



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R7-NWRS-2023-0072; FF07R00000-245-FXRS12610700000]

Notice of Availability; Draft Supplemental Environmental Impact Statement for a Potential Land Exchange Involving Izembek National Wildlife Refuge Lands; Extension of Public Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; extension of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (FWS), announce that we are extending the public comment period for a draft supplemental environmental impact statement (draft supplemental EIS) to consider the effects of a potential land exchange of certain lands owned by the King Cove Corporation with certain lands owned by the U.S. Government and located within the Izembek National Wildlife Refuge and Izembek Wilderness Area. If a land exchange is approved, King Cove Corporation would use the acquired land for a road corridor for noncommercial use. We invite comment on the draft supplemental EIS from the public and local, State, Tribal, and Federal agencies. Comments previously submitted need not be resubmitted, as they will be fully considered.

DATES: *Submitting Comments:* The comment period for the draft supplemental EIS, notice of which published on November 15, 2024 (89 FR 90306), is extended. We must receive your written comments on or before February 13, 2025. Comments submitted online at <https://www.regulations.gov/> must be received by 11:59 p.m. eastern time on February 13, 2025.

ADDRESSES: *Obtaining Documents:* The draft supplemental EIS, as well as any comments and other materials that we receive, will be available for public inspection

online in Docket No. FWS–R7–NWRS–2023–0072 at <https://www.regulations.gov>. In addition, to inform public comment, we are also making FWS’s 2013 EIS and record of decision (ROD) documents available for review at <https://www.regulations.gov> in Docket No. FWS–R7–NWRS–2023–0072. However, we are not taking public comments on those documents at this time.

Submitting Public Comments: You may submit comments by any of the following methods:

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS–R7–NWRS–2023–0072.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R7–NWRS–2023–0072; U.S. Fish and Wildlife Service, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We will post all written comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see **Public Review Process** for more information).

FOR FURTHER INFORMATION CONTACT: Bobbie Jo Skibo, Project Leader, by telephone at 907–441–1539; by email at bobbiejo_skibo@fws.gov; or by U.S. mail at U.S. Fish and Wildlife Service, Alaska Region, National Wildlife Refuge System, 1011 East Tudor Road, Anchorage, AK 99503. Contact Bobbie Jo Skibo to have your name added to our mailing list. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Introduction

On November 15, 2024 (89 FR 90306), we, the U.S. Fish and Wildlife Service (FWS), announced via the *Federal Register* the availability of a draft supplemental environmental impact statement (draft supplemental EIS) to consider the effects of a potential land exchange of certain lands owned by the King Cove Corporation with certain lands that are owned by the U.S. Government and located within the Izembek National Wildlife Refuge and Izembek Wilderness Area. We are now extending the public comment period on the draft supplemental EIS. We are taking this action in accordance with the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321 et seq.), and the Alaska National Interest Lands Conservation Act of 1980, as amended (ANILCA; Pub. L. 96-487, sec. 1302(h), Dec. 2, 1980; 16 U.S.C. 3192(h)), along with other laws as applicable. If a land exchange is approved, King Cove would use the acquired land for a road corridor for noncommercial health, safety, and subsistence uses. The draft supplemental EIS updates information used in FWS's 2013 analysis on the impacts of a then-proposed land exchange and proposed road corridor and the viability of alternatives to provide safe and reliable transportation between the City of King Cove, Alaska, and the airport at Cold Bay, Alaska, and also includes a new land exchange and road corridor alternative. We invite comments on the draft supplemental EIS from the public and local, State, Tribal, and Federal agencies. Comments previously submitted need not be resubmitted, as they will be fully considered.

Potentially Affected Land Areas

The Izembek National Wildlife Refuge (417,533 acres (ac)) and the North Creek (8,452 ac) and Pavlof (1,447,264 ac) units of the Alaska Peninsula National Wildlife Refuge are located at the westernmost tip of the Alaska Peninsula. To the north of the Izembek Refuge is the Bering Sea; to the south is the Pacific Ocean. The Izembek Wilderness covers much of the Izembek National Wildlife Refuge and includes pristine streams, extensive wetlands, steep mountains, tundra, and sand dunes, and provides high

scenic, wildlife, and scientific values, as well as opportunities for solitude and recreation. The Izembek National Wildlife Refuge includes the traditional homelands of the Unangax̂ people.

The King Cove Corporation is an Alaska Native Village Corporation established under the Alaska Native Claims Settlement Act of 1971 (ANCSA; 43 U.S.C. 1601 *et seq.*). Under the authority of ANCSA, Congress granted to King Cove Corporation land entitlements within and adjacent to Izembek Refuge.

Previous Actions

In the Omnibus Public Land Management Act of 2009 (Pub. L. 111-11, title VI, subtitle E (herein referred to as the 2009 Act)), Congress directed FWS to prepare an EIS under NEPA and its implementing regulations (40 CFR parts 1500 through 1508) to evaluate the impacts of a proposed land exchange with the State of Alaska and the King Cove Corporation for the purpose of constructing a single-lane gravel road between the communities of King Cove and Cold Bay, Alaska. The 2009 Act required that the road “shall be used primarily for health and safety purposes (including access to and from the Cold Bay Airport) and only for noncommercial purposes,” with limited exceptions. The land exchange contemplated by the 2009 Act would have involved the conveyance of approximately 206 ac within the Izembek Wilderness portion of Izembek National Wildlife Refuge for the road corridor and approximately 1,600 ac of Federal land within the Alaska Maritime National Wildlife Refuge on Sitkinak Island. In exchange, FWS would have received approximately 43,093 ac of land owned by the State of Alaska and approximately 13,300 ac of land owned by the King Cove Corporation. These lands are located around Cold Bay and are adjacent to the North Creek Unit of the Alaska Peninsula National Wildlife Refuge.

In accordance with section 6402(b)(2)(B) of the 2009 Act, an EIS completed in 2013 (2013 EIS; February 6, 2013, 78 FR 8577) analyzed the proposed land exchange

and the potential construction and operation of a road between the communities of King Cove and Cold Bay, Alaska, and, among other alternatives, evaluated a specific road corridor through the Izembek Refuge that was identified in consultation with the State of Alaska, the City of King Cove, and the Agdaagux Tribe of King Cove. In accordance with the 2009 Act, subsequent to the preparation of the 2013 EIS and in conjunction with the 2013 record of decision (2013 ROD; February 20, 2014, 79 FR 9759), Secretary of the Interior Sally Jewell decided not to enter a land exchange after determining that the proposed land exchange (including the construction of the proposed road) was not in the public interest.

On July 3, 2019, Secretary of the Interior David Bernhardt signed a memorandum titled “Findings and Conclusions Concerning a Proposed Land Exchange Between the Secretary of the Interior and King Cove Corporation for Lands Within Izembek National Wildlife Refuge, Alaska” (2019 Secretarial Memorandum). That memorandum laid the foundation for the concurrent approval of a land exchange agreement (2019 Exchange Agreement) between the Department of the Interior (Department) and King Cove Corporation. The 2019 Secretarial Memorandum stated that the purpose of the 2019 Exchange Agreement was to allow a road across the Izembek National Wildlife Refuge to improve access by the residents of King Cove to the airport at Cold Bay. Since the authorities under the 2009 Act had expired, the 2019 Exchange Agreement relied on the general exchange authority found at in section 1302(h) of ANILCA. However, the 2019 Exchange Agreement relied in large part on the record developed for the exchange analyzed under the 2013 EIS and rejected by Secretary Jewell in the 2013 ROD.

On June 1, 2020, the District Court for the District of Alaska vacated the 2019 Exchange Agreement based on several legal defects in the decision. On appeal to the Ninth Circuit Court of Appeals, a three-judge appellate panel reversed the district court. However, an en banc panel of the Ninth Circuit then vacated the three-judge panel’s

decision and agreed to a new review. On March 14, 2023, Secretary of the Interior Deb Haaland issued a new decision memorandum withdrawing the Department from the 2019 Exchange Agreement. That decision memorandum identified as a procedural flaw the failure to consider the effects of the exchange on subsistence uses, and highlighted shortcomings in the record regarding NEPA and ESA analyses. In addition, the Secretary expressed significant policy concerns regarding the nonpublic manner in which the 2019 Exchange Agreement was accomplished, as well as the terms of the Exchange Agreement, which differed from the exchange evaluated in the 2013 EIS. In June 2023, the Ninth Circuit dismissed the lawsuit because the issue had become moot due to Secretary Haaland's decision memorandum.

Notice of Intent

On May 18, 2023 (88 FR 31813), we published a Federal Register notice of intent to prepare a supplemental EIS to consider the effects of a potential land exchange. In that notice, we requested information and suggestions on the proposed supplemental EIS. In particular, we sought information to assist us in updating information we used in our 2013 analysis on the impacts of the then-proposed exchange and road corridor and the viability of alternatives to provide safe and reliable transportation between the City of King Cove, Alaska, and the airport at Cold Bay, Alaska. Comments we received are at <https://www.regulations.gov> in Docket No. FWS-R7-NWRS-2023-0072. The final scoping report, which summarizes comments, is attached as an appendix to the draft SEIS.

Current Action

While the authorities in the 2009 Act remain expired, the FWS has prepared a draft supplemental EIS to address a potential exchange under section 1302(h) of ANILCA. The FWS's draft supplemental EIS analysis assesses the potential impacts of a land exchange and road construction and use, allows for public participation, and

integrates the NEPA analysis with an evaluation under ANILCA section 810. The FWS is also using and coordinating the NEPA process to help inform the Department's processes and analysis under section 106 of the National Historic Preservation Act (54 U.S.C. 306108), the ESA, ANILCA (including any land exchange's furtherance of the statute's conservation and subsistence purposes), ANCSA, the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd), and the Wilderness Act of 1964 (16 U.S.C. 1131 et seq.). Alternatives reviewed include the 2013 EIS alternatives and an additional new alternative for the terms of the proposed land exchange involving the same road corridor in the 2019 Exchange Agreement but involving different terms.

Public Review Process

Request for Public Comments

You may submit written comments and materials concerning the draft supplemental EIS by one of the methods listed in **ADDRESSES**. Comments previously submitted need not be resubmitted, as they will be fully considered.

Public Availability of Comments

If you submit a comment via <https://www.regulations.gov>, your entire comment, including any personal identifying information such as your address, phone number, and email address, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on <https://www.regulations.gov>.

Tribal Consultation and Comment

The meaningful input of Alaska Native Tribes and Alaska Native Corporations is of critical importance to the supplemental EIS. Therefore, and as expressed in Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," the

Federal officials that have been delegated authority by the Secretary are committed to honoring the unique government-to-government political relationship that exists between the Federal Government and federally recognized Tribes. Consultation with Alaska Native Corporations is based on Pub. L. 108-199, div. H, sec. 161, January 23, 2004, 118 Stat. 452, as amended by Pub. L. 108-447, div. H, title V, sec. 518, December 8, 2004, 118 Stat. 3267, which provides that: “The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian Tribes under Executive Order No. 13175.” FWS will hold individual consultation meetings upon request. The Secretary of the Interior will consider Alaska Native Tribes’ and Alaska Native Corporations’ information, input, and recommendations, and address their concerns as much as practicable.

Shannon Estenoz,
Assistant Secretary for Fish and Wildlife and Parks.

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