

**Izembek and Alaska Peninsula Refuge and Wilderness Enhancement Act of 2007
(Introduced in Senate)**

S 1680 IS

110th CONGRESS

1st Session

S. 1680

To provide for the inclusion of certain non-Federal land in the Izembek National Wildlife Refuge and the Alaska Peninsula National Wildlife Refuge in the State of Alaska, and for other purposes.

IN THE SENATE OF THE UNITED STATES

June 21, 2007

Ms. MURKOWSKI (for herself and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for the inclusion of certain non-Federal land in the Izembek National Wildlife Refuge and the Alaska Peninsula National Wildlife Refuge in the State of Alaska, and for other purposes.

- *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

- This Act may be cited as the 'Izembek and Alaska Peninsula Refuge and Wilderness Enhancement Act of 2007'.

SEC. 2. FINDINGS.

- Congress finds that--

- (1) King Cove, Alaska, is--
 - (A) located 625 air miles from Anchorage, Alaska, on the south side of the Alaska Peninsula, on a sand spit fronting Deer Passage and Deer Island;
 - (B) accessible only by air and water; and
 - (C) 1 of the most geographically isolated areas of the State of Alaska;
- (2) constant adverse weather and limiting physical topography make traveling in and out of King Cove directly by air dangerous and impractical much of the time;
 - (3) King Cove is the homeland of Aleut people who--
 - (A) are federally recognized as indigenous peoples of the United States;
 - (B) have fished, hunted, and subsisted in King Cove for over 4,000 years; and
 - (C) refer to the King Cove community as `Agdaagux';
 - (4) the Agdaagux Tribal Council, which is the federally recognized tribal government for King Cove, recognizes that most residents of King Cove are direct descendants of the original Aleut inhabitants;
 - (5) in the 1940s, an airport capable of access by jets was constructed by the United States Army at Cold Bay, which is approximately 25 surface miles north of King Cove, to support World War II related national security needs;
 - (6) while the Cold Bay Airport, which is now a civilian airport operated by the State of Alaska, is the lifeline for the King Cove people to the outside world, particularly for the life, safety, and health needs of the indigenous residents, there is no surface access between King Cove and the airport;

- (7) nearly all of the land between King Cove and Cold Bay is--
- (A) owned by the Federal Government as part of the Izembek National Wildlife Refuge; and
- (B) managed as wilderness; and
- (8) the Agdaagux Tribal Council--
 - (A) maintains that the Council and the indigenous Aleut people of King Cove were not consulted before the land that separates residents from the nearest all-weather airport was designated as wilderness, even though approximately 1,292 people across the United States, Canada, and Europe--
 - (i) received notice of the potential designation; and
 - (ii) during 1969 and 1970, were expressly invited by the Bureau of Sport Fisheries and Wildlife, the predecessor of the United States Fish and Wildlife Service, to participate in the process of considering whether the land should be managed as wilderness;
 - (B) regards the failure of the Federal Government to consult with the Council and the indigenous Aleut people of King Cove as a 'wrong and troubling action taken by the federal government';
 - (C) submits that dozens of King Cove residents have died or suffered grave health consequences in the past 30 years because the residents could not reach timely medical assistance in Anchorage, Alaska, that can only be accessed via the all-weather Cold Bay Airport; and
 - (D) has expressed the full endorsement and support of the Council for the construction of a road between King Cove and the Cold Bay Airport as an expression of, and commitment to, self-determination for the Aleut people of King Cove who were not consulted before the land vital to the survival of the Aleut people of King Cove was designated as wilderness.

SEC. 3. DEFINITIONS.

- In this Act:
- (1) FEDERAL LAND- The term `Federal land' means--
 - (A) the approximately 206 acres of Federal land within the Izembek National Wildlife Refuge in the State that is depicted on the map as `King Cove Road'; and
 - (B) the approximately 1,600 acres of Federal land that is depicted on the map as `Sitkinak Island'.
- (2) LANDOWNER- The term `landowner' means--
 - (A) the State; and
 - (B) the other owners of the non-Federal land, including King Cove Corporation.
- (3) MAP- The term `map' means the map entitled `Proposed Land Enhancements' and dated June 2007.
- (4) NON-FEDERAL LAND- The term `non-Federal land' means the approximately 61,723 acres of non-Federal land authorized to be added to the Refuges under this Act, as depicted on the map.
- (5) REFUGE- The term `Refuge' means each of the Izembek National Wildlife Refuge and the Alaska Peninsula National Wildlife Refuge in the State.
- (6) SECRETARY- The term `Secretary' means the Secretary of the Interior.
- (7) STATE- The term `State' means the State of Alaska.

SEC. 4. CONVEYANCE OF LAND.

- (a) In General- The Secretary shall convey to the State all right, title, and interest of the United States in and to the Federal land on--
 - (1) conveyance by the landowner to the Secretary of title to the non-Federal land that is acceptable to the Secretary; and
 - (2) certification by the Governor of the State that the State-owned land at Kinzaroff Lagoon has been designated under State law as a State refuge.
- (b) Map-
 - (1) AVAILABILITY- The map shall be on file and available for public inspection in the appropriate offices of the Secretary.
 - (2) REVISED MAP- Not later than 180 days after the date of completion of the conveyance of Federal land and non-Federal land under this section, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a revised map that depicts the Federal land and non-Federal land conveyed under this section.
- (c) King Cove Road Conveyance-
 - (1) IN GENERAL- The land described in section 3(1)(A) shall be used for construction of a State road.
 - (2) TERMS AND CONDITIONS-
 - (A) CABLE BARRIER- A road constructed under this subsection shall 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.

- (B) SUPPORT FACILITIES- Support facilities for a road constructed under this subsection shall not be located on federally owned land in the Izembek National Wildlife Refuge.
- (3) COOPERATIVE RIGHT-OF-WAY PLANNING PROCESS-
 - (A) IN GENERAL- On request of the State, the Secretary, in cooperation with the Secretary of Transportation, the State, the Agdaagux Tribal Council, the Aleutians East Borough, the City of King Cove, and the King Cove Corporation, shall undertake a process to determine the route for the road required to be constructed under paragraph (1) within the corridor that is depicted on the map as 'King Cove Road'.
 - (B) DEADLINE- Not later than 18 months after the date on which the State submits a request under subparagraph (A), the Secretary shall complete the planning process required under that subparagraph.
 - (C) COMPATIBILITY- The route for the road recommended by the Secretary under this paragraph shall be considered to be compatible with the purposes for which the Refuge was established.
 - (D) CONSTRUCTION- Construction of the road along the route recommended by the Secretary under this paragraph is authorized in accordance with this Act.
- (4) RECONVEYANCE- The Secretary shall, on receipt of a written request from the State or the King Cove Corporation, immediately reconvey the applicable non-Federal land to the appropriate landowner that contributed the land if--
 - (A) a preliminary or permanent injunction is entered by a court of competent jurisdiction enjoining construction or use of the road; or
 - (B) the State or the King Cove Corporation determines before construction of the road that

the road cannot be feasibly constructed or maintained.

- (d) Applicable Law-
 - (1) IN GENERAL- The conveyance of Federal land and non-Federal land shall not be subject to any requirements for valuation, appraisal, and equalization under any other Federal law.
 - (2) ANCSA- The use of existing roads and the construction of new roads on King Cove Corporation land to access the road authorized under this Act shall be considered--
 - (A) to be consistent with subsection (g) of section 22 of the Alaska Native Claims Settlement Act (43 U.S.C. 1621) and any patents issued under that subsection; and
 - (B) not to interfere with the purposes for which the Refuge was established.
 - (e) Notice- The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives notice of the completion of the conveyance of Federal land and non-Federal land under this section.
 - (f) Designation of Wilderness- On conveyance of the non-Federal land to the Secretary, the approximately 45,493 acres of land generally depicted on the map entitled 'Wilderness additions to Izembek and Alaska Peninsula Wildlife Refuges' and dated June 2007, shall be designated as wilderness.
 - (g) Administration- The Secretary shall administer the non-Federal land acquired under this Act--
 - (1) in accordance with the laws generally applicable to units of the National Refuge System;
 - (2) as wilderness, in accordance with the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.); and
 - (3) subject to valid existing rights.