

COMPATIBILITY DETERMINATION

Use: Reburial of Human Remains per State and Federal Guidelines

Refuge Name: Arctic National Wildlife Refuge

Establishment and Acquisition Authority: The Arctic National Wildlife Refuge (Refuge, Arctic Refuge) was established by the Alaska National Interest Lands Conservation Act (ANILCA) (Public Law 96-487 Stat. 2371) on December 2, 1980. The Refuge boundary encompassed 19.64 million acres of land, including the 8.83-million acre Arctic National Wildlife Range (Range), which was established on December 6, 1960, by Public Land Order 2214. ANILCA re-designated the Range as part of Arctic Refuge, designated 7.16 million acres of the Refuge as Wilderness, and designated three wild rivers. In 1988, Public Law 100-395 added 325,000 acres of lands managed by the Bureau of Land Management (BLM) to the Refuge. An additional 1.3 million acres of land, originally selected by the State of Alaska under the Alaska Statehood Act (Public Law 85-508) but later relinquished, was added to the Refuge in two actions occurring in 1983 and 1985. Both these additions were of lands already within the boundaries of the Refuge.

Refuge Purposes: ANILCA established four purposes for the Refuge (including lands and waters in the original Range):

- i. *to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, the Porcupine caribou herd (including participation in coordinated ecological studies and management of this herd and the Western Arctic caribou herd), polar bears, grizzly bears, muskox, Dall's sheep, wolves, wolverines, snow geese, peregrine falcons and other migratory birds and Arctic char and grayling;*
- 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.*

Public Land Order 2214 established the original Arctic National Wildlife Range “for the purpose of preserving unique wildlife, wilderness and recreational values....” These pre-ANILCA purposes apply only to those lands and waters in the original Range, and they remain in force and effect only to the extent they are not inconsistent with ANILCA or the Alaska Native Claims Settlement Act (ANILCA Section 305; 603 FW 2.8).

The Wilderness Act of 1964 (Public Law 88-577) creates the following additional purposes for the designated Wilderness area in the Refuge’s boundaries; these purposes are within and supplemental to the Refuge’s ANILCA and Range purposes: secure an enduring resource of

Wilderness; protect and preserve the Wilderness character of areas in the National Wilderness Preservation System (NWPS); administer the NWPS for the use and enjoyment of the American people in a way that will leave these areas unimpaired for future use and enjoyment as Wilderness; and gather and disseminate information regarding the use and enjoyment of Wilderness areas.

National Wildlife Refuge System Mission: The mission of the National Wildlife Refuge System (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 Refuge anticipates 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 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 organization, and—if requested—provide for the repatriation of the remains. With this in mind, the Refuge has prepared this compatibility determination to cover anticipated burial requests during 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, Section 106, prior to issuance of a permit for this activity.

Reburial of repatriated human remains would take place near the place of discovery of such remains 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 GPS coordinates and contents of the burial site will be filed at Refuge headquarters and with the regional historic preservation officer. The remains should be buried with a modern object (e.g., coin, dated button) to indicate it is a historical reburial.

Availability of Resources: Except for issuance of the permit, no Refuge resources would be needed to administer use. All activities associated with use would be accomplished by the permittee.

Anticipated Impacts of Use(s): Reburials would result in minimal and short-term impacts to Refuge resources, involving a few small-scale excavations with hand tools and then interment of the remains.

Public Review and Comment: Public comments on compatibility determinations were solicited concurrently with the draft of the Refuge's Revised Comprehensive Conservation Plan (Revised Plan, Plan) and environmental impact statement. Public comments on compatibility determinations were accepted during the public review period for the draft Plan,

which was announced in the Federal Register, on local radio stations, and in local newspapers. The 90-day public comment period began on August 15, 2011, and ended on November 15, 2011. We mailed the full draft Plan, and a summary of the Plan, to the individuals and organizations on our mailing list and posted both on the Refuge's web site. Six public hearings were held in Anchorage, Arctic Village, Fairbanks, Fort Yukon, Kaktovik, and Venetie, during which the Service received comments on the draft Plan. No comments were received on this subject and no changes were made.

Refuge Determination (check one below):

☐ Use is not compatible

☒ Use is compatible

Stipulations Necessary to Ensure Compatibility: A special use permit with the following stipulations is required for reburial of human remains per State and Federal guidelines. These stipulations are intended to minimize impacts and ensure compatibility. Refuge permits may also include other special conditions as necessary or appropriate for the specific operations or activities that are proposed. These stipulations will be updated periodically to reflect management needs or policy changes.

1. Failure to abide by any part of this special use permit; violation of any refuge related provision in Titles 43 (Part 36) or 50 (Subchapters B and C) Code of Federal Regulations; violation of the Marine Mammal Protection Act of 1972; violation of the Endangered Species Act of 1973; or violation of any pertinent state regulation (e.g., fish or game violation) will, with due process, be considered grounds for immediate revocation of this 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 50 Code of Federal Regulations 36.41.
2. 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 this permit.
3. This permit may be cancelled or revised at any time by the Refuge manager in case of emergency (e.g., high fire danger, flooding, unusual resource problems, etc.).
4. A copy of this permit must be in the permittee's or field party chief's possession at all times while exercising the privileges of the permit.
5. The permittee must notify the Refuge manager during Refuge working hours in person or by telephone before beginning and upon completion of annual activities allowed by this permit.
6. Prior to beginning any activities allowed by this permit, the permittee shall provide the Refuge manager with: (1) the name and method of contact for the field party chief/supervisor; (2) aircraft and other vehicle types to be used and identification information for these vehicles; (3) names of assistant guides and helpers; and (4) any changes in information provided in the original permit application.

7. This permit authorizes use only on Arctic Refuge lands. Use of land selected by or conveyed to the State of Alaska or North Slope Borough; or an individual is not authorized by this permit. The permittee and permittee's clients do not have the exclusive use of the site(s) or lands covered by this permit, except for the authorized camp facilities (if applicable).
8. This permit does not authorized use of Native selected lands within the permit area unless approved by the Refuge manager. The applicant must provide the Refuge manager with written views from the affected Native organization(s) before authorization to use the selected lands can be considered. However, if the affected Native organization(s) provide no response to the permittee's request for views, the permittee may provide the Refuge manager with a copy of the letter that he/she sent requesting the views of Native organization(s). If any of the selected lands are conveyed during the term of this permit, the permittee will no longer be authorized to use those lands.
9. The permittee and permittee's clients do not have the exclusive use of the site(s) or lands covered by this permit.
10. The permittee must take no action that interferes with subsistence activities of rural users or restricts the reasonable access of subsistence users to Refuge lands. This may include but is not limited to disturbance of wildlife and their movements near subsistence hunters, and damage to cabins, trails, traditional campsites, or caches used by subsistence users.
11. Any action by a permittee or the permittee's employees which unduly interferes with or harasses other Refuge visitors or impedes access to any site is strictly prohibited. Examples of prohibited acts include but are not limited to low flights over camps or persons at less than 500 feet (unless landing) and parking aircraft or placing other objects (rocks, tents, etc.) on any landable area so as to restrict use by other aircraft or persons.
12. In accordance with the Archaeological Resources Protection Act (16 U.S.C. 470 ee), no person may excavate, remove, damage or otherwise alter or deface, or attempt to excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless permitted or exempted (see 16 U.S.C 470cc for permit or exception guidance). No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from public lands.
13. Construction of cabins, platforms, or other permanent structures is prohibited. Wall tents with floors that are completely removed from the Refuge at the end of field season are allowed.
14. The construction of landing areas or pads is prohibited. Incidental hand removal of rocks and other minor obstructions may be permitted.
15. The permittee must maintain their use areas in a neat and sanitary condition. Human waste must not be left less than 200 feet from springs, lakes, and streams. Bury waste under soil (or under snow at the ground level during periods when the ground is frozen). Paper toilet tissue, if used, must be packed out or burned completely to ash. Moist towelettes or sanitary products must be removed as trash.

16. All garbage and non-combustible debris will be removed from the Refuge (not buried). Food, garbage, and supplies will be stored so as not to attract wildlife. All equipment and property must be removed from Refuge lands upon completion of permitted activities.
17. Any human-wildlife interactions that have resulted in animals obtaining food, destroying property, or posing a threat to human safety must be reported to the Refuge manager immediately at (907) 456-0250, as soon as communication becomes available. You are required to submit a written report within 30 days to the Refuge manager for all interactions with grizzly bears that have resulted in bears obtaining food, destroying property, or posing a threat to human safety; or the death of a grizzly bear so that this data can be used to help prevent future human-bear conflicts. You may use the Bear Incident Report form (Service 2008). Animals taken in defense of life or property must be reported to the Refuge manager immediately, and to the Alaska State Troopers at (907) 451-5350, and salvaged in accordance with State regulations.
18. 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.
19. Helicopter landings are not authorized.
20. The use of off-road vehicles (except snowmobiles with adequate snow cover) is prohibited. The use of snowmobiles, dog teams, and other means of surface transportation may only be used when adequate snow cover is present and in such a manner as to prevent waste or damage to the Refuge. The phrase “adequate snow cover” means snow is of a depth to protect the underlying vegetation and soil.
21. Snowmobiles, dog teams, watercraft, and other means of transportation shall be operated in such a manner as to prevent the herding, harassment, hazing, or driving of wildlife for viewing or other purposes.
22. Reburial of repatriated human remains will take place near the place of discovery of such remains and/or near the place of their original burial. To avoid the possibility of disturbing additional human remains, reburials should not take place at the original burial location or a known archaeological site.
23. The permittee or permittees’ representatives will make the smallest possible excavation, using only hand tools.
24. The GPS coordinates and a list of the contents of the burial site will be filed at Refuge headquarters and with the Regional Historic Preservation Officer within 30 days of burial.
25. Remains shall be buried with a modern object (e.g., coin, button, etc., with date) to indicate that it is an historical reburial.
26. An annual report of activities conducted on the Refuge shall be provided to the Refuge manager within 30 days of the permit expiration (normally 1-2 pages). The GPS coordinates should be provided to the Refuge manager in the annual report along with what type of maintenance or activity was performed.

Justification: This proposed use is necessary for the Refuge to comply with the Native American Graves Protection and Repatriation Act of 1990 (Public Law 101-601). The use is limited and short-term and thus will result in minimal impact to Refuge resources. After fully considering the impacts of these activities, as described previously in the “Anticipated Impacts of Use(s)” section of this document, it is my determination that reburial of human remains in the Refuge does not materially interfere with or detract from the purposes of the Refuge or the mission of the Refuge System.

Supporting Documents:

- U.S. Fish and Wildlife Service. 1988a. Arctic National Wildlife Refuge Final Comprehensive Conservation Plan, Environmental Impact Statement, Wilderness Review, and Wild River Plans. U.S. Fish and Wildlife Service. Anchorage, Alaska. 609 pp.
- U.S. Fish and Wildlife Service. 1988b. Record of Decision: Arctic National Wildlife Refuge Final Comprehensive Conservation Plan, Environmental Impact Statement, Wilderness Review, and Wild River Plans. U.S. Fish and Wildlife Service, November 10, 1988. Anchorage, Alaska, USA.
- U.S. Fish and Wildlife Service. 2008. Region 7: Bear awareness and firearms safety training policy, Appendix F. U.S. Fish and Wildlife Service. Anchorage, Alaska. Unpublished. 36 pp.
- U.S. Fish and Wildlife Service. 2011. Arctic National Wildlife Refuge Draft Revised Comprehensive Conservation Plan, Draft Environmental Impact Statement, Wilderness Review, and Wild and Scenic River Review. U.S. Fish and Wildlife Service, June 2011. Anchorage, Alaska, USA.

Refuge Determination:

Refuge Manager/ Project Leader Approval	<u>/signed/ Richard Voss</u>	<u>August 4, 2012</u>
		Date

Concurrence:

Regional Chief National Wildlife Refuge System	<u>/signed/ Mike Boylan (acting)</u>	<u>August 15, 2012</u>
		Date

Mandatory 10-year Re-Evaluation Date: 2022

Mandatory 15-year Re-Evaluation Date (for priority public uses): 2027

NEPA Compliance for Refuge Use Decision:

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