

**King Cove Group**  
*Agdaagux Tribe of King Cove & Belkofski Tribal Council*  
*King Cove Corporation*  
*City of King Cove & Aleutians East Borough*

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January 15, 2014

The Honorable Sally Jewell, Secretary  
U.S. Department of the Interior  
1849 C Street NW  
Washington, DC 20240

Dear Secretary Jewell:

**RE:** Request for Reconsideration of the Record of Decision on Izembek Land Exchange EIS

This letter is a request that you reconsider your decision of December, 23, 2013 regarding the Izembek Land Exchange Act, Subtitle E, Section 6401 et. seq. of the Omnibus Public Lands Management Act of 2009 (OPLMA). This Act required that the Secretary make a public Interest determination on a proposed land exchange authorized by Congress in that Act. Following the passage of the Act, the Department undertook a nearly 5-year process to conduct an EIS. Your decision states that it is the decision for the EIS.

This request is based upon the failure of the Record of Decision (ROD) to consider information showing the lack of an access alternative to Cold Bay other than the road that meets the safe, reliable, and affordable criteria of the Purpose and Need Statement in the Environmental Impact Statement (EIS). We earnestly believe that you would have reached a different decision had you known that there is no alternative to the road that meets the safe, reliable and affordable Purpose and Need criteria of the EIS.

Specifically, the U.S. Fish & Wildlife Service (USF&WS) caused you to believe that there was a “landing craft” alternative to the road. The USF&WS construction of a landing craft alternative is premised upon its expansive and wishful over-reading of a Borough letter dated February 24, 2012 to the Corps of Engineers. In that letter, the Borough, the holder of the current Corps permit, committed only to attempt to develop a landing craft alternative. From this letter the USF&WS went to contractors that it selected to construct a USF&WS landing craft alternative. It appears that the scope of the project and project assumptions were provided to the contractors by the USF&WS.

The Borough has subsequently determined that neither a landing craft, nor any other marine solution, could provide safe, reliable, and affordable transportation services between King Cove and Cold Bay. The following list describes the reasoning for this conclusion.

1. There is no docking or receiving facility for a landing craft, or any marine vessel, on the Cold Bay side, other than the existing Cold Bay dock. People and emergency vehicles (i.e. ambulance) cannot be unloaded safely and reliably, especially persons being medevaced in bad weather (and thus this alternative is not safe and reliable, which the road is);
2. No previously reviewed potential site exists on the Cold Bay side to construct a docking or receiving facility for a landing craft on the Cold Bay side that:
  - a. would not be free of ice once constructed (e.g. a breakwater in front of the Cold Bay dock or from the outfall of the Cold Bay municipal treatment works);
  - b. would not be extraordinarily expensive to construct; and
  - c. would not arguably interfere with endangered species (e.g. at Delta Point).
3. A landing craft could not reach the northeast corner of Cold Bay in winter icing conditions and at low tides (and thus is not reliable, which the road is);
4. Because of its flat bottom, the waves and currents of Cold Bay would cause a landing craft to roll, which would make transport of a medevac patient from King Cove extremely difficult. The design of any kind of marine vessel for public transit has to consider passenger comfort. To avoid excessive sea sickness the vessel must be long enough (or have additional anti roll features) to be tolerable to the majority of passengers (and thus is not safe and reliable, which the road is);
5. A landing craft, or any marine vessel, would have significant difficulty in loading, unloading and accommodating an ambulance and a medevac patient during bad weather in Cold Bay (and thus is not safe and reliable, which the road is);
6. A landing craft, or any marine vessel, would have significant difficulty in loading, unloading and accommodating passengers and other vehicles during bad weather in Cold Bay (and thus is not safe and reliable, which the road is);
7. A landing craft, or any marine vessel, is far more expensive for the Borough compared to the road alternative. The ROD provided no information about the operating costs of the landing craft. The analysis in your Final EIS for the proposed landing craft is described as “unavailable”, conveniently implying that there are no costs while more than quadrupling the costs of the road alternatives from the draft EIS costs;

8. Based upon the traditional local knowledge of the aboriginal Aleut people about winds, oceans, and winter icing conditions in Cold Bay, the undersigned know that no viable landing craft can be developed that meets the Purpose and Need criteria of the EIS.

The landing craft alternative constructed by the USF&WS does not take these conditions into account. Thus, the USF&WS failed to take the “hard look” at the alternative required by NEPA, making your decision arbitrary and capricious.

The Borough also reviewed other marine alternatives including re-establishment of service with a hovercraft. Previous experience with the hovercraft operating between King Cove and Cold Bay found this solution to be unreliable and often with conditions unsafe to operate. The hovercraft as an alternative is far too expensive to be affordable for the Borough to operate. This information is based on further unsatisfactory use of the hovercraft at an alternative location between the City of Akutan and Akun Island. The Borough recently made a decision to abandon the use of the Hovercraft at this location since its experience there was that the hovercraft was enormously expensive costing over \$3 million per year to subsidize. Also, the overall lack of reliability due to weather, wind & wave conditions were major factors in discontinuing its use.

Because the USF&WS landing craft alternative does not meet the safe, reliable, and affordable access criteria of the Purpose and Need statement of the EIS we request that you reopen the process to consider the evidence, listed above, that no landing craft alternative can meet the Purpose and Need criteria of the EIS. We are sure you agree that your decision would have been different had you known that the evidence does not support the USF&WS’s conclusion that an alternative to the road exists.

Moreover, because there is no such evidence, the assertion in the ROD that there is an alternative to the road that meets the Purpose and Need criteria not only makes your decision arbitrary and capricious, but a violation of your duty to make a decision which honors the Department’s Trust responsibility to use the best information available to the Department to make a proper “public interest” determination under the Act. Further, your decision does not make a public interested-determination, which must necessarily take in to account whether the decision meets the Purpose and Need criteria of the EIS.

If reconsideration is granted, the undersigned intends to provide confirming information, including marine engineering information, describing why there is no safe, reliable, and affordable alternative to the road.

There are several other reasons why reconsideration is warranted, including:

1. The “landing craft” alternative was improperly included in the No Action Alternative only after publication of the Draft EIS, which included the now abandoned hovercraft as an alternative to the road;

2. The above listed reasons, explaining why a landing craft does not meet the Purpose and Need criteria of the EIS, is new information which must be considered by you before a final decision, as required by Congress, can be made;
3. This has not been a normal decision process. OPLMA directed you to make a public interest determination on the Congressional approved land exchange, which you did not make;
4. By letter dated March 21, 2013, your predecessor mandated that you would make this decision only after a visit by your Assistant Secretary for Indian Affairs (ASIA) and a report which "will address whether and to what extent the road is needed to meet emergency medical needs." The Report from ASIA Washburn does not do so. It merely reports the opinion of the King Cove residents, all of who are in favor of the road. The report from ASIA Washburn, which was to describe the extent to which the road is needed to meet medical emergencies should be produced, made part of the record and considered during reconsideration. This report is critical to meeting the Department's trust responsibilities to the Native people of the area and the requirements of Secretary Salazar's March 21, 2013 letter; and
5. The March 21, 2013 letter from Secretary Salazar states that you would visit King Cove, which you did. However, you did not make public the transcript of your on-the-record public meeting until you published your decision in the ROD. This failed to give the public any opportunity to react to clear testimony, such as from Robert Trumble at p. 18-19, that it is extremely difficult to dock a boat at the Cold Bay dock. There is no analysis of how the landing craft can land at Cold Bay. These missing elements are in direct violation of the responsibilities outlined in Secy. Salazar's March 21 letter shows that the administrative record has not been properly assembled.

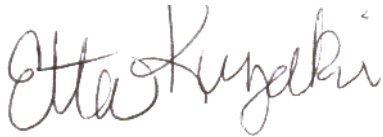
For all of these reasons the undersigned request that you reconsider the decision made in the December 23, 2013 ROD and receive and consider the information provided herein to:

1. Consider information showing the lack of an access alternative to Cold Bay other than the road that meets the safe, reliable, and affordable criteria of the Purpose and Need Statement in the EIS;
2. Make a proper "public interest" determination as required by the Act;
3. Honor the commitment made by your predecessor in his letter of March 21, 2013 to have ASIA Washburn prepare a report, which "will address whether and to what extent the road is needed to meet emergency medical needs:"
4. Meet the Federal Government's trust responsibility to the Aleut residents of King Cove and Cold Bay; and,

5. Include any relevant new information, which has been developed since the closing of the EIS comment period. This would include a more recently concluded Health Impact Assessment conducted by the State of Alaska.

You most certainly will conclude that there is no alternative to the road that meets the safe, reliable and affordable Purpose and Need criteria of the EIS if you do.

Sincerely,



Etta Kuzakin, President  
Agdaagux Tribe of King Cove



Lynn Mack, President  
Belkofski Tribal Council



Dean Gould, President  
King Cove Corporation  
& Agdaagux Tribe Member



Stanley Mack, Mayor  
Aleutians East Borough  
& Qagan Tayagunin Tribe Member



Henry Mack, Mayor  
City of King Cove  
& Agdaagux Tribe Member

CC: Senator Lisa Murkowski  
Senator Mark Begich  
Representative Don Young  
Governor Sean Parnell  
Assistant Secretary of Indian Affairs, Kevin Washburn  
Assistant Secretary of Fish, Wildlife, & Parks, Dan Ashe  
Alaska Region Director, USF&W, Geoff Haskett  
Izembek EIS Project Manager, Stephanie Brady