek National Wildlife Refuge Wilderness; or

(ii) the Alaska Peninsula National Wildlife Refuge Wilderness.

(B) ADMINISTRATION- The land added as wilderness under subparagraph (A) shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and other applicable laws (including regulations).

SEC. 6405. FAILURE TO BEGIN ROAD CONSTRUCTION.

(a) Notification To Void Land Exchange- If the Secretary, the State, and the Corporation enter into the land exchange authorized under section 6402(a), the State or the Corporation may notify the Secretary in writing of the intention of the State or Corporation to void the exchange if construction of the road through the Refuge has not begun.

(b) Disposition of Land Exchange- Upon the latter of the date on which the Secretary receives a request under subsection (a), and the date on which the Secretary determines that the Federal land conveyed under the land exchange under section 6402(a) has not been adversely impacted (other than any nominal impact associated with the preparation of an environmental impact statement under section 6402(b)(2)), the land exchange shall be null and void.

(c) Return of Prior Ownership Status of Federal and Non-Federal Land- If the land exchange is voided under subsection (b)--

(1) the Federal land and non-Federal land shall be returned to the respective ownership status of each land prior to the land exchange;

(2) the parcel of the Federal land that is located in the Refuge shall be managed as part of the Izembek National Wildlife Refuge Wilderness; and

(3) each selection of the Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that was relinquished under this subtitle shall be reinstated.

SEC. 6406. EXPIRATION OF LEGISLATIVE AUTHORITY.

(a) In General- Any legislative authority for construction of a road shall expire at the end of the 7-year period beginning on the date of the enactment of this subtitle unless a construction permit has been issued during that period.

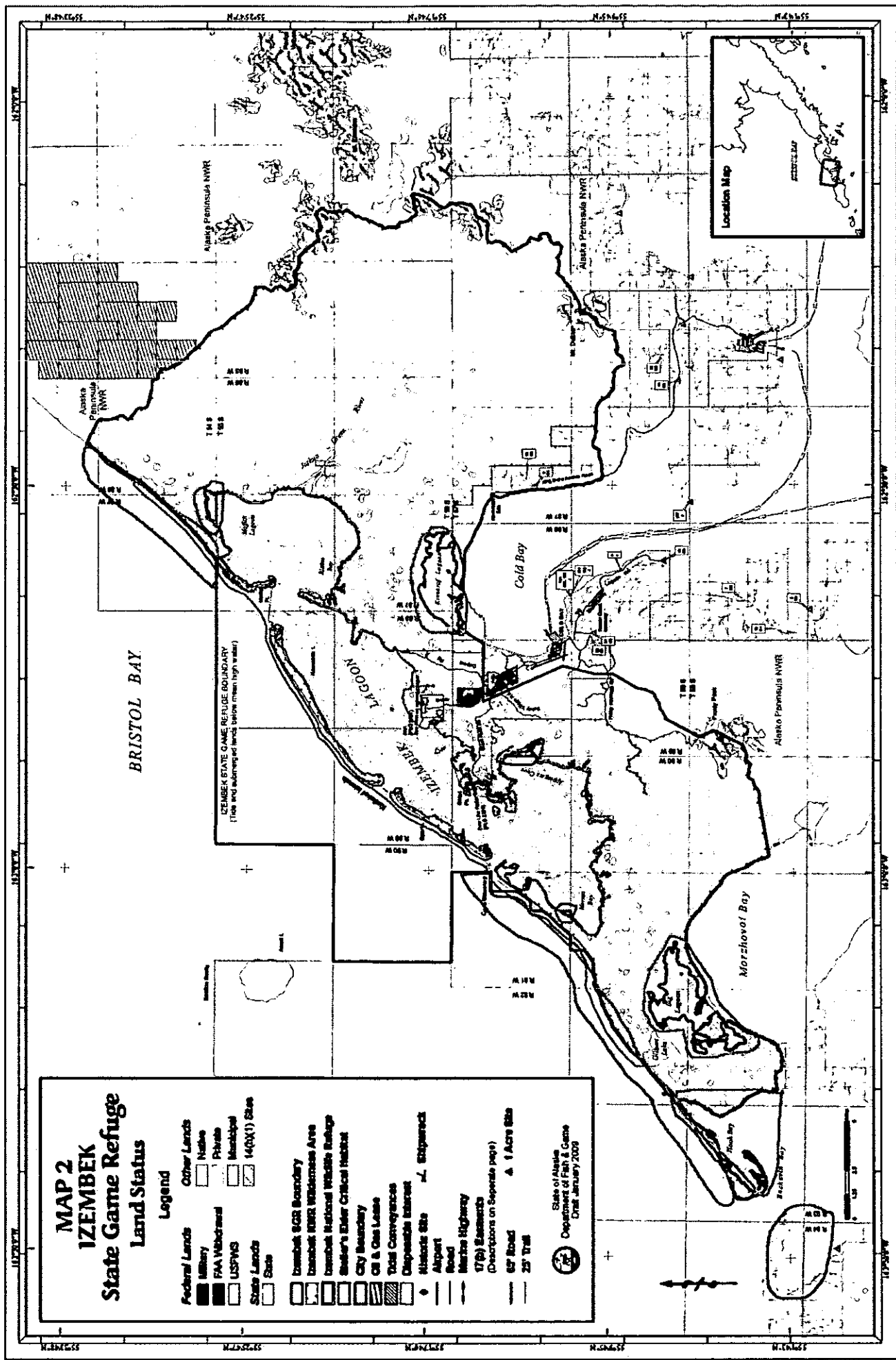
(b) Extension of Authority- If a construction permit is issued within the allotted period, the 7-year authority shall be extended for a period of 5 additional years beginning on the date of issuance of the construction permit.

(c) Extension of Authority as Result of Legal Challenges-

(1) IN GENERAL- Prior to the issuance of a construction permit, if a lawsuit or administrative appeal is filed challenging the land exchange or construction of the road (including a challenge to the NEPA process, decisions, or any required permit process required to complete construction of the road), the 7-year deadline or the five-year extension period, as appropriate, shall be extended for a time period equivalent to the time consumed by the full adjudication of the legal challenge or related administrative process.

(2) INJUNCTION- After a construction permit has been issued, if a court issues an injunction against construction of the road, the 7-year deadline or 5-year extension, as appropriate, shall be extended for a time period equivalent to time period that the injunction is in effect.

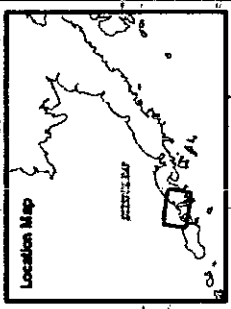
(d) Applicability of Section 6405- Upon the expiration of the legislative authority under this section, if a road has not been constructed, the land exchange shall be null and void and the land ownership shall revert to the respective ownership status prior to the land exchange as provided in section 6405.



MAP 2
IZEMBEK
State Game Refuge
Land Status

- Legend**
- | | |
|--|--------------------|
| Federal Lands | Other Lands |
| Military | Native |
| FAA Withdrawal | Private |
| USFWS | Municipal |
| State Lands | 14(QX1) State |
| State | |
| Izembek SGR Boundary | |
| Izembek NWR Wilderness Area | |
| Izembek National Wildlife Refuge | |
| Sledner's Elder Critical Habitat | |
| City Boundary | |
| Oil & Gas Lease | |
| Total Conveyance | |
| Dependent Interest | |
| Alaska Site | |
| Airport | |
| Road | |
| Marine Highway | |
| 17(9) Easements
(Descriptions on Separate page) | |
| 67' Road | |
| 25' TRS | |
| 1 Acre Site | |

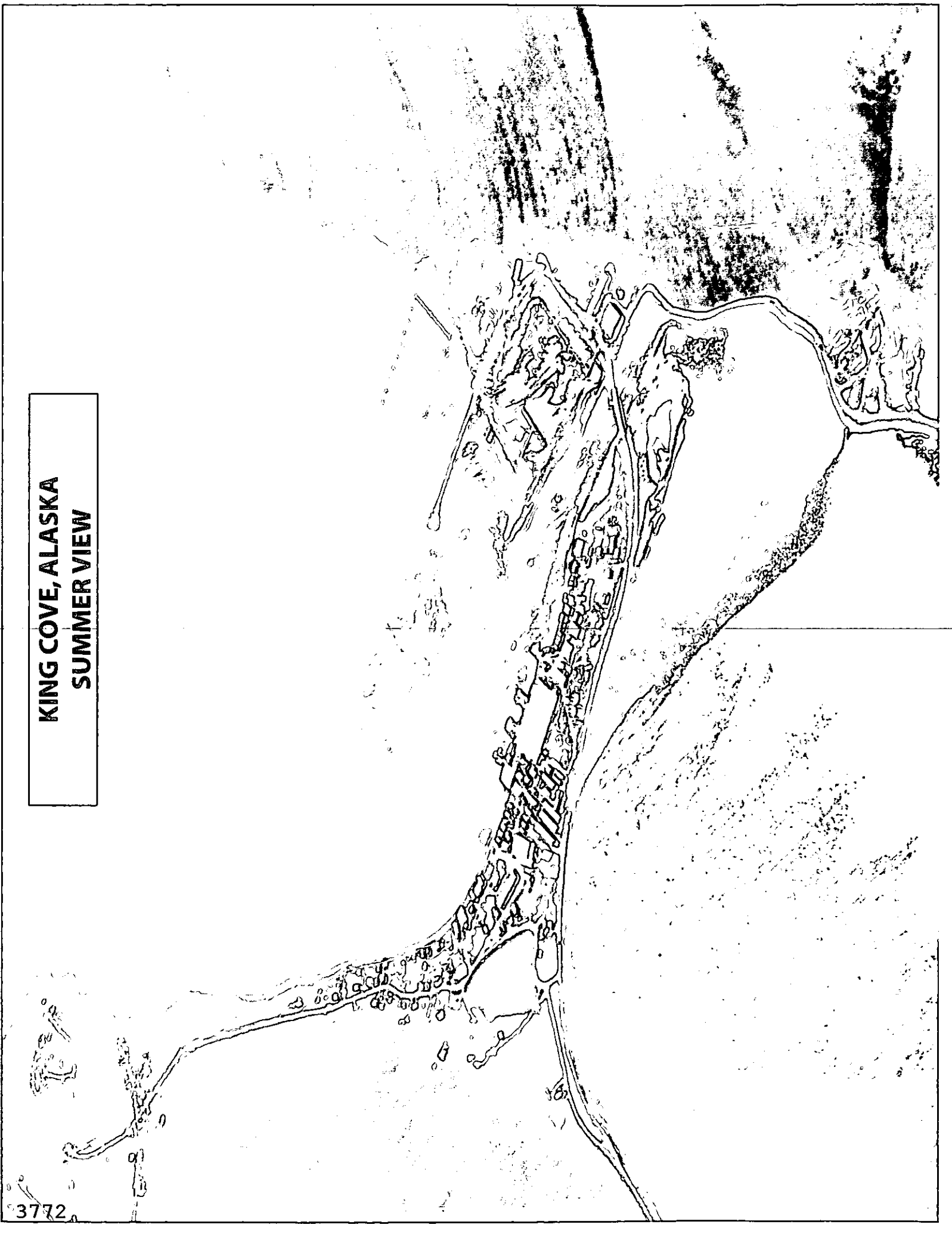
State of Alaska
 Department of Fish & Game
 Draft January 2000



**KING COVE, ALASKA
WINTER VIEW**



**KING COVE, ALASKA
SUMMER VIEW**



Road from King Cove to Cold Bay clears hurdle

YEARS AWAY: Lands bill OK'd by Senate, but it still faces House, federal review.

By ERIKA BOLSTAD
ebolstad@adn.com

WASHINGTON — Many people watched closely Thursday as the U.S. Senate passed a massive lands bill designating more than 2 million acres of wilderness in nine states, but none with as much focus as the Alaskans from King Cove.

The legislation, which pulls together 150 public lands, parks and water bills in one package, also includes a provision that authorizes a land swap and allows planning to begin for a 25-mile gravel road through a national wildlife refuge from the community of King Cove to the airport in Cold Bay.

The community of King Cove has sought the road for the past decade as an alternative to the hovercraft used to travel across the bay to get to the airport in Cold Bay. The World War II-era airport in Cold Bay is home to the third-longest runway in the state; unlike the smaller King Cove airport, it stays open in all weather conditions.

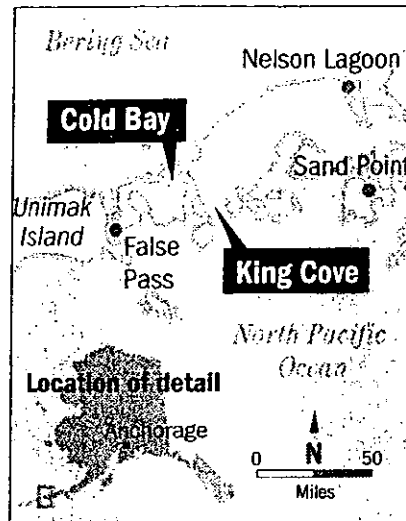
From the Senate gallery, Della Trumble and others from the community watched the Senate vote 73-21. They've worked for years to get the road, which they say is necessary for medical emergencies.

"I watched the vote 12 years ago, and watching the vote today, (it) brought a lot back, just realizing that this has been a long process," said Trumble, referring to the first vote that authorized the hovercraft for the community.

The road, which cuts a controversial swath through the Izembek National Wildlife Refuge, is just one of hundreds of projects in the 1,200-page bill. It also authorizes water projects on Indian reservations, declares some rivers as wild and scenic and designates 2 million acres of wilderness in nine states.

Critics who voted against the bill include Sen. Tom Coburn, R-Okla., who complained about the proposed spending in the package. Coburn cited the road through the refuge as well as \$5 million on botanical gardens in Hawaii and Florida and \$3.5 million to celebrate the 450th anniversary of the founding of St. Augustine, Fla., six years from now.

The Alaska portion of the legislation gives the state a seven-mile easement through the Izembek National Wildlife Refuge. The easement allows the state to complete a 25-mile gravel road that will link Cold Bay with King Cove. In exchange, the state is expected to



RON ENGSTROM / Anchorage Daily News

transfer more than 61,000 acres to the federal government. Much of that land would go to the Izembek refuge; part would be designated as wilderness.

Residents have access to a hovercraft to cross the bay, but say they need the road to evacuate people with health emergencies during inclement weather.

Some conservationists say that it is unprecedented to allow a road through a wildlife refuge and that cars and trucks on the road will disrupt migratory birds in the refuge as well as other wildlife that pass along the narrow isthmus. However, the bill requires an extensive federal environmental review before it can be built. It also prohibits the road from being used by commercial traffic.

"What we've created through this bill is a process," said Alaska Sen. Lisa Murkowski. "This moves the community a step forward in the process of someday getting the road."

A road is still years away, Trumble said, and that has been hard to explain to people at home.

"We've achieved an ability to start a process," she said, chuckling at her own bureaucratic-speak.

As a whole, conservation groups supported the package because it had so many provisions to protect rivers and designate wilderness. The package did not have support from groups such as the Independent Petroleum Association of America, which complained that the bill could curtail domestic energy development by designating so many federally owned acres as wilderness.

The bill goes next to the House of Representatives, which has pledged to take up the Senate version and send it on to the president.

"Izembek & Alaska Peninsula Refuge & Wilderness Enhancement Act"

(S. 1680 & H.R. 2801)

This is a winter 2008 update of the key issues, circumstances and aspirations of the Izembek Partnership in our continuing pursuit for a land exchange of over 61,000 acres to the federal government from the King Cove Corporation and State of Alaska in exchange for about 1800 acres for a road easement (207 acres) through a portion of the Izembek National Wildlife Refuge.

This bill is about access for the residents of King Cove – so they can drive to the all-weather, 24-hour airport in Cold Bay, a distance of about 30 miles. King Cove lives with 20' seas and winds in excess of 50 mph year round; it is weather at its brutal best. The result is that King Cove's small airport, precariously perched adjacent volcanic mountains, is unusable for about 30-40% of the time for single-engine planes making scheduled flights in and out of the community. Eleven air fatalities in the King Cove-Cold Bay air corridor over the last 25 years attests to this situation.

Ten years ago, Congress tried to resolve our transportation access problem by providing capital funding for a state-of-the-art hovercraft. Unfortunately, this solution has not resolved the problem. The hovercraft also has significant weather constraints, and even larger constraints of financial sustainability. Our small population base (less than 1,000 residents) and remote location is accruing a net annual operating loss in excess of \$1.5 million. We can only operate the hovercraft on a limited basis. A road is our real answer for residents who need to get in or out of the community, no matter the reason, but especially for medical and health reasons requiring medical attention which is not available in King Cove. This status quo is not sustainable; without a road this community continues to be trapped and isolated against its will. This is not right.

In 1980 Congress passed the Alaska National Interest Lands Conservation Act (ANILCA) and a short year later Congress formally moved forward to classify 303,000 acres of the Izembek National Wildlife Refuge as "wilderness" – a designation which brings with it the definition that bars significant human activity. In this instance, ANILCA simply memorialized a 1960 Public Land Order which previously established this wilderness designation. This decision was made law without the most basic outreach, consult or notice to the indigenous people who live there, have always lived there and will go on living there. The decision has also prevented King Cove residents from having a surface transportation access to Cold Bay This is not just inequitable; it is a blow to due process and respect for indigenous cultures.

This is about history and redress and hope for the future. Names on maps change, members of Congress change, and the environmental lobbyists come and go with the political tides, but for 4,000 years we've been living here on the Alaskan Peninsula – the Russians named it Izembek and the Congress named it Refuge but before there labels were ever applied, these were our aboriginal lands, preserved in their present day form because we know how to live on land and leave no mark. Aleuts have grown up, hunted and fished, and died on these Refuge borders. It is obvious to us, as it is not to our opponents, who are busy at work in their high rises or pushing carts down the aisles of their neighborhood supermarkets, that the healthy survival of this Refuge, with its eelgrass rich lagoons and wide diversity of wildlife, is more linked to our survival than any other constituency on the planet, and yet no one had the courtesy to ask us about its creation.

We have been seeking a Congressional okay for a low volume, one-lane road, with steel cable barriers on both sides to prevent any motorized vehicle from departing the roadway. And, after years of asking, we've been consistently told no - hearts will be pierced and wildlife will suffer beyond measure if we construct a road. But the Aleut hearts, which beat a little faster at the prospect of delays in access to medical care because the weather has turned bad, that suffering matters naught. This is not just inequitable, it is cruel.

Today, starting out from Cold Bay there are about 35 miles of gravel roads in the Refuge with about 15 miles of roads/trails in the wilderness. We are asking for a 7-mile easement to have a one-lane gravel road with pullouts (i.e. for two cars to pass) that requires approximately 200 acres. We have agreed to a steel cable being placed on both sides of this road to prohibit any off-road access. King Cove has about 250 vehicles in the entire community and we estimate the daily traffic going to the Cold Bay Airport to be about 15- 20 vehicles.

Many visitors gain access to the Refuge on pre-existing roads. They land safely in Cold Bay, they rest comfortably in one of 9 lodges that exist to make their stay pleasurable, and their access by pre-existing gravel road to the shores of the Izembek Lagoon is assured on one of the many roads that remained after their military use was over. When their Alaskan adventure is over and they are ready to return to their jobs and their loved ones, they hop on a jet and take off from the third largest runway in Alaska. And they accomplish this travel while the residents of King Cove look across the wind-whipped bay in frustration. This is not just inequitable, it is unconscionable.

The value of the land that we propose to exchange for this easement is considerable. But, don't take our word for it. We are biased, both because we want this road to become a reality and because we know the lands in question. We urge you to go directly to the USE&WS for their opinion about the value of our proposed land exchange. They will tell you that you have before you an exemplary deal: a proposal that greatly enhances the existing refuge, by adding the valuable wetlands found in Mortenson's Lagoon, as well as adding 45,000 new acres of new wilderness - the first such addition in Alaska in 25 years. It is a transaction that goes beyond equitable to generous.

The passage of this bill is a win-win for everyone with a stake in its outcome, and that includes the wildlife that depends upon the Refuge for food, safety and shelter for their off-spring. We relate to all of those interests: they are the same as our own. As good stewards and good citizens of this country, our values are closely aligned with those of the conservation movement - with all due respect for those who argue otherwise, we believe that our experience qualifies us as experts in the ways of humans living on land and leaving no mark. With the construction of a road we gain the transportation corridor that we would have asked for initially, had anyone shown us the respect to inquire. We will agree to supervise this project from its first moved rock to its last engineering detail. This road will be designed with a minimal footprint, built to the highest standards and driven on with respect to our wildlife neighbors in our every turn. In exchange, we propose to donate land that greatly enhances the existing refuge and provides safe, reliable surface transportation for the residents of a King Cove: At long last, a genuinely equitable outcome is within our reach. You can help us get there from here.

Please support our efforts! Visit our website at <http://www.izembekenhancement.org>

OMNIBUS PUBLIC LAND MANAGEMENT ACT OF 2009

Izembek National Wildlife Refuge Land Exchange

This summary and map document the lands that will be exchanged between the Federal Government, State of Alaska, and King Cove Corporation when the requirements contained in this act are completed, including final approval of State HB 210.

The State of Alaska will convey to the Federal government a total of 43,093 acres. These acres come from the following State-owned lands (see attached map):

1. Map Ref. ID #1 – T 53S R85W-SM – 22,498 acres
2. Map Ref. ID #2 – T 54S R85W-SM – 20,595 acres

The King Cove Corporation (KCC) will convey and/or relinquish approximately 18,730 acres of KCC lands to the Federal government. These acres are as follows:

1. Map Ref. ID #4 – Portion of land adjacent Kinzarof Lagoon referred to as the “bookends” - approximately 2,500 acres.
2. Map Ref. ID #3 – Portion of land surrounding Mortensen’s Lagoon, north to Cold Bay, but not including any road section from Cold Bay to Mortensen Lagoon (17(b)(2) easement per ANCSA) - approximately 10,800 acres.
3. Map Ref. ID #5 – King Cove relinquishes selections totaling approximately 5,430 acres of their ANSCA entitlement within the Izembek National Wildlife Refuge.

The Federal government will convey the following lands to the State of Alaska:

1. Map. Ref. ID #A – 100’ to 150’ wide corridor of land through a portion of the Izembek National Wildlife Refuge consisting of approximately 206 acres.
2. Approximately 1,600 acres of federally-owned lands on Sitkinak Island adjacent to Kodiak Island (not shown on the map).

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

SARAH PALIN, GOVERNOR

- P.O. BOX 111000
JUNEAU, ALASKA 99811-1000
PHONE: (907) 465-2400
FAX: (907) 465-3886
- 550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

April 14, 2008

The Honorable Jeff Bingaman
Chairman
U.S. Senate Committee on Energy and Natural Resources
302 Dirksen Senate Building
Washington, D.C. 20510

The Honorable Pete Domenici
Ranking Member
U.S. Senate Committee on Energy and Natural Resources
302 Dirksen Senate Building
Washington, D.C. 20510

Re: S 1680 – the Izembek and Alaska Peninsula Refuge and Wilderness Enhancement Act and King Cove Safe Access Act

Dear Chairman Bingaman and Ranking Member Domenici:

The State of Alaska supports S 1680, legislation that would authorize a land exchange between the State of Alaska, the U.S. Fish and Wildlife Service and King Cove Corporation to secure road access between the Alaskan communities of King Cove and Cold Bay. These communities are located on the Alaska Peninsula and are accessible only by air or water.

A priority for the Agdaagux Tribe of King Cove, the City of King Cove and the Aleutians East Borough is to construct a 27-mile road to Cold Bay, through the Izembek National Wildlife Refuge, to access the larger and safer airport at Cold Bay.

This overland link is necessary because both air and water access to King Cove is treacherous in the frequent stormy weather so common on the lower Alaska Peninsula. Cold Bay has a much larger, safer airport and the residents of King Cove need reliable access to the Cold Bay airport facility for health and safety, including emergency medical evacuations. A combination road and hovercraft system, established under the King Cove Health and Safety Act passed by Congress several years ago, has not safely nor efficiently resolved access problems.

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

The Honorable Jeff Bingaman
The Honorable Pete Domenici
April 14, 2008
Page 2 of 3

The need for this road link has been identified in land and transportation plans for at least twenty-five years, including the Alaska Department of Transportation's Southwest Alaska Transportation Plan, adopted in 2004.

The land exchange would add valuable and significant acreage to the Izembek and Alaska Peninsula National Wildlife Refuges. Much of the land that would be added to the refuges is currently owned by the State of Alaska. Specifically, the State of Alaska is offering to exchange 43,093 acres, or all of the state-owned land contained in two townships located northeast of Izembek Refuge, in exchange for a 206 acre easement dedicated to the State of Alaska, through the Izembek National Wildlife Refuge and Wilderness. The undeveloped state land being offered to the Refuge is surrounded on three sides by refuge lands and is habitat for brown bears and caribou. This state land includes the lower portion of the Cathedral River, which drains the western flanks of Pavlof Volcano. It is de facto wilderness land. This state land was included in a recent state oil and gas lease sale, although no bids were received on these tracts.

The 7,900 acres being offered to the Izembek Refuge by King Cove Corporation includes valuable waterfowl habitat that straddles Kinzarof Lagoon at the head of Cold Bay. This land is an inholding within the existing Izembek Wilderness area. The Corporation is also offering to sell an additional 10,800 acres of private lands to the U.S. Fish and Wildlife Service for the Refuge.

The road easement that the state would acquire will run approximately 13 miles through the Izembek National Wildlife Refuge. More than half of this road already exists as primitive roads that were originally built during World War II. The total length of new road through the Wilderness area is 6.3 miles. The exact location of the easement will be determined in consultation with the U.S. Fish and Wildlife Service.

The combined offers from the State of Alaska and the King Cove Corporation would add 51,000 acres to the Izembek and Alaska Peninsula National Wildlife Refuges. All of the state land that is being offered in this exchange would be designated Wilderness by this legislation.

The state would acquire approximately 206 acres that encompass the road. The state would also acquire a 1,600-acre federal inholding on Sitkinak Island, a predominantly state-owned island located south of Kodiak Island.

The State of Alaska recognizes the unique value of the Izembek National Wildlife Refuge. In 1972, the Alaska Legislature set aside the state-owned tidelands within Izembek Lagoon and adjacent offshore state lands as a State Game Refuge. These state lands contain eel grass beds that are the very heart of Izembek Refuge.

As part of this proposal, the state would add more than 4,000 acres of state-owned tidelands in Kinzarof Lagoon, at the head of Cold Bay, to the State Game Refuge. The exchange will require approval by our state legislature as the state lands are quite likely of unequal, but greater, fair market value than the federal lands being exchanged.

The Honorable Jeff Bingaman
The Honorable Pete Domenici
April 14, 2008
Page 3 of 3

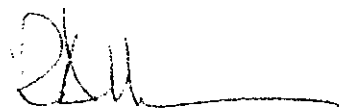
The state is well aware of concerns expressed by various groups who are opposed to this legislation. Some are concerned about the precedent set by building a road through a Wilderness Area. Yet, when the Alaska National Interest Lands Conservation Act was passed in 1980, Congress specifically recognized that transportation facilities may be needed across the 58 million acres of federal Wilderness lands in Alaska. The Alaska Lands Act requires Congressional approval for such transportation corridors through Wilderness.

There are also concerns about increased public access to the refuge wilderness. The refuge and wilderness area are already accessible from Cold Bay by existing local roads. Through planning and enforcement of existing refuge regulations, the impacts of the limited number of new users from King Cove can be mitigated.

The State of Alaska supports this legislation and stands ready to commit over 43,000 acres of state land to the National Wildlife Refuge and Wilderness system. We urge the Committee to approve this bill.

Thank you for the opportunity to comment on this legislation.

Sincerely,



Tom Irwin, Commissioner
Alaska Department of Natural Resources

cc: The Honorable Ted Stevens, United States Senate
The Honorable Lisa Murkowski, United States Senate
The Honorable Don Young, United States House of Representatives
The Honorable Sarah Palin, Governor, State of Alaska
Commissioner Denby Lloyd, Alaska Department of Fish and Game
Commissioner Leo von Scheben, Alaska Department of Transportation
and Public Facilities
Mr. John Katz, Office of the Governor, State of Alaska, Washington, D.C.
Mr. Dale Hall, Director, U.S. Fish and Wildlife Service
Mr. Tom Melius, Regional Director, U.S. Fish and Wildlife Service

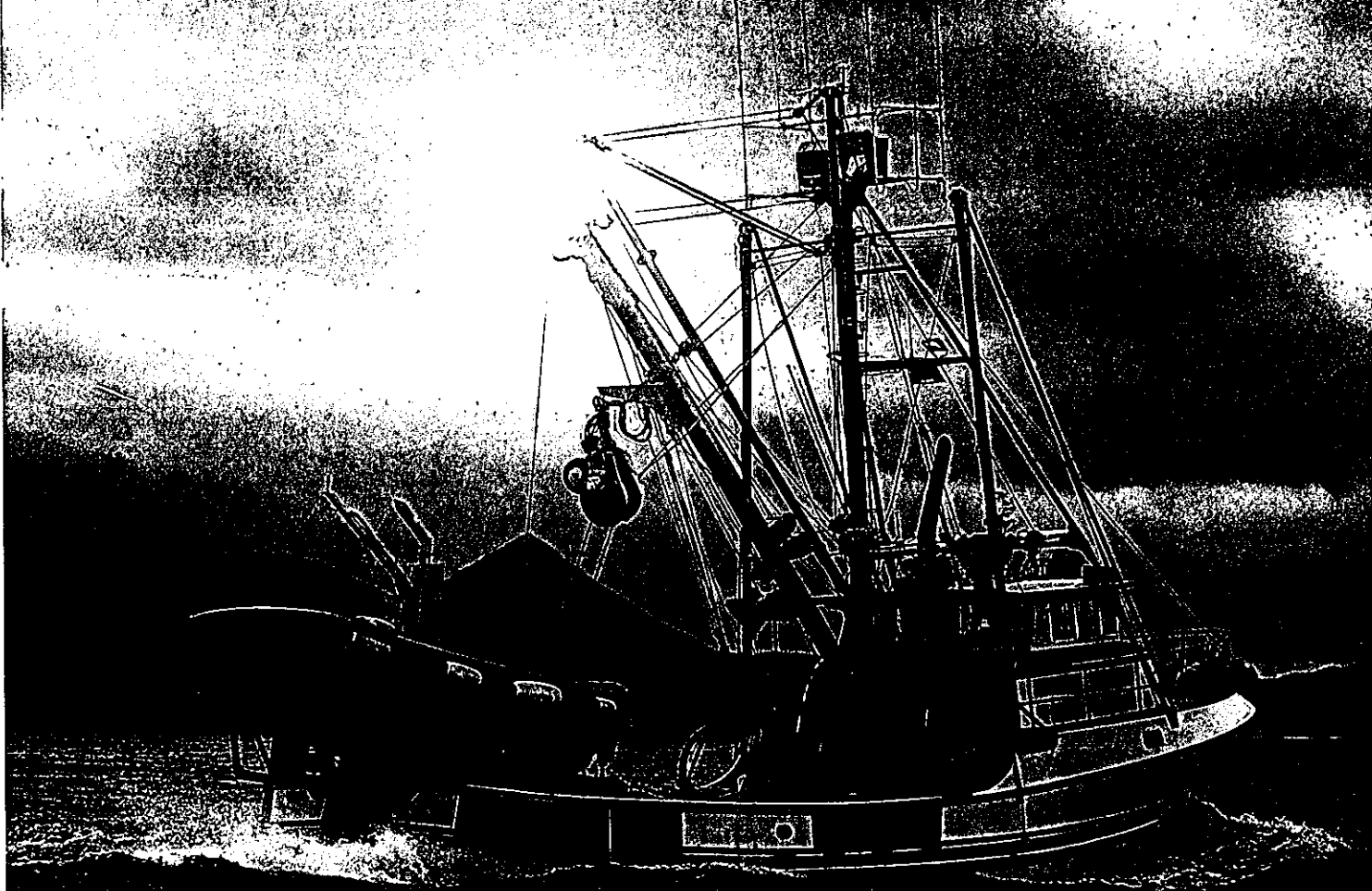
AKUTAN • COLD BAY • NELSON LAGOON



King Cove

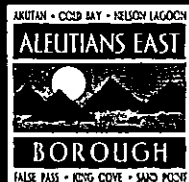
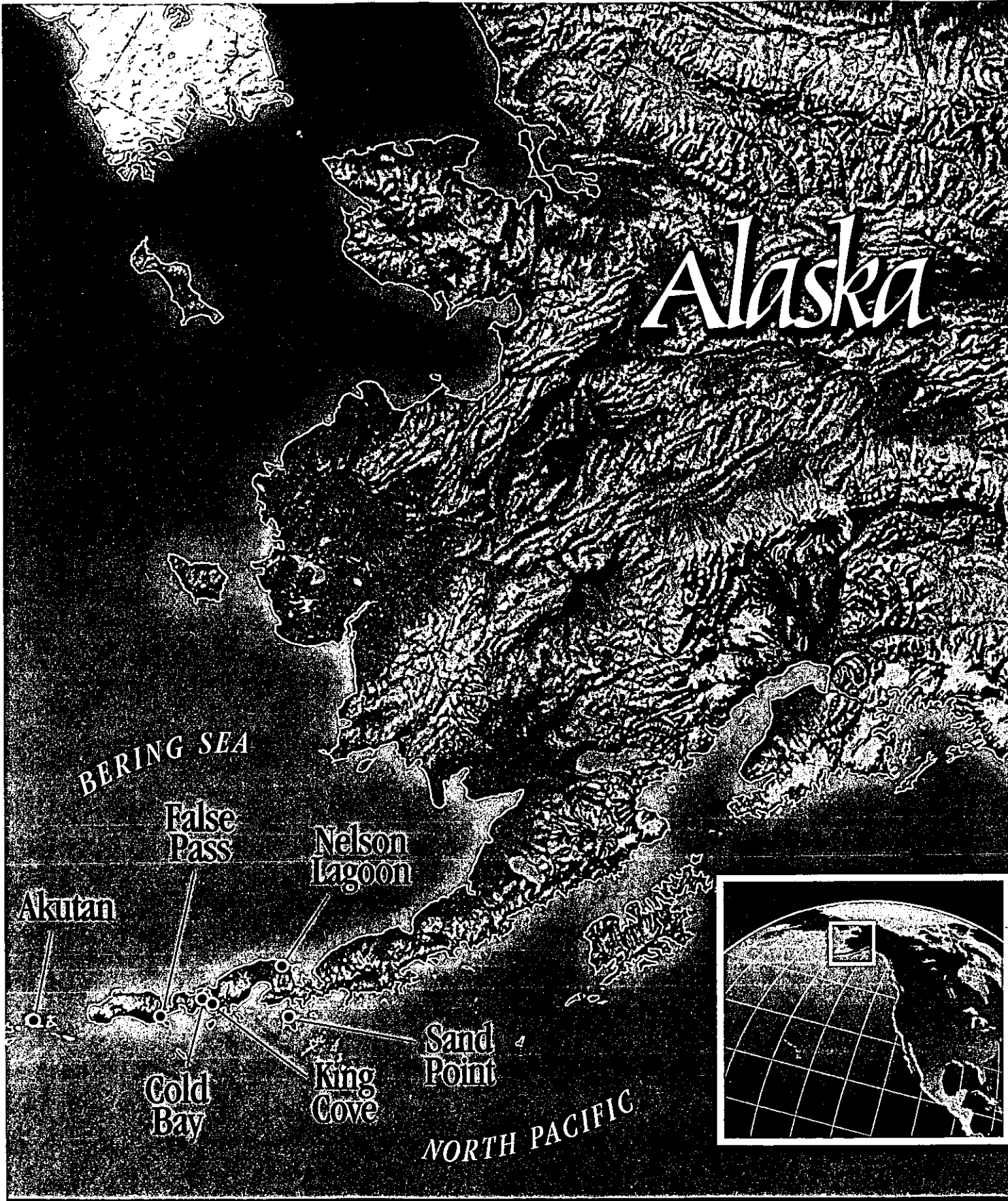
A • L • A • S • K • A

FALSE PASS • KING COVE • SAND POINT



AKUTAN • COLD BAY • FALSE PASS • KING COVE • NELSON LAGOON • SAND POINT

Alaska



THE COMMUNITIES OF THE *Aleutians East Borough*



ALEUTIANS EAST BOROUGH

The Aleutians East Borough includes the westernmost portion of the Alaska Peninsula and a number of Aleutian Islands. The area is remote and economic opportunities are few. There are five incorporated cities and one village administered by the tribal council. The area has been inhabited by the Unanga (Native Americans) since the last ice age. The Native people had early contact with Russian fur traders. During the early 1900s, whaling, fishing and cannery operations drew an influx of Scandinavian and European fishermen to the area. And today, commercial fishing and fish processing dominate the Borough's economy. However, since the late 1990s, the region's mainstay industry has fallen on hard times because of competition from foreign fisheries, the growth of farm-raised salmon and an increase in fishing restrictions. Approximately 32 percent of the population is unemployed, and nearly 22% of the Borough's population is below the poverty level. For that reason, the Borough is looking to diversify the region's economy.

Population: 2,697 • Ethnic Makeup: 37% American Indian or Alaska Native, 27% Asian, 24% Caucasian and 12% other.

Sand Point

Sand Point is located on Popof Island, off the Alaska Peninsula. It is home to one of the largest fishing fleets in the Aleutian Chain. Commercial fishing is the dominant economic activity. Marine facilities include a 25-acre boat harbor with four docks, a barge off-loading area and a 150-ton lift. In addition, an 18-acre harbor extension accommodates 37 large vessels of up to 150 feet. The community also offers a state-owned airport with a 4,700-foot paved runway.

Population: 952 • Ethnic Makeup: 42% Native American, 28% Caucasian, 23% Asian and 7% other.

King Cove

King Cove is located on the south side of the Alaska Peninsula. The city's economy depends on the year-round commercial fishing and seafood processing industries. Peter Pan Seafoods, in King Cove, is one of the largest cannery operations in Alaska. Up to 500 non-residents are brought up to work in the cannery as needed. The city's North Harbor provides moorage for 90 boats and is ice-free all year. By September 2007, the new Babe Newman Harbor will provide additional moorage for 60-foot to 150-foot fishing vessels.

Population: 792 • Ethnic Makeup: 47% Native American, 27% Asian, 15% Caucasian and 11% other.

Cold Bay

Cold Bay is located in the Izembek National Wildlife Refuge at the western end of the Alaska Peninsula. State and federal government and airline support services provide the majority of local employment. Because of its central location and modern airport, Cold

Bay serves as the regional center for air transportation on the Alaska Peninsula and as an international hub for private aircraft. The community offers a state-owned 10,415-foot long paved and lighted runway, a 5,125-foot long paved crosswind runway, FAA Flight Service and weather service stations.

Population: 88 • Ethnic Makeup: 72% Caucasian, 17% Native American and 11% other.

Nelson Lagoon

Located on the northern coast of the Alaska Peninsula, Nelson Lagoon sits on a narrow sand spit that separates the lagoon from the Bering Sea. Nelson Lagoon is situated in the middle of a rich and productive salmon fisheries area. The community's dock, boat ramp, harbormaster's office and warehouse were completed in the late 1990s. Nelson Lagoon has excellent docking facilities available as well as boat and gear storage. A state-owned 4,000-foot long lighted gravel runway serves the community with regularly scheduled flights.

Population: 83 • Ethnic Makeup: 78% Native American, 13% Caucasian and 9% other.

False Pass

False Pass is situated on the eastern shore of Unimak Island on a strait connecting the Pacific Gulf of Alaska to the Bering Sea. The community is the only remaining Aleut village on Unimak Island. The local economy is driven by commercial salmon fishing and fishing services. False Pass is an important refueling stop for Bristol Bay and Bering Sea fishing fleets. Bering Pacific and Peter Pan Seafoods process the commercial catch. The community offers a state-owned gravel airstrip. A dock and boat ramp are available. The harbor will be complete in 2008.

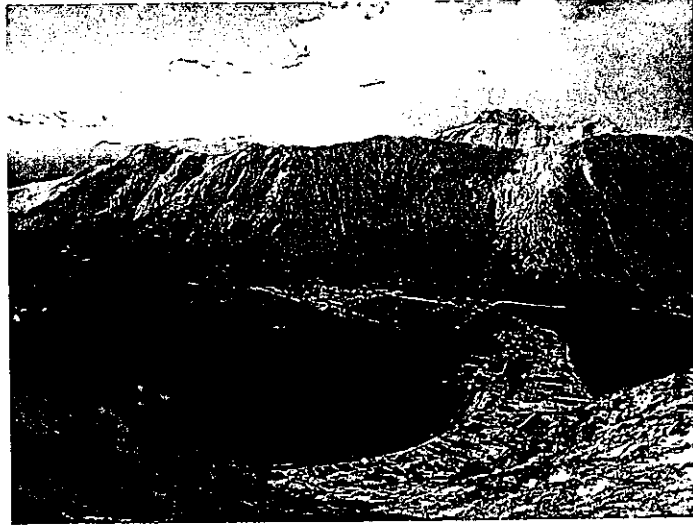
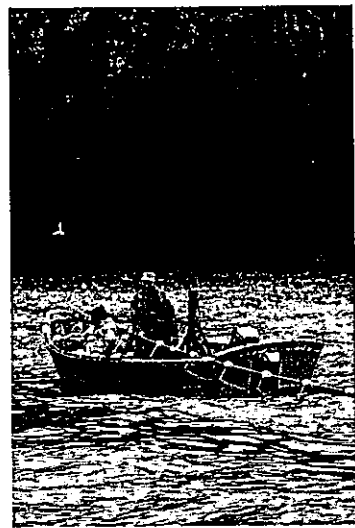
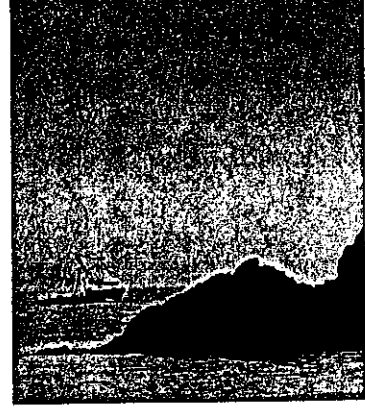
Population: 64 • Ethnic Makeup: 63% Native American, 27% Caucasian and 10% other.

Akutan

Akutan is located on Akutan Island in the eastern Aleutians. It is 35 miles east of Unalaska and 766 air miles southwest of Anchorage. Akutan is one of the busiest fishing ports in the country. Trident Seafoods operates a large plant and processes cod, crab, pollock and fish meal. Air service is provided from nearby Unalaska with PenAir's historic Grumman Goose seaplane. A 200-foot dock and a small boat mooring basin are also available. In addition, the city owns and operates a landing craft, the M/V Akutan.

Population: 713 • Ethnic Makeup: 39% Asian, 24% Caucasian, 21% Hispanic or Latino and 16% Native American.

For more information, please contact the Aleutians East Borough office at (907) 274-7555, fax (907) 276-7569 or visit our Web site at www.aleutianseast.org



There are no roads between the Aleutians East Borough communities, and distances are vast. The Borough communities are closer to Provideniya, Russia and to Tokyo, Japan than they are to major cities within the lower 48. Travel to the communities is by small plane and by the Alaska State Ferry during the summer. In addition, the Borough operates a hovercraft between King Cove and Cold Bay.







Distances between Aleutians East Borough Communities

	False Pass	Cold Bay	Sand Point	Akutan	King Cove	Nelson Lagoon
False Pass		37	120	108	46	115
Cold Bay	37		88	145	19	77
Sand Point	120	88		223	74	54
Akutan	108	145	223		151	221
King Cove	46	19	74	151		72
Nelson Lagoon	115	77	54	221	72	

Approximate distances from Aleutians East Borough to:	
Anchorage, Alaska	700
Juneau, Alaska	5100
Seattle, Washington	1800
Los Angeles, California	2600
Tokyo, Japan	2900
Provideniya, Russia	750
Washington, D.C.	3800

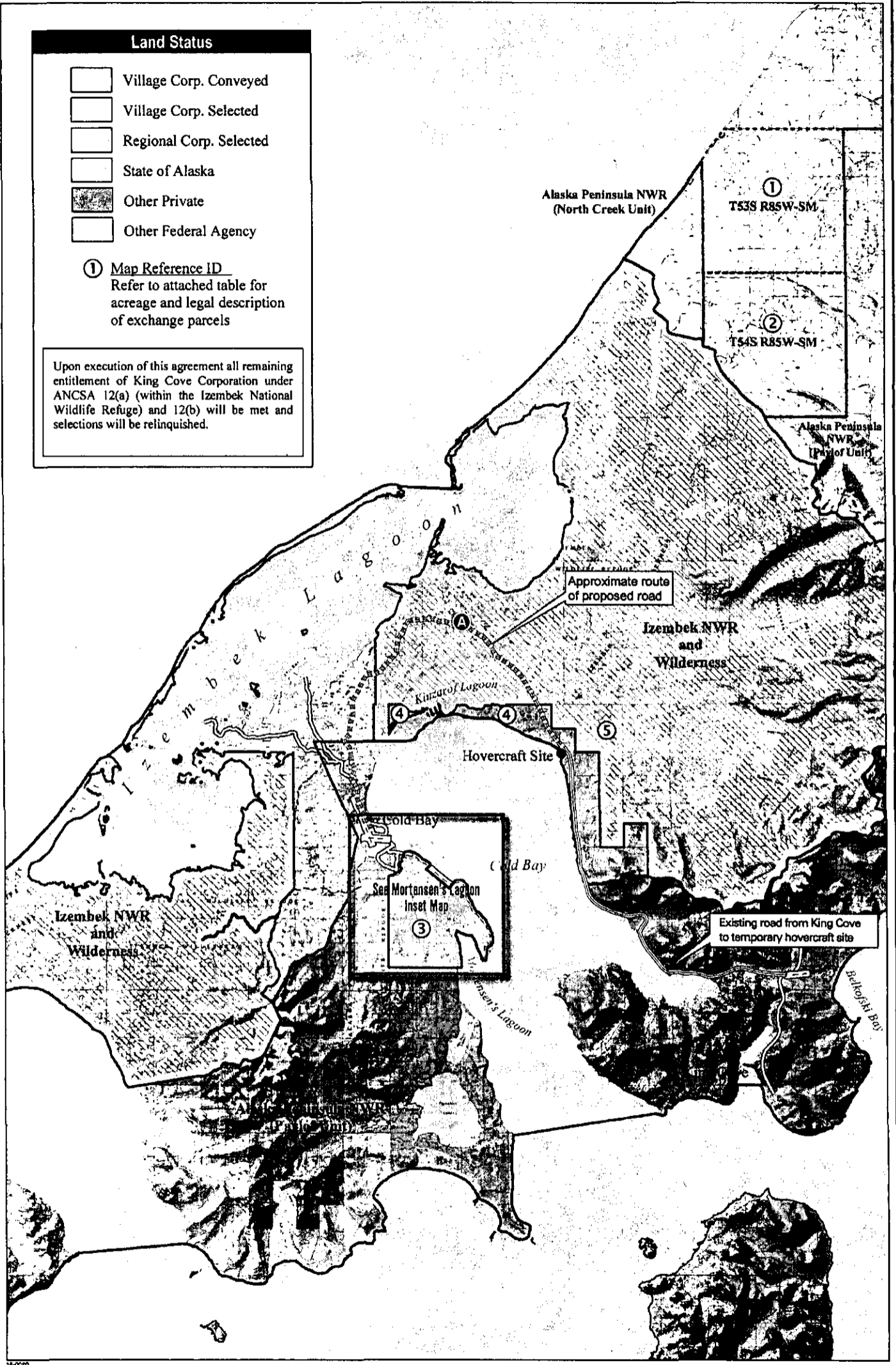
Izembek and Alaska Peninsula National Wildlife Refuges
Alaska

Land Status

-  Village Corp. Conveyed
-  Village Corp. Selected
-  Regional Corp. Selected
-  State of Alaska
-  Other Private
-  Other Federal Agency

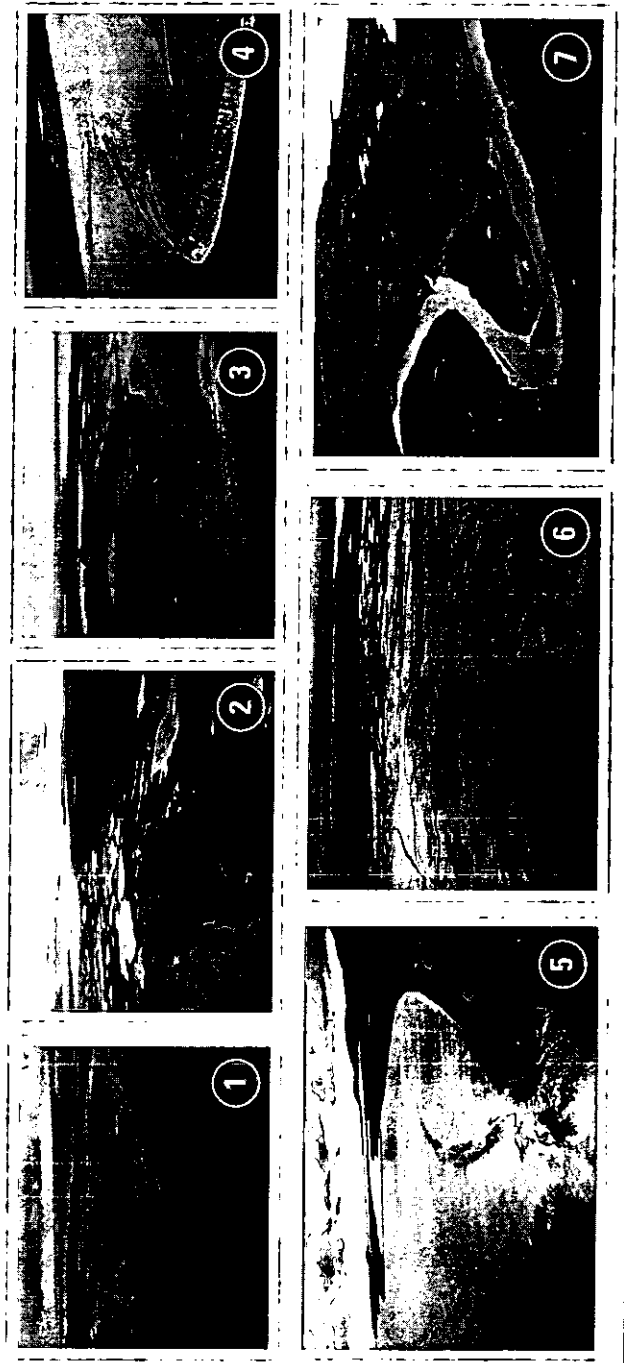
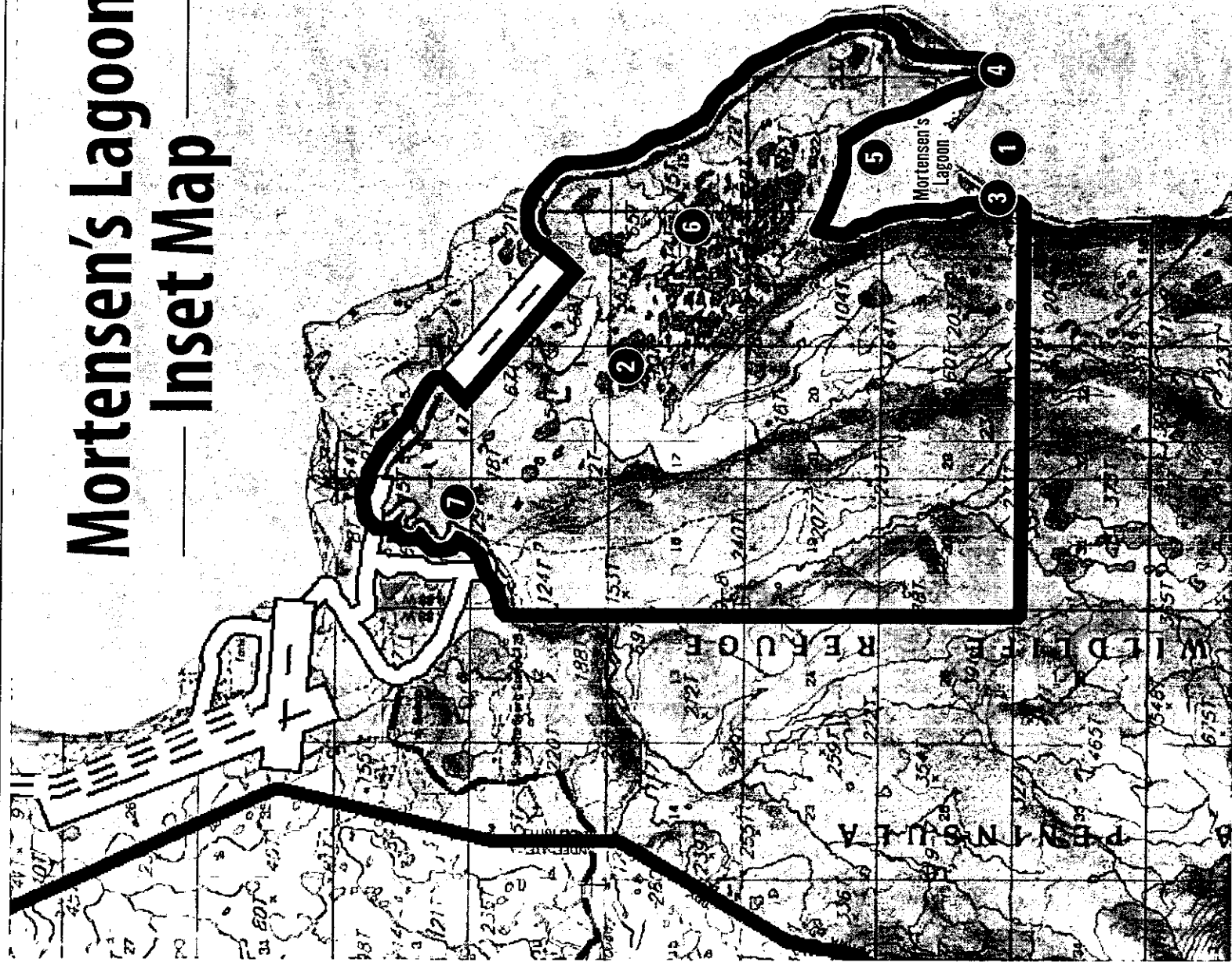
① **Map Reference ID**
Refer to attached table for acreage and legal description of exchange parcels

Upon execution of this agreement all remaining entitlement of King Cove Corporation under ANCSA 12(a) (within the Izembek National Wildlife Refuge) and 12(b) will be met and selections will be relinquished.



Mortensen's Lagoon

Inset Map



Man's Footprint in the Izembek Wilderness



LEGEND

Isthmus Road Alternative

- New Construction
- - - Use of Unmaintained Trails (formerly used as roads) within Izembek National Refuge Wilderness (Motorized Access Prohibited)
- - - Use of Existing Roads

— Unmaintained Trails (formerly used as roads) within Izembek National Refuge Wilderness (Motorized Access Prohibited)

— Existing Roads

— Wilderness Area Boundaries

— Wetland Boundaries

— Wetland Area

— Upland (non-wetland) Area

This map and selected photos are valuable in documenting the roads and trails that currently exist in parts of the Izembek Refuge wilderness. It is clearly evident that man's "footprint" has been part of the Izembek Refuge, including significant portions of the wilderness.

About 35 miles of roads exist in the Izembek Refuge. Approximately 7.4 miles of these roads are acknowledged by the Department of Interior and the Federal Highway Administration (FHWA) as being "native" roads in the wilderness. Another 7 mile road (per this 35-mile road inventory), the Frosty Road, was previously "cherry-stemmed" out of the wilderness. FHWA defines "native road" as a basic dirt trail usable during dry weather, or otherwise, requiring a four wheel drive or ATV, and used at the driver's risk.

The map shows the majority of these roads and their respective locations vis-à-vis the Izembek wilderness boundaries. Photos shown on the following sheet are identified on this map to provide a visual reality of the landscape in the Izembek Isthmus wilderness and other wilderness designations southwest of the isthmus.

This map was prepared from non-rectified, aerial photography that was used for the King Cove Access Project DEIA (July 2003) in conducting a cursory wetlands assessment of the Izembek Isthmus. The scale is not precise, but is acceptable for conceptual planning purposes. Furthermore, the location of roads and trails shown on this map were further validated with their respective locations shown on USFW's Izembek Refuge mapping and USGS quad maps.

A number of criteria were used to develop this conceptual routing through this area, including: staying at least 1/4 mile away from the nearest shoreline of Kinzarof Lagoon and 1 mile away from the nearest shoreline of the Izembek Lagoon; avoiding wetlands to the maximum extent possible; staying as far away from all lakes as much as possible; and utilizing the alignment of existing roads and trails wherever possible.

This criterion has resulted in a road link of 8.9 miles traversing the isthmus. Of this amount, 6.3 miles would be a new alignment and 2.6 miles would follow existing roads and trails.

Northeast Corner
Cold Bay
Terminal Site