



TRUSTEES FOR ALASKA

PROTECT | DEFEND | REPRESENT

September 16, 2026

Dom Pannone, Director
Alaska Department of Transportation and Public Facilities
P.O. Box 112500
3132 Channel Drive
Juneau, AK 99811-2500
dom.pannone@alaska.gov

Via email

Re: Federal Funding Implications of Imminent Izembek Road Construction

Dear Director Pannone:

I am writing on behalf of the Alaska Wilderness League, Friends of Alaska National Wildlife Refuges, National Wildlife Refuge Association, Sierra Club, and Wilderness Watch regarding the State of Alaska, Department of Transportation and Public Facilities' (AKDOT) planned construction activities on the first 2.8 miles of an 18.9-mile public road that would run through the Izembek National Wildlife Refuge (Izembek) from King Cove to Cold Bay (Izembek Road). If AKDOT proceeds with construction this year, as planned, it will violate multiple provisions of federal law governing the allocation of federal-aid highway funding, and the Federal Highway Administration (FHWA) will be required to deny any further requests from AKDOT for federal funds for this project.

On July 9, the U.S. Army Corps of Engineers (Corps) issued a Clean Water Act Section 404 permit (Permit) to AKDOT authorizing the construction of an 18.9-mile road through Izembek.¹ The plan sheets attached to the Permit detail the authorized construction activities on the first 2.8 miles of the Izembek Road, which include the installation of at least 12 culverts, discharges in wetlands, and construction of a bridge.² On August 26, the Corps suspended the Permit and directed AKDOT "to stop any activities that were previously authorized" stating that "[a]ny further work in these areas shall be considered a knowing, repeat, and flagrant violation of Federal law."³ Despite

¹ Ex. A, U.S. Army Corps of Engineers, Alaska District, Clean Water Act Section 404 Permit, POA-2010-00286 (July 9, 2026).

² *Id.* at 13-15.

³ Ex. B, U.S. Army Corps of Engineers, Alaska District, Permit Suspension (Aug. 26, 2026).

suspension of the Permit, AKDOT has stated that it “still plans to begin construction in September” on the first 2.8 miles of the road.⁴

AKDOT is seeking to secure federal funding for this project. In proposed Amendment #6 to the 2024-2027 Statewide Transportation Improvement Program (STIP), AKDOT sought to add the Izembek Road as a new project: Project No. 34919.⁵ AKDOT identified \$16.5 million in federal funding for this project from the “Surface Transportation Block Grant” program, which is a federal-aid highway fund.⁶ AKDOT stated that this funding would be obligated for fiscal year 2026,⁷ which suggests it will be used for the construction planned for this year. In addition, AKDOT may be utilizing previously allocated federal funds for the initial planning, mobilization, and construction phases of the Izembek Road, including but not limited to an approximately \$10.7 million contract awarded for the “King Cove Material Stockpiling and Workforce Training Project.”⁸ Notably, while this contract states it was opened for bidding on August 17, there was no notice on the Alaska Online Public Notice System,⁹ which raises significant questions as to whether AKDOT complied with state law governing agency contracts.¹⁰

Section 4(f) is a mandatory, substantive provision of the Department of Transportation Act that applies whenever federal funding is used or may be available for construction of a road.¹¹ It prohibits AKDOT from approving “any program or project . . . which requires the use of any publicly owned land from a . . . recreation area[] or wildlife and waterfowl refuge of national, State, or local significance” unless AKDOT first determines that “there is no feasible and prudent alternative,” and “the program includes all possible planning to minimize harm” to the affected park or refuge.¹² A National Wildlife Refuge is a Section 4(f) property.¹³ “Use” of a Refuge occurs when, among other things, a project impacts wildlife viewing, “impairs esthetic features or attributes of a property”, or “diminishes the value of wildlife habitat in a wildlife and waterfowl refuge adjacent to the project.”¹⁴ In addition, compliance with the National Environmental Policy Act (NEPA) is required before any project subject to Section 4(f) can proceed.¹⁵ Critically, state

⁴ Alaska Beacon, [Feds Suspend Permit for Road Construction through Alaska Wildlife Refuge, Amid Legal Questions](#) (Aug. 31, 2026).

⁵ AKDOT, [STIP 24-27 Amendment 6 Final for Public Comment](#), July 2, 2026.

⁶ *Id.* at 10.

⁷ *Id.*

⁸ AKDOT, [Construct Contract Award Status for Contract No. SSHWY00750](#) (last accessed on Sept. 9, 2026).

⁹ State of Alaska, [Online Public Notices](#) (search for “invitation to bid”) (last accessed on Sept. 9, 2026).

¹⁰ AS § 36.30.130 (“Notice [of an invitation to bid] shall be posted on the Alaska Online Public Notice System”); *see also* AS §§ 36.30.100-.190 (requirements for competitive sealed bidding).

¹¹ 49 U.S.C. § 303, 23 U.S.C. § 138; *see also* *See La Raza Unida v. Volpe*, 488 F.2d 559, 560-62 (9th Cir. 1973); *N. Idaho Cmty. Action Network v. United States DOT*, 545 F.3d 1147, 1159 (9th Cir. 2008). FHWA has delegated its authority under Section 4(f) and NEPA to AKDOT pursuant to 23 U.S.C. § 327. *See* [U.S. Dept. of Transp., FHWA, Welcome to the FHWA Alaska Division](#) (last accessed on Sept. 11, 2026).

¹² 23 U.S.C. § 138(a)(3); 49 U.S.C. § 303(c).

¹³ 49 U.S.C. 303(a); 23 U.S.C. § 138(a)(1); 23 C.F.R. § 774.17 (definitions)

¹⁴ 23 C.F.R. § 774.15.

¹⁵ 42 U.S.C. § 4332.

and federal authorities cannot avoid these requirements by splitting a project into several segments.¹⁶

Further, federal funds cannot be used for any activity that violates applicable federal or state law, including the Clean Water Act, Section 4(f), and NEPA.¹⁷ If FHWA determines that a state violated or failed to comply with state or federal laws in connection with a federally funded project, not only can it withhold payment to the state for that individual project, but it can also “withhold approval of further projects in the State.”¹⁸

The Izembek National Wildlife Refuge and Wilderness is a 4(f) property, and the proposed Izembek Road would harm Izembek’s internationally significant public lands. Izembek has been recognized for decades as an area with irreplaceable and diverse wildlife habitat that is virtually unparalleled in the Northern Hemisphere. As one of the world’s most important migratory bird staging and wintering habitats, Izembek supports millions of migratory waterfowl and shorebirds, including the entire global population of Pacific black brant. Izembek also provides high-quality brown bear, caribou, and fish habitat. As numerous prior studies by the U.S. Fish and Wildlife Service have concluded, the proposed road would severely and irreparably harm these habitats and species, as well as Izembek’s irreplaceable Wilderness values. Federally funded construction of this proposed road on private land would impact the adjacent Izembek National Wildlife Refuge and Wilderness and is thus, a “use” that requires compliance with Section 4(f) and NEPA.

There is no indication that AKDOT has complied with Section 4(f) in connection with the proposed Izembek Road, nor is there any indication that AKDOT has conducted the environmental impact analysis required under NEPA. Any use of federal funding in connection with the Izembek Road is therefore illegal unless and until AKDOT completes these mandatory processes. And if AKDOT, in its haste to move forward with construction this year, has used any federal funds in connection with a violation of federal law, like Section 4(f), NEPA, or the Clean Water Act¹⁹, or State law, like the competitive bidding and public notice requirements²⁰, not only is the project itself ineligible for federal funding, but other federally funded projects across the State could be impacted as well.

For the foregoing reasons, we urge AKDOT to immediately halt all construction of the Izembek Road. Unless AKDOT can show that it will utilize only non-federal sources of funding for the entire 18.9-mile road project, such construction is unlawful without a valid Section 4(f)

¹⁶ See e.g., *N. Idaho Cmty. Action Network v. United States DOT*, 545 F.3d 1147, 1159 (9th Cir. 2008) (“[A]n agency is required to complete the § 4(f) evaluation for the entire Project prior to issuing its ROD. The Agencies concede that they have taken a phase-by-phase approach, that they have not completed the § 4(f) evaluation for the entire Project, and that they already have issued the ROD. The Agencies have accordingly violated § 4(f).”).

¹⁷ 23 U.S.C. § 114(a); see also 23 C.F.R. § 1.9(a).

¹⁸ 23 C.F.R. § 1.36.

¹⁹ 33 U.S.C. § 1344.

²⁰ AS §§ 36.30.100-.190.

determination and NEPA compliance.²¹ And if AKDOT has spent any federal funding in connection with the Izembek Road thus far, FHWA should exercise its authority to withhold any further payment for this and other federally funded projects within the State.²²

Thank you for your attention to this important matter. We look forward to hearing from you as soon as possible.

Sincerely,



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²¹ See *La Raza Unida*, 488 F.2d at 562 (compliance required for projects for which federal funding “might become available”); *N. Idaho Cmty. Action Network*, 545 F.3d at 1159 (4(f) determination is necessary before construction begins; segmentation prohibited).

²² 23 C.F.R. § 1.36.