

KING COVE ROAD LAND EXCHANGE ACT

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JULY 13, 2017.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
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Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 218]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 218) to provide for the exchange of Federal land and non-Federal land in the State of Alaska for the construction of a road between King Cove and Cold Bay, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 218 is to provide for the exchange of Federal land and non-Federal land in the State of Alaska for the construction of a road between King Cove and Cold Bay.

BACKGROUND AND NEED FOR LEGISLATION

The communities of King Cove and Cold Bay are located at the far west end of the Alaskan Peninsula, 625 miles southwest of Anchorage. King Cove is especially remote, linked to the outside world by a small gravel airstrip and a harbor. In the winter, harsh weather conditions and gale-force winds routinely ground planes and prohibit sea travel, preventing the community of nearly 1,000 from accessing hospitals and other emergency services. This has resulted in a number of fatal accidents over the years, with evacuation from King Cove sometimes taking days due to the extreme

weather. As a result, the residents of King Cove seek a public road to the larger, more modern airport twenty miles away in Cold Bay, which serves as the regional transportation hub and a site for medical evacuations to fully staffed hospitals outside the region. Important to this bill, Cold Bay originated as World War II-era military base, and as a result has a sizable network of roads and infrastructure surrounding the community, some of which currently exist on the surrounding wilderness and National Wildlife Refuge areas.¹

Between the two communities lie both the Izembek National Wildlife Refuge and a section of the Alaska Peninsula National Wildlife Refuge, two small components of Alaska's nearly 59 million acres of designated wilderness. The Izembek National Wildlife Refuge was originally established as a Wildlife Range by an Alaska Public Land Order in 1960, and then was later converted to a National Wildlife Refuge by the Alaska National Interest Lands Conservation Act (ANILCA, 16 U.S.C. 3101 et seq.) in 1980.² Additionally, the Alaska Peninsula National Wildlife Refuge was also designated with ANILCA's passage. Both Refuges serve as important feeding grounds for migratory birds, with nearly the entire population of three separate species of geese returning to the Refuges each fall.³

King Cove community leaders have sought a road linking the two towns for nearly four decades.⁴ Major legislative action began in the 105th Congress, with then Natural Resources Committee Chairman Don Young introducing H.R. 2259, the King Cove Health and Safety Act of 1997, to facilitate a major land exchange between the State of Alaska and the U.S. Fish and Wildlife Service (FWS). Despite similar legislation (S. 1092) passing the Senate on a 59–38 vote, no House action was taken due to opposition from the Clinton White House and pushback from environmental groups.⁵ Ultimately, Congress provided \$37.5 million in additional funding to the community of King Cove to fund the construction of a hovercraft terminal and local medical facility, as an alternative to constructing a road through the wilderness area.⁶ However, despite the additional funding, the hovercraft workaround only served to be a temporary fix, with services only operating between 2007 and 2010 and eventually ceasing due to extreme operating costs and the inability to handle rough weather conditions.⁷ In the 110th Congress, Congressman Young again introduced legislation, H.R. 2801, to facilitate a land swap between the State of Alaska and FWS. The bill was ordered reported to the House floor, but no further action was taken.

¹The Aleutians East Borough, "King Cove Road Fact Sheet," updated February 1, 2017. http://www.aleutianseast.org/vertical/sites/%7BEEDABE05-9D39-4ED4-98D4-908383A7714A%7D/uploads/Fact_Sheet_King_Cove_Road_Issue.pdf.

²The U.S. Fish and Wildlife Service, Izembek National Wildlife Refuge. "About the Refuge," updated July 24, 2013. <https://www.fws.gov/refuge/Izembek/about.html>.

³The U.S. Fish and Wildlife Service, Alaska Peninsula Wildlife Refuge. "About the Refuge," updated July 24, 2013. https://www.fws.gov/refuge/Alaska_Peninsula/About.html.

⁴The Aleutians East Borough op. cit., page 2.

⁵Warrick, Jo. "King Cove's Relentless Road War," The Washington Post, May 27, 1998. Accessed March 30, 2017. https://www.washingtonpost.com/archive/politics/1998/05/27/king-coves-relentless-road-war/08d3b248-d85a-4876-be07-a83bf1008de3/?utm_term=.a4b7b2663ff.

⁶The Wilderness Society, "History of the Proposed Road Through Izembek National Wildlife Refuge," updated April 16, 2016. <http://wilderness.org/sites/default/files/Timeline%20-%20History%20of%20the%20Proposed%20Road%20Through%20Izembek>

⁷The Aleutians East Borough op. cit., page 1.

Headway was made in 2009, when Congress passed the Omnibus Public Land Management Act (P.L. 111–11), which authorized the Secretary of the Interior to determine if building the proposed road would serve the public interest. Accordingly, FWS prepared an Environmental Impact Statement (EIS) under the national Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 et seq.) and released the final EIS in February 2013. The final EIS outlined five alternatives: two road construction alternatives; one hovercraft improvement alternative; one harbor improvement alternative; and the preferred alternative, no action.⁸

Following the release of the final EIS, then Secretary of the Interior Ken Salazar directed the incoming Secretary of the Interior Sally Jewell to hold an official meeting in King Cove prior to making a final decision on the EIS. As a result, Secretary Jewell visited King Cove in September 2013, but ultimately decided to reject the land swap and uphold the FWS’s preferred no action alternative.⁹ The King Cove tribes, the City of King Cove Corporation, and the Aleutians East Borough sued the Department of the Interior (DOI) and Secretary Jewell as a result of the decision, but in 2015 the Alaska District Court ruled that neither DOI nor Secretary Jewell violated NEPA or the Omnibus Public Land Management Act in the decision-making process.¹⁰

Despite the funding for the hovercraft terminal and improvements made at the medical facility, the fact remains that King Cove is physically isolated from the outside world in the event of severe weather. Fifty-five emergency medevacs have been required since Secretary Jewell’s visit in 2013, a number of which have required either costly Coast Guard involvement, extended patient waiting times, or both. For instance, in 2016, a King Cove woman in her 70s suffering from heart issues was evacuated from King Cove to Cold Bay by the Coast Guard after high winds prevented an air ambulance from landing at King Cove. In the end, it took the woman over seven hours to reach a hospital in Anchorage. A road between King Cove and Cold Bay would go a long way from preventing similar situations from reoccurring, and would provide a potentially life-saving evacuation route for King Cove citizens in the event of an emergency.¹¹

COMMITTEE ACTION

H.R. 218 was introduced on January 3, 2017, by Congressman Don Young (R–AK). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Federal Lands. On April 5, 2017, the Subcommittee held a hearing on the bill. On June 22, 2017, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by

⁸The U.S. Fish and Wildlife Service, “Chapter 2: Alternatives,” in Izebek National Wildlife Refuge Land Exchange/Road Corridor Final Environmental Impact Statement. Updated February 6, 2013. <https://www.federalregister.gov/documents/2013/02/06/2013-02618/final-environmental-impact-statement-izebek-national-wildlife-refuge-proposed-land-exchangeroad>.

⁹U.S. Department of the Interior, “Press Release: Secretary Jewell Issues Decision on Izebek National Wildlife Refuge Land Exchange and Road Proposal.” Updated April 26, 2016. <https://www.doi.gov/pressreleases/secretary-jewell-issues-decision-on-izebek-national-wildlife-refuge-land-exchange-and-road-proposal>.

¹⁰The Aleutians East Borough op. cit., page 2.

¹¹The Aleutians East Borough, “King Cove Optimistic President-elect Donald Trump and Interior Secretary Nominee Ryan Zinke Will Get Community their Life-Saving Road.” Updated December 23, 2016. <http://www.aleutianseast.org/index.asp?SEC=4625D388-43A1-4E17-A354-F5F12E4E7205&DE=03B2B87B-ECDB-4CDB-9183-D464FFFB6040&Type=BPR>.

unanimous consent. Congressman Raul M. Grijalva (D–AZ) offered an amendment designated 2; it was not agreed to by voice vote. No further amendments were offered, and the bill was ordered favorably reported to the House of Representatives on June 27, 2017, by a bipartisan roll call vote of 23 ayes and 14 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
115th Congress

Date: 06-27-17

Recorded Vote #: 7

Meeting on / Amendment on: FC Mark Up on 22 bills: **On Favorably Reporting** H.R. 218 (Rep. Don Young of AK),
"King Cove Road Land Exchange Act"

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. Cook, CA	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mr. Soto, FL</i>		X	
Mr. Young, AK, Chairman Emeritus	X			Mr. Westerman, AR	X		
<i>Mrs. Napolitano, CA</i>				<i>Mr. Panetta, CA</i>		X	
Mr. Gohmert, TX, Vice Chairman				Mr. Graves, LA	X		
<i>Ms. Bordallo, Guam</i>				<i>Mr. McEachin, VA</i>		X	
Mr. Lamborn, CO	X			Mr. Hice, GA	X		
<i>Mr. Costa, CA</i>		X		<i>Mr. Brown, MD</i>		X	
Mr. Wittman, VA	X			Mrs. Radewagen, AS	X		
<i>Mr. Sablan, CNMI</i>				<i>Mr. Clay, MO</i>	X		
Mr. McClintock, CA	X			Mr. LaHood, IL	X		
<i>Ms. Tsongas, MA</i>		X		Mr. Webster, FL	X		
Mr. Pearce, NM	X			Mr. Rouzer, NC	X		
<i>Mr. Huffman, CA</i>		X		Mr. Bergman, MI	X		
Mr. Thompson, PA	X			Ms. Cheney, WY	X		
<i>Mr. Lowenthal, CA</i>		X		Mr. Johnson, LA	X		
Mr. Gosar, AZ	X			Ms. González-Colón, PR			
<i>Mr. Beyer, VA</i>		X					
Mr. Labrador, ID							
<i>Mrs. Torres, CA</i>		X					
Mr. Tipton, CO	X						
<i>Mr. Gallego, AZ</i>		X					
Mr. LaMalfa, CA	X						
<i>Ms. Hanabusa, HI</i>		X					
Mr. Denham, CA	X						
<i>Ms. Barragán, CA</i>		X		TOTAL:	23	14	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 12, 2017.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 218, the King Cove Road Land Exchange Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 218—King Cove Road Land Exchange Act

H.R. 218 would require the U.S. Fish and Wildlife Service to convey, at the request of the State of Alaska, 206 acres of federal land in the Izembek National Wildlife Refuge to allow for the construction of a road. In exchange, the state would convey to the federal government an amount of land up to 43,000 acres with a total fair market value equal to the value of the federal lands the state would receive. CBO expects that the total value of the state-owned land identified for exchange under the bill (43,000 acres) would exceed the value of the federal lands; therefore, we expect that the state would convey a portion of that acreage equalize the value of the lands being conveyed by the two parties and that no cash would be exchanged in the transaction. Because none of the federal lands that would be conveyed are expected to generate receipts over the next 10 years, CBO estimates that enacting the bill would not affect direct spending.

The federal government would incur certain administrative costs associated with the exchange, including surveys and appraisals. Because the bill would require the road to be built in accordance with an environmental impact statement completed in 2013, an updated impact statement would not be required. In total, CBO estimates that any costs incurred in implementing the legislation would total less than \$500,000; that spending would be subject to the availability of appropriated funds.

Because enacting H.R. 218 would not affect direct spending or revenue, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 218 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 218 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of Rule XIII, the general performance goal or objective of this bill is to provide for the exchange of Federal land and non-Federal land in the State of Alaska for the construction of a road between King Cove and Cold Bay.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of Rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.

DISSENTING VIEWS

H.R. 218 authorizes a land exchange between the Department of the Interior and the State of Alaska for the purpose of building a road through the Izembek National Wildlife Refuge, a unit of the National Wildlife Refuge System managed by the Fish and Wildlife Service (FWS). The bill declares that the land exchange is in the public interest and waives all environmental review and public participation requirements of the National Environmental Policy Act (NEPA).

Proponents of this bill claim it is necessary to build a road through the refuge, including the congressionally designated Izembek wilderness, to address the transportation needs of King Cove, a town of approximately 1000 people.

However, this is not the first time Congress has considered or even approved this land exchange. The Omnibus Public Land Management Act of 2009 (PL 111–11) directed the Secretary of the Interior to analyze the land exchange and proposed road corridor by going through the NEPA process to determine if the land exchange is in the “public interest.” After a transparent four-year review, FWS published the Izembek National Wildlife Refuge Land Exchange/Road Corridor Final Environmental Impact Statement (FEIS) on February 5, 2013. Citing irreparable damage to ecological resources and the availability of alternative transportation options, FWS determined that development of a road within the congressionally designated wilderness is not compatible with management protocols of the refuge and chose the “No Action Alternative.”

During the development of the FEIS, the agency held over 130 meetings and analyzed thousands of public comments—70,111 of the 71,960 public comments analyzed by FWS during this process were opposed to construction of the road.¹

The FEIS is not the first government analysis of the proposed road. The U.S. Army Corps of Engineers published a report in 2015 outlining “non-road alternatives” for transportation between King Cove and Cold Bay. That report determined that suitable options exist, including an ice-capable marine vessel, construction of a new airport and the addition of a heliport.² As early as 1996, FWS advised against construction of the road, citing both the potential damage to refuge resources and the availability of alternative transportation options. Construction of the road has been exhaustively evaluated by numerous federal agencies and each evaluation has concluded that the road would do irreparable damage to the ecological resources of the refuge.

¹“Izembek National Wildlife Refuge Land Exchange Road Corridor EIS—Izembek—U.S. Fish and Wildlife Service,” <https://www.fws.gov/nwrs/threecolumn.aspx?id=2147524796>.

²“King Cove-Cold Bay: Assessment of Non-Road Alternatives,” U.S. Army Corps of Engineers, June 18, 2015 <https://www.energy.senate.gov/public/index.cfm/files/serve?Fileid=D8EA08E9-75F1-4D79-A833-87EE91616819>.

Building a road through the middle of congressionally designated wilderness is without precedent and unwarranted. Increased human and mechanical presence from the construction and ongoing use of the road will erode the wilderness values of the area and do lasting ecological damage to the unique, undisturbed wildlife habitat. For the reasons outlined above, we oppose the bill.

RAÚL M. GRIJALVA,
*Ranking Member, House
Natural Resources Com-
mittee.*

COLLEEN HANABUSA,
*Ranking Member, Sub-
committee on Federal
Lands.*

GRACE F. NAPOLITANO,
Member of Congress.

JARED HUFFMAN,
*Ranking Member, Sub-
committee on Water, Power
and Oceans.*

DONALD S. BEYER, Jr.,
Member of Congress.

NANETTE DIAZ BARRAGÁN,
Member of Congress.

DARREN SOTO,
Member of Congress.

A. DONALD MCEACHIN,
*Ranking Member, Sub-
committee on Oversight
and Investigations.*