

STATE OF ALASKA

THE LEGISLATURE

2014

Source
HJR 30 am

Legislative
Resolve No.
38



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

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

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

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

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

WHEREAS the Omnibus Public Land Management Act of 2009 authorized a land exchange to provide for the road, with an unprecedented offer of over 61,000 acres from the

State of Alaska and King Cove Corporation to the federal government for 206 acres and a small parcel on Sitkanuk Island that would be used to construct a modest access road for daily use by 15 to 20 vehicles; and

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

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

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

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

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

WHEREAS, in announcing that decision, the official spokesperson of the United States Fish and Wildlife Service publicly stated, "safety considerations are important, but they were not a factor in this decision--at least not a factor we analyzed, since we only analyzed

the environmental impacts, which is what we were called upon to do since we are not a public safety organization"; and

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

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

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

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

WHEREAS the Cooperating Agencies unanimously recommended the approval of the land exchange as authorized by the United States Congress in the Omnibus Public Land Management Act of 2009 and provided detailed information during the Environmental Impact Statement process that made clear that no alternative other than approval of the land exchange, which would include approval of the road corridor, could provide safe, reliable, and

affordable transportation access under the Purpose and Need section of the Environmental Impact Study; and

WHEREAS the information provided in the Environmental Impact Statement process included biological and technical information concerning environmental justice and transportation considerations, which the federal government and the Secretary purposefully ignored; and

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

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

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

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

WHEREAS the Secretary has shown no awareness or concern for the frightening, precarious, and time-sensitive situations, including weather conditions, that affect emergency

medevacs by small plane, fishing vessel, or United States Coast Guard helicopter; and

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

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

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

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

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

- (1) reconsideration of the Izembek Land Exchange decision based on technical

and procedural deficiencies; and

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

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