

COMPATIBILITY DETERMINATION

Use: Native Allotment Surveys

Supporting Uses: Boating (motorized), hiking and backpacking, photography, video, filming, scientific collecting, photography (wildlife), wildlife observation, fixed-wing aircraft, helicopter.

Refuge Name: Togiak National Wildlife Refuge including the Hagemeister Island portion of Alaska Maritime Refuge (Refuge).

Establishing and Acquisition Authority(ies)

Togiak National Wildlife Refuge encompassing approximately 4,899,000 acres, was established on December 2, 1980 when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). Former Cape Newenham Refuge, established January, 1969 was incorporated into the present Togiak National Wildlife Refuge in 1980.

Section 702(10) of ANILCA designated approximately 2,373,000 of Togiak Refuge as the Togiak Wilderness under the Wilderness Act, as amended (16 U.S.C. 1131-1136). The purposes for these lands as wilderness are supplemental to the other purposes of Togiak Refuge.

As part of the Togiak Refuge Comprehensive Conservation Plan revision, the administration of Hagemeister Island was transferred from Alaska Maritime Refuge to Togiak Refuge. Approximately 74,000 acres in size, Hagemeister Island became part of Alaska Maritime Refuge with the passage of ANILCA on December 2, 1980.

Refuge Purpose(s)

Cape Newenham Refuge (now part of Togiak Refuge) was established in 1969 by Public Land Order 4583 "...for the protection of wildlife and their habitat...".

Sections 303(1)(B) and 303(6)(B) of ANILCA set forth the purposes for which Togiak and Alaska Maritime Refuge (including Cape Newenham Refuge) were established and shall be managed, including:

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to,

[Togiak Refuge] salmonids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

[Alaska Maritime Refuge] marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(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 purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) [Alaska Maritime Refuge] to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) 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.

The Wilderness Act of 1964 (Public Law 88-577) creates additional Refuge purposes for the Togiak Wilderness Area. Designated wilderness areas are to be managed “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 Administration Act, as amended).

Description of Use(s)

This compatibility determination addresses the range of activities associated with the survey of Native allotments granted under the Alaska Native Allotment Act of 1906 and the 1998 amendments to ANCSA that authorized certain Alaska Native Vietnam veterans to secure allotments. There are approximately 320 Native allotments within the Refuge. Of these, approximately 26 allotments still require final conveyance. BLM representatives or their contractors conduct the survey of allotments. Transportation to the sites is generally provided by floatplane or boat. In a few cases remote allotments are not accessible via those means and would require days to access by foot, or winter access via snowmachine. In those cases, access via helicopter is considered although authorizations for the use of helicopters in the Togiak Wilderness Area are subject to a minimum requirements analysis. Surveys require from one to several hours to complete depending on the site and individual characteristics of the survey. It is anticipated that BLM will require from two to five days per year to conduct allotment surveys until the project is complete.

Availability of Resources

Adequate refuge personnel and base operational funds are available to manage research activities at existing (generally no more than one requests per year) and projected levels. Administrative staff time (not more than two days) primarily involves phone conversations, written correspondence, and permit issuance. Field work associated with administering the program primarily involves monitoring compliance with the terms of the permit.

Anticipated Impacts of the Use(s)

Factors such as transportation modes, number and type of aircraft and anticipated amount of aircraft use, fuel storage, and location of access points will determine the extent of impacts on the Refuge. However, allotment surveys and associated activities should not have significant impacts on the wildlife resources, other refuge resources (e.g., water quality, soil, and vegetation), and other refuge users, especially subsistence users, because of the limited scope, special use permit stipulations, and the complete administrative oversight.

Public Review and Comment

Draft compatibility determinations were published as a portion of the Draft Revised Comprehensive Conservation Plan, and public review was invited with comments on the plan. The State of Alaska provided several comments on this compatibility determination. The State requested that we clarify that off-road vehicles may be allowed by Service regulations on designated routes and areas or by special use permit. We did not make the requested changes as this compatibility determination is for native allotment surveys and by terms of their special use permits we do not allow off-road vehicles for this use. The State requested we revise the paragraph preceding the list of conditions included in refuge permits. We made the requested change. The State also provided a number of comments on the permit special conditions. The Service's regional permit special conditions are being reviewed in a separate process and comments on them have been forwarded to those working on this task. Comments on regional permit special conditions are not addressed in this compatibility determination and no changes were made to the regional permit special conditions. State requested the refuge modify the special condition that prohibited fuel caches to allow consideration on a case-by-case basis. The requested change was made.

Determination

☐ Use is Not Compatible

☒ Use is Compatible

Stipulations Necessary to Ensure Compatibility

Refuge staff will monitor all allotment surveys being conducted on the Refuge. Findings from these monitoring efforts will be used to determine what additional management actions, if any, are needed to ensure that activities remain compatible with refuge purposes. Permits will incorporate stipulations to minimize impacts on refuge lands and resources.

The conditions listed below are included on Refuge permits issued for Native Allotment surveys, most of which are intended to minimize impacts and ensure compatibility. Refuge permits may also include other special conditions necessary or appropriate for the specific operations or activities that are proposed.

- Failure to abide by any part of this special-use permit; violation of any refuge-related provision in Titles 43 (Part 36) or 50(sub-chapters 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 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. 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 this permit.
- 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 this permit.
- Any problems with wildlife and/or animals taken in defense of life or property must be reported immediately to the refuge manager and to the Alaska Department of Fish and

Appendix D: Compatibility Determinations

Game; animals taken in defense of life or property must be salvaged in accordance with state regulations.

- The permittee does not have the exclusive use of the site(s) or lands covered by this permit.
- The use of Native or state lands that have been conveyed (patented) is not authorized by this permit.
- 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 this permit.
- This permit may be canceled or revised at any time by the refuge manager in case of emergency (e.g., high fire danger, flooding, unusual resource problems etc.).
- The permittee or party chief shall notify the refuge manager during refuge working hours in person or by telephone before beginning and upon completion of activities allowed by this 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; aircraft and other vehicle types to be used, identification information for these vehicles; and names of assistants (2) any changes in information provided in the original permit application.
- The refuge manager, upon request, shall be afforded the opportunity and logistical support to accompany the permittee from the nearest commercial transportation site 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 permittee shall provide the refuge manager with a report of activities under this permit within 30 days of permit expiration.
- In accordance with the Archaeological Resources Protection Act (16 USC 470aa), the excavation, disturbance, collection, or purchase of historical, recent, ethnological, or archaeological specimens or artifacts is prohibited.
- Permittees shall maintain their use areas in a neat and sanitary condition. Latrines must be located at least 150 feet from springs, lakes, and streams to avoid contamination of water resources. All property (except cabins and/or tent frames) of the permittee must be removed from refuge lands upon completion of permitted activities.
- All noncombustible waste materials must be removed from the refuge (not buried) upon the permittee's departure.
- The construction of landing strips or pads is prohibited. Incidental hand removal of rocks and other minor obstructions may be permitted.
- The use of off-road vehicles (except snow machines) is prohibited except in designated areas.

- 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.
- Construction of cabins or other permanent structures is prohibited.
- Activity will be curtailed if the Service does not have adequate staff, equipment, or supplies to ensure proper monitoring.

Justification

Authorizing access to Refuge lands to conduct surveys necessary to facilitate the transfer of Native allotments is necessary. Operational plans will be reviewed and adjusted to ensure that the activities do not materially interfere with, or detract from the purposes of the Refuge or the mission of the National Wildlife Refuge System. Activities related to the surveys will be authorized by a special use permit that will incorporate stipulations to minimize impacts on refuge lands and resources.

Supporting Documents

U.S. Fish and Wildlife Service. 1986. Togiak National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service. Anchorage, Alaska. 514 pp.

U.S. Fish and Wildlife Service. 1988. Alaska Maritime National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service.

Anchorage, Alaska. U.S. Fish and Wildlife Service. 2007. Togiak National Wildlife Refuge Draft Revised Comprehensive Conservation Plan and Revised Public Use Management Plan and Environmental Assessment. U.S. Fish and Wildlife Service. Anchorage, Alaska.

Refuge Determination

Refuge Manager /

Project Leader Approval: /s/ Paul Liedberg 7/14/09
(Signature) (Date)

Concurrence

Regional Chief,
National Wildlife

Refuge System: /s/ Tracey S. McDonnell, Acting 8/3/09
(Signature) (Date)

Mandatory 10-Year Re-Evaluation Date: 2019.

NEPA Compliance for Refuge Use Decision

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