

COMPATIBILITY DETERMINATION

Use: Reburial of Archaeological Human Remains per State and Federal Guidelines

Refuge Name: Alaska Peninsula and Becharof National Wildlife Refuges, King Salmon, Alaska

Establishing and Acquisition Authority(ies)

In 1978, President Jimmy Carter established the 1,157,000-acre Becharof National Wildlife Monument with Presidential Proclamation 4613. The monument was established from lands in the public domain to protect the area, notably the unique brown bear denning islands in the Island Arm area of Becharof Lake.

In 1980, the Alaska National Interest Lands Conservation Act (ANILCA) (section 302) established the Alaska Peninsula National Wildlife Refuge and changed the Becharof National Wildlife Monument into a national wildlife refuge as part of the National Wildlife Refuge System. ANILCA (section 303[1]) created the Alaska Maritime National Wildlife Refuge by redesignating 11 pre-existing refuges as units of the new refuge and by adding other public lands on islands, islets, rocks, reefs, spires, and designated capes and headlands in the coastal areas and adjacent seas of Alaska.

In 1983, the U.S. Fish and Wildlife Service (Service) decided to manage the Ugashik and Chignik units of Alaska Peninsula Refuge, the 9,900-acre Seal Cape area of Alaska Maritime Refuge, and Becharof Refuge as a “complex” because they shared resources and resource issues. Distance and weather create barriers to managing the Pavlof and North Creek units from the King Salmon office, and management of these units was shifted to the Izembek Refuge.

The Becharof Wilderness Area of the Becharof Refuge was designated in 1980 by ANILCA (§ 702 [4]).

Refuge Purpose(s)

ANILCA sets out the purposes for each refuge in Alaska. The purposes of the Alaska Peninsula and Becharof National Wildlife Refuges are described in §302(1)(B) and Section 302(2)(B). Purposes for the Alaska Maritime National Wildlife Refuge are described in Section 303(1)(B). The purposes identify the reasons why Congress established the Refuges and management priorities.

The ANILCA purposes are follows (unless otherwise noted, the purposes apply to all units of the Refuges):

- to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to . . .
 - [Becharof] . . . brown bears, salmon, migratory birds, the Alaska Peninsula Caribou herd, and marine birds and mammals
 - [Alaska Peninsula] . . . brown bears, the Alaska Peninsula caribou herd, moose, sea otters and other marine mammals, shorebirds and other migratory birds, raptors, including bald eagles and peregrine falcons, and salmonids and other fish
 - [Alaska Maritime] . . . marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals

- to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats
- to provide, in a manner consistent with the purposes set forth above, the opportunity for continued subsistence uses by local residents
- [Alaska Maritime] to provide, in a manner consistent with the purposes set forth above, a program of national and international scientific research on marine resources
- to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth above, water quality and necessary water quantity within the refuge

[Supplemental Purposes of the Becharof Wilderness Area] The Wilderness Act of 1964 (16 U.S.C. 1131-1136 § 2a), defines supplemental purposes of all designated wilderness areas. These apply to the Becharof Wilderness Area and are as follows:

- to administer the wilderness for the use and enjoyment of the American people in such a manner as will leave it unimpaired for future use and enjoyment as wilderness, to provide for the protection of the area, for the preservation of its wilderness character, and for gathering and dissemination of information regarding its 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 Administration Act of 1966, as amended [16 U.S.C. 668dd-668ee]).

Description of Use(s)

The Refuges anticipate requests to rebury human remains eroding from recorded and unrecorded prehistoric sites and remains that have been removed from prehistoric sites. The Inadvertent Discovery section (§ 3)[d]) of the Native American Graves Protection and Repatriation Act of 1990 (Public Law 101-601) requires that the land management agency identify and notify the closest Native group and then, if requested, provide for the repatriation of the remains.

With this in mind, we have prepared this compatibility determination to cover an expected one to three reburial requests annually for the next 10 years. Each proposed burial and its proposed reburial location would need to be approved by the Regional Historic Preservation Officer, who will ensure compliance with the National Historic Preservation Act (§106) prior to issuance of a permit.

Reburial of repatriated human remains would take place near the place of discovery of such remains and/or near their original burial place. Each burial would involve a small excavation with hand tools. Impacts to refuge resources would be negligible and short-term, with no foreseeable long-term effects, and would not affect subsistence use of the refuge. A copy of the Global Positioning System (GPS) coordinates and contents of the burial site will be filed at the Refuges’ headquarters and with the Regional Historic

Preservation Officer. The remains should be buried with a modern object (e.g., coin, button—with date) to indicate it is a historical reburial.

Availability of Resources

Except for issuance of the permit, no refuge resources are needed to administer use. All activities associated with use will be accomplished by the permittee.

Anticipated Impacts of the Use(s)

This project will result in minimal and short-term impacts to refuge resources, involving a few small-scale excavations with hand tools and then reburial.

Public Review and Comment

The public was invited to comment on this compatibility determination and a number of other determinations during the public review period established for the draft revised Comprehensive Conservation Plan. Public notice of the availability of the draft conservation plan and draft determinations was published in the Federal Register. The draft determinations were also posted on the Region 7 Refuge Conservation Planning and Policy Web pages. No substantive public comments pertaining to this determination were received. Where appropriate, comments addressing elements of the draft Comprehensive Conservation Plan revision that pertained to the specific uses evaluated in this determination were considered in preparing the final compatibility determination.

Determination

_____ Use is Not Compatible

 X Use is Compatible

Stipulations Necessary to Ensure Compatibility

The following stipulations will be made part of a special-use permit for Reburial of Archaeological Human Remains per State and Federal Guidelines

- Failure to abide by any part of the special-use permit for this activity; violation of any refuge-related provision in Titles 43 (Part 36) or 50 (subchapters B and C) Code of Federal Regulations; or violation of any pertinent state regulation (e.g., fish or game violation) will, with due process, be considered grounds for immediate revocation of the permit and could result in denial of future permit requests for lands administered by the U.S. Fish and Wildlife Service. This provision applies to all persons working under the authority of this permit (e.g., assistants). Appeals of decisions relative to permits are handled in accordance with Title 50 Code of Federal Regulations Part 36.41.
- The permittee is responsible for ensuring that all employees, party members, aircraft pilots, and any other persons working for the permittee and conducting activities allowed by this permit are familiar with and adhere to the conditions of the permit.
- Reburial of repatriated human remains will take place near the place of discovery of such remains and/or near their original burial place.

- The permittee or permittees representatives will make the smallest possible excavation, using only hand tools
- The Global Positioning System (GPS) coordinates and contents of the burial site will be filed at the Refuges' headquarters and with the Regional Historic Preservation Officer.
- Remains shall be buried with a modern object (e.g., coin, button, etc.—with date) to indicate that it is a historical reburial.
- Any problem with wildlife and/or animals taken in defense of life or property must be reported immediately to the refuge manager and the Alaska Department of Fish and Game; animals taken in defense of life or property must be salvaged in accordance with state regulations.
- The use of Native or state lands that have been selected but not yet conveyed is prohibited unless a letter of concurrence from the interested party is submitted to the refuge manager prior to beginning any activities allowed by the permit.
- The permittee shall notify the refuge manager during refuge working hours in person or by telephone before beginning and upon completion of activities allowed by the permit.
- Prior to beginning any activities allowed by this permit, the permittee shall provide the refuge manager with the following: (1) name and method of contact for the field party chief or supervisor; (2) aircraft and other vehicle types to be used, with identification information.
- The refuge manager, upon request, shall be afforded the opportunity and logistical support, from the nearest commercial transportation site, to accompany the permittee for the purpose of inspection and monitoring permittee activities. A final inspection trip, provided by the permittee, of the areas of use may be required by the refuge manager to determine compliance with the terms of this permit.
- The operation of aircraft at altitudes and in flight paths resulting in the herding, harassment, hazing, or driving of wildlife is prohibited. It is recommended that all aircraft, except for take off and landing, maintain a minimum altitude of 2,000 feet above ground level.
- A copy of this permit must be in the permittee's possession at all times while exercising the privileges of this permit.
- All noncombustible waste materials must be removed from the refuge (not buried) upon the permittee's departure.
- The permittee shall provide the refuge manager with a report of activities under this permit within 30 days of permit expiration.

Justification

The proposed use is limited and short-term and thus will result in minimal impact to refuge resources. This use is necessary for the Refuges to comply with the Native American Graves Protection and Repatriation Act of 1990 (Public Law 101-601). It will not interfere with or detract from the National Wildlife Refuge System mission or the purposes of the Refuges.

Mandatory 10-Year Re-Evaluation Date (provide month and year for allowed uses only):
January 2015

Mandatory 15-Year Re-Evaluation Date (for priority public uses): NA

NEPA Compliance for Refuge Use Decision

- ☐ Categorical Exclusion without Environmental Action Memorandum
☐ Categorical Exclusions and Environmental Action Memorandum
☐ Environmental Assessment and Finding of No Significant Impact
☒ Environmental Impact Statement and Record of Decision

Supporting Documents

- USFWS. 2004. Draft Revised Comprehensive Conservation Plan and Environmental Impact Statement: Alaska Peninsula and Becharof National Wildlife Refuges. Anchorage, Alaska: U.S. Fish & Wildlife Service, Region 7, Division of Refuge Planning and Policy.

Refuge Determination

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1-31-05

(Date)

Refuge Manager /
 Project Leader Approval: Douglas N. Lewis
 (Signature)

1-31-05

(Date)

Concurrence

Refuge Supervisor: Mike Boyle
 (Signature)

3/26/05

(Date)

Regional Chief,
 National Wildlife
 Refuge System:

Paul J. Hogan
 (Signature)

4/18/05

(Date)