

## **COMPATIBILITY DETERMINATION**

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

**Primary Use:** Use (other)—Reburial of archaeological human remains

**Supporting Uses:** Boating (electric and wind-driven), boating (human-powered), boating (motorized), camping, hiking and backpacking, photography, video, filming, audio recording (nonwildlife-dependent, recreational—other), fixed-wing aircraft, cemetery

**Refuge Name:** Kodiak National Wildlife Refuge

### **Establishing and Acquisition Authorities**

Original authority was Executive Order 8857 (1941); modified by Public Land Order 1634 (1958), Alaska Native Claims Settlement Act (1971), and Alaska National Interest Lands Conservation Act (ANILCA; 1980)

### **Refuge Purposes**

Executive Order 8857 established Kodiak National Wildlife Refuge “. . . for the purpose of protecting the natural feeding and breeding ranges of the brown bears and other wildlife on Uganik and Kodiak Islands . . .”

Section 303(5)(B) of ANILCA states the following:

“The purposes for which the Kodiak National Wildlife Refuge is established and shall be managed include

- (i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited, to Kodiak brown bears, salmonids, sea otters, sea lions, and other marine mammals and migratory birds;
- (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; and
- (iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in subparagraph (i), water quality and necessary water quantity within the refuge.”

### **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**

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 group and then, if requested, provide for the repatriation of the remains. With this in mind, the Refuge has prepared this compatibility determination to cover an expected average of one burial request annually over 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 Global Positioning System (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, button—with date) 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 the Use**

Reburials would result in minimal and short-term impacts to Refuge resources, involving a few small-scale excavations with hand tools and then internment of the remains.

**Public Review and Comment**

Public comment was solicited concurrently with the revision of the Refuge's comprehensive conservation plan. No comments were received on this compatibility determination.

**Determination**

☐ Use is Not Compatible

☒ Use is Compatible With the Following Stipulations

**Stipulations Necessary to Ensure Compatibility**

A special use permit is required.

Note that the following special conditions for a special use permit for Reburial of Archaeological Human Remains per State and Federal Guidelines will be updated to reflect changes, if any, due to step-down plans completed in the future.

### Regional conditions

- Failure to abide by any part of this special use permit; violation of any Refuge-related provision in Titles 43 or 50, Code of Federal Regulations; or violation of any pertinent state regulation (e.g., fish or game violation) will 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 or contractors). Appeals of decisions relative to permits are handled in accordance with 50 Code of Federal Regulations 36.41.
- The permittee is responsible for ensuring that all employees, party members, contractors, 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.
- Any problems with wildlife and/or animals taken in defense-of-life-or-property must be reported immediately to the Refuge Manager, the Alaska Department of Fish and Game, and the Alaska State Troopers. Animals taken must be salvaged in accordance with state regulations.
- The permittee and permittee's employees do not have the exclusive use of the site(s) or lands covered by the permit.
- This permit may be cancelled or revised at any time by the Refuge Manager for noncompliance or in case of emergency (e.g., public safety, unusual resource problems).
- 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: (1) name and method of contact for the field party chief/supervisor; aircraft and other vehicle types to be used, identification information for these vehicles; and names of crew members, and (2) any changes in information provided in the original permit application.
- In accordance with the Archaeological Resources Protection Act (16 U.S.C. 470aa), the disturbance of archaeological or historical sites, and the removal of artifacts are prohibited. The excavation, disturbance, collection, or purchase of historical, 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. All property of the permittee except for cabins and tent frames is to be removed from Refuge lands upon completion of permitted activities.
- The construction of landing strips or pads is prohibited.
- The use of motorized vehicles is prohibited on all Refuge lands.
- 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 takeoff and landing, maintain a minimum altitude of 2,000 feet above ground level.
- The use of helicopters is prohibited.
- Unauthorized fuel caches are prohibited. Fuel storage, if any, will be in compliance with regional Service fuel storage policy.

### Refuge Conditions

- Visitors will be required to comply with any temporary restrictions, emergency orders or other types of regulatory actions promulgated by the Refuge Manager to prevent resource problems or conflicts, in cases of emergency, public safety, or unusual resource problems.
- 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 is submitted to the Refuge Manager prior to beginning any activities allowed by this permit.
- A copy of this special use permit must be in the party leader's possession at all times while exercising the privileges of the permit.
- Cabins on Refuge lands shall not be used by the permittee without the permission of the Refuge Manager except in cases of dire emergency for survival purposes.
- Food or garbage attractive to bears or other wildlife will be immediately disposed of. No attractive nuisance for bears or other wildlife shall be created by food storage, improper disposal of garbage (includes of burying of garbage), fish smoking, salting, drying, or other uses.
- Combustibles (paper, wood, etc.) may be burned, but all other debris, including cans, bottles, fuel containers, and any other noncombustible material shall be removed and disposed of off Refuge when departing camps.
- 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.
- The permittee or permittees' representatives will make the smallest possible excavation, using only hand tools.
- The Global Positioning System (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.
- Remains shall be buried with a modern object (e.g., coin, button, etc.—with date) to indicate that it is a historical reburial.
- The discharge of firearms is prohibited, except in conjunction with authorized hunting seasons or for protection of life or property.

### **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 Refuge to comply with the Native American Graves Protection and Repatriation Act of 1990. It will not interfere with nor detract from the National Wildlife Refuge System mission or the purposes of the Refuge.

### **Supporting Documents**

- U.S. Fish and Wildlife Service. 1987. Kodiak National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service. Anchorage, Alaska. 533 pp.
- U.S. Fish and Wildlife Service. 1993. Kodiak National Wildlife Refuge, Final Public Use Management Plan and Environmental Assessment. U.S. Fish and Wildlife Service. Kodiak, Alaska. 202 pp.

U.S. Fish and Wildlife Service, 1994. Native American Policy. U.S. Fish and Wildlife Service National Policy Issuance #94-10 and appendix. Washington, D.C. 13 pages, available at [http://policy.fws.gov/npi94\\_10.html](http://policy.fws.gov/npi94_10.html).

U.S. Fish and Wildlife Service. 2004. Draft Revised Comprehensive Conservation Plan and Environmental Impact Statement Kodiak National Wildlife Refuge. U.S. Fish and Wildlife Service. Anchorage, Alaska.

#### Refuge Determination

Refuge Manager /

Project Leader Approval:

*LESLIE KERR*

(Signature)

*2-17-2006*

(Date)

#### Concurrence

Regional Chief,  
National Wildlife  
Refuge System:

*Robert J. Joy*

(Signature)

*2/17/06*

(Date)

**Mandatory 10-Year Re-Evaluation Date: January 2016**

#### 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