

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 1092

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 1998

Referred to the Committee on Resources

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## AN ACT

To provide for a transfer of land interests in order to facilitate surface transportation between the cities of Cold Bay, Alaska, and King Cove, Alaska, and for other purposes.

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 Health and  
5 Safety Act of 1998”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) King Cove, Alaska is a community in the  
4 westernmost region of the Alaska Peninsula with a  
5 population of roughly 800 full-time residents and an  
6 additional 400 to 600 workers who are transported  
7 in and out of the community a number of times a  
8 year to work in the local fish processing plant and  
9 on fishing vessels;

10 (2) the majority of the full-time residents are  
11 indigenous Native peoples of Aleut ancestry that  
12 have resided in the region for over 5,000 years;

13 (3) the only mode of access to or from King  
14 Cove is via small aircraft or fishing boat, and the  
15 weather patterns are so severe and unpredictable  
16 that King Cove is one of the worst places in all of  
17 the United States to access by either of these modes  
18 of transportation;

19 (4) the State of Alaska has initiated the King  
20 Cove to Cold Bay Transportation Improvement As-  
21 sessment to confirm the need for transportation im-  
22 provements for King Cove and to identify alternative  
23 methods of improving transportation access with  
24 comprehensive environmental and economic review of  
25 each alternative;

1           (5) the State of Alaska has identified a road be-  
2           tween King Cove and Cold Bay as one of the alter-  
3           natives to be evaluated in the transportation plan-  
4           ning process but for a road to be a viable option for  
5           the State of Alaska, the Congress must grant a leg-  
6           islative easement within the Izembek National Wild-  
7           life Refuge (“Refuge”) across approximately seven  
8           miles of wilderness land owned by the Federal Gov-  
9           ernment;

10           (6) there are fourteen miles of roads within the  
11           wilderness boundary of the Refuge which are cur-  
12           rently traveled by vehicles;

13           (7) any road constructed in accordance with  
14           such easement would be an unpaved, one-lane road  
15           sufficient in width to satisfy State law; and

16           (8) the combined communities of King Cove  
17           and Cold Bay have approximately 250 vehicles.

18 **SEC. 3. PURPOSE.**

19           The purpose of this Act is to establish a surface  
20           transportation easement across Federal lands within the  
21           Refuge and to transfer 664 acres of high value habitat  
22           lands adjacent to the Refuge in fee simple from the King  
23           Cove Corporation to the Federal Government as new wil-  
24           derness lands within the Refuge in exchange for redesi-

1 nating a narrow corridor of land within the Refuge as non-  
2 wilderness lands.

3 **SEC. 4. LAND EXCHANGE.**

4       If the King Cove Corporation offers to transfer to the  
5 United States all right, title, and interest of the Corpora-  
6 tion in and to all land owned by the Corporation in Sec-  
7 tions 2, 3, 4, 5, 6, and 7 of T 57 S, R 88 W, Seward  
8 Meridian, Alaska, and any improvements thereon, the Sec-  
9 retary of the Interior (“Secretary”) shall, not later than  
10 30 days after such offer, grant the Aleutians East Bor-  
11 ough a perpetual right-of-way of 60 feet in width through  
12 the lands described in sections 6 and 7 of this Act for  
13 the construction, operation and maintenance of certain  
14 utility-related fixtures and of a public road between the  
15 city of Cold Bay, Alaska, and the city of King Cove, Alas-  
16 ka and accept the transfer of the offered lands. Upon  
17 transfer to the United States, such lands shall be managed  
18 in accordance with section 1302(i) of the Alaska National  
19 Interest Lands Conservation Act, shall be included within  
20 the Refuge, and shall be managed as wilderness.

21 **SEC. 5. RIGHT-OF-WAY.**

22       Unless otherwise agreed to by the Secretary and the  
23 Aleutians East Borough, the right-of-way granted under  
24 section 4 shall—

1           (1) include sufficient lands for logistical staging  
2           areas and construction material sites used for the  
3           construction and maintenance of an unpaved, one-  
4           lane public road sufficient in width to meet the mini-  
5           mum requirements necessary to satisfy State law;

6           (2) meet all requirements for a public highway  
7           right-of-way under the laws of the State of Alaska;  
8           and

9           (3) include the right for the Aleutians East  
10          Borough, or its assignees, to construct, operate, and  
11          maintain electrical, telephone, or other utility facili-  
12          ties and structures within the right-of-way.

13 **SEC. 6. CONFORMING CHANGE.**

14          Upon the offer of Corporation lands under section 4,  
15          the boundaries of the wilderness area within the Refuge  
16          are modified to exclude from wilderness designation a 100  
17          foot wide corridor to accommodate the right-of-way within  
18          the following land sections:

19               (1) Sections 19, 20, 21, 22, 23, 24, 25, 26, 27,  
20               28, 29, 30, 35, and 36 of T 56 S, R 87 W, Seward  
21               Meridian, Alaska.

22               (2) Sections 23, 24, 25, 26, 27, 34, 35, and 36  
23               of T 56 S, R 88 W, Seward Meridian, Alaska.

24               (3) Sections 1, 2, 11, and 12 of T 57 S, R 89  
25               W, Seward Meridian, Alaska.

1 **SEC. 7. RIGHT-OF-WAY LOCATION.**

2 Unless otherwise agreed to by the Secretary and the  
3 Aleutians East Borough, the right-of-way granted under  
4 section 4 shall be located within—

5 (1) sections 2, 3, 10, and 11 of T 59 S, R 86  
6 W, Seward Meridian, Alaska;

7 (2) sections 27, 28, 29, 30, 31, 32, 33, 34, and  
8 35 of T 59 S, R 86 W, Seward Meridian, Alaska;

9 (3) sections 3, 4, 9, 10, 13, 14, 15, 16, 23, 24,  
10 25, 26, and 36 of T 58 S, R 87 W, Seward Merid-  
11 ian, Alaska;

12 (4) sections 5, 6, 7, 8, 9, 16, 17, 20, 21, 27,  
13 28, 29, 32, 33, and 34 of T 57 S, R 87 W, Seward  
14 Meridian, Alaska;

15 (5) sections 19, 20, 21, 22, 23, 24, 25, 26, 27,  
16 28, 29, 30, 35, and 36 of T 56 S, R 87 W, Seward  
17 Meridian, Alaska;

18 (6) sections 23, 24, 25, 26, 27, 34, 35, and 36  
19 of T 56 S, R 88 W, Seward Meridian, Alaska;

20 (7) section 6 of T 57 S, R 88 W, Seward Me-  
21 ridian, Alaska; and

22 (8) sections 1, 2, 11, and 12 of T 57 S, R 89  
23 W, Seward Meridian, Alaska.

1 **SEC. 8. TECHNICAL AMENDMENTS.**

2 The following provisions of law shall not be applicable  
3 to any right-of-way granted under section 4 of this Act  
4 or to any road constructed on such right-of-way—

5 (1) section 22(g) of the Alaska Native Claims  
6 Settlement Act (43 U.S.C. 1621(g));

7 (2) title XI of the Alaska National Interest  
8 Lands Conservation Act (16 U.S.C. 3161 et seq.),  
9 except as specified in this section; and

10 (3) section 303(c) of title 49, United States  
11 Code.

12 **SEC. 9. JOINT PLAN.**

13 The Secretary and the Aleutians East Borough shall  
14 jointly prepare a plan setting forth—

15 (1) the times of the year a road may reasonably  
16 be constructed when there are not high concentra-  
17 tions of migratory birds in Kinzarof Lagoon; and

18 (2) limitations on nonemergency road traffic  
19 during periods of the year when there are high con-  
20 centrations of migratory birds in Kinzarof Lagoon.

21 **SEC. 10. TRANSFER.**

22 If within 24 months of the date the King Cove Cor-  
23 poration offers to transfer to the United States all right,  
24 title, and interest of the Corporation lands set forth in  
25 section 4 of this Act, the Secretary and the Aleutians East  
26 Borough fail to mutually agree on the following—

1           (1) a final land exchange and a grant of a  
2           right-of-way pursuant to section 4; and

3           (2) the right-of-way specifications, and terms  
4           and conditions of use set forth in sections 5, 6, 7  
5           and 8 of this Act;

6 then the Aleutians East Borough shall have the right to  
7 select a 60 foot right-of-way for the construction, oper-  
8 ation, and maintenance of certain utility-related fixtures  
9 and of a public road from lands described in section 7  
10 of this Act, and to identify logistical staging areas and  
11 construction material sites within the right-of-way. If an  
12 agreement is not reached within 6 months after the Aleu-  
13 tians East Borough notifies the Secretary of its selection,  
14 then the right-of-way is hereby granted to the Borough.

Passed the Senate October 1 (legislative day, Sep-  
tember 29), 1998.

Attest:

GARY SISCO,  
*Secretary.*