

Decision of the Secretary

Concerning a Proposed Land Exchange Between the Secretary of the Interior and King Cove Corporation Involving Lands Within Izembek National Wildlife Refuge, Alaska



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October 2025

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Acronyms and Abbreviations

2009 Act	Omnibus Public Land Management Act of 2009
2013 EIS	<i>Izembek National Wildlife Refuge Land Exchange/Road Corridor Final Environmental Impact Statement</i>
2024 Draft SEIS	<i>Izembek National Wildlife Refuge Land Exchange/Road Corridor Draft Supplemental Environmental Impact Statement</i>
ADOT&PF	Alaska Department of Transportation and Public Facilities
AMBCC	Alaska Migratory Bird Co-Management Council
ANCSA	Alaska Native Claims Settlement Act
ANILCA	Alaska National Interest Lands Conservation Act
CFR	Code of Federal Regulations
Department	United States Department of the Interior
DPS	distinct population segment
Ecological Services	United States Fish and Wildlife Service, Ecological Services Program
EFH	Essential Fish Habitat
EIS	Environmental Impact Statement
ESA	Endangered Species Act
FR	Federal Register
Izembek Refuge	Izembek National Wildlife Refuge
KCC	King Cove Corporation
NEPA	National Environmental Policy Act
NMFS	National Oceanic and Atmospheric Administration, National Marine Fisheries Service
Refuge System	National Wildlife Refuge System
ROD	Record of Decision
SEIS	Supplemental Environmental Impact Statement
Service	United States Fish and Wildlife Service
TUS	transportation or utility system
USACE	United States Army Corps of Engineers
U.S.C.	United States Code

1 INTRODUCTION

This Decision constitutes the United States (U.S.) Department of the Interior (Department) approval of a proposed land exchange between the Secretary of the Interior and King Cove Corporation (KCC) involving lands within Izembek National Wildlife Refuge, Alaska (Proposed Land Exchange). The purpose of the proposed land exchange is for the United States to acquire land interests within the Izembek National Wildlife Refuge (Izembek Refuge) from KCC that further the purposes of the Alaska National Interest Lands Conservation Act¹ (ANILCA) in exchange for providing KCC with lands that would allow KCC to pursue the construction and operation of a long-term, safe, reliable, and affordable year-round road from King Cove to the airport in Cold Bay. The authority for the proposed land exchange is Section 1302(h) of ANILCA.² This Decision provides relevant background, describes the land exchange decision made herein, and explains the rationale for the Decision.

2 BACKGROUND

2.1 History of the Izembek Refuge

The Izembek Refuge is located at the end of the Alaska Peninsula and managed by the U.S. Fish and Wildlife Service (Service) from its headquarters in Cold Bay, Alaska. King Cove and Cold Bay are the closest communities to the Izembek Refuge. The lands that now constitute the Izembek Refuge have a rich history summarized below, along with relevant background information on the communities of King Cove and Cold Bay.

2.1.1 Indigenous Peoples' History

What is currently known as the Izembek Refuge is a part of the homelands of the Unanga̋ people. The self-given term for this group of Native peoples is Unangan. The word Unangan loosely translates to “We, the People.” Whereas “Aleut” is the word Russians used to describe the Unangan people during Russian colonization in the eighteenth century.

The Unanga̋ people have continuously lived in this area dating back to 7,000 BC, with villages near Cold Bay radiocarbon dating to around 5,000 to 6,000 years ago. The Unanga̋ people continue to live in several communities along the Peninsula, the Pribilof Islands, and the Aleutian Islands. Two federally recognized Tribes are based in King Cove—the Agdaagux Tribe of King Cove and the Native Village of Belkofski. KCC, an Alaska Native Village Corporation pursuant to the Alaska Native Claims Settlement Act (ANCSA),³ is composed of and represents shareholders in King Cove.

The Unanga̋ people mastered the art of Iqya̋ building (today known as kayaks) and harvested animals both from sea and from land with great success. The land and waters provided food, shelter, tools, and clothing; people lived in reciprocity with the land and prospered. Traditional Unangan dwellings, called ula̋, blended in perfectly with their surroundings.

The importance of subsistence and of Indigenous peoples' ties to the land in Alaska cannot be overstated. It is a traditional way of life that is vital to cultural identity and spiritual connection to the land. Unangan people, traditions, and culture remain an important presence in the area today with ongoing efforts to revitalize and pass them on to the next generations.

¹ Pub. L. No. 96-487 (Dec. 2, 1980), 94 Stat. 2371 *et seq.*

² 16 U.S.C. § 3192(h).

³ Pub. L. No. 92-203 (Dec. 18, 1971), 85 Stat. 688.

2.1.2 World War II Military History

In 1929, the area now known as Cold Bay was designated a Naval Reservation Area. As tensions mounted over World War II, the construction of an airplane runway began, and Fort Randall was commissioned in 1942. At its height, several thousand soldiers were stationed at Fort Randall. Infrastructure accompanied the troops: an airport runway, deep water dock, roads, housing and facilities, and ultimately military exercises. Troops withdrew at the end of the war, but the runway, deep water dock, and roads, are still in use today and are visible reminders of the military history of the area.

Additional evidence remains on the landscape: abandoned roads that have revegetated, dugouts and building materials from the barracks, buried equipment, and unexploded ordinances.

2.2 Izembek Refuge

2.2.1 Refuge Establishment

The Izembek National Wildlife Range, headquartered in Cold Bay, was established in December 1960 as "a refuge, breeding ground, and management area for all forms of wildlife."⁴ Much of the range had been previously encompassed by the Aleutian Islands National Wildlife Refuge.

With the passage of ANILCA⁵ in December 1980, the Izembek National Wildlife Range was redesignated the Izembek National Wildlife Refuge, and the boundaries were adjusted to encompass approximately 300,000 acres.⁶ In addition, ANILCA designated approximately 95 percent of the Izembek Refuge as the Izembek Wilderness⁷ to be part of the national wilderness preservation system provided for by the Wilderness Act of 1964.⁸

2.2.2 Refuge Environment

The Izembek Refuge contains approximately 310,000 acres, and approximately 308,000 acres of that are designated wilderness.⁹ It offers vital habitat and supports many different species that are found in or near the Izembek Refuge, including several species listed as threatened or endangered under the Endangered Species Act (ESA) such as Steller's eiders, sea otters, sea lions, blue whales, endangered fin whales, humpback whales, beluga whales, and/or their critical habitat. The Izembek Refuge supports one of the most important migratory bird staging habitats in the world, likely due to inter-tidal eelgrass beds largely found in the adjacent Izembek Lagoon within the Izembek State Game Refuge. In addition, one of the highest densities of brown bear populations in Alaska is found within Izembek Refuge. The Izembek Refuge also has important year-round caribou habitat for wintering, calving, and a migration corridor. Izembek Refuge supports all five species of salmon—red, pink, silver, chum, and king. Additional information about the natural resources in the Izembek Refuge and their importance can be found in the Draft Supplemental Environmental Impact Statement prepared in 2024 (2024 Draft SEIS).¹⁰

Although Izembek Refuge and Izembek Wilderness have significant resource values, they are not pristine or untrammeled areas. There are approximately 35 miles of dirt and gravel roads within the Izembek Refuge, including some within a portion of the Izembek Wilderness.¹¹ In addition, portions of the Izembek Refuge lie within the Cold Bay/Fort Randall Formerly Used Defense Site with current and ongoing cleanup projects overseen by the U.S. Army Corps of Engineers (USACE) in collaboration with

⁴ Public Land Order 2216, 25 FR 12599.

⁵ Pub. L. No. 96-487 (Dec. 2, 1980), 94 Stat. 2371 *et seq.*

⁶ *Id.* at § 303(3).

⁷ See 16 U.S.C. § 1132, note.

⁸ 16 U.S.C. § 1131 *et seq.*

⁹ ANILCA § 303(3), 48 FR 7948 (Feb. 24, 1983); see also <https://www.fws.gov/refuge/izembek/about-us> (last visited October 1, 2025).

¹⁰ 2024 Draft SEIS at Chapter 3.

¹¹ 2024 Draft SEIS at Section 3.3.3.1.

the Service.¹² A 2022 survey documented 141 miles of all-terrain vehicle trails, and imagery in 2023 indicated an on-going expansion of all-terrain vehicle trails.¹³

2.2.3 Refuge Purposes

Section 303(3)(8) of ANILCA set forth the following purposes for the Izembek Refuge:

“(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl, shorebirds and other migratory birds, brown bears and salmonoids;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.”

2.3 The Communities of King Cove and Cold Bay

King Cove and the city of Cold Bay lie 18 miles apart in southwestern Alaska. Both communities are accessible only by sea or by air. King Cove is an Unanga/Aleut fishing village near the tip of the Alaska Peninsula approximately 625 air miles from Anchorage. The community is located at the base of, and surrounded by, steep mountainous terrain to the east. It is also bounded by the Pacific Ocean to the west and south, and to the north by the Izembek Refuge and the Alaska Peninsula National Wildlife Refuge. King Cove has a population of approximately 800 people year-round, but the population historically would expand to approximately 1,300 people during the summer fishing season. While King Cove has the larger population, Cold Bay has the larger instrument-capable airport with a paved runway more than 10,000 feet long (one of the longest in the state) and a crosswind runway.

King Cove traces its origins to the late 1800s. It was incorporated as a first-class city in 1949. The largest salmon cannery in North America, operational since 1911, was located in King Cove until recently. It processed crab, bottom fish, herring, and other fish year-round. However, in January 2024, Peter Pan Seafoods closed their King Cove processing facility indefinitely. Other seafood processing companies have investigated acquiring the shuttered plant, but currently the facility in King Cove remains closed. The plant was a major economic driver for the community and according to the King Cove City Administrator, generated 70 percent of the city’s revenue.

The community of King Cove relies on access to the Izembek Refuge and Cold Bay area, among other areas, to support subsistence harvests that help provide food security.

2.3.1 Public Health and Safety

The residents of the remote King Cove community have long sought reliable access to Cold Bay’s all-weather airport to allow for emergency medical evacuations and other purposes. King Cove and the city of Cold Bay are separated not only by miles, but also by mountainous terrain. Cold Bay connects to King Cove via an isthmus separating the head of Cold Bay, the Izembek Refuge and Wilderness on the isthmus, and the Alaska Peninsula National Wildlife Refuge along the shoreline. The Cold Bay area is known for severe winds and waves, and infrequently for ice.

¹² 2024 Draft SEIS at Section 3.1.5.4.

¹³ 2024 Draft SEIS at Figure 3.3-8h; Williams 2023e.

King Cove is an ocean-oriented community but lacks a dependable public marine connection between it and Cold Bay. A State-operated Alaska Marine Highway System ferry provides service once per month from May through September. The only other option available is to charter fishing vessels for travel to Cold Bay. Although fishing vessels are capable of operating in most weather conditions, they are ill-equipped for the safe transport of medical evacuees. The route from King Cove to Cold Bay is approximately 27 nautical miles, with roughly half that distance occurring in open seas. Marine transportation of medical evacuation (medevac) passengers is further complicated by the fact that individuals must travel up a 20-foot ladder to disembark at the Cold Bay dock. The dock in Cold Bay is nearing the end of its useful service life, and the Alaska Department of Transportation and Public Facilities (ADOT&PF) is planning to replace it with construction of a new pile-supported dock and an adjacent mooring dolphin with fendering around the perimeter of the new dock and demolition of the old facility.¹⁴ This project is currently in the planning phase.

Air transportation has a perilous history in King Cove, whose airport has a 3,500-foot-long runway in a mountainous area. The existing terrain limits the available approaches, and the local meteorology (high winds coupled with low visibility) often leads to unsafe flying conditions. In 1994, ADOT&PF published the Alaska Intermodal Transportation Plan, which noted: "(1) A significant portion of the scheduled flights in and out of King Cove were canceled due to unsafe flying conditions; (2) in addition to documented air crashes in King Cove, numerous incidents and near-misses occurred during operations around the airport, associated principally with weather; and (3) canceled flights due to unsafe flying conditions caused medical complications and fatalities for patients awaiting evacuation from King Cove."

From December 23, 2013, to June 30, 2025, there were 217 medevacs from King Cove, mostly to Cold Bay. Of those 217 medevacs, 32 rescue missions have been by the U.S. Coast Guard operating out of Cold Bay, Kodiak, and St. Paul. In an emergency, time is of the essence and emergency medical treatment provided during the first hour after a traumatic injury is often the determining factor between life and death, or in less severe cases, a full recovery. In the community of King Cove, severe weather conditions often force patients to wait days for emergency evacuation transport by air or water, which not only affects the care they receive but also puts a strain on the clinic's limited supply of medication. Weather also delays routine delivery of prescription medications. A road allowing surface transport during severe weather conditions would remove that delay and mitigate the possibility of similar tragic outcomes.

Even in extreme weather conditions, the Cold Bay airport provides exceptional air access to Anchorage where acute emergency medical services are readily available. Due to the all-weather 10,000-foot runway, its fully operational instrument approach capabilities, and the only crosswind runway in the vicinity, residents who are successfully transported to the city of Cold Bay will likely be successful in traveling further on to Anchorage, regardless of weather conditions. However, residents cannot access emergency services in Anchorage without safe and reliable surface transportation from King Cove to the Cold Bay airport.

2.4 History of Actions Related to a Potential Land Exchange

The Izembek Refuge has been at the center of a decades-long debate around how to balance community access and conservation. Immediately following the passage of ANILCA, the cooperatively developed Bristol Bay Regional Management Plan—led by the Service and the Alaska Land Use Council—identified the desire for a transportation corridor between King Cove and Cold Bay and noted the challenges of doing so through designated wilderness. Health and safety are the primary purposes for this access: the small air strip for King Cove is often inaccessible during periods of bad weather, and the community has long documented the challenges for emergency medical evacuations.

Although the history of King Cove's efforts to pursue a more reliable transportation corridor spans many decades, it is important to note that in 1976, King Cove passed its first formal resolution in support of a

¹⁴ [Cold Bay AMHS Ferry Terminal Reconstruction, Southcoast Region Project.](#)

road connection to the Cold Bay airport. The history of Congressional action, Departmental other actions, and planning and environmental reviews for potential land exchanges and transportation alternatives between the communities of King Cove and Cold Bay and land exchanges between the U.S. government and KCC is set forth in the 2024 Draft SEIS.¹⁵

2.4.1 2013 Environmental Impact Statement and 2013 Record of Decision

The Omnibus Public Land Management Act of 2009 (2009 Act) authorized the Secretary of the Interior to enter into a land exchange with the State of Alaska and KCC upon a finding that it was in the public interest. Under the exchange, the United States would have conveyed a corridor of land through the Izembek Refuge to construct a single lane gravel road connecting the communities of Cold Bay and King Cove in exchange for conveyance of land from the State of Alaska and KCC for inclusion in Izembek and Alaska Peninsula National Wildlife Refuges. The 2009 Act further required the Secretary of the Interior to prepare an Environmental Impact Statement (EIS) (initiated under Secretary Salazar) which was completed in 2013 (2013 EIS) (Service 2013a).

On December 23, 2013, then-Secretary Sally Jewell signed a Record of Decision (2013 ROD) in which she concluded that balance weighed in favor of the no action alternative and that the road would not be in the public interest because it "would lead to significant degradation of irreplaceable ecological resources that would not be offset by the protection of other lands to be received under an exchange . . . [and] . . . because reasonable and viable transportation alternatives exist to meet the important health and safety needs of the people of King Cove."¹⁶ Secretary Jewell noted that "[w]hile Section 6402(a) of OPLMA provides the Secretary with the discretionary authority to undertake an exchange, it does not mandate an exchange nor does it set forth criteria that the Secretary must consider in reaching a decision not to proceed."¹⁷ Ultimately, the Department need only "identify and consider fully the impacts of such an exchange," but the decision on whether to proceed is purely a "policy choice."¹⁸ The 2013 ROD provided its findings and reasons for the decision that served to inform the balancing that Secretary Jewell engaged in prior to reaching her decision. The 2013 ROD articulated the following considerations: Wildlife and Habitat; Wilderness; Refuge Management; and Viable Transportation Alternatives.

1. Wildlife and Habitat Considerations¹⁹

The 2013 ROD concluded that "[b]y keeping the isthmus roadless, a no road alternative best protects the habitat and wildlife of the Izembek Refuge." It noted that the Izembek Refuge provides invaluable and potentially irreplaceable nesting and feeding areas for waterfowl and shorebirds. As part of this analysis, the ROD focused on several different species, including Pacific black brant, tundra swan, emperor geese, Steller's eiders, brown bear, caribou, and wolves. Ninety-eight percent of the approximately 130,000 Pacific black brant feed in the Izembek Refuge. The Izembek Refuge possesses the only non-migratory population of tundra swans in the world, which number in the low hundreds, compared to the global population of over 190,000. The Izembek Refuge also represents an important staging, wintering, and migratory corridor for emperor geese, whose global population is approximately 100,000. A significant portion of the Steller's eiders winter in the Izembek Refuge. Finally, brown bear, caribou, and wolves pass through the Izembek Refuge as part of their range.

Secretary Jewell acknowledged that the lands offered for exchange contain important wildlife habitat, but that those lands would not compensate for the adverse effects associated with the construction of a road.²⁰

¹⁵ 2024 Draft SEIS at Section 1.1.1.

¹⁶ 2013 ROD at p. 3.

¹⁷ 2013 ROD at p. 6. The abbreviation OPLMA refers to the 2009 Act.

¹⁸ 2013 ROD at pp. 7–9.

¹⁹ 2013 ROD at pp. 7–9.

²⁰ 2013 ROD at p. 9. However, it is important to note that the Service had previously indicated that KCC owned lands within the Izembek Refuge are an area that the Service is interested in protecting "because of [its] important

The 2013 ROD concluded that the construction and use of a road corridor would be likely to have negative effects on each of the species referenced.

2. Wilderness Considerations²¹

The 2013 ROD briefly considered the impacts to wilderness of a potential road corridor, noting that the "no action alternative protects nearly 300,000 acres of Wilderness." It further noted that the proposed road corridors would jeopardize between 131 and 152 acres (or approximately 1/20th of 1 percent) in a manner entirely inconsistent with wilderness purposes.

3. Refuge Management Considerations²²

The 2013 ROD discussed concerns that "[i]n addition to the direct impacts of construction and vehicle traffic associated with the proposed road, there is high potential for increased off-road access with the proposed construction of a maintained, all-season gravel-surface road." These concerns were articulated as follows:

Cutting a road through the middle of Izembek Refuge would mean significant additional resources would be necessary to manage the resulting direct and indirect effects of a road to minimize habitat damage and wildlife disturbance. These resources would have to come at a time of decreasing National Wildlife Refuge System (Refuge System) budgets and would be at the expense of accomplishing work directed at the Service's core mission of wildlife and habitat management.

4. Viable Transportation Alternatives²³

In considering the need for viable transportation alternatives, the 2013 ROD recognized that the nearest location to King Cove that can provide Level II trauma care services is in Anchorage, which is over 600 miles away. The 2013 ROD also acknowledged that the local King Cove clinic has been unable to attract full-time doctors with sufficient experience and, instead, physician's assistants, nurse practitioners, and health aides provide the majority of medical care. The 2013 ROD noted that the medical care transportation alternatives available in 2013 were flights from King Cove to Cold Bay (35 minutes), boat transportation (2 hours), and hovercraft transportation (over an hour). The 2013 ROD estimated that, even if a road corridor was constructed, it would be unavailable approximately 2 percent of the time. A key "transportation alternative" considered by Secretary Jewell leading to her decision was an indication that the Aleutians East Borough would "consider" developing a marine transportation link in the form of an aluminum landing craft if a road connection was not available.²⁴ The availability of this alternative was highly speculative at the time of the 2013 ROD.²⁵ That uncertainty was highlighted in the EIS itself, where the Service noted that it lacked "complete data regarding the reasonably predictable actions of the Aleutians East Borough to develop this mode of transportation if the land exchange does not occur."²⁶ Other alternatives to a road connection relied upon by Secretary Jewell included evacuation by air, fishing vessel shuttles, the Alaska Marine Highway ferry, and the now out-of-service hovercraft.²⁷ Finally, the 2013 ROD indicated that the life-cycle costs associated with the construction and maintenance of the road were \$34.2 million.

fish and wildlife values." Izembek National Refuge Final Comprehensive Conservation Plan/Environmental Impact Statement/Wilderness, 1985.

²¹ 2013 ROD at p. 9.

²² *Id.*

²³ 2013 ROD at pp. 10–11.

²⁴ 2013 ROD at p. 11.

²⁵ Nor did the 2013 ROD acknowledge that any potential marine transport alternative would pass through designated critical habitat for the endangered Southwest Alaska DPS of northern sea otters.

²⁶ 2013 EIS at p. 4-12. Furthermore, the landing craft was not discussed in the socioeconomic section of the EIS.

²⁷ 2013 ROD at pp. 11–12, 20.

Secretary Jewell concluded the 2013 ROD by noting that the Izembek Refuge "is internationally recognized for its unique and ecologically significant wetlands and wildlife" and that denying a land exchange would "maintain[s] the integrity of designated wilderness." Secretary Jewell reiterated her belief that viable transportation alternatives were available to the community of King Cove.

2.4.2 2015 Assessment of Non-Road Alternatives

Decades of experience have established that the non-road alternatives have been consistently found by the community of King Cove to be infeasible or inadequate to provide for their health and safety. USACE completed a study in 2015 titled, "King Cove-Cold Bay: Assessment of Non-Road Alternatives" (USACE 2015). This report assessed the viability of non-road alternatives and considered variations related to three primary options: (1) Marine Alternative; (2) Airport Alternative; and (3) Helicopter Alternative. For those three alternatives, the report considered capital costs, operation costs, maintenance costs, medevac time, risk, and dependability. The alternative transportation routes considered in this document have proven to be prohibitively costly and/or insufficiently dependable, and both King Cove and the Aleutians East Borough have not found any of the alternatives considered in this report to be viable.

The Marine Alternative was a concept that included a vessel capable of transporting people and vehicles in virtually all-weather conditions and the necessary terminal facilities on both ends of its route. The report identified three alternative ferry routes, with each contemplating a dedicated terminal built onto the existing Cold Bay Dock and a new ferry terminal built near King Cove. The differences in the alternatives related to different combinations of ferry travel time versus driving time to reach the ferry. Therefore, although the routes would differ slightly, each ferry alternative would require the same type of vessel, a ferry terminal in Cold Bay, and a ferry terminal in King Cove. Ultimately, the report concluded that the capital costs associated with the Marine Alternative would range between approximately \$30 and \$42 million, with an annual operations and maintenance cost of approximately \$1 million. The 75-year life-cycle costs ranged from approximately \$57 to \$72 million.²⁸

The analysis also included quantifying the potential reliability and risks associated with the Marine Alternative. As to the former, the report considered a number of factors, including wind speed, snow conditions, and maintenance. With slight variations from month to month, the report concluded that the Marine Alternative's dependability exceeded 99 percent. As to the latter, the report determined the principal risks to the Marine Alternative were capital funding, operational funding, regulatory permitting, and lack of redundancy. The report concluded that the Marine Alternative risks were "medium-serious," particularly due to the excessive costs associated with capital and operational funding. Since the completion of this report, the Aleutians East Borough has also indicated that it no longer has any intention to develop an aluminum landing craft. Furthermore, the State of Alaska has also announced substantial cuts to funding for the marine ferry system since 2013.

The Airport Alternative concept considered constructing a new airport for the city of King Cove that would function better in poor weather conditions, including instrument capability. Analysis indicated that the one technically feasible site for a new airport that would effectively avoid mountain hazards and wind-channeling terrain without physically encroaching into the Izembek Refuge is located northwest of Mount Dutton. The Airport Alternative considered two options: a 5,000-foot paved runway and a 3,500-foot gravel runway.²⁹ The alternative contemplated designs that would effectively accommodate the typical aircraft used in the Aleutian region for medevac operations. Both airport designs included a runway, apron, and connecting taxiway. Travel time between the proposed King Cove airports and Anchorage would range between 144 and 180 minutes. The report concluded that the capital costs associated with the Airport Alternative would range between \$47 and \$84 million, with an annual

²⁸ All costs referenced in 2015 dollars.

²⁹ Both airport alternatives had design specifications that would accommodate aircrafts customarily used in the region: the Cessna 208 and Beechcraft King Air. However, a 5,000-foot paved runway could also serve to accommodate and support the more demanding needs of a Learjet 35.

operations and maintenance cost of between \$225,000 and \$675,000. The 75-year life-cycle costs ranged from \$50 million to \$97 million.

Again, the report quantified the potential dependability and risks associated with the Airport Alternative. As with the Marine Alternative, the most telling factor in determining dependability relates to local meteorology. As a result, the report concluded that wind speeds in excess of 40 knots would be considered too dangerous for airport utilization, and that such wind speeds are expected approximately 0.13 percent of the time on an annual basis. Additionally, snow events and avalanche-prone areas on the 21-mile access road to the airport may reduce dependability an additional 5 percent. Therefore, the report concluded that, with slight variations from month to month, the Airport Alternative's dependability ranged between 94 percent and 95 percent. In quantifying risks, the report considered sources describing the Aleutian Islands as the windiest and rainiest region in the United States and noted that the mountainous terrain causes dangerous turbulence and visibility issues. Ultimately, the report assessed the risks associated with the Airport Alternative as "medium-serious," also recognizing that the costs associated with the alternative were likely prohibitive.

Finally, the report considered the Helicopter Alternative, a concept that featured the following elements: a leased helicopter and crew; a lighted helicopter facility with a pad of 100 feet by 100 feet; a hanger of 40 feet by 80 feet; and road access to King Cove. The report also considered four possible locations for the heliport, ranging from in King Cove to up to over 22 miles away. Each of the proposed heliport locations has various benefits and concerns. The report concluded that the capital costs associated with the Helicopter Alternative would range between approximately \$3 and \$28 million, with an annual operations and maintenance cost of approximately \$2.25 million. The 75-year life-cycle costs ranged from approximately \$73 to \$99 million. In assessing the dependability of the Helicopter Alternative, the report again identified local meteorology as the most volatile factor. Poor visibility and wind speeds serve to limit the dependability of helicopter utilization, and the report's conclusions indicated that in some months the dependability would be as low as 60 percent and the best case scenario never exceeded 85 percent. Coupling dependability concerns with the high costs associated with the Helicopter Alternative led the report to assess risk as "medium-serious."

While the report was tasked with only considering non-road alternatives, for comparison purposes, the 2013 EIS concluded that the life-cycle cost of the road alternatives ranged between \$34 and \$37 million. Furthermore, the weather conditions that complicate air and sea transportation corridors are less relevant to road transportation, and thus the dependability of a road corridor exceeds that of the alternatives discussed in the 2015 report. Currently, neither King Cove nor the Aleutians East Borough has found any of the alternatives considered in the 2015 report to be viable.

2.4.3 2018 Land Exchange Agreement

In May of 2017, KCC petitioned then-Secretary Ryan Zinke for a land exchange that would allow the corporation to construct a single-lane gravel road that would traverse the Izembek Refuge and end at Cold Bay's airport. After further discussions and review, Secretary Zinke entered into a land exchange agreement with KCC on January 22, 2018 (2018 Land Exchange Agreement). The legal authority for the 2018 Land Exchange Agreement was ANILCA Section 1302(h) as the authority in the 2009 Act had expired in 2016. The 2018 Land Exchange Agreement provided for appraisals and other work to occur and for the United States to convey certain lands that would provide KCC with a potential road corridor in exchange for KCC interests in lands that were equal in value.

Secretary Zinke's reasons for entering into the land exchange agreement consisted of: (1) King Cove's continuing and persistent need for safe and reliable options for emergency medical evacuation; (2) the emerging evidence that Secretary Jewell's reliance on various transportation alternatives was misplaced; (3) the benefits that would accrue to the United States in the form of increased total acreage and protected habitat in the Izembek and Alaska Peninsula Refuges; and (4) the failure of Secretary Jewell to consider in the 2013 ROD that any marine transport alternative would necessarily impinge on designated sea otter

critical habitat while a road would not traverse any critical habitat of threatened or endangered species at all. On March 29, 2019, the U.S. District Court for the District of Alaska vacated the agreement, finding that the Department violated the Administrative Procedure Act by failing to acknowledge the change in Department policy, failing to provide a reasoned explanation for changing course on the Department's prior determinations, and by ignoring its prior determinations about the road's environmental impacts on the Izembek Refuge.³⁰ The Department did not appeal.

2.4.4 2019 Land Exchange Agreement

On July 3, 2019, then-Secretary David Bernhardt signed a memorandum titled "Findings and Conclusions Concerning a Proposed Land Exchange Between the Secretary of the Interior and KCC for Lands Within Izembek National Wildlife Refuge, Alaska." That memorandum laid the foundation for the concurrent approval of a land exchange (2019 Land Exchange Agreement) between the Department and KCC. The 2019 Land Exchange Agreement also relied on the land exchange authority of Section 1302(h) of ANILCA. Specifically, the Department would convey to KCC the surface and subsurface estate of lands delineated in U.S. Survey No. 14495, Alaska, that had been previously identified by KCC as being needed for construction, operation, and maintenance of a road linking King Cove with the Cold Bay airport. In exchange, KCC agreed to provide an equal value exchange of lands located within the physical boundaries of the Izembek Refuge and Wilderness area that have been identified by the Service for future acquisition if such lands became available (referred to as the KCC Exchange Lands Pool). This exchange enabled commercial use of the road and authorized gravel mining within the Izembek Refuge.

On June 1, 2020, the U.S. District Court for the District of Alaska vacated the 2019 Land Exchange Agreement. The Department appealed, and a Ninth Circuit panel upheld the 2019 Land Exchange Agreement. However, the Ninth Circuit subsequently vacated the panel decision and granted a request for rehearing en banc.

On March 14, 2023, while a decision was pending from the en banc Ninth Circuit, then-Secretary Deb Haaland issued a new decision memorandum withdrawing the Department from the 2019 Land Exchange Agreement. The Secretary's decision cited a need for additional study of impacts to conservation and access to subsistence resources, additional public process, and further review under Section 7 of the ESA. On June 15, 2023, the Ninth Circuit dismissed the appeal as moot and vacated the District Court decision.

2.4.5 2024 SEIS and Preliminary ANILCA 810 Analysis

In June 2023, the Service published a *Federal Register* Notice of Intent to prepare an SEIS to consider the effects of a potential land exchange.³¹ The Service prepared the 2024 Draft SEIS to address a potential exchange under Section 1302(h) of ANILCA, the same authority under which the 2018 and 2019 Land Exchange Agreements relied upon. The purpose of the proposed action in the 2024 Draft SEIS was to increase the overall conservation value of lands in the Refuge System and maintain or increase the opportunity for subsistence uses by rural Alaskans, while allowing for the construction of a single-lane gravel road for long-term, safe, and reliable year-round transportation for health, safety, and subsistence access. There was a particular emphasis on emergency medical evacuations in the discussion of the health and safety reasons for a road.

The 2024 Draft SEIS updated the 2013 EIS and evaluated a newly proposed potential land exchange alternative, Alternative 6, based on an offer from KCC. Alternative 6 was identified as the preferred alternative in the 2024 Draft SEIS. This alternative involved a land exchange agreement with KCC that would convey the lands identified in the southern route in the 2013 EIS, with minor changes, to KCC in exchange for 31,198 acres of land with significant conservation, subsistence, and habitat values to the refuge system. While most commercial uses of the road would be prohibited, the use of taxis, commercial

³⁰ *Friends of Alaska National Wildlife Refuges v. Bernhardt*, 381 F. Supp. 3d 1127, 1143 (D. Alaska 2019).

³¹ 88 FR 31813.

vans for public transportation, and ridesharing services, when used for transportation for health, safety, or subsistence purposes, would not be considered a commercial use.

In November of 2024, the Service published the 2024 Draft SEIS (Service 2024). The public comment period for the 2024 Draft SEIS ran from November 15, 2024, through February 13, 2025. The Service also engaged in consultation with various Alaska Tribes and Tribal organizations. In conjunction with the 2024 Draft SEIS, the Service prepared a “preliminary evaluation” addressing the initial determinations required by Section 810 of ANILCA evaluating whether the proposed actions would result in a significant restriction of subsistence uses and needs on federal lands.

During the public comment period for the 2024 Draft SEIS, public meetings and ANILCA Section 810 hearings were held to inform and to solicit comments from the public on the 2024 Draft SEIS. The format for the public meetings and hearings consisted of a presentation, followed by an opportunity for the public to give oral comments. The Service held five in-person and three virtual public meetings (Table 1).

Table 1: Public Meeting and ANILCA Section 810 Hearings

Community	Meeting Type	Date	Time (AK)	Venue	Number of Participants
King Cove	Public Meeting and Hearing	December 4, 2024	6:30–8:30 p.m.	Agdaagux Tribal Center	34
Cold Bay	Public Meeting and Hearing	December 5, 2024	6:30–8:30 p.m.	Cold Bay Community Center	11
Sand Point	Public Meeting and Hearing	December 6, 2024	4:00–6:00 p.m.	Aleutians East Borough Building	9
Anchorage	Public Meeting	December 9, 2024	6:00–8:00 p.m.	Wilda Marsten Theater, Loussac Library	29
Nelson Lagoon	Public Meeting and Hearing	December 11, 2024	3:00–5:00 p.m.	Virtual Zoom Meeting	16
Bethel	Public Meeting and Hearing	December 12, 2024	6:00–8:00 p.m.	Yup'it Piciryarait Cultural Center	15
Yukon-Kuskokwim Delta Communities	Public Meeting and Hearing	December 13, 2024	1:00–3:00 p.m.	Virtual Zoom Meeting	33
False Pass	Public Meeting and Hearing	December 16, 2024	4:00–6:00 p.m.	Virtual Zoom Meeting	18

These meetings and hearings were attended by a variety of stakeholders, including federal agencies, Tribal governments, state agencies, local governments, Alaska Native organizations, businesses, special interest groups/non-governmental organization, and individuals.

Including the comments provided at the public meetings, ANILCA Section 810 hearings associated with the 2024 Draft SEIS, and the written comments submitted during the public comment period on the 2024 Draft SEIS, approximately 71,000 submissions were received on the docket. Group affiliations of those that submitted comments include federal agencies, Tribal governments, state agencies, local governments, Alaska Native organizations, businesses, special interest groups/non-governmental organizations, and individuals. Appendix C provides a summary of the common themes of substantive comments received on the 2024 Draft SEIS. Section 6.6.3 below summarizes the 2024 preliminary ANILCA Section 810 analysis and comments on it.

2.4.6 2025 Executive Order 14153 | Secretary's Order 3422

On January 20, 2025, President Donald Trump issued Executive Order 14153, titled “*Unleashing Alaska’s Extraordinary Resource Potential*.” Section 3(b) of this order directs the Secretary of the Interior to “exercise all lawful authority and discretion available to him and take all necessary steps” to “facilitate the expedited development of a road corridor between the community of King Cove and the all-weather airport located in Cold Bay.”³² Secretary’s Order 3422 implements the provisions of Executive Order 14153. It directs the Assistant Secretary for Fish and Wildlife and Parks to develop an action plan to execute this direction.

2.4.7 Subsequent Actions

During 2025, the Service completed a new ANILCA Section 810 analysis and consultation under the ESA,³³ the Magnuson-Stevens Fishery Conservation and Management Act,³⁴ and the National Historic Preservation Act,³⁵ as detailed further in Section 6.

3 THE PROPOSED LAND EXCHANGE

Following consultations in May of 2025 with KCC, City of King Cove, Aleutians East Borough, the Agdaagux Tribe, and the Native Village of Belkofski, the Department and KCC mutually agreed to move forward with evaluating a proposed equal value land exchange agreement. The purpose of the proposed land exchange is for the United States to acquire from KCC land interests within the Izembek Refuge that further the purposes of ANILCA in exchange for lands that would allow KCC to pursue the construction and operation of a long-term, safe, reliable, and affordable year-round road from King Cove to the airport in Cold Bay. Specifically, the proposed land exchange being evaluated is as follows:

- Approximately 490 acres of public lands (the U.S. Exchange Lands), as delineated in U.S. Survey 14495, owned by the U.S. government would be conveyed to KCC by patent. Approximately 484 of the 490 acres are currently administered by the Service as a part of the Izembek Refuge and 336 acres of these acres are located within the Izembek Wilderness. Another approximately 6 acres within the outer boundaries of Izembek Refuge consists of the subsurface estate of lands with the surface estate owned by KCC in the location of a proposed material site (see Figure 1, 2025, Proposed Land Exchange). The Proposed Land Exchange does not authorize road construction. The Proposed Land Exchange would restrict construction of any road on these lands to a single-lane gravel road. While there has not yet been an application submitted for the construction of a road, the proposed plans for such a road used for analysis purposes are detailed in the subsections below.
- Approximately 1,739 acres of KCC-owned lands in the vicinity of Kinzarof Lagoon identified in Figure 1 (the KCC Exchange Lands) will be conveyed by KCC to the United States. The KCC Exchange Lands are located within the boundaries of the Izembek Refuge and within the Izembek Wilderness. KCC owns the surface estate of these lands, often referred to as the Kinzarof Lagoon bookends, and the United States owns the subsurface estate.
- The United States will make a payment to KCC to equalize the value of the U.S. Exchange Lands and the KCC Exchange Lands.
- KCC will relinquish its selection rights under ANCSA to 5,430 acres located within Izembek Refuge on the east side of Cold Bay, which are identified as “KCC Selected Lands” in Figure 1. The Parties agree the relinquishment has no monetary value because KCC will be entitled to identify alternative selected lands for conveyance that are located outside the Izembek Refuge.

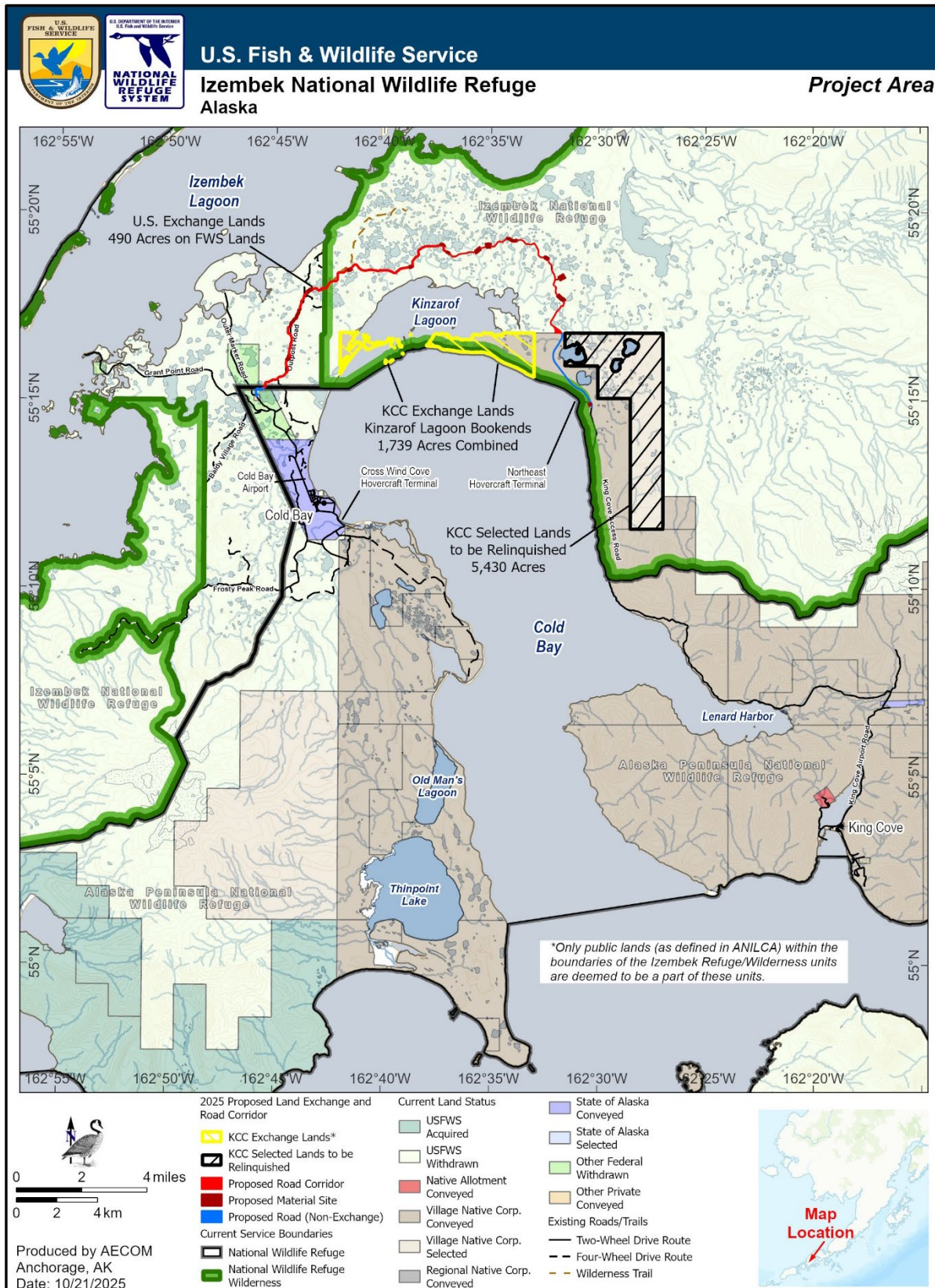
³² Executive Order 14143, Section 3(b)(xi).

³³ 16 U.S.C. §§ 1531–1544.

³⁴ 16 U.S.C. § 1801 *et seq.*

³⁵ 54 U.S.C. § 306108.

Figure 1. 2025 Proposed Land Exchange



The Proposed Land Exchange Agreement is included as Appendix A, and its terms are part of the proposed action.

The Proposed Land Exchange includes mitigation measures to avoid or minimize environmental harm and are identified in Section 3.3.

3.1 U.S. Exchange Lands and Proposed Road

3.1.1 The U.S. Exchange Lands and Activities

The U.S. Exchange Lands are identified on U.S. Survey 14495 and generally form a corridor-type linear path extending northeasterly from Blinn Lake around Kinzarof Lagoon before turning south toward the north end of the King Cove Access Road. The predominate width of the linear path ranges from approximately 100 feet to 240 feet. The westerly 4.25 miles of the U.S. Exchange Lands are crossed by Outpost Road at several points and contain several dirt roads and established trails. The eastern section has many all-terrain vehicle tracks.³⁶ Portions of the U.S. Exchange Lands lie within the Cold Bay / Fort Randall Formerly Used Defense Site area.³⁷

The conveyance of the U.S. Exchange Lands to KCC will remove approximately 484 acres of surface estate from the Izembek Refuge; 336 of these acres are currently located within the Izembek Wilderness, which contains a total of approximately 308,000 acres (0.1 percent). The U.S. Exchange Lands are known to contain wetlands that are considered to have very high value for their hydrologic, biogeochemical, and habitat functions due to their strategic location in proximity to both Izembek and Kinzarof Lagoons.³⁸

The remainder of this section describes KCC's proposed action for road design, construction, operations, and maintenance. However, it is important to note that the Proposed Land Exchange would not authorize any ground-disturbing activities, and road construction, if any, cannot proceed until a proposed project navigates a variety of hurdles, including land conveyances, funding, planning, federal and state approvals, and permitting approvals.

The U.S. Exchange Lands identified in U.S. Survey 14495 are for the same road route as the route identified in Alternative 2 in the 2013 EIS, with minor adjustments based on further refinement and design by ADOT&PF in 2021 (ADOT&PF 2021). It is also the same route as the 2024 Draft SEIS Alternative 6. The road alignment would begin at the terminus of the King Cove Access Road near the Northeast Terminal, extending in a northerly direction for approximately 2.8 miles before entering what is currently the Izembek Wilderness area. From there, the corridor would continue northerly for approximately 3.5 miles before turning west; continue westerly for approximately 7 miles before turning southwest; continue southwesterly for approximately 5.1 miles before exiting the Izembek Refuge; and continue for another 0.5 mile, where it would terminate at the intersection of Outer Marker Road and Blinn Lake Loop.

The proposed road would be 18.9 miles, most of which would be within the Izembek Refuge. The following provides additional details on the miles of proposed road construction, which makes use of existing roads and trails to the extent practicable:

- 13.3 miles of the road corridor would be new construction within the Izembek Refuge with a mix of disturbed and undisturbed lands (Mileposts 0 to 13.3); of this:
 - 2.8 miles are within the exterior boundaries of the Izembek Refuge on KCC-owned surface land that is not part of the proposed land exchange.
 - 10.5 miles are within the Izembek Refuge and are part of the proposed land exchange.

³⁶ 2024 Draft SEIS, Figure 3.3-8.

³⁷ 2024 Draft SEIS at Section 3.1.5.4.

³⁸ 2024 Draft SEIS at Section 3.1.2.6.

- 5.6 miles of the road corridor would be constructed on existing roads and trails (Mileposts 13.3 to 18.9); of this:
 - 5.1 miles are within Izembek Refuge and are part of the proposed land exchange.
 - 0.5 mile are on other lands (RCA Communications Inc. and Federal Aviation Administration) and are not part of the proposed land exchange.

See Figure 2, 2025 Proposed Road Corridor Mileage with Existing Roads and Trails.

3.1.2 Design Criteria

Design guidance was based on the American Association of State Highway and Transportation Officials Policy on Geometric Design of Highways and Streets (Green Book) and Guidelines for Geometric Design of Very Low Volume Roads (AASHTO 2001, 2004, *updated in 2019*), and the ADOT&PF Alaska Highway Pre-Construction Manual (ADOT&PF 2005). The road alignment was developed to a 35 percent design level and is based primarily on information contained in ADOT&PF's plan set dated 2021 [ADOT&PF 2021] and the 2020 right-of-way application submitted by the State of Alaska under ANILCA Section 1110(b) for Access to Inholdings at King Cove, Alaska (ADOT&PF 2020). A centerline survey, geotechnical investigations, or other detailed site surveys have not been completed. Detailed design, permitting, and consultation would be required prior to construction of the road. The road is expected to require a Department of the Army permit from USACE for placement of fill in wetlands.

The proposed road design for the single-lane gravel road is for a 13-foot-wide, single-lane road (11-foot driving lane with two 1-foot shoulders). Approximately 113 turnouts would be constructed along the road corridor for safe passage of approaching vehicles. Most extraction of material for the roadway would be accomplished via expansion of the cut limits in areas of competent material. The material sites along the proposed road corridor vary in size, with the largest being 800 feet long by 1,150 feet wide. The total footprint of new road construction, including material sites, would be 186 acres.

Based on reconnaissance-level design, drainage structures would include 1 bridge over a large stream near Milepoint 2.6, 7 culverts/pipe arches or small bridges to cross small streams, and 63 cross drainage culverts to maintain natural drainage patterns. Culverts would be designed for the 50-year storm event in final design (Alaska Highway Preconstruction Manual) and analyzed for the passage of the 100-year storm event where drainage structures are located in a flood zone. To the extent practicable, design of crossings over fish-bearing streams for fish passage design would follow U.S. Fish and Wildlife Service Culvert Design Guidelines for Ecological Function (Revision 10, 2025). Table 2 provides preliminary information regarding the stream crossings, including stream system numbers assigned by the Alaska Department of Fish and Game.

Figure 2. 2025 Proposed Road with Mileposts and Existing Roads and Trails

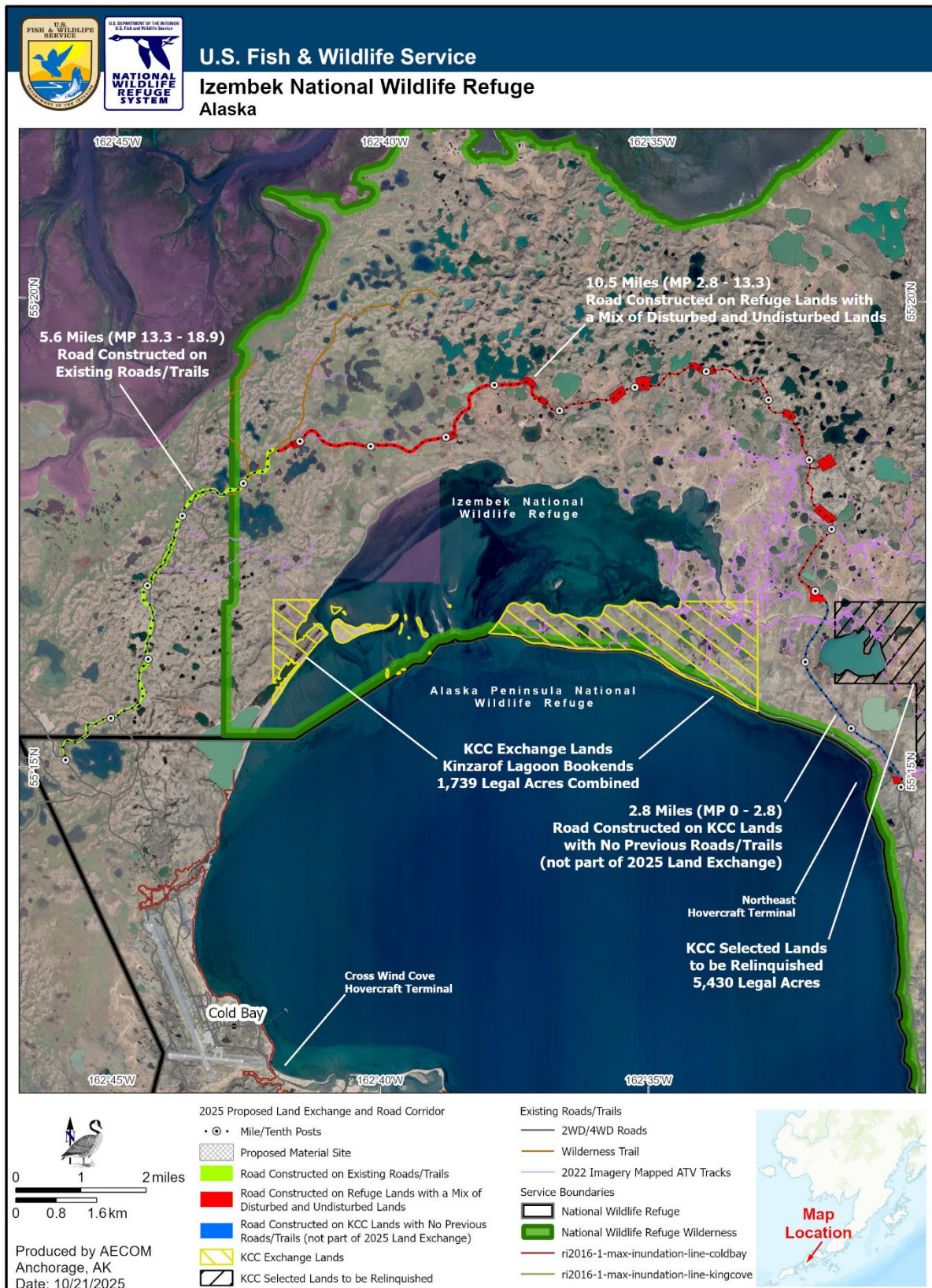


Table 2: Stream Crossings

Road Location (Station)	Structure Type	Stream System #	Watershed Area (acres)	Q50 (cfs)	Q10 (cfs)	Span Length (in feet)	Slope (%)	Stream Footprint (acres)
146+00	Bridge	283-34-10700	7,500	800	680	50	1	N/A
281+00	Box Culvert, Pipe Arch, or Bridge	283-34-10600	620	150	61	30	0.6	0.01
403+00	Box Culvert, Pipe Arch, or Bridge	Unnumbered	330	81	34	30	0.4	0.01
455+00	Box Culvert, Pipe Arch, or Bridge	283-34-10560 (crossing upstream of AWC segment)	630	152	63	30	0.3	0.01
536+00	Box Culvert, Pipe Arch, or Bridge	283-34-10500	730	175	74	30	1.1	0.01
561+50	Box Culvert, Pipe Arch, or Bridge	283-34-10500-2031	805	192	81	30	0.3	0.01
591+50	Box Culvert, Pipe Arch, or Bridge	Unnumbered	1,440	258	184	30	0.3	0.01
622+00	Box Culvert, Pipe Arch, or Bridge	283-34-10430	740	180	78	30	1	0.01

Notes: AWC = Anadromous Waters Catalog; cfs = cubic feet per second

3.1.3 Construction

Material for construction of the road would be excavated from the proposed road corridor via expansion of the cut limits in areas of competent material (13 sites) and sourced from two dedicated material sites planned for development: one existing material site that would be expanded near the Northeast Terminal located on KCC lands and one new material site with an access road located near Milepoint 4.9 of the proposed road. Twelve of the proposed material sites are located within the Izembek Wilderness area.

Approximately 1.7 million cubic yards of material would be moved during cut and fill activities.

Approximately 521,000 cubic yards of crushed rock is planned for road construction, and an additional 10,000 cubic yards would be processed and stockpiled at material sites for future road maintenance.

Approximately 200,000 cubic yards of fill would be imported from the material site near the Northeast Terminal, impacting approximately 6 acres of KCC lands and federally owned subsurface lands. Organic soils disturbed during construction would be staged and stockpiled within the corridor, then reused for finishing graded backslopes and reclaiming abandoned sections of existing roads and trails.

The existing hovercraft ramps at the Northeast Terminal and Cross Wind Cove would be used for temporary construction-related barge landing sites. It is anticipated that the barge landing sites would be used to facilitate up to 10 deliveries of materials and equipment per site for each construction season (for a total of up to 40 barge trips over the two seasons).

Construction would likely extend over two seasons. The construction would likely occur between May and November, with specific construction windows and mitigation measures expected to be addressed in a USACE permit.

Quantities of water would be needed for embankment compaction and dust control. The road material should remain moist due to typically wet weather in the project area; therefore, water requirements would be relatively low. Preliminary water sources identified include two lakes (a 128-acre lake midway along the road alignment that is connected to Kinzarof North Stream and a 33-acre lake on the west end of the wilderness boundary) and one creek (Southeast Kinzarof Stream). Blinn Lake (a 150-acre lake located at the western terminus of the proposed road), which was previously identified as a potential water source, was removed due to potential per- and polyfluoroalkyl substances contamination.

Construction would require an estimated 30 construction and administration staff over the course of two construction seasons. Support facilities, including contractor job trailers and housing for personnel, cannot be staged on refuge lands. Possible staging sites for support facilities include the Northeast Terminal, Lenard Harbor, the city of King Cove, and the city of Cold Bay. The city of Cold Bay should be able to accommodate all the needed support facilities on the western end of the project, including camp facilities. The Northeast Terminal site on the eastern end of the project would be a likely location to place contractor job trailers, but limited space and amenities would probably require using the city of King Cove for staff housing or using the city of Cold Bay for housing.

3.1.4 Operations and Maintenance

The road project applicant, assumed to be the State of Alaska or the Aleutians East Borough, would be responsible for road maintenance and operation under their normal operational plans.

3.1.5 Other Lands Affected (Not Part of the Proposed Land Exchange)

The proposed road would be located on additional lands that are not part of the Proposed Land Exchange, as described below and shown in Figure 1.

- Approximately 12 acres of the proposed road would be located on lands administered by the U.S. Federal Aviation Administration as an Air Navigation Site (Withdrawal No. 176); this includes approximately 0.4 mile of the road corridor from Milepoint 18.5 to the end of the proposed road at the intersection with Outer Marker Road.
- A short section of the proposed road (less than 0.1 mile and approximately 2 acres) near the intersection of Outer Marker Road and Blinn Lake Loop is within a 22.95-acre parcel of private land. The fee title to the parcel was transferred in 1971 by the U.S. Federal Aviation Administration to RCA Alaska Communications, Inc., under authority created in Public Law 90-135, 40 U.S.C. 771-792. The deed transferring ownership reserves to “the Government the right to use, maintain and operate the VORTAC [Very High Frequency Omni-Directional Radio Range Tactical Air Navigation Aid] access road, as constructed and located, across said premises.” Authorization for use of the road other than that reserved to the United States as stated above would have to be obtained from the current owner of the parcel.
- Approximately 40 acres of surface lands are owned by KCC; this includes 2.8 miles of new road construction and a material site at the eastern end of the project.

3.2 The KCC Exchange Lands and KCC Selected Lands

The Service developed a multi-criteria decision process during the 2024 Draft SEIS process to evaluate non-federal parcels of land, both within and outside of the Izembek and Alaska Peninsula National Wildlife Refuges, for Alternative 6. Parcels were considered for exchange based on their potential to contribute to Izembek Refuge purposes, the mission of the Refuge System, and their contribution to the National Wilderness Preservation System. As such, criteria were selected to assess 1) the unique

wilderness (natural, untrammeled, and undeveloped), wildlife, and habitat conservation attributes; 2) the human experience (solitude or primitive and unconfined recreation) attributes; 3) the opportunity to continue subsistence attributes; and 4) the Izembek Refuge purposes. The Service assigned ranks to the parcels, with the highest ranked parcel equal to 1 and the lowest 28. A summary of the rankings for the KCC parcels that are subject to the Decision herein for the interest to be managed as refuge lands are included below. Figure 3 illustrates the prioritized land suitability rankings (i.e., numbering of 1–8) and criteria score values (i.e., color scale shading). The KCC Exchange Lands were ranked as 2 and 13, and the KCC-Selected Lands were ranked as 1. Additional information is summarized below based on information from the 2024 Draft SEIS.

3.2.1 The KCC Exchange Lands (Parcels with Rankings 2 and 13)

The KCC Exchange Lands, referred to as the Kinzarof Lagoon parcels in the 2024 Draft SEIS, consist of the West Bookend parcel and the East Bookend parcel. These lands contain wetlands that are considered to have very high value for their hydrologic, biogeochemical, and habitat functions due to their location near Kinzarof Lagoon.³⁹ The wetland vegetation contributes to the streams identified as Essential Fish Habitat (EFH).⁴⁰ These lands are also within the area designated a Wetland of International Importance by the Ramsar Convention.⁴¹ Kinzarof Lagoon is a high-density wintering habitat for Steller's eiders.⁴² Kinzarof Lagoon is also an area with high-density sea otter concentrations, particularly near the entrance to Kinzarof Lagoon. The West Kinzarof Bookend parcel scored a high ranking of 2, because it is within the wilderness boundary of the Izembek Refuge, has documented Aleutian and Arctic tern colonies and seaduck use of the surrounding area, and has some support of subsistence fisheries. The East Kinzarof Bookend parcel is also within the wilderness boundary of the Izembek Refuge and has some potentially good habitat, but it scored a moderate ranking of 13, primarily due to existing all-terrain vehicle trails with potentially degraded habitat. However, roads and trails on federal lands along the proposed road corridor from Blinn Lake to the wilderness boundary do not appear to have impacted the value of those areas, calling me to question the appropriateness of the moderate ranking of 13 ranking for the east parcel.

3.2.2 KCC Selected Lands (Parcel with Ranking 1)

The KCC Selected Lands (Figure 1) lie entirely within the Izembek Refuge and are currently managed as designated wilderness. The KCC Selected Lands encompasses much of the Southeast Kinzarof Stream watershed.⁴³ The selected lands are known to have caribou during the winter, and the northern portion of this area is designated “high density – winter range/migration corridor” for caribou.⁴⁴ The selected lands also contain habitat designated as important spring habitat for bears.⁴⁵ More generally, as noted in Section 4.3.3.1 of the 2024 Draft SEIS, the KCC Selected Lands include notable resource values such as caribou winter use, high-density brown bear habitat, and tundra swan nesting. The tundra system wetlands located on the northern portion of this parcel are located within the area designated as a Wetland of International Importance by the Ramsar Convention and contain very high value wetlands considered to have very high value for their hydrologic, biogeochemical, and habitat functions.

The KCC Selected Lands parcel had the highest ranking of 1 primarily due to anadromous waters and protection against loss of additional wilderness acres. These lands lie inland from the Northeast Terminal site and do not border on any major waterbodies. This area is a mixture of wetland habitats in the northern

³⁹ 2024 Draft SEIS at Section 3.1.2.6.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² 2024 Draft SEIS at Section 3.2.7.

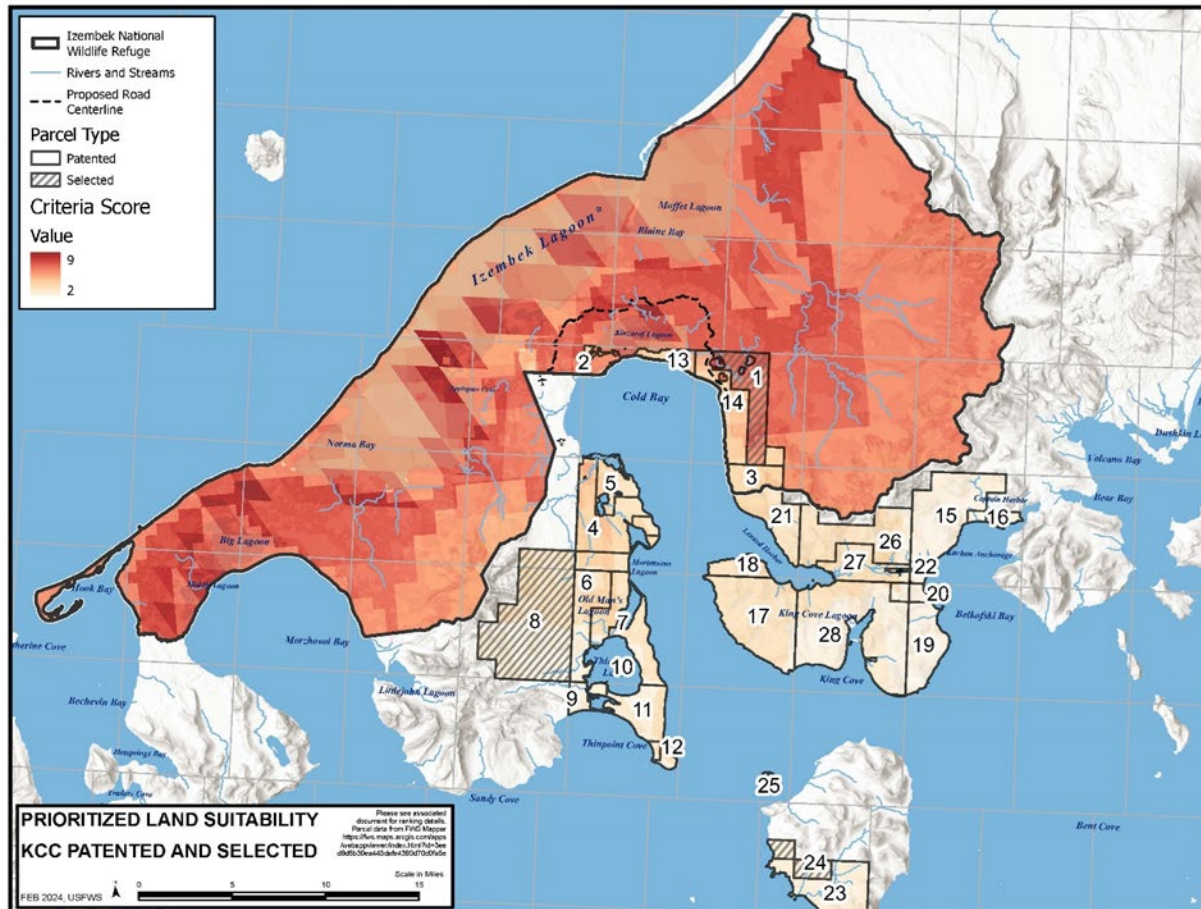
⁴³ 2024 Draft SEIS at Section 3.1.3.1.

⁴⁴ 2024 Draft SEIS at Section 3.1.5.5.

⁴⁵ 2024 Draft SEIS at Section 3.1.5.5.

half and upland habitats in the southern half. The parcel encompasses much of the Southeast Kinzarof Stream watershed with a network of lakes and tributaries that support anadromous fish.

Figure 3. Prioritized Land Suitability Rankings



3.3 Mitigation Measures

The sources of the measures adopted herein include the following:

- Final Proposed Action for the 2025 Proposed Izembek Land Exchange and Road Corridor (dated June 9, 2025) and the Addendum to the Final Proposed Action for the 2025 Proposed Izembek Land Exchange and Road Corridor (dated October 14, 2025)
- ADOT&PF Southcoast Region Routine Marine Project Vessel Use-No Effect Determination Memorandum (dated May 19, 2025)
- National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS) Letter of Concurrence, Reference No. AKRO-2025-01895 (dated August 7, 2025)
- The Service's Response to Recommended EFH Conservation Measures for the 2025 Proposed Izembek Land Exchange and Road Corridor, Reference No. AKRO-2025-01915 (dated July 25, 2025)

- NMFS EFH response letter, Reference No. AKRO-2025-01915 (dated August 13, 2025), supporting the Service’s revised conservation recommendations and considering EFH consultation complete

3.3.1 KCC Minimization Measures

KCC has committed to the following measures as part of the proposed action for design, construction, operation, and maintenance of the road corridor.

3.3.1.1 Design Features

The following design criteria were incorporated by ADOT&PF early on the design process to avoid and minimize impacts of the proposed road:

- The proposed road alignment maintains a distance of approximately 0.5 mile from the shores of Kinzarof and Izembek Lagoons, as practicable, to avoid impacts to shorebirds, waterfowl, and marine mammals. In most locations the alignment is 1 mile or more from the shorelines of each lagoon.
- The proposed road alignment traverses ridgetops or windward sides of hills to avoid snow drift—the phenomenon by which snow is scoured off the windward side and deposited in deeper drifts on the leeward side.
- The proposed road alignment uses existing roads, jeep trails, and disturbed areas to the extent practicable given the previous two design considerations and sound engineering practices.

3.3.1.2 Minimize Invasives

To minimize the chance for introducing or spreading invasive species, the following will be done:

- A thorough inspection of borrow pit areas would be conducted by a trained botanist or specialist familiar with Alaskan species in order to prevent the spread of invasive species.
- A thorough cleaning of all heavy equipment and vehicles will be conducted to remove any seeds or invasive plant materials.
- Only native species will be used for revegetation of disturbed areas.

3.3.2 Additional Avoidance and Minimization Measures

The following additional measures have been identified through ESA consultations with the U.S. Fish and Wildlife Service, Ecological Services Program (Ecological Services), and NMFS under Section 7(a)(2) of the ESA and its implementing regulations,⁴⁶ as well as through EFH consultation with NMFS per the Magnuson-Stevens Fishery Conservation and Management Act. The Service coordinated with KCC on these measures during the consultation processes, which are considered to be an addendum to the original proposed action.

3.3.2.1 NMFS ESA Mitigation Measures

Project-Dedicated Vessels (vessel and crew safety should never be compromised)

1. Project-related barges will typically travel at 8 knots or less.
2. Vessel operators will:
 - a. maintain a watch for marine mammals at all times while underway;
 - b. avoid changes in direction and speed when within 274 meters (300 yards) of a whale, unless doing so is necessary for maritime safety;
 - c. not position vessel(s) in the path of a whale, and will not cut in front of a whale in a way or at a distance that causes the whales to change their direction of travel or behavior (including breathing/surfacing pattern);

⁴⁶ 50 CFR § 402.13.

- d. check the waters immediately adjacent to the vessel(s) to ensure that no whales will be injured when the propellers are engaged;
 - e. reduce vessel speed to 8 knots or less when:
 - i. weather conditions reduce visibility to 1.6 kilometers (1 mile) or less;
 - ii. a whale's course and speed are such that it will likely cross in front of a vessel that is underway, or approach within 91 meters (100 yards) of the vessel, and if maritime conditions safely allow, the engine will be put in neutral and the whale will be allowed to pass beyond the vessel, except that vessels will remain 460 meters (500 yards) from North Pacific right whales;
 - f. take reasonable steps to alert other vessels in the vicinity of whale(s);
 - g. not allow lines to remain in the water unless both ends are under tension and affixed to vessels or gear; and
 - h. not throw trash or other debris overboard, to reduce the potential for marine mammal entanglement.
3. Vessel operators will adhere to the Alaska Humpback Whale Approach Regulations when vessels are transiting to and from the project site: (see 50 CFR 216.18, 223.214, and 224.103(b); these regulations apply to all humpback whales). Specifically, pilot and crew will not:
- a. approach, by any means, including by interception (i.e., placing a vessel in the path of an oncoming humpback whale), within 100 yards of any humpback whale;
 - b. cause a vessel or other object to approach within 100 yards of any humpback whale; or
 - c. disrupt the normal behavior or prior activity of a humpback whale by any other act or omission.

Vessel Transit, North Pacific Right Whales, and their Designated Critical Habitat

4. Vessels will:
- a. remain at least 460 meters (500 yards) from North Pacific right whales; and
 - b. avoid transiting through designated North Pacific right whale critical habitat if practicable (50 CFR 226.215); or if traveling through North Pacific right whale critical habitat cannot be avoided, vessels will:
 - i. travel through North Pacific right whale critical habitat at 5 knots or less; and
 - ii. maintain a log indicating the time and geographic coordinates at which vessels enter and exit North Pacific right whale critical habitat.

Vessel Transit, Western Distinct Population Segment (DPS) Steller Sea Lions, and their Designated Critical Habitat

- 5. Vessels will not approach within 5.5 kilometers (3 nautical miles) of rookery sites listed in 50 CFR 224.103(d).
- 6. Vessels will not approach within 914 meters (3,000 feet) of any Steller sea lion haulout or rookery.

Vessel Transit and Project Noise, Cook Inlet Beluga Whales, and their Designated Critical Habitat

- 7. Project vessel(s) operating in or transiting through Cook Inlet will maintain a distance of at least 1.5 miles south of the mean lower low water line.

Observers and Reporting

- 8. To the greatest extent practicable, dedicated project barges that are under contractor control during construction will maintain a watch for marine mammals while underway.
- 9. Marine mammal information collected will be shared with NMFS.

3.3.2.2 NMFS EFH Conservation Measures

1. Culverts should meet or exceed natural stream width and should be designed and installed according to the guidelines established in Culvert Design Guidelines for Ecological Function, which was written specifically for Alaska salmonids. Note that the Service and KCC have already agreed to this as part of the proposed design criteria, which applies to culverts in anadromous streams.
2. A desktop survey of potential fish habitat within the Izembek Refuge will be conducted in support of the KCC proposed land exchange and road corridor prior to construction. This survey will be informed by existing LiDAR [light detection and ranging] and topographic data obtained within the Izembek Refuge in addition to the results of the limited fish inventories and habitat surveys that are proposed to be conducted by ADOT&PF within the wilderness area.
3. Signage will be installed to inform the public of the law prohibiting vehicular access to anadromous streams. Signage will specifically cite Alaska Statute 41.14.870, 5 Alaska Administrative Code 195.010(a), and any federal regulations relating to vehicular access to fish streams.
4. Natural vegetation will be retained along anadromous streams to the greatest extent practicable. This will be accomplished by requiring contractors to salvage the vegetated mat along streambanks prior to ground disturbance. This vegetated mat will be maintained (usually via periodic watering) until the revegetation stage and staked in place for reestablishment. In addition, further mitigation of impacts such as willow staking and the placement of large woody debris will be analyzed for employment at these locations.
5. The deployment of riprap in anadromous streams will be limited and only installed where it is required for protection of infrastructure.
6. Bridge abutments in anadromous waters should be positioned so as not to restrict the flow and create a velocity barrier to migrating fish at the crossing site.

3.3.2.3 Fish and Wildlife Service ESA Measures

Sea Otter Best Management Practices for Vessel Operations

1. For smaller vessels (<24 meters, <80 feet), vessels will maintain a minimum distance of 100 meters (328 feet) from single sea otters, 200 meters (656 feet) from female-pup sea otter pairs, and 500 meters (1,640 feet) from rafts of sea otters (groups of 10 sea otters or more) when safe and practicable.
2. For larger vessels (>24 meters, >80 feet), vessels will maintain a minimum distance of 300 meters (984 feet) from sea otters when safe and practicable.
3. If vessel operators observe sea otters consistently flushing in response to the vessel transiting at the minimum distance, then the vessel operator shall increase the minimum distance until sea otters are no longer flushing in response to the vessel.
4. Vessels shall maintain maximum distance practicable from areas of surface kelp.
5. If marine mammals approach a vessel, place engines in neutral and allow them to pass.
6. All operations shall take precautions to minimize the risk of spilling fuels.
7. While operating skiffs in nearshore areas, scan the water surface ahead of the boat vigilantly for otters. In choppy water conditions sea otters are difficult to spot. If you are boating with another person, place them in the bow to help search. You may encounter otters as individuals, a mother and a pup, or rafts of 10 or more.
8. When you see an otter(s), alter your course and slow down to avoid disturbance and collision. Once you have spotted an otter(s), you should not assume that the otter(s) will dive and get out of the way. Even if they are alert, capable, and do dive, your action of knowingly staying your course would be considered harassment.

9. Do not operate a skiff at any rate of speed heading directly at the otter(s). A good rule of thumb is that your buffer should be great enough that there is ample room for the otter(s) to swim away without startling them. It is your responsibility to minimize the stimulus and threat of a loud boat approaching quickly.

Steller's Eider Best Management Practices for Vessel Operations

10. If Steller's eiders are identified, vessel operators will follow procedures identical to those for sea otters to avoid disturbance or collision.

As explained in Section 6.3.1, there are no prescribed Reasonable and Prudent Measures or implementing Terms and Conditions in the Service's Biological Opinion. While the Biological Opinion did provide a series of discretionary Conservation Measures, in light of the mitigation measures already integrated, this Decision does not specifically adopt any of the Conservation Measures.

4 DECISION

I fully considered the events, arguments, and documents described above, including, but not limited to, the following:

- 2013 EIS and 2013 ROD of Secretary Jewell;
- Secretary Zinke's decision to enter a land exchange agreement in 2018;
- Secretary Bernhardt's rationale and decision to enter a land exchange agreement in 2019;
- Secretary Haaland's decision to withdraw from the 2019 Land Exchange Agreement and initiate an SEIS to evaluate a new proposed land exchange;
- 2024 Draft SEIS, 2024 preliminary ANILCA Section 810 analysis, testimony and written materials on the 2024 Draft SEIS and 2024 preliminary ANILCA Section 810 analysis;
- 2025 Preliminary ANILCA Section 810 analysis, testimony and written materials on the 2025 preliminary ANILCA Section 810 analysis, the final ANILCA Section 810 analysis;
- The 2025 Service's Biological Opinion, NMFS Letter of Concurrence, and NMFS EFH consultation.

For the reasons discussed in Section 5 below, my Decision is to enter into the Proposed Land Exchange Agreement included in Appendix A and consistent with the proposed action described in Section 3, including the mitigation measures identified in Section 3.3.

While this Decision and the Proposed Land Exchange incorporate design and mitigation measures relating to the potential future construction of a road, they do not authorize construction of a road. Any subsequent decisions by KCC to pursue a road connection is separate and distinct from the land exchange authorized here. My decision merely provides KCC with lands that it can choose to use in the pursuit of a road. It will be up to KCC to obtain the necessary financing, engineering, and proper permits and authorizations, which is expected to include a permit from USACE, to construct and operate the proposed road.

5 DECISION RATIONALE

This Decision reflects statutory compliance and policy considerations. It is also based on review of the extensive environmental analysis related to the Izembek Refuge and past land exchange and road development scenarios, as summarized above in Section 2.4.

5.1 ANILCA Section 1302(h)

When it passed ANILCA, Congress included a provision, Section 1302(h), that authorized the Secretary of the Interior, when acquiring lands for the purposes of ANILCA, to exchange lands in wildlife refuges and other conservation system units with corporations organized by the Native Groups, Village Corporations, Regional Corporations, the State, and others.⁴⁷ Section 1302(h)(1) states:

Notwithstanding any other provision of law, in acquiring lands for the purposes of this Act, the Secretary is authorized to exchange lands (including lands within conservation system units and within the National Forest System) or interests therein (including Native selection rights) with the corporations organized by the Native Groups, Village Corporations, Regional Corporations, and the Urban Corporations, and other municipalities and corporations or individuals, the State (acting free of the restrictions of §6(i) of the Alaska Statehood Act), or any Federal agency. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

I have reviewed materials from the 2019 Land Exchange Agreement, litigation challenging the 2019 Land Exchange Agreement, Secretary Haaland’s decision to withdraw from the 2019 Land Exchange Agreement, the 2024 Draft SEIS, and input and comments received on the 2024 Draft SEIS. One area of dispute involves the purposes of ANILCA that are applicable to an ANILCA Section 1302(h) land exchange. Secretary Bernhart relied on ANILCA Section 101(d),⁴⁸ which identifies one of Congress’s purposes in enacting ANILCA as to obviate a need for future legislation by providing “sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people.” Thus, Secretary Bernhart used his discretion to balance environmental interests with the economic and social needs of Alaskans and weighed whether a land exchange under Section 1302(h) “strikes the proper balance between protection of scenic, natural, cultural and environmental values and provides opportunities for the long-term social and physical well-being of Alaska Native people.” This approach was upheld by the majority of a three-judge panel of the Ninth Circuit Court of Appeals in a decision that was subsequently vacated when the Ninth Circuit granted en banc review.

In contrast, Secretary Haaland’s decision memorandum and the 2024 Draft SEIS do not mention the economic and social needs of Alaskans as a factor in any decision about whether to enter into a land exchange. Instead, the 2024 Draft SEIS identifies two other provisions of ANILCA as the determining factors in whether an exchange under Section 1302(h) of ANILCA would further the purposes of ANILCA. The 2024 Draft SEIS states that “Any land exchange . . . must further the purposes of ANILCA (i.e., the conservation purpose as described in 16 U.S.C. § 3101(b)⁴⁹ and the subsistence purpose in 16 U.S.C. § 3101(c))⁵⁰ when considering the exchange as a whole, including known planned uses for the divested land, to determine whether the exchange would likely result in an overall conservation or subsistence benefit.” Furthermore, the proposed land exchange was “intended to serve the purposes of increasing the overall conservation value of lands preserved in the National Wildlife Refuge System, and maintaining or increasing the opportunity for subsistence uses by rural Alaskans, while allowing for the construction of a long-term, safe, and reliable year-round transportation system for health and safety purposes.”⁵¹

⁴⁷ 16 U.S.C. § 3192(h).

⁴⁸ 16 U.S.C. § 3101(d).

⁴⁹ 16 U.S.C. § 3101(b).

⁵⁰ 16 U.S.C. § 3101(c).

⁵¹ 2024 Draft SEIS at p. ES-3.

Having reviewed the purposes of the proposed action in the 2024 Draft SEIS, I find that it misinterprets the requirements of ANILCA Section 1302(h) by focusing solely on furthering ANILCA’s conservation and subsistence opportunities purposes in Section 101(b) and 101(c) and ignoring the Section 101(d) purpose of providing adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people. The purposes of ANILCA have been articulated by the Supreme Court as follows:

ANILCA sought to “balance” two goals, often thought conflicting. The Act was designed to provide sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska. And at the same time, the Act was framed to provide adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people.⁵²

The Section 1302(h) authority is an important tool provided by Congress to the Secretary to adjust broad conservation system unit designations to reflect the health, safety, and other interests of local people in concert with the national interest in conservation. In setting aside over 100 million acres of federal lands (nearly one-third of the State of Alaska) as parks, wildlife refuges, wilderness, monuments, and wild and scenic rivers, a promise was made to the affected local populations, and particularly the resource-dependent Alaska Native villages, that the Secretary of the Interior would have tools available to ensure national conservation goals were not achieved unfairly at the expense of the local people, many of whom live in remote areas not connected to the road system, and who face high costs for energy, food, and other goods and services. While different Secretaries may reach different balances among ANILCA’s purposes in making a decision under Section 1302(h), that balancing cannot fully ignore a foundational purpose of ANILCA. My balancing of ANILCA’s purposes in Section 5.5 below is therefore consistent with the balancing of ANILCA’s purposes by Secretary Bernhardt and in contrast with the narrow approach taken under Secretary Haaland in the 2024 Draft SEIS that omitted the economic and social needs of the State of Alaska and its people as a purpose of ANILCA to consider when evaluating an exchange under Section 1302(h).

5.2 Conservation

Section 101(b) of ANILCA states:

It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast relatively undeveloped areas; to preserve in their natural state extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems; to protect the resources related to subsistence needs; to protect and preserve historic and archeological sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities including but not limited to hiking, canoeing, fishing, and sport hunting, within large arctic and subarctic wildlands and on free flowing rivers; and to maintain opportunities for scientific research and undisturbed ecosystems.

5.2.1 Conservation Values of the U.S. Exchange Lands

The U.S. Exchange Lands have high quality resource conservation values (see Section 3.1). In addition, management of the U.S. Exchange Lands by the Service furthers the conservation values and mission of the entire Izembek Refuge as a whole, as well as the conservation of species that travel through or use nearby areas such as the eelgrass in the Alaska State Game Refuge. The Izembek Refuge contains approximately 310,000 acres with important resource values, as discussed in Section 2.2 above and Section 3.2 of the 2024 Draft SEIS. The conveyance of the U.S. Exchange Lands to KCC will remove

⁵² *Sturgeon v. Frost*, 139 S. Ct. 1066, 1075 (2019) (internal quotations and citations omitted).

approximately 484 surface acres of land from the Izembek Refuge (approximately 0.16 percent of the total). Of these, 336 acres are currently located within designated wilderness, which contains a total of approximately 308,000 acres (approximately 0.11 percent of the total).

I recognize that the exchange and conveyance of the U.S. Exchange Lands would remove Service management and current protection of the conservation values in this corridor of land through the isthmus. The proposed road, if constructed, will have impacts on the conservation values of the Izembek Refuge and Izembek Wilderness both from its construction and from its operation and maintenance. The construction impacts are expected to be very similar as those described in the 2024 Draft SEIS for Alternative 6.⁵³ For example, 8.8 acres of wetlands would be filled if the proposed road is authorized and there are no changes during any USACE or other reviews, and 8.7 of those acres would be located in the Izembek Wilderness.⁵⁴ In addition, 12 of the proposed material sites are located within what is currently designated wilderness. The impacts upon Izembek Refuge resources and values related to the use of the road will be greater for the Proposed Land Exchange than those identified in the 2024 Draft SEIS for Alternative 6, because the Proposed Land Exchange does not restrict the use of the road to non-commercial purposes. Impacts to Izembek Refuge resources and values are also addressed in the ANILCA Section 810 analysis in Appendix B and the Biological Opinion in Section 6.3.1. Consultations pursuant to the ESA indicate that the Proposed Land Exchange will not result in jeopardy for any species listed under the ESA.

In contrast to Secretary Jewell's portrayal of this corridor of land in Izembek Refuge and Izembek Wilderness as pristine and untrammeled, the record reflects otherwise with a significant history of use of these lands for motorized transportation on roads and trails by the U.S. military and the local population before the enforcement of regulatory restrictions in the 1960s and subsequent wilderness designation in 1980. This history is summarized in Section 2.

5.2.2 Conservation Values of the KCC Exchange Lands (and Selected Lands)

The 2024 Draft SEIS did not analyze whether there would be any conservation benefits from the addition of approximately 1,739 acres of surface lands to the Izembek Refuge and Izembek Wilderness or of KCC's relinquishment of rights to an additional 5,430 acres. I find that there will be important conservation benefits to both of these components of the exchange.

In particular, I note that more acres will be managed as wilderness and refuge lands under the Proposed Land Exchange than if the Proposed Land Exchange does not occur and find that Service management of the KCC Exchange Lands after acquisition and continued Service management of the 5,430 acres of KCC-selected lands will further conservation values of the Izembek Refuge and Izembek Wilderness. As discussed above, both the KCC Exchange Lands and the KCC Selected Lands have substantial conservation values of their own. In addition, I find that Service management of those lands will further the conservation values of Izembek Refuge.

Section 103(c) of ANILCA provides that lands that are within the external boundaries of any conservation system unit, which includes units of designated wilderness, that are acquired shall become part of the unit and be administered accordingly. Thus, after acquisition, the KCC Exchange Lands will be administered as part of the Izembek Refuge and Izembek Wilderness as they are located within the external boundaries of Izembek Refuge and Izembek Wilderness. The KCC-Selected Lands will continue to be administered as part of the Izembek Refuge because they will not be conveyed.

Some have questioned the conservation benefit of acquiring the Kinzarof bookend parcels because these lands were conveyed to KCC subject to Section 22(g) of ANCSA.⁵⁵ ANCSA Section 22(g) provides the United States with a right of first refusal on the sale of former refuge lands conveyed to a Village

⁵³ 2024 Draft SEIS at p. ES-36 and Table ES-5 (for Alternative 6).

⁵⁴ 2024 Draft SEIS, Table ES-2.

⁵⁵ 43 U.S.C. § 1621(g).

Corporation and provides that former refuge lands remain subject to the laws and regulations governing the use and development of the refuge. The right of first refusal will do little to protect refuge resources unless funds are available for acquisition at the time that KCC may seek to sell them. The provision that makes laws and regulations governing the use and development of the refuge applicable to KCC's activities on the lands would require the Service to review a proposed use to determine if it is compatible with refuge purposes. There are many uses that could be found compatible with refuge purposes, such as cabins and lodges. Even all-terrain vehicle trails that provide greater access to resources within Izembek Refuge would likely be found compatible with refuge purposes. Furthermore, KCC would control use of the lands and could authorize unrestricted all-terrain vehicle use. In short, while Section 22(g) of ANCSA may provide the Service with some limited ability to restrict certain uses of the land, that is very different than having the sole responsibility to manage the lands, which is what the Service would gain if the United States acquires the lands.

Similarly, having the Service continue to manage the KCC-Selected Lands as part of the Izembek Refuge and Izembek Wilderness ensures that they would be managed in a way that furthers their conservation values and the mission of the Izembek Refuge. Based on the priority of these lands, they are very likely to be conveyed to KCC, if I do not approve of the Proposed Land Exchange. When that happens, KCC will control the use of the lands, subject to Section 22(g) of ANCSA.

5.3 Subsistence

Section 101(c) of ANILCA⁵⁶ states:

It is further the intent and purpose of this Act consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each conservation system unit is established, designated, or expanded by or pursuant to this Act, to provide the opportunity for rural residents engaged in a subsistence way of life to continue to do so.

The Service has done a thorough analysis of the impacts of the Proposed Land Exchange on subsistence uses, summarized in Section 6.6 below and attached to this Decision as Appendix B. The Service found that the direct and indirect effects of the Proposed Land Exchange, including the proposed road, would not significantly restrict subsistence uses for the five closest communities of King Cove, Cold Bay, False Pass, Nelson Lagoon, and Sand Point.⁵⁷ Among other things, it found that the direct and indirect effects of the Proposed Land Exchange:

- Are unlikely to result in a large reduction in the caribou abundance or availability for local subsistence users;
- Are unlikely to result in a large reduction in migratory bird abundance for local subsistence users largely because neither black brant nor emperor geese would experience substantial direct impacts to habitat due to the inland location of the road;
- Would be localized to the streams crossed by the project and would not result in a large reduction in the availability or abundance of fish, including salmon, because a majority of fishing for the local subsistence users occurs outside the project area;
- Are unlikely to result in large reductions in resource abundance for local subsistence users for caribou or migratory birds.⁵⁸

Nevertheless, the Service concluded that the cumulative impacts of the 2025 Proposed Land Exchange, in conjunction with all past, present, and reasonably foreseeable future activities in or near the proposed land exchange parcels (the cumulative case), may significantly restrict subsistence uses for the communities of

⁵⁶ 16 U.S.C. § 3101(c).

⁵⁷ Appendix B, Final ANILCA Section 810 Report, Section 2.2.4.

⁵⁸ Appendix B, Final ANILCA Section 810 Report, Section 2.2.4 at pp. 50–51.

King Cove, Cold Bay, False Pass, Nelson Lagoon, and Sand Point through reduced harvesting opportunities and alterations in subsistence harvesting patterns.⁵⁹ Although I have reservations about this determination, discussed in Section 6.6 below, I note that the Service specifically considered impacts upon subsistence for Hooper Bay and other communities in the Yukon-Kuskokwim Delta and concluded that the cumulative case would not significantly restrict subsistence uses for their communities.⁶⁰ In particular, the Service found that the cumulative effects are not expected to result in a substantial loss of migratory birds for those communities.⁶¹

In addition, I note that the acquisition of the rights to the surface of the KCC Exchange Lands will result in the Service and Federal Subsistence Board managing the lands to provide the subsistence priority to rural residents (instead of having KCC manage access to the lands for hunting and fishing and having state hunting and fishing laws apply).

When considering ANILCA's purpose of providing the opportunity for rural residents engaged in a subsistence way of life to continue to do so, I paid particular attention to King Cove, Cold Bay, False Pass, Sand Point, and Nelson Lagoon, the communities that have the potential to be most directly impacted by the Proposed Land Exchange. Testimony largely supported the Proposed Land Exchange during the ANILCA Section 810 hearings in 2024 and 2025. A few examples follow:

"Talking about subsistence and ANILCA here with our availability and abundance. King Cove area and where we live here in this little valley is very vibrant with wildlife. With the road that's built now down to the northeast corner, we were able to access a few more acres of land to hunt, fish on. Although, that isn't the only areas where we harvest salmon or geese or caribou. King Cove folks here go hunting all the way down to Pavlof Bay to get their caribou. Some of them go over to Cold Bay to hunt for caribou. Some people go to hunt over in Morzhovoi Bay for caribou and over in the False Pass area for caribou. So we have to go a long way to get our subsistence in King Cove, which costs a lot of money." (Mayor Wilson, Testimony from December 4, 2024, ANILCA 810 Hearing in King Cove, Alaska).

"So with the road, it will make accessibility way better for the people of King Cove where we are stuck in this valley here without access. With access now and with access in the future, I mean, our lives would -- to keep our culture, to keep our heritage, to keep the people living here to show them how to hunt and fish and provide for themselves and their families is key to survival out in Alaska Peninsula." (Mayor Wilson, Testimony from December 4, 2024, ANILCA 810 Hearing in King Cove, Alaska).

"Yes, [the road is] going to open up a little more for us to be able to have access to be able to go hunting and fishing. Good Lord, I can't get by that dock over there and get a four-wheeler off on that dock, which we have to pay to go use and then pay to be able to be up there running around where all those hundreds of hunters come in every year and be able to hunt off of that land with all those guided services that are out there in Cold Bay." (Brenda Wilson, Testimony from December 4, 2024, ANILCA 810 Hearing in King Cove, Alaska).

"However, us being locals just 20 miles away [from Cold Bay], it is really frustrating for me to go -- to live here in King Cove and know how difficult it is to go out hunting where we do have to go out miles and miles, you know, on the beaches or on the established roads and try to get resources for our families. And then you go over to Cold Bay and it's like, oh, you just hop in your minivan and drive down to Grant's Point or to Outer Marker, or wherever, and the birds are flying right over that road, and all you've got to do -- I mean, of course you can go anyplace and see everything, but you are -- you have an easier access to those resources, and it's really tough to see outside folks from all

⁵⁹ Appendix B, Final ANILCA Section 810 Report, Sections 2.3.4 and 4.0.

⁶⁰ *Id.*

⁶¹ Appendix B, Final ANILCA Section 810 Report, Section 2.3.4 at p. 64.

over the world come and hunt those resources and then not use them for subsistence.” (Fanny Jo Newton, Testimony from December 4, 2024, ANILCA 810 Hearing in King Cove, Alaska).

“And I've traveled over to Cold Bay after being personally invited by the U.S. Fish and Wildlife. And I firsthand have seen exactly what everyone else just previously mentioned. There's hundreds of hunters during that time of year, and it's crazy to see how many birds they're killing. And my grandfather is Agdaagux tribal hunter there in King Cove. He's almost 90 years old. And he's an avid hunter. He's up every morning at 4:00 in the morning. And he can't catch a bird, because there's no birds. We don't have access to these birds.” (Dakota Walker, Testimony from December 4, 2024, ANILCA 810 Hearing in King Cove, Alaska).

“We're talking today about the 810, which is subsistence, which is a part of our life out here. We all live off the land. And one thing that this road will actually do is give us accessibility to the hunting grounds over in Cold Bay and the fish in our lagoons and the berries on the flats and the caribou.” (Mayor Wilson, Testimony from August 18, 2025, ANILCA 810 Hearing in King Cove, Alaska).

“I may not have a Ph.D., but I have grandfathers, great-grandfathers, and great-great grandfathers of history. They lived down here for thousands of years. The Shonee [as heard] village over there had 1,000 people in it, but they didn't damage the world. I don't understand where we may damage things. I think we have kept care of our region a heck of a lot better than the military did. They left military sites that are still being cleaned up today. But we have continued with living our subsistence ways of life from our grandparents, our great grandparents, and before that. They carry down stories, they carry down history, they carry down hunting techniques, the different things we have to know to be able to go out and hunt and fish and trap our things that we eat...we have to look at our way of life for our children, our grandchildren, our great-grandchildren. And I think 810 (subsistence) for our region is only going to make it more accessible, because now if you go up to Cold Bay, you have to go by the dock, you have to be able to unload your materials and then get around up there. When we go on this road, you put your backpack on, you cross that little chain link fence that says no Natives are supposed to go past here. It doesn't really say that. I think it does. I think it's racist and it's discriminatory. Like, we are going to forget what we're supposed to do riding on the road. I mean, you go up to Cold Bay, there's none of those chain link fences everywhere telling them where they can go and where they can't go.” (Brenda Wilson, Testimony from August 18, 2025, ANILCA 810 Hearing in King Cove, Alaska).

5.4 The Economic and Social Needs of the State of Alaska and its People

Section 101(d) of ANILCA states:

This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, *and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people*; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition, and thus Congress believes that the need for future legislation designating new conservation system units, new national conservation areas, or new national recreation areas, has been obviated thereby.⁶²

The exchange would have major beneficial effects to the economic and social needs of the State of Alaska and the people of King Cove by improving public health and safety and transportation with the addition

⁶² 16 U.S.C. § 3101(d) (emphasis added).

of surface transportation for people in King Cove to travel to the Cold Bay airport for access to advanced medical services and for other purposes.

The community's and medical experts' concerns regarding extreme weather conditions and the need for a safe and reliable method of access from King Cove to the Cold Bay airport have been well documented over the years. Recent testimony received from community members relays these concerns:

"It's exactly like it sounds. I'm getting real tired of these. Like, are you just going to keep having these once a year and pretending you're going to do this? I've been, like, writing letters to people since I was in grade school. And, of course, this would help us with access to things we need to survive. Like, we can't even afford to buy, like, a cart of produce here, and even when it does get here, it's just gross, it's way overpriced. And you want to know the best thing you could do for the land is give it back to the people who have been here for thousands of years." (Ginger Bear, Testimony from August 18, 2025, ANILCA 810 Hearing in King Cove, Alaska).

"...I encourage you guys to take a look at the United Nations Declaration on the Rights of Indigenous Peoples and their right to self-determination...which also includes our traditional foods, access to traditional medicines, to safe passageway to health and health services, to recreate, to live our traditional ways as indigenous peoples. This is an indigenous community. So I'd like to further look into...how this is a human rights issue that we're fighting for this many years." (Nadine Kotchuten, Testimony from August 18, 2025, ANILCA 810 Hearing in King Cove, Alaska).

Hello. My name is Marylee Yatchmeneff. I'm a mother of three beautiful girls. I am Unangan. I've lived in King Cove all my life. King Cove is where I grew up, where I raise my family – raising my family. My youngest daughter is Evelyn. She received the nickname two years ago "The Million Dollar Baby." Evelyn was healthy until about ten months old. Around ten months we caught a cold where she could not get rid of it. After fighting for over a little over a week, the clinic put her on medicine. For a couple days she started feeling better. Then one night she woke up screaming nonstop. She was a very colic baby so I brushed it off as that. That morning I took her in and was told allergies. We went on with the day. She kept on getting more cranky. After that, I got off work and picked her and her sisters up from my parents. My oldest was bad and wanted to play at the playground with her friends. I told her she can play for about 30 more minutes. In those 30 minutes, Evelyn stopped her normal crying to a high-pitched screaming and started to seize while fighting to breathe. We rushed her to the clinic. At this point, it was already 6:00 p.m. LifeMed and Guardian could not come into King Cove. They told us if we could get to Cold Bay, they could have the medevac plane waiting for us. At this point, the clinic was calling around every airline to get us out. Guy and Wanda braved the weather with their plane and was able to come get us. I'm beyond thankful for Guy and Wanda. Evelyn spent a total of 12 days in the NICU. I thought that was going to be the only time where we had to go through that. I was wrong. From the age of 11 months old to four and a half years old, Evelyn was medevacked 17 times. Out of those 17 times, Life-Med and Guardian was able to come get us four times in King Cove. 13 times we had to sit up there all night waiting to find a way to Cold Bay. Those waits never get easier -- sorry. Those waits never get easier as a mother watching your child fight to breathe while you have nothing to do. One of those episodes at the clinic, we got there around 8:00 p.m., was hoping to get to King Cove -- out of King Cove fast. We ended getting stuck in King Cove overnight due to the darkness where they could not land. The medevac plane was ready in Cold Bay waiting for us, but we had no way to get there. Last September, Evelyn started a year of preschool where she went a year without a medevac. That was pretty big. She went to school one day. That day she came home and she had started to get sick eyes. I started her on a medicine routine like I was trained to. By 3:00 a.m., I was doing round-the-clock nebulizers. By 6:00 a.m., we're at the clinic waiting to find a way out. LifeMed could not get here because of the fog. Theo was able to come and get us, and we made it to Anchorage around 4:00

p.m. that night. They told us if we didn't get up there, they don't know what would happen, because Evelyn ended up spending 14 days in the NICU. I can tell you about all the times we had to -- all the times she got medevacked out of here, all the times we waited, all the times we prayed, all the times I prayed for the road to Cold Bay, but it won't matter. In some people's eyes, birds' lives matter more than ours.” (Marylee Yatchmeneff, Testimony from August 18, 2025, ANILCA 810 Hearing in King Cove, Alaska).

“We've seen each other before. Not once, not twice, not three times, not four times, but more times than anybody here wants to talk about anymore. But, you know, we all still show up to every single one of these meetings and for one reason and one reason only. We don't want to have to tell stories like Marylee's. We don't want to have to tell stories like hers. We don't want to tell those stories anymore at all. We're not here to discuss anything else but life-saving -- just life-saving. I appreciate being able to go subsistence because that's how I live. Me and my family, we subsistence. We live off of everything that we can off the land. But that's really not why we're here. We're here so that one day, if my mom, who is going to be 81 here in three days, gets sick, I don't have to worry about her getting to Cold Bay. I don't have to worry about her dying in this clinic with those amazing people up there that have the most biggest hearts that God put on earth up there. They have been given what they can use up there, but sometimes it's not enough. And it's not okay that we have to keep coming here and keep saying the same things over and over again to protect and to say that we just want it for life-saving measures...” (Etta Kuzakin, Testimony from August 18, 2025, ANILCA 810 Hearing in King Cove, Alaska).

“We all know somebody who has passed away or died on the way to Cold Bay, and I know anywhere in the United States whenever anybody dies on a road for what reason, that road is fixed. People die flying over to Cold Bay.” (Mayor Wilson, Testimony from August 18, 2025, ANILCA 810 Hearing in King Cove, Alaska).

“This is my fourth year coming up here to provide medical care for the community, and I have developed a lot of really wonderful relationships with the people here. And it breaks my heart when we can't get them out, when we've got someone very, very ill and we can't get them out. It's devastating, deaths, disabilities. And not just the really acute situations, but people who don't go out for preventative care because they don't want to get on that airplane. They're scared to death to get on it. So we need that road. We need it really badly.” (Rebecca Sturdevant, Testimony from August 18, 2025, ANILCA 810 Hearing in King Cove, Alaska).

“...I can tell you about all the times we had to -- all the times she got medevacked out of here, all the times we waited, all the times we prayed, all the times I prayed for the road to Cold Bay, ...” (Marylee Yatchmeneff, Testimony from August 18, 2025, ANILCA 810 Hearing in King Cove, Alaska).

“My mom has been one of the most recent deaths due to the lack of transport out of King Cove, but she's not the first, and I can guarantee she won't be the last. [...] I'd like to point out the highlighted part [on my mother's death certificate] that says the underlying cause is transport delayed treatment. Me and my siblings have been left with no mother and my children will grow up with no grandmother, and a hole is there [...].” (Dakota Walker, Testimony from December 4, 2024, 2024 Draft SEIS Public Meeting in King Cove, Alaska).

“Part of the reason we don't have full-time providers at the clinic is because it's so difficult to have to deal with people dying while you're watching them, [...]. You don't have the ability to do what you need to do to save lives. And we've all been there, and it's really tough. [...] It's terrifying for the providers who are trying to save those lives. I can't tell you how many times I've wished for a road. And I can tell you that the water choices are not viable. If the weather is that bad, you can't get somebody on a boat. The waves are 20 feet high. It's just not going to work. Okay? We need that road. We really need that road.” (Rebecca Studevant, Testimony from

December 4, 2024, 2024 Draft SEIS Public Meeting in King Cove, Alaska).

“Our EMS is strong and our providers that come out here on rotation are amazing. They're super strong also. So we have capabilities to safely move patients from King Cove to Cold Bay. We are prepared. We're ready. We have oxygen supplies that can take us from King Cove to Cold Bay. You know, if it is two hours, that's not a problem. We have extra oxygen supplies. We have trained people to take care of patients on their way over there. We're ready. We just need the access to that small gravel road that will get our patients to that all-weather airport.” (Bonita Babcock, Testimony from December 4, 2024, 2024 Draft SEIS Public Meeting in King Cove, Alaska).

King Cove has expressed social needs for the road such as opportunities for community children to be able to participate in a range of extracurricular activities with peers of other communities.

Recent testimony received from community members relay the economic and social needs for the road:

“King Cove is going through a hard time right now with the plant being closed. [...] That road will be a lifeline so we can actually get to and from King Cove to Anchorage if needed for a medevac or medical service and for freight that can actually bring food to our village from across the world to help us out.” (Mayor Wilson, Testimony from August 18, 2025, ANILCA 810 Hearing in King Cove, Alaska).

“Sure would be nice to have the basketball teams go to -- or track team or volleyball team to be able to make it to a meet where they don't have to forfeit because the weather knocks them out here in King Cove with our runway where it's located. And going by boat nowadays is too expensive. It's just not worth it for somebody to be able to take anybody to Cold Bay on a boat due to insurance reasons. There's always a money problem all the time with anything.” (Mayor Wilson, Testimony from August 18, 2025, ANILCA 810 Hearing in King Cove, Alaska).

“...this would help us with access to things we need to survive. Like, we can't even afford to buy, like, a cart of produce here, and even when it does get here, it's just gross, it's way overpriced.” (Ginger Bear, Testimony from August 18, 2025, ANILCA 810 Hearing in King Cove, Alaska).

“So the land trade here is key to getting this done. The people will be able to have safe passage on that road to Cold Bay just to hunt and fish, if that's what they want to do, or to gather berries off the land. It's key to survival. That's what I'm trying to say here. And we need it. We need it really bad right now because we don't have a fish plant that's operating. So with the road even with not as much money coming in from our fisheries because the fishermen have to go so long [and] far away to unload their catch now, it costs a lot of money. There's not enough money left to be able to, you know, to think about flying to Cold Bay or flying to Anchorage for that matter.” (Mayor Wilson, Testimony from December 4, 2024, ANILCA 810 Hearing in King Cove, Alaska).

“Our goods arrive bi-weekly vehicles to boats and our biggest challenge is to get [perishable items] to last until the next boat arrives so the community can have healthy options on a daily basis for their families. Unfortunately, from the time we order until arrival in King Cove, the perishable items have been sitting in refrigerated containers for over two weeks on average, and once they're available for sale, most fruits and vegetables only have a one- to two-day shelf life to be used before they have to be discarded. [...] By having a road between King Cove and Cold Bay, [the Alaska Commercial Company grocery store] would be able to fly goods into Cold Bay on a noncoastal [indiscernible], allowing us to drive across to get goods for the community, which would allow for overall better healthy meal choices for all of our citizens.” (Mark Thompson, Testimony from December 4, 2024, public meeting in King Cove, Alaska).

“From a personal viewpoint, our son Robert is a junior at the King Cove School, and like so many of his classmates, he participates in sports, which requires a lot of travel during the winter

months when the weather can be at its worst here. Every time he and his teammates get ready for a road trip, the stress level for us, as well as all parents of students traveling, skyrockets as we worry for their safety when flying in poor weather conditions, something that could be alleviated by having access to Cold Bay where they can fly in larger planes that are more suited for inclement weather.” (Mark Thompson, Testimony from December 4, 2024, public meeting in King Cove, Alaska).

The Proposed Land Exchange would bring fewer benefits to persons outside of the vicinity of the proposed road and for the State of Alaska, but there would still be some. There may be additional opportunities to travel to King Cove.

5.5 Balancing of ANILCA’s Purposes

After reviewing the Proposed Land Exchange as a whole and assuming that KCC will be able to obtain authorizations and funding to build and operate a gravel road to the Cold Bay airport, balancing of the relevant factors has led me to the decision that the Department will enter into the Proposed Land Exchange as authorized by Section 1302(h) of ANILCA.⁶³ I find that the Proposed Land Exchange described in Section 3, including the mitigation measures specified there, furthers the purposes of ANILCA because it strikes the proper balance between protection of scenic, natural, cultural, and environmental values; provides opportunities for continued subsistence uses; and, more generally, for the long-term social and physical well-being of the State of Alaska and in particular the public health and safety and a broader set of economic and social needs of the Native and non-Native residents of King Cove.

In contrast to the decision Secretary Jewell made under a different statutory authority with a public interest determination required under the authority of a now-expired 2009 Act, Section 1302(h) only requires a public interest determination for land exchanges that are not equal value exchanges. The Proposed Land Exchange considered in this Decision is an equal value exchange, and therefore no public interest determination is required. Even if such a determination is required, in contrast to Secretary Jewell, in my view this land exchange is in the public interest, and if necessary to make a public interest determination, I would do so for the same reasons that I am deciding to enter into the Proposed Land Exchange.

There are many reasons for my Decision. At the forefront is that the Proposed Land Exchange will provide KCC with an opportunity to provide for the health and safety of its members and the community of King Cove by allowing KCC to pursue the construction and development of a road from King Cove to the airport in Cold Bay, Alaska. The Proposed Land Exchange would have major beneficial effects to public health and safety and transportation with the addition of reliable, affordable, all-season, and all-weather surface transportation for people in King Cove to travel to the Cold Bay airport for access to advanced medical services and for other purposes. As noted above, from December 23, 2013, to June 30, 2025, there were 217 medevacs from King Cove, mostly to Cold Bay. Of those 217 medevacs, 32 rescue missions have been by the U.S. Coast Guard.

In addition to benefits to public health and safety through improved access to health care and safe medical evacuations, a road from King Cove to the Cold Bay airport will further the economic and social needs of the members of KCC and the King Cove community by providing another means for them to obtain groceries and other supplies and goods in a more affordable manner. I gave significant weight to the comments from the Unanga̋ people and community of King Cove who largely testified and wrote in support of the Proposed Land Exchange and, previously, Alternative 6 in the 2024 Draft SEIS. They said that construction of the road to the Cold Bay airport is crucial for them to continue living in King Cove.

⁶³ 16 U.S.C. § 3192(h).

This decision recognizes the inherent rights of Alaska Native Tribes to self-governance and control over their lands and resources. The benefits of ANILCA have seemingly bypassed the Unanga̋ people of King Cove, who continue to fight for basic, safe, and reliable access to medical care. The two Alaska Native Tribes, KCC, and the residents of King Cove were not consulted during the creation of Izembek Refuge and its designation as wilderness. The refuge creation and wilderness designation cut local people off from access and availability of use of the lands and resources that had been used for generations in harmony with the abundance of fish and wildlife and other key resources without such restrictions.

Even if a road proves impassable at times as mentioned in the 2013 ROD, all indicators are that there will likely still be numerous other occasions when the access it gives to the airport at Cold Bay will make the difference between life and death for many residents. Secretary Jewell's promise that the Department would continue work with the King Cove community to "ensure continued transportation improvements" remains unfulfilled, and I have considered and intend to fulfill that long overdue commitment given the fact that the citizens of King Cove are still in their decades-long pursuit of a reliable and affordable transportation option. Almost 12 years later, the transportation alternatives imagined in the 2013 ROD that were part of Secretary Jewell's rationale for not approving the exchange have proven to be anything but viable, and it is clear that the residents of King Cove continue to lack both adequate transportation options and adequate access to local emergency medical care. A decision not to approve the Proposed Land Exchange would disregard the voices and needs of the people most affected by the decision.

Most notably, the 2015 report referenced above indicates that alternative transportation routes have been subsequently considered and proven to be prohibitively costly and/or insufficiently dependable. These issues have been compounded due to funding cuts to the marine ferry system. The lack of viable transportation alternatives results in maintaining a categorically unsatisfactory status quo for the region, as reliance on fishing vessels and small aircraft flying into the King Cove airport has proven, time and again, to be inadequate to meet the public health and safety needs of the community. It is my view that the health and safety access for the people of King Cove only worsens with time and that promises of help, accommodation, and transportation alternatives have been hollow statements to this community. The prior decision rejecting a land exchange that would provide KCC with land that it could use to provide for the welfare and well-being of the Native and non-Native people of King Cove frustrates the purposes of ANILCA.

A variety of alternative marine and air access methods have been evaluated over the years, as well as consideration and implementation of facility improvements, intended to provide local residents with safe and reliable access to the State of Alaska's transportation system for emergency health care (see Section 2.4). However, none of the alternative methods of access or facility improvements have proven to be adequate in meeting the communities' underlying needs, which is a safe and reliable method of access to and from the Cold Bay airport for a variety of basic "quality of life" purposes, including transport for emergency health care. I also note that while the 2013 EIS and ROD discussed the cost to the Service related to refuge management if a road is constructed, it ignored the countervailing high cost to the taxpayers of U.S. Coast Guard rescues from King Cove, of which there were 21 from January 2014 through June of 2019, at an average cost of approximately \$50,000 per mission. Furthermore, the 2013 ROD failed to take into proper account that the marine transport alternatives relied upon therein would all pass through designated critical habitat for the endangered Southwest Alaska DPS of northern sea otters, while a road, if constructed, would not pass through any designated critical habitat.

While Secretary Jewell declined to enter into the land exchange "because of the unique and exceptional resources in the Izembek Refuge, the consequent degradation of resources that would result from construction and operation of a road, and the availability of other viable modes of transportation from King Cove to Cold Bay," Secretary Jewell also explicitly acknowledged that there have been at least four fatalities from air transport from King Cove to Cold Bay. Moreover, although the 2013 ROD rejected the idea that a road is the *only* safe, reliable, and affordable means of year-round medical services and that there are other viable and at times preferable methods of transport (conclusions that have been proved to

be incorrect with the passage of time), it notably did not conclude that a road is not a *viable* option for safe transport or even that it may sometimes be preferable.

Furthermore, I find that the habitat provided by the lands the Service would receive for addition to the refuge in the proposed land exchange is consistent with and will be acquired for the purposes of ANILCA. I find that federal ownership and a more permanent conservation status for the lands and land selection rights to be acquired would enhance the conservation purposes of the Izembek Refuge and Izembek Wilderness and would increase the Service's ability to provide for subsistence opportunities to federally qualified subsistence users by adding substantial acreage with high-quality habitat and abundant wildlife. In fact, as far back as the 1998 Izembek Land Protection Plan, the Service has identified lands owned by KCC within Izembek Refuge boundaries as containing valuable fish and wildlife habitat and prioritized this land for acquisition and protection.

I have considered that the acquisition of the rights to the surface of the KCC Exchange Lands will result in the Service and Federal Subsistence Board managing the lands to provide the subsistence priority to rural residents (instead of having KCC manage access to the lands for hunting and fishing and having state hunting and fishing laws apply). The balancing of ANILCA's purposes, and in particular its conservation purposes, is also enhanced through the adoption of the restriction on the nature of any road to single-lane gravel construction. In addition, the proposed action includes mitigation measures that will reduce the impact on Steller's eiders, sea otters, and other species listed under the ESA.

When Congress enacted Section 1302(h) of ANILCA, it delegated the authority for and the discretion over whether or not to enter into a land exchange agreement with KCC to the Secretary of the Interior.⁶⁴

5.6 Alternatives Rejected

The 2013 EIS evaluated five alternatives, guided by the purpose and need as well as criteria set forth in the 2009 Act and the National Environmental Policy Act (NEPA). Those alternatives were as follows: (1) No Action Alternative; (2) Land Exchange and Southern Road Alignment; (3) Land Exchange and Central Road Alignment; (4) Hovercraft Operations from the Northeast Terminal to Cross Wind Cove; and (5) Lenard Harbor Ferry with Cold Bay Dock Improvements.⁶⁵ The 2024 Draft SEIS added a sixth alternative, described in Section 2.4.5.

5.6.1 No Action and Changes from the 2013 Decision

The no action alternative was Alternative 1 in the 2013 EIS and the 2024 Draft SEIS. Under the no action alternative, there would not be a land exchange, and current modes of transportation would continue to operate. This alternative was studied in the 2013 EIS and ultimately selected by Secretary Jewell. However, Secretary Haaland's decision to withdraw the Department from the 2019 Land Exchange Agreement and to start evaluating a new alternative under the authority of ANILCA reflected a decision to revisit Secretary Jewell's 2013 decision and to make a new decision based upon the authority in ANILCA (since the previous authority expired). So, while the approaches and terms have varied, every Secretary of the Interior since Secretary Jewell has pursued a land exchange with KCC under the authority of Section 1302(h) of ANILCA to allow KCC the opportunity to build a road. I also note that the 2024 Draft SEIS states that the no action alternative would not meet the purpose and need for the project.⁶⁶

⁶⁴ 16 U.S.C. § 3192(h).

⁶⁵ As relevant here, the Department has the benefit of not only considering the analysis and facts associated with the respective alternatives as discussed in the 2013 EIS, but also the benefit of considering what has (or has not) transpired since the 2013 ROD. There are multiple instances where the latter can provide important context to the former.

⁶⁶ 2024 Draft SEIS at p. 2-22.

I have reviewed the 2013 EIS and Secretary Jewell's decision to select the no action alternative because of her concerns about impacts to the conservation values of Izembek Refuge. I acknowledge that the conveyance of the U.S. Exchange Lands may lead to the construction and operation of a single-lane gravel road, and that this would have an impact on the conservation and wilderness values of the remaining Izembek Refuge and Izembek Wilderness as detailed in the 2013 EIS and the 2024 Draft SEIS analysis of Alternatives 2 and 6, respectively.

Again, while the 2013 decision was made under an entirely different statutory authority and under a different standard involving different parties and lands under consideration for potential exchange, I conclude that the decision to authorize this proposed land exchange with KCC represents a change in policy position from the 2013 ROD. To the extent that I am required by law to explain why I am reaching a decision different than the one made by Secretary Jewell, I also find that a rebalancing of the factors involved, weighted by the responsibility to the Alaska Native people in the implementation of ANCSA and ANILCA, requires a different policy result for the ANILCA land exchange considered here than the policy conclusion drawn in the 2013 ROD pursued under the authority of the 2009 Act in light of:

- (1) The acute necessity, underestimated in the 2013 EIS and ROD, for a road connecting King Cove and Cold Bay to serve the future emergency medical and other social needs of the Alaska Native residents of King Cove and the Alaskan people;
- (2) Changed information concerning the viability and availability of alternative means of transportation that have since proven to be neither viable nor available;
- (3) The failure in 2013 to take into consideration the high ongoing and future costs to the taxpayers of continuing emergency medical evacuations from King Cove by the U.S. Coast Guard;
- (4) The substantial benefits to the citizens of the United States and residents of Alaska in increasing the total amount of acreage in the Izembek Refuge for the protection of scenic, natural, cultural, and environmental values by way of a land exchange with KCC; and
- (5) My determination that, even if the facts are as stated in the 2013 ROD; that is, that a road is a viable alternative but (a) there are "viable, and at times preferable" transportation alternatives for medical services and (b) resources would be degraded by the road's construction—human life and safety must be the paramount concern in this instance. Nothing about construction of a road prevents the use of other alternatives (such as emergency U.S. Coast Guard evacuations) should the road be impassable or its use be otherwise inexpedient.

In my judgment, when weighing the competing considerations here, preservation of human life must be given great weight. Accordingly, even assuming all the facts as stated in the 2013 ROD, in the exercise of policy discretion, I find that executing the equal value exchange in a form substantially consistent with the Proposed Land Exchange Agreement attached as Appendix A is consistent with the public interest, the purposes of ANCSA and ANILCA, and our responsibility to the Alaska Native people.

Finally, I note that the no action alternative previously selected by Secretary Jewell would not likely preclude the development of a road in the U.S. lands. KCC or the State of Alaska would still be able to request a right-of-way under Title XI of ANILCA. The State did so previously, and Secretary Bernhardt determined that the community of King Cove was an inholding and entitled to construct a road, although no road permit was issued.

Although Secretary Jewell in the 2013 ROD suggested that "reasonable and viable transportation alternatives exist," that has not proven to be the case. From Secretary Jewell's decision in December of 2013, through June 30, 2025, there were 217 medevacs from King Cove, mostly to Cold Bay. Of those 217 medevacs, 32 rescue missions were by the U.S. Coast Guard operating out of Cold Bay, Kodiak, and St. Paul.

Although I make this determination under ANILCA—not the 2009 Act—I further find that to the extent an authorization under ANILCA constitutes a policy change from that described by Secretary Jewell in the 2013 ROD rejecting a similar, but not identical, land exchange under the 2009 Act, such change is warranted, necessary, and appropriate.

The Service prepared the 2013 EIS in accordance with the 2009 Act. The "basic project purpose," as described by the EIS, was to provide a long-term, safe, and reliable year-round transportation system between the city of King Cove and the Cold Bay airport.⁶⁷ The 2013 EIS continued by indicating that the "need for the proposed action is broader than the focused purpose," noting that the transportation system was vital to "health and safety,"⁶⁸ "quality of life,"⁶⁹ and "affordable transportation."⁷⁰

I also disagree with the conclusion in the 2024 Draft SEIS that the land exchange must fulfill the conservation mission of the Refuge System and the purposes of the individual refuge. The conservation mission of the Refuge System is in conflict with Section 1302(h) of ANILCA. Congress placed a mission statement at the core of the 1997 amendments that defines the Refuge System as "a national network of lands and waters for the conservation, management, and where appropriate restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans."⁷¹ This mission establishes a policy of wildlife conservation as the primary purpose of the Refuge System. This mission is in direct conflict with ANILCA Section 1302(h), which requires me to consider the purposes of ANILCA in determining whether to enter into the proposed land exchange and authorizes the Secretary to enter into land exchanges with Native Corporations such as KCC in order to acquire lands for conservation system units as long as the purposes of ANILCA are furthered. In the event of a conflict between ANILCA and the Refuge Act, Section 9 of the Improvement Act states that ANILCA prevails.

5.6.2 Hovercraft and Ferry Options (Alternatives 4 and 5)

The 2013 EIS evaluated impacts from two alternatives that did not involve a road to the Cold Bay airport: (4) Hovercraft Operations from the Northeast Terminal to Cross Wind Cove; and (5) Lenard Harbor Ferry with Cold Bay Dock Improvements. One of the reasons that Secretary Jewell provided for her decision to select the no action alternative was that there were adequate means of access to the Cold Bay airport. Such options were explored and detailed in a 2015 report prepared for USACE that assessed the viability of non-road alternatives.⁷² That report considered variations related to three primary options: (1) Marine Alternative; (2) Airport Alternative; and (3) Helicopter Alternative. For those three alternatives, the report

⁶⁷ 2013 EIS at p. 1-5.

⁶⁸ "Historically, for cases requiring emergency care exceeding that available at King Cove Clinic, medical evacuations from the King Cove community arrive first at the Cold Bay airport via aircraft and marine vessels, depending upon weather conditions and availability of transport modes." 2013 EIS at p. 1-7.

⁶⁹ "Road access would provide peace of mind, particularly during extended periods of inclement weather that prevent marine and air travel. In addition, access to the Cold Bay Airport would provide the students, school board, borough assembly members, and medical service providers residing in the City of King Cove with enhanced opportunities to travel out of their community. Residents would be able to receive mail more frequently, attend sporting events and fundraisers, participate in school field trips, schedule doctor's appointments, meet with government officials in Anchorage and Juneau more reliably, and to visit extended families living in other communities." 2013 EIS at p. 1-8.

⁷⁰ "The transportation system must be affordable by local families and be constructed, operated, and maintained at a cost that can be borne by local or state government. The transportation must be practical in the context of the Cold Bay and King Cove area, so that it can be operated and maintained without undue requirements for specially trained personnel or specialized equipment, and can provide safe, reliable, affordable transportation with the least amount of interruption by weather conditions." 2013 EIS at p. 1-9.

⁷¹ 16 U.S.C. § 668dd(a)(2).

⁷² *King Cove-Cold Bay: Assessment of Non-Road Alternatives*, prepared for U.S. Army Corps of Engineers, Alaska District (June 18, 2015).

considered capital costs, operation costs, maintenance costs, medevac time, risk, and dependability. Subsequently, Secretary Bernhardt concluded that none of these options was viable. I agree and find, consistent with Secretary Bernhardt's conclusion, that these alternatives are not viable and reject them as such.

5.6.3 Southern and Central Road Alignments (Alternatives 2 and 3)

Alternatives 2 and 3 in the 2024 Draft SEIS are both road alternatives that were developed under the authority of the 2009 Act, which expired in 2016. Both alternatives involved conveyances of land to the United States from the State of Alaska. The 2024 Draft SEIS indicates that the State of Alaska and KCC are no longer offering to enter into these proposed exchanges and these alternatives are not feasible.⁷³

Alternative 2 in the 2024 Draft SEIS evaluated a land exchange that would provide KCC with lands substantially along the same route as the lands in Alternative 6 and the Proposed Land Exchange. Besides differences involving the lands to be acquired by the United States, the primary differences between Alternative 2 and both Alternative 6 and the Proposed Land Exchange are:

- Alternative 2 included a barrier along both sides of the roadway to prevent vehicles from accessing the Izembek Refuge and Izembek Wilderness lands adjacent to the road.⁷⁴
- Alternative 2 did not include material sites within the road corridor. There would be material sites located outside the proposed road corridor.⁷⁵
- Alternative 2 limited use of the proposed road to non-commercial traffic.

The southern road alignment in Alternatives 2 and 6 and the Proposed Land Exchange was intended to strike a compromise between minimizing disturbance to black brant through distance from Kinzarof Lagoon and disrupting caribou migration through the isthmus.⁷⁶ The route was designed to avoid or minimize impacts to wetlands, minimize stream crossings, and accommodate terrain considerations.⁷⁷

Alternative 3 in the 2024 Draft SEIS was identical with respect to these provisions. Alternative 3 differed from Alternative 2 in that Alternative 3 involved lands to be conveyed to KCC that could be used for a road along a central alignment rather than the southern alignment in Alternatives 2 and 6 and the Proposed Land Exchange. The central road alignment would be co-located for a portion of the southern alignment and would otherwise be located north of the southern alignment. In summary, the road corridor lands conveyed to KCC would be similar to those described for the Proposed Land Exchange, though some of them would be shifted to the north. The road would be somewhat longer (20 miles instead of 18). A section of the Alternative 3 alignment passes through a 22.95-acre parcel of private land owned by RCA Alaska Communications Inc. This route was designed to avoid or minimize impacts to wetlands and high value habitat for breeding, nesting, and migrating waterbirds and to reduce disturbance or impacts to species and habitat in both Izembek and Kinzarof Lagoons, while also considering land mammal movement and habitat use of the isthmus. The alignment seeks to minimize impacts to wetlands and lake-dependent resources, avoid or minimize stream crossings, and accommodate terrain considerations.⁷⁸

I agree with the statement in the 2024 Draft SEIS that Alternatives 2 and 3 are not feasible. However, I have considered whether to incorporate aspects of these alternatives as potential mitigation for the Proposed Land Exchange. Specifically, I have considered whether to limit use of the proposed road to non-commercial traffic and whether to insist on a boundary along any proposed road that would restrict

⁷³ 2024 Draft SEIS at p. 2-73.

⁷⁴ 2024 Draft SEIS at p. ES-16.

⁷⁵ 2024 Draft SEIS at p. 2-31.

⁷⁶ 2024 Draft SEIS at p. ES-16.

⁷⁷ *Id.*

⁷⁸ 2024 Draft SEIS at p. 2-44.

traffic from the road from entering adjacent Izembek Refuge lands, as discussed in my rationale for not selecting Alternative 6.

5.6.4 Alternative 6 in the 2024 Draft SEIS

The 2025 Proposed Land Exchange is similar to Alternative 6 in the 2024 Draft SEIS in that the United States would convey the same lands to KCC, would restrict KCC's ability to build a road on these lands to a single-lane gravel road, and would authorize the same sites for gravel mining for the construction and operation of the road. In addition, it would be an equal value exchange, and KCC's conveyance to the United States would be limited to its interests to approximately 1,739 acres in the vicinity of the Kinzarof Lagoon and to relinquishing its selection of about 5,430 acres to the east of Kinzarof Lagoon. Under Alternative 6, KCC would convey approximately 31,198 acres of lands to the United States. The 2024 Draft SEIS indicates that this would not be an equal value exchange, but that it could be accomplished if there were a determination that the exchange was in the public interest. I strongly believe that the public interest does not require a deal that so disproportionately favors the refuge system at the expense of KCC and the community of King Cove.

I conclude that the Proposed Land Exchange is superior to Alternative 6 in the 2024 Draft SEIS in serving the ANILCA purpose of providing an adequate opportunity for satisfaction of the economic and social needs of the people of Alaska while still safeguarding the conservation purposes of the Izembek Refuge and opportunities for subsistence uses and select it for that reason.

In reaching this conclusion, I specifically considered that the Proposed Land Exchange would not limit the use of the road to non-commercial purposes. Under Alternative 6 in the 2024 Draft SEIS, the road traffic type of use, frequency, and timing would be restricted to non-commercial uses, and further restricted to those necessary for health and safety purposes and access to refuge resources by federally qualified subsistence users actively engaged in subsistence uses. The use of taxis, commercial vans for public transportation, and ridesharing services, when used for transportation for health and safety or subsistence purposes, is not considered a commercial use.⁷⁹ I find that the Proposed Land Exchange, with its lack of restrictions on the use of the road, does a better job than Alternative 6 in serving the ANILCA purpose of providing an adequate opportunity for satisfaction of the economic and social needs of the people of Alaska. These needs may be more relevant now due to the closure of the seafood processing plant in King Cove in 2024.

I further conclude that the restriction of a potential road to a single-lane gravel road is sufficient to restrict the amount of traffic and use of the road so as to limit effects of the proposed road upon conservation and subsistence resources of the Izembek Refuge and the Izembek Wilderness. I also find that a barrier along the road that would restrict access to the Izembek Refuge would make it more difficult for federally qualified subsistence users to access subsistence resources and reject that proposed mitigation measure developed for Alternative 6.

6 ADDITIONAL INFORMATION

6.1 National Environmental Policy Act

Section 910 of ANILCA states that NEPA shall not be construed, in whole or in part, as requiring the preparation of an EIS for actions leading to conveyances to Native Corporations pursuant to ANCSA or ANILCA.⁸⁰ This Decision will result in a conveyance of the U.S. Exchange Lands under the authority of

⁷⁹ 2024 Draft SEIS at Section ES-1.2

⁸⁰ 43 U.S.C. § 1638 ("The National Environmental Policy Act of 1969 (83 Stat. 852) shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement for withdrawals, conveyances, regulations, orders, easement determinations, or other actions which lead to the issuance of conveyances to Natives or Native Corporations, pursuant to the Alaska Native Claims Settlement Act, or this Act.").

ANILCA, and the conveyance of the U.S. Exchange Lands will be to KCC, a Native Corporation under ANCSA. Accordingly, Section 910 of ANILCA provides an express exemption from NEPA.⁸¹

In addition, I note that the 2024 Draft SEIS was not prepared as a result of a decision that NEPA compliance was required. Rather, Secretary Haaland stated:

I am aware that Secretary Bernhardt was of the view that pursuant to Section 910 of ANILCA, no EIS is required for the 2019 Land Exchange. Regardless of the correctness of that conclusion as a matter of law, *in my policy judgment* the 2019 Land Exchange's substantial differences from the 2013 exchange relevant to environmental concerns should have been analyzed and subjected to public comment. *As a matter of policy*, I have concluded that some form of additional NEPA analysis should have been undertaken to inform the Secretary and the public about the decision.⁸²

In my policy judgment, and that of Secretaries Zinke and Bernhardt previously, discretionary NEPA analysis and public comment were unnecessary to inform my decision on this land exchange. However, the differences from the 2013 exchange relevant to environmental concerns have now been analyzed and subjected to public comment through a 2024 Draft SEIS. While completing a Final SEIS is neither required by law nor, in my policy judgment, necessary to inform my decision, I have reviewed and considered the additional NEPA analysis, input, and comments from the 2024 Draft SEIS, recognizing both the similarities and differences between the preferred alternative (Alternative 6) and the current proposed land exchange.

6.2 ANILCA Section 810

6.2.1 Background

Section 810(a) of ANILCA requires that an evaluation of subsistence uses and needs be completed for any federal determination to “withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands.”⁸³ An evaluation of potential impacts on subsistence under ANILCA Section 810(a) was completed for the 2013 EIS, the 2024 Draft SEIS, and for the Proposed Land Exchange. ANILCA Section 810 sets forth a procedure through which effects on Alaska subsistence resources are considered.⁸⁴ Section 810 does not prohibit all federal land use actions that would adversely affect subsistence resources.⁸⁵ Rather, the statute “sets forth a procedure through which such effects must be considered and provides that actions which would significantly restrict subsistence uses can only be undertaken if they are necessary and if the adverse effects are minimized.”⁸⁶

The Section 810 analysis is two-fold. The first step, called the “Tier 1” determination, requires the agency to determine whether the proposed action “would significantly restrict subsistence uses” after consideration of three factors: (1) “the effect of [the proposed action] on subsistence uses and needs”; (2) “the availability of other lands for the purposes sought to be achieved”; and (3) “other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes.”⁸⁷ If the agency determines that its proposed action “would significantly restrict subsistence

⁸¹ See Fiscal Responsibility Act of 2023, Pub. L. No. 118-5, 137 Stat. 39 (2023), Section 106(a)(3) (codified at 42 U.S.C. § 4336(a)(3)); 516 Departmental Manual 1 – U.S. Department of the Interior Handbook of National Environmental Policy Act Implementing Procedures, Section 1.1(a)(2) (“The Responsible Official may document a determination that NEPA does not apply to a proposed action when ... (2) The proposed action is expressly exempted from NEPA by law.”).

⁸² 2023 Decision Memo at p. 3 (emphasis added).

⁸³ 16 U.S.C. § 3120(a).

⁸⁴ *Id.*

⁸⁵ *Ctr. for Biological Diversity v. U.S. Bureau of Land Mgmt.*, 141 F.4th 976, 1004 (9th Cir. 2025), citing *Amoco Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 544 (1987).

⁸⁶ *Id.*

⁸⁷ 16 U.S.C. § 3120(a).

uses," the agency is required to give notice to the appropriate State of Alaska agency and appropriate local and regional subsistence committees.⁸⁸ It is also required to give notice of, and hold, a hearing in the vicinity of the area involved.⁸⁹ The agency must then proceed to the second step, called the "Tier 2" determination.⁹⁰ Subsequently, the agency must make a set of specific findings before proceeding with the proposed agency action: (1) that the restriction on subsistence uses and needs is "necessary, consistent with sound [public lands] management," (2) that the "minimal amount of public lands necessary" will be used, and (3) that "reasonable steps will be taken to minimize the adverse impacts upon subsistence uses and resources."⁹¹

When making a Tier 1 determination, ANILCA does not define the phrase "would significantly restrict" subsistence uses. The Ninth Circuit Court of Appeals stated that an agency must provide notice and hold a hearing and make the additional determinations if the agency determines that a proposed action "may significantly restrict" subsistence uses.⁹² In discussing the Tier 1 threshold for the first time in 1984, the Ninth Circuit restated the standard as "may significantly restrict" in the same paragraph where it correctly quoted the statutory language of "would significantly restrict." The Ninth Circuit ended the paragraph noting that "[t]his construction of the statute is a reasonable one, relying on the plain meaning of the words of the statute." The Ninth Circuit provided no explanation or analysis for its use of "may" versus "would" and may have simply used the words interchangeably. However, following the *Kunaknana* decision, the District Court for the District of Alaska⁹³ and agencies conducting analysis under Section 810 have cited *Kunaknana* in applying a Tier 1 standard of "may significantly restrict," as the Service has done here. As noted above, the text of the statute uses the word "would" not "may," which the Ninth Circuit correctly cited in a case decided in June of this year, citing *Kunaknana*.⁹⁴ In the Department's view, *Center for Biological Diversity* correctly states the applicable law.

ANILCA also does not provide clear guidance on what is meant by a "significant restriction" other than to note the following three factors that need to be considered when determining if a significant restriction of subsistence uses and needs would result from the proposed action: (1) reduction in the abundance of harvestable resources used for subsistence purposes; (2) reduction in the availability of resources used for subsistence caused by alteration of their distribution, migration patterns, or location; and (3) legal or physical limitations on access of subsistence users to harvestable resources. There are few cases addressing agency Tier 1 determinations.⁹⁵ In general, due to their similarities, courts have analyzed the procedural requirements of ANILCA under the same standard as NEPA.⁹⁶

⁸⁸ 16 U.S.C. § 3120(a)(1).

⁸⁹ 16 U.S.C. § 3120(a)(2).

⁹⁰ *Ctr. for Biological Diversity*, 141 F.4th at 1005, citing *Kunaknana v. Clark*, 742 F.2d 1145, 1151 (9th Cir. 1984); see 16 U.S.C. §§ 3120(a)(1)-(2).

⁹¹ 16 U.S.C. § 3120(a)(3).

⁹² *Kunaknana*, 742 F.2d at 1150.

⁹³ See e.g., *Sierra Club v. Penfold*, 664 F. Supp. 1299, 1307 (D. Alaska 1987), *aff'd*, 857 F.2d 1307 (9th Cir. 1988); *Hanlon v. Barton*, 740 F. Supp. 1446, 1449 (D. Alaska 1988).

⁹⁴ *Ctr. for Biological Diversity*, 141 F.4th at 1004-5, citing *Kunaknana*, 742 F.2d at 1151 ("If the agency determines that its proposed action "would significantly restrict subsistence uses," then it must proceed to step two, which imposes "notice and hearing procedures" meant to inform affected communities about the proposed agency action.")

⁹⁵ See, e.g., *Kunaknana*, 742 F.2d at 1152 (upholding a Bureau of Land Management definition of "significant restriction" as involving more than slight reductions or disruption of resources or user access to subsistence resources was consistent with the purposes of ANILCA); *Penfold*, 664 F. Supp at 1307 (holding that the Bureau of Land Management was required to consider cumulative impacts); *Hanlon*, 740 F. Supp at 1449 (Forest Service Tier 1 determination was inadequate); and *Orutsararmiut Native Council v. United States Army Corps of Eng'rs*, 751 F. Supp.3d 971, 987 (D. Alaska 2024) (Bureau of Land Management Tier 1 ANILCA 810 determination deficient because it did not analyze a larger mine tailings spill, which was a reasonably foreseeable effect of the action).

⁹⁶ *Orutsararmiut Native Council*, 751 F. Supp.3d at 987 (citations omitted).

ANILCA is also silent on whether cumulative effects must be considered. The U.S. District Court for the District of Alaska has analogized ANILCA to NEPA and found that agencies must analyze cumulative impacts in its significant restriction evaluation.⁹⁷ The cumulative impacts must include a review of future cumulative impacts.⁹⁸ The cumulative case includes past, present, and reasonably foreseeable future actions.⁹⁹ I note that the cumulative impacts concept in NEPA originated in regulations promulgated by the Council on Environmental Quality that have been rescinded.¹⁰⁰ Thus, it is unclear whether this component of the Section 810 analysis is still required.

6.2.2 2013 ANILCA Section 810 Analysis

For Alternative 2 (land exchange/southern road alignment), the alternative involving a similar road corridor to the Proposed Land Exchange, the 2013 ANILCA Section 810 analysis found:

In summary, implementation of Alternative 2 would have minor direct and indirect impacts on subsistence uses, and would make a minor contribution to cumulative effects on subsistence resources or harvest patterns. No significant restriction to subsistence uses would occur under Alternative 2.¹⁰¹

6.2.3 2024 Preliminary ANILCA Section 810 Analysis¹⁰²

In conjunction with the 2024 Draft SEIS, the Service prepared a “preliminary evaluation” addressing the Tier 1 determination on whether the proposed actions would result in a significant restriction of subsistence uses and needs on federal lands.¹⁰³ This evaluation includes preliminary findings that Alternative 6 and the cumulative case “may significantly restrict subsistence uses” for the five nearby communities of King Cove, Cold Bay, False Pass, Sand Point, and Nelson Lagoon.¹⁰⁴

There were seven Section 810 hearings in December of 2024, in the communities of King Cove, Cold Bay, Sand Point, Nelson Lagoon, False Pass, Bethel, and Yukon-Kuskokwim Delta communities. Three of these were virtual zoom meetings. Twenty-five members of the public gave oral comments during the hearings. Comments provided by members of the communities in the vicinity of the proposed land exchange and road corridor were generally in support of Alternative 6 in the 2024 Draft SEIS. Many stated that Alternative 6 or the proposed road more generally would expand access to subsistence resources.

Seventy-six Tribes or Tribal organizations not in the vicinity of the proposed land exchange and road corridor passed 19 Tribal Resolutions of Opposition or authorized the Association of Village Council Presidents to do so on their behalf. The Native Village of Hooper Bay, for example, located over 450 air miles from King Cove/Cold Bay, contends that Alternative 6 in the 2024 Draft SEIS would negatively affect migratory bird species (black brant, emperor geese, cackling geese) that are key subsistence resources for its community and in turn cause severe and irreparable harm to its members and to others in the region. These Tribes and Tribal organizations urged the Department to consider the impacts upon their members and to further explore non-road alternatives such as a marine ferry.

⁹⁷ *Hanlon v. Barton*, 740 F. Supp at 1453, citing *Sierra Club v. Penfold*, 664 F. Supp. 1299, 1307 (D. Alaska 1987).

⁹⁸ *Id.*, 740 F. Supp at 1454.

⁹⁹ *Id.*, 740 F. Supp at 1455.

¹⁰⁰ Removal of National Environmental Policy Act Implementing Regulations, 90 FR 10,610 (Feb. 25, 2025).

¹⁰¹ 2013 EIS, Appendix D, ANILCA Section 810 Analysis of Subsistence Impacts, at p. D-11.

¹⁰² 2024 Draft SEIS, Appendix D-2.

¹⁰³ 2024 Draft SEIS, Appendix D-2 at pp. 1, 6, 52.

¹⁰⁴ 2024 Draft SEIS, Appendix D-2, Section 2.5.4. at pp. 38–40 and Section 2.6.4 at pp. 49–52.

6.2.4 2025 Preliminary ANILCA Section 810 Analysis

Once the Proposed Land Exchange was developed in 2025, the Service undertook a new evaluation under ANILCA Section 810 for the Proposed Land Exchange. The evaluation of the effects of the Proposed Land Exchange included five villages associated with subsistence use of the proposed project area: King Cove, Cold Bay, False Pass, Nelson Lagoon, and Sand Point. These are the five communities with federally recognized customary and traditional or subsistence uses for key subsistence species in Game Management Unit 9D, which includes the Cold Bay area. When evaluating the cumulative effects of the Proposed Land Exchange, communities were also considered that are outside the immediate area but within the flyway of migratory birds—specifically, the Pacific black brant and the Bering Sea endemic emperor goose—because the Service recognizes that communities in other regions of Alaska, such as the Yukon-Kuskokwim Delta, rely on these resources for subsistence use. Findings for the direct/indirect case and the cumulative case are summarized in Section 5.3 above and explained in detail in the ANILCA Section 810 analysis, attached as Appendix B.

6.2.5 Notice and Hearings

On August 4, 2025, the Service provided the preliminary ANILCA Section 810 analysis and a notice of hearings to stakeholders in the vicinity of the area for which the Service preliminarily determined the Proposed Land Exchange may significantly restrict subsistence uses, including King Cove, Cold Bay, False Pass, Nelson Lagoon, and Sand Point. The Service also notified the State of Alaska, the Kodiak/Aleutians Regional Advisory Councils, the Bristol Bay Regional Advisory Council, and the Native Village of Hooper Bay of its ANILCA Section 810 analysis findings on August 4, 2025. Hearing dates, times, and locations were as follows:

King Cove: Monday, August 18, 6 p.m.

Hearing Facility: Agdaagux Tribal Center, 303 Squirrel Rd, King Cove, Alaska

Cold Bay: Wednesday, August 20, 7 p.m.

Hearing Facility: Cold Bay Lodge, 1000 Dias Ave, Cold Bay, Alaska

Virtual Hearing (For the Communities of Sand Point, Nelson Lagoon, and False Pass): Thursday, August 21, 6 p.m.

Zoom Meeting

6.2.6 Summary of Comments on 2025 Preliminary ANILCA Section 810 Analysis

The Service received oral testimony at the hearings and written materials which are summarized below:

- **Access concerns:** Residents of King Cove emphasized that subsistence is essential for survival, culture, and health, and that they have needed to rely more heavily on subsistence recently, yet access to resources such as birds, caribou, fish, and berries has been increasingly restricted while hunters from outside the local communities retain opportunities in Cold Bay. They described this inequity as discriminatory and a violation of Indigenous rights, noting that safe, reliable road access is critical for both subsistence and medical emergencies. While some worry about weakening wilderness protections, many believe a carefully managed road corridor could balance conservation with sustaining subsistence practices. They urged that the 2025 land exchange decision recognize subsistence as a matter of survival, equity, and human rights, while ensuring long-term protection of resources for future generations.
- **Abundance and availability concerns:** Residents stressed that while the availability and abundance of subsistence resources around Izembek and Cold Bay has not been much of a concern, accessing subsistence areas has become increasingly difficult due to water crossings and closed or poorly maintained roads, leaving some families without key subsistence foods. Black brant numbers have been especially high recently, but the Service continues to put restrictions on harvest. However, one

commenter stated that caribou has become scarce in the last year, which is a concern to residents. The commenters emphasized cultural values that support continued availability and abundance of resources, such as taking only what is needed, sharing with others, and protecting resources for future generations, in contrast to outside sport hunters. Commenters acknowledged conservation concerns but noted that decades of road use and military use in the area have not resulted in lasting harm to wildlife or habitats.

- **Migratory birds and waterfowl:** Commenters emphasized that migratory waterfowl such as Pacific black brant, emperor geese, and cackling geese are critical to subsistence, culture, and food security, not only for Cold Bay and King Cove but for Yukon-Kuskokwim Delta communities where most of these species breed and are harvested. Nearly the entire world population of black brant and emperor geese depends on Izembek Lagoon's eelgrass beds, meaning any habitat loss or disturbance has population-level consequences. Residents stressed that past military use and road activity have not diminished brant use of the area. With emperor goose hunting already closed statewide and Pacific black brant under new restrictions, further stress on these species would directly harm subsistence users who have already limited their harvests to protect bird populations. Commenters criticized the Service for downplaying impacts in the 2025 preliminary ANILCA Section 810 analysis, despite earlier findings that the project "may significantly restrict" bird harvests, particularly in Yukon-Kuskokwim Delta communities. They feel that the Tier 2 requirement to demonstrate necessity, minimum land use, and mitigation cannot be met.
- **Change in finding:** Commenters objected that the 2025 preliminary ANILCA Section 810 analysis differs from the findings in the 2024 preliminary ANILCA Section 810 analysis for the 2024 Draft SEIS that the project "may significantly restrict" subsistence uses from reduced bird abundance in the Yukon-Kuskokwim Delta communities. They argue the 2025 analysis fails to explain this change despite greater expected impacts from a road with no non-commercial use limits and fewer mitigation measures, and that all available evidence still points to significant restrictions for Yukon-Kuskokwim Delta communities.
- **Methodology:** Commenters criticized the Service's new quantitative approach for ranking subsistence impacts, arguing it oversimplifies and misrepresents traditional practices. They stated that measuring importance by number of users or dietary percentage overlooks cultural and seasonal significance, noting that species like black brant and emperor geese provide critical fat in spring even if they are not a large portion of the overall diet.
- **General concerns:** A road would fragment habitat, alter hydrology, and cause long-term ecological harm, especially to species like Pacific black brant that are vital for subsistence across Alaska. Testimony highlighted the cumulative impacts of habitat loss, migration disruption, and increased hunting access, and questioned why the Service reversed its 2024 finding that a road may significantly restrict subsistence uses despite removing prior mitigation measures. Testimony emphasized that Izembek Lagoon's eelgrass beds are globally significant for wildlife and carbon storage, and that Congress designated Izembek Refuge as wilderness precisely to protect these values.
- **Yukon-Kuskokwim Delta impacts:** Commenters argued that the preliminary ANILCA Section 810 analysis improperly limits review to only five local communities, excluding the Yukon-Kuskokwim Delta, Norton Sound, and other regions that also rely on migratory birds from Izembek Refuge. They emphasized that species like Pacific black brant and emperor geese are essential for food, culture, and community well-being, particularly as salmon declines and climate change intensify subsistence crises. They noted that the Service's own prior findings identified permanent habitat loss and population-level effects on these birds, meaning the road would cause long-term harm. Yukon-Kuskokwim Delta communities will not benefit from increased access and will only experience the reduced abundance, making them more likely—rather than less—to experience a significant restriction in subsistence uses.

- Caribou, fish, and bear impacts: The road will not have an impact on caribou, fish, or bear populations because federal regulations already protect them and the populations are habituated to human structures, including roads.

6.2.7 2025 ANILCA Section 810 Tier 2 Determinations

As described above, the Service determined that the Proposed Land Exchange, in combination with other past, present, and reasonably foreseeable future actions and climate change, may significantly restrict subsistence uses. Set forth in the 2025 Final ANILCA Section 810 Report (Appendix B) are the Tier 2 determinations under the requirements of ANILCA Section 810(a)(3)(A), (B), and (C):

- A. that such a significant restriction of subsistence use is necessary, consistent with sound management principles for the utilization of the public lands,
- B. that the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other such disposition, and
- C. that reasonable steps will be taken to minimize adverse impacts to subsistence uses and resources resulting from such actions.

6.2.8 Findings and Conclusions

After review, I find the 2024 preliminary Tier 1 findings to be overly broad for Alternative 6; that is, it found that there may be a significant restriction when, properly evaluated, it should not have. The criteria used in the 2024 preliminary findings to determine whether the proposed action “may significantly restrict” was simply whether there would be *any* reduction in the abundance of harvestable resources or *any* reduction in the availability of resources used for subsistence or legal or physical limitations on access of subsistence users to harvestable resources. I also note that the preliminary 2024 finding that Alternative 6 may significantly restrict subsistence uses did not consider whether there would be any beneficial impacts to the abundance or availability or access to subsistence resources as a result of the additional acres that would be conveyed to, or retained by, the United States.

In 2025, as referenced above, the Service determined that the Proposed Land Exchange in conjunction with past, present, and reasonably likely future actions (the cumulative case) “may significantly restrict subsistence uses” for the five communities in the vicinity of the Proposed Land Exchange and held three public hearings and consulted with affected Tribes and Tribal organizations. While the Service evaluated whether there would be a substantial reduction in the opportunity to use subsistence resources caused by large reductions in resource abundance, a major redistribution of resources, extensive interference with access, or major increases in the use of those resources by non-subsistence users, I disagree with the assumptions about the past, present, and reasonably foreseeable future actions that supported the determination.

Therefore, I find that the record provides, at most, marginal support for the finding that the Proposed Land Exchange, in conjunction with past, present, and reasonably likely future actions (the cumulative case) “may significantly restrict subsistence uses” for the five communities in the vicinity of the Proposed Land Exchange. However, I find, under the statutory standard for Tier 1,¹⁰⁵ that the cumulative case of the Proposed Land Exchange, to the extent the cumulative case is even required, *would not* significantly restrict subsistence uses.

Because I find that the Proposed Land Exchange *would not* result in a significant restriction on subsistence uses, no additional steps are necessary under Section 810 for the Proposed Land Exchange. In particular, the determinations under Section 810(a)(3) are not necessary. In the event a reviewing court

¹⁰⁵ *Ctr. for Biological Diversity*, 141 F.4th at 1004-5 (“would significantly restrict subsistence uses”), citing *Kunaknana*, 742 F.2d at 1151.

were to disagree, particularly in light of caselaw suggesting a lower threshold under Tier 1, I have also reviewed and concur with the Section 810(a)(3) determinations made by the Service.

6.3 Endangered Species Act Section 7 Consultation

Before taking any action, the Department is required to review its proposed action, which, in this matter, is the Proposed Land Exchange, and determine whether ESA consultation is required. Although the proposed land exchange agreement and the conveyances and relinquishment of selection rights do not authorize any ground-disturbing activities and are not anticipated to have any effect on listed species or critical habitat by themselves, recognizing that a purpose of the exchange is to provide a road corridor and considering the likelihood of such a road being completed, the Service consulted on the construction and operation of the proposed road as well as on the land exchange. However, it is important to acknowledge that road construction, if any, cannot proceed until a proposed project navigates a variety of hurdles, including land conveyances, funding, planning, an application for road construction, federal and state approvals, and permitting approvals. The Service's Biological Opinion, NMFS' Letter of Concurrence, and this Decision do not limit any federal agency from appropriately considering the effect of the action on listed species and critical habitat in the future if they are asked to authorize, fund, or carry out a discretionary action.

6.3.1 Formal ESA Consultation with the Service

The Service initiated formal consultation with Ecological Services under Section 7 of the ESA with submittal of a Biological Assessment on June 30, 2025. Subsequently, the proposed action was updated to reflect that the United States will acquire all of the KCC Exchange Lands, which is not expected to negatively impact listed species. The Section 7 consultation with Ecological Services concluded with a Biological Opinion issued on October 14, 2025.

After reviewing the current status of the species and critical habitat, the environmental baseline in the action area, the effects of the proposed action, and the cumulative effects, the Service's biological opinion is that the proposed action is not likely to jeopardize the continued existence of the Alaska-breeding Steller's eider or the southwest distinct population segment (DPS) of the northern sea otter, and is not likely to result in the destruction or adverse modification of critical habitat of the Alaska-breeding Steller's eider or the southwest DPS of northern sea otter.

The Service determined the proposed action will not result in incidental take of Alaska-breeding Steller's eider or southwest DPS northern sea otters. Consequently, there are no prescribed Reasonable and Prudent Measures or implementing Terms and Conditions. The Service did provide a series of discretionary Conservation Measures.

6.3.2 Informal ESA Consultation with NMFS

The Service requested informal consultation with NMFS under Section 7(a)(2) of the ESA¹⁰⁶ on July 1, 2025. The Service's informal consultation document requested written concurrence that the proposed action may affect, but is not likely to adversely affect, the endangered blue whale (*Balaenoptera musculus*), endangered fin whale (*Balaenoptera physalus*), endangered Western North Pacific, Central America, or threatened Mexico DPS humpback whale (*Megaptera novaeangliae*) or their critical habitats, endangered North Pacific right whale (*Eubalaena japonica*) or its critical habitat, endangered sperm whale (*Physeter macrocephalus*), endangered Western North Pacific DPS gray whale (*Eschrichtius robustus*), endangered sei whale (*Balaenoptera borealis*), endangered Eastern North Pacific Southern Resident killer whale (*Orcinus orca*) or its critical habitat, endangered Cook Inlet beluga whale (*Delphinapterus leucas*) or its critical habitat, or endangered Western DPS Steller sea lion (*Eumetopias jubatus*) or its critical habitat. In addition, the Service requested a discretionary conference on the

¹⁰⁶ 16 U.S.C. § 1536.

sunflower sea star (88 FR 16212, March 16, 2023) in the consultation and requested concurrence with a may affect, but not likely to adversely affect determination.

NMFS requested more information about the project via email on July 7 and 9, 2025. On July 18, 2025, the Service provided NMFS with additional information regarding the proposed mitigation measures. NMFS initiated informal consultation on July 18, 2025. The Service met with NMFS to discuss the scope of the proposed action and provided an update to NMFS via email on July 28, 2025, with a modification to the originally proposed action. The modification removed placement of fill in marine waters for expansion of two construction-related barge landing sites at the Northeast Terminal and Cross Wind Cove from the proposed action because KCC determined that the existing hovercraft ramps would be sufficient for use as temporary barge landing sites.

Informal consultation concluded with a letter of concurrence issued by the NMFS to the Service on August 7, 2025 (Reference No. AKRO-2025-01895). The letter of concurrence included additional mitigation measures which are identified in Section 3.3. Based on the information provided to NMFS, and additional literature cited in the letter of concurrence, NMFS concurred with the Service's findings. This consultation only covers the land exchange and the barge traffic that will overlap with ESA-listed species and their critical habitat.

6.4 Essential Fish Habitat Consultation

The Service initiated EFH consultation with NMFS pursuant to the Magnuson-Stevens Fishery Conservation and Management Act of 1972, as amended by the Sustainable Fisheries Act of 1996,¹⁰⁷ with submittal of an EFH Assessment on July 1, 2025. The EFH regulations define an adverse effect as “any impact that reduces the quality and/or quantity of EFH”¹⁰⁸ The Service's EFH Assessment concluded that the proposed project activity, including the land exchange and road corridor, may adversely affect EFH in the project area.

NMFS provided a written response on July 10, 2025 (Reference No. AKRO-2025-01915) agreeing with the Service's conclusion of effects with implementation of additional conservation recommendations to minimize the potential adverse effects. The Service provided a written response to NMFS's conservation recommendations on July 25, 2025. Where the Service's response was inconsistent with NMFS's recommendations, the Service explained the reasons and/or justification for the modified measures. with justification for revisions to some of the measures. NMFS issued a response letter to the Service on August 13, 2025 (Reference No. AKRO-2025-01915) supporting the Services' revised conservation measures and considering EFH consultation complete. The final conservation measures are adopted herein (see Section 3.3) and included as a part of the proposed land exchange agreement.

6.5 Tribal Consultation/ANCSA Corporation Consultation

Consultations with KCC, the Agdaagux Tribe, the Native Village of Belkofski, and their invited representatives regarding a new proposed land exchange agreement commenced in May 2025 and occurred regularly through the finalization of this Decision.

6.6 Co-Management and Interagency Cooperation

The Service prioritizes improving cooperation and knowledge-sharing as a part of the management of the Izembek Refuge and the proposed land exchange agreement commits, in good faith, to negotiating an agreement to ensure that the Agdaagux Tribe, the Native Village of Belkofski, and KCC's expertise, traditional Indigenous knowledge, and cultural and spiritual interests are meaningfully integrated into the stewardship of these ancestral homelands.

¹⁰⁷ 16 U.S.C § 1801 *et seq.*

¹⁰⁸ 50 CFR § 600.810(a).

Additionally, this commitment respects Tribal trust and ensures that decisions are made in collaboration with the local Tribal governments through a government-to-government relationship. The exchange enables more effective management and alignment with the social and economic well-being of Tribal citizens.

6.6.1 Alaska Migratory Bird Co-Management Council

The Alaska Migratory Bird Co-Management Council (AMBCC), formed in 2000, consists of the Service, the Alaska Department of Fish and Game, and representatives of Alaska's Native population. AMBCC is designed for direct involvement by Alaska Native peoples and other qualified individuals living and subsisting in many remote communities in Alaska. The AMBCC's primary purpose is to conserve migratory birds through development of recommendations for the subsistence spring/summer harvest in Alaska. Subsistence regulations were first published in 2003. The AMBCC will be critical to assist in future mitigation and educational efforts.

6.7 National Historic Preservation Act Section 106 Consultation

The Service has a responsibility to consider the effects of an undertaking on historic properties, which are properties listed on or eligible for listing on the National Register of Historic Places. The undertaking consists of the land exchange, and the consultation conducted pursuant to Section 106 of the National Historic Preservation Act¹⁰⁹ for this undertaking does not include any future action or use of the exchanged lands nor consideration of effects to historic properties resulting from future use or development.

The Service has determined that the undertaking has the potential to adversely affect historic properties since Service lands would transfer out of federal ownership. The Service has consulted with the Alaska State Historic Preservation Officer pursuant to the regulations implementing Section 106 of the National Historic Preservation Act¹¹⁰ and proposes to resolve the undertaking's adverse effects to historic properties through: 1) Identifying segments of a World War II road between Cold Bay and King Cove, and 2) conducting a cultural resource survey on approximately 500 acres of lands within the KCC Exchange Lands. A memorandum of agreement between the Service and Alaska State Historic Preservation Officer has been executed to document the mitigation stipulations to resolve the adverse effects of the undertaking on historic properties.

The Service notified the Advisory Council on Historic Preservation of its adverse effect determination pursuant to Section 106 and its implementing regulations,¹¹¹ and the Advisory Council on Historic Preservation chose not to participate in the consultation.

The Service has also consulted with the Agadaagux Tribe, Native Village of Belkofski, KCC, City of King Cove, Aleut Corporation, and interested members of the public.

6.8 Executive Order 11988 – Floodplain Management

Executive Order 11988, concerning the protection of floodplains, requires federal agencies to lead and take action to reduce the risk of flood loss; to minimize the impact of floods on human safety, health, and welfare; and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for acquiring, managing, and disposing of federal lands. This requires agencies to evaluate the potential effects of actions it may take in a floodplain. This determination is made using a Department of Housing and Urban Development floodplain map or a more detailed map of an area, if available. If such maps are not available, the agency shall make a determination of the location of the floodplain based on the best available information. When property in floodplains is proposed for lease,

¹⁰⁹ 54 U.S.C. § 306108.

¹¹⁰ 36 CFR § 800.

¹¹¹ 36 CFR § 800.6 (a)(1).

easement, right-of-way, or disposal to non-federal public or private parties, the federal agency shall (1) reference in the conveyance those uses that are restricted under identified federal, state, or local floodplain regulations; and (2) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successors, except where prohibited by law; or (3) withhold such properties from conveyance.

No direct effects to floodplains have been identified that would result from the land exchange itself.

6.9 Executive Order 11990 – Protection of Wetlands

Executive Order 11990, concerning the protection of wetlands, requires that the Bureau of Land Management consider factors relevant to the proposal's effect on the survival and quality of wetlands. Factors to be considered include the following:

1. Public health, safety, and welfare, including water supply, quality, recharge and discharge, pollution, flood and storm hazards, and sediment and erosion;
2. Maintenance of natural systems, including conservation and long-term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and
3. Other uses of wetlands in the public interest, including recreation, scientific, and cultural uses.

Furthermore, the agency, to the extent permitted by law, shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds:

1. There is no practicable alternative to such construction; and
2. The proposed action includes all practicable measures to minimize harm to wetlands which may result from such use. In making this finding the head of the agency may take into account economic, environmental, and other pertinent factors.

No direct effects on wetland resources have been identified that would result from the proposed land exchange itself. The wetland functions and values, as described in the affected environment section (Chapter 3) of the 2024 Draft SEIS, would remain the same before and after the proposed land exchange. Wetlands, regardless of ownership, are protected by the Clean Water Act.

As noted above, the road corridor has been selected in part to minimize effects to streams, ponds, and wetlands, and construction of a road is expected to require subsequent permitting under the USACE regulatory program, pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. Compliance with Executive Order 11990 will be undertaken at these subsequent stages through consideration of all practicable alternatives and mitigation measures to ensure that harm to wetland functions and values is minimized.

6.10 National Wildlife Refuge System Improvement Act

In reaching my decision, I have not made the determination identified in the 2024 Draft SEIS as being required by the provisions of the National Wildlife Refuge System Improvement Act of 1997¹¹² (Improvement Act), which amended the National Wildlife Refuge System Administration Act of 1966¹¹³ (Administration Act) (collectively the Refuge Act). Among other things, the Improvement Act added a mission statement that establishes a policy of wildlife conservation as the primary purpose of the Refuge

¹¹² Pub. L. No. 105-57, 111 Stat. 1252 (1997) (codified at 16 U.S.C. §§ 668dd-ee).

¹¹³ Pub. L. No. 89-669, 80 Stat. 926 (1966).

System.¹¹⁴ I disagree with the provision in the 2024 Draft SEIS that states that the land exchange must further the missions of the Izembek Refuge and the Refuge System.¹¹⁵

In ANILCA, Congress authorized the Secretary, “consistent with other applicable law in order to carry out the purposes of [ANILCA],” the authority to execute land exchanges.¹¹⁶ Where ANILCA and the Refuge Act do not conflict, both authorities apply concurrently. However, in the event a conflict exists between ANILCA and Refuge Act, Section 9 of the Improvement Act states that ANILCA prevails.¹¹⁷ The conservation mission set forth in the Improvement Act is in conflict with Section 1302(h) of ANILCA. ANILCA Section 1302(h) governs the administration of Refuge System lands in Alaska, allowing the Secretary to enter into land exchanges with Native Corporations if the purposes of ANILCA are satisfied. These purposes are broader than the mission of the Izembek Refuge and the mission of the Refuge System, as discussed above. Based on my determination that the approximately 490 acres of lands within the exterior boundary of the Izembek Refuge proposed for conveyance to KCC are suitable for disposition pursuant to ANILCA, and that the Proposed Land Exchange furthers the purposes of ANILCA, I have determined that a conflict exists between ANILCA and the requirements of the Improvement Act.

6.11 Wilderness Act

Under the Wilderness Act, Congress designates “wilderness areas” that are to be “administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness[.]”¹¹⁸ This includes making wilderness areas accessible to people “devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.”¹¹⁹ The Wilderness Act prohibits permanent roads within a wilderness area.¹²⁰ However, this Decision to enter into the Proposed Land Exchange will result in the conveyance of the U.S. Exchange Lands to KCC and out of the Izembek Wilderness.¹²¹

There are approximately 308,000 acres of refuge lands that are within the Izembek Wilderness. The proposed exchange would convey approximately 336 acres of Izembek Wilderness out of federal ownership (approximately 1/10 of one percent of the total). In exchange, KCC will convey approximately 1,739 acres of land that will subsequently be managed as part of the Izembek Wilderness and relinquish its selection rights to approximately 5,430 acres of lands, that are currently managed as part of the Izembek Wilderness. The KCC Exchange lands and KCC-selected lands have similar wilderness characteristics as the U.S. Exchange Lands.

The 1,739 acres of KCC Exchange Lands to be acquired by the United States, located inside the Izembek Wilderness Unit boundary, will be added to the Izembek Wilderness Unit as part of the Izembek Refuge by operation of ANILCA Section 103(c).¹²² This exchange is expected to result in a net increase of 1,403 acres of Izembek Wilderness. The resulting approximately 309,403 acres will be managed as wilderness. Additionally, the 5,430 acres of lands that KCC has selected within Izembek Wilderness are prioritized

¹¹⁴ 16 U.S.C. § 668dd(a)(3)(A).

¹¹⁵ The previous Solicitor acknowledged that land exchanges in Alaska are different in M-Opinion 37078 (currently under a suspension review).

¹¹⁶ See 2024 Draft SEIS at pp. 1-8 to 1-9.

¹¹⁷ Pub. L. No. 105-97, § 9(b), 111 Stat. 1252 (1997) (statutory construction note regarding 16 U.S.C. § 668dd with respect to Alaska).

¹¹⁸ 16 U.S.C. § 1131(a).

¹¹⁹ 16 U.S.C. § 1131(b).

¹²⁰ 16 U.S.C. § 1133(c).

¹²¹ Additionally, the exchange authority in Section 1302(h) is specifically granted “[n]otwithstanding any other provision of law.” 16 U.S.C. § 3192(h).

¹²² 16 U.S.C. § 3170(b).

such that they are highly likely to be conveyed to KCC, and no longer part of the Wilderness unit, if the proposed land exchange agreement is not approved.

If the proposed road is constructed and operated, there will be some additional impacts on the wilderness characteristics of the adjoining areas that remain wilderness. However, those impacts will be limited because any road will be constrained to a single-lane gravel road and associated material sites are largely associated only with the construction of the road.

6.12 ANILCA Title XI

Title XI of ANILCA provides a process for obtaining federal authorizations associated with a “transportation or utility system” (TUS), which includes roads, when any portion of the proposed route is located on public lands within any conservation system unit, national recreation area, or national conservation area in Alaska.¹²³ Pursuant to Section 1104 of ANILCA, each applicant for a TUS must file a single consolidated application with each appropriate federal agency having jurisdiction to grant any authorization without which the system cannot be established or operated.¹²⁴ All appropriate federal agencies are required to work together to jointly process the TUS application.¹²⁵ The Department does not have a pending application for a TUS before it.

¹²³ See 16 U.S.C. §§ 3161-73.

¹²⁴ 16 U.S.C. § 3164.

¹²⁵ *Id.*


7 FINAL AGENCY ACTION

For the reasons set forth above, I hereby decide to enter into an equal value exchange agreement with KCC under Section 1302(h) of ANILCA as set out in Appendix A. My decision constitutes the final decision of the Department.

Approved by:



Doug Burgum
Secretary of the Interior



Date

8 REFERENCES

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- USACE (U.S. Army Corps of Engineers). 2015. King Cove-Cold Bay: Assessment of Non-Road Alternatives. Aleutians East Borough, Alaska. Final. Prepared by HDR for the U.S. Army Corps of Engineers, Alaska District. June 18, 2015.
- Williams, A. 2023. Izembek Habitat Aerial Imagery Project. Izembek National Wildlife Refuge.

APPENDIX A – PROPOSED LAND EXCHANGE AGREEMENT

**UNITED STATES DEPARTMENT OF THE INTERIOR
UNITED STATES FISH AND WILDLIFE SERVICE**

AGREEMENT FOR THE EXCHANGE OF LANDS

THIS AGREEMENT, made and entered into by and between THE KING COVE CORPORATION (KCC), a corporation organized under the laws of the State of Alaska, pursuant to the authority contained in the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C. §§ 1601, *et seq.*, for itself and its successors, and the UNITED STATES OF AMERICA (United States; U.S.) acting by and through the Secretary of the Interior, or his authorized representative (KCC and the United States are collectively referred to as “the Parties”). The authority for the exchange is section 1302(h) of the Alaska National Interest Lands Conservation Act (ANILCA), Pub. L. 96-487, 94 Stat. 2475 (1980), as amended by Pub. L. 100-395, § 201, 102 Stat. 979, 981 (1988) (codified at 16 U.S.C. § 3192(h)).

RECITALS

WHEREAS, King Cove, Alaska, is an isolated Aleut Native village, recognized as a village under ANCSA, which is located at the terminus of the Alaska Peninsula at the beginning of the Aleutian Island chain in southwest Alaska, approximately 625 miles southwest of Anchorage, Alaska, and 18 miles southwest of Cold Bay, Alaska.

WHEREAS, King Cove is a community within the Aleutians East Borough and is accessible only by boat or plane.

WHEREAS, there are two Tribes recognized by the United States based in King Cove: the Agdaagux Tribe of King Cove and the Native Village of Belkofski.

WHEREAS, in the 2020 census, the population of King Cove was 757 residents, and the population of Cold Bay was 50 residents.

WHEREAS, King Cove has a short, gravel runway located in a narrow valley surrounded by mountains where high winds and turbulence are frequently present and thus can be reached only by small aircraft during daylight hours under visual flight rule regulations, and it is closed an average of 100 days a year.

WHEREAS, the Cold Bay airport is Alaska’s fourth-longest paved civilian runway and is suitable for use for all-weather air transportation including by air evacuation to Anchorage hospitals by jet aircraft.

WHEREAS, the residents of King Cove do not have regular or reliable access to the State of Alaska’s transportation network via the Cold Bay airport because inclement weather prevents small aircraft from flying between King Cove and Cold Bay.

WHEREAS, inclement weather is also an impediment to seagoing vessels transiting

14 miles of open ocean between the community of King Cove and the community of Cold Bay. Among other things, patients needing a medical evacuation (medevac) from King Cove by water cannot withstand the buffeting of the sea, particularly in the same inclement weather that prevents medevac by air.

WHEREAS, there is an approximate 13-mile gap between the road leading out of King Cove and the road into the Cold Bay airport.

WHEREAS, there have been 217 medevacs from King Cove since December 23, 2013, including 32 by the U.S. Coast Guard because commercial medevac carriers determined that it was too dangerous to fly into King Cove.

WHEREAS, King Cove residents, U.S. Coast Guard servicemembers, and others have died or risked death attempting to travel to and from King Cove and from being unable to travel from King Cove to the Cold Bay airport for medevac transport to Anchorage hospitals by jet aircraft.

WHEREAS, the 2012 Alaska Federal Lands Long Range Transportation Plan documented over 70 miles of roads (63 miles of gravel roads and 8 miles of dirt roads) that had been constructed across the Izembek isthmus by the military during World War II, and the land requested for a road corridor aligns with these historic roads where possible. During the period of military operations at Cold Bay, overland travel across the Izembek isthmus was possible and the communities of King Cove and Cold Bay were connected by jeep trail.

WHEREAS, the King Cove City Council passed a resolution in 1976 requesting the State of Alaska to consider building a road to permanently connect the two communities.

WHEREAS, in 1980, without addressing the foregoing City Council Resolution or engaging in any consultation with the Agdaagux Tribe of King Cove, the Native Village of Belkofski, KCC, or the City of King Cove, Congress designated almost the entirety of the existing Izembek National Wildlife Refuge (Izembek Refuge) as Wilderness.

WHEREAS, Congress has twice passed legislation in the past 25 years that attempted to address the health and safety issues raised by the lack of a road by providing separate means for King Cove residents to access the airport at Cold Bay, neither of which has resulted in a viable long-term solution that is affordable or otherwise meets the needs of King Cove residents.

WHEREAS, KCC owns the surface estate of certain lands located within the external boundaries of the Izembek Refuge and Izembek Wilderness (the KCC Exchange Lands), which are identified on the attached map (Exhibit A).

WHEREAS, the United States owns the surface and subsurface estate of certain lands located within the external boundaries of the Izembek Refuge, managed by the U.S. Fish and Wildlife Service (Service), which are delineated in U.S. Survey No. 14495, Alaska, requested by KCC for the construction, operation, and maintenance of a road linking King Cove with the Cold Bay airport (the U.S. Exchange Lands).

WHEREAS, the intent of this Agreement is to make an equal value exchange pursuant to ANILCA section 1302(h). To that end, the U.S. Exchange Lands and KCC Exchange Lands have been appraised.

WHEREAS, in plans completed as early as 1985 and 1998, the Service identified the area that includes the KCC Exchange Lands as high priority lands for conservation.

WHEREAS, the lands the United States acquires from the KCC Exchange Lands will, by operation of ANILCA section 103(c), become part of the Izembek Refuge and Izembek Wilderness. This exchange is expected to increase the overall number of acres in the Izembek Refuge and Izembek Wilderness.

WHEREAS, the lands the United States acquires from the KCC Exchange Lands will be subject to the priority for subsistence uses set out in ANILCA Title VIII, while any lands that the United States conveys to KCC will no longer be subject to that priority. The Parties anticipate this exchange will increase the number of acres to which ANILCA Title VIII applies.

WHEREAS, by acquiring the KCC Exchange Lands, the United States increases the overall amount of land managed for conservation and subsistence uses.

WHEREAS, the improved access between the Cold Bay airport and the community of King Cove resulting from this exchange will also provide the public opportunities to experience and enjoy the Izembek Refuge.

WHEREAS, KCC also has selection rights under ANCSA to 5,430 acres located within Izembek Refuge and Izembek Wilderness that contain high value wetlands supporting Izembek Lagoon, which is a designated Wetland of International Importance under the Ramsar Convention, and KCC will relinquish its selection rights to these lands and select alternative lands that are not located within the Izembek Refuge.

WHEREAS, portions of the U.S. Exchange Lands and KCC Exchange Lands are located within a Formerly Used Defense Site (FUDS) as defined in U.S. Army Corps of Engineers (USACE) Engineer Regulation No. 200-3-1, Formerly Used Defense Sites (FUDS) Program Regulation (Sept. 2020).

WHEREAS, environmental response actions and military munitions responses on FUDS are conducted by USACE under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601 *et seq.*, and the Defense Environmental Restoration Act, 10 U.S.C. §§ 2700 *et seq.*

WHEREAS, in October 1957, the U.S. Air Force certified that the portions of the FUDS located within what is currently the Izembek Refuge, with the exception of specified water bodies west of the U.S. Exchange Lands, had been cleared of dangerous and/or explosive materials that were reasonably possible to detect and recover and designated those lands for unrestricted future use.

WHEREAS, the United States completed Phase I Environmental Site Assessments

(ESAs) for the U.S. Exchange Lands and the KCC Exchange Lands in accordance with the requirements of 40 CFR Part 312.

WHEREAS, the Phase I ESA conducted for the U.S. Exchange Lands included a “complete search of agency files” as required under section 120(h)(1) of CERCLA, 42 U.S.C. § 9620(h)(1).

WHEREAS, the Phase I ESA conducted for the KCC Exchange Lands did not identify Recognized Environmental Conditions on that property.

WHEREAS, the Phase I ESA for the U.S. Exchange Lands did not identify any documented historical storage, release, or disposal of hazardous substances on the property, but there is potential for the presence of unexploded ordnance (UXO), discarded military munitions (DMM), and munitions constituents (MC) due to the property’s location within a FUDS.

WHEREAS, this exchange will provide a corridor for the construction and operation of a public road between King Cove and Cold Bay that will improve public health and safety and provide affordable transportation, enhancing access to goods and services, all of which would improve the quality of life for KCC shareholders, tribal members, other residents of King Cove, and the general public who will have a permanent connection to and from King Cove.

WHEREAS, the exchange furthers the dual purposes Congress declared in ANILCA section 101(d) that it sought to strike a balance between: a) protecting the national interest in the scenic, natural, cultural, and environmental values of the public lands in Alaska and b) providing adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people, including public health and safety, subsistence uses, and reliable transportation and utility systems.

WHEREAS, KCC represents that the land exchange for a road corridor furthers the community sustainability and development goals of the Agdaagux Tribe of King Cove and the Native Village of Belkofski and is consistent with Indian self-determination.

NOW, THEREFORE, in consideration of their mutual promises and other good and valuable consideration, the Parties hereto covenant and agree as follows:

AGREEMENT

- A. The Parties acknowledge the accuracy of the foregoing Recitals and incorporate them as a substantial and material part of this Agreement.
- B. The Parties agree to the exchange of real property interests set forth below and agree to be bound thereby. The Parties agree that the exchange is made pursuant to the Secretary of the Interior’s authority under section 1302(h) of ANILCA, as amended, 16 U.S.C. § 3192(h), and that this Agreement is an action leading to the issuance of a conveyance under ANILCA to an Alaska Native Corporation, which is therefore subject to section 910 of ANILCA, 43 U.S.C. § 1638.

- C. In consideration of conveyance by the United States to KCC of the surface and subsurface estate interests it holds in Lots 1 and 2 (approximately 484 acres) and the subsurface interests it holds in Lot 3 (approximately 6 acres) in the U.S. Exchange Lands as delineated in U.S. Survey No. 14495, Alaska, subject to any valid existing rights, KCC agrees to convey to the United States the surface estate of certain lands it owns in:

T. 57 S., R. 88 W. (Surveyed Township) Seward Meridian, Alaska

Section 1, 2 and 3;

Section 4, lots 1, 2, and 7;

Section 5, lots 1 to 9, inclusive

Section 6, lots 1 to 4, inclusive;*

Section 7, lots 1 and 2; and

Section 12;

subject to any valid existing rights, (the KCC Exchange Lands).

* While reflecting the correct acreage, Patent No. 50-90-0653, in which the United States conveyed these lands to KCC in 1990, used the wrong lot designation in the land description. The land description includes Lot 4 in Section 6 despite the amended plat of survey removing Lot 4 and redesignating it as Lot 5. The United States agrees to receive the lands based on the land description used in Patent No. 50-90-0653 and count the acreage as if Lot 5 were conveyed correctly. In return, KCC agrees to disclaim any rights it may have in Lot 5.

- D. KCC represents and warrants to the United States that none of the KCC Exchange Lands are subject to conveyance pursuant to section 14(c) of ANCSA, 43 U.S.C. § 1613(c), or subject to any known third-party possessory rights.
- E. The United States represents and warrants to KCC that none of the U.S. Exchange Lands to be conveyed to KCC are subject to any Native allotments, federal mining claims, federal withdrawals, or any known third-party possessory rights.
- F. The Parties agree the land exchanged under this Agreement will not result in any change to KCC's ANCSA entitlement.
- G. The Parties agree that:
- i. The road, if any, constructed on the land conveyed to KCC pursuant to this Agreement (Road) shall be constructed and maintained to the standards for a two-way, single-lane road as set forth in the American Association of State Highway and Transportation Officials Guidelines for Geometric Design of Very Low-Volume Local Roads (AASHTO 2001, 2004, *updated in 2019*). The Road shall be a gravel road (i.e., not surfaced with asphalt or concrete).
 - ii. Construction and operation of any road shall comply with any terms and conditions that implement Reasonable and Prudent Measures and requirements for monitoring, reporting, review, and disposition of any specimens specified in the Biological Opinion from the Service. Construction and operation of any road shall also comply with the

recommended conservation measures specified by the National Marine Fisheries Service regarding Essential Fish Habitat under the Magnuson-Stevens Fishery Conservation and Management Act, as agreed between KCC and the Service as reflected in the Service's response letter to the National Marine Fisheries Service dated July 25, 2025. KCC has also committed to mitigation measures as part of the Final Proposed Action with Addendum for the Proposed Izembek Land Exchange, dated October 14, 2025, for design, construction, operation, and maintenance of the road corridor; these measures are incorporated into this Agreement.

- iii. The patent to KCC shall reserve to the United States a right of access providing ingress and egress to the U.S. Exchange Lands for the purposes of 1) gaining access to Izembek Refuge lands, 2) monitoring impacts to Izembek Refuge resources, and 3) allowing it to meet its future obligations, if any, under section 120(h)(3)(A)(ii)(II) of CERCLA, 42 U.S.C. § 9620(h)(3)(A)(ii)(II).
 - iv. Each party is to bear its own attorney's fees and expenses.
- H. The Parties have reviewed and accept the appraisals of U.S. Exchange Lands, dated September 3, 2025, and of the KCC Exchange Lands, dated August 25, 2025, and agree to use the respective opinions of the lands' market value for determining an equal value exchange.
- I. Following the proposed conveyance of the U.S. Exchange Lands as described in subparagraph O.1, KCC shall convey to the United States the KCC Exchange Lands described in Paragraph C. Because the value of the U.S. Exchange Lands is less than the value of the KCC Exchange Lands, the United States agrees to pay, and KCC agrees to accept, cash to equalize the value of the exchange.
- J. Notwithstanding the foregoing paragraphs A–D, KCC, in addition to conveying the KCC Exchange Lands, will relinquish its selection rights under ANCSA to 5,430 acres located within the Izembek Refuge on the east side of Cold Bay, located in Township 57 South, Range 87 West, Seward Meridian Sections 3 to 5; Sections 9 and 10; Section 15; Section 22; Section 27; and Section 34, identified and outlined in black on the map attached as Exhibit A. The Parties agree that the relinquishment of selections within the Izembek Refuge will not be given a monetary value for purposes of this exchange because KCC remains entitled to the conveyance of 5,430 acres of federal public land previously selected, but not yet conveyed, under ANCSA. KCC agrees to identify alternative selected lands for conveyance that are not located within the Izembek Refuge within 1 year of the effective date of this Agreement or the conclusion of litigation opposing this Agreement, whichever is later.
- K. The Parties agree that an abstract of title, title insurance, or other evidence of title to the KCC Exchange Lands, satisfactory to the Department of the Interior's Solicitor's Office, will be obtained by the United States at its expense.
- L. The Parties agree not to do, nor cause others to do, any act by which the value or title to lands owned by them (and referenced in this Agreement) may be diminished or encumbered,

during the term of this Agreement. It is further agreed that any loss or damage occurring prior to the exchange by reason of the unauthorized cutting or removal of products therefrom, or because of fire, shall be borne by the owner of the affected land at the time of the loss or damage.

M. Conveyance by the United States of the U.S. Exchange Lands shall be by patent (preceded by Interim Conveyance if necessary) issued by the Bureau of Land Management. The U.S. Patent shall be subject to the terms and conditions of this Agreement. Conveyance of the surface estate by KCC to the United States of the KCC Exchange Lands shall be by Warranty Deed and by relinquishment of selection rights, as the case may be, in a form acceptable to the Parties.

N. It is mutually understood and agreed by the Parties that this Agreement may not be assigned or transferred in whole or in part by either of the Parties, and any assignment or transfer in violation hereof shall be null and void and of no force or effect.

O. Environmental Due Diligence, Compliance, and Remediation

1. Conveyance of the U.S. Exchange Lands

- a. In conveying the U.S. Exchange Lands to KCC, the United States will comply with section 120(h) of CERCLA, 42 U.S.C. § 9620(h), and 40 C.F.R. Part 373.
- b. The Phase I ESA for the U.S. Exchange Lands did not reveal any documented history of hazardous substance storage, release, or disposal on that property. Nonetheless, the United States hereby provides notice consistent with section 120(h)(1) of CERCLA, 42 U.S.C. § 9620(h)(1), that the U.S. Exchange Lands are located within a FUDS and that there is the potential for UXO, DMM, and MC on the property. The United States will provide the separate notice required under section 120(h)(3)(A)(i) of CERCLA, 42 U.S.C. § 9620(h)(3)(A)(i) in the patent to KCC.
- c. Pursuant to section 120(h)(3)(A)(ii) of CERCLA, 42 U.S.C. § 9620(h)(3)(A)(ii), the patent to the U.S. Exchange Lands will include the following covenants: (1) that all remedial action necessary to protect human health and the environment with respect to any hazardous substance remaining on the property has been taken before the date of the transfer; and (2) that any additional remedial action found to be necessary after the date such transfer shall be conducted by the United States.
- d. The conveyance to KCC will include a restriction in the patent that requires the steps noted in subparagraph O.2.
- e. The United States will reserve a right of access on the U.S. Exchange Lands to allow it to meet its future obligations, if any, under section 120(h)(3)(A)(ii)(II) of CERCLA, 42 U.S.C. § 9620(h)(3)(A)(ii)(II).

2. Remediation of the U.S. Exchange Lands after Conveyance

- a. If KCC discovers any condition that indicates the presence of hazardous substances, UXO, DMM, or MC, it will promptly notify USACE, the Service, and the Bureau of Land Management of the discovery.

- b. Upon notification by KCC, the United States will investigate and, if necessary, take measures to address threats to human health or the environment posed by the newly discovered conditions in accordance with applicable law. The obligation described in this paragraph does not extend to new environmental conditions that did not exist as of the date of the conveyance to KCC.
 - c. The United States shall bear all costs relating to any required environmental site assessments and related compliance and remediation, if any, of the U.S. Exchange Lands; provided, however, that KCC shall be solely responsible for the costs of any environmental investigations or remediation that is necessary as a result of the actions or omissions of KCC or its agents after it acquires the U.S. Exchange Lands.
- P. The Parties commit to negotiating in good faith to develop an agreement concerning the Izembek Refuge to help ensure that the Agdaagux Tribe, the Native Village of Belkofski, and KCC's expertise, traditional Indigenous knowledge, and cultural and spiritual interests are meaningfully integrated into the stewardship of these ancestral homelands.
- Q. This Agreement shall become effective only upon its execution by both Parties, and the effective date of the Agreement shall be the date upon which the last of the Parties signs the Agreement.
- R. General Provisions:
- 1. The Parties mutually covenant and agree that this Agreement and any exhibits thereto embody the whole agreement of the Parties regarding the land exchange, and there are no promises, terms, conditions, or obligations other than those contained or referred to in this Agreement.
 - 2. This Agreement may be amended, modified, or supplemented only by a written amendment signed by the Parties hereto with the effective date of any amendment being the date upon which the last of the subscribed Parties signs the amendment.
 - 3. The Parties agree that clerical and typographical errors contained herein may be corrected upon written notice to the other Party, unless such errors are deemed substantive or otherwise objected to by any Party by written notice within sixty (60) days of the original notice.
 - 4. Nothing in the Agreement shall be interpreted to require the obligation or payment of funds by the Service or other federal agency in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.
 - 5. No member of, delegate to, or resident commissioner in Congress shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom unless the share or part or benefit is for the general benefit of a corporation or company.
 - 6. This Agreement contains the entire agreement between the Parties and

supersedes any and all prior written and/or oral agreements. The Parties agree that any oral or written representations made by any Party hereto during the negotiation of this Agreement which are not incorporated by writing into this Agreement are not binding.

7. The commitments, obligations, promises, representations, and warranties contained in this Agreement shall survive the closing and delivery of the deeds and patent.
8. This Agreement may be executed in counterparts, including by facsimile or electronic signature, and all such counterparts taken together shall be one and the same instrument.
9. All notices, requests, orders, and other communications under this Agreement shall be in writing unless expressly provided otherwise and shall be deemed to have been duly given if delivered personally to the addressee, upon receipt if mailed by certified or registered mail, return receipt request, with postage prepaid, or by email acknowledged by the receiving party, as follows:

To: U.S. Fish and Wildlife Service
Attn: Chief, Division of
Realty 1011 E Tudor Rd., MS 211
Anchorage, Alaska 99503
Fax: 907-786-3901

With a copy to (which shall not be deemed to be requisite notice):

Refuge Manager
Izembek National Wildlife Refuge
P.O. Box 127
Cold Bay, Alaska 99627
Fax: 907-524-3251

To: King Cove Corporation
Attn: President Dean Gould
P.O. Box 38
King Cove, Alaska 99612
Fax: 907-497-2444
nstar84@icloud.com

With a copy to (which shall not be deemed requisite notice):

King Cove Corporation
Attn: Chief Executive Officer Chantae Kochuten
P.O. Box 38
King Cove, Alaska 99612
chantae.kochuten@kingcovecorp.com

or to such other addresses as any Party may from time to time designate in a written notice to the others in the manner provided above.

10. Should litigation be brought by either Party or by a third party which results in a delay of the times for action set out in this Agreement, the deadline for such action shall be extended for ninety (90) days beyond the date after which the delay caused by such litigation terminates.
11. Time is of the essence for this Agreement. The Parties jointly agree to use their best efforts to expedite all provisions and tasks of this Agreement, including but not limited to conveyances and any other action needed to fully implement this Agreement.
12. Should circumstances or events occur that are not covered by this Agreement, the Parties agree to use their best efforts to resolve any problems arising out of such circumstances in a spirit of good faith and fair dealing.
13. If a Clause in this Agreement is determined by final judgment of any court of competent jurisdiction to be unlawful and/or unenforceable, the other Clauses of this Agreement will continue in effect and remain binding on the Parties; provided, however, that either Party may terminate this Agreement within ninety (90) days of such final judgment declaring a Clause unlawful or unenforceable if the Party determines in its sole judgment that the Clause was a fundamental term or condition of this Agreement.

The persons signing below represent that they have legal authority to execute this Agreement on behalf of their respective Federal agency and corporation.

The King Cove Corporation

Date: _____

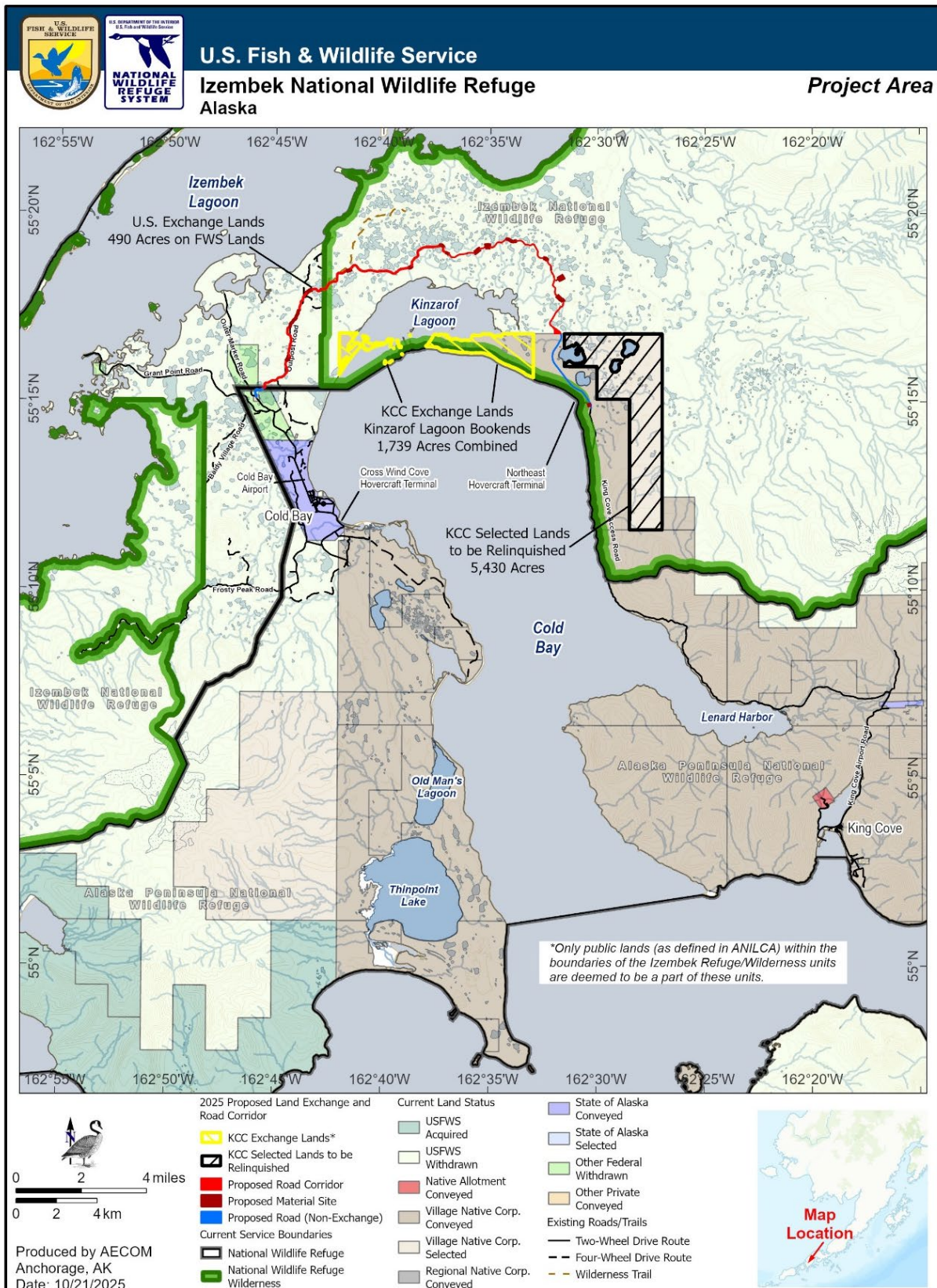
Chief Executive Officer

U.S. Department of the Interior

Date: _____

Secretary of the Interior

EXHIBIT A



APPENDIX B – FINAL REPORT: ANILCA SECTION 810 ANALYSIS

FINAL REPORT
ANILCA SECTION 810 ANALYSIS OF SUBSISTENCE IMPACTS
FOR THE
PROPOSED 2025 IZEMBEK LAND EXCHANGE
IZEMBEK NATIONAL WILDLIFE REFUGE, ALASKA



Prepared and Approved by the:
United States Fish and Wildlife Service
Alaska Region Headquarters
1011 East Tudor Road
Anchorage, Alaska 99503

October 2025

Contact: Bobbie Jo Skibo
Alaska Energy and Access Program Manager
(907) 441-1539

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APPENDICES

Appendix A: Minimization, Avoidance, and Mitigation Measures

ACRONYMS

2013 EIS	<i>Izembek National Wildlife Refuge Land Exchange/Road Corridor Final Environmental Impact Statement</i>
2024 Draft SEIS	<i>Izembek National Wildlife Refuge Land Exchange/Road Corridor Draft Supplemental Environmental Impact Statement</i>
Act	Omnibus Public Land Management Act of 2009
ADOT&PF	Alaska Department of Transportation and Public Facilities
ANCSA	Alaska Native Claims Settlement Act
ANILCA	Alaska National Interest Lands Conservation Act
CFR	Code of Federal Regulations
Ecological Services	United States Fish and Wildlife Service, Ecological Services Program
EIS	Environmental Impact Statement
ESA	Endangered Species Act
Izembek Refuge, Refuge	Izembek National Wildlife Refuge
KCC	King Cove Corporation
MARAD	United States Department of Transportation, Maritime Administration
NEPA	National Environmental Policy Act
NMFS	National Oceanic and Atmospheric Administration, National Marine Fisheries Service
SAPC	Southern Alaska Peninsula Caribou Herd
SEIS	Supplemental Environmental Impact Statement
Service	United States Fish and Wildlife Service
U.S.C.	United States Code

1.0 ANILCA SECTION 810 PRELIMINARY EVALUATION

1.1 Introduction

The U.S. Fish and Wildlife Service (Service) is required by Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA) to evaluate the effects on subsistence uses and needs in determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands on National Wildlife Refuges in Alaska. The evaluation of effects of the 2025 Proposed Izembek Land Exchange and Road Corridor on subsistence uses and needs is documented below (see Section 1.2 for a description of the proposed action). The term subsistence is used to refer to the culturally significant practices of harvesting, processing, sharing, and consuming fish and wildlife resources for food, whether harvested on federal or non-federal lands. Section 803 of ANILCA defines subsistence uses as:

“...the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of non-edible byproducts of fish and wildlife resources taken for personal or family consumption; for barter or sharing for personal or family consumption; and for customary trade.”

Below is a summary of relevant statutory provisions.

Alaska National Interest Lands Conservation Act

On December 2, 1980, President Carter signed ANILCA into law, establishing new federal conservation units across the state, enlarging several existing units, and designating wilderness areas and wild and scenic rivers (Public Law 96-487, 94 Stat. 2371 [December 2, 1980]). ANILCA also provided provisions specifying how these areas were to be managed, protected, and made available for public use.

Section 101 of ANILCA summarizes the purposes of the Act and general intent for all conservation system units.

ANILCA further provides special exceptions governing access to federal conservation system units in Alaska. Section 811 of ANILCA states that rural residents shall have reasonable access to subsistence resources on public lands, including the use of snowmachines, motorboats, and other means of surface transportation traditionally used for this purpose. By way of regulations at 50 Code of Federal Regulations (CFR) 36.12(b), the Refuge Manager may restrict or close a route or area to the methods of access authorized by Section 811(b) of ANILCA if it is determined that such use is causing, or is likely to cause, adverse impact on public health and safety, resource protection, protection of historic or scientific values, subsistence uses, conservation of endangered or threatened species, or other purposes and values for which the refuge was established.

ANILCA Title VIII provisions apply to exchange lands added into the National Wildlife Refuge System. Federal subsistence management under these provisions of ANILCA Title VIII provides a priority for harvesting subsistence resources to rural residents. When there is a customary and traditional use determination for specific communities or areas, only residents of those communities and areas have a federal subsistence priority for that species in that unit. If a customary and traditional use determination for a species has not been made, then all rural

residents of Alaska may use that species in that unit. The proposed land exchange is pursuant to section 1302(h) of ANILCA, 16 U.S.C. § 3192(h). This section of ANILCA authorizes the Secretary to exchange lands (including lands within conservation system units) for the purposes of ANILCA. Any exchange must be on the basis of equal value unless the parties agree otherwise and the Secretary determines it is in the public interest.

Izembek National Wildlife Refuge Establishment

Pursuant to delegated authority in Executive Order No. 10355 (May 26, 1952), the Secretary of the Interior established Izembek Wildlife Range on December 6, 1960, by Public Land Order 2216, 25 *Federal Register* 12599. With the passage of ANILCA on December 2, 1980, the following were established:

- Izembek Wildlife Range, renamed Izembek National Wildlife Refuge (herein referred to as Izembek Refuge or Refuge), and 300,000 acres were given wilderness designation (Izembek Wilderness) (ANILCA Section 303(3))

Izembek National Wildlife Refuge Purposes

Section 303(3)(8) of ANILCA set forth the purposes for Izembek Refuge:

“(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl, shorebirds and other migratory birds, brown bears and salmonoids;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.”

As designated by the Wilderness Act of 1964 (16 U.S. Code [U.S.C.] 1131-1136), Section 2.(a):

"For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by the Congress as "wilderness areas," and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness..."

National Wildlife Refuge System Mission

The mission of the National Wildlife Refuge System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans (National Wildlife Refuge System Improvement Act of 1997; Public Law 105-57 [October 9, 1997]).

Special Use Areas

Due to the area's importance to brown bear, the Refuge cooperated with Alaska Department of Fish and Game to establish the Joshua Green Controlled Use Area (5 Alaska Administrative Code 92.540) in 1993 (refer to 2024 Draft Supplemental Environmental Impact Statement [SEIS] Figure 3.2-34).

1.2 Proposed Action for the 2025 Proposed Land Exchange

The proposed action is to reach a decision on a proposal by King Cove Corporation (KCC) to convey certain lands and interests in lands in the vicinity of Kinzarof Lagoon in an equal value exchange for lands that would provide KCC with a road corridor that allows for the construction, and operation of a long-term, safe, reliable, and affordable year-round road between the City of King Cove and the all-weather airport at Cold Bay. The specifics of the proposed exchange are described further below.

The Department of the Interior will consider the proposed land exchange pursuant to Section 1302(h) of ANILCA, 16 U.S.C. § 3192(h). This section of ANILCA authorizes the Secretary of the Interior to exchange lands (including lands within conservation system units) for the purposes of ANILCA. Any exchange must be on the basis of equal value unless the parties agree otherwise and the Secretary of the Interior determines it is in the public interest.

1.2.1 Proposed Land Exchange

The proposed land exchange between the federal government and KCC for the purpose of providing KCC with a road corridor that allows for the construction and operation of a long-term, safe, reliable, and affordable year-round road between the City of King Cove and the all-weather airport at Cold Bay in exchange for lands KCC owns within Izembek National Wildlife Refuge of equal value. The proposed land exchange includes the following (see Figure 1):

- Approximately 490 acres of public lands (surface and subsurface estates), as delineated in U.S. Survey 14495, owned by the U.S. government and administered by the Service as Izembek National Wildlife Refuge and Izembek Wilderness, would be conveyed out of federal ownership by patent to private ownership by KCC. This includes 484 acres administered by the Service as Izembek National Wildlife Refuge (336 acres in Izembek Wilderness) and approximately 6 acres of subsurface estate owned by the U.S. government in the location of a proposed material site on KCC surface lands.
- In consideration of conveyance by the United States to KCC of the surface and subsurface estate of the U.S. Exchange Lands as delineated in U.S. Survey 14495, KCC will convey to the United States an equal value of lands from the surface estate of certain lands it owns in Izembek Refuge and Izembek Wilderness (KCC Exchange Lands Pool which contains a total of 1,739 legal acres). A new appraisal will be conducted of all proposed exchange lands, and

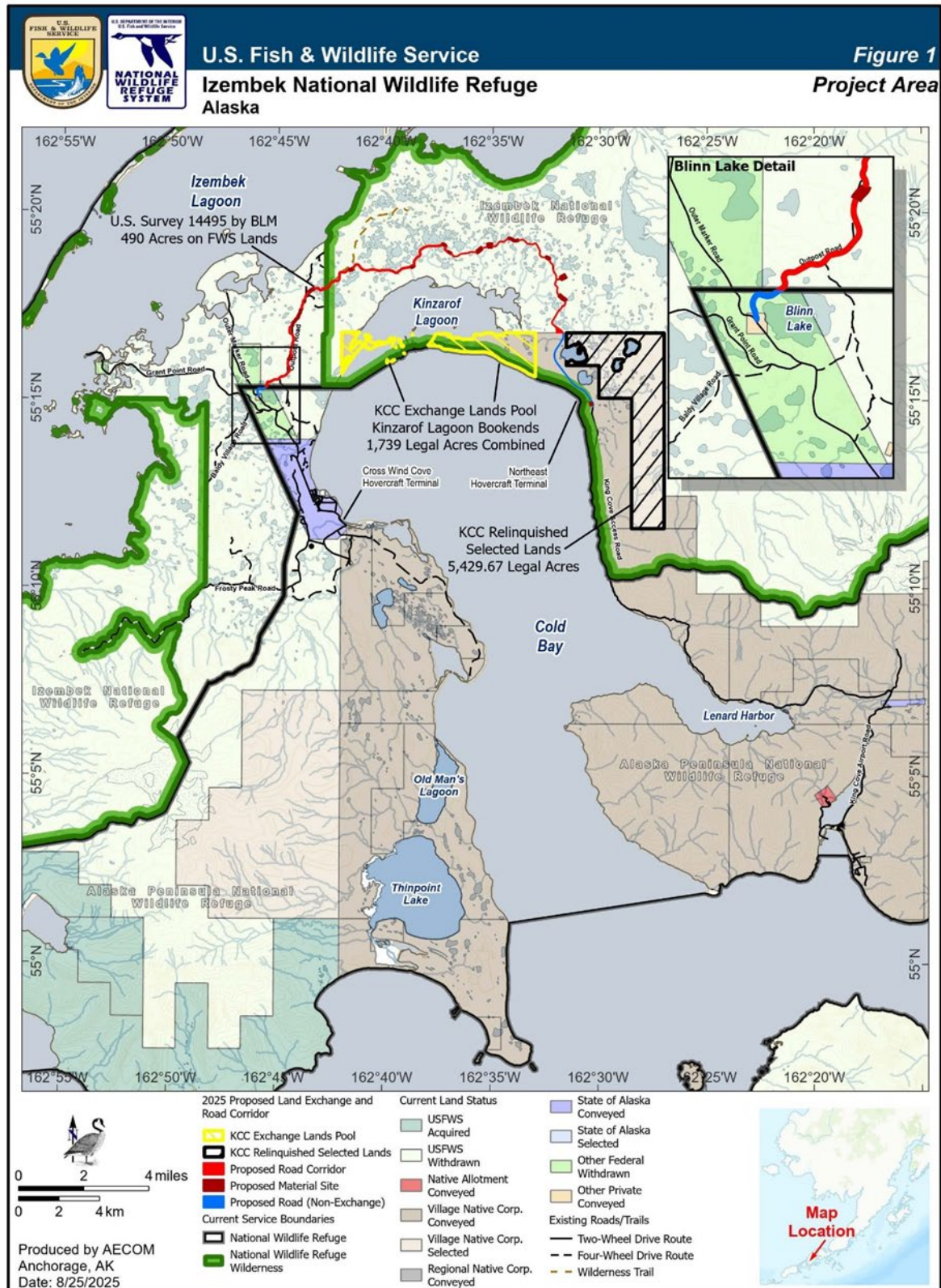
the United States will select lands from the KCC Exchange Lands Pool to the number of acres that is of equal value as the U.S. Exchange Lands.

- KCC, in addition to conveying the KCC Exchange Lands, will relinquish its selection rights under the Alaska Native Claims Settlement Act (ANCSA) to 5,430 acres located within Izembek Refuge and Izembek Wilderness on the east side of Cold Bay, which are identified as “KCC Relinquished Selected Lands” in Figure 1. The Parties agree the relinquishment has no monetary value because KCC will be entitled to conveyance of 5,430 acres previously selected, but not yet conveyed under ANCSA, from outside the Izembek Refuge and Izembek Wilderness.

1.2.2 Other Lands in the Road Corridor

The proposed road corridor encumbers other lands that are not part of the 2025 Proposed Land Exchange, as described below and shown in Figure 1:

- Approximately 12 acres of other federal property is administered by the U.S. Federal Aviation Administration as an Air Navigation Site (Withdrawal No. 176); this includes approximately 0.4 mile of the road corridor from Milepoint 18.5 to the end of the proposed road at the intersection with Outer Marker Road.
- A short section of the proposed road corridor (less than 0.1 mile and approximately 2 acres) near the intersection of Outer Marker Road and Blinn Lake Loop is within a 22.95-acre parcel of private land. The fee title to the parcel was transferred in 1971 by the U.S. Federal Aviation Administration to RCA Alaska Communications, Inc., under authority created in Public Law 90-135, 40 U.S.C. 771-792. The deed transferring ownership reserves to “the Government the right to use, maintain and operate the VORTAC [Very High Frequency Omni-Directional Radio Range Tactical Air Navigation Aid] access road, as constructed and located, across said premises.” Authorization for use of the road other than that reserved to the United States as stated above would have to be obtained from the current owner of the parcel.
- Approximately 40 acres of surface lands is owned by KCC; this includes 2.8 miles of new road construction and a material site at the eastern end of the project.

Figure 1. 2025 Proposed Land Exchange

1.2.3 Proposed Road Project

The road corridor identified in U.S. Survey 14495 is the same route as the 2013 Final Environmental Impact Statement (EIS) Alternative 2 southern road alignment, with minor adjustments based on further refinement and design by the Alaska Department of Transportation and Public Facilities (ADOT&PF) in 2021 (ADOT&PF 2021). While the road corridor is also the same route as Alternative 6 in the 2024 Draft SEIS (Service 2024a), the road under the current proposed action would be open for all public use. The road alignment would begin at the terminus of the King Cove Access Road near the Northeast Terminal, extending in a northerly direction for approximately 2.8 miles before entering what is currently the Izembek Wilderness area. From there, the corridor would continue northerly for approximately 3.5 miles before turning west; continue westerly for approximately 7 miles before turning southwest; continue southwesterly for approximately 5.1 miles before exiting the Izembek National Wildlife Refuge; and continue for another 0.5 mile, where it would terminate at the intersection of Outer Marker Road and Blinn Lake Loop.

The proposed road would be 18.9 miles long, most of which would be within the Izembek Refuge. The following provides additional details on the miles of proposed road construction:

- 13.3 miles of the road corridor would be new construction within the Refuge with a mix of disturbed and undisturbed lands (Mileposts 0 to 13.3); of this:
 - 2.8 miles are within the Refuge on KCC-owned surface land that is not part of the proposed land exchange.
 - 10.5 miles are within the Refuge and are part of the proposed land exchange.
- 5.6 miles of the road corridor would be constructed on existing roads and trails (Mileposts 13.3 to 18.9); of this:
 - 5.1 miles are within the Refuge and are part of the proposed land exchange.
 - 0.5 miles are on other lands (RCA Communications Inc. and Federal Aviation Administration) and are not part of the proposed land exchange.

1.2.4 Design Criteria

Design guidance was based on the American Association of State Highway and Transportation Officials Policy on Geometric Design of Highways and Streets (“Green Book”) and Guidelines for Geometric Design of Very Low Volume Roads (AASHTO 2001, 2004, updated in 2019), and the ADOT&PF Alaska Highway Pre-Construction Manual (ADOT&PF 2005). The road alignment was developed to a 35 percent design level and is based primarily on information contained in ADOT&PF’s plan set dated 2021 [ADOT&PF 2021] and the 2020 right-of-way application submitted by the State of Alaska under ANILCA Section 1110(b) for Access to Inholdings at King Cove, Alaska (ADOT&PF 2020). A centerline survey, geotechnical investigations, or other detailed site surveys have not been completed. Detailed design, permitting, and consultation would be required prior to construction of the road. The road would require a Department of the Army permit from the U.S. Army Corps of Engineers for placement of fill in wetlands.

A single-lane road alignment is proposed. The road would be a 13-foot-wide, single-lane road (11-foot driving lane with two 1-foot shoulders). Approximately 113 turnouts would be

constructed along the road corridor for safe passage of approaching vehicles. Most extraction of material for the roadway would be accomplished via expansion of the cut limits in areas of competent material. The material sites along the proposed road corridor vary in size, with the largest being 800 feet long by 1,150 feet wide. The total footprint of new road construction, including material sites, would be 186 acres.

Based on reconnaissance-level design, drainage structures would include 1 bridge over a large stream near Milepoint 2.6, 7 culverts/pipe arches or small bridges to cross small streams, and 63 cross-drainage culverts to maintain natural drainage patterns. Culverts would be designed for the 50-year storm event in final design (Alaska Highway Preconstruction Manual) and analyzed for the passage of the 100-year storm event where drainage structures are located in a flood zone. To the extent practicable, design of crossings over fish-bearing streams for fish passage design would follow the Service's Culvert Design Guidelines for Ecological Function (Revision 10, Service 2025a).

1.2.5 Construction

Material for construction of the road would be excavated from the proposed road corridor via expansion of the cut limits in areas of competent material (13 sites) and sourced from two dedicated material sites planned for development: one existing material site that would be expanded near the Northeast Terminal located on KCC lands and one new material site with an access road located near Milepoint 4.9 of the proposed road.

Approximately 1.7 million cubic yards of material would be moved during cut and fill activities. Approximately 521,000 cubic yards of crushed rock is planned for road construction, and an additional 10,000 cubic yards would be processed and stockpiled at material sites for future road maintenance. Approximately 200,000 cubic yards of fill would be imported from the material site near the Northeast Terminal, impacting approximately 6 acres of KCC lands and federally owned subsurface lands. Organic soils disturbed during construction would be staged and stockpiled within the corridor, then reused for finishing graded backslopes and reclaiming abandoned sections of existing roads and trails.

The existing hovercraft ramps at the Northeast Terminal and Cross Wind Cove would be used for temporary construction-related barge landing sites. It is anticipated that the barge landing sites would be used to facilitate up to 10 deliveries of materials and equipment per site for each construction season (for a total of up to 40 barge trips over the two seasons). Expansion of the existing hovercraft landing sites was removed from the proposed action during the consultation processes for the 2025 Proposed Land Exchange. Construction would likely extend over 3 years. The construction would likely occur between May and November, with specific construction windows and mitigation measures dictated by a U.S. Army Corps of Engineers permit.

Quantities of water would be needed for embankment compaction and dust control. The road material should remain moist due to typically wet weather in the project area; therefore, water requirements would be relatively low. Preliminary water sources identified include two lakes (a 128-acre lake midway along the road alignment that is connected to Kinzarof North Stream and a 33-acre lake on the west end of the wilderness boundary) and one creek (Southeast Kinzarof Stream). Blinn Lake (a 150-acre lake located at the western terminus of the proposed road), which was previously identified as a potential water source, was removed due to potential per- and polyfluoroalkyl substances contamination.

Construction would require an estimated 30 construction and administration staff over the course of two construction seasons. Support facilities, including contractor job trailers and housing for personnel, cannot be staged on Refuge lands. Possible staging sites for support facilities include the Northeast Terminal, Lenard Harbor, the City of King Cove, and the City of Cold Bay. The City of Cold Bay should be able to accommodate all the needed support facilities on the western end of the project, including camp facilities. The Northeast Terminal site on the eastern end of the project would be a likely location to place contractor job trailers, but limited space and amenities would probably require using the City of King Cove or the City of Cold Bay for staff housing.

1.2.6 Operations and Maintenance

The road project applicant, assumed to be the State of Alaska or the Aleutians East Borough, would be responsible for road maintenance and operation under their normal operational plans.

1.3 Proposed Avoidance and Minimization

Proposed avoidance and minimization measures that may reduce effects to Endangered Species Act (ESA)-listed species are listed below. Additional avoidance and minimization measures would likely be developed through the consultation processes for endangered species, Essential Fish Habitat, and cultural resources (See Appendix A for a full list of measures that were identified after this initial list). This document takes into consideration any likely or proposed mitigation measures when analyzing the likelihood or magnitude of potential impacts to subsistence.

Commitment to Ongoing Collaboration and Coordination

- KCC, ADOT&PF, and the Service will continue to collaborate to identify appropriate conservation measures to minimize effects to ESA-listed species and other resources.

Minimize Invasives

To minimize the chance for introducing or spreading invasive species, the following will be done:

- A thorough inspection of borrow pit areas will be conducted by a trained botanist or specialist familiar with Alaskan species in order to prevent the spread of invasive species.
- A thorough cleaning of all heavy equipment and vehicles will be conducted to remove any seeds or invasive plant materials.
- Only native species will be used for revegetation of disturbed areas.

1.4 Background

The Service, over the course of many years, has considered proposals to exchange certain lands in the Izembek Refuge for lands owned by the State of Alaska and/or KCC.

The Omnibus Public Land Management Act of 2009 (Public Law 111-11, Title VI, Subtitle E) (Act) identified an exchange for construction and operation of a single-lane gravel road between the communities of King Cove and Cold Bay, Alaska, that would provide King Cove residents with road access to the Cold Bay airport for health and safety purposes.

In the Act, Congress directed the Secretary of the Interior to prepare an EIS in accordance with the terms of the Act, as well as the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.), and its implementing regulations (40 CFR Parts 1500-1508). Congress specified that the EIS must analyze the land exchange, potential road construction and operation, and a specific road corridor through the Refuge and the Izembek Wilderness that was to be identified in consultation with the State of Alaska, the City of King Cove, and the Agdaagux Tribe of King Cove (Section 6402(b)(2)). An EIS and ANILCA Section 810 analysis of the proposed land exchanges and road or transportation corridors were completed in 2013 (herein referred to as the 2013 EIS). On completion of the 2013 EIS, and in conjunction with the subsequent record of decision, Secretary of the Interior Sally Jewell decided not to authorize the land exchange (Service 2013). The Act expired on March 30, 2016.

On July 3, 2019, Secretary of the Interior David Bernhardt signed a memorandum laying the foundation for his approval of a 2019 Land Exchange Agreement. However, in 2023, Secretary of the Interior Deb Haaland issued a decision withdrawing from that 2019 agreement, and among other matters, expressed concerns regarding the analysis of the 2019 agreement's potential impacts on subsistence uses and needs. In 2024, the Service prepared a Draft SEIS (hereafter 2024 Draft SEIS) that focused on thoroughly assessing the impacts of a potential exchange and road, including analysis of the viable action alternatives considered in the 2013 EIS and one new alternative (Alternative 6). The public comment period for the 2024 Draft SEIS ran from November 15, 2024, through February 13, 2025. Appendix D of the 2024 Draft SEIS included a preliminary ANILCA Section 810 analysis for the viable alternatives evaluated in the 2024 Draft SEIS. During the public process, the Service conducted ANILCA 810 hearings based on that draft analysis in Appendix D.

On January 20, 2025, President Trump issued Executive Order 14153, titled "Unleashing Alaska's Extraordinary Resource Potential." Section 3(b) of this order directed the Secretary of the Interior to take all necessary steps to "facilitate the expedited development of a road corridor between the community of King Cove and the all-weather airport located in Cold Bay." Secretary's Order 3422 implements the provisions of Executive Order 14153.

In furtherance of Executive Order 14153 and Secretary's Order 3422, representatives from the Department of the Interior participated in consultations with City of King Cove, Aleutians East Borough, KCC, Agdaagux Tribe, and Native Village of Belkofski in May of 2025. Following these consultations, the Department and KCC mutually agreed to move forward with evaluating a proposed equal value land exchange agreement (2025 Proposed Land Exchange) modelled on the 2019 Land Exchange Agreement. The proposed action for the 2025 Proposed Land Exchange is described in Section 1.2 above.

1.5 Subsistence Evaluation Factors

Section 810(a) of ANILCA, 16 U.S.C. 3120(a), requires that an evaluation of subsistence uses and needs be completed for any federal determination to "withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands." Because the proposed land exchange would involve disposition of federal public lands, an evaluation of potential impacts on subsistence under ANILCA Section 810(a) is required. ANILCA requires that this evaluation include findings on three specific issues:

- The effect of use, occupancy, or disposition of public lands on subsistence uses and needs

- The availability of other lands for the purposes sought to be achieved
- Other alternatives that would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes

Three factors were considered when determining if a significant restriction of subsistence uses and needs may result from the proposed action, alternatives, or the cumulative case:

- Reduction in the abundance of harvestable resources used for subsistence purposes
- Reduction in the availability of resources used for subsistence caused by alteration of their distribution, migration patterns, or location
- Legal or physical limitations on access of subsistence users to harvestable resources

The proposed action and the cumulative effects are analyzed according to these criteria. This approach helps the reader separate subsistence restrictions that could be caused by proposed action activities from those that could be caused by other past, present, or future activities that have occurred or could occur in the surrounding area.

A proposed action would be considered to significantly restrict subsistence uses if, after consideration of protection measures, such as conditions of a land exchange agreement or related permit requirements, it can be expected to substantially reduce the opportunity to use subsistence resources. Substantial reductions are generally caused by large reductions in resource abundance, a major redistribution of resources, extensive interference with access, or major increases in the use of those resources by non-subsistence users.

During the first step of the ANILCA Section 810 process (i.e., Tier 1), the agency evaluates whether the proposed action may significantly restrict subsistence uses. If the agency finds in its preliminary evaluation that the proposed action may significantly restrict subsistence uses, then it proceeds to the second step of the ANILCA Section 810 process (i.e., Tier 2). Under this step, the head of the federal agency having jurisdiction over the federal public lands in question is required to notify the State of Alaska and appropriate regional and local subsistence committees, and to conduct ANILCA Section 810 hearings in the vicinity of the area involved.

After considering testimony from the hearings, the agency will revise and finalize the ANILCA Section 810 analysis. It is possible that the final finding may be revised to “will not significantly restrict subsistence uses” based on changes to alternatives, new information, or new mitigation measures resulting from the hearings. However, if a significant restriction remains, the head of the federal agency having jurisdiction may approve the proposed action only after affirmatively making the following determinations:

- A significant restriction of subsistence uses would be necessary, consistent with sound management principles for the use of public lands.
- The proposed activity would involve the minimal amount of public land necessary to accomplish the purpose of the use, occupancy, or other disposition.
- Reasonable steps would be taken to minimize adverse effects on subsistence uses and resources resulting from such actions (Section 810(a)(3)).

Section 2.0 presents the Service’s Tier I evaluations and findings.

2.0 ANILCA SECTION 810(A) EVALUATIONS AND FINDINGS FOR THE PROPOSED ACTION AND THE CUMULATIVE CASE

This ANILCA Section 810 analysis focuses on the 2025 Proposed Land Exchange but references relevant analyses from the 2024 Draft SEIS, particularly those pertaining to the No Action alternative (Alternative 1) and Alternative 6 which, similar to the 2025 Proposed Land Exchange, entails exchanging lands to facilitate a road corridor. In addition, the 2025 Proposed Land Exchange analysis considers comments received during the consultations and subsistence hearings on the preliminary ANILCA 810 determination and subsistence-related comments received during the NEPA process for the 2024 Draft SEIS. These ANILCA Section 810 analyses and findings focus on potential impacts to the subsistence resources themselves and access that relates to subsistence use, including increased competition for resources.

Subsistence activities and uses could be directly and indirectly affected by the proposed land exchange and associated road corridor. Direct effects on subsistence uses, which are “caused by the action and occur at the same time and place”, would result in changes in resource abundance, availability, or access, and the analysis below is provided under these three impact categories. Indirect effects include subsistence users’ response to direct effects, contamination concerns, and changes in culturally significant activities associated with subsistence practices. These include harvesting, processing, transferring knowledge, autonomy, traditional diet, and integrity of culturally significant places. Indirect effects on subsistence users also could result from indirect effects on resources, such as responses to potential habitat fragmentation, disturbance, or changes in animal movement patterns.

The evaluation of the effects of the proposed action includes five villages associated with subsistence use of the proposed project area: King Cove, Cold Bay, False Pass, Nelson Lagoon, and Sand Point. These are the five communities with federally recognized customary and traditional or subsistence uses for key subsistence species in Game Management Unit 9D, which includes the Cold Bay area. In determining the scope of analysis, communities were also considered that are outside the immediate area but within the flyway of migratory birds—specifically, the Pacific black brant and the Bering Sea endemic emperor goose—because the Service recognizes that communities in other regions of Alaska, such as the Yukon-Kuskokwim Delta, rely on these resources for subsistence use. Because of the particular importance of these species to communities in the Yukon-Kuskokwim Delta region, potential impacts to these communities are considered in the cumulative analysis.

2.1 Evaluation and Findings for the No Action Alternative

Under a No Action alternative, the Service would not enter into a land exchange involving a corridor of land through Izembek Refuge for the purpose of constructing a road between King Cove and Cold Bay, Alaska. Current modes of transportation between the cities of King Cove and Cold Bay would continue to operate. These include:

- **Air:** Regularly scheduled commercial air flights between the cities of King Cove and Cold Bay. The U.S. Coast Guard would continue to provide occasional medical evacuations via helicopter when U.S. Coast Guard assets are in the vicinity and not committed to other assignments. A recent change has been that the U.S. Coast Guard anticipates year-round presence based out of Cold Bay.

- **Marine:** Personal transit and medevac transport by local fishing vessels between the cities of King Cove and Cold Bay. The Alaska Marine Highway System would continue to provide seasonal ferry service between the communities of King Cove and Cold Bay approximately twice a month as part of the Southwest Alaska and Aleutian Chain schedule. Although fishing vessels are capable of operating in most weather conditions, they are ill-equipped for the safe transport of medical evacuees. The route from King Cove to Cold Bay is approximately 27 nautical miles, with roughly half that distance occurring in open seas. Marine transportation of medical evacuation passengers is further complicated by the fact that individuals must travel up a twenty-foot ladder to disembark at the Cold Bay dock. The dock in Cold Bay is nearing the end of its useful service life, and the ADOT&PF is planning to replace it with construction of a new pile-supported dock and an adjacent mooring dolphin with fendering around the perimeter of the new dock and demolition of the old facility (ADOT&PF 2025). This project is currently in the planning phase. The 2024 Draft SEIS considers Cold Bay dock upgrades, to the extent possible, as part of the cumulative effects in Chapter 4.
- **Marine-Road Link:** Hovercraft service provided by the Aleutians East Borough from Lenard Harbor to the City of Cold Bay hovercraft site at Cross Wind Cove ended in November 2010.

2.1.1 Evaluation of the Effect of Use, Occupancy, or Disposition on Subsistence Uses and Needs

Under a No Action alternative, the land exchange would not be authorized, and there would be no new construction of a road from the Northeast Terminal to the Cold Bay Airport. As a result, there are no new direct or indirect effects introduced by the No Action alternative to subsistence user access, resource abundance, or resource availability.

KCC has remaining land entitlements under ANCSA and valid selections within the Refuge. Under ANILCA Section 906(o)(2) and federal subsistence management regulations, selected but not conveyed lands that fall within the federal conservation system units (e.g., any unit of the National Wildlife Refuge System) are considered federal public lands subject to federal subsistence management.

Land ownership has an important implication for federal subsistence management, because federal subsistence management programs are only applicable on federal public lands and waters—they are not applicable on state and private lands (for a fuller discussion, refer to Section 3.3.7.1 of the 2024 Draft SEIS). The Title VIII provisions of ANILCA only apply to public lands as defined in ANILCA and interpreted in various court decisions.

The only change in land status, and therefore in subsistence management, which may occur in the cumulative case under a No Action alternative is the conveyance of the King Cove selected lands east of Cold Bay (refer to Figure 1), pursuant to ANCSA. These lands would move from federal management as part of the Izembek National Wildlife Refuge and Izembek Wilderness to private land ownership and management by KCC. This conveyance could affect user access for non-shareholder subsistence users if they can no longer access the lands conveyed to KCC. In addition, this conveyance could affect resource availability for all subsistence users, if the loss of federal subsistence priority on the KCC lands results in lower bag limits or shorter seasons on the lands that are conveyed out of federal subsistence management. If these lands are conveyed to

KCC, it is anticipated that non-shareholders would be required to seek a permit for authorization from KCC to access and use KCC lands except along any potential 17(b) easements which would remain accessible to the public. This is how KCC currently manages public access to other corporation lands. Geographically, the selected parcel is adjacent to and east of current KCC lands. It is likely that very few residents from Cold Bay or the other regional communities currently access this remote parcel, because this would require crossing KCC lands from the road to the Northeast Terminal. However, some individuals may hike into the parcel on foot via a 17b easement, which allows for public access. Therefore, conveyance of this parcel to KCC is expected to have a minor effect on subsistence access, particularly because most subsistence users in this area would be shareholders of KCC, and shareholder access would be unaffected by the change in land ownership. For KCC shareholders, the loss of federal subsistence priority on these lands may be offset by their ability to control outside access on these private lands.

Regarding subsistence resource abundance and availability, a No Action alternative would introduce no new incremental environmental effects. A No Action alternative introduces no new effects on the user groups competing to harvest subsistence resources. Conveyance of selected lands to KCC could result in minor effects on subsistence access and resource availability, if non-subsistence users of the parcel lose access and compete with subsistence users for resources on or nearby public lands, thus reducing resource availability locally. This impact would occur with or without a land exchange and would be anticipated to be very minor, because there is likely little, if any, non-subsistence use of the parcel and surrounding lands.

2.1.2 Evaluation of the Availability of Other Lands

Under a No Action alternative, no federal public lands would be affected; therefore, it is unnecessary to consider the availability of other lands for the purposes sought to be achieved.

2.1.3 Evaluation of Other Alternatives That Would Reduce or Eliminate the Use, Occupancy, or Disposition of Public Lands Needed for Subsistence Purposes

The no action alternative does not propose the disposition or use of public lands needed for subsistence purposes; therefore, evaluating the availability of other lands is not applicable.

2.1.4 Findings

The No Action alternative would not result in a significant reduction in the availability or abundance of subsistence resources, nor would it alter or restrict subsistence uses.

Under the No Action alternative, the existing conditions include improved access by road to subsistence resources in the northeastern corner of Cold Bay, and the No Action alternative introduces no new direct effects to subsistence user access, resource availability, or resource abundance. Although the conveyance of KCC-selected lands to KCC would have a minor indirect effect on subsistence use patterns, including subsistence access, competition for subsistence resources, and resource availability, this action would proceed under the cumulative case even if the land exchange were not under consideration. The No Action alternative would not involve any new incremental direct effects and only minor indirect impacts on subsistence, based on future conveyances of selected lands under ANCSA. These would make a minor contribution to cumulative effects on subsistence resource abundance or availability, access to subsistence resources, or competition for subsistence resources. Under the No Action alternative, an additional cumulative effect would result from the transfer of the land currently selected by

KCC and located in the Izembek Wilderness to the east of Cold Bay. Conveyance of selected lands would fulfill ANCSA entitlements. The conveyance of the KCC-selected lands is unlikely to displace many non-local hunters and create increased competition on other federal lands. In summary, implementation of the No Action alternative would not significantly restrict subsistence uses.

2.2 Evaluation and Findings for the Proposed Action – 2025 Proposed Izembek Land Exchange and Road Corridor

Under the 2025 Proposed Land Exchange, the federal government would convey to KCC approximately 490 acres (surface and subsurface estate) for a proposed road corridor through the Izembek National Wildlife Refuge, 336 acres of which are currently Congressionally designated wilderness.

In exchange for the proposed federal lands, certain private lands (surface estate only) owned by KCC will be selected from the KCC Exchange Lands Pool (1,739 acres) and conveyed to the federal government. This lands pool is located inside the exterior boundaries of the Izembek National Wildlife Refuge (see Figure 1), and therefore up to 1,739 acres would be added to Izembek National Wildlife Refuge. Although the number of acres to be conveyed to the federal government is uncertain, 2020 appraisals show that the value at that time was approximately 3 acres of KCC interests for 1 acre of the road corridor lands. For purposes of this analysis, we assume that a range of approximately 1,500–1,739 acres will be conveyed to the United States.

In addition to conveying lands within the KCC Exchange Lands Pool, KCC will also relinquish its selection rights to 5,430 acres located within the Refuge. Therefore, those lands would remain under federal ownership and continue to be subject to the federal subsistence priority.

The 2025 Proposed Land Exchange would facilitate construction of 18.9 miles of a single-lane, 13-foot-wide, gravel road from the Northeast Terminal to Outer Marker Road. Approximately 15.6 miles of the road is on Refuge land that is part of the 2025 Proposed Land Exchange (see Section 1.2.3). Approximately 113 turnouts would be constructed along the road corridor for passing. A total of 15 material sites would be used for the project; 13 of these sites would be an extension of the road corridor, and 2 would be dedicated sites planned for development that are outside and adjacent to the proposed road corridor. Locally sourced gravel for both the construction and long-term maintenance of the road would eliminate the need to transport materials from other locations. The road would be open to public use.

2.2.1 Evaluation of the Effect of Use, Occupancy, or Disposition on Subsistence Uses and Needs

The following sections discuss the potential impacts of the land exchange and construction and operation of the proposed road on the abundance, availability, and access to of key subsistence resources, including caribou, birds and eggs, furbearers and small land mammals, vegetation, and fish.

For context and to provide a measure of magnitude regarding potential impacts to the study communities with documented use of the project area, Tables 1 through 7 and Figures 2 through 8 provide information on two impact indicators, resource importance and subsistence use areas, which can be applied to all of the impact categories. The findings do not rely solely on these metrics; instead, these metrics provide context regarding extent and magnitude which may help

inform the findings. By understanding the relative importance of each subsistence resource (i.e., Resource Importance) and the location of where these uses occur (i.e., Subsistence Use Areas), this ANILCA Section 810 analysis can provide information on the magnitude and extent of potential impacts and which subsistence resources and activities are more vulnerable to impacts from the proposed project.

In this analysis, material importance is quantitatively measured in terms of a resource's contribution toward each community's total subsistence harvest (i.e., edible pounds for each resource divided by the total edible pounds for all resources [percent of total harvest]). Alaska Department of Fish and Game data that can be used to quantitatively measure the cultural importance of subsistence resources include data related to participation (percent of households attempting harvests of each resource) and sharing (percent of households receiving each resource). These measures were chosen as informing the cultural importance of subsistence resources because participation in subsistence activities promotes the transmission of skills from generation to generation, and sharing of subsistence resources between households strengthens community cohesion in the region. Furthermore, both participation and sharing are key to the cultural identity of community members.

While all subsistence activities and resources are of high importance to a community, the importance of individual resources relative to one another varies according to material and cultural measures. This analysis assumes that if a project impact were to affect a resource of higher importance, then that effect would be of a greater intensity to a community compared to a similar effect to a resource of lesser importance. The rationale is based on the fact that resources of higher importance have a greater number of subsistence users who participate in the harvests of that resource, share the resource, or for which the resource contributes a higher amount to the overall subsistence diet (Tables 1 through 5). The ranges for material importance were developed based on the fact that all resource categories contribute to a cumulative 100 percent of harvest. Because many subsistence communities rely on a diverse resource base from which they harvest, it is not unusual for the top contributing resource categories to only contribute between 10 and 20 percent of harvest. Thus, the ranges for material importance allow for all study communities to have high, moderate, and low resources, and they reflect the nature of subsistence harvests across an often diverse resource base where few resource categories represent a high percentage of the total community harvest.

The ranges for cultural importance are specific to each community's unique behavior of attempting to harvest and receiving. This community-centric approach, where every community's ranges are defined based on that community's unique set of data, takes into account cultural variation between communities and between the ways certain resources are harvested. Whereas a community's harvest (material importance) will always total 100 percent, the cultural measures of importance are unique to each community and may exhibit a wide range of variation depending on the community's cultural and environmental setting (e.g., proximity to urban areas, regulatory restrictions, proximity to resources). Methods for determining subsistence resource importance are further described in BLM (2024), Appendix L.

This analysis, while reflecting one method of quantitatively measuring the importance of subsistence resources, does not take into account a multitude of factors for which quantitative data do not exist (e.g., spirituality, ethics and values, ideologies, identities, celebration and ceremonies). For example, as stated in comments on the draft ANILCA Section 810 analysis by the Native Village of Hooper Bay (2025), while individual migratory bird species may account

for a relatively small percentage of overall harvest, “black brant and emperor geese are especially important in the spring and are one of our first sources of fat after a long winter.” In addition, many furbearers are not used for food and therefore contribute a small proportion to the overall harvest; however, furbearer hunting and trapping is a culturally important and specialized activity which provides income and materials for clothing and crafts.

There are often factors outside a community’s control which may result in a resource being ranked as “low” in terms of importance while actually having high cultural importance to that community. An example is that emperor geese were historically harvested in much greater numbers by residents in the study region as well as in other regions of Alaska (e.g., the Yukon-Kuskokwim region). Reduced harvests, participation, and sharing of this resource are a direct result of sharp population declines starting in the 1980s and resulting restrictions on harvests. It is likely that if this resource rebounded, communities would begin hunting, harvesting, and sharing this resource at much higher levels.

Rankings of resources under high, moderate, and low importance should be viewed only in terms of the indicators presented here in order to understand the relative magnitude of different direct and indirect impacts on subsistence for the five study communities with documented use of the project area. These metrics are not applied to communities outside the study region who may experience cumulative effects of the project.

Subsistence harvesters in the study communities routinely view all of the resources they harvest during their seasonal cycle of availability as important to their community and/or individual health and cultural identity. To take into account the aspects of subsistence such as spirituality, values, and identity that could be impacted and which are not easily characterized by quantitative data, the project relies on the traditional knowledge and concerns identified in the scoping comments for this project in both assessing impacts and providing potential mitigation measures and other potential strategies to minimize construction and operational impacts on resources and subsistence harvesters.

In all five communities, salmon, vegetation, and marine invertebrates are resources of high overall importance, and in four of five study communities, non-salmon fish are resources of high importance. Caribou is a resource of moderate to high importance in all five study communities, while migratory birds are a resource of moderate importance in all five study communities.

Table 1: Relative Importance of Subsistence Resources Based on Selected Variables, Cold Bay

Resource	Try to Harvest (% of HH)	Receive (% of HH)	% of Total Harvest	Final Evaluation
Moose	4	17	4%	M
Caribou	30	39	9%	M
Feral Cattle	-	-	-	-
Other Large Land Mammals	-	-	0%	L
Small Land Mammals/Furbearers	9	0	0%	L
Marine Mammals	4	9	0.4%	L
Migratory Birds	39	48	7%	M

Resource	Try to Harvest (% of HH)	Receive (% of HH)	% of Total Harvest	Final Evaluation
Upland Birds	30	13	0.2%	L
Bird Eggs	13	4	0%	L
Salmon	100	43	64%	H
Non-Salmon Fish	87	48	9%	H
Marine Invertebrates	9	52	1%	H
Vegetation	91	74	6%	H

Notes: H = High; HH = Households; L = Low; M = Moderate; N/A = Not Available. Cold Bay ranges for cultural and material measures are as follows:

Try to harvest: L=<36; M=36-67; H=>67

Receive: L=<25; M=25-48; H=>48

% of Total Harvest: L=<2; M=2-19; H=>20

Sources (Study Years): ADF&G 2025 (2016)

**Table 2: Relative Importance of Subsistence Resources Based on Selected Variables,
False Pass**

Resource	Try to Harvest (% of HH)	Receive (% of HH)	% of Total Harvest	Final Evaluation
Moose	5	10	0%	L
Caribou	50	85	18%	H
Feral Cattle	5	10	11%	M
Other Large Land Mammals	-	-	3.1%	M
Small Land Mammals/Furbearers	15	0	0%	L
Marine Mammals	30	55	3%	M
Migratory Birds	33	38	2%	M
Upland Birds	65	65	1%	H
Bird Eggs	13	25	0.5%	L
Salmon	65	80	44%	H
Non-salmon Fish	70	75	16%	H
Marine Invertebrates	80	90	7%	H
Vegetation	100	50	3%	H

Notes: H = High; HH = Households; L = Low; M = Moderate; N/A = Not Available. False Pass ranges for cultural and material measures are as follows:

Try to harvest: L=<37; M=37-67; H=>67

Receive: L=<30; M=30-59; H=>59

% of Total Harvest: L=<2; M=2-19; H=>19

Sources (Study Years): Reedy-Maschner and Maschner 2012 (2009); ADF&G 2025 (1996); Fall et al. 1996 (1988)

**Table 3: Relative Importance of Subsistence Resources Based on Selected Variables,
King Cove**

Resource	Try to Harvest (% of HH)	Receive (% of HH)	% of Total Harvest	Final Evaluation
Moose	1	8	0.3%	L
Caribou	37	41	6%	M
Feral Cattle	8	8	4%	M
Other Large Land Mammals	-	-	0%	L
Small Land Mammals/Furbearers	8	4	0.1%	L
Marine Mammals	10	17	0.6%	L
Migratory Birds	40	31	2%	M
Upland Birds	36	16	0.7%	M
Bird Eggs	8	12	0%	L
Salmon	79	56	59%	H
Non-salmon Fish	65	60	14%	H
Marine Invertebrates	59	79	7%	H
Vegetation	87	38	6%	H

Notes: H = High; HH = Households; L = Low; M = Moderate; N/A = Not Available. King Cove ranges for cultural and material measures are as follows:

Try to harvest: L=<29; M=29-57; H=>57

Receive: L=<29; M=29-53; H=>53

% of Total Harvest: L=<2; M=2-19; H=>19

Source (Study Years): ADF&G 2025 (2016); Fall et al. 1993a (1992)

**Table 4: Relative Importance of Subsistence Resources Based on Selected Variables,
Nelson Lagoon**

Resource	Try to Harvest (% of HH)	Receive (% of HH)	% of Total Harvest	Final Evaluation
Moose	15	8	4%	M
Caribou	69	77	47%	H
Feral Cattle	-	-	-	-
Other Large Land Mammals	-	-	-	-
Small Land Mammals/Furbearers	8	0	0%	L
Marine Mammals	8	0	0.5%	L
Migratory Birds	39	16	3%	M
Upland Birds	85	46	1.4%	H
Bird Eggs	39	8	0.6%	M
Salmon	92	39	55%	H
Non-salmon Fish	54	8	4%	M

Resource	Try to Harvest (% of HH)	Receive (% of HH)	% of Total Harvest	Final Evaluation
Marine Invertebrates	92	77	4%	H
Vegetation	85	46	6%	H

Notes: H = High; HH = Households; L = Low; M = Moderate; N/A = Not Available. Nelson Lagoon ranges for cultural and material measures are as follows:

Try to harvest: L=<36; M=36-63; H=>63

Receive: L=<26; M=26-50; H=>50

% of Total Harvest: L=<2; M=2-19; H=>19

Sources (Study Years): Reedy-Maschner and Maschner 2012 (2009); ADF&G 2025 (1996, 1987)

Table 5: Relative Importance of Subsistence Resources Based on Selected Variables, Sand Point

Resource	Try to Harvest (% of HH)	Receive (% of HH)	% of Total Harvest	Final Evaluation
Moose	3	16	1%	L
Caribou	10	29	2%	M
Feral Cattle	5	16	4%	M
Other Large Land Mammals ¹	11	48	5%	H
Small Land Mammals/Furbearers	13	4	0.3%	L
Marine Mammals	10	17	1.3%	L
Migratory Birds	19	29	0.7%	M
Upland Birds	25	18	0.4%	L
Bird Eggs	22	12	0.3%	L
Salmon	72	70	61%	H
Non-salmon Fish	69	66	15%	H
Marine Invertebrates	49	69	4%	H
Vegetation	89	31	4%	H

Notes: ¹ Other Large Land Mammals includes bison; brown bear are also harvested in small quantities.

H = High; HH = Households; L = Low; M = Moderate; N/A = Not Available. Nelson Lagoon ranges for cultural and material measures are as follows:

Try to harvest: L=<36; M=36-63; H=>63

Receive: L=<26; M=26-50; H=>50

% of Total Harvest: L=<2; M=2-19; H=>19

Source (Study Years): ADF&G 2025 (2016); Fall et al. 1993b (1992)

In addition to the impact indicator of resource importance, communities whose more recent use areas are overlapped or bisected by the road corridor would be more likely to experience direct impacts and/or benefits of the project (Tables 6 and 7; Figures 2 through 8). The analysis uses the most recent subsistence use areas documented for the community; while a community may have traditional uses of the project area, contemporary uses are the best measure of whether a community is likely to experience direct impacts. These communities may still experience indirect or cumulative impacts as a result of the project.

As shown in Table 6, all five study communities have recent or historic subsistence uses of the proposed road corridor, particularly for caribou (four communities), waterfowl (three communities,

and vegetation (three communities). More recent uses of the proposed road corridor are limited to the communities of Cold Bay and King Cove for caribou, small land mammals (Cold Bay only), waterfowl, upland birds (Cold Bay only), and vegetation (King Cove only).

As shown in Table 7, four of the five study communities (all but Nelson Lagoon) have recent or historic uses of the land exchange parcels near Kinzarof Lagoon. Primary resources historically harvested in this area include caribou (four communities), birds (three communities), and vegetation (three communities). More recent subsistence uses of the land exchange parcels are limited to the communities of Cold Bay and King Cove for caribou, small land mammals (Cold Bay only), waterfowl (King Cove only), salmon, and vegetation (King Cove only).

Table 6: Subsistence Use Area Overlap by Resource, Road Corridor

	Recent ¹ Subsistence Use Areas					Historic ² Subsistence Use Areas				
	Cold Bay	False Pass	King Cove	Nelson Lagoon	Sand Point	Cold Bay	False Pass	King Cove	Nelson Lagoon	Sand Point
Caribou	Yes	No	Yes	No	N/D	Yes	Yes	Yes	No	Yes
Other Large Land Mammals	No	No	N/D	No	No	N/D	N/D	N/D	No	No
Small Land Mammals/Trapping	Yes	No	No	No	No	Yes	No	Yes	No	No
Marine Mammals	No	N/D	No	N/D	No	N/D	No	No	No	No
Waterfowl	Yes	No	Yes	No	No	Yes	Yes	Yes	No	Yes (Birds) ³
Upland Birds	Yes	No	No	No	No	N/D	N/D	N/D	N/D	Yes (Birds) ³
Salmon	No	No	No	No	No	No	No	No	No	No
Non-Salmon Fish	No	No	No	No	No	No	No	Yes	No	No
Marine Invertebrates	No	No	No	No	No	No	No	No	No	No
Vegetation	No	No	Yes	No	No	Yes	Yes	Yes	No	No

¹ Recent Use Areas: 2016 (Cold Bay, King Cove, Sand Point); 2012 (False Pass, Nelson Lagoon)

² Historic Use Areas: 1960-1982 (Cold Bay, King Cove, False Pass); 1987 (Nelson Lagoon); 1992 (Sand Point)

³ This represents the data collected for all bird species

N/D = No Data

Table 7: Subsistence Use Area Overlap by Resource, Land Exchange Parcels

	Recent ¹ Subsistence Use Areas					Historic ² Subsistence Use Areas				
	Cold Bay	False Pass	King Cove	Nelson Lagoon	Sand Point	Cold Bay	False Pass	King Cove	Nelson Lagoon	Sand Point
Caribou	Yes	No	Yes	No	N/D	Yes	Yes	Yes	No	Yes
Other Large Land Mammals	N/D	No	N/D	No	No	N/D	N/D	N/D	No	No
Small Land Mammals/Trapping	Yes	No	No	No	No	Yes	No	Yes	No	No
Marine Mammals	N/D	N/D	No	N/D	No	N/D	No	No	No	No
Waterfowl	No	No	Yes	No	No	No	Yes	Yes	No	Yes (Birds) ³

	Recent ¹ Subsistence Use Areas					Historic ² Subsistence Use Areas				
	Cold Bay	False Pass	King Cove	Nelson Lagoon	Sand Point	Cold Bay	False Pass	King Cove	Nelson Lagoon	Sand Point
Upland Birds	Yes	No	No	No	No	N/D	N/D	N/D	N/D	Yes (Birds) ³
Salmon	Yes	No	Yes	No	No	No	No	Yes	No	No
Non-Salmon Fish	No	No	No	No	No	No	No	Yes	No	No
Marine Invertebrates	No	No	No	No	No	No	No	Yes	No	No
Vegetation	No	No	Yes	No	No	Yes	Yes	Yes	No	No

¹ Recent Use Areas: 2016 (Cold Bay, King Cove, Sand Point); 2012 (False Pass, Nelson Lagoon)² Historic Use Areas: 1960-1982 (Cold Bay, King Cove, False Pass); 1987 (Nelson Lagoon); 1992 (Sand Point)³ This represents the data collected for all bird species

N/D = No Data

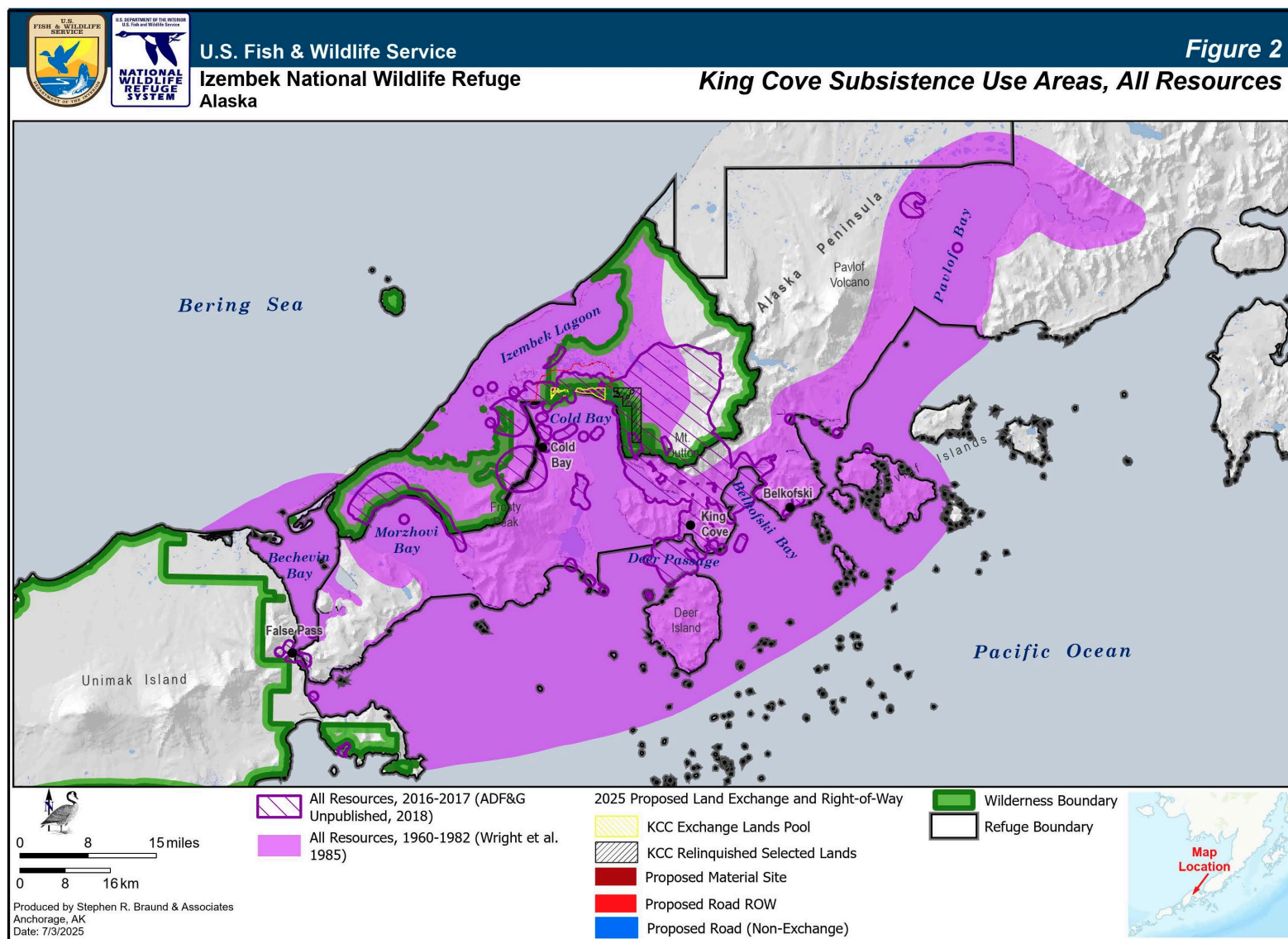
Figure 2: King Cove Subsistence Use Area, All Resources

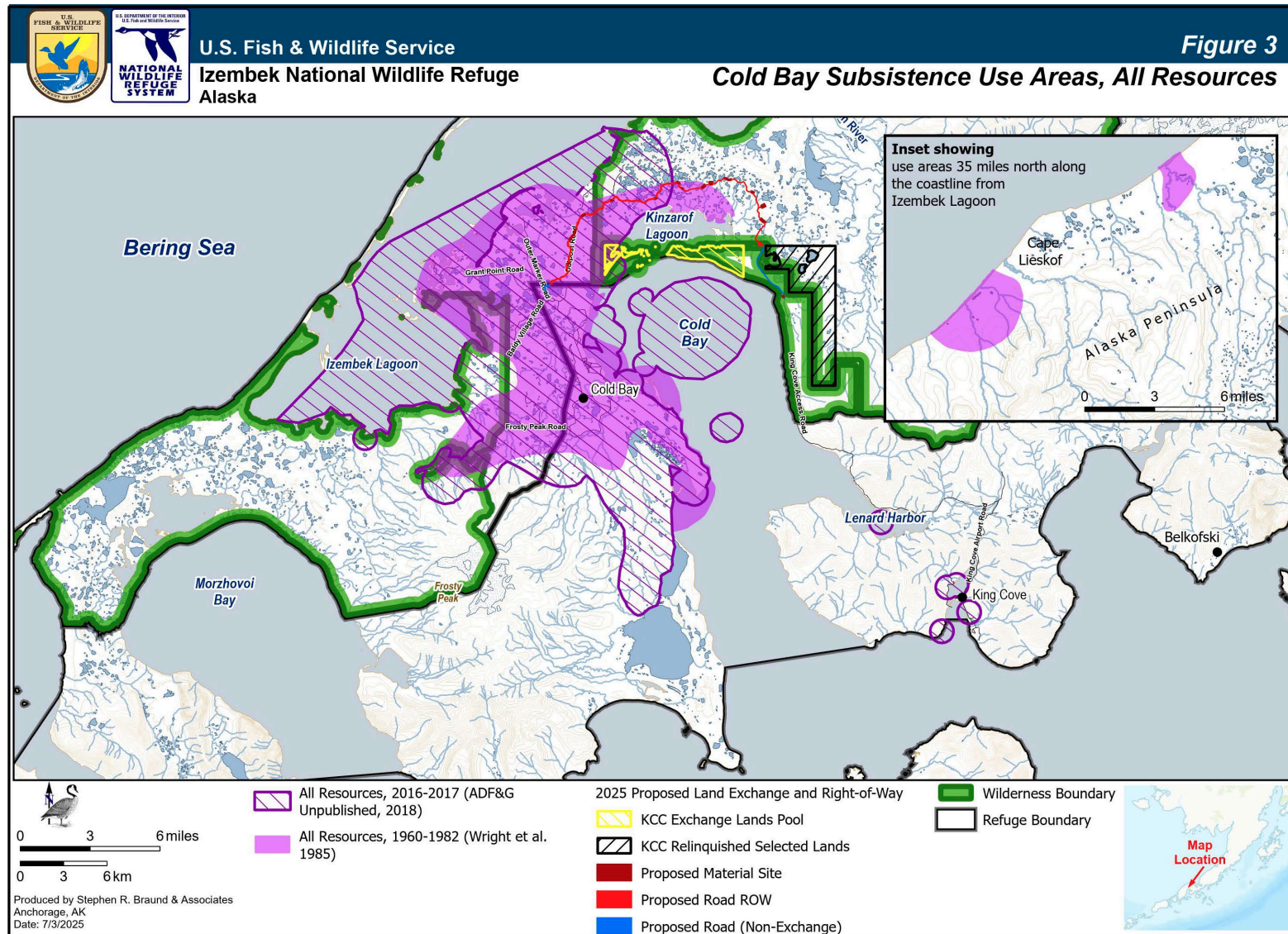
Figure 3: Cold Bay Subsistence Use Area, All Resources

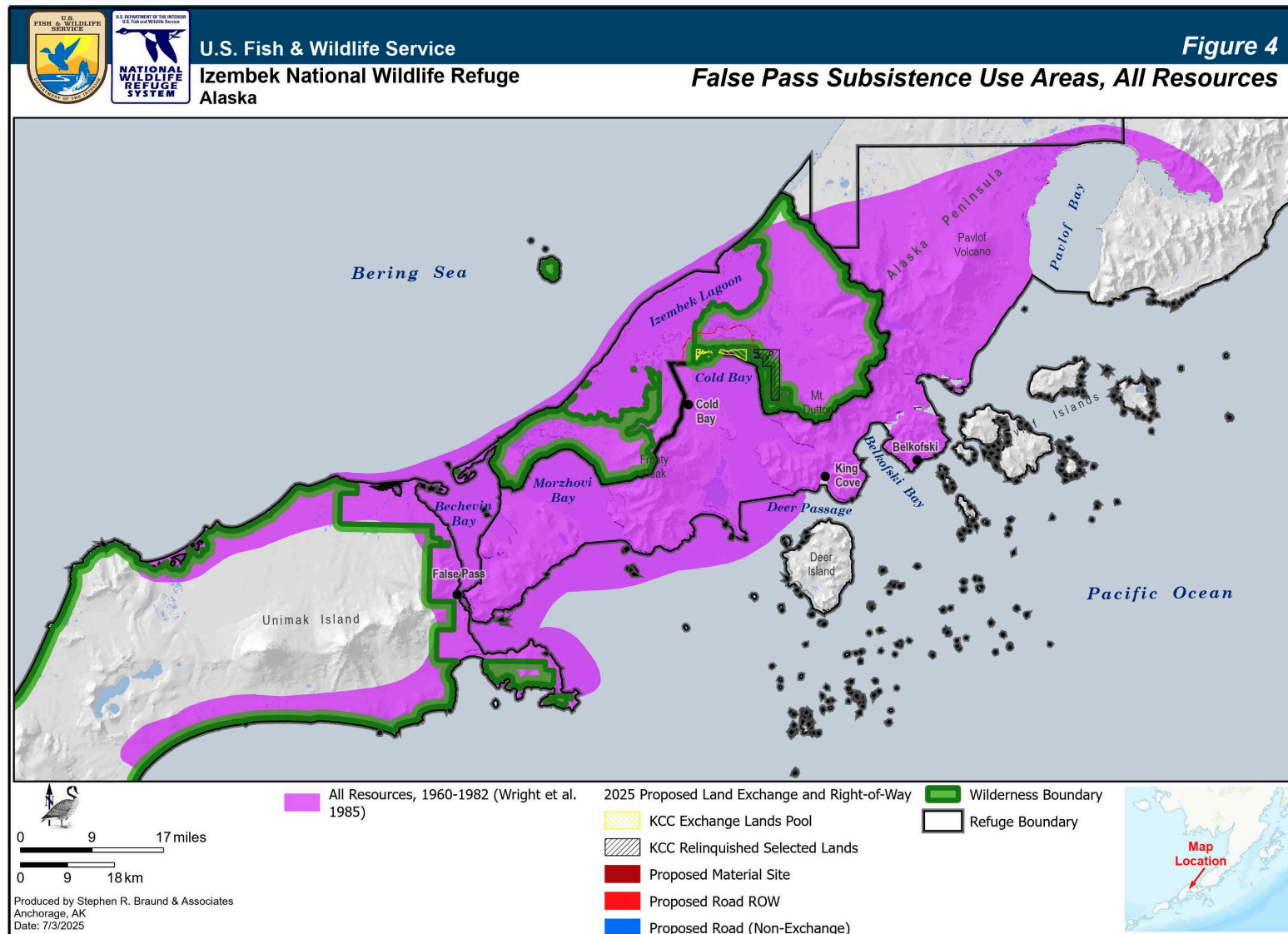
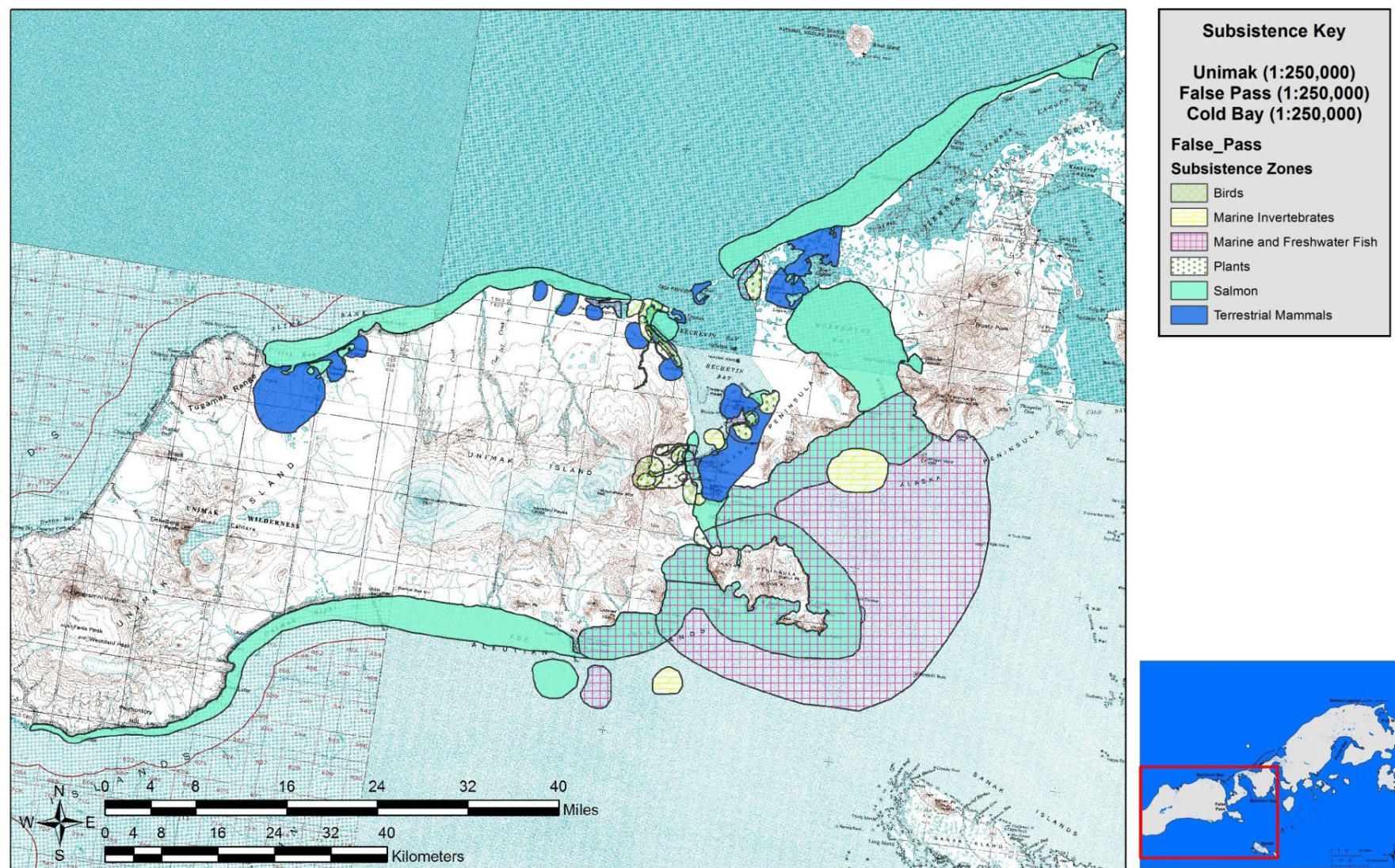
Figure 4: False Pass Subsistence Use Area, All Resources

Figure 5: False Pass Subsistence Use Area, Circa 2012

Source: Reedy-Maschner and Maschner 2012

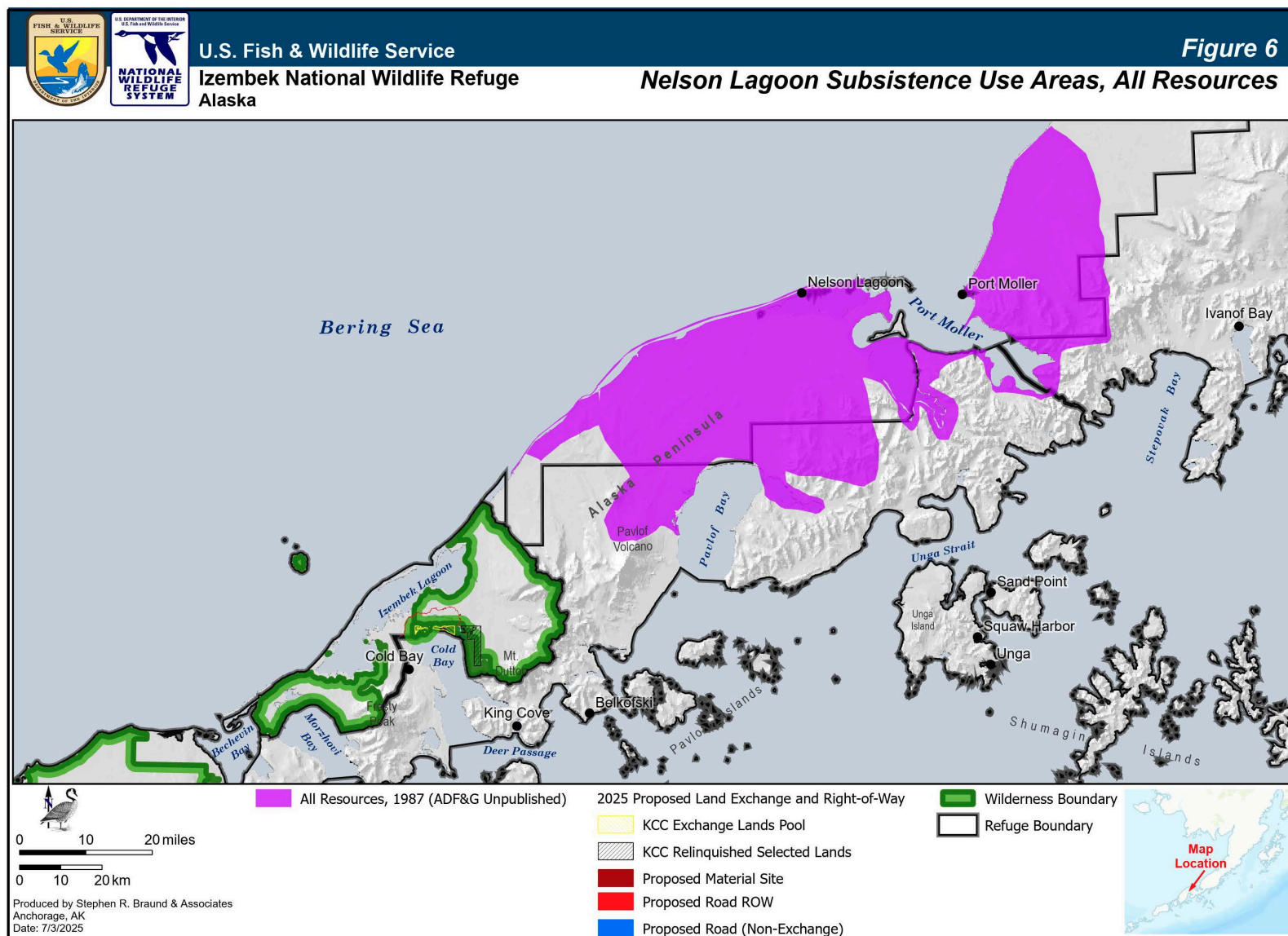
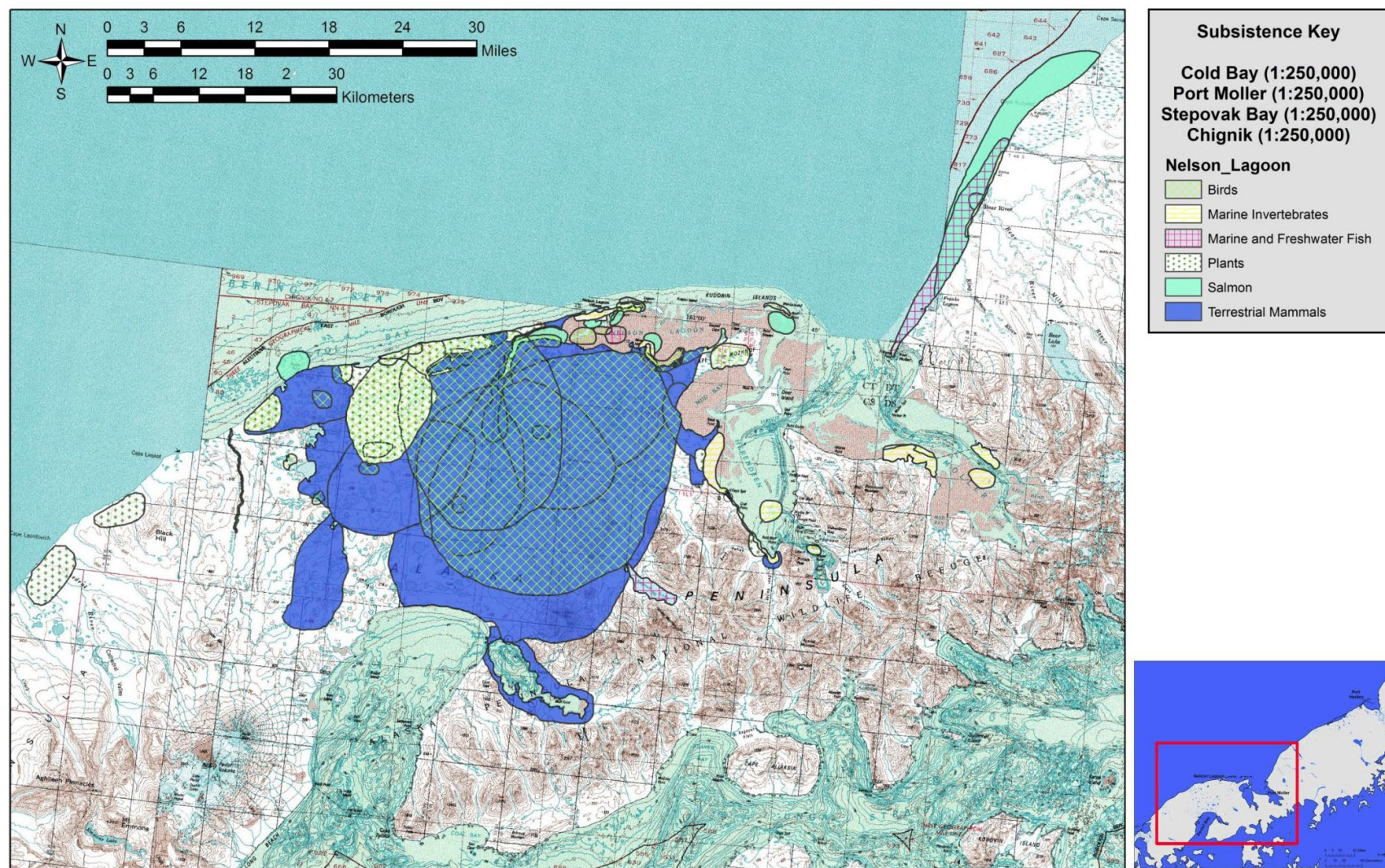
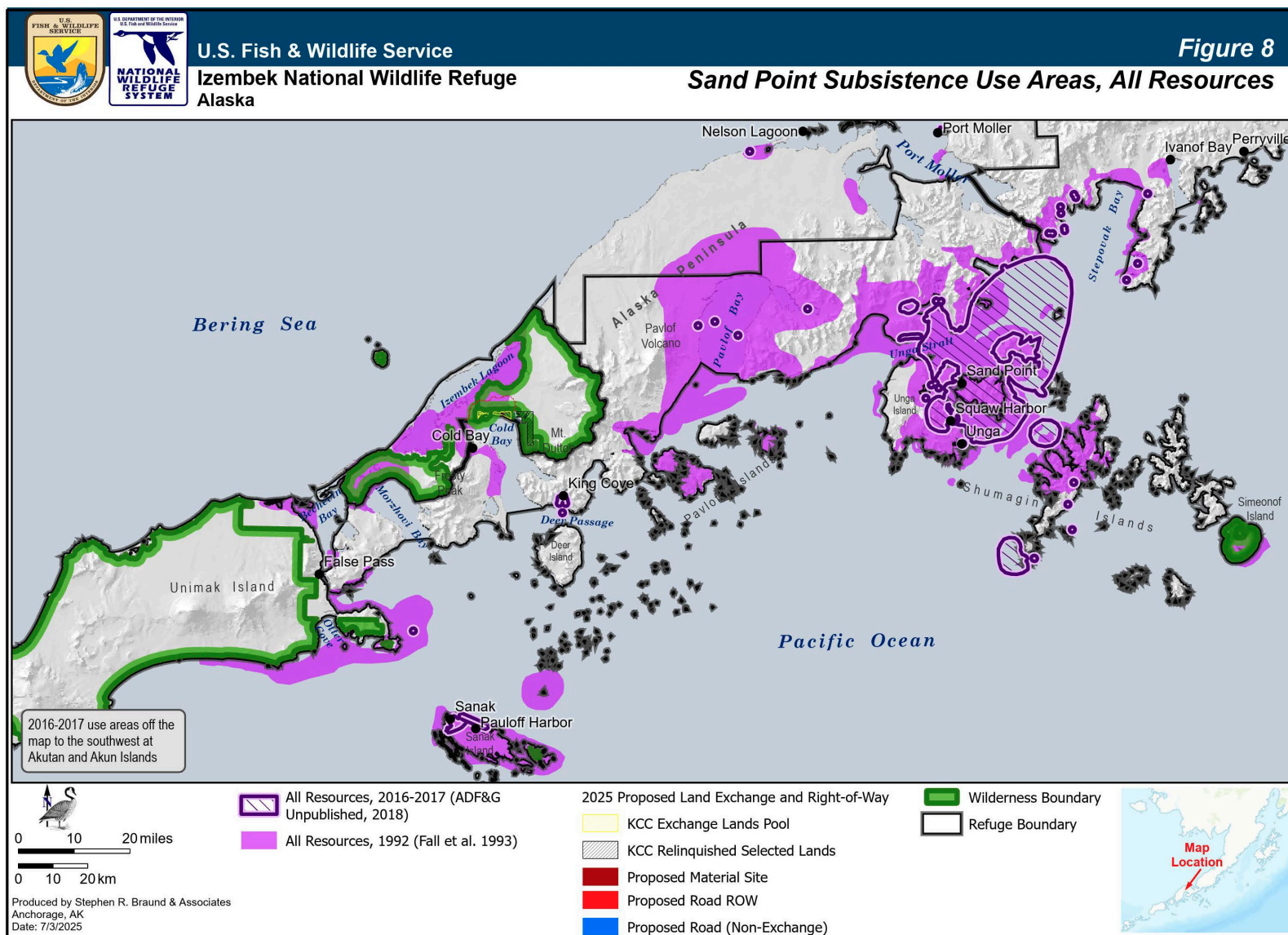
Figure 6: Nelson Lagoon Subsistence Use Area, All Resources

Figure 7: Nelson Lagoon Subsistence Use Area, Circa 2012

Source: Reedy-Maschner and Maschner 2012

Figure 8: Sand Point Subsistence Use Area, All Resources

2.2.1.1 Subsistence Resource Abundance

Construction and operation of the road corridor under the 2025 Proposed Land Exchange could result in impacts to the abundance of subsistence resources. Construction activities could affect resource abundance through removal or disturbance of spawning, calving, foraging, and nesting habitat. These activities include blasting/mining, operation of construction equipment, excavation, placement of gravel, construction noise, human presence, water withdrawal, and installation of bridges and culverts. Operation activities that could affect resource abundance include the presence of roads and bridges (e.g., habitat fragmentation), the presence of other infrastructure (e.g., culverts), fuel or other contaminant spills, dust deposition, road traffic, and human activity. Road construction and operation activities may cause direct mortality to individual animals (e.g., caribou, fish, moose, waterfowl) through vehicle collisions, pile driving/culvert installation, and gravel mining activities. The following sections discuss the potential impacts of construction and operation activities on the abundance of key subsistence resources, including caribou, birds and eggs, fish, furbearers and small land mammals, and vegetation.

Caribou

Caribou is the most commonly harvested large land mammal by residents of the study communities. The Southern Alaska Peninsula Caribou Herd (SAPC) is the primary herd that occurs in the project area. According to Tables 1 through 5, based on selected variables, caribou is considered a resource of high importance in the communities of False Pass and Nelson Lagoon, and a resource of moderate importance in Cold Bay and King Cove. These findings are based on a limited number of study years which may be somewhat skewed by a lack of caribou and restrictions on hunting near the communities for a number of years. For example, a federal subsistence caribou hunt reopened for the SAPC as a limited registration permit hunt in 2012, and in 2016 King Cove harvested an estimated 40 pounds of caribou per household, a slight decline from the 68 pounds harvested per household in 1992, just before hunting of the SAPC was closed due to low numbers. It is likely that residents would harvest higher numbers of caribou if the herd numbers would sustain greater harvests. Residents of the study communities harvest caribou primarily in August and September, and in winter when caribou are available and regulations allow. The proposed action affects lands within the key southern migratory and wintering range of the SAPC, and the associated road would segment the Izembek isthmus into two sections, which is the narrowest point of their migratory corridor. The southern road alignment under the proposed action (and under Alternatives 2 and 6 of the 2024 Draft SEIS) was designed to minimize impacts to migrating caribou.

Direct mortalities of caribou could result from vehicle strikes. Caribou may use roads as travel corridors, which could result in higher rates of direct mortalities during certain months. The corridor may also attract predators (e.g., wolves) due to the ease of travel, thus increasing the risk of caribou predation. Direct mortalities resulting from the road would not be likely to affect overall caribou population numbers.

In addition to direct mortalities, habitat fragmentation and habitat loss from a linear feature could cause changes in range distribution by segmenting the narrow isthmus into two sections, creating new movement corridors, or could alter caribou behavior to the extent that caribou no longer use traditional migration corridors. Although the area of land where the road is proposed is only a portion of land within the seasonal range, a substantial portion of the herd would encounter the

project annually as they migrate between summer and winter ranges, with the Izembek isthmus being the sole movement corridor between those ranges. Fragmentation of the Izembek isthmus by a road may be more pronounced because the herds currently have limited exposure to roads and development infrastructure in much of their range, and avoidance behaviors around the road may be more pronounced, particularly at times when caribou are being hunted (2024 Draft SEIS, Section 4.7.2.5). The southern portion of the SAPC range includes the existing network of roads and trails extending from Cold Bay in the western half of the road corridor area, some of which bisect the lands between Cold Bay and Izembek Lagoon (e.g., Outer Marker Road, Grant Point Road, Outpost Road). However, caribou do not frequent the Cold Bay area in large numbers as they did historically (2024 Draft SEIS, Section 3.1.5). Further fragmentation of this area occurring as a result of road construction may limit caribou seasonal movement across the landscape. Such changes could result in increased negative impacts on caribou survival and productivity, potentially reducing population viability over time.

In addition, caribou migration may be altered to the point where winter survival and calving success are affected, particularly if the road results in the delayed arrival of pregnant cows to calving grounds during spring. Loss of and displacement from caribou feeding grounds during post-calving could affect body condition, affect reproduction, and reduce winter survival.

The road would result in the creation of a hunting corridor for individuals hunting along the road, either by foot or accessing offroad areas using unauthorized means (e.g., all-terrain vehicles). An increase in access to this narrow migratory corridor could draw harvesters disproportionately to the area, affect sex ratios if hunters target large males, and contribute to resource population fluctuations, thus reducing the abundance of caribou for subsistence users in the long term. This would be particularly likely if the road draws high numbers of non-resident hunters compared to current levels, and if the federal government opens the SAPC hunt within the Refuge to all (not just rural subsistence) hunters. However, it is unlikely that the road itself would substantially increase the number of non-local and sport hunters traveling to this remote location for caribou hunting, and the Alaska Board of Game and Federal Subsistence Board would likely continue to closely manage hunting of this herd as long as population numbers are low.

While the road would likely increase the availability of caribou to local subsistence users, particularly for King Cove which is farther removed from the migratory and wintering range of the SAPC, it is more likely that the road would result in a change in the geographical distribution of harvests rather than a substantial increase in harvests by subsistence users. For example, recently constructed industrial roads near Nuiqsut, Alaska, have resulted in a shift in the distribution of caribou harvests, with a majority of residents using the road to hunt; however, overall harvests have not increased. During the public comment period for the 2024 Draft SEIS, residents noted that local subsistence users are unlikely to harvest more than they need and will continue to work with agencies to ensure resource populations are sustained.

If overall population levels of the SAPC decline as a result of habitat fragmentation, loss, and effects on caribou migration, it is possible that total restrictions on hunting of this herd would resume, thus reducing their availability to subsistence users in the region. However, it is unlikely that the road would result in higher subsistence harvests such that they negatively affect caribou population levels.

Birds and Eggs

Residents of the study communities hunt birds, including migratory birds and upland birds, in addition to collecting eggs for subsistence purposes. Key bird and egg species harvested by King Cove and Cold Bay, the two primary users of the project area for bird and egg harvesting, include black brant, Canada geese, teal, mallards, pintails, scoters, ptarmigan, and gull eggs (refer to 2024 Draft SEIS, Section 3.3.7.2). Migratory birds are considered a resource of moderate importance in these two study communities, based on selected variables (Tables 1 through 5). Harvesting of migratory birds traditionally occurs in September and October, with some harvests occurring as late as mid-December and in spring; egg harvesting occurs in late spring (refer to 2024 Draft SEIS, Section 3.3.7.2). Waterfowl hunting is a popular recreational activity in the region, with an estimated 1,125 user days among non-local waterfowl hunters in 2010 (2024 Draft SEIS, Section 3.3.6.1). The effects of sport hunters on subsistence harvesting success are a primary concern among local subsistence users (Service 2025b). During hearings for the draft ANILCA Section 810 analysis, residents noted that traditional values dictate that residents do not waste resources—that they only “take what they need”—which is in contrast to observed waste by sport hunters (Service 2025c). These same individuals expressed frustration that there is opposition to the proposed road due to concern about overharvesting, when they view the primary source of overharvesting to be non-local sport hunters rather than local subsistence users.

Populations of waterfowl, including species important for subsistence, stage and winter on the Izembek National Wildlife Refuge, using a variety of habitats, including freshwater and marine aquatic environments, as well as upland terrestrial areas within the Izembek isthmus. These habitats provide one of the last opportunities for migrating birds to build fat reserves before long overwater flights to wintering areas. The close proximity of Izembek Lagoon and Cold Bay coastal wetlands, including Kinzarof Lagoon, plays an important role in why this area is so important; the tides and ice/sea conditions on the northern and southern sides of the Izembek isthmus are not synchronous, thereby allowing birds the opportunity to select the most beneficial habitat available as conditions deteriorate or improve on one side or the other. Although vegetative and habitat conditions are not the same on the Izembek Lagoon and Cold Bay sides of the isthmus, the availability of alternative foraging and resting areas adds great value for many species of waterfowl. Thus, the project area contains key habitats which are key to the life cycle of many waterfowl species, and removal and degradation of these habitats could have far-reaching effects on subsistence if certain populations decline as a result of the road.

Two species of particular biological concern are black brant, because of the particular importance of the Refuge in the life cycle of the entire population, and emperor geese, a long-standing species of conservation concern due to declining population size. Because of their particular sensitivity to the potential impacts of the road, they are discussed in greater detail here. Black brant is a key waterfowl species in the communities of King Cove, Cold Bay, and False Pass, with approximately one-third of households, on average, attempting to harvest this resource. Based on available data, harvests of black brant are more limited in the communities of Nelson Lagoon and Sand Point. A recent decline in estimated black brant populations have prompted increased hunting restrictions in Izembek and Moffet Lagoons for the 2025–2026 hunting period (ADF&G 2025; AMBCC 2025). A 2023 midwinter count of Pacific brant was the lowest in 17 years (Service 2024b), and a 2024 aerial photographic survey showed a substantial decline in population (188,820 birds) compared to population estimates from 2017–2019 and

2022–2023 (between 201,576 and 377,029 birds) (Service 2025d). Despite biological data showing decreased brant populations, local perceptions of brant abundance remain positive. During hearings for the draft ANILCA Section 810 analysis, residents of King Cove and Cold Bay reported that the black brant population is healthy and abundant (Service 2025c).

Subsistence harvests of emperor geese are limited in all communities due to restrictions on hunting. This resource was an important part of the subsistence diet of local communities before they experienced a severe population decline in the 1980s, which resulted in a total ban on hunting. After a period of gradual recovery, subsistence hunting was allowed again in 2017 during both the spring-summer and fall-winter seasons (Service 2023a). In 2025, the Service, based on recommendations of the Alaska Migratory Bird Co-Management Council, implemented a statewide closure on emperor goose harvests. Currently, emperor geese are not a primary subsistence species in the study communities in terms of harvests. However, because of the traditional importance of this resource to local communities, the potential for increased use of this resource in the future if populations rebound, and the particular vulnerability of this resource to effects on feeding grounds in the Refuge, this analysis considers potential impacts to emperor goose abundance.

Each fall, the entire population of Pacific black brant stages during migration in Izembek Lagoon. Pacific black brant rely exclusively on eelgrass as their primary food source, making the availability and condition of eelgrass habitats crucial for their survival. In addition to fall staging, an increasing larger proportion of Pacific black brant are spending the winter in Izembek National Wildlife Refuge. Since 2011, Alaska has supported more than 33 percent of the range-wide Pacific Brant winter population. In 2024, Alaska supported 40 percent of the winter population, with positive growth in the winter population at Izembek being apparent (Wilson and Larned 2024). Any changes in habitat conditions, such as the reduction of eelgrass beds due to environmental shifts or human activities, can significantly impact the Pacific black brant population, because their feeding opportunities are directly tied to the health of these specific coastal ecosystems that support eelgrass. The reliance of brant on eelgrass during the non-breeding period makes them highly vulnerable to fluctuations in quality of this habitat. Consequently, habitat conservation and the protection of eelgrass areas are essential for sustaining healthy populations of this species. Due to the asynchronous tides and the presence of eelgrass beds on the northern and southern sides of the Izembek isthmus, Izembek and Kinzarof Lagoons play a critical role in providing habitat for feeding, migrating, and wintering Pacific black brant. Furthermore, since a large proportion of the global population spends the winter at Izembek National Wildlife Refuge, impacts to the species during the winter have the potential for population-level effects.

Around 80 to 90 percent of the global population of emperor geese nest in the Yukon-Kuskokwim River Delta, primarily wintering farther south, along the coast from Kodiak Island and the Alaska Peninsula to the eastern Aleutian Islands (Service 2023a; Uher-Koch et al 2021; 2024 Draft SEIS, Section 3.1.4.1). During migration, most emperor geese are distributed among seven staging areas along the Alaska Peninsula during fall migration: Egegik Bay, Ugashik Bay, Cinder River Lagoon, Port Heiden, Seal Islands, Nelson Lagoon, and Izembek Lagoon (Pacific Flyway Council 2024). These geese rely on rocky coasts for food during winter, consuming eelgrass, seaweed, algae, and small marine animals. Emperor geese experienced a severe population decline in the 1980s, which resulted in a total ban on hunting. After a period of gradual recovery, subsistence hunting was allowed again in 2017 during both the spring-summer

and fall-winter seasons (Service 2023a). Despite this recovery, the emperor goose population remains vulnerable due to its slow reproductive rate—geese do not begin mating until they are 3 years old, and only about 10 percent of goslings survive their first year (Service 2023a). Unlike other Arctic geese that have developed better avoidance behaviors due to hunting pressures in more accessible areas, emperor geese primarily inhabit remote areas, making them potentially more susceptible to hunting. Additionally, environmental challenges and the species' life history traits further hinder rapid population growth, causing emperor goose populations to recover more slowly than other goose species.

Effects on the abundance of migratory birds would be primarily dependent on the direct and indirect loss of habitat as a result of construction activity in addition to disturbance from operations. The proposed action could impact important migratory bird and waterfowl habitat in the Refuge as a result of wetland filling and material site activities proposed in and along wetland fringes. The road may result in the direct or indirect loss or degradation of nesting and foraging habitat as a result of construction and operation activities, particularly the reduction in berry-producing vegetation, which could adversely affect certain waterfowl species, such as cackling geese, which forage on berries in upland areas. The road may increase the network of unauthorized all-terrain vehicle trails which could contribute to degradation of waterfowl habitat, particularly in the vicinity of Kinzarof Lagoon.

Destruction of active nests, eggs, or nestlings can result from spring and summer vegetation clearing, grubbing, brush hogging, stockpiling fill, and other land disturbance and construction activities. Additionally, human and vehicle traffic along the road corridor may also discourage them from nesting near the project area or cause abandonment of nests, further reducing the potential nesting area outside the boundary of the road corridor. This displacement could limit suitable nesting sites, potentially leading to local declines in waterfowl populations for certain subsistence species (ducks, tern eggs) as they are forced to nest in less optimal or more crowded areas. Large scale displacement and avoidance of the project area would be more likely to occur during the construction period.

The proposed road would be built in areas that receive little direct use by black brant and emperor geese (see 2024 Draft SEIS, Figures 3.2-22 and 3.2-25), and therefore direct impacts to habitat for those resources are relatively unlikely. According to Indigenous Knowledge of local residents, migratory birds that spend the majority of their time in lagoons (e.g., emperor geese, black brant) generally are not found inland where the road corridor would be located; instead, the birds that are found in the project area are “land geese” (likely referring to Canada geese) that go there to feed on berries (Service 2025b). While emperor geese have been documented flying over the road corridor to travel between Kinzarof Lagoon and Izembek Lagoon (Uher-Koch et al. 2021), local residents note that black brant typically do not travel overland and are not observed by locals to fly over the isthmus; instead, they travel along the coast to reach feeding and staging areas in area lagoons (Service 2025b, 2025e). Similar observations have been made by residents of the Yukon-Kuskokwim region, that brant are lowland geese and are only seen along the coast, not in inland areas (Fienup-Riordan 1999). Some subsistence duck species, including pintails and black scoters, nest in more upland and tundra lake environments and therefore could experience loss of nesting habitat as a result of the road. Terns nest in wetlands surrounding Izembek and Kinzarof Lagoons and are sensitive to human disturbance, with human activity potentially causing nest abandonment; tern eggs are harvested in limited quantities by local subsistence users.

Under the proposed action, the road would be open to public use, and therefore areas along the road may see a substantial increase in human activity for hunting, recreation, and other purposes. Increased human activity and disturbance may have negative impacts resulting from altered behavior and changes in energy expenditures ultimately leading to change in body condition. Changes in body condition may negatively impact migration and/or reproduction. Moreover, the increased human presence and disturbance could have additional adverse impacts on waterfowl by altering their behavior and increasing their energy expenditures. These changes could ultimately lead to a decline in body condition, which is critical for successful migration and reproduction. Poorer body condition could reduce the survival rates of waterfowl during migration or diminish their reproductive success, further impacting their populations. Direct mortalities may occur as a result of the road due to traffic collisions; however, the number of mortalities is expected to be small (refer to 2024 Draft SEIS, Section 4.3.2.4).

King Cove subsistence harvesting of migratory birds has been documented along the coast north of the community and near the southern portion of the proposed road corridor, and throughout the Kinzarof Lagoon area. Residents may use the road in order to access nearby migratory bird hunting areas more easily, particularly around Kinzarof Lagoon. As Kinzarof Lagoon is already a commonly used area for subsistence hunting of waterfowl, it is unlikely that subsistence harvests of migratory birds will increase substantially as a result of the road corridor, although the distribution of harvests may be more concentrated in areas made more accessible due to the road. Non-local sport hunting of waterfowl within the Refuge, including around Kinzarof Lagoon, may increase as a result of the road, although it is unlikely that the road would substantially increase the overall number of non-local sport hunters flying to Cold Bay. While most current sport hunting occurs in Izembek Lagoon, the road may increase activity specifically around Kinzarof Lagoon. If the road encourages more sport hunters to travel to Cold Bay for guided or non-guided waterfowl hunts, there may be a local decrease in the abundance of waterfowl for subsistence users.

Collection of bird eggs is a traditional subsistence activity which could be affected by removal of nesting habitat. Recent subsistence use area data show Cold Bay harvesting bird eggs near the terminus of the road to the west of Kinzarof Lagoon; however, King Cove data do not show uses of the project area for egg harvesting (refer to 2024 Draft SEIS, Section 3.3.7.2). The primary egg species harvested by King Cove and Cold Bay residents are gull eggs, with some harvests of tern and duck eggs. Gulls and terns typically nest on islands or in shallow lakes, with some ducks nesting in upland areas (refer to 2024 Draft SEIS, Sections 3.1.4.5, 3.1.4.6, and 3.1.4.9). Thus, removal of nesting habitat along the road area would not be likely to affect the overall abundance of eggs for local subsistence users. Impacts to nesting areas would be more likely if the road increases unauthorized access around Kinzarof Lagoon with all-terrain vehicles, causing destruction of nests, or if there is increased foot (and associated dog) traffic around the lagoon. Increased access by the public for bird watching and other recreational activities could also result in additional disturbance and destruction of nests.

The land exchange may have a positive or counterbalancing effect on migratory bird populations, as a portion of the Kinzarof Lagoon parcels currently owned by KCC would become part of the Refuge (2024 Draft SEIS, Section 4.7.2.4) and would therefore increase protections for migratory birds in this key habitat area.

Ptarmigan occurs throughout the Refuge year-round and, while harvested in relatively small quantities, is an important subsistence resource for many local residents. Cold Bay and King

Cove are the primary harvesters of ptarmigan in the project area. Based on selected measures, upland birds are characterized as a resource of low importance in Cold Bay and moderate importance in King Cove (Tables 1 and 3). The harvest season for ptarmigan typically spans from August to February. Residents increase their harvest of upland birds at the end of the waterfowl season. The construction and operation of the road under the proposed action could impact ptarmigan populations through direct mortality from vehicle strikes and habitat disruption due to heavy equipment and construction noise. Ptarmigan are often found along roads in early and late evenings, making them susceptible to vehicle strikes and increased hunting pressure. Male ptarmigan often perch on roadside snowbanks and adjacent shrubs, making them easy targets for hunting. These impacts could reduce the local abundance of ptarmigan along the road corridor but would be unlikely to cause an overall decline in the abundance of ptarmigan for subsistence users in their harvesting areas.

Fish

Fish species in the project area include all five species of Pacific salmon—sockeye, coho, Chinook, chum, and pink salmon, as well as Dolly Varden, all of which are vital to the subsistence practices of the study communities. Fish, particularly salmon, are a resource of high importance in all of the study communities (Tables 1 through 5), serving as a cornerstone of the subsistence diet and lifestyle for residents of the study communities. Fishing, including the preparation of dried and smoked fish, is central to the cultural and subsistence practices of local residents. Salmon is typically harvested from May to November, with salmon fry collected in January. These activities are integral to the communities' way of life, supporting both their nutritional needs and cultural traditions.

Under the proposed action, approximately 71 drainage structures would be installed along the road corridor, consisting of 1 bridge, 7 culverts/pipe arches or small bridges, and 63 cross-drainage culverts. While residents of the study communities do not report harvesting fish directly along these waterways, they do harvest fish in Cold Bay and at the mouths of rivers and streams throughout the project area, including near Kinzarof Lagoon, and could experience indirect downstream effects from the project. Any indirect effects on subsistence would be most likely to occur in the Kinzarof Lagoon watershed. The proposed road generally transects the upper portions of the stream reaches that flow into Kinzarof Lagoon, and therefore, most direct effects would occur for species that use the upper reaches of those streams. These species include sockeye and coho salmon, both key resources for subsistence users across the region.

Road construction, particularly bridge and culvert installation, may alter drainage networks and cause increased erosion, which can increase sedimentation and degrade habitat quality. The drainage structures necessary for the road and the adjacent mining sites would alter and degrade fish habitats upstream and downstream of the road, as well as the connected wetland systems. Filling and alteration of wetlands, lakes, and ponds could affect spawning and rearing habitat for salmon. These changes could negatively impact fish habitat in the waterways crossed by the road corridor. During hearings for the draft ANILCA Section 810 analysis, King Cove residents noted that there are already roads in the region and that they have not observed those roads or culverts having an effect on wildlife, including salmon migrating upstream.

Gravel mining activities within the road corridor would disrupt fish habitat through the creation of gravel pits and associated disturbances from heavy machinery, blasting, and human activity. Gravel excavation can release mineral particulates into waterways; however, material sources

would be tested and would not be used if there is potential for acid rock drainage. Road construction will also require water withdrawals from dust control and embankment compaction during construction. Water withdrawals may have negative effects on individual fish and potentially introduce contaminants. Erosion, sedimentation, and contaminant releases would be most pronounced during construction of the road, and water quality impacts from increased turbidity would be temporary during construction and generally localized to the construction area (2024 Draft SEIS, Section 4.3.2.3).

Fish may experience some direct mortality as a result of construction, maintenance, and operation activities, such as gravel extraction and fill, water withdrawals, and pile driving for bridge installation. However, these individual mortalities would not be expected to affect overall fish population numbers.

Potential effects on fish abundance from road operation include increased sedimentation and degraded channel integrity resulting from sub-standard culvert design, pollution from vehicles and fugitive dust, erosion along the road alignment, stormwater runoff, and increased harvest pressure. When sedimentation levels rise above naturally occurring levels, the resulting effects on habitat quality and function can be adverse. Increased sedimentation can negatively impact incubating eggs, decrease fry emergence, and reduce the availability of suitable habitat conditions for fish and other aquatic organisms, thus affecting fish populations. When salmon no longer have the specific conditions needed for spawning, successful reproduction declines, which can lead to overall salmon population declines. Salmon play a crucial role in their ecosystems, providing food for predators and contributing nutrients to both aquatic and terrestrial environments in the region. A decline in salmon populations can disrupt these ecological relationships, affecting a wide range of species beyond the immediate footprint of the road corridor and thereby influencing subsistence resources in the long term.

Once installed, bridges and culverts could disrupt naturally occurring fish habitats by limiting their movements, particularly if the bridges and culverts are poorly designed or if best management practices are not adequately followed and implemented (refer to 2024 Draft SEIS, Section 4.7.2.3). Stream culverts would replace natural stream channels by rerouting water flow under the road, potentially altering the flow and velocity of water. Due to the interconnectedness of streams and watersheds on Izembek isthmus, culverts have the potential to affect fish population dynamics at local, watershed, and larger landscape scales (Lehrter et al. 2024). If culverts are designed properly and regularly monitored, maintained, and repaired, direct impacts to fish and fish habitat resulting from the proposed action are expected to be low in intensity and scale and limited to the Kinzarof Lagoon watershed (2024 Draft SEIS, Section 4.7.2.3). While King Cove and Cold Bay residents have reported harvesting in the Kinzarof Lagoon area, other more productive salmon streams exist closer to these communities and are more frequently used by subsistence users. If the road results in local changes in salmon abundance within the Kinzarof Lagoon watershed, local subsistence users will likely increase their reliance on other drainages for their annual harvest of salmon.

The introduction of invasive species as a result of road construction, gravel mining, and road operation could have impacts on fish habitat and productivity if the spread of invasive species is not adequately controlled. As discussed above, the proposed action would take steps to minimize the chance for introducing or spreading invasive species.

Furbearers and Small Land Mammals

Residents of the study communities trap and hunt various species of furbearers and small land mammals within the project area, including wolf, fox, Arctic hare, and porcupine. These resources do not contribute substantially to the community's subsistence harvest but are important to the local economy and culture; periodic harvests of hare and porcupine add variety to the subsistence diet. Recent mapping data for King Cove show no direct subsistence use area overlap with the project area for small land mammals, although historic use areas do overlap with the corridor and occur over a much larger area. Cold Bay use areas for small land mammals overlap with the western portion of the road corridor.

Izembek Refuge staff have observed an increased interest in porcupine by local residents. Harvests of most furbearers and small land mammals occur during winter, with porcupine available year-round. The construction and operation of the road under the proposed action may result in some direct mortality from vehicle strikes, habitat disruption, habitat fragmentation, and potential changes in population dynamics due to increased human access and altered food availability. However, these changes are not likely to affect the overall abundance of furbearers and small land mammals for local subsistence users.

Vegetation

The proposed action would overlap with a small portion of overall vegetation subsistence use areas for King Cove and Cold Bay. King Cove berries and greens harvesting areas for the 2016–2017 period overlap with the eastern terminus of the proposed road corridor. Cold Bay vegetation harvesting areas for 2016–2017 do not directly overlap with the proposed road corridor, but occur near its terminus where it overlaps with the Outpost Road. Plants and berries are important subsistence resources, with key species including blueberries, strawberries, salmonberries, nagoonberries, cloudberry, and cranberries, along with wild edible plants like fiddleheads, putchki, and petrushki. Based on selected measures, vegetation is a resource of high importance in all five of the study communities. Residents of the study communities typically harvest these berries and plants from August through November.

Clearing of vegetation for construction and mining activities at material sites would lead to the permanent removal of vegetation harvesting areas used by local residents, although a majority of vegetation harvesting areas are located closer to the study communities. Fifteen material sites associated with the project would contribute to this permanent loss. The use of heavy machinery and motorized vehicles during construction, operations, and maintenance of the road and drainage structure could cause rutting, which compacts the soil and disrupts the natural hydrology of not only the road corridor but the adjacent lands of Izembek National Wildlife Refuge. This rutting would likely exacerbate vegetation loss, increase erosion, and lead to the formation of bare ground, open water, and mud, further altering the landscape and reducing the abundance of vegetation available for subsistence along the road corridor. Fugitive dust may also affect vegetation along the road corridor, making them unsuitable for harvest by local subsistence users. Because a majority of vegetation harvesting by the study communities does not occur in the project area, the removal of vegetation in these areas would not be likely to affect the overall abundance of vegetation for subsistence users.

Construction activities and traffic along the road could introduce invasive species to these areas, further threatening the ecological balance and the availability of native plants and berries to

subsistence users. If the spread of invasive species is not adequately controlled, the impacts may be more far-reaching and affect subsistence harvests of berries and plants in certain areas. The proposed action would take several steps to minimize the chance for introducing or spreading invasive species, including inspection of borrow pit areas, thorough cleaning of all heavy equipment and vehicles, and use of only native species for revegetation of disturbed areas.

2.2.1.2 Subsistence Resource Availability

Construction, operation, and maintenance of the road under the 2025 Proposed Land Exchange could result in displacement of subsistence resources and reduced subsistence resource availability for residents of the study communities. Construction activities that could affect subsistence resource availability include excavation, blasting, clearing, installation of bridges and culverts, gravel placement, water withdrawal, heavy equipment operation, noise, human activity, vehicle traffic, sedimentation, and fuel or other contaminant spills. Operation activities that could affect resource availability include the presence of roads and bridges, the presence of other infrastructure (e.g., culverts), fuel or other contaminant spills, dust deposition, road traffic, and human activity including increased hunting and fishing pressure and recreational activities. Construction and operation could affect resource availability by causing changes in resource migration or distribution, changes in resource behavior, or changes in resource health or quality.

The road could also affect resource availability for the study communities by increasing competition for subsistence resources along the corridor, both among the study communities and between residents of the study communities and non-local hunters. Waterfowl, caribou, and brown bear hunting in the Cold Bay area are draws for hunters outside of the study communities and are therefore an existing source of non-local hunting competition for residents. While it is unlikely that the road will draw new rural users to the area, the road will likely create a new hunting corridor for local residents and non-local visitors along which residents will experience increased competition. Additionally, because the road will be open to all public uses, increased traffic and human presence related to sport hunting, fishing, and recreational and commercial activities may also affect resource availability through changes in resource behavior and distribution. The increase in competition and potential changes in resource availability would be at least somewhat offset by the increased access to traditional harvesting areas (see Section 2.2.1.3), thus increasing the availability of certain subsistence resources, particularly for the community of King Cove.

In addition to the impacts of the road, the proposed action would result in up to 1,739 acres of KCC surface estate being conveyed to the federal government that would then be subject to federal subsistence management; 490 acres (surface and subsurface estate) surrounding the road corridor would be conveyed out of federal ownership and would therefore lose federal subsistence management. However, as the road would be open to the public, it is presumed that KCC would not restrict access to those lands, and adjacent lands would remain under federal management. Federal subsistence management provides a priority for harvesting subsistence resources on federal lands to rural residents from the study communities. Therefore, on parcels gaining federal subsistence priority, residents of the study communities may have longer seasons or higher bag limits compared to parcels under state management. However, KCC would no longer be able to restrict access for non-shareholders on these lands, thereby raising the potential for an increase in competition for subsistence resources to those who traditionally used this area. The lands being conveyed into federal ownership comprise mainlands, islands, and shoals which

form the entrance to Kinzarof Lagoon. Kinzarof Lagoon is an important subsistence harvesting area for the communities of King Cove and Cold Bay for multiple resources, including salmon, non-salmon fish, caribou, and waterfowl. Some of these areas are currently only accessible by boat, particularly for the community of King Cove.

The following sections discuss the potential impacts of the land exchange and proposed road on the availability of key subsistence resources including caribou, birds and eggs, fish, furbearers and small land mammals, and vegetation.

Caribou

As discussed in the 2024 Draft SEIS, Section 2.4.1.2, caribou is the most commonly harvested large land mammal available to many of the potentially affected communities. Residents of the study communities generally harvest caribou in August and September, and in winter when caribou are available, and regulations allow. As discussed above and shown in Tables 6 and 7, King Cove and Cold Bay are the primary current users of the project area for caribou hunting and therefore are the most likely to experience impacts on resource availability. Caribou is considered a resource of moderate importance in King Cove and Cold Bay, based on selected measures.

Culturally, caribou is the most important subsistence land mammal, and harvests have been limited over the previous couple of decades due to reduced availability of the resource. Reports of a decline in resource harvests in recent years, due to changes in the distribution and migration of the caribou herd, have been received from local subsistence users. Reports indicate lower harvest occurring on the SAPC and on surrounding satellite populations as a result of the changes in the distribution and migration. The SAPC is the primary herd that occurs in the project area, and the project occurs in an important wintering area and migration corridor for the herd. The road would increase access to caribou hunting areas for residents of the study communities, particularly for King Cove, which is farther removed from the primary SAPC wintering and migratory grounds. Therefore, the road may increase the availability of this resource to local residents. However, road construction and operation may also affect caribou migration, distribution, and behavior, thus affecting harvesting success along the corridor.

Caribou cross the Izembek isthmus in the spring, winter, and fall. The 2025 Proposed Land Exchange occurs on lands within the key migratory range of the SAPC, and the associated road would segment the Izembek isthmus into two sections. The proposed road corridor through the sections would run parallel to the primary direction of movement (east-west) of the SAPC and is therefore likely to affect caribou movement, as caribou may stay on one side of the road and move parallel to it rather than crossing. When moving toward the road, caribou may deflect away from the road and alter their movements, or hesitate to cross, particularly during times of high traffic. Long delays or deflections of caribou are less likely when linear infrastructure runs parallel to their main direction of movement (BLM 2023). However, localized deflections and avoidance along the road are likely, particularly since the road will be open to all user groups without any restrictions, and because the narrow isthmus provides little area for caribou to shift their migration away from the road. A recent paper (Fullman et al. 2025) looked at caribou reactions to 5 gravel/dirt roads in Alaska and found that 61.5 percent of caribou who encountered roads displayed altered movement. A non-industrial gravel road out of Nome with relatively low amounts of traffic was found to account for nearly one quarter of all of the altered movement behavior documented in the study.

If caribou alter their migration patterns, either by delaying movement, avoiding certain areas, or altering their usual movement patterns, subsistence users may experience impacts to hunting success when hunting along the road corridor. This would be most likely to affect hunters who travel by boat and wait for caribou to migrate toward coastal areas; however, changes in migration timing and location could also affect hunters who travel by vehicle or all-terrain vehicle to hunt caribou in overland areas, or hunters in communities farther from the road corridor (e.g., False Pass) who wait for caribou to migrate into their area after migrating through the Isthmus. In the case of hunters along the road, if caribou avoid or deflect away from the road corridor, residents may have difficulty accessing caribou available for harvest, particularly if they are too far to access on foot. On the North Slope of Alaska, residents of Nuiqsut have reported caribou avoiding or deflecting away from industry roads (SRB&A 2024). However, the roads have also increased access to migrating caribou, and overall caribou harvests have remained stable.

During hearings for the draft ANILCA Section 810 analysis, residents from King Cove and Cold Bay discussed their experiences and knowledge regarding the impact of noise, activity, and roads on the SAPC. Residents noted higher rates of disturbances in the past due to heavy military presence and associated air traffic and sport hunting, but indicated that residents did not observe deflection of caribou during these times. For example, residents reported that caribou seemed unfazed by the large jets that would fly in and out of Cold Bay and that in some cases caribou had to be “shooed” off of the runway in order for planes to land. Residents also reported that current sport hunting along the road system in Cold Bay does not seem to affect caribou, and that the caribou cross over the roads without incident.

Habitat alteration may also affect the distribution of the SAPC as a result of direct habitat loss and effects on foraging areas (e.g., from fugitive dust). Over time, if the road results in changes in the local distribution of the SAPC such that they are less abundant within traditional harvesting areas at the expected times and places, subsistence users from the study communities may have reduced harvesting success or may have to spend more time and effort locating caribou. Changes in distribution have been observed in recent years, with SAPC caribou no longer migrating in large numbers through the Cold Bay area (see Section 2.2.1.1). Further changes in distribution away from Cold Bay could particularly affect harvesting success for subsistence hunters from the community of Cold Bay.

In addition to more large-scale changes in migration and distribution, smaller changes in caribou movement and behavior can affect hunting success. During construction, construction noises, heavy equipment, and gravel mining activities may cause caribou to act skittish or avoidant, making them more difficult to hunt. Skittish behavior may continue during operation during times of high traffic and human activity.

The increase in access along the road (see Section 2.2.1.3) may also result in a concentrated hunting corridor which creates high competition levels between subsistence users. Currently, caribou hunting in the Refuge is limited to federally qualified subsistence users; thus, the road would not likely increase competition with sport hunters unless the SAPC population rebounds and regulations allow for sport hunting. Increased competition between subsistence users could affect hunting success in this area. In addition, if hunters intercept caribou along the road, then residents who hunt in other areas (e.g., by boat along the coast or in road-connected areas closer to their communities such as Cold Bay) may also experience reduced success.

Because the road would be open to the public, other non-local individuals may also use the road for recreational purposes (e.g., bird watching, sight-seeing) or for non-subsistence hunting and fishing, which would contribute to the potential for an increase in traffic and human activity, thus contributing to potential disturbances along the roadway.

Birds and Eggs

The communities of King Cove, Cold Bay, False Pass, and Sand Point have historically depended on the Izembek isthmus and Izembek and Kinzarof Lagoons for subsistence waterfowl harvest, with contemporary uses reported by residents of King Cove and Cold Bay (see Tables 6 and 7). Thus, King Cove and Cold Bay are most likely to experience direct effects on resource availability as a result of the road corridor and land exchange. As discussed above, migratory birds are considered a resource of moderate importance in these two study communities, based on selected variables (Tables 1 through 5). At least one-third of households in these communities engage in subsistence waterfowl hunting. Migratory birds are an important resource in the other study communities; however, these communities do not report recent uses of the project area for this activity and would therefore be unlikely to experience direct impacts on resource availability. As discussed in Section 2.2.1.1, key migratory bird subsistence species include black brant, Canada geese, teal, mallards, pintails, scoters, ptarmigan, and gull eggs. Emperor geese were traditionally harvested by the study communities, but in recent years harvests are limited. Harvesting of migratory birds occurs in September and October, with some harvests occurring as late as mid-December and in spring (refer to 2024 Draft SEIS, Section 3.7.2).

Road construction and operation could affect the availability of birds and eggs to subsistence users by causing skittish or avoidant behavior in birds, affecting waterfowl habitat and distribution, and increasing competition for these resources along the road corridor. Noise from construction activities, vehicle traffic, and human activity (including hunting and recreational activities) could cause waterfowl to act skittishly, choose habitat farther from the road corridor, avoid the road corridor altogether, or, in the case of short-term loud noises (e.g., gravel blasting/mining), abandon their nests altogether. Increased skittishness and avoidant behavior may make waterfowl less available to hunters, particularly along the road system during peak hunting periods.

Additional factors which could affect the distribution of waterfowl populations include habitat loss and human disturbances. Specifically, for species like cackling (Canada) geese, which forage on berries in tundra zones, the reduction of berry-producing vegetation due to construction and unauthorized all-terrain vehicle use could affect foraging opportunities in upland areas and reduce the availability of these species along the road corridor. Increasing human disturbance and human activity around Izembek and Kinzarof Lagoons could further exacerbate the situation by reducing food intake for Pacific black brant and other waterfowl. These disturbances may interrupt foraging or displace Pacific black brant and other waterfowl from feeding areas. If the road alters waterfowl distribution as a result of changes in the location of suitable habitat, residents may experience reduced hunting success in traditional harvesting areas. During public comments on the 2024 Draft SEIS and on the 2025 draft ANILCA Section 810 analysis, local residents noted that many migratory birds, including black brant, tend to remain near lagoons and do not travel inland toward the road corridor (Service 2025b). In addition, individuals noted that while there are roads and human disturbances (e.g., air traffic) near important waterfowl feeding grounds in Izembek Lagoon, residents have not observed “any adverse effects on the bird

population” from potential disturbances (Service 2025b), including in the past when military and associated human, sport hunting, and air traffic activity was substantially higher (Service 2025f).

As with caribou, the road would increase access for subsistence users to the project area in addition to areas on either side of Cold Bay (e.g., King Cove residents may travel to Izembek Lagoon to hunt waterfowl more frequently). The road would also increase access to Kinzarof Lagoon, already an important subsistence use area, for Cold Bay and King Cove residents. The increase in waterfowl hunting in these areas could result in increased availability for local residents, but would also increase competition for subsistence resources both between residents of King Cove and Cold Bay, and also between subsistence users from those communities and non-local hunters. Izembek and Kinzarof Lagoons are known as concentrated subsistence use areas for waterfowl harvesting by residents of King Cove, False Pass, Cold Bay, and Sand Point, although more recent studies do not show uses of this area by False Pass and Sand Point.

Cold Bay is a popular destination for sport hunting of migratory birds, with an estimated 1,125 hunting visits (days) in 2010, occurring primarily between September and October. Therefore, the Cold Bay area has a high potential for increased conflict and competition between subsistence users and sport hunters. Many local residents have expressed concern about the impacts of sport hunting on their waterfowl hunting success (Service 2025b, 2025f). Many individuals participate in guided hunts to Izembek Lagoon, which require special use permits (2024 Draft SEIS, Section 3.3.6.1). It is possible that the road will result in more sport hunting within the Refuge, particularly in the Kinzarof Lagoon area, although it is less likely that the road will substantially increase overall visits to Cold Bay by non-local hunters. Thus, while overall harvests by sport hunters may not increase, the distribution of waterfowl harvests and human disturbances may expand, and local residents may experience increased competition and reduced availability within traditional harvesting areas in Kinzarof Lagoon.

A study on Pacific black brant disturbances from the mid-1980s found that hunting caused an average of 0.06 disturbance events (behavioral responses including increased vigilance and fleeing) per hour within Izembek Lagoon (Ward et al. 1994). An average of 90 percent of individual birds in disturbed flocks had a flight response, with an average flight duration of over 1 minute. The disturbance data were collected at a time of low human activity at Izembek Lagoon, and therefore it is likely that disturbance levels are substantially higher today (Service 2025g). In recent years, there has been a threefold increase in commercial hunting in Izembek Refuge (Service 2025h), which may be in part due to the addition of a new Cold Bay guide service operation in 2021 (increasing the number of guides from three to four) and a general increase in participation in outdoor recreation nationally (Service 2025h).

The increase in commercial activity has likely translated to an increase in the number of disturbance events for brant within Izembek Lagoon and may continue to increase if commercial hunting trends continue upward. The number of disturbance events within Izembek Lagoon may also increase as a result of increased visits to the lagoon by King Cove hunters due to the road. While the road may not increase overall activity in the region, it may concentrate more hunting and disturbances within Izembek and Kinzarof Lagoons. In addition, the road may increase access by sport hunters farther east into areas more frequently used by King Cove hunters around Kinzarof Lagoon; this could increase competition and disturbances, and reduce harvest success, for King Cove migratory bird hunters.

Increased human activity along the road corridor could cause waterfowl to become skittish or avoidant, particularly as a result of increased hunting pressure, thereby resulting in reduced harvest success for hunters in certain circumstances. This behavioral change could lead to reduced harvest success for hunters, because waterfowl may be more difficult to approach or may leave the area entirely during peak hunting periods.

Collection of bird eggs is another traditional subsistence activity in the project area. Gull eggs are the most commonly collected species but are harvested in relatively small numbers, particularly among Cold Bay residents; thus, the likelihood of the project affecting the availability of eggs to local subsistence users is relatively low unless there are large-scale changes in nesting patterns.

Ptarmigan is a common year-round resident of the Refuge and is a significant subsistence resource for many local communities. Most current uses of the project area for ptarmigan hunting are by King Cove and Cold Bay, and upland birds are a resource of low (Cold Bay) to moderate (King Cove) importance in these communities, although in Nelson Lagoon and False Pass they are considered a resource of high importance, with large numbers of households hunting and sharing upland birds. The harvest season for ptarmigan typically spans from August to February. Residents increase their harvest of upland birds at the end of the waterfowl season. Recent upland bird hunting areas for King Cove and Cold Bay do not overlap with the proposed road corridor.

Construction and operation of the road under the 2025 Proposed Land Exchange could result in direct mortality from vehicle strikes, habitat loss due to construction, disruption due to heavy equipment and construction noise, and increased human access leading to potential overharvesting along the road corridor. While these impacts could reduce the availability of ptarmigan directly along the road, residents would likely continue to harvest ptarmigan in current subsistence harvesting areas closer to their communities.

Fish

According to the 2024 Draft SEIS, Section 4.7.2.3, many of the road-stream intersections occur in waterways that support spawning and anadromous fish species, which are critical for the subsistence practices of local communities. Construction and operation of the road could divert, displace, or obstruct fish movement, thereby affecting their availability to subsistence users downstream. As discussed above (and in 2024 Draft SEIS, Section 2.4.1.2), more recent fishing by the study communities does not occur in streams crossed by the road corridor; rather, fishing occurs near the communities of King Cove and Cold Bay, within the marine waters of Cold Bay (including Kinzarof Lagoon in the case of King Cove) and near the mouths of streams on the west side of Cold Bay. Thus, a majority of impacts to the resource availability of fish would be indirect.

It is possible that access to the road would increase fishing activities in streams along the road system, thus reducing their availability within that area; however, according to representatives from King Cove, the likelihood of overharvesting by local residents is low, as the communities already have “excellent fishing resources” closer to them (refer to 2024 Draft SEIS, Section 4.7.3.7). If non-local subsistence users come from other rural areas of Alaska, they may use the road to access fishing areas, and it is possible those uses could affect the availability of fish resources downstream for local subsistence users. According to the 2024 Draft SEIS (Section

3.3.6.1), non-local uses of the Refuge for fishing are less common than for waterfowl, partly because of the lack of access and because easily accessible productive fishing streams (e.g., Russell Creek, Frosty Creek, Trout Creek) are available outside the Refuge.

Because the road commonly intersects streams, culverts and other drainage structures would be prevalent across the watershed. The proposed road would generally cross the upper portions of stream reaches that flow into Kinzarof Lagoon, and therefore direct impacts to fish movement would be most likely to affect species, including salmon species that use these upper reaches. Installation of the culverts would require temporarily redirecting flow, placing gradient control structures, and stabilizing stream banks. The installation of culverts would be permanent flow control structures for the life of the road. Culverts will likely degrade over time and require repair and ongoing maintenance. Without proper upkeep, culverts could become blocked by both natural and human debris and/or may structurally fail, ultimately impeding the flow of water and passage of fish. Impacts to fish movement could potentially affect the availability of fish upstream or downstream from culverts.

If the road results in changes in fish distribution or the timing of fish migrations, then subsistence users could experience reduced fishing success in certain areas such as the mouths of streams located downstream from the road. In the case of the proposed road corridor, this would be most likely to occur for subsistence users fishing for salmon in Kinzarof Lagoon.

Subsistence users may avoid harvesting fish downstream from the road, particularly in areas affected by gravel mining activities, fuel spills, and dust deposition. Contamination or perceived contamination can affect subsistence resource availability, as residents may reduce their consumption of a resource if they fear it is unsuitable for consumption.

Furbearers and Small Land Mammals

While furbearers and small land mammals are characterized as a resource of low importance in the study communities due to relatively low participation and harvest levels, trapping and hunting of these resources remains an important cultural activity for the communities. The harvest season for red fox spans from September to February, for wolves from August to March, and for wolverines from September to March; overall, a majority of harvest effort for furbearers occurs from November to March (refer to 2024 Draft SEIS, Section 3.3.7.2). Residents also occasionally harvest small land mammals such as Arctic hare and porcupine, although harvests have declined over time. Furbearing and small land mammal species primarily inhabit upland areas and tundra ecosystems and are important to the subsistence economy and cultural practices of the local residents. Recent mapping data for King Cove show no direct subsistence use area overlap with the project area of small land mammals, although historic use areas do overlap with the corridor and occur over a much larger area. Cold Bay use areas for small land mammals overlap with the western portion of the road corridor.

The road and associated construction noise and traffic may affect the availability of furbearers and small land mammals by causing avoidant or skittish behavior. Furbearers are likely to avoid areas with increased levels of human activity, noise (e.g., mining, heavy equipment), and traffic. Residents with existing traplines or hunting areas in the vicinity of the proposed road corridor may experience reduced success as a result of this avoidant behavior. These impacts would be most likely to occur during winter construction activities.

Road construction and operation may also result in direct mortality through vehicle strikes, increased harvest pressure, and loss of tundra habitat for small land mammals including tundra hares and porcupine. The road may increase access to potential trapping and hunting areas, thus increasing the availability of these resources to some hunters; however, overall harvests of these resources are not expected to rise substantially as a result of the road.

Vegetation

Potential impacts on the local abundance of vegetation due to direct removal of habitat are discussed above (see Section 2.2.1.1). In addition to direct removal of vegetation, impacts to resource availability may occur as a result of fugitive dust, accidental spills, and increased competition in plant and berry-picking areas. While recent subsistence use data show relatively limited use of the project areas for vegetation, access to the road corridor would likely increase the use of the area for berry and wild plant harvesting. In addition, residents from King Cove and Cold Bay would have increased access to opposite sides of Cold Bay, potentially introducing new competition into existing berry and plant harvesting areas. Because of the impact of fugitive dust on the health and quality of the vegetation, residents may avoid harvesting berries and plants at a distance greater than the footprint of the road corridor. Spills from vehicles along the corridor may also reduce harvestable vegetation in the direct vicinity of the road.

2.2.1.3 Subsistence User Access

The proposed action could impact subsistence user access through changes in land management; physical obstructions to overland travel; security restrictions during construction; and increased access to traditional subsistence harvesting areas.

The land exchange would result in KCC conveying a range of between 1,500 and 1,739 acres of surface estate of privately owned land (located at/composing the entrance to Kinzarof Lagoon) to the federal government to be administered by the Service. On conveyance, those lands would be subject to federal subsistence management; therefore, KCC would no longer have the jurisdiction to restrict access for non-shareholders. Conveyance of those lands out of private ownership and into federal management may result in increased competition for subsistence resources, both among subsistence users and between subsistence users and sport hunters (see Section 2.2.1.2). The increase in physical access to these areas for non-local residents, discussed below, could compound these impacts. However, while conveyance out of private ownership may increase the number of subsistence users and sport hunters who can hunt and harvest on these lands, these impacts could be offset at least in part by the gain in federal subsistence priority which could increase user access (e.g., longer seasons, higher bag limits) to subsistence resources for rural subsistence users, including from the five subsistence study communities.

Federal subsistence management provides a priority for harvesting subsistence resources on federal lands to rural Alaska residents. When there is a customary and traditional use determination for specific communities or areas, only residents of those communities and areas have a federal subsistence priority for that species in that unit and are eligible to hunt or trap under these regulations. If a customary and traditional use determination for a species has not been made, then all rural residents of Alaska may use that species in that unit. Federal subsistence harvesting regulations may differ from state harvesting regulations by allowing for higher harvest limits or longer harvesting seasons, or by limiting harvests to communities with

customary and traditional use determination. Thus, the gain in federal subsistence priority could increase access for subsistence users during certain seasons and for certain resources.

Not all of the lands in the area proposed to be conveyed to the federal government are used by all five communities, according to the subsistence use area maps displayed in Section 3.3.7 of the 2024 Draft SEIS. However, four of the five study communities (Cold Bay, King Cove, False Pass, and Sand Point) show historic uses of these lands. Recent (2016–2017) uses of the Kinzarof Lagoon parcels include hunting of waterfowl (King Cove); some hunting of caribou, small land mammals, and ptarmigan by Cold Bay residents on the western side of the parcels; and fishing for salmon in waters adjacent to the parcels (2024 Draft SEIS Figures 3.3-16, 3.3-17, 3.3-21, and 3.3-22).

Additionally, historic uses (1960–1982 for King Cove, Cold Bay, False Pass; 1995 for Sand Point) of the lands proposed to be conveyed to the federal government include the hunting of caribou (King Cove, Cold Bay, False Pass, Sand Point) and birds (King Cove, False Pass, Sand Point); harvesting of vegetation (False Pass); and harvesting of freshwater fish (King Cove), salmon (King Cove), marine fish (King Cove, False Pass), and marine invertebrates (King Cove) in waters adjacent to the parcels.

In exchange for up to 1,739 acres of surface which would be conveyed into federal ownership, 490 acres of lands (484 acres surface and subsurface estate) surrounding the road corridor would be exchanged out of federal ownership under the 2025 Proposed Land Exchange. These lands have traditionally been an important subsistence use area for the five study communities of King Cove, Cold Bay, False Pass, Nelson Lagoon, and Sand Point, with more current uses limited primarily to the communities of King Cove and Cold Bay. Once in private ownership, these lands would no longer be subject to federal subsistence management and would lose federal subsistence priority. However, adjacent lands to the road corridor would remain under federal subsistence management and given the public use provision of the proposed road, there would be no appreciable loss of lands with federal subsistence priority. Rather, the public road would increase access to lands with federal subsistence priority. In addition to the acres conveyed into federal ownership, KCC would relinquish its selection rights under ANCSA to 5,430 acres located within the Refuge on the east side of Cold Bay. These lands would remain under federal subsistence management.

Overall, the land exchange would increase the number of lands subject to federal subsistence priority, which could improve subsistence user access/availability through higher bag limits and longer harvest seasons. However, it may also increase competition for federal subsistence users on these same lands because under federal management (as opposed to KCC management), other rural subsistence users who are not KCC shareholders may also hunt on the lands. These impacts would be less likely for resources like the SAPC, because hunting on federal lands is currently limited to federally qualified (rural) subsistence harvesters with customary and traditional use determinations for caribou in Unit 9D.

Communities most likely to experience the direct effects of the land exchange would include those with more current uses of the exchanged parcels. Therefore, the communities of Cold Bay and King Cove could experience both positive and negative changes in subsistence management on these lands that could affect hunting of caribou, waterfowl, small land mammals, and ptarmigan; harvesting of plants used for subsistence; trapping; and harvesting of fish. These changes would include the federal subsistence priority applying to more lands (which could be

implemented through means such as longer seasons and higher bag limits for certain users); and a decrease in the ability of KCC to control hunting and harvesting on the parcels by non-KCC shareholders in key subsistence areas near Kinzarof Lagoon, including some federally qualified subsistence users.

Negative effects from construction on subsistence user access are anticipated to result from construction of a single-lane gravel road in an area where four of the five study communities show current and/or historic use. Anticipated activities associated with construction of a road include but are not limited to excavation, establishment of 15 mining sites for the purposes of gravel extraction, mining of materials, crushing/processing materials, hauling materials, clearing, conducting cut-and-fill activities, installation of culverts, gravel placement, water withdrawal, water diversion, heavy equipment operation, noise, human activity, vehicle traffic, and fuel or other contaminant spills. A 30-person workforce for construction and administration is estimated to be necessary for construction of the road. Construction is proposed over a period of two construction seasons. The workforce is anticipated to be composed of some local residents from King Cove and/or Cold Bay; however, a temporary increase in local population is anticipated as a result of bringing construction workers into the project area from outside the region. Workforce schedules and policies would determine whether there is potential for increased competition for subsistence resources between residents of the study communities or other federally qualified subsistence users and the construction crew. However, it is reasonable to foresee some increase in visitation to the Refuge would occur, as well as some participation in hunting and fishing activities by the workforce and non-federally qualified subsistence users. If increased competition occurs, it would be anticipated to be low. Impacts to user access may also occur during construction as a result of security restrictions around construction areas and physical obstructions (e.g., gravel pits and laydown areas) to overland travel.

During operation of the road and during construction, residents could experience increased access to subsistence harvesting areas. The road corridor would increase subsistence user access by creating new access points along the road corridor from which residents could access areas of Izembek Refuge and East Izembek Wilderness that are currently less frequently used and more challenging to reach, particularly those between Izembek and Kinzarof Lagoons. These areas are already open to the public for subsistence uses; however, they are not as frequently accessible due to their distance from established, designated roads/trails. The increased access would provide local communities with greater opportunities to use these areas for subsistence activities.

Increased access along the road corridor would be most beneficial for accessing harvest areas for resources that are less available closer to one's community. For example, while caribou is an important resource to King Cove residents, residents must travel substantial distances to access areas where caribou are present. This has been particularly true in recent years, as residents have reported a change in caribou distribution. In comments on the ANILCA Section 810 analysis for the 2024 Draft SEIS, King Cove residents reported having to travel farther to access caribou hunting areas, with some traveling as far as Morzhovoi Bay and False Pass. These residents noted that increased access from the road would "help preserve culture and the ability to continue living in the region" (Service 2025f). Furthermore, commenters on the 2024 Draft SEIS noted that the road would help restore access to subsistence harvesting areas that were traditionally accessed prior to establishment of the Refuge. Many residents view the Refuge as limiting access to traditional use areas (Service 2025b, 2025c).

While the road would increase access for residents of King Cove and Cold Bay, it could also lead to changes in subsistence use patterns and increase local competition between and among the study communities, in addition to increasing access for non-local residents for hunting and fishing. Potential increases in harvester competition are discussed in Section 2.2.1.2.

Residents may use the road to access waterfowl and salmon harvesting areas near Kinzarof Lagoon, and to hunt migrating caribou when caribou harvest is allowed. King Cove and Cold Bay both show use of Kinzarof Lagoon for subsistence uses, particularly for waterfowl. Residents could travel along the roadway by vehicle, all-terrain vehicle, or snowmachine, hunting/harvesting in areas directly along the roadway or traveling to harvesting areas off of the roadway, either by foot or by using unauthorized modes of travel such as all-terrain vehicles. At present under ANILCA Section 811, allowed subsistence access to this area includes boat, foot, snowmachines, or other surface transportation means traditionally used. Today, use of all-terrain vehicles is prohibited within the Refuge except on established roads and trails.

The recent construction of the road from the community of King Cove to the Northeast Terminal (for operation of the hovercraft) expanded opportunities for King Cove residents to access Izembek Refuge and Izembek Wilderness by all-terrain vehicle, along the eastern side of Kinzarof Lagoon and to the west of Joshua Green. While the 2024 Draft SEIS discussed standard guardrails along the road corridor as potential mitigation under Alternative 6 in the 2024 Draft SEIS to prevent off-road travel, such mitigation is not included under the proposed action. Therefore, residents may use the road corridor as a jumping off point for overland travel or cross over the road while using existing all-terrain vehicle trails. As discussed in Section 3.3.7.3 of the 2024 Draft SEIS, use of all-terrain vehicles within the Refuge, particularly in an overland area east of Kinzarof Lagoon, has become increasingly common since construction of the road from King Cove to the Northeast Terminal, despite the Service prohibiting use of all-terrain vehicles except on established roads and trails. These all-terrain vehicle trails, which are likely used primarily by King Cove residents, extend from the existing road to Kinzarof Lagoon area, and the proposed road alignment would bisect some of the trails.

The road may serve to increase the current network of unauthorized all-terrain vehicle trails. However, it is also possible that the presence of the road will reduce the frequency and extent of all-terrain vehicle travel in the Refuge. In 2015, the community of Nuiqsut, Alaska, became connected to an industrial road system for nearby oilfields. The road system has expanded since 2015, and Nuiqsut caribou hunters have access to the road for caribou hunting. Use of the road system has increased steadily, with nearly 80 percent of households using roads for hunting in 2022. While the road system has become a primary hunting area for Nuiqsut hunters, there has been a decrease in overland all-terrain vehicle travel directly west of the community. While some residents travel off the road by all-terrain vehicle to hunt caribou, many travel solely by road vehicle and hunt caribou only when available within walking distance of the road corridor. Thus, it is possible that the proposed road corridor may reduce residents' reliance on existing unauthorized all-terrain vehicle trails within the Refuge. While it is likely that some new trails will be established in order to access key hunting or harvesting areas located at a distance from the road, it is also likely that certain trails, particularly in areas of rough terrain and in the vicinity of the proposed road corridor, will see less use as a result of the more easily navigable road system.

Continued access to established trails where subsistence use of vehicles has been allowed near the community of Cold Bay would likely continue unless off-road use of vehicles is determined

to be causing or likely to cause unacceptable impacts to Refuge resources. The road may result in the expansion of use areas for Cold Bay residents.

In addition to increasing access to subsistence use areas along the road system, the newly constructed road corridor would connect the communities of Cold Bay and King Cove, increasing inter-community travel and providing residents of King Cove with access to existing designated roads, trails, and other existing infrastructure in the Cold Bay area, such as the Izembek Lagoon boat launch. Both Cold Bay and King Cove conduct subsistence activities on opposite sides of Cold Bay. King Cove in particular engages in subsistence hunting and harvesting around the community of Cold Bay and around Izembek Lagoon, which is accessible via roads connected to Cold Bay. Traditionally, King Cove accessed these areas by crossing Cold Bay by boat (refer to 2024 Draft SEIS, Section 4.3.3.7). The road would provide access for King Cove residents to the Cold Bay area, including the existing road and trail network near Cold Bay, and to areas less frequently accessed by them, such as West Izembek Wilderness. The proposed road corridor would also allow the KCC lands to be more easily and frequently accessed.

Conversely, the road corridor would allow Cold Bay residents access to the community of King Cove. Cold Bay uses of the east side of Cold Bay include recently documented marine invertebrate and salmon harvesting activities in the vicinity of King Cove. The increase in inter-community travel could also increase inter-community competition between the communities of King Cove and Cold Bay in certain areas; this would be particularly likely for Cold Bay residents due to their smaller population and the potential for increased activity from the community of King Cove (see Section 2.2.1.2). Because Cold Bay already experiences competition in the form of sport hunting and fishing in their area, the increase in King Cove harvesting activity may add a moderate amount to existing competition levels.

As discussed above, both communities currently report uses on opposite sides of Cold Bay; so, while the road would not introduce inter-community competition, it would likely increase the frequency and extent of such competition. The increase in competition would most likely occur for resources that are not readily available closer to the study communities. For example, King Cove residents will most likely use the road to access caribou and waterfowl hunting areas along the road or in the Cold Bay area, as these resources are not as readily available close to King Cove. Furthermore, subsistence users in both communities will likely only travel as far as necessary to conduct subsistence harvesting activities. Thus, the increase in subsistence activity will be most likely to occur along the road corridor itself.

2.2.2 Evaluation of the Availability of Other Lands for the Purposes Sought to be Achieved

The 2025 Proposed Land Exchange is for an exchange of interests in lands pursuant to Section 1302(h) of ANILCA, 16 U.S.C. 3192(h). This section of ANILCA authorizes the Secretary of the Interior to exchange lands (including lands within conservation system units) for the purposes of ANILCA. The proposed action is for KCC to convey the surface of certain lands in the vicinity of Kinzarof Lagoon in an equal value exchange for lands that would provide KCC with a road corridor that allows for the construction, and operation of a long-term, safe, reliable, and affordable year-round road between the City of King Cove and the all-weather airport at Cold Bay.

Due to the existing topography and land ownership patterns in the area, the Service has determined that there is no feasible road corridor between King Cove and Cold Bay that could

entirely avoid federal public lands used for subsistence. This means that any road construction in this area would impact federal public lands used for subsistence activities, such as hunting, fishing, and gathering.

In addition, the Service is not aware of any alternatives that would achieve an equal value land exchange that meets the purposes of ANILCA and provides KCC with a means to provide residents of King Cove a reliable and affordable year-round transportation to the all-weather airport at Cold Bay. The previous preliminary ANILCA Section 810 analysis evaluated a proposed action with that was not an equal value exchange and employed a narrow interpretation of ANILCA's purposes that excluded the economic and social well-being of the State of Alaska and its people. The alternatives evaluated during that process are addressed in the next section.

2.2.3 Evaluation of Other Alternatives That Would Reduce or Eliminate the Use, Occupancy, or Disposition of Public Lands Needed for Subsistence Purposes

The Service has evaluated multiple alternatives through past planning and environmental review processes for a proposed land exchange. These include:

- **Alternative 1.** Alternative 1 is the no action alternative. See Section 2.1.
- **Alternatives 2 and 3.** Alternatives 2 and 3 were for a land exchange between the federal government, State of Alaska, and KCC pursuant to a different authority that has expired. The State is no longer offering to enter into these exchanges and these alternatives are no longer feasible.
- **Alternatives 4 and 5.** The 2024 Draft SEIS considered two action alternatives (Alternatives 4 and 5) which propose the use of marine transportation and allow for a transportation route between King Cove and Cold Bay without the need for a land exchange, and therefore new use of federal public lands. A preliminary ANILCA Section 810 analysis of the impacts of these two alternatives on subsistence uses was provided in Appendix D of the 2024 Draft SEIS and is not evaluated further here.
- **Alternative 6.** Alternative 6 in the 2024 Draft SEIS proposes a southern road alignment that is largely identical to the road corridor in the 2025 Proposed Exchange. The main difference is with the lands that KCC would convey or otherwise provide (through the relinquishment of selection rights) to the United States and in the use that could be made of the road corridor. Alternative 6 did not propose an equal value exchange and does not meet the purpose of this proposal. In addition, Alternative 6 has evolved into the current 2025 proposal by KCC and it is clear that KCC is no longer interested in pursuing Alternative 6. The Service considers Alternative 6 to no longer be a viable alternative. Nevertheless, its impacts on subsistence uses were evaluated in the preliminary ANILCA Section 810 analysis in the 2024 Draft SEIS (Appendix D) and hearings were held on that proposal. Thus, it is not evaluated further here.

2.2.4 Findings

The 2025 Proposed Land Exchange would not result in a significant restriction to subsistence uses for the communities of Cold Bay, King Cove, False Pass, Nelson Lagoon, or Sand Point. These findings are based on multiple factors including biological data and findings, the 2024

Draft SEIS, harvest and subsistence use area information, resource importance metrics, and traditional knowledge.

This is based on the following findings:

- Direct and indirect effects of the proposed road corridor are unlikely to result in a large reduction in the SAPC caribou abundance or availability for local subsistence users. The proposed road corridor would remove important feeding and wintering habitat and would segment the Izembek isthmus into two sections. Loss and displacement of caribou from feeding grounds could affect body condition, reduce winter survival, and affect reproduction. However, the direct and indirect effects of the road would not be likely to cause a large reduction in caribou abundance for the five study communities. In addition, while road construction and operation would likely affect caribou behavior and distribution around the road corridor, effects to resource availability would be offset by increased access to key hunting grounds for this resource, particularly for the community of King Cove, but also Cold Bay which has seen a decrease in caribou migration into their immediate area in recent years. Caribou are a resource of moderate to high importance in the five study communities.
- Direct and indirect effects of the proposed road corridor are unlikely to result in a large reduction in migratory bird abundance for subsistence users. Key species of concern are black brant and emperor geese, neither of which would experience substantial direct impacts to habitat due to the inland location of the road. Emperor geese are harvested in limited quantities by the study communities, and therefore effects on emperor geese populations would not result in a large reduction in the abundance of migratory birds for the study communities. Black brant are a key migratory bird species for King Cove, Cold Bay, and False Pass; while there may be some changes in local abundance as a result of increased access by sport hunters and indirect effects on habitat, overall population levels of black brant are unlikely to decrease substantially as a direct or indirect result of the road. Local residents note that existing roads, sport hunting, air traffic, and human activity around Cold Bay and Izembek Lagoon have not had an observable negative effect on migratory bird populations or behavior to date. Finally, while road construction and operation would likely affect migratory bird behavior and distribution around the road corridor and near Kinzarof Lagoon, there would not be a major redistribution of resources, and effects to resource availability would be offset by increased access to key waterfowl hunting grounds in Kinzarof Lagoon.
- Direct and indirect effects to fish availability and abundance would be localized to the streams crossed by the project, primarily within the Kinzarof Lagoon watershed. Although most fish resources, including salmon, are of high importance to the study communities, because a majority of fishing for local study communities occurs outside the project area (see Tables 6 and 7), impacts to fish populations or availability would not result in a large reduction in their abundance or availability (i.e., major redistribution of resources) to subsistence users.
- Direct and indirect effects to furbearer and small land mammal availability and abundance would be localized, and therefore there would not be a large reduction in abundance or a major redistribution of resources for subsistence. Road construction and operation may result in direct mortality through vehicle strikes, increased harvest

pressure, and loss of tundra habitat for small land mammals including tundra hares and porcupine, but these would not cause overall reductions in their population levels. The road may increase access to potential trapping and hunting areas, thus increasing the availability of these resources to some hunters; however, overall harvests of these resources are not expected to rise substantially as a result of the road. Recent Cold Bay use areas for furbearers and small land mammals overlap with the western portion of the proposed road corridor, while recent King Cove use areas for furbearers and small land mammals do not overlap. Furbearers and small land mammals are resource of low importance in all five study communities.

- Direct and indirect effects to vegetation availability would be primarily localized to the road corridor. Construction activities and traffic along the road would result in a permanent loss of vegetation habitat along the road corridor and potentially introduce invasive species to these areas, potentially threatening the ecological balance and the availability of native plants and berries to subsistence users. The proposed action would take several steps to minimize the chance for introducing or spreading invasive species. While vegetation resources are of high importance to local communities, direct effects would be limited. Recent King Cove use areas for vegetation overlap with the eastern terminus of the proposed road corridor, while recent Cold Bay use areas for vegetation do not; no other study community has recent uses of the road corridor for vegetation harvesting. Because a majority of vegetation harvesting by the study communities does not occur in the project area, the removal of vegetation in these areas would not be likely to affect the overall abundance of vegetation for subsistence users.
- Public access to the road will likely increase competition for certain resources, such as migratory birds, particularly between subsistence users and sport hunters. However, these impacts would be additive to existing impacts of sport hunting in the region and therefore are not expected to be significant enough to cause a major increase in the use of those resources by non-subsistence users. Within the Refuge, caribou hunting is currently by Federal registration permit only, and therefore an increase in direct competition with sport hunters for caribou along the road corridor is unlikely at this time. The road would not be likely to substantially increase the overall number of sport hunters traveling to Cold Bay to hunt waterfowl or caribou, and therefore while the road may increase competition for migratory birds in certain areas along the road corridor, this change in competition would be unlikely to result in large reductions in resource abundance for subsistence users.
- The 2025 proposed road corridor would increase subsistence user access to traditionally used lands, helping to offset localized changes in abundance, availability, or competition. While some impacts to access may occur as a result of road construction or the land exchange, these impacts would not cause extensive interference with subsistence access.

2.3 Evaluation and Findings for the Cumulative Case

2.3.1 Evaluation of the Effect of Use, Occupancy, or Disposition on Subsistence Uses and Needs

The goal of the cumulative case analysis is to evaluate the incremental impact of the action in conjunction with all past, present, and reasonably foreseeable future activities in or near the

proposed road corridor and land exchange parcels. The cumulative impacts to subsistence resulting from the 2025 Proposed Land Exchange, when added to other past, present, and reasonably foreseeable future actions, could result in reduced harvesting opportunities for local residents and alterations in subsistence harvesting patterns. These impacts are discussed in detail below.

2.3.1.1 Past and Present Actions

Past and present actions that have affected subsistence and subsistence resources include:

- Infrastructure projects, including the construction of the Northeast Terminal and gravel extraction;
- Increased all-terrain vehicle access in Izembek National Wildlife Refuge and Izembek Wilderness;
- Increased sport hunting and fishing;
- Impacts of climate change;
- Changes to Migratory Bird Harvest regulations and seasonal closures for emperor goose and Pacific black brant; and
- Contamination remediation.

Many of these actions are ongoing and would continue into the future.

Subsistence, sport, and commercial activities are an existing source of noise and human disturbance within the Refuge. Unauthorized use of all-terrain vehicles within the Refuge has increased since the construction of the road from the community of King Cove to the Northeast Terminal (Service 2023b; refer to 2024 Draft SEIS, Section 3.3.7.3). While all-terrain vehicles have increased access to subsistence harvesting areas for local residents, they have also increased detrimental impacts to vegetation, wetlands, and anadromous streams and introduced greater levels of noise and disturbance within the Refuge. Other past and present activities in the study region include increased interest in outdoor recreation by sport hunters and commercial operators providing guide services for waterfowl hunting, sportfishing, and ptarmigan hunting. Interest has also expanded to commercial filming operations. The Service documented an increase in visitation to the Refuge between 2006 and 2010, although special use permits (e.g., for commercial hunting guides) have remained constant. While commercial guiding did not increase, there was an increase in people participating in non-consumptive (education and recreational) activities (Refer to 2024 Draft SEIS, Section 3.3.6.1). All of these uses have the potential to compete with federally qualified subsistence users for access and subsistence resources in the Cold Bay area, and more specifically on Izembek Refuge and Izembek Wilderness. Additionally, these uses have increased and expanded use and means of travel by all-terrain vehicles (Service 2023b), motorboats, aircraft, and foot travel in the area, which has led to increased disturbance of wildlife and observed changes in wildlife behaviors.

The U.S. Army Corps of Engineers has performed multiple contaminant remediation projects in the area since 1985, with the most recent cleanup project completed in 2022. Fort Randall was a World War II military installation in the Cold Bay area that encompassed aircraft runways, docking facilities, fuel storage tanks, fuel piping systems, and other support infrastructure. In

1944, Fort Randall was placed in caretaker status; it was ultimately closed and abandoned in 1950.

Other past and present actions in the study region include changes to regulation of hunting and harvesting activities that have the potential to impact subsistence users. Emperor geese experienced a severe population decline in the 1980s, which resulted in a total ban on hunting. After a period of gradual recovery, subsistence hunting was allowed again in 2017, during both the spring-summer and fall-winter seasons (Service 2023a). In 2025, the Service, based on recommendations of the Alaska Migratory Bird Co-Management Council, implemented a statewide closure on emperor goose (Service 2025i). The emperor goose population remains vulnerable due to its slow reproductive rate—geese do not begin mating until they are 3 years old, and only about 10 percent of goslings survive their first year (Service 2023a). Additional changes to harvest regulations for Pacific black brant have also occurred in the past and are implemented in accordance with the Pacific Black Brant Management Plan, which outlines a prescriptive harvest strategy that is broken down into four categories—Closed, Restrictive, Moderate, and Liberal—based on 3-year running average of the Winter Brant Survey index.

Climate change is an ongoing factor considered in cumulative effects analysis of the proposed alternative. Alaska is warming two to three times faster than the global average (Marvel et al. 2023). Climate change could affect the habitat, behavior, distribution, and populations of fish and wildlife in the project area. Impacts of climate change include changes in the predictability of weather conditions such as the timing of freeze-up and breakup, snowfall levels, variation in precipitation, storm and wind conditions, wave conditions, and ice conditions (e.g., ice thickness on rivers and lakes), all of which affect individuals' abilities to travel to subsistence use areas when resources are present in those areas. In addition, subsistence users may experience greater risks to safety when travel conditions are not ideal. Changes in resource abundance or distribution resulting from climate change can also affect the availability of those resources to subsistence users or may cause subsistence users to travel farther and spend more time and effort on subsistence activities.

Climate change has already had impacts on key migratory bird species within the Refuge. Emperor geese are arriving at wintering areas earlier and staying longer, with more now wintering closer to breeding areas in western Alaska, likely due to increased habitat availability from reduced ice cover in intertidal lagoons from shifting environmental conditions (Uher-Koch et al. 2021). There is also a growing frequency of Pacific black brant over-wintering at Izembek Lagoon in western Alaska due to these similar changing environmental conditions. In particular a greater proportion of the global population of Pacific black brant now spend the winter at Izembek, potentially as a result of climate change. Additionally, the loss of habitat due to construction activities, particularly the reduction of berry-producing vegetation, could adversely affect certain waterfowl species, such as emperor geese and cackling geese, which forage on berries in upland areas. The loss of these foraging opportunities could further strain waterfowl populations, compounding the impacts of increased human activity and habitat disruption on their overall health and survival.

Impacts to key subsistence resources resulting from climate change include a loss of foraging (lichen) habitat and loss of access to winter forage for caribou, a loss of foraging habitat and loss of access to winter forage for migratory birds, as well as changes in fish distribution and productivity due to loss of habitat and warmer temperatures.

2.3.1.2 Reasonably Foreseeable Future Actions

Reasonably foreseeable actions in the region that could contribute to subsistence impacts include the following:

- Future work for design of road—geotechnical/cultural/archeological surveys
- Changes in land management
- Changes in harvest regulations
- Gravel extraction
- Increased noise and human disturbance levels
- Replacement of culverts and bridges
- Cold Bay Dock construction
- Trout Creek Crossing Replacement
- Increased sport and commercial fishing
- Increased unauthorized use of all-terrain vehicles in Izembek National Wildlife Refuge
- Changes in Izembek National Wildlife Refuge Guide Use Areas
- Changes to Migratory Bird Harvest regulations and seasonal closures

The 2025 proposed land exchange and road corridor will introduce new sources of disturbance which, in combination with past, present, and reasonably foreseeable future actions, could contribute to effects on subsistence user access, resource availability, and resource abundance. The proposed action introduces a road corridor into an area that was previously undeveloped and used primarily for subsistence and recreational purposes. The five study communities all have subsistence resource use areas impacted by the project corridor, and these communities are rural, low-income, non-road-connected communities that rely on subsistence to support their mixed economy. In particular, Cold Bay and King Cove have recent subsistence use areas overlapped by the 2025 proposed land exchange and road corridor.

Future infrastructure projects, including future culvert and bridge replacement projects, and the Cold Bay Dock Infrastructure Replacement project, would contribute to existing noise, human disturbances, and barriers to movement throughout the region. Although the Cold Bay Dock Replacement project is not proposed to occur on Izembek Refuge, there could be cumulative impacts associated with construction of a new dock installation, barging and freighting materials, noise and pollution associated with operation of heavy equipment, as well as with construction activities such as but not limited to dredging and driving/installing/anchoring infrastructure during the period of construction. Mobilization of a work crew to the area for this and other reasonably foreseeable projects has the potential to impact subsistence users by increasing competition between non-residents/non-federally qualified subsistence users and subsistence users for resources such as caribou, fish, and migratory birds (see Section 2.2.1.1). Another potential cumulative impact may result from access and use of the proposed road corridor by non-local workers.

Public use of the road, in combination with the potential for increased off-road vehicle use of non-designated trails originating in Cold Bay and King Cove (from the road to the East

Terminal), would increase human disturbances within the Refuge and potentially increase hunting pressure on resources such as caribou and migratory birds. Impacts to federal lands outside of the project area may occur as a result of the increased access the proposed road corridor would provide to designated roads and trails originating from Cold Bay. Established roads and trails originating from Cold Bay do not have any type of fence or barrier to encourage all-terrain vehicles to remain on designated roads and trails and discourage unauthorized motorized use on surrounding habitats. While these designated roads and trails are already accessible from the community of Cold Bay, the proposed road corridor would improve this access and therefore has the potential to expand and increase the frequency of both authorized and unauthorized motorized use in these areas.

It is possible that construction of the road may reduce reliance on some existing unauthorized trails, thus reducing the overall frequency of off-road use, as residents will prefer the ease of use of the road over off-road trails; such patterns have been observed in other parts of Alaska (SRB&A 2024). However, it is also likely that additional off-road trails will result from construction and operation of the road corridor, and the extent of off-road trails will expand. Increased use and access, whether authorized or unauthorized, would lead to increased degradation of subsistence resource habitats, including impacts to anadromous streams and increased compaction or erosion of soils, and increased disturbance to wildlife.

Potential physical obstructions and habitat fragmentation (road and unauthorized trails); noise and increases in human presence generated by public use of the road for hunting, recreation, and commercial purposes; and unauthorized all-terrain vehicle access would all likely cause further displacement of wildlife species such as caribou, small land mammals, and waterfowl. Noise can displace wildlife and cause skittish behavior, resulting in reduced resource availability and harvest success for hunters. Visitation to the Refuge has increased over time, particularly for recreational and education purposes (refer to 2024 Draft SEIS, Section 3.36.1). Increases in human activity as a result of a road constructed in an area with limited access will alter wildlife behavior and potentially reduce their availability. Increases in human activity resulting from the road combined with increase interest in the Refuge will increase the frequency and likelihood of disturbances to caribou and migratory birds. The combination of these disturbances could result in altered movement patterns, avoidance of essential habitats, and increased stress on these species, potentially impacting their long-term health and population dynamics and reliability for subsistence hunters.

The ongoing impacts of climate change on subsistence would include increasingly unpredictable weather patterns; dangerous or unsuitable travel conditions (e.g., rough marine conditions); changes in the timing or location of resource migrations; and changes in the abundance, distribution, or health of subsistence resources (refer to 2024 Draft SEIS, Section 3.3.7.4). The proposed road corridors could cause both countervailing benefits and additive impacts to climate change effects. By providing land-based access to subsistence harvesting areas that are typically only accessible via boat or plane, the road would provide a countervailing benefit to increasingly difficult travel conditions in the region, particularly marine travel conditions. Residents of the region report increasingly unsafe travel conditions when traveling by boat, in addition to concerns about increasing fuel costs. However, the road may cause additive impacts in addition to climate change by causing further disruptions to resource movement and further reducing suitable habitat for fish, birds, terrestrial mammals, and vegetation (refer to 2024 Draft SEIS, Sections 4.7.2.4 and 4.7.2.5).

The SAPC is listed as a priority Resource of Concern for the Izembek National Wildlife Refuge (refer to 2024 Draft SEIS, Section 3.1.5.1), and the population of the herd remains below management objectives despite years of hunting restrictions and closures. Increased hunting pressure along the road corridor as a result of road access may affect herd composition and reduce herd stability in the future, particularly if hunting of the SAPC within the refuge is opened to non-federally qualified subsistence users. Further development of gravel mines would contribute to habitat loss, alteration, and fragmentation of SAPC migratory and winter ranges, which could affect the abundance and availability of caribou to some or all of the communities that depend on this species. The fragmentation of habitat would further remove usable habitat for caribou during migration and wintering along the Izembek isthmus, which could force substantial range shifts, increase competition for resources, or increase predation. These impacts, in combination with ongoing impacts of climate change on migration timing and forage quality, and ongoing sport hunting pressure on the herd (outside of the Refuge), could cause changes in SAPC distribution and migration such that there is a long-term adverse effect on the SAPC (refer to 2024 Draft SEIS, Section 4.7.2.5). Population-level impacts would extend to any community with a moderate to high reliance on the SAPC resource (Cold Bay, King Cove, False Pass, and Nelson Lagoon).

Migratory birds—particularly black brant and emperor geese—are another resource of concern for the Refuge. Because of the particular importance of the study region to certain bird populations such as Pacific black brant (see 2024 Draft SEIS, Section 4.3.2.4), impacts to the abundance or availability of these resources could extend outside of the study area to other regions of Alaska. For example, nearly all Pacific black brant feed in Izembek Lagoon and adjacent coastal areas during their spring and fall migrations, and approximately 40 percent now winter in the Izembek area (refer to 2024 Draft SEIS, Section 4.7.2.4). Emperor geese breed primarily in the Yukon-Kuskokwim Delta but use the project area as a spring and fall migration staging area and wintering area; Izembek Lagoon is one of seven primary staging areas along the Alaska Peninsula during these migrations (Pacific Flyway Council 2016a), where emperor geese feed on eelgrass and, in the fall, crowberries in beach and adjacent upland locations. Brant are also an important subsistence resource throughout western Alaska and the Arctic, breeding in the Yukon-Kuskokwim Delta and on the Arctic Coastal Plain, in addition to areas of Russia and Canada (Pacific Flyway Council 2018). While overwintering in Izembek Lagoon has become more common, black brant who breed on the Arctic Coastal Plain are more likely to overwinter in Izembek Lagoon than those who breed in the Yukon-Kuskokwim Delta. Birds who breed in the Yukon-Kuskokwim Delta may be more likely to winter farther south in locations such as Washington, California, and Mexico (Matsuoka et al. 2025). In addition to black brant and emperor geese, a majority of cackling geese use the Izembek Lagoon region as a staging area during their fall migration (Pacific Flyway Council 2016b), although spring sightings are less common. Cackling geese populations have shown an increasing trend since the 1980s (2024 Draft SEIS, Section 4.7.2.4).

Residents of the Yukon-Kuskokwim region, particularly the community of Hooper Bay, but also the communities of Chevak, Kipnuk, Paimiut, and Emmonak, in addition to farther removed communities such as Alatna and Allakaket, have expressed concerns about the road and its potential cumulative impacts on waterfowl, particularly Pacific black brant and emperor geese (Alatna Tribal Council and Evansville Tribal Council 2025; Chevak Traditional Council 2025; Chuloonawick Native Village 2025; City of Chevak 2025; City of Hooper Bay 2025; Native Village of Hooper Bay 2025; Native Village of Kipnuk 2025; Native Village of Paimut 2025;

Sea Lion Corporation 2025). The Yukon-Kuskokwim region is an important breeding ground for emperor geese, black brant, and cacklers, with all three also using the Izembek Lagoon area during their spring and/or fall migrations (Pacific Flyway Council 2016a, 2016b, 2018). These species have particular cultural, spiritual, and nutritional importance to many communities in the Yukon-Kuskokwim region (Native Village of Hooper Bay 2025), and traditional knowledge dictates that if geese are “treated in ways they do not like, they do not return” (Fienup-Riordan 1999).

A recent Alaska Department of Fish and Game household harvest survey for the 2021 study year showed that over one-third of Hooper Bay households used Pacific black brant and nearly one-quarter of households used emperor geese. Approximately two-thirds of households used migratory birds as a whole (ADF&G 2025). Compared to other regions of Alaska, recent studies (for the 2018 and 2019 study years) show estimated harvests in the Yukon-Kuskokwim region accounting for over half of all emperor goose harvests, approximately two-thirds of cackling/Canada goose harvests, and over one-third of brant harvests (Naves 2020, 2021). For all bird species, the Yukon-Kuskokwim region has the highest harvest of any region, with an average of 140,347 birds annually (ADF&G 2017) and accounting for approximately one-third of the total subsistence harvest of birds in Alaska (AMBCC 2018). Thus, the Yukon-Kuskokwim region may be particularly vulnerable to impacts on these species of birds if the cumulative impacts of the road corridor result in a substantial reduction in abundance or a major redistribution in resources.

Because of the particular importance of the project area to the life cycle of black brant and emperor geese, these are the species most sensitive to the cumulative effect of the 2025 Proposed Land Exchange and Road Corridor. When looking at the Yukon-Kuskokwim region as a whole, black brant contribute an average of 0.5 percent and emperor geese contribute an average of 0.06 percent of the total subsistence harvest for individual communities (ADF&G 2025).

Furthermore, these species generally account for an average of 4 percent of the total migratory bird harvest, although their contribution is higher (between 19 and 21 percent) in the coastal communities of Chevak, Hooper Bay, and Scammon Bay. Migratory birds, in general, do not typically represent a large proportion of edible foods in subsistence communities due to their relatively small size and the inability to harvest large numbers of the resource at once; instead, harvests of land mammals, fish, and marine mammals usually contribute the majority of subsistence foods. Despite this, migratory birds are a uniquely important subsistence species in many communities as they signal the arrival of spring and provide a welcome source of fresh meat after the long winter.

As discussed above (Section 2.2.1.1), there has been an overall decline in black brant populations in recent years which resulted in a more restrictive harvest management strategy in Izembek and Moffet Lagoons for the 2025–2026 hunting period (ADF&G 2025; AMBCC 2025). In the Yukon-Kuskokwim Delta, there has been a more long-term decline in the breeding black brant population, with a steady decline in the number of observed nests and the number of birds since around 2000. On average, there has been a 4 percent annual decline in nests in the five major breeding colonies between 1992 and 2018 (Wilson 2020), and photographic surveys show stable or declining numbers since the 1980s, except in 2025 which showed a potentially anomalous higher than expected number of birds (21,510) (Safine and Frost 2025). The count in 2024 of 9,595 birds resulted in an emergency closure in the region during the 2024 subsistence season.

While black brant numbers on the North Slope are more stable and increasing, they do not compensate for the decrease in breeding birds in the Yukon-Kuskokwim Delta.

Potential reasons for the decline in breeding birds in the Yukon-Kuskokwim Delta include a decline in foraging habitat which is further compounded by the declining population (i.e., a high population of birds is required to graze and maintain preferred habitat) (Uher-Koch et al. 2019; Flint and Meixell 2021). In contrast, forage quality conditions for geese on the Arctic Coastal Plain have improved as a result of subsidence and sedimentation (Tape et al. 2013). Goslings from the Yukon-Kuskokwim Delta may also have reduced survival rates due to lower body weights compared to goslings from the Arctic Coastal Plain, possibly due to differences in forage quality (Flint and Meixell 2021). Gosling weight can be a strong indicator of their survival during the first year. Reasonably foreseeable future actions that would impact migratory bird abundance or availability include authorized and unauthorized motorized access and associated human activity, habitat loss, gravel mining activities, and climate change. Increased human disturbance and hunting associated with a general upward trend in commercial hunting in the Refuge and increased access due to the road will likely result in increased disturbance events at Izembek Lagoon. High disturbance levels at Izembek Lagoon during the fall may result in displacement from habitat and cause birds in the area to burn more energy and spend less time storing fat reserves, which could possibly affect fall and winter survival, especially in young birds. Over time, these disruptions, in combination with the ongoing effects of climate change (e.g., changes in vegetation, changes in the timings of migration, loss of habitat due to increased erosion), may contribute to population declines or shifts in migratory patterns for certain species which could affect their abundance or availability for subsistence users both within and outside the region. Changes in migration and distribution have already been observed within the Refuge as a result of climate change. Emperor geese are arriving at wintering areas earlier and staying longer, with more now wintering closer to breeding areas in western Alaska, likely due to increased habitat availability from reduced ice cover in intertidal lagoons from shifting environmental conditions (Uher-Koch et al. 2021).

In the case of black brant, a resource of particular concern which is also an important migratory bird species for subsistence communities, climate change may result in a further increase in use of the Refuge by brant for overwintering. This could increase the likelihood of extreme events (e.g., icing events) that could have population-level effects, which would be compounded if the road causes increased disturbance and harvest pressure (refer to 2024 Draft SEIS, Section 4.7.2.4). This would be most likely to affect black brant who breed on the Arctic Coastal Plain, as they are more likely to overwinter in Izembek Lagoon; however, Yukon-Kuskokwim breeding brant, who are already facing population declines, may also increase their use of Izembek Lagoon to overwinter in the future. While the road corridor could cumulatively contribute to effects on migratory bird populations, the land exchange would increase the number of acres managed by the Service, and therefore the federal government will have the authority to manage hunting on those lands and could enact hunting regulations stricter than state regulations.

Reasonably foreseeable future actions that would impact fish availability or abundance include future infrastructure projects and additional unauthorized trails through wetland and anadromous waters. The road may result in the expansion of the unauthorized trail system within the Refuge. An increase in all-terrain vehicle trails could contribute to erosion of streams and degradation of fish habitat, thus affecting their availability within the project area. In addition, culverts on existing roads may fail due to blockages, corrosion, erosion, improper installation, excessive

loads, or natural wear over time, leading to compromised water flow and structural integrity. Failed culverts cause erosion, sedimentation, deposition of fill and sedimentation in anadromous waters, impacts to water quality and quantity, and impacts to fish and aquatic organisms that rely on this habitat. Culverts along the proposed 2025 road corridor are likely to experience similar degradation over time due to environmental factors and road use as well as similar logistical and budget constraints for timely and effective maintenance and repair. These cumulative impacts could contribute to impacts on fish habitat and affect the abundance and availability of these resources for subsistence users. Culvert replacements may require temporary road closures or detours, thus affecting access for subsistence users and increasing the likelihood of all-terrain vehicle use. In addition to culverts, additional infrastructure impacts such as the Cold Bay dock upgrades could contribute to impacts on fish habitat, particularly during construction periods. Climate change impacts, including changes in water temperatures, changes in water quantity and flow, and changes in marine habitats (e.g., changes in food availability and fish behavior) would also contribute to the cumulative impacts on fish habitats.

Unauthorized off-road travel also has the potential to cause ongoing and cumulative impacts to vegetation harvesting areas. Fugitive dust from the road and unauthorized all-terrain vehicles would reduce the overall area available to local communities for subsistence harvesting of berries and other plants. Use of the project area for vegetation harvesting is somewhat limited, as residents typically harvest these resources closer to their communities.

Increased sport or commercial hunting and fishing in the region may also contribute to the impacts of the road and land exchanges on the availability of certain resources, particularly waterfowl and caribou, for residents of the study communities. Data on visitations to the Refuge by non-locals show an increase in visitations between 2006 and 2010, although the increase in visitations was for non-consumptive uses (e.g., recreation, education) (refer to 2024 Draft SEIS, Section 3.3.6.1). Data from the Service (2025j) based on commercial guide client use reports indicate an increase in gamebird harvests over time, with reported harvests in 2024 at an all-time high (2,012 birds), and an increase in client use days since 2020 (Service 2025h). The bulk of harvests has shifted from emperor geese in the 1960s through the 1970s, to cackling geese from the 1980s through the mid-2000s, and more recently a shift toward harvests of black brant and ducks. It is unlikely that the road itself would draw new hunters to the region, but if there continues to be a trend of increased visitations and harvests in the Refuge, the road could increase the area of human disturbance for bird species, which can displace birds from foraging areas, increase energy expenditures, and reduce feeding time. Current rates of disturbances in the Refuge are relatively low, averaging less than one event per hour (Stillman et al. 2021).

The road will provide a countervailing benefit by increasing the area accessible to local subsistence users from Cold Bay and King Cove, as well as increasing opportunities for distribution of meat harvested by sport hunters to local communities. However, there will also likely be increased use of the road system by non-rural or non-resident hunters, thereby increasing competition in that area. Increased use of the road for recreational purposes (e.g., bird watching, sightseeing) is also likely to occur. The road and exchanged areas will allow for more access by the general public that may not have easily accessed these areas previously, thereby competing with the local users. Regulation of hunting would at least partially mitigate the impacts of increased hunter access on caribou and migratory birds. Increased access to the road area for non-local and sport hunters would likely have negative impacts to subsistence users by increasing competition for subsistence resources, increasing disturbances to wildlife, and

decreasing harvest success for local residents. While hunting of the SAPC within the refuge is restricted to federally qualified rural subsistence users, sport hunting of the SAPC is allowed on state lands outside of the refuge, and therefore continued or increased hunting of the SAPC may contribute to the impacts of the road on SAPC abundance and availability.

Changes in land management and harvest regulations could both positively and negatively affect residents' access to harvesting areas and the availability of subsistence resources through changes in bag limits and hunting seasons. Additional closures of other Refuge lands to subsistence use of all-terrain vehicles in the future would further reduce access for local subsistence users. If the road and land exchanges result in increased harvest of resources due to more accessibility or result in increased disturbance that impacts body condition, migration, and/or reproduction, harvest regulations on state, KCC, or federal (Refuge) lands may be altered to reduce bag limits for all users, including subsistence users, or to shorten hunting seasons. Harvest regulations regularly change in response to variations in resource populations. The increase in federal lands under the 2025 Proposed Land Exchange would help offset changes in hunting regulations by providing more areas where rural residents have a subsistence priority when federal seasons apply. Increased competition in some areas due to increased access and changes in land management (e.g., KCC lands becoming federal lands and accessible to non-shareholders; increased presence of King Cove harvesters in areas closer to the community of Cold Bay) could reduce harvest success for subsistence users of Cold Bay and King Cove, and for other study communities who use these areas for subsistence due to additional competition for resources by the general public. Although the road may create areas where competition for subsistence resources is high, the road would also increase access for subsistence users to previously difficult-to-reach important and traditional subsistence harvesting areas in Kinzarof Lagoon and on either side of Cold Bay, thereby offsetting some of the impacts of the road on competition and changes in resource availability. This increase in access could also result in increased disturbance to previous refugia that serves as vital undisturbed resting areas for key waterfowl species, resulting in indirect effects to subsistence resource availability.

The 2025 Proposed Land Exchange includes the conveyance from the federal government of lands that are proposed to be used for a road that will be located in an area that overlaps with key subsistence areas, which would lead to increased access for local residents to those areas while also leading to increased disruption of subsistence activities and subsistence competition. The cumulative impacts of the road construction, road operation and maintenance, and land exchange, along with other foreseeable developments and the effects of climate change, could lead to reduced resource abundance and availability for local residents and changes in subsistence harvesting and land use patterns, including increased access to traditional harvesting areas.

If the proposed action results in an overall reduction in resources such as caribou or migratory birds, subsistence users may have fewer opportunities to engage in subsistence activities and to pass on traditional knowledge, which is gained through active participation. This reduced engagement can hinder the transmission of Indigenous Knowledge to younger generations, particularly related to traditional land use, resource harvesting, and cultural practices. If the proposed action, in combination with past, present, and other reasonably foreseeable future actions, affect subsistence resource abundance, resource availability, or access to traditional lands, the loss of opportunities to actively practice subsistence could lead to a decline in the knowledge of place names, ecological practices, and cultural traditions, weakening the

intergenerational transfer of critical subsistence knowledge, particularly in reference to the affected species. Conversely, increased access to subsistence harvesting areas could encourage participation in subsistence activities and have positive sociocultural impacts on the study communities.

2.3.2 Evaluation of the Availability of Other Lands

The 2025 Proposed Land Exchange is for an exchange of interests in lands pursuant to Section 1302(h) of ANILCA, 16 U.S.C. 3192(h). This section of ANILCA authorizes the Secretary of the Interior to exchange lands (including lands within conservation system units) for the purposes of ANILCA. The proposed action is for KCC to convey the surface of certain lands in the vicinity of Kinzarof Lagoon in an equal value exchange of lands that would provide KCC with a road corridor that allows for the construction and operation of a long-term, safe, reliable, and affordable year-round road between the City of King Cove and the all-weather airport at Cold Bay and would provide the Service with additional lands to be incorporated within the Izembek Refuge.

Due to the existing topography and land ownership patterns in the area, the Service has determined that there is no feasible road corridor between King Cove and Cold Bay that could entirely avoid federal public lands used for subsistence. This means that any road construction in this area would impact federal public lands used for subsistence activities, such as hunting, fishing, and gathering.

In addition, the Service is not aware of any alternatives that would achieve an equal value land exchange that meets the purposes of ANILCA and provides KCC with a means to provide residents of King Cove a reliable and affordable year-round transportation to the all-weather airport at Cold Bay. The preliminary ANILCA Section 810 analysis completed in 2024 in conjunction with the 2024 Draft SEIS evaluated a proposed action that would result in the conveyance of the same U.S. lands to KCC and result in the same route for the road, albeit with a few differences on the use of the road (i.e., restricted to non-commercial uses, and further restricted to those necessary for health and safety purposes and access to refuge resources by federally qualified subsistence users actively engaged in subsistence uses). The alternatives evaluated during that process are addressed in Section 2.2.3.

2.3.3 Evaluation of Other Alternatives That Would Reduce or Eliminate the Use, Occupancy, or Disposition of Public Lands Needed for Subsistence Purposes

As noted in Section 2.2.3, the Service has evaluated multiple alternatives through past planning and environmental review processes for a proposed land exchange. See Section 2.2.3 for details.

2.3.4 Findings

The cumulative case may result in a significant restriction to subsistence uses for the communities of King Cove, Cold Bay, False Pass, Nelson Lagoon, and Sand Point, but would not result in a significant restriction to subsistence uses for other communities, including those in the Yukon-Kuskokwim Delta. These findings are based on multiple factors including biological data and findings, the 2024 Draft SEIS, harvest and subsistence use area information, resource importance metrics, and traditional knowledge.

This is based on the following findings:

- All of the study communities harvest from the SAPC, and caribou are considered a resource of moderate to high importance in all five study communities, based on selected measures. All five study communities either harvest migratory birds within the Refuge, or harvest migratory birds that have used the Refuge area as a staging, nesting, or feeding area. Migratory birds are a resource of moderate importance in all of the five study communities. Black brant, a migratory bird resource of particular concern, is a key migratory bird species in King Cove, Cold Bay, and False Pass, and both black brant and emperor geese are important species in a number of communities in the Yukon-Kuskokwim Delta.
- Construction and operation of the proposed road corridor, in combination with the ongoing and future impacts of climate change and other reasonably foreseeable future actions (e.g., increased sport hunting in the region), may result in a large reduction in subsistence resource abundance for Cold Bay, King Cove, False Pass, Nelson Lagoon, and Sand Point. Caribou are considered a resource of moderate to high importance in all of the five study communities. Caribou traditionally have high cultural importance for the study communities and would likely be harvested in greater numbers if population levels allowed. Impacts of the road on SAPC habitat and distribution, in combination with climate change effects on seasonal movement, habitat availability, and forage quality, and continued sport hunting of the SAPC outside of the Refuge, could create conditions “conducive to an ecological trap and population sink for caribou” and “may have long-term adverse effects on the SAPC” (refer to 2024 Draft SEIS, Section 4.7.2.5).
- Construction and operation of the proposed road corridor, in combination with the ongoing and future impacts of climate change and other reasonably foreseeable future actions (e.g., increased sport hunting in the region), may result in a large reduction in the resource abundance of migratory birds for King Cove and Cold Bay. The impacts of the road on migratory bird habitat, behavior, and distribution, in combination with climate change impacts including changes in seasonal distribution and habitat degradation, could result in reduced local abundance for harvesters. While overall population declines themselves may not be large enough to affect harvests for these communities, population declines in combination with changes in migratory bird distribution and behavior, and increased competition from outside hunters, could result in reduced abundance for King Cove, Cold Bay, and False Pass. Black brant are a key migratory bird species for these communities, and these communities are close enough to the proposed road that changes in behavior, movement patterns, and abundance could affect their harvest success.
- Construction and operation of the proposed road, in combination with the ongoing and future impacts of climate change and other reasonably foreseeable future actions, would not result in a large reduction in resource abundance of migratory birds for communities in the Yukon-Kuskokwim Delta. A population decline does not necessarily mean that there will be a substantial reduction in abundance for subsistence users. Such a determination would depend on the expected magnitude of the population decline, the relative dependence on the affected resource by the affected communities, and whether the decline would be large enough to cause observable changes in harvests for subsistence users. While it is not possible to predict the exact magnitude of a population decline, information about population trends, subsistence harvest amounts, and the relative contribution of individual resources to a community’s subsistence diet can help determine whether a population decline could result in substantial reductions in subsistence uses. Because of the particular importance of Izembek and Kinzarof

Lagoons to the life cycle of emperor geese and black brant, these are the species of migratory birds that may experience population declines under the cumulative case. According to available Alaska Department of Fish and Game harvest data, black brant contribute between 0.0 percent and 1.9 percent of the total subsistence harvest in individual Yukon-Kuskokwim communities (0.5 percent, on average), and emperor geese contribute between 0.0 percent and 0.3 percent of the total harvest (0.06 percent, on average). On average, these two species account for 4 percent of the total migratory bird harvest across the Yukon-Kuskokwim region, although for some communities, particularly those in coastal areas, these two species account for approximately one-fifth of the migratory bird harvest (Chevak, Hooper Bay, and Scammon Bay) (ADF&G 2025). As discussed above (Section 2.3.1.2), the population of breeding birds in the Yukon-Kuskokwim Delta has steadily declined at an average rate of 4 percent since 2000, likely due to changes in forage quality in that region. The road, in combination with an upward trend in gamebird harvests in the region, may cumulatively increase disturbances in Izembek and Kinzarof Lagoons, thus affecting the ability of these birds to put on adequate fat reserves and the survivability of young birds. In the case of the proposed road corridor, the road corridor does not cause direct impacts to key emperor geese and brant habitat, and bird populations and habitat in the region are already exposed to human activity and road traffic (e.g., roads leading to Izembek Lagoon). The road is not expected to substantially increase overall harvests of brant, although disturbance rates within Izembek and Kinzarof Lagoons would likely rise. In addition, Yukon-Kuskokwim breeding brant typically winter farther south and therefore would not experience increased disturbances associated with the road during the late fall and winter hunt. Thus, the cumulative effects of the road are not expected to result in a substantial loss of migratory birds for Yukon-Kuskokwim communities, although the communities, particularly those with a higher reliance on black brant and emperor geese, would likely experience cultural impacts if there is any decline in their population or availability.

- Construction and operation of the proposed road corridor, in combination with the effects of climate change, increased sport hunting, and future gravel mine and other infrastructure development, could result in changes in caribou behavior, migration, and distribution such that subsistence users from King Cove and Cold Bay experience reduced harvest success. Climate change may alter seasonal movements of the SAPC and affect habitat quality and availability within the project area, further reducing caribou availability for local residents. Residents have observed a reduction in caribou in traditional harvesting areas in recent years, and the road, climate change, and other reasonably foreseeable actions may compound those impacts.
- Construction and operation of the proposed road corridor, in combination with the effects of climate change, could result in changes in migratory bird behavior and distribution such that subsistence users from King Cove and Cold Bay experience reduced harvest success. Noise from road construction and operation, in combination with reasonably foreseeable actions such as an increase in visitors (including sport hunters and recreationalists) to the Refuge, and increased unauthorized all-terrain vehicle use, may result in avoidant and skittish behavior in certain migratory bird species. The effects of the road on migratory bird availability would be compounded by climate change impacts that affect migratory bird distribution and habitat use.
- The 2025 proposed road corridor would increase subsistence user access to traditionally used lands, helping to offset cumulative impacts on resource abundance, availability, or competition. Therefore, construction and operation of the proposed road corridor, in

combination with past, present, and reasonably foreseeable future activities, would not cause extensive interference with subsistence access.

- The 2025 proposed road corridor, in combination with past, present, and reasonably foreseeable future activities would not cause a major increase in the use of subsistence resources by non-subsistence users.

3.0 NOTICE AND HEARINGS

ANILCA Section 810(a) provides that no “withdrawal, reservation, lease, permit, or other use, occupancy or disposition of the public lands which would significantly restrict subsistence uses shall be effected” until the federal agency gives the required notice and holds a hearing in accordance with ANILCA Section 810(a) (1) and (2). On August 4, 2025, the Service provided the preliminary ANILCA Section 810 analysis and a notice of hearings to stakeholders in the vicinity of the area for which the Service preliminarily determined the proposed action may significantly restrict subsistence uses, including King Cove, Cold Bay, False Pass, Nelson Lagoon, and Sand Point. The Service also notified the State of Alaska, the Kodiak/Aleutians Regional Advisory Councils, the Bristol Bay Regional Advisory Council, and the Native Village of Hooper Bay of its preliminary ANILCA Section 810 analysis findings on August 4, 2025.

4.0 SUBSISTENCE DETERMINATIONS UNDER ANILCA SECTION 810(A)(3)

In August of 2025, the Service made a preliminary determination in this subsistence evaluation that the cumulative impacts of the 2025 Proposed Land Exchange, in conjunction with all past, present, and reasonably foreseeable future activities in or near the proposed land exchange parcels (the cumulative case), may significantly restrict subsistence uses through reduced harvesting opportunities for local residents and alterations in subsistence harvesting patterns (refer to Section 2.3.4). Therefore, the Service undertook the notice and hearing procedures required by ANILCA Section 810(a)(1) and (2) to solicit testimony from the potentially affected communities and subsistence users in King Cove and Cold Bay and held a virtual hearing for residents of False Pass, Nelson Lagoon, and Sand Point. The Service received comments both during the public hearings and in written form. During the public and virtual hearings in King Cove, Cold Bay, False Pass, Nelson Lagoon, and Sand Point, many commenters expressed support for the 2025 Proposed Land Exchange and Road Corridor and believed that the road would not significantly restrict subsistence uses. Instead, most commenters from King Cove believed that the road would positively benefit their subsistence uses by providing access to traditional lands and subsistence resources. In addition to the hearings, the Service received written comments from communities outside of the study region, including communities in the Yukon-Kuskokwim region, who expressed concern about the potential impacts of the road on migratory birds. Following the hearings, the Service revised the ANILCA Section 810 analysis based on the comments received and based on new information regarding the status of migratory birds (particularly brant) in the Yukon-Kuskokwim region.

The 2025 Proposed Land Exchange would be considered to significantly restrict subsistence uses if, after consideration of protection measures, such as conditions of a land exchange agreement or related permit requirements, it can be expected to substantially reduce the opportunity to use subsistence resources. Substantial reductions are generally caused by large reductions in resource

abundance, a major redistribution of resources, extensive interference with access, or major increases in the use of those resources by non-subsistence users. After consideration of the comments, alternatives, and mitigation developed for the 2025 Proposed Land Exchange, the Service has finalized this determination.

ANILCA Section 810(a) provides that no “withdrawal, reservation, lease, permit, or other use, occupancy or disposition of the public lands which would significantly restrict subsistence uses shall be effected” until the federal agency gives the required notice and holds a hearing in accordance with ANILCA Section 810(a)(1) and (2) and makes the three determinations required by ANILCA Section 810(a)(3)(A), (B), and (C).

The three determinations are (1) that such a significant restriction of subsistence use is necessary, consistent with sound management principles for the utilization of the public lands, (2) that the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other such disposition, and (3) that reasonable steps will be taken to minimize adverse impacts to subsistence uses and resources resulting from such actions (16 U.S.C. 3120(a)(3)(A), (B), and (C)).

The determinations under the requirements of ANILCA Section 810(a)(3)(A), (B), and (C) are found in Sections 4.1, 4.2, and 4.3 below.

4.1 To the Extent the Proposed Land Exchange and Other Past, Present and Reasonably Foreseeable Future Actions Would Significantly Restrict Subsistence Uses, Such a Restriction is Necessary, Consistent with Sound Management Principles for the Utilization of Public Lands

Sound Management Principles for the Utilization of Public Lands within Conservation System Units in Alaska requires management in accordance with the purposes of ANILCA. It would be inappropriate to only consider the mission of the Izembek Refuge and the Wilderness System. The Supreme Court articulated ANILCA’s approach to furthering various Congressional goals:

In ANILCA, Congress sought to balance two purposes, often thought conflicting: to provide sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska and to provide adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people.¹

When considering the satisfaction of the economic and social needs of the state of Alaska and its people for this determination, the Service believes it is most appropriate to focus on the people who live in the closest proximity to the lands to be exchanged and the proposed road. As the homeland of the Unanga (Aleut) peoples who are pursuing this land exchange, Izembek Refuge plays a critical role in supporting their subsistence lifestyle that they have relied on since time immemorial recognizing the highly productive waters of the Bering Sea and the Gulf of Alaska. The proposed land exchange would have major beneficial effects to public health and safety with the addition of a safe and reliable means of transportation for people in King Cove to travel to the Cold Bay airport for access to advanced medical services and for other purposes.

¹ *Sturgeon v. Frost*, 587 U.S. 28, 36, 139 S. Ct. 1066, 1075, 203 L. Ed. 2d 453 (2019) (internal quotations and citations omitted); see also *City of Angoon v. Marsh*, 749 F.2d 1413, 1415-16 (9th Cir. 1984).

As indicated by ANILCA and the Supreme Court, it is also necessary to consider the protection for the national interest in the scenic, natural, cultural, and environmental values on the public lands. This includes ANILCA's intent to provide the opportunity for rural residents engaged in a subsistence way of life to continue to do so consistent with the management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each conservation system unit is established, designated or expanded by or pursuant to ANILCA.

The Service also considers that construction of the road may be crucial for the Unangax people to continue living in their ancestral lands and recognizes the inherent rights of Alaska Native tribes to self-governance and control over their lands and resources. The benefits of ANILCA have seemingly bypassed the Unangax people of King Cove, who continue to fight for basic, safe, and reliable access to medical care. The residents of King Cove were not consulted during the creation of the Refuge and its designation as wilderness. The Refuge creation and wilderness designation cut local people off from access and availability of use of the lands and resources that were previously theirs to manage.

In summary, the Service finds that the 2025 Proposed Land Exchange is consistent with the sound management principles called for by the purposes of ANILCA. The lands that will be managed by the United States are high quality, contain subsistence resources, and far exceed the approximately 490 acres to be conveyed to KCC that are proposed to be developed for a single-lane gravel road. The lands within the KCC Land Exchange Pool were identified by the Service in the *Land Protection Plan for Izembek National Wildlife Refuge Complex* (1998) as high-quality habitat and are high priorities for protection to sustaining subsistence opportunities in the region.

The 2025 Proposed Land Exchange would add substantial acreage to the Izembek Refuge that has been previously identified by the Service as being important habitat while offering KCC the opportunity to explore improved public safety through a safer and more reliable means of emergency access to the Cold Bay airport for the residents of and visitors to King Cove.

4.2 The Proposed Activity Will Involve the Minimal Amount of Public Lands Necessary to Accomplish the Purposes of Such Use, Occupancy, or Other Disposition

The Service has determined that the 2025 Proposed Land Exchange involves the minimal amount of public lands necessary to accomplish the purposes of the proposed action. The road is not being built as a two-lane road, which minimizes the number of acres of lands to be utilized. The design uses a minimally intrusive road design that adheres to American Association of State Highway and Transportation Officials and ADOT&PF standards. The road will be a 13-foot-wide, single-lane gravel road that requires limited construction time and maintenance, as compared to a larger paved road. The limitation on the type and size of the road will be enforced through the terms and conditions of the exchange agreement. The road would be 18.9 miles long, though only 15.6 miles is on land that is a part of the 2025 Proposed Land Exchange. The road is making use of existing trails and roads to the extent practicable (see Section 1.2.3).

4.3 Reasonable Steps Will be Taken to Minimize Adverse Impacts Upon Subsistence Uses and Resources Resulting from Such Actions

When the Service began the evaluation process for the 2025 Proposed Land Exchange, it internally identified subsistence use as one of the major issues to be addressed based on scoping comments for the 2024 NEPA process, consultation, and input from public meetings, and which

has been reinforced by comments received on the 2024 Draft SEIS. The results of public meetings in communities throughout the region, consultation with tribal governments, and numerous meetings and correspondence with local governments were all used to craft the 2025 Proposed Land Exchange. In addition, the Service took into consideration comments from Tribal governments and individuals during the ANILCA Section 810 Subsistence Hearings, including the hearings conducted for the 2024 Draft SEIS.

The proposed action for the 2025 Proposed Land Exchange does not impose limitations on who can use the road or the purposes for which they can use the road, which would allow subsistence users increased access and availability to traditional harvesting areas and areas that have been hard to access without the additional access.

The 2025 Proposed Land Exchange has support from tribal government leaders of the closest communities. The leaders and residents of these communities recognize the benefits for their communities from the road to the Cold Bay airport. Since the conveyance of the U.S. lands for the road corridor will be to KCC, it is anticipated that collaboration and consultation with leaders and residents will continue throughout the design and development of the road to minimize impacts to subsistence users (or abundance/availability of subsistence resources).

KCC has committed to critical measures as part of the proposed action for design, construction, operation, and maintenance of the road corridor (see Section 1.3). Additional mitigation measures and road design features that are beneficial to subsistence use have been identified through ESA consultations with the U.S. Fish and Wildlife Service, Ecological Services Program (Ecological Services), and the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS), under Section 7(a)(2) of the ESA and its implementing regulations (50 CFR 402.13), as well as through Essential Fish Habitat consultation with NMFS per the Magnuson-Stevens Act. The measures listed in Appendix A were utilized as a part of this final analysis. The final measures would be incorporated into the Decision Document for the 2025 Proposed Land Exchange.

Given these measures, the Service has determined that the 2025 Proposed Land Exchange includes reasonable steps to minimize adverse impacts on subsistence uses and resources that may result from the proposed action.

4.4 Conclusion

The Service has determined that, after consideration of all alternatives, subsistence evaluations, and ANILCA Section 810 hearings, the proposed action, in combination with other past, present, and reasonably foreseeable future actions and climate change, may significantly restrict subsistence uses; that this level of restriction of subsistence uses is necessary and consistent with sound management principles for the utilization of the Izembek Refuge and Izembek Wilderness; and that it will involve the minimal amount of public lands necessary to accomplish the purpose of the proposed land exchange. Finally, reasonable steps have and will be taken to minimize the adverse impacts upon subsistence uses and resources arising from this action.

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APPENDIX A
Minimization, Avoidance, and Mitigation Measures

APPENDIX A: Minimization, Avoidance, and Mitigation Measures

This ANILCA Section 810 analysis utilized the following avoidance and minimization measures as a part of the analysis process.

KCC has committed to the following measures as part of the proposed action for design, construction, operation, and maintenance of the road corridor.

Design Features

The following design criteria were incorporated by ADOT&PF early in the design process to avoid and minimize impacts of the proposed road:

- The proposed road alignment maintains a distance of approximately 0.5 mile from the shores of Kinzarof and Izembek Lagoons, as practicable, to avoid impacts to shorebirds, waterfowl, and marine mammals. In most locations, the alignment is 1 mile or more from the shorelines of each lagoon.
- The proposed road alignment traverses ridgetops or windward sides of hills to avoid snow drift—the phenomenon by which snow is scoured off the windward side and deposited in deeper drifts on the leeward side.
- The proposed road alignment uses existing roads, jeep trails, and disturbed areas to the extent practicable given the previous two design considerations and sound engineering practices.

Minimize Invasives

To minimize the chance for introducing or spreading invasive species, the following will be done:

- A thorough inspection of borrow pit areas will be conducted by a trained botanist or specialist familiar with Alaskan species to prevent the spread of invasive species.
- A thorough cleaning of all heavy equipment and vehicles will be conducted to remove any seeds or invasive plant materials.
- Only native species will be used for revegetation of disturbed areas.

NMFS ESA Mitigation Measures

Project-Dedicated Vessels (vessel and crew safety should never be compromised)

1. Project-related barges will typically travel at 8 knots or less.
2. Vessel operators will:
 - a. maintain a watch for marine mammals at all times while underway;
 - b. avoid changes in direction and speed when within 274 meters (300 yards) of a whale, unless doing so is necessary for maritime safety;
 - c. not position vessel(s) in the path of a whale, and will not cut in front of a whale in a way or at a distance that causes the whales to change their direction of travel or behavior (including breathing/surfacing pattern);

- d. check the waters immediately adjacent to the vessel(s) to ensure that no whales will be injured when the propellers are engaged;
 - e. reduce vessel speed to 8 knots or less when:
 - i. weather conditions reduce visibility to 1.6 kilometers (1 mile) or less;
 - ii. a whale's course and speed are such that it will likely cross in front of a vessel that is underway, or approach within 91 meters (100 yards) of the vessel, and if maritime conditions safely allow, the engine will be put in neutral and the whale will be allowed to pass beyond the vessel, except that vessels will remain 460 meters (500 yards) from North Pacific right whales;
 - f. take reasonable steps to alert other vessels in the vicinity of whale(s);
 - g. not allow lines to remain in the water unless both ends are under tension and affixed to vessels or gear; and
 - h. not throw trash or other debris overboard, to reduce the potential for marine mammal entanglement.
3. Vessel operators will adhere to the Alaska Humpback Whale Approach Regulations when vessels are transiting to and from the project site (see 50 CFR 216.18, 223.214, and 224.103(b); these regulations apply to all humpback whales). Specifically, pilot and crew will not:
- a. approach, by any means, including by interception (i.e., placing a vessel in the path of an oncoming humpback whale), within 100 yards of any humpback whale;
 - b. cause a vessel or other object to approach within 100 yards of any humpback whale; or
 - c. disrupt the normal behavior or prior activity of a humpback whale by any other act or omission.

Vessel Transit, North Pacific Right Whales, and their Designated Critical Habitat

4. Vessels will:
- a. remain at least 460 meters (500 yards) from North Pacific right whales; and
 - b. avoid transiting through designated North Pacific right whale critical habitat if practicable (50 CFR 226.215); or if traveling through North Pacific right whale critical habitat cannot be avoided, vessels will:
 - i. travel through North Pacific right whale critical habitat at 5 knots or less; and
 - ii. maintain a log indicating the time and geographic coordinates at which vessels enter and exit North Pacific right whale critical habitat.

Vessel Transit, Western Distinct Population Segment Steller Sea Lions, and their Designated Critical Habitat

5. Vessels will not approach within 5.5 kilometers (3 nautical miles) of rookery sites listed in 50 CFR 224.103(d).
6. Vessels will not approach within 914 meters (3,000 feet) of any Steller sea lion haulout or rookery.

Vessel Transit and Project Noise, Cook Inlet Beluga Whales, and their Designated Critical Habitat

7. Project vessel(s) operating in or transiting through Cook Inlet will maintain a distance of at least 1.5 miles south of the mean lower low water line.

Observers and Reporting

8. To the greatest extent practicable, dedicated project barges that are under contractor control during construction will maintain a watch for marine mammals while underway.
9. Marine mammal information collected will be shared with NMFS.

Agency contact information is provided in Table A-1.

Table A-1. Summary of Agency Contact Information

Reason for Contact	Contact Information
Consultation questions and unauthorized take	akr.prd.section7@noaa.gov
Reports and data submittal	akr.prd.records@noaa.gov
Stranded, injured, or dead marine mammals	Stranding Hotline (24/7 coverage): 1-877-925-7773
Oil spill and hazardous materials response	U.S. Coast Guard National Response Center: 1-800-424-8802 and AKRNMFSspillResponse@noaa.gov
Illegal activities (not related to project activities; e.g., feeding, unauthorized harassment, or disturbance to marine mammals)	NMFS Office of Law Enforcement (AK Hotline): 1-800-853-1964
In the event that this contact information becomes obsolete	NMFS Anchorage Main Office: 907-271-5006 or NMFS Juneau Main Office: 901-206-4342

NMFS EFH Conservation Measures

1. Culverts should meet or exceed natural stream width and should be designed and installed according to the guidelines established in Culvert Design Guidelines for Ecological Function, which was written specifically for Alaska salmonids. Note that the Service and KCC have already agreed to this as part of the proposed design criteria (see Section 2.4 of the Proposed Action), which applies to culverts in anadromous streams.

2. A desktop survey of potential fish habitat within the Refuge will be conducted in support of the KCC proposed land exchange and road corridor prior to construction. This survey will be informed by existing LiDAR [light detection and ranging] and topographic data obtained within the Refuge in addition to the results of the limited fish inventories and habitat surveys that are proposed to be conducted by ADOT&PF within the wilderness area.
3. Signage will be installed to inform the public of the law prohibiting vehicular access to anadromous streams. Signage will specifically cite Alaska Statute 41.14.870, 5 Alaska Administrative Code 195.010(a), and any federal regulations relating to vehicular access to fish streams.
4. Natural vegetation will be retained along anadromous streams to the greatest extent practicable. This will be accomplished by requiring contractors to salvage the vegetated mat along streambanks prior to ground disturbance. This vegetated mat will be maintained (usually via periodic watering) until the revegetation stage and staked in place for reestablishment. In addition, further mitigation of impacts such as willow staking and the placement of large woody debris will be analyzed for employment at these locations.
5. The deployment of riprap in anadromous streams will be limited and only installed where it is required for protection of infrastructure.
6. Bridge abutments in anadromous waters should be positioned so as not to restrict the flow and create a velocity barrier to migrating fish at the crossing site.

Ecological Services ESA Measures

Sea Otter Best Management Practices for Vessel Operations

1. For smaller vessels (<24 meters, <80 feet), vessels will maintain a minimum distance of 100 meters (328 feet) from single sea otters, 200 meters (656 feet) from female-pup sea otter pairs, and 500 meters (1,640 feet) from rafts of sea otters (groups of 10 sea otters or more) when safe and practicable.
2. For larger vessels (>24 meters, >80 feet), vessels will maintain a minimum distance of 300 meters (984 feet) from sea otters when safe and practicable.
3. If vessel operators observe sea otters consistently flushing in response to the vessel transiting at the minimum distance, then the vessel operator shall increase the minimum distance until sea otters are no longer flushing in response to the vessel.
4. Vessels shall maintain maximum distance practicable from areas of surface kelp.
5. If marine mammals approach a vessel, place engines in neutral and allow them to pass.
6. All operations shall take precautions to minimize the risk of spilling fuels.
7. While operating skiffs in nearshore areas, scan the water surface ahead of the boat vigilantly for otters. In choppy water conditions sea otters are difficult to spot. If you are boating with another person, place them in the bow to help search. You may encounter otters as individuals, a mother and a pup, or rafts of 10 or more.

8. When you see an otter(s), alter your course and slow down to avoid disturbance and collision. Once you have spotted an otter(s), you should not assume that the otter(s) will dive and get out of the way. Even if they are alert, capable, and do dive, your action of knowingly staying your course would be considered harassment.
9. Do not operate a skiff at ANY rate of speed heading directly at the otter(s). A good rule of thumb is that your buffer should be great enough that there is ample room for the otter(s) to swim away without startling them. It is your responsibility to minimize the stimulus and threat of a loud boat approaching quickly.

Steller's Eider Best Management Practices for Vessel Operations

1. If Steller's eiders are identified, vessel operators will follow procedures identical to those for sea otters to avoid disturbance or collision.

APPENDIX C – COMMENT SUMMARY FOR 2024 DRAFT SEIS

Table C-1. Summary of Comment Themes on the 2024 Draft SEIS

Topic	Comment Topic Summary
ANILCA Section 810 - 1	The ANILCA Section 810 analysis fails to analyze subsistence impacts to communities in the YKD. The Service cannot show that a significant restriction on subsistence uses is necessary and that the proposed action would involve the minimum amount of public lands necessary to accomplish the purpose of the action because there are non-road alternatives that would not necessitate the trading away of any Izembek National Wildlife Refuge lands while still meeting the stated purpose of improved airport access for King Cove's residents.
ANILCA Section 810 - 2	Commenters asked that the Service determine how a reduction in the abundance of harvestable resources would affect subsistence resources. Some commenters noted that subsistence users are the people who are most aware of the abundance of resources in their areas. Commenters also noted that the Service should realize that sport hunting is taking more of the bird resources on the Cold Bay side of the refuge than local users are harvesting for subsistence as local users in King Cove cannot easily access the refuge where sport hunters are taking birds.
ANILCA Section 810 - 3	Commenters asked that the Service determine how access would affect subsistence resources and users. Some commenters noted that subsistence users historically used lands in the area prior to the establishment of the refuge and were and continue to be the stewards of these resources. The establishment of the refuge limited user access to these traditional use areas and is viewed as insulting to their way of life and practices. Allowing access to the refuge would restore this access to areas that have been limited since the refuge was established.
ANILCA Section 810 - 4	Commenters asked that the Service determine how a reduction in the availability of harvestable resources would affect subsistence resources, including other areas of Alaska.
ANILCA Section 810 - 5	ANILCA requires that the Service hold hearings so that affected communities have a legitimate analysis to comment on. The agency did not hold hearings in all impacted communities. Commenters also requested robust subsistence workshops that allow time for engagement in a way that is effective for the communities and members.
Biological Resources, General - 1	The Draft SEIS fails to analyze the impacts of each alternative on biodiversity.
Biological Resources, General - 2	The Final SEIS should include a discussion about how the land exchange will affect ecological connectivity, which helps sustain and promote biodiversity and enables wildlife to adapt to fluctuating environmental conditions.
Biological Resources, General - 3	Izembek National Wildlife Refuge is important and irreplaceable because it is ecologically unique, has high biodiversity, and provides crucial habitat for numerous fish and wildlife species, notably migratory birds that use eelgrass beds and mammals that use the refuge as a travel corridor across the isthmus.
Biological Resources, General - 4	The road will lead to habitat fragmentation that will negatively affect plant and animal species.
Biological Resources, General - 5	The proposed land exchange has the potential to fragment wildlife habitats and adversely impact biodiversity and ecosystem health. The proposed road will cause long-term impacts to vegetation and fish and wildlife habitat beyond the width of the road.

Topic	Comment Topic Summary
Biological Resources, General - 6	A road through the sensitive refuge ecosystem would have dramatic, adverse impacts on multiple avian, terrestrial, and marine species for which the refuge was established.
Climate Change - 1	Izembek's wetlands and eelgrass beds are vital for migratory birds and marine life, and are crucial for climate change mitigation. Eelgrass beds also absorb carbon 30 to 50 times faster than forests, and buffer the Bering Sea from acidification helping to fight climate change.
Climate Change - 2	The 2022 typhoon Merbok caused severe damage in western Alaska, highlighting the vulnerability of coastal communities to climate change. Increased storm frequency and intensity threaten infrastructure, traditional activities, and food security in coastal communities. The YKD and its people are disproportionately affected by climate change, experiencing increased flooding, erosion, and extreme weather events. The SEIS fails to adequately assess the cumulative impacts of climate change on subsistence species and the proposed road project. The Service must consider these climate impacts in its decision-making process to protect vulnerable species and communities.
Climate Change - 3	The Service should designate all of Alaska's Western Arctic Reserve as a special area, which would help protect it from permanent environmental and public health destruction from any new oil and gas development.
Comment Acknowledged - 1	Comment was determined not to be substantive. General comments were received in support of a road, in opposition to the road or were petitions received that contained non-substantive comments.
Cooperating Agencies - 1	The Native Village of Hooper Bay requested cooperating agency status and asked the Service to engage with their tribe as subject matter experts. The Service should explain the ways in which tribes in the King Cove region were able to participate in the SEIS process differently than other tribes.
Cultural Values - 1	The people of Hooper Bay have been stewards of and taken efforts to protect migratory birds in the YKD. The Service should work closely with the affected communities when determining possible impacts to the biological environment.
Cultural Values - 2	Subsistence is an important cultural value practiced by many tribal communities. Potential loss of subsistence harvest opportunity because of the road will negatively impact the quality of life and wellbeing for tribal communities and has not been adequately analyzed in the Draft SEIS.
Data and Available Information - 1	Commenters submitted data or reference materials and studies for the Service to review for inclusion in the SEIS.
Editorial - 1	The Service should consider making various editorial changes to the SEIS.
Environmental Contaminants and Ecological Risk Assessment - 1	The SEIS should consider that vehicles create uncontrolled pollution from microplastics due to tires, brake pads, and road wear. Tire-wear particles are a dominant component of the microplastics that pollute rivers, lakes, and oceans.
Environmental Justice - 1	The Draft SEIS's analysis of the environmental justice impacts is inadequate and should be revised to reflect how the proposed action could cause disproportionate harm to communities of concern in the region, to include food insecurity and diminished subsistence resources and opportunities, impacts from climate change, poverty, and other physical and mental health challenges.

Topic	Comment Topic Summary
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 1	Some of the lands that would be relinquished by KCC are lands within the boundary of Izembek that were conveyed to KCC under the Alaska Native Claims Settlement Act and, therefore, currently subject to 22(g). This means that the United States already has a right of first refusal should KCC ever try to relinquish these lands and that any development of these lands is currently subject to refuge laws and regulations. Since 22(g) already protects these lands from development, what is the benefit of bringing these lands into federal ownership?
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 2	The Draft SEIS misinterprets the intent of ANILCA by focusing solely on its conservation and subsistence purposes, ignoring the statute's broader goals, which include socioeconomic considerations, and fails to incorporate the Section 101(d) purposes, which should be included in the SEIS. The Draft SEIS incorrectly asserts that any land exchange must result in a conservation or subsistence benefit, despite the plain text of Section 1302(h) not supporting this. Also, if there is a conflict between ANILCA and the Refuge Improvement Act, ANILCA prevails. ANILCA Section 304 governs the administration of System lands in Alaska, allowing the Secretary to make agreements with Native Corporations and requiring the Service to address access needs under Title XI.
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 3	The Draft SEIS is deficient under NEPA for several reasons including a flawed purpose and need statement, its failure to evaluate a reasonable range of alternatives, a deficient analysis of the resources that will be harmed by the proposed action, and an overall lack of analytical clarity and content that confounds NEPA's goals of public participation and informed agency decision-making. The Draft SEIS also relies on 2024 Council on Environmental Quality regulations that were vacated by the North Dakota District Court. Further, the mitigation measures contemplated in the Draft SEIS are uncertain, unenforceable, and/or insufficient to protect refuge resources, which compounds the inadequacies present in the analysis. The Notice of Intent for the Project did not identify a specific proposal or authority to approve a land exchange for a road or other transportation option that the SEIS would consider. The Service should apply the new regulations consistently and provide another opportunity for public and Tribal input.
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 4	The argument against the road as setting a “dangerous precedent” is hypocritical, as the government often alters laws to exploit lands for profit. Denying the road disregards the voices and needs of the people most affected by the decision.
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 5	The Draft SEIS violates ANILCA's 1302(h) requirement that exchanges must be on the basis of equal value. Under Alternative 6, the Department of the Interior is proposing to exchange roughly 500 acres of federally owned land within Izembek National Wildlife Refuge for approximately 31,198 acres of Alaska Native lands—a 1:60 ratio. This is not in the public's interest.

Topic	Comment Topic Summary
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 6	The Service must comply with the Endangered Species Act and the Marine Mammal Protection Act. Where an action is reasonably certain to take an Endangered Species Act-listed species, the biological opinion must include an “incidental take statement” specifying the amount or extent of such incidental taking on the species; any “reasonable and prudent measures” that the Service and/or National Marine Fisheries Service considers necessary or appropriate to minimize such impact; and the “terms and conditions” that must be complied with by the action agency to implement those measures. Committing to a land exchange without completing Section 7 consultation would be a violation of Section 7(d) of the Endangered Species Act. Additionally, when the listed species to be incidentally taken is a marine mammal, the take must first be authorized pursuant to Section 101(a)(5) of the Marine Mammal Protection Act, and the incidental take statement must include any additional measures necessary to comply with the Marine Mammal Protection Act take authorization.
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 7	The Service will need to comply with Executive Order 14153, Unleashing Alaska’s Extraordinary Resource Potential, issued on January 20, 2025. It provides, in relevant part, that “the Secretary of the Interior shall exercise all lawful authority and discretion available to him and take all necessary steps to [...] facilitate the expedited development of a road corridor between the community of King Cove and the all-weather airport located in Cold Bay.” The Service should consider this language, representing the position of the current administration, as you conduct next steps in this SEIS process.
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 8	The Izembek land exchange is exempt from the NEPA process under ANILCA Section 910. Also, the newly enacted Section 106 of NEPA says no new NEPA analysis is required if it is not a final agency action. Because new State and federal legislation must be enacted to enable “noncommercial uses” of a public road, the substance of the Draft SEIS does not constitute a final agency action.
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 9	The Service should not be the lead agency for this EIS. The EIS process should have been led by the agency with the most expertise associated with health and safety, which is not the Service.
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 10	There is no secretarial authority for this land exchange and ANILCA does not allow for land exchanges to build roads. The unlawful pretense of first trading away land, then claiming the land is no longer federal, puts at risk every conservation system unit in Alaska. The idea that any Secretary of Interior can give away lands in any Wilderness, National Park, or National Wildlife Refuge in Alaska is a distortion of the purposes of ANILCA, which are clearly defined as conservation and subsistence and sets a terrible precedent. The SEIS ANILCA justification is flawed and should be updated. The proposed project would undermine ANILCA subsistence purposes and harm resources for subsistence users. The exchange is primarily intended to facilitate road construction, not land acquisition. Comparative data and analyses indicate that the exchange results in net conservation harm. The exchange also results in net subsistence harms. Section 1302(h) cannot reasonably be read to override Title XI of ANILCA, especially given Congress’s clear and unambiguous intent regarding the applicability of Title XI to circumstances such as those presented in the SEIS. It also would circumvent Congress’s explicit mandate that any road corridor through Congressionally designated Wilderness requires Congressional approval.

Topic	Comment Topic Summary
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 11	All references to the Act in the SEIS should include clarification that the Act has expired and is therefore irrelevant to the current action. The Final SEIS should include an explanation as to the continued relevancy of the Act to the current proposal, and should cite the authority by which the Department of the Interior may dictate use and regulation of lands conveyed to KCC in fee title.
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 12	A significant issue is that the proposed road corridor cuts through a Wetland of International Importance within the Izembek National Wildlife Refuge.
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 13	The land exchange and road would violate the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act) amending the National Wildlife Refuge System Administration Act of 1966 (Administration Act) (collectively, Refuge Act). The proposed road threatens the original purposes of the Izembek National Wildlife Refuge, which was set aside as a refuge, breeding ground, and management area for all forms of wildlife. Building a road through the isthmus will violate the values and purposes of the refuge to protect Izembek Lagoon, eelgrass beds, waterfowl and other wildlife, and is a threat to wildlife and wilderness values. The Service cannot exchange lands out of the Refuge System if it determines those lands are not suitable for disposition considering both the individual refuge's purposes and the Refuge System's mission. Alternative 6 does not further the following purposes: conserve fish and wildlife and their habitats, fulfill international treaty obligations, provide opportunities for subsistence, and ensure water quality and quantity. The Draft SEIS should consider whether any exchange fulfills the purposes of the Izembek Refuge and provides a true conservation benefit.
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 14	Commenters remarked that the land exchange should not be included within the scope of this SEIS process because trying to use Section 1302(h) of ANILCA to achieve a road corridor would not only harm the conservation and subsistence values that the Izembek National Wildlife Refuge was created to protect, but it would also result in setting a precedent that undermines the protection of 150 million acres of national public conservation lands throughout Alaska and their subsistence and conservation purposes, including protections and designations under the Wilderness Act of 1964.
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 15	The Draft SEIS incorrectly describes the State's positions. The alternatives analysis for Alternatives 2 and 3 assert that "the State is no longer willing to enter into an exchange" regarding the Izembek lagoon, which is incorrect. The State of Alaska has never taken a position on the proposed land transfer because its opinion was never solicited by the federal government. Moreover, in its scoping comments, the State requested joint lead agency status pursuant to the newly enacted Section 107 of NEPA, but this request was ignored.

Topic	Comment Topic Summary
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 16	<p>Commenters remarked that the U.S. government should acknowledge that there is a trust relationship with Indigenous peoples, including the Aleut (Unangax) people of King Cove. This relationship is rooted in historical treaties, legislation, and court decisions, and it obligates the federal government to protect and uphold tribal sovereignty and the rights of Indigenous communities. The exchange enabling the construction of this road is crucial for the Unangax people to continue living in their ancestral lands. This decision would fulfill the federal government's trust responsibilities and recognize the inherent rights of Alaska Native tribes to self-governance and control over their lands and resources. ANILCA was designed to balance conservation and development while safeguarding the subsistence rights and cultural traditions of Alaska Natives. Commenters observed that the benefits of ANILCA have seemingly bypassed the Unangax people of King Cove, who continue to fight for basic as safe and reliable access to medical care. The residents of King Cove were not consulted during the creation of the Refuge and its designation as wilderness. If the people of King Cove had known about the restrictions that wilderness designations would impose then they would have raised concerns and provisions could have been made. Some commenters observed that the U.S. government is exchanging less land than the local Indigenous peoples in the exchange and historically this has cut local people off from access and availability of use of the lands and resources that were historically theirs to manage.</p>
Federal/State Permits, Approvals, Laws, Regulations, and Policies - 17	<p>The Draft SEIS intends to create new designated wilderness in the Alaska Peninsula National Wildlife Refuge without Congressional approval, which is a violation of both ANILCA and the Wilderness Act. The SEIS should be revised to accurately reflect the potential, rather than the certainty, of these lands becoming Congressionally designated wilderness.</p>
Fish - 1	<p>The Draft SEIS fails to analyze the indirect and cumulative impacts of the proposed action on fish from reduced eelgrass resilience caused by the road. The Draft SEIS also fails to analyze the cumulative impacts of these effects, along with climate change, to fish.</p>
Fish - 2	<p>The SEIS must analyze the ecotoxic effects of 6PPD-quinone particles, which result from tire wear, on fish in the refuge.</p>
Fish - 3	<p>The SEIS needs to include updated standards for culvert and fish passage design. The Draft SEIS relies on best design standards for fish passages but provides no additional details or information on those standards or how the Service will enforce them.</p>
Fish - 4	<p>The Service must include in the Draft SEIS missing essential information that is needed to fully address effects on fish: 1) there are likely many more miles of anadromous fish habitat beyond the streams documented in the Anadromous Waters Catalog; and 2) marshes and small ponds adjacent to streams on the east side of Kinzarof Lagoon may be accessible to fish.</p>
Fish - 5	<p>The analysis of impacts to fish improperly relies on uncertain and unenforceable mitigation measures and/or scenarios that are not reasonably likely to occur.</p>

Topic	Comment Topic Summary
Government-to-Government Consultation - 1	<p>The Service should explain why it did not grant the request of tribes to meet with federal officials to discuss the land exchange or give tribes cooperating agency status on the development of the SEIS. This clearly does not consider the input and concerns of the Alaska Native Tribes during the decision-making process. Moving forward with the exchange without properly consulting Alaska Native Tribal communities would set a precedent of ignoring their wisdom in environmental and land management decisions. The SEIS should be delayed until full, two-way engagement occurs, including opportunities to review documents, collaborate with experts, and meet with key decision-makers, to ensure the concerns of Alaska Native Tribes are addressed and alternatives are developed to avoid disproportionate harm.</p>
Health and Safety - 1	<p>The Draft SEIS health impacts are inadequate as they are not updated and they do not consider other communities' health impacts. The preferred alternative will cause permanent or long-term harm of medium to high intensity to species that are crucial to the health and wellbeing of Hooper Bay's children, young adults, elders, and the entire community. There is no discussion of these impacts in the environmental consequences section of the Draft SEIS or the ANILCA Section 810 analysis. The Service must analyze these impacts or explain why it failed to do so. There should also be a new opportunity for public comment and tribal consultation about the real impacts of this project.</p>
Health and Safety - 2	<p>The Draft SEIS does not adequately describe the existing lack of access to medical facilities and the hardships encountered with existing modes of travel. King Cove residents' welfare, health, and safety are of utmost importance to this community. Residents have the right to access the health care providers in Anchorage, regardless of the weather. The construction of a road would save lives and improve the welfare, health, and safety of King Cove residents. The road would significantly improve public safety in the region. It is important to note that the Izembek National Wildlife Refuge already allows limited vehicle access on five gravel or dirt roads totaling 40 miles. There are many stories of family and friends who could not access medical care in time (resulting in death); who suffered and/or lengthened their medical treatment due to the delay in accessing medical care; who suffered from the lack of choices for medical care; who suffered from the inability to return home for a long period of time; or who died in a plane crash trying to leave or return. The non-commercial restrictions may restrict access to medications mailed in. There are many stories of medevac flights that were delayed or cancelled due to winds in excess of 50-70 knots, visibility in less than a mile, and turbulence that is considered severe. U.S. Coast Guard is not reliable or timely, and does not come if winds are violent. Climbing the Cold Bay dock in icy weather conditions is dangerous and impractical while sick or injured.</p>
Hydrology/Water Quality - 1	<p>The SEIS should consider effects to water quality and the potential to degrade the eelgrass beds found in Izembek Lagoon.</p>

Topic	Comment Topic Summary
Indigenous Knowledge - 1	<p>The Service should consider Indigenous Knowledge of bird species behavior and patterns, including the following:</p> <ul style="list-style-type: none"> • Birds, brants, and waterfowl that spend most of their time in lagoons do not spend time inland where the Alternative 6 road is proposed to go. The only birds that are seen there are land geese that go there to feed on berries. • Pacific black brant do not go from Kinzarof Lagoon to Moffet Lagoon. They feed on a patch of eelgrass in the Izembek Lagoon until they leave for Mexico. The brant and emperor geese come down the coast to Moffet Lagoon every year, but they do not travel over land. • Historical airport activity including aircraft flying right over the Izembek eelgrass beds, and government roads are about 1.5 miles from the eelgrass beds. Locals have not seen any adverse effects on the bird population from these.
Indigenous Knowledge - 2	<p>The Service should recognize that subsistence is integral to the way of life of residents of Hooper Bay, including their economy, health care, social safety net, communication system, and education. Subsistence knowledge is passed down from elders, and impacts to subsistence resources are crucial to the community's Indigenous way of life.</p> <p>The Service should also obtain Indigenous and local knowledge and available data, information, studies, reports, and models regarding climate change impacts in the YKD and Yukon Delta National Wildlife Refuge, and how those impacts could cumulate with impacts caused by the proposed action, including impacts to black brant and emperor geese and other migratory birds, and including impacts on the health and socioeconomic well-being of YKD communities.</p>
Land Use, Public Use, Recreation, Visual Resources - 1	<p>The Final SEIS should provide a more robust and reliable evaluation of the potential impacts of the proposed action on the Izembek National Wildlife Refuge, the Izembek State Game Refuge, general State submerged lands, and KCC lands by making the following changes:</p> <ul style="list-style-type: none"> • Correcting map the boundaries of the Izembek State Game Refuge throughout the document • Explicitly identifying and analyzing the resources within the Izembek State Game Refuge, including their ecological significance, potential impacts, or lack of impacts from the proposed action • Assessing the potential effects of the proposed action on the Izembek State Game Refuge, considering its unique ecological values and management objectives • Discussing the environmental consequences and/or benefits of the changes of land ownership and subsequent change of land use under each resource analyzed. Currently, the Draft SEIS analyzes the loss of land in the wildlife refuge for the road use but does not discuss the impacts of the private acres of land becoming public land.

Topic	Comment Topic Summary
Land Use, Public Use, Recreation, Visual Resources - 2	The Service should consider that it is important for the Final SEIS to explicitly disclose that State-owned submerged lands exist in the area within the proposed land exchange. The State requests that the Service add the brief description below to add clarity to the Final SEIS: "The Alaska Department of Natural Resources (DNR) has management authority for State lands, including the submerged lands, tidelands, and shorelands of navigable waters within the proposed land exchange area. This authority includes management of State-owned lands within and adjacent to the boundaries of federal lands, including conservation system units created under ANILCA. The State claims ownership of the submerged lands beneath Thinpoint Lake, Old Man's Lagoon, and all other navigable waters within the area being conveyed to the Federal Government. A map of these waters can be found on the DNR website using the "Navigable Waters (Title Purposes)" layer: https://mapper.dnr.alaska.gov/map#map=4/-16632245.12/8816587.34/0 "
Land Use, Public Use, Recreation, Visual Resources - 3	The value of the lands proposed for the land exchange is not equally and fairly evaluated in this Draft SEIS. The Draft SEIS fails to fully analyze the quality of the habitat, including wetlands, that will be leaving the refuge relative to the habitat that will be gained. Information in the Draft SEIS indicates that the highest value lands in the refuge would be pulled away from designated wilderness and would come out of the refuge and be exchanged for much lower value lands. The Service should acknowledge that the land proposed to exchange for the road is of inferior habitat quality to that which would be lost from road, construction, and adjacent effects. The lands proposed for divestment are not suitable for disposition because they are essential to Izembek's ability to meet all four of its original statutory purposes. Appendix B of the SEIS shows a ranking of the conservation values of federal and non-federal land parcels in the area, including those proposed for exchange. The underlying method and analysis used for this ranking system is not fully explained. The Service should conduct a full habitat equivalency analysis showing the change in the ecological function of the area that the Service proposes to exchange out of the refuge and make this analysis available for public comment.
Land Use, Public Use, Recreation, Visual Resources - 4	The Draft SEIS does not fully identify the increased hunting (legal and illegal) that would occur due to the new road access. Additional information is needed to estimate future hunting use, including probability of foot travel for hunting access. Data on hunting and fishing, legal and illegal, need to be better explored. Impacts of sport fishing and waterfowl hunting from lodges are not adequately addressed. The methodology used to estimate impact needs to be updated. The Service should acknowledge the issues with poaching and illegal hunting on both sides of the refuge.
Land Use, Public Use, Recreation, Visual Resources - 5	The Draft SEIS does not include analysis of management issues and their impacts to Izembek. The Service acknowledges that there could be land management issues with the split estate if subsurface resource development and access is sought. The Final SEIS should be updated to address this.
Land Use, Public Use, Recreation, Visual Resources - 6	The Draft SEIS fails to account properly for the future impacts of off-road vehicle use. There are already all-terrain vehicle/off-road vehicle incursions into the refuge that depart from established roads. Residents of King Cove have noticed increased off-road activity. The SEIS should include information on resource allocation for road monitoring and enforcement. Without refuge surveillance and enforcement capabilities, the road will allow people to drive cross-country through the refuge, expanding impacts from off-road travel beyond the road corridor.

Topic	Comment Topic Summary
Legislative History - 1	<p>Numerous studies and decisions have consistently found that building a road through Izembek National Wildlife Refuge would cause significant harm to its wildlife and wilderness. The Service has rejected land exchanges to facilitate the road, citing the unacceptable environmental impacts. The Service has repeatedly evaluated the proposal, including in the 1980s, 1996, 1998, and 2013, and each time concluded that the road would irreversibly damage crucial habitats and wildlife populations, such as tundra swans, waterfowl, and brown bears, and does not align with the refuge's purpose or conservation goals. The decision to reject the land exchange was upheld in 2015.</p>
Mitigation Measures - 1	<p>Commentors recommended the Service consider additional mitigation to minimize impacts of the proposed action. Specific recommendations include the following:</p> <ul style="list-style-type: none"> • Consider additional mitigation measures to protect subsistence resources. • To minimize the disturbance to waterfowl populations while they are most vulnerable, construction should be conducted as much as possible during the summer. • Construction should avoid the time periods most important to black brant and Steller's eider. • Road construction should minimize hydrological disturbances to Izembek Lagoon, Izembek Wilderness, and the surrounding areas to the greatest extent possible. • Commit to additional mitigation measures from the Vice Chair of the Kodiak Aleutians Subsistence Regional Advisory Council relating to subsistence. • Tunnels should be constructed under the road so that wildlife movement would not be impacted by the road.
Mitigation Measures - 2	<p>Mitigation Measure M.C. addresses the Wildlife Monitoring Program and has specific measures associated with the road alternatives and the hovercraft alternative. New measures were added to this mitigation measure (M.C. xi and xii) to obtain fish information and develop and implement a fish monitoring plan. These measures are presumably intended to apply to the road but were added to the SEIS under hovercraft-specific measures.</p>
Mitigation Measures - 3	<p>Proposed mitigation measures for guardrails and barriers along the length of the proposed road will likely be ineffective at reducing impacts of the proposed road on wildlife species of the refuge. The barriers can be easily circumvented (e.g., cutting chains, moving bollards, or using ramps over low height guardrails).</p>
Mitigation Measures - 4	<p>The Final SEIS may not rely on uncertain, undefined, and unenforceable mitigation measures in its effects analysis. NEPA requires that agencies discuss mitigation measures with sufficient detail to ensure that environmental consequences have been fairly evaluated.</p>
Mitigation Measures - 5	<p>Modern construction techniques and mitigation measures can be employed to protect the Izembek National Wildlife Refuge ecosystem. Construction can be designed to avoid and mitigate significant environmental harm while preserving wetlands, critical habitats, and biodiversity. Other refuges coexist with urbanized areas, airports, and ports and include paved roadways to facilitate convenient passage for people. This project proposes only a one-lane, gravel road, designed with minimal environmental impact that should be planned to coexist with conservation goals. Additionally, there are currently 40 miles of existing road in the refuge with no apparent impact on birds or any other wildlife, and only 11 miles are needed to link the existing roads.</p>

Topic	Comment Topic Summary
Mitigation Measures - 6	The Draft SEIS includes adaptive management strategies and monitoring plans for several resource areas and mitigation for resilient road designs. The Final SEIS should further consider resilience planning in the project design to prepare for future stressors that pose potential risks to the road infrastructure, particularly given the long-lived nature of the road. The Final SEIS should consider and incorporate Indigenous Knowledge into resilience planning as appropriate. Local plans and assessments may be helpful in identifying additional mitigation measures.
Mitigation Measures - 7	With proper access controls for the road, the area can be protected and enhanced for visitor enjoyment without negatively affecting wildlife. Small access corridors with elevated viewing platforms could be constructed for wildlife viewing. This would also allow for monitoring wildlife and birds and limiting interaction with wildlife during monitoring. Additionally, tunnels can be constructed under the road so that wildlife movement would not be impacted by the road.
NEPA Impact Analysis Methods - 1	NEPA mandates a thorough evaluation of environmental consequences, including adverse effects, the relationship between short-term actions and long-term productivity, and the irretrievable commitment of resources. The analysis should cover direct, indirect, and cumulative effects, but the Service has not adequately examined these factors, failing to consider how the proposed action aligns with federal land use plans or its broader environmental impact. The SEIS does not discuss the interconnected impacts on the physical, ecological, and social systems. The Service must assess the combined effects of interconnected issues like socioeconomic, health, climate, and subsistence, and should incorporate Indigenous and local knowledge, as well as available data, to fully analyze the impacts. Additionally, socioeconomic trends, including inflation, unemployment, cost of living, grocery availability, and the role of subsistence in education, should be considered in the analysis.
Physical Resources, General - 1	The SEIS should address impacts from fugitive dust on vegetation, water quality, and wildlife. The SEIS should also include a comprehensive fugitive dust control management plan.
Proposed Action and Alternatives - 1	A 2015 U.S. Army Corps of Engineers analysis that looked at three non-road alternatives—a 150-foot year-round ferry capable of moving through 12-inch-thick ice, a fixed-wing aircraft and new airport, and a helicopter/heliport—deemed a marine option most reliable. The Service should examine this as an alternative.
Proposed Action and Alternatives - 2	Following the Ninth Circuit’s June 2023 ruling, the 2019 Bernhardt Decision became the binding administrative decision with regard to the Izembek land exchange. However, despite language in the 2023 Notice of Intent committing to review the viability of the 2019 Secretary’s land exchange agreement, the State of Alaska questioned why that alternative was not meaningfully addressed in the SEIS.
Proposed Action and Alternatives - 3	<p>Alternative 5 is not a reasonable alternative for the following reasons:</p> <ul style="list-style-type: none"> • The Cold Bay dock is not protected from wave action and can be dangerous to vessels and people during inclement weather. • The Cold Bay area around the dock freezes during cold weather. • The ferry is costly to maintain and operate and funding is not available.

Topic	Comment Topic Summary
Proposed Action and Alternatives - 4	<p>Commenters contended that non-road alternatives employing air or water travel are unviable, ineffective, impractical, and inefficient. Many of the commenters had a personal connection to the area and argued that the construction of a road would make things less difficult. Others highlighted the loss of life and realities of living in an isolated area without sufficient emergency services or access to Cold Bay during medical emergencies. They commented in support of Alternative 6 and emphasized that if all regulations are followed and mitigation measures implemented, the road would cause minimal impact to wildlife and improve the livelihood of and quality of life for residents.</p>
Proposed Action and Alternatives - 5	<p>Alternative 5 in the 2013 EIS and the SEIS considers a new ferry from a new dock in Lenard Harbor on the King Cove side of Cold Bay to the Cold Bay dock. The Cold Bay dock is planned for replacement, and the new dock is currently being designed.</p> <p>The Service should consider that while improvements to the Cold Bay dock are planned, there will still be limitations to safe use of the replacement dock. Cold Bay freezes during periods in the winter, and the dock is not fully protected from sea swell caused by strong winds. As a result, there will be periods when vessels cannot use the replacement dock, either because of ice or inability to safely moor at the dock due to wave action.</p>
Proposed Action and Alternatives - 6	<p>The Alaska Department of Environmental Conservation's Contaminated Sites program notes that any land identified for swap under all alternatives should be investigated and cleared for munitions and other contaminants.</p>
Proposed Action and Alternatives - 7	<p>The Service was required to identify the environmentally preferable alternative in this Draft SEIS. The Service must release a new Draft SEIS with a designated environmentally preferable alternative</p>
Proposed Action and Alternatives - 8	<p>The Service should analyze a new alternative similar to Alternative 2 that would include the following:</p> <ul style="list-style-type: none"> • 203 acres leaving federal ownership; • Not allowing gravel mining along the road corridor, and particularly not within the Izembek Wilderness; • Requiring additional KCC lands to come into federal ownership with the Izembek Refuge, i.e., the full 2,604 acre Kinzarof Lagoon parcel instead of the 1,739 acres included in Alternative 6; • Requiring KCC to relinquish its selection to 5,430 acres within the Izembek Wilderness and substitute a parcel within the Alaska Peninsula National Wildlife Refuge to satisfy KCC's selections; and • Including the 29,459 acres of surface estate of the Mortensens Lagoon and Old Man's Lagoon/Thinpoint Lake parcels coming into the federal estate. <p>The Service could also seek to include The Aleut Corporation in the negotiations to seek to obtain the subsurface rights to Mortensens Lagoon and Old Man's Lagoon/Thinpoint Lake parcels to avoid split estate issues.</p>
Proposed Action and Alternatives - 9	<p>A marine or air (contracted pilot and emergency helicopter or new airstrip on King Cove land) solution is a better alternative for medical evacuation for residents of King Cove. A long gravel road, subject to weather and continuous maintenance, is not a viable option in case of a medical emergency.</p> <p>Commenters suggested additional options, such as a light rail system or improvements to the King Cove airport.</p>

Topic	Comment Topic Summary
Proposed Action and Alternatives - 10	In the memorandum accompanying the 2019 land exchange agreement, Secretary Bernhardt stated a road was the only reasonable alternative for improving access for King Cove to the Cold Bay airport, and this decision struck a more equitable balance than Alternative 6. In Secretary Haaland's memorandum to withdraw from the 2019 exchange, she agreed that there were no reasonable alternatives to a road.
Proposed Action and Alternatives - 11	There is no clear mechanism identified in the Draft SEIS to impose the specified use restrictions on the future road for non-commercial use and only travel necessary for health and safety purposes and access to Refuge resources by federally qualified subsistence users actively engaged in subsistence uses. The Service must clarify how it intends to impose any use restriction and then analyze its effectiveness. If the road is built it must have funding for Service law enforcement and/or State of Alaska wildlife troopers to enforce the commercial use prohibition and keep the road from being used to illegally access the refuge using off-road vehicles. The SEIS should also address the impacts of broken down vehicles along the road.
Proposed Action and Alternatives - 12	A road can be built outside of the federally designated wilderness. The SEIS should consider what has been done in other places in Alaska and consider options such as a bridge that would be outside of refuge and wilderness land.

Topic	Comment Topic Summary
Proposed Action and Alternatives - 13	<p>The State of Alaska requested that the Service include consideration of the following:</p> <ul style="list-style-type: none"> • Development of temporary barge landing sites immediately adjacent to existing hovercraft ramps at the Northeast Terminal and Cross Wind Cove may require land use authorizations from the Department of Natural Resource's Southcentral Region Office, if development occurs on state-owned tidelands and submerged lands. • Road construction, material extraction, and/or development over or through state-owned public and navigable waters within the land to be conveyed may require additional land use authorization from the Department of Natural Resource's Division of Mining, Land, and Water, Southcentral Region Office. • Old Man's and Mortensens Lagoons in Alternative 6 currently receive a fair amount of sport fishing effort (relative to the area), and the lagoons are not subject to a federal subsistence overlap like many waterways in the area. Service ownership of those lands would provide open access in terms of any trespass requirements imposed by the KCC; however, they may come with increasing regulatory burden of the federal subsistence overlap depending on where the refuge boundaries are drawn. The Final SEIS must consider the impacts the proposal will have on the various user groups. • Federal ownership would likely also result in increased restrictions on vehicle access to the drainages. Given the extensive areas currently subject to vehicle access restrictions, the Final SEIS should discuss impacts the proposal will have on vehicle users. • Final maps must be exceptionally clear on what the refuge boundary will be and if that will make any land ownership changes beyond the existing boundary of the Alaska Peninsula Wildlife Refuge. • The maps in the Draft SEIS incorrectly show the refuge boundary running across the mouth of Cold Bay thus including all of the salt waters of Cold Bay within the bounds of the refuge. The Alaska Department of Fish and Game recently worked through these boundaries at length with the Department of the Interior Office of Subsistence Management and the Kodiak/Aleutians Resource Advisory Committee in regard to federal fisheries closure reviews. Substantial effort went into fairly squaring away which areas have a federal subsistence overlap. The Final SEIS must include information about how the proposal will impact the recent agreements.
Proposed Action and Alternatives - 14	Upgrading existing medical facilities in King Cove is a more feasible option than a road for addressing critically important emergency medical situations and community health.
Public Involvement and Scoping Process - 1	The public comment period should be extended.
Public Involvement and Scoping Process - 2	The Draft SEIS ignores comments that were received during public scoping.

Topic	Comment Topic Summary
Purpose and Need of the Action - 1	The road's stated purpose of emergency medical evacuation is unfeasible due to the financial challenges faced by the Aleutians East Borough and King Cove community, especially with the closure of the Peter Pan processing plant. The community now lacks the resources to maintain the road. Given Alaska's own fiscal crisis, the road would deteriorate quickly and turn into an all-terrain vehicle trail, leading to illegal motorized trespassing in the wilderness.
Purpose and Need of the Action - 2	The purpose and need for the road does not outweigh the harm, especially to the Pacific black brant populations. The road will be used for things other than what is stated in the purpose and need, including recreational and commercial uses, which will cause additional harm. Living in rural Alaska means that access to emergency medical care will always be limited.
Purpose and Need of the Action - 3	The purpose and need in the Draft SEIS is poorly defined and should be revised to include clearer definitions of the purpose, such as addressing the need for better emergency medical care for King Cove residents or more reliable access to Cold Bay for medical emergencies. The Service does not discuss the current emergency medical services or explore ways to improve them, did not consult relevant agencies or experts, provided no supporting reports or data to back up the stated purpose and need, and provided no discussion of the types or frequency of medical conditions requiring evacuation since 2013 nor any details about past evacuations (such as service providers, transport times, or whether the transports were successful). While the Service includes transportation as a goal, it also adds vague purposes like increasing conservation value and enhancing subsistence opportunities, without explaining the specific need for these. This unfairly limits the range of alternatives that meet the stated purpose and need. The Draft SEIS also includes outdated language from the 2013 EIS that includes mentions of "quality of life" and "affordable transportation options" in the purpose section, which need to be removed or clarified.
Purpose and Need of the Action - 4	<p>Alternative options are not viable during severe weather, so the road is needed to provide safer and faster access to medical care, and the project is capable of balancing both human safety and environmental protection. The King Cove clinic often does not have the staff or supplies (including medications) to offer multi-day care, but the community is ready and equipped with an ambulance and trained medical professionals that could use the road to get patients to Cold Bay to get them the care they need. Seeing a patient or loved one suffer or die because of delayed care causes immense mental harm to the community.</p> <p>Other stated needs for the road include:</p> <ul style="list-style-type: none"> • To allow for faster transportation of goods, which would improve access to healthy food for residents; • To allow for safer transport to the Cold Bay airport for kids who need to travel for sports; and • To give people who are afraid of flying an alternate way to get to Cold Bay.
Purpose and Need of the Action - 5	<p>The road is no longer needed because of the closure of the Peter Pan processing plant and because reasonable alternatives exist. There is also no need for privatizing the road corridor. Creating opportunities for subsistence is not a compelling reason to build the road because residents can already access these areas by other means. Additionally, the proposed action would not meet the purpose of increasing overall conservation value of lands considering the unique values of lands that would be conveyed or impacted.</p> <p>Commenters questioned whether the road could meet the stated purpose and need due to factors such as the road being impassible in bad weather and the unreliability of being able to get a flight out of Cold Bay in inclement weather.</p>

Topic	Comment Topic Summary
Public Revenue and Fiscal Considerations - 1	The Draft SEIS cost analysis was not updated from 2013. The Service should update the cost analysis for all of the alternatives to consider state-specific wages, the cost of importing gravel, increased inflation, and increased tariffs.
Public Revenue and Fiscal Considerations - 2	<p>The Draft SEIS should be updated to state who would be responsible for the cost of the construction and maintenance of the hovercraft alternatives. The Service should consider the feasibility and annual cost of operating ocean vessels on local communities.</p> <p>Additionally, the Draft SEIS states that it assumes that the State of Alaska or the Aleutians East Borough will oversee planning, permitting, construction, operations, and maintenance of a road. One commenter requested that the SEIS be amended to remove this assumption.</p>
Road Design, Bridges, Transportation, Planning, and Transportation Systems - 1	<p>The Draft SEIS does not account for the region's weather conditions on road maintenance. In bad weather, the road would not be suitable for medical transport without regular maintenance. Specific concerns noted by commenters include the following:</p> <ul style="list-style-type: none"> • The assumption in the Draft SEIS that a road would almost always be available, assuming regular timely maintenance, does not appear to be substantiated for this region. A road would not be a practical, year-round solution because of weather conditions in the region that would make the roads unstable and not suitable for medical transport. • The region experiences unstable ground during "break-up" season from November to April. • Constant wind would scour the road and cause increased maintenance needs. • Previous roads similar to the proposed road have caused damage to vehicles including blown tires, broken axles, and other damage. • Broken down vehicles would accumulate along the road over time, as is a common occurrence in rural Alaska.
Road Design, Bridges, Transportation, Planning, and Transportation Systems - 2	<p>The Draft SEIS fails to include mitigation and enforcement mechanisms for the Alternative 6 road and details on what agency is responsible and how the restrictions on commercial and non-emergency access would be enforced. Specific concerns include:</p> <ul style="list-style-type: none"> • Who is going to enforce the non-commercial use of the road? Who is going to enforce and prevent off-road use from the road? The Service should consider that once the road is built it may be used for purposes other than what were originally considered a need and access would become too relaxed. • The SEIS should project and analyze the potential volume of road traffic, including the number of anticipated subsistence users, as well as both legal and illegal users.
Road Design, Bridges, Transportation, Planning, and Transportation Systems - 3	<ul style="list-style-type: none"> • Turnouts are needed if a one-lane road is built. Without turnouts, a one-lane road becomes very dangerous if cars are approaching from opposite directions.
Socioeconomic Resources, General - 1	The Draft SEIS should be revised to reflect that the road proposed in Alternative 6 would provide a benefit to King Cove residents because of reliable travel. Having reliable access between communities would be a major beneficial impact and residents would save money and fees having reliable transportation.

Topic	Comment Topic Summary
Socioeconomic Resources, General - 2	The Service should take into consideration the total taxpayer funds being spent on the road. The analysis should look at previous funds spent on projects aimed at improving King Cove's emergency medical access. The Service should take into consideration the current situation of the national economy; it does not make sense to spend federal money (and therefore, taxpayers' money) on a road that will be used by a few people.
Subsistence - 1	The public handout and Draft SEIS inaccurately describe ANILCA's purpose statement on subsistence by referencing a statutory obligation for the "furtherance" of conservation and subsistence purposes. Section 101(c) of ANILCA directs federal agencies "to provide the opportunity for rural residents engaged in a subsistence way of life to continue to do so," and Title VIII provides for the continuation of opportunities for subsistence uses; however, ANILCA does not direct the Service to improve opportunities for rural Alaskans in "furtherance" of conservation and subsistence purposes. Congress repeatedly emphasizes its direction to ensure the continued opportunity for subsistence uses by rural residents of Alaska, both Natives and non-natives; however, it does not direct the Service to improve the opportunity for subsistence uses by rural Alaskans. The commenter requests that the language in the Final SEIS appropriately captures the Service's responsibility to provide continued opportunities, on the refuge, for rural residents to engage in subsistence uses.
Subsistence - 2	The Service should account for how compromising the ecological integrity of Izembek Refuge will harm other places and people that are connected to Izembek through subsistence harvest of migratory birds and other subsistence resources. The Bird Explorer contains data for 24 species of tagged birds that utilize the Izembek Refuge. These connections are largely driven by waterfowl that utilize these areas and Izembek Refuge to complete their life cycles. When considering the impacts of the proposed road, the Service must consider how degradation to the refuge will impact the ecosystems, resources, and critical subsistence habitat in other parts of the state and across the hemisphere. Given the refuge's critical importance to waterfowl, specific attention should be paid to how subsistence resources across Alaska may be compromised by a road and the cumulative impact.
Subsistence - 3	The Draft SEIS does not analyze the impact of sport hunting on subsistence species. The Final SEIS should include this analysis.
Subsistence - 4	Commenters requested that the Service recognize impacts on subsistence resources for Alaska Natives and tribes located in the YKD and other areas throughout Alaska. Commenters referenced the SEIS, which found the road would result in effects to geese populations. Commenters noted conservation efforts regarding geese would be undermined due to the construction of the road. Commenters expressed concern regarding critical habitat of subsistence resources, include geese. Some commenters noted resolutions passed by the Native Village of Hooper Bay and other tribes opposing a road. Multiple commenters noted degradation of waterfowl habitat would result in adverse impacts to subsistence resources in the YKD and western Alaska communities and that this is understated in the SEIS.
Subsistence - 5	The Service should work closely with the local communities and consider input from all parties who participate in subsistence activities. The Service should continue outreach with the communities in the area. The needs of western Alaska residents should be taken into consideration and should not be marginalized. The desires of the Native community in and around Izembek National Wildlife Refuge should be addressed. The SEIS should include analysis on more than five studied communities related to subsistence and reduced availability.

Topic	Comment Topic Summary
Threatened and Endangered Species - 1	The Service must engage in Endangered Species Act Section 7 consultation for listed northern sea otters, as consequences of the proposed action will affect both the sea otter and its critical habitat.
Threatened and Endangered Species - 2	Because listed spectacled eiders may be present in the project area, the Service must prepare a Biological Assessment that determines whether spectacled eiders or their habitat may be affected by the proposed action.
Threatened and Endangered Species - 3	The Service must engage in Section 7 consultation with the National Marine Fisheries Service for the endangered Steller sea lion before choosing to proceed with a land exchange because Steller sea lions may be present in the area.
Threatened and Endangered Species - 4	Izembek and Kinzarof lagoons, on either side of the isthmus where the land exchange and road are proposed, are important habitat for Steller's eiders, which have high site fidelity. Likely impacts from road construction, operation, and maintenance include disturbance from increased foot and all-terrain vehicle traffic, impacts to eelgrass beds, increased risks of collision, and effects to movement across the isthmus between the lagoons. The project contravenes necessary recovery actions of protecting habitat and increasing survival of Steller's eiders. The Service must complete the Section 7 consultation process for this species before deciding on a land exchange alternative.
Threatened and Endangered Species - 5	To fully analyze all effects to Steller's eiders from the proposed action, the Service must remedy the following shortcomings of the Draft SEIS: reliance of the analysis on "potential," meaning uncertain and unenforceable, mitigation measures like guardrails and plans; and failure to analyze the effects of the project on eiders in the context of the species' tendency towards high site fidelity, which makes them especially vulnerable due to their refusal to abandon areas that are ecologically compromised.
Threatened and Endangered Species - 6	Populations of marine invertebrate food sources are declining due to climate change, and current stressors faced by Steller's eiders may increase in magnitude. The Draft SEIS fails to analyze the cumulative impacts on Steller's eiders of the action alternatives in the context of climate change, and there is no mention of climate change in the Environmental Consequences section that focuses on Steller's eiders, despite the vulnerability of this species to climate change impacts.
Threatened and Endangered Species - 7	The Draft SEIS fails to assess the cumulative impacts of the proposed action to the Alaska-breeding population of Steller's eiders in the context of other human development, including oil and gas development and projects like Nanushuk, Greater Mooses Tooth, CD5, Project Peregrine, Alaska LNG Project, and Willow.
Threatened and Endangered Species - 8	Negative impacts to the eelgrass beds in Izembek and Kinzarof lagoons, among other direct, indirect, and cumulative effects from the proposed land exchange and road, threaten the sunflower sea star population. Because the sunflower sea star is proposed for listing under the Endangered Species Act, the Service must confer with the National Marine Fisheries Service before proceeding any further in its decision-making process.
Vegetation - 1	The proposed road and land exchange will permanently impact eelgrass beds, which provide critical wildlife habitat, have a high level of biodiversity, and are important for subsistence.
Vegetation - 2	The Draft SEIS fails to adequately analyze the effects of the proposed action to eelgrass, wetlands, and plant communities in the refuge. Eelgrass is an important climate change mitigation tool that stores carbon in the sediment, alleviates low pH conditions, and provides crucial structural support along the coast, and any activities that threaten Izembek's eelgrass beds also threaten the entire ecosystem and its resiliency in the face of a changing climate.

Topic	Comment Topic Summary
Vegetation - 3	The proposed project will lead to major long-term impacts to vegetation outside the construction footprint from changes in ecosystem processes, airborne dust, and increase in off-road all-terrain vehicle activity.
Vegetation - 4	The Service should address in the SEIS how building the road will introduce invasive and non-native species into wilderness, which contradicts the Service's program to stop the spread of invasives.
Vegetation - 5	The SEIS should acknowledge that the road under Alternative 6 would be at least 2 miles from the eelgrass beds and therefore will not have an impact on eelgrass or the species that rely on it. The Service should note that the true impact to eelgrass beds is from hunters who use boats with an outbound motor, which the Service allows.
Vegetation - 6	Before completing the SEIS, the Service should gather additional information related to rare and non-native plants to fully assess environmental impacts. The SEIS should also fully analyze the impacts of introducing invasive species to habitats adjacent to the road corridor.
Wetlands and Aquatic Communities - 1	The Draft SEIS fails to take a hard look at the effects of the proposed action on the refuge's wetlands and eelgrass meadows and the ecosystem which it supports. It does not analyze the effects of increased sediment on eelgrass and wetlands; simply stating that transport of sediment will occur is not enough. The Final SEIS must analyze the effects on the lagoon systems, including wetlands and eelgrass; of the addition of sediments that will occur from the construction, operation, and maintenance of the road, including the proposed gravel mining; the annual accumulation of the relocation of sediments into surrounding lagoons that have eroded off of the road; and the additional all-terrain vehicle traffic that will occur if the road is built. This analysis must include the effects on eelgrass caused by impaired water quality and water clarity due to increased sediment, as this scenario may limit available light and therefore impair eelgrass productivity. This impairment could ultimately lead to severe damage to the eelgrass meadows, particularly if foraging continues while the eelgrass is in an impaired state. The Final SEIS must analyze the effects of dust shadows from the road, which will impact adjacent tundra vegetation and waterways, especially during construction and maintenance; dust shadows can have serious, long-term impacts to terrestrial and aquatic systems.
Wetlands and Aquatic Communities - 2	The Final SEIS must remedy the Draft SEIS's failure to accurately analyze the full impacts of the proposed action on the integrity of the wetlands and tundra. The analysis must not underestimate the project's reasonably foreseeable impacts to essential ecosystem services, including the effects of increased erosion from all-terrain vehicles, resulting sediment transportation, and enhanced turbidity due to the presence of the road. The final analysis must also contain a full assessment of the potential of acid-generating rock discharge into streams and wetlands and the potential effects this will have on the lagoon ecosystems. The final analysis cannot rely on uncertain mitigation measures.
Wilderness - 1	The SEIS should consider beneficial impacts of the road alternatives. Road alternatives would enhance the wilderness with better enforcement of hunting and fishing regulations. The road would provide wildlife viewing opportunities and add thousands of acres of designated wilderness.
Wilderness - 2	The Service needs to consider the intent of the area designated as wilderness and how this intent would be disrupted from road construction and operation as changes could occur. The road is not in the public interest of protecting designated wilderness areas.

Topic	Comment Topic Summary
Wilderness - 3	<p>The construction of the road would have devastating impacts on the wilderness character of the Izembek Wilderness. The resulting loss of wilderness character goes beyond the basic tenets of Wilderness Act values to be protected.</p> <p>The road construction, maintenance, and use threaten ANILCA values and Izembek Refuge’s purpose to preserve wilderness resources. Trading land is inconsistent with the Wilderness Act mandates and Izembek Wilderness's purpose. Trading the land would violate the Refuge Act and the Wilderness Act.</p> <p>In the 2013 Record of Decision, Secretary Jewell declared that “nothing is more contradictory with, or destructive to, the concept of Wilderness than construction of a road. The impact of road construction on wilderness character would radiate far beyond the footprint of the road corridor. It would irreparably and significantly impair this spectacular Wilderness refuge.”</p>
Wildlife - 1	<p>Aleutian and Arctic terns have been documented on the isthmus historically and in recent years. The Aleutian tern is of particular conservation concern. A 2024 survey identified two nesting colonies on the isthmus between Izembek and Kinzarof Lagoons in the immediate vicinity of the Alternative 6 road corridor, as well as colonies on refuge lands adjacent to the proposed road corridor. The Service should note in the SEIS that terns may nest in wet meadows and on upland tundra, on vegetated islands in small ponds, and on sandy spits or islands associated with river estuaries. The SEIS should incorporate recent data and analyze impacts to the Aleutian tern.</p>
Wildlife - 2	<p>The proposed road will disturb nesting colonies of Aleutian terns, which are highly sensitive to disturbance, which can lead to reduced reproductive success and potentially abandonment of nesting colonies. The road might also result in increased harvest pressure on the species. The additive effects of habitat degradation, anthropogenic disturbance, and increased harvest pressure could lead to colony-wide failure and abandonment throughout the impacted area, which might negatively affect species persistence in the region. The Service should update the SEIS to incorporate additional information about Aleutian terns and re-analyze the effects of road-based alternatives on this species. The project could have potentially significant, negative impacts on this species.</p>
Wildlife - 3	<p>The Draft SEIS fails to assess how the proposed project will affect the ecological integrity of migratory bird habitats overall, including in the YKD. The Draft SEIS does not adequately assess how climate change impacts occurring in the YKD or in Mexico (or elsewhere along the Pacific Flyway) will cumulate with the physiological and ecological impacts to black brant and emperor geese that would be caused by the proposed land exchange and road. The Draft SEIS does not assess how brant is an umbrella species. It does not include enough new discussion of impacts to migratory birds from the proposed project, despite the increased risk of harm. The finding that the indirect effects from operation and maintenance of the road would not interfere with black brant and emperor geese feeding is inconsistent with science demonstrating otherwise. The Draft SEIS fails to adequately assess other cumulative impacts to black brant across their migratory pathway, such as from increased oil and gas development in the Arctic.</p>
Wildlife - 4	<p>The SEIS fails to account for the expected increase in hunting pressure and harvest on black brant, Taverner’s cackling, and emperor goose during the fall subsistence season and on black brant, emperor goose, and shorebirds during the spring subsistence season as a result of increased access within and to the refuge.</p>

Topic	Comment Topic Summary
Wildlife - 5	The Draft SEIS does not update conclusions made in the 2013 EIS with new research on bird species that includes updated population trends and additional impacts not considered in the Draft SEIS.
Wildlife - 6	The SEIS fails to rigorously account for the projected and compounding impacts of climate change on birds when examining the proposed action. The Service must account for how migratory birds' annual life cycles may be compromised by climate change and further harmed by the compounding impacts of the proposed action.
Wildlife - 7	The proposed action would significantly impact brown bears by exacerbating existing challenges that the Service faces in conserving this species. It would increase harvest pressure, habitat degradation and fragmentation, and human disturbance. The SEIS fails to fully disclose these impacts.
Wildlife - 8	The SEIS does not discuss the impacts of the proposed road on caribou caused by disrupting or restricting movements. Potential impacts include limiting the range of caribou, impeding migration across the isthmus, reducing cow and calf survival, causing abandonment of preferred habitat, and increasing hunting pressure and access. The project would decrease the conservation value of the area and could prevent caribou from accessing high use habitat.
Wildlife - 9	The project will have impacts to bird habitat beyond the refuge, as birds influence habitat conditions throughout their ranges. There would be impacts to other species that need high quality forage and grazing lawns outside of the refuge that would be affected by population declines of brant and other geese.
Wildlife - 10	The proposed road would have negative impacts to birds and important bird habitat, including the Izembek and Kinzarof Lagoons, the isthmus, and adjacent wilderness areas. Impacts from road construction, operation, and maintenance, and associated off-road all-terrain vehicle activity would include habitat fragmentation, alteration and degradation of eelgrass beds and other key habitats, loss of critical breeding and feeding sites, disturbance and increased energy expenditure during breeding and feeding, disruption of bird movements, displacement from key feeding areas, and increased hunting pressure. Impacts will extend beyond the road corridor. Impacts could occur to numerous bird species, including migratory birds, birds of conservation concern, and Endangered Species Act-listed species.
Wildlife - 11	The conclusion that there would be no or negligible impacts to marine mammals is arbitrary, and the analysis of impacts of the proposed land exchange and road on marine mammal species is inadequate. Cumulative impacts to marine mammals must consider the effects of climate change. The analysis of impacts improperly relies on the implementation of uncertain mitigation measures.
Wildlife - 12	Baseline data used in the Draft SEIS are often missing, incomplete, or lower in quality than needed to accurately estimate populations, and the Draft SEIS underestimates the impacts of the land swap and construction. How will the Service obtain better data?
Wildlife - 13	The Draft SEIS downplays the fact that Izembek is an isthmus, and constructing a road would have a profound impact on wildlife that use this area as a travel corridor. The Draft SEIS failed to indicate that the isthmus is one of the most important breeding areas for migratory birds in the refuge.
Wildlife - 14	The increase in human access, hunting pressure, and disturbance on the isthmus will have major, long-term, negative impacts on large land mammals. The Draft SEIS determination of moderate impacts is an underestimation of impacts.

Topic	Comment Topic Summary
Wildlife - 15	Mitigation measures for wildlife are vague and not adequately enforceable. The SEIS needs to fully explore all current issues impacting wildlife in the area in order to make mitigation measures less vague and adequately enforceable. These include impacts related to legal and illegal hunting and fishing in the area.
Wildlife - 16	The proposed road construction, operation, maintenance, and anticipated associated all-terrain vehicle activity will disturb wildlife and have long-term impacts on eelgrass beds and other critical wildlife breeding, feeding, and migration stopover habitats; disrupt migration and wildlife movements; fragment habitat; cause pollution; increase hunting pressure; and have negative effects on species the refuge was established to protect. Habitat impacts will occur beyond the road footprint.
Wildlife - 17	The SEIS must discuss how Izembek National Wildlife Refuge supports breeding habitats and life cycles of shorebirds and how the proposed action would compromise these values.

Notes: 2013 EIS = *Izembek National Wildlife Refuge Land Exchange/Road Corridor Final Environmental Impact Statement*; Act = Omnibus Public Land Management Act of 2009; ANILCA = Alaska National Interest Lands Conservation Act; NEPA = National Environmental Policy Act; SEIS = Supplemental Environmental Impact Statement; YKD = Yukon-Kuskokwim Delta