

113TH CONGRESS
2D SESSION

S. 1929

To require the Secretary of the Interior to transfer to the State of Alaska certain land for the purpose of building a road between the community of King Cove and the all-weather airport in Cold Bay, Alaska.

IN THE SENATE OF THE UNITED STATES

JANUARY 15, 2014

Mr. BEGICH introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To require the Secretary of the Interior to transfer to the State of Alaska certain land for the purpose of building a road between the community of King Cove and the all-weather airport in Cold Bay, Alaska.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “King Cove All-Weather
5 Road Corridor Act”.

1 **SEC. 2. IZEMBEK NATIONAL WILDLIFE REFUGE LAND CON-**
 2 **VEYANCE.**

3 Title VI of the Omnibus Public Land Management
 4 Act of 2009 (Public Law 111–11; 123 Stat. 1178) is
 5 amended by striking subtitle E and inserting the following:

6 **“Subtitle E—Izembek National**
 7 **Wildlife Refuge Land Conveyance**

8 **“SEC. 6401. DEFINITIONS.**

9 “In this subtitle:

10 “(1) CORPORATION.—The term ‘Corporation’
 11 means the King Cove Corporation.

12 “(2) FEDERAL LAND.—The term ‘Federal land’
 13 means—

14 “(A) the approximately 206 acres of Fed-
 15 eral land located within the Refuge, as generally
 16 depicted on the map; and

17 “(B) the approximately 1,600 acres of
 18 Federal land located on Sitkinak Island, as gen-
 19 erally depicted on the map.

20 “(3) GOVERNOR.—The term ‘Governor’ means
 21 the Governor of the State.

22 “(4) MAP.—The term ‘map’ means each of—

23 “(A) the map entitled ‘Izembek and Alaska
 24 Peninsula National Wildlife Refuges’ and dated
 25 September 2, 2008; and

1 “(B) the map entitled ‘Sitkinak Island-
2 Alaska Maritime National Wildlife Refuge’ and
3 dated September 2, 2008.

4 “(5) NON-FEDERAL LAND.—The term ‘non-
5 Federal land’ means—

6 “(A) the approximately 43,093 acres of
7 land owned by the State, as generally depicted
8 on the map; and

9 “(B) the approximately 13,300 acres of
10 land owned by the Corporation (including ap-
11 proximately 5,430 acres of land for which the
12 Corporation shall relinquish the selection rights
13 of the Corporation under the Alaska Native
14 Claims Settlement Act (43 U.S.C. 1601 et seq.)
15 as part of the land exchange under section
16 6402(a)), as generally depicted on the map.

17 “(6) REFUGE.—The term ‘Refuge’ means the
18 Izembek National Wildlife Refuge.

19 “(7) SECRETARY.—The term ‘Secretary’ means
20 the Secretary of the Interior.

21 “(8) STATE.—The term ‘State’ means the State
22 of Alaska.

23 “(9) TRIBE.—The term ‘Tribe’ means the
24 Agdaagux Tribe of King Cove, Alaska.

1 **“SEC. 6402. LAND CONVEYANCE.**

2 “(a) IN GENERAL.—On the date of enactment of the
3 King Cove All-Weather Road Corridor Act, subject to the
4 conditions and requirements described in this subtitle, the
5 Secretary shall convey to the State all right, title, and in-
6 terest of the United States in and to the Federal land for
7 the purpose of constructing a single-lane gravel road be-
8 tween the communities of King Cove and Cold Bay, Alas-
9 ka.

10 “(b) LAND EXCHANGE.—

11 “(1) IN GENERAL.—As a condition of the con-
12 veyance under subsection (a), the State and the Cor-
13 poration shall, not later than 15 days after the date
14 of enactment of the King Cove All-Weather Road
15 Corridor Act, notify the Secretary of the intent to
16 convey the non-Federal land from the State and the
17 Corporation to the United States.

18 “(2) REVERSION.—The land conveyance under
19 section 6402(a) shall be null and void if the State
20 and the Corporation have not conveyed the non-Fed-
21 eral land from the State and the Corporation to the
22 United States not later than 60 days after the date
23 of enactment of King Cove All-Weather Road Cor-
24 ridor Act.

25 “(c) VALUATION.—The land conveyed under sub-
26 section (a) shall not be subject to any requirement under

1 any Federal law (including regulations) relating to the
 2 valuation, appraisal, or equalization of land.

3 “(d) CONSIDERATIONS.—In constructing the road de-
 4 scribed in subsection (a), the Governor shall—

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

7 “(2) minimize the acreage of Federal land that
 8 is required for the construction of the road corridor,
 9 consistent with national road construction safety
 10 practices; and

11 “(3) to the maximum extent practicable, incor-
 12 porate into the road corridor roads that are in exist-
 13 ence as of the date of enactment of the King Cove
 14 All-Weather Road Corridor Act.

15 **“SEC. 6403. KING COVE ROAD.**

16 “(a) REQUIREMENTS RELATING TO USE, BARRIER
 17 CABLES, AND DIMENSIONS.—

18 “(1) LIMITATIONS ON USE.—

19 “(A) IN GENERAL.—Except as provided in
 20 subparagraph (B), any portion of the road con-
 21 structed on the land conveyed under section
 22 6402(a) shall be used primarily for health and
 23 safety purposes (including access to and from
 24 the Cold Bay Airport) and only for noncommer-
 25 cial purposes.

1 “(B) EXCEPTIONS.—Notwithstanding sub-
2 paragraph (A), the use of taxis, commercial
3 vans for public transportation, and shared rides
4 (other than organized transportation of employ-
5 ees to a business or other commercial facility)
6 shall be allowed on the road described in sub-
7 paragraph (A).

8 “(2) REQUIREMENT OF BARRIER CABLE.—The
9 road described in paragraph (1)(A) shall be con-
10 structed to include a cable barrier on each side of
11 the road, as described in the record of decision enti-
12 tled ‘Mitigation Measure MM-11, King Cove Access
13 Project Final Environmental Impact Statement
14 Record of Decision’ and dated January 22, 2004.

15 “(3) REQUIRED DIMENSIONS AND DESIGN FEA-
16 TURES.—The road described in paragraph (1)(A)
17 shall—

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

21 “(B) be constructed with gravel; and

22 “(C) if determined to be necessary, be con-
23 structed to include appropriate safety pullouts.

1 “(b) SUPPORT FACILITIES.—Support facilities for
2 the road described in subsection (a)(1)(A) shall not be lo-
3 cated within the Refuge.

4 “(c) FEDERAL PERMITS.—It is the intent of Con-
5 gress that any Federal permit required for construction
6 of the road be issued or denied not later than 1 year after
7 the date of application for the permit.

8 “(d) TRANSFER OF LAND AFTER CONSTRUCTION.—
9 On the date on which the road described in subsection
10 (a)(1)(A) is completed, the Governor of the State shall
11 transfer to the United States any land conveyed under sec-
12 tion 6402(a) that the Governor determines is not nec-
13 essary for the road corridor.

14 “(e) APPLICABLE LAW.—Nothing in this section
15 amends, or modifies the application of, section 1110 of
16 the Alaska National Interest Lands Conservation Act (16
17 U.S.C. 3170).

18 “(f) AVOIDANCE OF WILDLIFE IMPACTS AND MITI-
19 GATION OF WETLAND LOSS.—

20 “(1) AVOIDANCE OF WILDLIFE IMPACTS.—

21 “(A) IN GENERAL.—Road construction
22 shall comply with standard construction prac-
23 tices in the State, as determined by the Gov-
24 ernor of the State, that—

1 “(i) identify critical periods during the
2 calendar year when the Refuge is utilized
3 by wildlife, especially migratory birds;

4 “(ii) include specific mandatory strat-
5 egies to alter, limit or halt construction ac-
6 tivities during identified high risk periods
7 to minimize impacts to wildlife; and

8 “(iii) allow for the timely construction
9 of the road.

10 “(B) PUBLIC AVAILABILITY.—The Gov-
11 ernor of the State shall make available to the
12 public the practices described in subparagraph
13 (A).

14 “(2) MITIGATION OF WETLANDS LOSS.—The
15 land conveyed under section 6402(a) shall comply
16 with section 404 of the Federal Water Pollution
17 Control Act (33 U.S.C. 1344) with regard to mini-
18 mizing, to the greatest extent practicable, the filling,
19 fragmentation or loss of wetlands, especially
20 intertidal wetlands, and the Governor shall evaluate
21 mitigating any effect on those wetlands transferred
22 in Federal ownership under the provisions of this
23 subtitle.

1 **“SEC. 6404. ADMINISTRATION OF CONVEYED LANDS.**

2 “(a) FEDERAL LAND.—On completion of the land ex-
3 change under section 6402(a)—

4 “(1) the boundary of the land designated as
5 wilderness within the Refuge shall be modified to ex-
6 clude the Federal land conveyed to the State under
7 the land exchange; and

8 “(2) the Federal land located on Sitkinak Is-
9 land that is withdrawn for use by the Coast Guard
10 shall, at the request of the State, be transferred by
11 the Secretary to the State upon the relinquishment
12 or termination of the withdrawal.

13 “(b) NON-FEDERAL LAND.—Upon completion of the
14 land exchange under section 6402(a), the non-Federal
15 land conveyed to the United States under this subtitle
16 shall be—

17 “(1) added to the Refuge or the Alaska Penin-
18 sula National Wildlife Refuge, as appropriate, as
19 generally depicted on the map; and

20 “(2) administered in accordance with the laws
21 generally applicable to units of the National Wildlife
22 Refuge System.

23 “(c) WILDERNESS ADDITIONS.—

24 “(1) IN GENERAL.—Upon completion of the
25 land exchange under section 6402(a), approximately

1 43,093 acres of land as generally depicted on the
2 map shall be added to—

3 “(A) the Izembek National Wildlife Refuge
4 Wilderness; or

5 “(B) the Alaska Peninsula National Wild-
6 life Refuge Wilderness.

7 “(2) ADMINISTRATION.—The land added as wil-
8 derness under paragraph (1) shall be administered
9 by the Secretary in accordance with the Wilderness
10 Act (16 U.S.C. 1131 et seq.) and other applicable
11 laws (including regulations).

12 “(d) PERMITS FOR DREDGED OR FILL MATE-
13 RIALS.—The land conveyed under section 6402(a) shall
14 not be subject to section 404(c) of the Federal Water Pol-
15 lution Control Act (33 U.S.C. 1344(c)).

16 **“SEC. 6405. FAILURE TO BEGIN ROAD CONSTRUCTION.**

17 “(a) VOIDED LAND CONVEYANCE.—The land convey-
18 ance under section 6402(a) shall be null and void if con-
19 struction of the road through the Refuge—

20 “(1) has not begun during the period beginning
21 on the date of enactment of the King Cove All-
22 Weather Road Corridor Act and ending on the date
23 that is 7 years after the date of enactment of the
24 King Cove All-Weather Road Corridor Act; and

1 “(2) has not been completed during the period
2 beginning on the date of enactment of the King
3 Cove All-Weather Road Corridor Act and ending on
4 the date that is 12 years after the date of enactment
5 of the King Cove All-Weather Road Corridor Act.

6 “(b) RETURN OF PRIOR OWNERSHIP STATUS OF
7 FEDERAL LAND.—If the land conveyance is voided under
8 subsection (b)—

9 “(1) the ownership of the Federal land shall re-
10 vert back to the United States; and

11 “(2) the parcel of the Federal land that is lo-
12 cated in the Refuge shall be managed as part of the
13 Izembek National Wildlife Refuge Wilderness.

14 **“SEC. 6406. EXPIRATION OF LEGISLATIVE AUTHORITY.**

15 “(a) IN GENERAL.—Any legislative authority for con-
16 struction of a road shall expire at the end of the 7-year
17 period beginning on the date of the enactment of the King
18 Cove All-Weather Road Corridor Act unless a construction
19 permit has been issued during that period.

20 “(b) EXTENSION OF AUTHORITY.—If a construction
21 permit is issued within the allotted period, the 7-year au-
22 thority shall be extended for a period of 5 additional years
23 beginning on the date of issuance of the construction per-
24 mit.

1 “(c) EXTENSION OF AUTHORITY AS RESULT OF
2 LEGAL CHALLENGES.—

3 “(1) IN GENERAL.—Prior to the issuance of a
4 construction permit, if a lawsuit or administrative
5 appeal is filed challenging the conveyance of the land
6 under section 6402(a) or construction of the road,
7 the 7-year deadline or the 5-year extension period,
8 as appropriate, shall be extended for a time period
9 equivalent to the time consumed by the full adjudication of the legal challenge or related administrative process.
11

12 “(2) INJUNCTION.—After a construction permit
13 has been issued, if a court issues an injunction
14 against construction of the road, the 7-year deadline
15 or 5-year extension, as appropriate, shall be extended for a time period equivalent to the time period that the injunction is in effect.
17

18 “(d) APPLICABILITY OF SECTION 6405.—On the expiration of the legislative authority under this section, if
19 a road has not been constructed, the land exchange shall
20 be null and void and the land ownership shall revert to
21 the respective ownership status prior to the land exchange
22 as provided in section 6405.”.
23

