

STATE OF ALASKA

SEAN PARNELL, Governor

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Stephanie Brady
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May 6, 2010

Dear Ms. Brady:

Re: Izembek Land Exchange Notice of Intent to Prepare an Environmental Impact Statement

The State of Alaska has reviewed the February 24, 2010 Notice of Intent to prepare an environmental impact statement (EIS) for a proposed land exchange of certain lands owned by the State of Alaska and certain lands owned by the King Cove Corporation. This land exchange has been supported by the last three Governors of the State and recently approved by the Alaska State Legislature. Also to be evaluated in the EIS is a proposed road corridor through the Izembek National Wildlife Refuge and the Izembek Wilderness Area. In addition to being a party to the exchange, the State carries management and permitting responsibilities that are relevant to the exchange and potential road construction. Based on these responsibilities, we offer the following comments regarding the scope of issues to be addressed in the EIS. The comments in this letter represent the consolidated views of the affected state agencies.

Biological Resources

The EIS should evaluate the following questions to assess potential impacts to biological resources:

- Will existence of the road, and construction and use of the road, alter movement of waterfowl and shorebirds between Kinzarof Lagoon and Izembek Lagoon?
- Will the road create more hunting opportunities (waterfowl and game) that would require agencies to consider regulatory changes?
- Will shorebird and other bird nesting and nesting habitat be displaced both directly within the road corridor and indirectly in the surrounding area during both road construction and use? How will this be mitigated?
- Will the increased access to Izembek State Game Refuge as a result of a new road result in increased boat use of the Izembek State Game Refuge potentially increasing disturbance of waterfowl and eelgrass habitat damage?

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- Will increased boat use and increased waterfowl disturbance on the Izembek lagoon affect waterfowl energetics?
- How will road construction and operation affect caribou and bear movements across the isthmus between Kinzarof Lagoon and Izembek Lagoon?
- How will different types of road barriers (not just a cable barrier) effect caribou movements?
- Will construction and use of the road contribute to increased dust and sedimentation into nearby waterbodies, including anadromous streams and Kinzarof Lagoon? How will this be mitigated?

Construction and Operation of the Road

The EIS should evaluate the following topics with regard to construction and operation of the road:

- Analysis of alternative road alignments within the corridor including geotechnical considerations, and proximity to wildlife concentrations and wetlands.
- Detailed wetland maps
- Location and quantities of gravel sources
- Location and operation of road maintenance facilities
- Maintenance responsibilities for all segments of the road from King Cove to Cold Bay
- Issues that will need to be considered in the EIS if the road project is federally funded using FHWA Title 23 funds:
 - Historical/Cultural Resources
 - Section 4(F) Determination
 - Threatened and Endangered Species
 - Environmental Justice Issues (for example, there may be some impacts resulting from the limits on commercial use of the road)
 - Wildlife Segmentation
 - Hazardous Waste/Materials (e.g., any Military waste sites)

The EIS should evaluate the federal and state highway standards with which the road would need to comply. The State will need to discuss the project with FHWA to ensure they are included in the initial planning for this project and the EIS adequately addresses any other concerns FHWA may have while working on identifying state funding for the proposed road.

If the Secretary determines the land exchange (including construction of the road) is in the public's interest, the road corridor will become part of the Izembek State Game Refuge. As the managing State agency, the Alaska Department of Fish & Game would not initiate or issue a request for proposal to construct a road. DNR would instead need to enter into an Interagency Land Management Agreement (ILMA) with the Alaska Department of Transportation and Public Facilities (DOT&PF) to build and manage the roadway. Alternatively, title for the road corridor could be directly transferred to

DOT&PF. DOT&PF has the expertise to assess proposed road alignments and address minimum standards for highway construction. However, if federal funding is involved, certain standards may apply that could dictate the dimensions and design for the proposed road.

Subsistence Access

The EIS should evaluate the impact of the exchange and road corridor on subsistence access. The Alaska National Interest Lands Conservation Act (ANILCA) Section 811 allows subsistence use of snowmobiles, motorboats, and other means of surface transportation traditionally employed, subject to reasonable regulation. *The Historical Review of Motorized Vehicles on Lands Administered By Izembek Refuge* (November 20, 2003) concludes “Clearly, ORVs were traditionally employed for subsistence and other activities...;” however, because the Refuge restricted motorized use to existing roads that occurred prior to 1980, “...it is unlikely that traditional off-road use of motorized vehicles ever developed.” While somewhat ambivalent, these statements do indicate that some subsistence ORV use was occurring on the refuge prior to 1980. Prior to and after 1980, there was little local enforcement; so even if ORV use was not technically allowed, local residents may have developed significant patterns of subsistence use.

To fully evaluate subsistence impacts, the EIS should gather and analyze traditional knowledge on subsistence use patterns and disclose historical information compiled on subsistence ORV use within the Izembek NWR. With appropriate explanation in the outreach process, the EIS public review can serve to supplement the Refuge’s information about traditional means of access for subsistence purposes. The EIS should also evaluate the potential impacts of each on subsistence access among the reasonable range of alternatives. If the Refuge determines that certain areas with known or suspected historical subsistence ORV use need to be restricted to protect refuge resources, any closure would need to be implemented by regulation, consistent with our understanding of Congressional intent and the commitment from Regional Director Rowan Gould in a letter dated March 28, 2006.

Reservation of ROW for Exchange Lands

The map provided for scoping indicates a proposed road corridor crosses King Cove Corporation (Corporation) land subject to transfer to the Service. The EIS needs to address whether the corridor will be retained by the Corporation or whether a right-of-way will be reserved for the Corporation *as part of the conveyance*. Since lands transferred to the Service will become designated wilderness, Congressional approval would be needed for any right-of-way granted *after* completion of the land exchange.

ANCSA 17 (b) Easements

The EIS should include an analysis of how the exchange of the parcel of King Cove Corporation land near Mortensen’s Lagoon will affect access to public land and waters via existing ANCSA 17(b) easements. Complete and accurate descriptions of each parcel should be included in the EIS, especially the King Cove Corporation parcel near Mortensen’s Lagoon. The seaward boundary is especially unclear in the materials provided for review.

Access on Existing Roadway from Cold Bay

Even though the proposed state-owned road corridor and land exchange area does not extend west of Kinzarof Lagoon beyond the Izembek designated wilderness boundary, the EIS should address whether the existing road that runs north of Cold Bay through Izembek NWR will be affected by the exchange and how it will be connected. For example, will the current road be reconfigured, and if so, will the Service be responsible for reconfiguration and continued management of the road? It also appears the width for the existing portion of the road is 150 feet, where the width for the new state road segment would be 100 feet. We assume the purpose of the tighter corridor is to reduce impacts to designated wilderness; however, a wider corridor may be necessary to comply with DOT&PF standards.

The maps provided for scoping also indicate that the existing road extends north of the proposed road through designated wilderness, paralleling the Moffett Lagoon shoreline. The EIS should address whether the proposed cable barriers will affect access to this existing road.

Type of Use

Since the predominant means of transportation in the King Cove-Cold Bay area is off-highway vehicle (ORV) and snowmobile, local residents may wish to use these modes of transportation on the road corridor. On the State Izembek Wildlife Refuge, ORV use requires a Special Area permit, and use is not allowed in vegetative intertidal areas. Under State law (13 AAC 02.455(4)), snowmobiles and ORVs use is not allowed on state highways, except in the right-of-way, three or more feet from the roadway. However, given the adjacent wetland terrain, travel could be difficult and state and federal refuge resources could be impacted. To ensure the corridor width and design standards are adequate and to protect refuge resources, the EIS should evaluate the type of use that would occur on the road beyond the legislative stipulations, including long term projected traffic analysis.

Sitkinak Island Exchange Lands

The land exchange also involves transferring two parcels equaling 1400 acres on Sitkinak Island within the Alaska Maritime National Wildlife Refuge to the State. Initially the Department of Natural Resources - Division of Agriculture supported the receipt of the additional lands and existing structures for grazing by the current lease holder and for equipment storage. However, we are now aware that the buildings on site are heavily contaminated and listed on the Alaska Department of Environmental Conservation Contaminated Sites Database. Contamination issues range from leaking underground storage tanks to Asbestos contamination. Prior decontamination efforts by the US Coast Guard were not sufficient.

While supportive of including the lands on Sitkinak Island in the exchange, the State cannot accept the contaminated structures. Therefore, the EIS should address remediation of the site prior to transfer to the State, including either razing or decontaminating and retaining the existing structures.

Mitigation Plan

Sec. 6403. King Cove Road. (e) requires the Secretary to develop an enforceable mitigation plan in consultation with the State and authorized entities identified in the Act. The EIS should provide a schedule for when this process would begin and conclude.

Coastal Zone Consistency

The Coastal Zone Management Act of 1972, as amended (PL 92-583), directs federal agencies conducting activities within the coastal zone or that may affect any land or water use or natural resources of the coastal zone to conduct these activities in a manner which is consistent "to the maximum extent practicable" with approved state management programs.

The Alaska Coastal Zone Management Act of 1977, as amended, established policy guidance and standards for the review of federal activities within or potentially affecting Alaska's coastal zone. In addition, specific policies on activities and uses of coastal lands and water resources within coastal resource districts have been developed by the Aleutians East Borough coastal district. Please note that certain federal actions may require a Federal Consistency determination in accordance with 15 CFR 930 Subpart C. The Service should contact the DNR Division of Coastal and Ocean Management, Anchorage office, to assist in determining applicability of a federal consistency determination for the land exchange.

Thank you for the opportunity to provide comments on the scope of issues to be addressed in the EIS. If you have questions regarding these comments, please contact me at (907) 269-7476 or by email at donald.perrin@alaska.gov

Sincerely,



Don Perrin
Project Management and Permit Coordinator
Alaska Department of Natural Resources

cc: Kyle Smith, DNR
Sue Magee, DNR
Ellen Simpson, ADF&G
Judy Chapman, DOT&PF
Heather Boyer, USACOE
Gary Hennigh, City of King Cove
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