

110TH CONGRESS  
1ST SESSION

# H. R. 2801

To provide for the inclusion of certain non-Federal land in the Izembek and Alaska Peninsula Wildlife Refuges and Wilderness in the State of Alaska and for the granting of a right-of-way for safe and reliable access for the Native Village of King Cove, Alaska, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 2007

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To provide for the inclusion of certain non-Federal land in the Izembek and Alaska Peninsula Wildlife Refuges and Wilderness in the State of Alaska and for the granting of a right-of-way for safe and reliable access for the Native Village of 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 “Izembek and Alaska  
5 Peninsula Refuge and Wilderness Enhancement and King  
6 Cove Safe Access Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) King Cove, Alaska, is—

4 (A) located 625 air miles from Anchorage,  
5 Alaska, on the south side of the Alaska Penin-  
6 sula, on a sand spit fronting Deer Passage and  
7 Deer Island;

8 (B) accessible only by air and water; and

9 (C) one of the most geographically isolated  
10 areas of the State of Alaska;

11 (2) constant adverse weather and limiting phys-  
12 ical topography make traveling in and out of King  
13 Cove directly by air dangerous and impractical much  
14 of the time;

15 (3) King Cove is the homeland of Aleut people  
16 who—

17 (A) are federally recognized as indigenous  
18 peoples of the United States;

19 (B) have fished, hunted, and subsisted in  
20 King Cove for over 4,000 years; and

21 (C) refer to the King Cove community as  
22 “Agdaagux”;

23 (4) the Agdaagux Tribal Council, which is the  
24 federally recognized tribal government for King  
25 Cove, recognizes that most of residents of King Cove

1 are direct descendants of the original Aleut inhab-  
2 itants;

3 (5) in the 1940s, an airport capable of access  
4 by jets was constructed by the United States Army  
5 at Cold Bay, which is approximately 25 surface  
6 miles north of King Cove, to support World War II  
7 related national security needs;

8 (6) while the Cold Bay Airport, which is now a  
9 civilian airport operated by the State of Alaska, is  
10 the lifeline for the King Cove people to the outside  
11 world, particularly for the life, safety, and health  
12 needs of the indigenous residents, there is no surface  
13 access between King Cove and the airport;

14 (7) nearly all of the land between King Cove  
15 and Cold Bay is—

16 (A) owned by the Federal Government as  
17 part of the Izembek National Wildlife Refuge;  
18 and

19 (B) managed as wilderness; and

20 (8) the Agdaagux Tribal Council—

21 (A) maintains that the Council and the in-  
22 digenous Aleut people of King Cove were not  
23 consulted before the land that separates resi-  
24 dents from the nearest all-weather airport was  
25 designated as wilderness, even though approxi-

1           mately 1,292 people across the United States,  
2           Canada, and Europe—

3                   (i) received notice of the potential des-  
4                   ignation; and

5                   (ii) during 1969 and 1970, were ex-  
6                   pressly invited by the Bureau of Sport  
7                   Fisheries and Wildlife, the predecessor of  
8                   the United States Fish and Wildlife Serv-  
9                   ice, to participate in the process of consid-  
10                  ering whether the land should be managed  
11                  as wilderness;

12                  (B) regards the failure of the Federal Gov-  
13                  ernment to consult with the Council and the in-  
14                  digenous Aleut people of King Cove as a  
15                  “wrong and troubling action taken by the fed-  
16                  eral government”;

17                  (C) submits that dozens of King Cove resi-  
18                  dents have died or suffered grave health con-  
19                  sequences in the past 30 years because the resi-  
20                  dents could not reach timely medical assistance  
21                  in Anchorage, Alaska, that can only be accessed  
22                  via the all-weather Cold Bay Airport; and

23                  (D) has expressed the full endorsement  
24                  and support of the Council for the construction  
25                  of a road between King Cove and the Cold Bay

1 Airport as an expression of, and commitment  
2 to, self-determination for the Aleut people of  
3 King Cove who were not consulted before the  
4 land vital to the survival of the Aleut people of  
5 King Cove was designated as wilderness.

6 **SEC. 3. DEFINITIONS.**

7 In this Act:

8 (1) FEDERAL LAND.—The term “Federal land”  
9 means—

10 (A) the approximately 206 acres of Federal  
11 land within the Izembek National Wildlife Ref-  
12 uge in the State that is depicted on the map as  
13 “King Cove Road”; and

14 (B) the approximately 1,600 acres of Fed-  
15 eral land that is depicted on the map as  
16 “Sitkinak Island”.

17 (2) LANDOWNER.—The term “landowner”  
18 means—

19 (A) the State; and

20 (B) the other owners of the non-Federal  
21 land, including King Cove Corporation.

22 (3) MAP.—The term “map” means the map en-  
23 titled “Proposed Land Enhancements” and dated  
24 June 2007.

1           (4) NON-FEDERAL LAND.—The term “non-Fed-  
2           eral land” means the approximately 61,723 acres of  
3           non-Federal land authorized to be added to the Ref-  
4           uges under this Act, as depicted on the map.

5           (5) REFUGE.—The term “Refuge” means each  
6           of the Izembek National Wildlife Refuge and the  
7           Alaska Peninsula National Wildlife Refuge in the  
8           State.

9           (6) SECRETARY.—The term “Secretary” means  
10          the Secretary of the Interior.

11          (7) STATE.—The term “State” means the State  
12          of Alaska.

13 **SEC. 4. CONVEYANCE OF LAND.**

14          (a) IN GENERAL.—The Secretary shall convey to the  
15          State all right, title, and interest of the United States in  
16          and to the Federal land on—

17                (1) conveyance by the landowner to the Sec-  
18                retary of title to the non-Federal land that is accept-  
19                able to the Secretary; and

20                (2) certification by the Governor of the State  
21                that the State-owned land at Kinzaroff Lagoon has  
22                been designated under State law as a State refuge.

23          (b) MAP.—

1           (1) AVAILABILITY.—The map shall be on file  
2           and available for public inspection in the appropriate  
3           offices of the Secretary.

4           (2) REVISED MAP.—Not later than 180 days  
5           after the date of completion of the conveyance of  
6           Federal land and non-Federal land under this sec-  
7           tion, the Secretary shall submit to the Committee on  
8           Energy and Natural Resources of the Senate and  
9           the Committee on Natural Resources of the House  
10          of Representatives a revised map that depicts the  
11          Federal land and non-Federal land conveyed under  
12          this section.

13          (c) KING COVE ROAD CONVEYANCE.—

14           (1) IN GENERAL.—The land described in sec-  
15          tion 3(1)(A) shall be used for construction of a State  
16          road.

17           (2) TERMS AND CONDITIONS.—

18           (A) CABLE BARRIER.—A road constructed  
19          under this subsection shall include a cable bar-  
20          rier on each side of the road, as described in  
21          the record of decision entitled “Mitigation  
22          Measure MM–11, King Cove Access Project  
23          Final Environmental Impact Statement Record  
24          of Decision” and dated January 22, 2004.

1           (B) SUPPORT FACILITIES.—Support facili-  
2 ties for a road constructed under this sub-  
3 section shall not be located on federally owned  
4 land in the Izembek National Wildlife Refuge.

5           (3) COOPERATIVE RIGHT-OF-WAY PLANNING  
6 PROCESS.—

7           (A) IN GENERAL.—On request of the  
8 State, the Secretary, in cooperation with the  
9 Secretary of Transportation, the State, the  
10 Agdaagux Tribal Council, the Aleutians East  
11 Borough, the City of King Cove, and the King  
12 Cove Corporation, shall undertake a process to  
13 determine the route for the road required to be  
14 constructed under paragraph (1) within the cor-  
15 ridor that is depicted on the map as “King  
16 Cove Road”.

17           (B) DEADLINE.—Not later than 18  
18 months after the date on which the State sub-  
19 mits a request under subparagraph (A), the  
20 Secretary shall complete the planning process  
21 required under that subparagraph.

22           (C) COMPATIBILITY.—The route for the  
23 road recommended by the Secretary under this  
24 paragraph shall be considered to be compatible

1 with the purposes for which the Refuge was es-  
2 tablished.

3 (D) CONSTRUCTION.—Construction of the  
4 road along the route recommended by the Sec-  
5 retary under this paragraph is authorized in ac-  
6 cordance with this Act.

7 (4) RECONVEYANCE.—The Secretary shall, on  
8 receipt of a written request from the State or the  
9 King Cove Corporation, immediately reconvey the  
10 applicable non-Federal land to the appropriate land-  
11 owner that contributed the land if—

12 (A) a preliminary or permanent injunction  
13 is entered by a court of competent jurisdiction  
14 enjoining construction or use of the road; or

15 (B) the State or the King Cove Corpora-  
16 tion determines before construction of the road  
17 that the road cannot be feasibly constructed or  
18 maintained.

19 (d) APPLICABLE LAW.—

20 (1) IN GENERAL.—The conveyance of Federal  
21 land and non-Federal land shall not be subject to  
22 any requirements for valuation, appraisal, and  
23 equalization under any other Federal law.

24 (2) ANCSA.—The use of existing roads and the  
25 construction of new roads on King Cove Corporation

1 land to access the road authorized under this Act  
2 shall be considered—

3 (A) to be consistent with subsection (g) of  
4 section 22 of the Alaska Native Claims Settle-  
5 ment Act (43 U.S.C. 1621) and any patents  
6 issued under that subsection; and

7 (B) not to interfere with the purposes for  
8 which the Refuge was established.

9 (e) NOTICE.—The Secretary shall submit to the Com-  
10 mittee on Energy and Natural Resources of the Senate  
11 and the Committee on Natural Resources of the House  
12 of Representatives notice of the completion of the convey-  
13 ance of Federal land and non-Federal land under this sec-  
14 tion.

15 (f) DESIGNATION OF WILDERNESS.—On conveyance  
16 of the non-Federal land to the Secretary, the approxi-  
17 mately 45,493 acres of land generally depicted on the map  
18 entitled “Wilderness additions to Izembek and Alaska Pe-  
19 ninsula Wildlife Refuges” and dated June 2007, shall be  
20 designated as wilderness.

21 (g) ADMINISTRATION.—The Secretary shall admin-  
22 ister the non-Federal land acquired under this Act—

23 (1) in accordance with the laws generally appli-  
24 cable to units of the National Refuge System;

1           (2) as wilderness, in accordance with the Alaska  
2       National Interest Lands Conservation Act (16  
3       U.S.C. 3101 et seq.); and  
4           (3) subject to valid existing rights.

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