

Appendix F Appropriateness Findings and Compatibility Determinations

Appendix F.1 Wildlife Observation and Photography

Compatibility Determination

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|-------------------------------|--|
| Use: | Wildlife Observation and Photography |
| Refuge Name: | Midway Atoll National Wildlife Refuge and Battle of Midway National Memorial |
| City/County and State: | Midway Atoll is the penultimate western atoll in the Northwestern Hawaiian Islands, is an unincorporated territory of the United States, and lies outside the State of Hawaii. |

Establishing and Acquisition Authority(ies):

Midway Atoll National Wildlife Refuge (NWR) was established in 1988 as an overlay NWR under a cooperative agreement with the U.S. Navy. Under this agreement, administrative responsibility for the refuge was shared by the U.S. Fish and Wildlife Service (FWS) and the U.S. Navy (Navy). The Naval Air Facility at Midway was operationally closed in 1993. Facility cleanup was completed by June 30, 1997, when the Navy and its contractors departed. Custody and accountability for Midway Atoll were officially transferred from the Navy to the FWS in May 1996. Executive Order 13022, signed by President Clinton on October 31, 1996, superseded earlier orders that assigned responsibility for Midway to the Navy. Secretary of the Interior Babbitt signed Secretary's Order 3217 on September 13, 2000, designating Midway Atoll NWR concurrently as the Battle of Midway National Memorial. On June 15, 2006, President Bush signed Presidential Proclamation 8031 making Midway Atoll NWR part of the newly established Papahānaumokuākea Marine National Monument. Under that Proclamation, Midway has unique authority and responsibility as a Special Management Area.

Refuge Purpose(s):

Midway Atoll NWR was established pursuant to the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act of 1934. Pertinent language in those statutes includes:

1. "... for the development, advancement, management, conservation and protection of fish and wildlife resources . . . for the benefit of the U.S. Fish and Wildlife Service, in performing its activities and services." (Fish and Wildlife Act of 1956)
2. "... shall be administered by the Secretary of the Interior directly in accordance with cooperative agreements . . . and in accordance with such rules and regulations for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon . . ." (Fish and Wildlife Coordination Act of 1934).

The following purposes were included in Executive Order 13022, dated October 31, 1996, which transferred jurisdiction and control over the Midway Islands from the Navy to the Department of the Interior:

1. Maintaining and restoring biological diversity within the refuge;
2. Providing for the conservation and management of fish and wildlife and their habitats within the refuge;
3. Fulfilling the international treaty obligations of the United States with respect to fish and wildlife;
4. Providing opportunities for scientific research, environmental education, and compatible wildlife-dependent recreational activities; and
5. In a manner compatible with refuge purposes, recognizing and maintaining Midway's historic significance.

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):

Compatible wildlife observation and photography are priority general public uses as designated in the National Wildlife Refuge System Improvement Act of 1997. As such, most refuges, including Midway Atoll, seek means to allow these uses in an appropriate and compatible manner.

The abundance of wildlife at Midway Atoll will allow the public endless opportunities to observe and photograph many different species in their natural habitat. The seasonal activity of species such as the Laysan albatross may drive increased visitor interest during certain seasons. However, the diversity of fauna and flora, both marine and terrestrial, should encourage year-round public access.

On Sand Island, land-based observation and photography are enabled by trails, access to open beach areas, and observation towers. A stationary wildlife viewing blind will be erected to facilitate viewing Laysan ducks and migratory birds. Additional native vegetation will be added

near Turtle Beach to serve as an observational screen. The possibility of a portable viewing blind for other species remains open for future visitor use.

On Eastern Island, wildlife observation and photography will occur under the guidance of FWS-approved staff during walking tours of the island. Due to the sensitive nature of species such as sooty and gray-backed terns, red-footed boobies, and short-tailed albatross, tours of Eastern Island will be limited in duration and frequency.

On land, most wildlife observation and photography would be conducted on foot, by bicycle, or by golf cart. Means to observe marine wildlife species will include snorkel, diving, kayak, and power boat. Snorkel and diving observational tours will be led by experienced FWS-approved staff and/or guides under tightly controlled group tours to specific locations. These locations will include known reef locations with safe swimming conditions, interesting coral formations, and abundant reef fish, but not sites of particular importance to endangered Hawaiian monk seals or threatened Hawaiian green sea turtles. Known shallow depth submerged artifacts such as World War II-era aircraft or vessels may be included as dive sites as they typically harbor abundant reef fish. Kayak tours will also be led by qualified personnel with groups limited to six kayakers or fewer traveling to specific locations. Wildlife observation from power boats will only be opportunistic as the boats are used to ferry visitors to and from snorkel/dive locations or Eastern Island. This will be the most frequent means for visitors to observe spinner dolphins. Hawaiian monk seals and Hawaiian green sea turtles may also be observed on refuge beaches where they frequently haul out to rest.

Availability of Resources:

Current refuge staffing is not adequate to properly run a quality visitor program. For Fiscal Year 2007 it is anticipated that the refuge will add at least one refuge ranger on-island to work with visitors. Additional staff support will be provided by the Hawaiian and Pacific Islands NWR Complex for periods of peak visitor use. To properly support the full visitor program envisioned in 2008 and beyond, two additional visitor services specialists and a law enforcement officer will be required in addition to increased staffing needs by the refuge infrastructure support contractor. Certain refuge infrastructure improvements will also be needed to support the visitor program. These will include improved signing, larger and safer boats, on-island transportation (bicycles or golf carts), and kayakers.

Midway Atoll NWR has been charged by Congress and the FWS with developing a visitor program that is self-sustaining financially. To help us meet this goal Congress has also given the refuge receipts authority, which allows the refuge to keep reasonable fees collected for services provided at Midway Atoll. These fees will be used to offset costs of implementing the visitor services program. Estimated costs for implementation of this use and off-setting income are shown below:

| Category and Itemization | One-time (\$) | Annual (\$/yr) |
|---|---------------|----------------|
| Administration and Management | | \$17,740 |
| Maintenance | | 1,000 |
| Monitoring | | |
| Special equipment, facilities or improvements | \$8,000 | 1,000 |
| Offsetting revenues | | \$165,000 |

Estimated costs were calculated using 35% of the base cost of a GS-7 refuge ranger assuming that this priority use would use that portion of a year to administer. Off-setting revenues are fees paid by visitors for their stay on Midway Atoll.

Anticipated Impacts of the Use(s):

Possible impacts from visitors involved in wildlife observation and/or photography include (1) disturbance to nesting seabirds, (2) disturbance to Hawaiian monk seals (*Monachus schauinslandi*) and/or green sea turtles (*Chelonia mydas*) swimming or resting on beaches, (3) disturbance to spinner dolphins (*Stenella longirostris*), and (4) disturbance to fish and marine invertebrates. Visitor programs will be designed and managed to eliminate or minimize these impacts. However, even with proper management and execution of a well run program, certain behavioral responses in wildlife may occur that are not easily observable.

Stress reactions (elevated heart rate, elevated levels of corticosterone, and behavioral responses) have been documented in several species of nesting seabirds at several ecotourism locations as a result of human activities in nesting colonies (Jungius and Mirsch 1979, Fowler 1995, Nimon *et al.* 1995 and Kataysky *et al.*, 2003). Studies, however, have not been conducted to document long-term cumulative effects of human disturbance. Albatrosses in the developed part of Sand Island are clearly acclimated to the presence of people but may still have elevated stress hormone levels. When visitors are observing albatrosses, terns, boobies, Laysan ducks, or other species in the less visited areas, they will have the potential of greatly elevating stress hormone levels if the duration of the disturbance is excessive. Studies have shown (Kitaysky, *et al.*, 2003) that limited duration disturbance, however, has only minor, short term effects. Observation periods for any particular bird or group of birds away from the town area of Sand Island will be kept to 15 minutes or less for this reason. Observance of the rare short-tailed albatross, for example, will be managed under this guideline.

Increased use of refuge waters also increases the potential for interaction/disturbance by boats, kayaks, or snorkelers/divers with monk seals, sea turtles, and spinner dolphins. Any action of pursuit or annoyance from boats potentially disturbs marine mammals in the wild by causing disruption of their behavioral patterns or displacement from essential habitat areas, especially if the dolphins or seals are in a rest phase. Snorkel or dive operations also include the added risk of damage to living coral on the refuge. Improper boat operation or visitor behavior could result in localized impacts to the coral reef from repeated anchoring, touching, standing, or other avoidable physical disturbance to the coral.

Public Review and Comment:

This determination was issued for public review and comment as part of the Draft Interim Visitor Services Plan from the period of December 8, 2006 through February 6, 2007. The plan and associated compatibility determinations were made available through printed copies upon request and through the FWS Website at <http://www.fws.gov/midway>. This level of review and comment was selected to meet FWS requirements under the National Wildlife Refuge System Administration Act of 1966, as amended.

Determination:

- Use is Not Compatible
- Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility:

- The beaches on Spit and Eastern Island will be closed to visitors as well as the southern and western beaches on Sand Island (see Figure 3.1.1 in the interim visitor services plan). Power boats will not be allowed to travel closer than 500 feet from these closed beaches, except for guided tours to tie up to the pier on Eastern Island (see Figure 3.1.2). Guided kayak tours may only travel more than 150 feet from closed beaches from Rusty Bucket counterclockwise to Frigate Point as described in the interim visitor services plan.
- Visitors and residents are provided orientation materials and related information to minimize disturbance to wildlife (“wildlife viewing etiquette”). Specific restrictions (e.g., 150-foot approach distance for seals, prohibition of access to heavily burrowed areas, etc.) are strictly enforced. The orientation materials include specific indicators of wildlife behavioral responses to disturbance, especially for the Hawaiian monk seal and green sea turtle, as well as appropriate visitor response to being approached by wildlife. The orientation also includes a visual demonstration of a 150-foot distance. Information on the nesting locations of particularly rare species (e.g., white-tailed tropicbirds) may be withheld to protect these birds from disturbance. All visitors and new residents are required to go through orientation immediately upon arrival or early the next day in the case of an unusually late arrival.
- Professional photographers who desire access to areas not generally open to the public will be required to obtain the appropriate monument permit type (i.e., education or special ocean use). These permits stipulate more detailed access restrictions and regulations to protect wildlife. At the discretion of the refuge manager, FWS-approved staff and/or guides may be assigned to accompany professional photographers into particularly sensitive areas.
- All trips to Eastern Island for wildlife observation and/or photography will be closely supervised by FWS-approved staff and/or guides. Visitor tours of Eastern Island will be offered no more than once a week, unless specifically authorized by the refuge manager,

and generally will be completed within a 3-hour period. Boats will tether to either end of the 150-foot pier, and disembarking passengers will be briefed on proper behavior to minimize disturbance to Hawaiian monk seals or green sea turtles that may be present. During periods of intensive tern nesting, routes will be carefully selected to minimize disturbance. Visitors will be advised to travel in single file in an expeditious manner through the colony. Photography will be allowed at the beginning and end of such a transit, not in the middle, to reduce the length of disturbance to the core nesting population. Restrictions on access to sensitive areas will be enforced. Spit Island will be off limits for wildlife observers and photographers unless they accompany FWS-approved staff and/or guides or permitted researchers during authorized project visits.

- Visitors will not be allowed to approach closer than 150 feet to Laysan duck seeps. The blind at the water catchment basin will allow visitors to see the species without disturbing the birds.
- Guided kayaking tours will be closely supervised by FWS-approved staff and/or guides. Buffer zones using the NOAA Watchable Wildlife suggested distance of 150 feet will be enforced as well as closures of selected lagoon areas to minimize disturbance of marine life, for example, a monk seal with pup. Visitors will be advised of proper actions to avoid disturbance and specific indicators of wildlife behavioral responses to disturbance, and all tours will follow planned routes designed to minimize disturbance and avoid sensitive areas. Kayak guides will be trained at estimating the 150-foot distance and will be responsible for keeping the entire group together. Since West Beach is a known pupping area, the buffer zone around known mother/pup pairs will be increased to 500 feet during the entire time the pair is on the beach. The NOAA-Fisheries seal biologist on Midway will keep refuge staff informed of new mother/pup pairs and their known locations. No kayaking will be allowed near Eastern or Spit Islands.
- Vessels involved in visitor activities will be required to return to dock at least 1 hour before sunset, which will also enhance boat operators' ability to avoid collisions with marine life. Within the inner harbor, boats must remain within speed limits of 10 knots. Visitors planning to engage in water-related activities during the albatross fledging season (June-July) will be thoroughly briefed on watching for shark activity, and water-related activities are not permitted during peak shark foraging times (½-hour before dusk to ½-hour after sunrise).
- Power boat operators may slow to allow visitor observation of approaching spinner dolphins, but will neither pursue the dolphins nor specifically seek them out. If dolphins are encountered during transit between two points, we will allow the boat to slow and/or stop for visitor observation, but entering the water will not be allowed. Routes to and from snorkeling/dive sites will be plotted to avoid known resting areas of spinner dolphins in the lagoon (see figure 1.1 below), as well as preferred Hawaiian monk seal haulout, molting, and pupping sites .

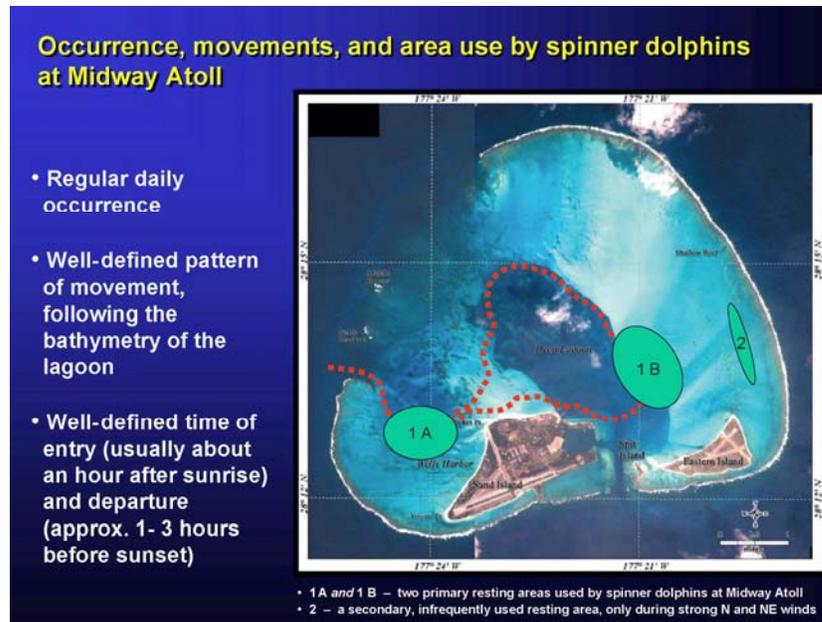


Figure 1.1. Occurrence, movements, and area use by Hawaiian spinner dolphins at Midway Atoll (courtesy of Dr. Leszek Karczmarkski)

- To eliminate anchoring impacts on coral, boat operators will be required to anchor in known sand areas. If a selected visitor use area has no suitable sand for anchoring, then a mooring buoy will be set in a manner to prevent the boat from damaging any living or dead coral.
- Snorkel trips will be limited to eight persons per guide and dive trips to six persons per guide. This will help ensure that the group stays together for safety reasons and to prevent visitors from straying into sensitive areas, approaching swimming monk seals, or damaging coral.
- Visitors and their luggage will go through an inspection for insects and plants prior to departing Honolulu, and again when leaving Midway to reduce the possibility of alien species introductions. Visitors will be asked to clean their shoes and other clothing before coming to Midway through advance introductory materials. Anyone bringing their own snorkel or dive gear to Midway will be required to treat the gear to prevent the inadvertent introduction or transmission of alien species (see Appendix _ for protocol).
- Only four-stroke outboard motors will be used for visitor program boats. These motors are quieter than two-stroke motors and will not exceed the Level A or Level B acoustic threshold for disturbance to marine mammals. No other loud sounds will be associated with this program.
- Power boats taking visitors to Eastern Island or snorkeling or diving may encounter spinner dolphins or, less frequently, green sea turtles while traversing the lagoon. Hawaiian monk seals are only rarely observed swimming in the lagoon. Boat operators will be fully briefed on known resting areas of spinner dolphins in the lagoon (Figure 1.1

above) and routes to and from snorkel and dive sites will be plotted to avoid these areas as well as preferred Hawaiian monk seal haulout, molting, and pupping sites .

- Refuge biological staff will consult with NOAA-Fisheries seal biologists to develop a monitoring plan to assess impacts to Hawaiian monk seals from the visitor program. This plan will be based on the existing data set of seal sightings on Sand Island over the past 10 years and available for public review. This monitoring plan will be drafted after approval of the Midway Atoll Interim Visitor Services Plan but prior to implementation of the full scale visitor services program. Long term trend analysis of use of the Sand Island beaches by monk seals should allow the biologists to determine if there is a noticeable change (geographic shift or decrease) in seal beach use over time.
- A review of files documenting past visitor violations of closed beaches and/or monk seal disturbance shows that many of the people had not received orientation to the refuge and closed areas. Strict compliance with the orientation policy will address many of those types of violations in the planned visitor program. Some of the documented violations were clearly due to poor or nonexistent signing. A new sign plan will be developed by refuge staff and all signs put in place in 2008. Temporary signs may be used prior to that time. However, records also clearly show the need for a law enforcement officer who works in the field ensuring that refuge regulations are enforced. An officer will be stationed at Midway prior to implementation of the full scale visitor program. Prior to that time, law enforcement needs will be met through periodic use of officers on short-term details. Documented violations that occur during periods without an officer in place will be handled through an affidavit process by which the officer is provided specific details of the incident that are legally adequate for issuance of a Notice of Violation.

Justification:

Wildlife observation and photography are priority public uses of the National Wildlife Refuge System, and Midway Atoll NWR provides unique wildlife observation opportunities, not possible elsewhere in the United States.

Mandatory 10- or 15-year Reevaluation Date:

Mandatory 15-year reevaluation date (for wildlife-dependent public uses)

Mandatory 10-year reevaluation date (for non-wildlife-dependent public uses)

NEPA Compliance for Refuge Use Decision (check one below)

Categorical Exclusion without Environmental Action Statement

Categorical Exclusion and Environmental Action Statement

Environmental Assessment and Finding of No Significant Impact

Environmental Impact Statement and Record of Decision

References Cited:

Fowler, G.S. 1995. Ecotourism, field studies and stress: behavioral and hormonal responses of Magellanic penguins to nest site disturbance. Abstracts to Pacific Seabird Group Annual Meeting, 1995.

Jungius, H. and U. Mirsch. 1979. Changes in heartbeats in nesting birds at Galapagos by human disturbance. J. Orn. 120:299-310.

Kitaysky, A., M. Benowitz-Fredericks, Z. Kitaiskaia, M. Shultz, and B. Zaun. 2003. Effects of tourist disturbance on stress physiology of wedge-tailed shearwaters (*Puffinus pacificus*) chicks at Kilauea Point National Wildlife Refuge, Kauai, Hawaii. Unpubl. refuge report.

Nimon, A.J., R.C. Schroter, and B. Stonehouse. 1995. Heart rate of disturbed penguins. Nature 374:415.

Refuge Determination:

Refuge Manager
Approval:

Barry Christensen
(Signature)

Date: 5/21/07

Project Leader,
Hawaiian and Pacific
Islands NWRC

Barry W. Stegall
(Signature)

Date 5/21/07

Concurrence:

Refuge Supervisor
National Wildlife
Refuge System
Pacific Region

Laurent W. Comar
(Signature)

Date 5/23/07

Regional Chief,
National Wildlife
Refuge System

Carolyn A. Bohan
(Signature)

Date 5/23/07

Appendix F.2 Environmental Education and Interpretation

Compatibility Determination

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|-------------------------------|--|
| Use: | Environmental Education and Interpretation |
| Station Name: | Midway Atoll National Wildlife Refuge/Battle of Midway National Memorial |
| City/County and State: | Midway Atoll is the penultimate western atoll in the Northwestern Hawaiian Islands, is an unincorporated territory of the United States, and lies outside the State of Hawaii. |

Establishing and Acquisition Authority(ies):

Midway Atoll NWR (NWR) was established in 1988 as an overlay NWR under a cooperative agreement with the U.S. Navy. Under this agreement, administrative responsibility for the refuge was shared by the U.S. Fish and Wildlife Service (FWS) and the Navy. The Naval Air Facility at Midway was operationally closed in 1993. Facility cleanup was completed by June 30, 1997, when the Navy and its contractors departed. Custody and accountability for Midway Atoll were officially transferred from the Navy to the FWS in May 1996. Executive Order 13022, signed by President Clinton on October 31, 1996, superseded earlier orders that assigned responsibility for Midway to the Navy. Secretary of the Interior Babbitt signed Secretary's Order 3217 on September 13, 2000, designating Midway Atoll NWR concurrently as the Battle of Midway National Memorial. On June 15, 2006, President Bush signed Presidential Proclamation 8031 making Midway Atoll NWR part of the newly established Papahānaumokuākea Marine National Monument. Under that Proclamation, Midway has unique authority and responsibility as a Special Management Area.

Refuge Purpose(s):

Midway Atoll NWR was established pursuant to the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act of 1934. Pertinent language in those statutes includes:

1. "... for the development, advancement, management, conservation and protection of fish and wildlife resources . . . for the benefit of the U.S. Fish and Wildlife Service, in performing its activities and services." (Fish and Wildlife Act of 1956)
2. "... shall be administered by the Secretary of the Interior directly in accordance with cooperative agreements . . . and in accordance with such rules and regulations for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon . . ." (Fish and Wildlife Coordination Act of 1934).

The following additional purposes were included in Executive Order 13022, dated October 31, 1996, which transferred jurisdiction and control over the Midway Islands from the U.S. Navy to the U.S. Department of the Interior:

1. Maintaining and restoring biological diversity within the refuge;
2. Providing for the conservation and management of fish and wildlife and their habitats within the refuge;
3. Fulfilling the international treaty obligations of the United States with respect to fish and wildlife;
4. Providing opportunities for scientific research, environmental education, and compatible wildlife-dependent recreational activities; and
5. In a manner compatible with refuge purposes, recognizing and maintaining Midway's historic significance.

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. (16 U.S.C. 668dd et seq.)

Description of Use(s):

Both environmental education and interpretation strive to convey an understanding and appreciation of refuge resources and the issues that affect them. For this reason these two uses have been combined in one compatibility determination.

Due to Midway's remote location and limited accessibility, onsite environmental education programs will be limited. However, with new technology, we will be able to offer offsite programs through satellite transmissions to schools around the world. Recognizing the role of teachers and educators in conveying environmental education to their students, refuge staff and partners will develop biennial teachers' workshops to be held on Midway. These workshops will be linked to existing curriculums such as Navigating Change. Refuge staff will also facilitate opportunities for cooperative organizations to conduct college level courses or informal education camps on Midway.

Interpretation of the natural and historic resources on Midway Atoll NWR and cultural resources of the Northwestern Hawaiian Islands will take many forms, including (1) guided walks and

bicycle tours with FWS interpreters, (2) self-guided interpretive walks to selected historical sites, (3) regularly scheduled “field talks” with FWS interpreters or cooperators who will demonstrate research techniques or natural history phenomena (e.g., evening petrel flights), and (4) indoor evening programs on various topics relative to Midway’s cultural, historic, and natural history. Visitors will also be able to participate on scheduled 3-hour field trips to Eastern Island, where they will be led on guided walks by FWS-approved staff and/or guides.

Visitors will be encouraged to come to the visitor center for further interpretation of refuge resources, environmental issues, and the Battle of Midway National Memorial. New exhibits will be developed that highlight the new Papahānaumokuākea Marine National Monument.

This use also includes visitors who arrive via cruise ship and are led on 2-hour interpretive tours by FWS-approved staff and/or guides.

Availability of Resources:

Current refuge staffing is not adequate to properly run a quality visitor program. For Fiscal Year 2007 it is anticipated that the refuge will add at least one refuge ranger on-island to work with visitors. Additional staff support will be provided by the Hawaiian and Pacific Islands NWR Complex for periods of peak visitor use. To properly support the full visitor program envisioned in 2008 and beyond, two additional visitor services specialists and a law enforcement officer will be required in addition to increased staffing needs by the refuge infrastructure support contractor. Certain refuge infrastructure improvements will also be needed to support the visitor program. These will include improved signing, larger and safer boats, on-island transportation (bicycles or golf carts), and kayaks.

Midway Atoll NWR has been charged by Congress and FWS with developing a visitor program that is self-sustaining financially. To help us meet this goal Congress has also given the refuge receipts authority, which allows the refuge to keep reasonable fees collected for services provided at Midway Atoll. These fees will be used to offset costs of implementing the visitor services program.

| Category and Itemization | One time (\$) | Annual (\$/yr) |
|---|----------------------|-----------------------|
| Administration and Management | | \$ 17,140 |
| Maintenance | | 1,000 |
| Monitoring | | |
| Special equipment, facilities or improvements | 30,000 | 2,000 |
| Offsetting revenues | \$165,000 | \$165,000 |

Estimated costs were calculated using 35% of the base cost of a General Schedule 7 refuge ranger assuming that this priority use would use that portion of a year to administer. Off-setting revenues are fees paid by visitors for their stay on Midway. Monitoring of impacts would be completed by the refuge ranger as part of their time committed to this use.

Anticipated Impacts of the Use(s):

Environmental Education

Impacts from visitors attending scheduled workshops and participating in walking or biking interpretive tours or self-guided tours on Sand Island will be minimal. All of these activities will occur on hard surfaced roads with very limited wildlife disturbance.

Minimal to no impact on refuge resources is anticipated from offsite programs, since educational demonstrations will be conducted or supervised by trained FWS-approved staff and/or guides.

Interpretation

Minimal impact to refuge resources is anticipated as described in the above “guided walks and bicycle tours” section. Additional potential impact to nesting seabirds, monk seals, and green sea turtles may occur if visitors and residents wander off self-guided interpretive walks. Impacts include destroying nesting burrows of Bonin petrels or wedge-tailed shearwaters; injuring or killing an egg, chick, or adult by stepping on a bird or nest; decreasing nesting success of breeding birds; or disturbing or deterring a resting monk seal or green sea turtle from a preferred haulout, molting, or pupping location. Studies conducted in seabird colonies with ecotourism operations have documented that birds located away from frequently visited areas react strongly to any human activity. Birds were observed to habituate to high levels of constant visitation, but not to less constant (although regular) visitation (Fowler 1995). Therefore, birds located far from trails are most likely to be disturbed from wandering visitors or residents. Monk seal research has documented that pregnant females would abandon preferred pupping locations due to human disturbance (Kenyon 1972).

Cruise ships that visit Midway Atoll are required to stay outside the harbor entrance channel and to ferry their passengers to shore via ship’s tenders. Possible damage to coral could occur if the ship anchored in shallow water or drifted into coral areas. Additional damage could occur from discharge of gray or black water from the ship during the anchorage period at Midway.

Regularly scheduled “field talks” at selected locations by FWS-approved staff and/or guides

Minimal to no anticipated impacts on refuge resources are associated with regularly scheduled “field talks.” Talks will be located near seabird colonies, but leaders and participants will not enter into the main area of the colony for these talks. Keeping the group at the edge of the colony will limit stress to the few birds actually closest to the group. Studies have shown that birds can adapt to repeated disturbance, so selection of an area where the birds are regularly passed by residents and visitors on town roads will minimize the impact of this activity.

Potential impacts include brief disturbance to nesting seabirds. Only trained FWS-approved staff and/or guides conducting the talk will be entering nesting colonies for brief periods.

Evening programs at various indoor locations

No anticipated impacts are anticipated due to indoor locations.

Eastern Island tours

Minimal impacts include disturbance to nesting birds (primarily Laysan and black-footed albatrosses (*Diomedea immutabilis* and *Diomedea nigripes*, respectively), and sooty and gray-backed terns (*Sterna fuscata* and *Sterna lunata*, respectively)) along tour routes. Tours will be restricted to the historic runways, limiting the disturbance to shrub and burrow nesters such as the red-footed booby (*Sula sula*), great frigatebird (*Fregata minor*), and Christmas shearwater (*Puffinus nativitatis*). During the sooty tern nesting season, tours will be adjusted as needed to minimize disturbance to nesting sooty terns on runways. Visitors will be advised to travel in single file in an expeditious manner through the colony. Photography will be allowed at the beginning and end of such a transit, not in the middle, to reduce the length of disturbance to the core nesting population.

Impacts will also be associated with the increased number of boat landings on the island. Boat landings (boat and people noise) may occasionally disturb resting endangered Hawaiian monk seals and threatened green sea turtles on Eastern Island beaches as well as those that are prospecting safe haulout locations (Kenyon 1972). All trips to Eastern Island will be closely supervised by FWS-approved staff and/or guides. Visitor tours of Eastern Island will be offered no more than once a week, unless specifically authorized by the refuge manager, and generally will be completed within a 3-hour period. Boats will tether to either end of the 150-foot pier, and disembarking passengers will be briefed on proper behavior to minimize disturbance to Hawaiian monk seals or green sea turtles that may be present.

Public Review and Comment:

This determination was issued for public review and comment as part of the Draft Interim Visitor Services Plan from the period of December 8, 2006, through February 6, 2007. The plan and associated compatibility determinations were made available through printed copies upon request and through the FWS Website at <http://www.fws.gov/midway>. This level of review and comment was selected to meet FWS requirements under the National Wildlife Refuge System Administration Act of 1966, as amended.

Determination:

- Use is Not Compatible
- Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility:

- All onsite environmental education will be closely supervised by FWS-approved staff and/or guides, as well as by accompanying teachers.
- All students will be subject to the same restrictions (e.g., beach closures, distances from monk seals, etc.) as other visitors.
- All guided Sand Island tours will be led by FWS-approved staff and/or guides and will be adjusted on the spot to avoid disturbance of Hawaiian monk seals and green sea turtles and to minimize conflicts with nesting seabirds.
- No more than 25 people will be led at one time on guided walks and bicycle tours. Tour groups from cruise ships, which walk along paved roads with clear markings and tour guides to ensure the group remains together, may exceed this number, up to a total of 50 people per group.
- All visitors will attend an orientation upon (or before) arrival and be given appropriate narrative and graphic material to clearly indicate which areas are open for public use and to clarify regulations in force to protect wildlife and habitat. Cruise ship visitors receive an orientation from a FWS-approved staff and/or guides onboard ship or by handouts specific to their visit to Midway Atoll.
- Signing along self-guided trails will identify approved areas for beach access, wildlife observation, etc. Monument staff will monitor public use to assess and respond to incidents of noncompliance with refuge regulations. Vegetative screening will be used to ensure that visitors do not walk off trails.
- “Field talks” will be located outside, on roads or trails along the edge of nesting seabird colonies or at a safe distance from other wildlife species. Only trained FWS-approved staff and/or guides conducting the talk will be entering nesting colonies for brief periods.
- Interpreters will clearly explain the rationale for access restrictions and the actions that will be taken to enforce regulations.
- The frequency, duration, and route of guided Eastern Island tours will be modified, as needed, to avoid disturbance to Hawaiian monk seals and green sea turtles and to minimize disturbance to seabirds.
- Cruise ships will be encouraged to remain in position without anchoring, if feasible. If not, they will be given a specific location for safe anchorage outside the channel entrance. FWS personnel will work with NOAA to identify the best location for this anchorage prior to the first cruise ship arrival under the new monument regulations.
- Cruise ships will be prohibited from discharging of any gray or black water during their anchorage period and for the entire period they are within monument waters, in

accordance with their monument permit conditions. They will be advised of this requirement during event planning and reminded again just prior to arrival. Any detected violation of this requirement will be cause for barring of this cruise line from any future stops at Midway Atoll NWR and will be pursued as a violation of monument regulations. Refuge staff will seek assistance from NOAA to use currently available sonar or other technology to assess the suitability for anchoring cruise ships just out from the harbor channel entrance. Sites determined to be suitable will be marked by GPS and that site transmitted to visiting ships. Cruise ships will also be advised that due to possible impacts to monk seals and sea turtles, the speed limit for their tenders within the harbor is 10 knots.

- Due to concern over the introduction of invasive marine species into Midway Atoll and the monument, all cruise ships and sailboats must meet the hull inspection requirements required under Presidential Proclamation 8031..

Justification:

Midway Atoll NWR provides unique educational opportunities, not found elsewhere in the United States. Compatible environmental education and interpretation are priority general public uses of the National Wildlife Refuge System as designated in the National Wildlife Refuge System Improvement Act of 1997.

References Cited:

Kenyon, K.W. 1976. Man versus the monk seal. J. of Mammal. 53(4):687-696.

Fowler, G.S. 1995. Ecotourism, field studies and stress: behavioral and hormonal responses of Magellanic penguins to nest site disturbance. Abstracts to Pacific Seabird Group Annual Meeting, 1995.

Mandatory 10- or 15-year Reevaluation Date:

Mandatory 15-year reevaluation date (for wildlife-dependent public uses)

Mandatory 10-year reevaluation date (for nonwildlife-dependent public uses)

NEPA Compliance for Refuge Use Decision (check one below)

Categorical Exclusion without Environmental Action Statement

Categorical Exclusion and Environmental Action Statement

Environmental Assessment and Finding of No Significant Impact

Environmental Impact Statement and Record of Decision

Refuge Determination:

Refuge Manager
Approval:

Barry Christensen
(Signature)

Date: 5/21/07

Project Leader,
Hawaiian and Pacific
Islands NWRC

Barry W. Steigly
(Signature)

Date 5/21/07

Concurrence:

Refuge Supervisor
National Wildlife
Refuge System
Pacific Region

Laurent W. Carter
(Signature)

Date 5/23/07

Regional Chief,
National Wildlife
Refuge System

Carolyn D. Bohon
(Signature)

Date 5/23/07

Appendix F.3 Participatory Research

FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: Midway Atoll National Wildlife Refuge/Battle of Midway National Mem.

Use: Participatory Research

This form is not required for wildlife-dependent recreational uses, take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

| Decision Criteria: | YES | NO |
|--|-------------------------------------|--------------------------|
| (a) Do we have jurisdiction over the use? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (b) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (c) Is the use consistent with applicable Executive orders and Department and Service policies? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (d) Is the use consistent with public safety? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (e) Is the use consistent with goals and objectives in an approved management plan or other document? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (f) Has an earlier documented analysis not denied the use or is this the first time the use has been proposed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (g) Is the use manageable within available budget and staff? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (h) Will this be manageable in the future within existing resources? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (j) Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will generally not allow the use.

If indicated, the refuge manager has consulted with State fish and wildlife agencies. Yes No

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate

Appropriate

Refuge Manager: Barry Christensen Date: May 14, 2007

If found to be Not Appropriate, the refuge supervisor does not need to sign concurrence if the use is a new use.

If an existing use is found Not Appropriate outside the CCP process, the refuge supervisor must sign concurrence.

If found to be Appropriate, the refuge supervisor must sign concurrence.

Refuge Supervisor: Laurel W. Hanes Date: May 14, 2007

A compatibility determination is required before the use may be allowed.

FWS Form 3-2319
02/06

FINDING OF APPROPRIATENESS OF A REFUGE USE; ATTACHMENT 1

USE: Participatory Research

Supplemental information for Decision Criteria (e) and (i):

(e) Is the use consistent with goals and objectives in an approved management plan or other document?

Involving visitors in hands-on habitat and historic restoration projects and limited wildlife monitoring activities is consistent with the draft goals and objectives identified in the Midway Atoll Interim Visitor Services Plan, as well as the purposes of the refuge and the mission of the National Wildlife Refuge System. Refuges are encouraged to use volunteers in accordance with FWS policy (150 FW 1.4):

- To provide people with opportunities to assist us in the accomplishment of our mission by contributing to the preservation and conservation of our natural and cultural resources.
- To enhance our performance through the creativity and innovations, labor, and expertise contributed by volunteers.
- To provide opportunities for students and others to gain experience in areas of interest for future careers.
- To complete projects and other work that we would not otherwise accomplish without the use of volunteers.
- To encourage stewardship of wildlands, wildlife, and other natural and cultural resources through public participation in and contribution to FWS programs and operations.

(i) Does the use contribute to the public's understanding and appreciation of the refuge's natural and cultural resources, or is the use beneficial to the refuge's natural or cultural resources?

By volunteering for these hands-on activities, visitors will gain a far better understanding of the importance of protecting habitat for migratory seabirds, shorebirds, marine mammals, and sea turtles. They will learn firsthand the threats from invasive plant species and the difficulty of eradicating them to restore native habitats. They will also gain a new knowledge and caring for America's historic resources and learn more about methods to protect them. In turn, the refuge's remarkable natural and historic resources will gain significantly from the additional work visitors will be able to accomplish that limited staff cannot address.

Compatibility Determination

- Proposed Use:** Participatory Management/Research Program
- Refuge Name:** Midway Atoll National Wildlife Refuge and Battle of Midway National Memorial
- City/County and State:** Midway Atoll is the penultimate western atoll in the Northwestern Hawaiian Islands, is an unincorporated territory of the United States, and lies outside the State of Hawaii.

Establishing and Acquisition Authority(ies):

Midway Atoll National Wildlife Refuge was established in 1988 as an overlay National Wildlife Refuge (NWR) under a cooperative agreement with the U.S. Navy. Under this agreement, administrative responsibility for the refuge was shared by the U.S. Fish and Wildlife Service (FWS) and the U.S. Navy (Navy). The Naval Air Facility at Midway was operationally closed in 1993. Facility cleanup was completed by June 30, 1997, when the Navy and its contractors departed. Custody and accountability for Midway Atoll were officially transferred from the Navy to FWS in May 1996. Executive Order 13022, signed by President Clinton on October 31, 1996, superseded earlier orders that assigned responsibility for Midway to the Navy. Secretary of the Interior Babbitt signed Secretary's Order 3217 on September 13, 2000, designating Midway Atoll NWR concurrently as the Battle of Midway National Memorial. On June 15, 2006, President Bush signed Presidential Proclamation 8031 making Midway Atoll NWR part of the newly established Papahānaumokuākea Marine National Monument. Under that Proclamation, Midway has unique authority and responsibility as a Special Management Area.

Refuge Purpose(s):

Midway Atoll NWR was established pursuant to the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act of 1934. Pertinent language in those statutes includes:

1. ". . . for the development, advancement, management, conservation and protection of fish and wildlife resources . . . for the benefit of the U.S. Fish and Wildlife Service, in performing its activities and services." (Fish and Wildlife Act of 1956)
2. ". . . shall be administered by the Secretary of the Interior directly in accordance with cooperative agreements . . . and in accordance with such rules and regulations for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon . . ." (Fish and Wildlife Coordination Act of 1934).

The following purposes were included in Executive Order 13022, dated October 31, 1996, which transferred jurisdiction and control over the Midway Islands from the Navy to the Department of the Interior:

1. Maintaining and restoring biological diversity within the refuge;
2. Providing for the conservation and management of fish and wildlife and their habitats within the refuge;
3. Fulfilling the international treaty obligations of the United States with respect to fish and wildlife;
4. Providing opportunities for scientific research, environmental education, and compatible wildlife-dependent recreational activities; and
5. In a manner compatible with refuge purposes, recognizing and maintaining Midway's historic significance.

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):

Specific visitor programs at Midway Atoll NWR will be designed to have visitors participate in a variety of wildlife monitoring and/or research activities, habitat management projects, and historic resource protection projects. Projects include (1) seabird population monitoring (e.g., nest abundance, nesting chronology, nesting success/chick survival, banding, etc.), (2) habitat restoration (e.g., clearing of exotic vegetation, planting native vegetation, etc.), and (3) historic site preservation/restoration (e.g., rehabilitation of historic buildings or gun emplacements). All projects are under the close supervision of FWS-approved staff and/or guides.

Availability of Resources:

Current refuge staffing is not adequate to properly run a quality visitor program. For Fiscal Year 2007 it is anticipated that the refuge will add at least one refuge ranger on-island to work with visitors. Additional staff support will be provided by the Hawaiian and Pacific Islands NWR Complex for periods of peak visitor use. To properly support the full visitor program envisioned in 2008 and beyond, two additional visitor services specialists and a law enforcement officer will be required in addition to increased staffing needs by the refuge infrastructure support contractor. Certain refuge infrastructure improvements will also be needed to support the visitor program. These will include improved signing, larger and safer boats, on-island transportation (bicycles or golf carts), and kayaks. The participatory research program will be closely integrated with our existing volunteer program which is adequately supported by available funds. Existing refuge staff and experienced and qualified refuge volunteers will be used to orient and train visitors who will participate in this program.

Midway Atoll NWR has been charged by Congress and FWS with developing a visitor program that is self-sustaining financially. To help us meet this goal Congress has also given the refuge receipts authority, which allows the refuge to keep reasonable fees collected for services provided at Midway Atoll. These fees will be used to offset costs of implementing the visitor services program.

Costs shown below were determined by allowing 5 days of extra work by the refuge biologist to complete the needed administrative work to enroll visitors as volunteers, provide the needed orientation and instruction, monitor their work, and complete the needed reporting requirements. Offsetting revenues shown are generated by multiplying the daily visitor fee (\$55) times the anticipated number of participants (125) under a fully operating program.

| Category and Itemization | One-time (\$) | Annual (\$/yr) |
|---|---------------|----------------|
| Administration and Management | | \$1,000 |
| Maintenance | | |
| Monitoring | | \$650 |
| Special equipment, facilities or improvements | | |
| Offsetting revenues | | \$6,875 |

Anticipated Impacts of the Use(s):

1. *Seabird population monitoring.* Minimal impact is anticipated from activity of participatory research volunteers within nesting seabird colonies. Potential impacts include destroying nesting burrows of Bonin petrels or wedge-tailed shearwaters, temporary disturbance to nesting birds, or disturbing a resting monk seal or green sea turtle from a nearby haulout location. Stress reactions (elevated heart rate, elevated levels of corticosterone, and behavioral responses) have been documented in several species of nesting seabirds at several ecotourism locations as a result of human activities

in nesting colonies (Jungius and Mirsch 1979, Fowler 1995, and Nimon *et al.* 1995). Studies, however, have not been conducted to document the long-term cumulative effects of this human disturbance. Another study on Xanthus' murrelets (*Synthliboramphus hypoleucus*) documented an increased stress response when birds were handled for a longer period during research activities (Newman *et al.* 1997). Short-term participatory research volunteers will be working at a slower pace than a trained FWS biologist or volunteer, potentially increasing the amount of disturbance to nesting seabirds involved in the study or in the area.

2. *Habitat restoration.* Minimal to no impact to nesting seabirds found within the targeted habitat restoration area is anticipated. Impacts include temporary disturbance to surface-nesting adults or chicks or injury or death of Bonin petrel or wedge-tailed shearwater adult/egg/chick after crushing a burrow. See above (1) for seabird/human disturbance concerns.
3. *Historic site preservation.* Minimal to no impact on nesting seabirds or other wildlife from actions to stabilize historical structures or to remove invasive trees and shrubs is expected.

Public Review and Comment:

This determination was issued for public review and comment as part of the Draft Interim Visitor Services Plan from the period of December 8, 2006, through February 6, 2007. The plan and associated compatibility determinations were made available through printed copies upon request and through the FWS Website at <http://www.fws.gov/midway>. This level of review and comment was selected to meet FWS requirements under the National Wildlife Refuge System Administration Act of 1966, as amended.

Determination:

- Use is Not Compatible
- Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility:

- All participating visitors will attend the initial orientation and will be thoroughly briefed by the FWS-approved staff and/or guides on the approved and prohibited activities.
- Participants involved in seabird projects will be shown how to collect data to avoid or minimize nesting bird disturbance, including burrowing species. Orientation will include a demonstration of how to clear a petrel burrow after cave-in. Field activity will be timed to avoid exposure of chicks and eggs to intense sun.

- Participants in habitat restoration projects will be supervised by FWS-approved staff and/or guides. They will avoid areas where nesting (including burrowing) birds will be disturbed.

Justification:

Participation of visitors in research, monitoring, habitat restoration, and historic preservation projects will contribute to the achievement of refuge objectives. Projects will be completed that would not be possible given limitations on staff. Participants will also benefit by the educational experience and by the opportunity to contribute directly to refuge projects.

Mandatory 10- or 15-year Reevaluation Date:

_____ Mandatory 15-year reevaluation date (for wildlife-dependent public uses)

 X Mandatory 10-year reevaluation date (for nonwildlife dependent public uses)

NEPA Compliance for Refuge Use Decision (check one below)

___ Categorical Exclusion without Environmental Action Statement

___ Categorical Exclusion and Environmental Action Statement

 X Environmental Assessment and Finding of No Significant Impact

___ Environmental Impact Statement and Record of Decision

References Cited:

Fowler, G.S. 1995. Ecotourism, field studies and stress: behavioral and hormonal responses of Magellanic penguins to nest site disturbance. Abstracts to Pacific Seabird Group Annual Meeting, 1995.

Jungius, H. and U. Mirsch. 1979. Changes in heartbeats in nesting birds at Galapagos by human disturbance. J. Orn. 120:299-310.

Nimon, A.J., R.C. Schroter, and B. Stonehouse. 1995. Heart rate of disturbed penguins. Nature 374:415.

Refuge Determination:

Refuge Manager
Approval:

Barry Christensen
(Signature)

Date: 5/21/07

Project Leader,
Hawaiian and Pacific
Islands NWRC

Barry W. Stogd
(Signature)

Date 5/21/07

Concurrence:

Refuge Supervisor
National Wildlife
Refuge System
Pacific Region

Lawrence Wilcox
(Signature)

Date 5/23/07

Regional Chief,
National Wildlife
Refuge System

Carolyn L. Bohan
(Signature)

Date 5/23/07

Appendix F.4 Airport Operations (Nonadministrative)

FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: Midway Atoll National Wildlife Refuge/Battle of Midway National Mem.

Use: Airport Operations (Nonadministrative)

This form is not required for wildlife-dependent recreational uses, take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

| Decision Criteria: | YES | NO |
|--|-------------------------------------|--------------------------|
| (a) Do we have jurisdiction over the use? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (b) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (c) Is the use consistent with applicable Executive orders and Department and Service policies? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (d) Is the use consistent with public safety? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (e) Is the use consistent with goals and objectives in an approved management plan or other document? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (f) Has an earlier documented analysis not denied the use or is this the first time the use has been proposed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (g) Is the use manageable within available budget and staff? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (h) Will this be manageable in the future within existing resources? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (j) Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will generally not allow the use.

If indicated, the refuge manager has consulted with State fish and wildlife agencies. Yes No

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate

Appropriate

Refuge Manager: Barry Christensen

Date: May 14, 2007

If found to be Not Appropriate, the refuge supervisor does not need to sign concurrence if the use is a new use.

If an existing use is found Not Appropriate outside the CCP process, the refuge supervisor must sign concurrence.

If found to be Appropriate, the refuge supervisor must sign concurrence.

Refuge Supervisor: Ernest W. Cameron Date: May 14, 2007

A compatibility determination is required before the use may be allowed.

FWS Form 3-2319
02/06

FINDING OF APPROPRIATENESS OF A REFUGE USE; ATTACHMENT 1

USE: Airport Use for nonadministrative purposes

Supplemental information for Decision Criteria (e) and (i):

(e) Is the use consistent with goals and objectives in an approved management plan or other document?

Although not a specific refuge purpose, Midway Atoll has been charged by Congress with the continued operation of Henderson Airfield for use as an emergency diversion airport for twin-engine jets flying over the Pacific (Public Law 108-176 section 186). In cooperation with the Federal Aviation Administration (FAA), FWS, through its contractor, operates Henderson Airfield to meet appropriate Part 139 Standards (14 CFR Part 139). This appropriateness finding addresses nonemergency landings by aircraft for nonadministrative purposes such as the visitor program. No additional refuge acreage has been taken or altered for this use. Over time the abandoned runway will be restored to natural habitat appropriate for that part of the island. Henderson Airfield operation is managed to the maximum degree possible to minimize harm to refuge resources – primarily seabirds such as albatrosses, white terns, and brown noddies.

(ii) Does the use contribute to the public's understanding and appreciation of the refuge's natural and cultural resources, or is the use beneficial to the refuge's natural or cultural resources?

Operation of Henderson Airfield allows the refuge staff, other agencies, and the public the opportunity to come to Midway by airplane instead of relying solely on ships. This one logistical factor makes Midway unique among the Northwestern Hawaiian Islands and is the pivotal reason FWS is able to plan a visitor program at Midway. With the airport, far more visitors will be able to come to Midway than by ship alone, allowing them the opportunity to observe and learn about the diverse wildlife species and varied historic resources that make Midway a unique location to visit and a culturally important site for all Americans.

Compatibility Determination

- Use(s):** Airport Operation (for Nonadministrative Purposes)
- Refuge Name:** Midway Atoll National Wildlife Refuge and Battle of Midway National Memorial
- City/County and State:** Midway Atoll is the penultimate western atoll in the Northwestern Hawaiian Islands, is an unincorporated territory of the United States, and lies outside the State of Hawaii.

Establishing and Acquisition Authority(ies):

Midway Atoll National Wildlife Refuge was established in 1988 as an overlay National Wildlife Refuge (NWR) under a cooperative agreement with the U.S. Navy. Under this agreement, administrative responsibility for the refuge was shared by the U.S. Fish and Wildlife Service (FWS) and the U.S. Navy (Navy). The Naval Air Facility at Midway was operationally closed in 1993. Facility cleanup was completed by June 30, 1997, when the Navy and its contractors departed. Custody and accountability for Midway Atoll were officially transferred from the Navy to the FWS in May 1996. Executive Order 13022, signed by President Clinton on October 31, 1996, superseded earlier orders that assigned responsibility for Midway to the Navy. Secretary of the Interior Babbitt signed Secretary's Order 3217 on September 13, 2000, designating Midway Atoll NWR concurrently as the Battle of Midway National Memorial. On June 15, 2006, President Bush signed Presidential Proclamation 8031 making Midway Atoll NWR part of the newly established Papahānaumokuākea Marine National Monument. Under that Proclamation, Midway has unique authority and responsibility as a Special Management Area.

Refuge Purpose(s):

Midway Atoll NWR was established pursuant to the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act of 1934. Pertinent language in those statutes includes:

1. "... for the development, advancement, management, conservation and protection of fish and wildlife resources . . . for the benefit of the U.S. Fish and Wildlife Service, in performing its activities and services." (Fish and Wildlife Act of 1956)
2. "... shall be administered by the Secretary of the Interior directly in accordance with cooperative agreements . . . and in accordance with such rules and regulations for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon . . ." (Fish and Wildlife Coordination Act of 1934).

The following additional purposes were included in Executive Order 13022, dated October 31, 1996, which transferred jurisdiction and control over the Midway Islands from the U.S. Navy to the U.S. Department of the Interior:

1. Maintaining and restoring biological diversity within the refuge;
2. Providing for the conservation and management of fish and wildlife and their habitats within the refuge;
3. Fulfilling the international treaty obligations of the United States with respect to fish and wildlife;
4. Providing opportunities for scientific research, environmental education, and compatible wildlife-dependent recreational activities; and
5. In a manner compatible with refuge purposes, recognizing and maintaining Midway's historic significance.

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):

Although not a specific refuge purpose, Midway Atoll has been charged by Congress with the continued operation of Henderson Airfield for use as a Part 139 airport for twin-engine jets flying over the Pacific. In cooperation with the FAA, FWS, through its contractor, operates Henderson Airfield to meet appropriate Part 139 Standards.

Modern large passenger airplanes are extremely safe and reliable so use of Henderson Airfield for this purpose is very rare. In fact, in the past 3 years only one large passenger airliner has landed at Midway due to an in-flight emergency. However, many other aircraft use Henderson Airfield on a regular basis. Nonrefuge administrative/management flights that would be covered by this use include FAA required navigational aid flight checks, flights by other agencies that have business or equipment on Midway, and visitor program flights. For the period of this plan (less than 5 years), nonadministrative flights are estimated at 50 per year. This is a maximum figure based on 4 visitor flights per month for 9 months and 14 other agency flights.

Use also includes operation of a fuel truck to fuel a limited number of non-FWS related aircraft. At the present time this includes the Coast Guard but not general transient aircraft as the FWS has issued a Notice to Airmen that fuel sales at Midway have been discontinued.

Availability of Resources:

Adequate personnel and funding are available for operation of Henderson Airfield. Current funding for airport operations comes from the FAA at the direction of Congress. Refuge personnel assist with airport operations from time to time, but this is an infrequent demand on refuge resources and within our available staffing and funding. Nonrefuge/FAA flights are charged a landing fee, which can be used to offset personnel and equipment costs of staffing the airport and is adequate to cover costs incurred by the charged flight. The costs detailed below are calculated using an estimated 36 visitor flights per year (9 months at 4/month) and 14 other agency flights per year for a total of 50. Revenues from landing and ramp fees vary by the amount of services provided and range from a low of \$464 to a maximum of \$1,547. For the purposes of this analysis an average rate of \$1,130 is used based on the most common services provided.

| Category and Itemization | One time (\$) | Annual (\$/yr) |
|---|----------------------|-----------------------|
| Administration and Management | \$300 | \$15,000 |
| Maintenance | 100 | 5,000 |
| Monitoring | 64 | 3,200 |
| Special equipment, facilities or improvements | 666 | 33,300 |
| Offsetting revenues | \$1,130 | \$56,500 |

Anticipated Impacts of the Use(s):

The 2 million seabirds that use Midway during the peak breeding season make aircraft flights to the island potentially hazardous to both the birds and the aircraft. Albatrosses, both Laysan and black-footed, use the airport runway as a soaring area as they travel on feeding forays during the day (363 seabird runway crosses per minute, Dolbeer and Arrington, 1996). Bird use of the runway declines dramatically at night (6 seabird runway crosses per minute, Dolbeer and Arrington, 1996) however, so flights then have a much reduced chance of hitting birds. During the primary albatross season, November through July, flights are scheduled to arrive and depart during dark, thus minimizing impacts to albatross and other seabirds. During the months of August, September, and October flights arrive during the day and may occasionally hit a white tern or brown noddy. It is not possible to reduce the bird strike risk at Henderson Airfield to zero at any time of day or year short of suspending all administrative and nonadministrative flight operations. However, the small number of annual flights to the island and the requirement of night flights for most of the year make the overall impact to refuge resources minimal.

Extensive use of lights at the airport hangar causes problems for seabirds, especially Bonin petrels. These birds are disoriented by the bright flood lights at the hangar and as a result

frequently fly into the side of the building and roof. During peak petrel season, this activity can result in death or injury of up to 6 birds per night. Currently this type of use and impact occurs during night arrivals in the months from November through May. The frequency of aircraft arrival at Henderson Airfield will go up upon implementation of this plan to from the current 3 per month to as many as 8 per month at full operation.

Proper operation of the fuel truck presents no hazards to refuge resources. In the event of a spill, fuel containment supplies and equipment are stored at the airport hangar for immediate response.

Public Review and Comment:

This determination was issued for public review and comment as part of the Draft Interim Visitor Services Plan from the period of December 8, 2006, through February 6, 2007. The plan and associated compatibility determinations were made available through printed copies upon request and through the FWS Website at <http://www.fws.gov/midway>. This level of review and comment was selected to meet FWS requirements under the National Wildlife Refuge System Administration Act of 1966, as amended.

Determination:

- Use is Not Compatible
- Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility:

- Except for emergency landings, flights will be required to land and depart in the dark during the months from November through July.
- To reduce the time during which aircraft fly at heights used most frequently by birds (1,000 feet or less), aircraft will be advised to use steeper than normal landing and take-off flight paths. For landings, pilots will be advised to use a 1,500-foot displaced threshold and then descend at a 5 degree glide slope. For take-offs, pilots will be advised to be airborne by midfield and then to climb out at a path of 10-11 degrees pitch up for first 1,000 feet of elevation.
- Lights used to illuminate airport passenger and baggage handling areas must be designed and installed to reduce impacts to Bonin petrels, which are negatively affected by artificial light.
- Prior to each landing and take off, airport staff will ensure the runway is clear of all birds. Frequently this involves physically removing them by hand.

Justification:

Operation of Henderson Airfield at Midway Atoll NWR increases safety of all flights crossing the northern Pacific and is congressionally mandated. Use of the airport by other agencies with official business at Midway can be allowed by using proper procedures that reduce the impacts to Midway's wildlife resources to a very minimal level. Flights to accommodate the visitor program will greatly increase the number of people who can experience, learn about, and enjoy the wildlife and historic resources found at Midway Atoll.

Mandatory 10- or 15-year Reevaluation Date:

_____ Mandatory 15-year reevaluation date (for wildlife-dependent public uses)

 X Mandatory 10-year reevaluation date (for nonwildlife-dependent public uses)

NEPA Compliance for Refuge Use Decision (check one below)

___ Categorical Exclusion without Environmental Action Statement

___ Categorical Exclusion and Environmental Action Statement

 X Environmental Assessment and Finding of No Significant Impact

___ Environmental Impact Statement and Record of Decision

References Cited:

Dolbeer, R., and D. P. Arrington. 1996. Can albatrosses and aircraft coexist on Midway Atoll? In Bird Strike Committee Europe, London.

Refuge Determination:

Refuge Manager
Approval:

Benny Christensen
(Signature)

Date: 5/21/07

Project Leader,
Hawaiian and Pacific
Islands NWRC

Borey W. J. J. J.
(Signature)

Date 5/21/07

Concurrence:

Refuge Supervisor
National Wildlife
Refuge System
Pacific Region

Lance W. Cameron Date 5/23/07
(Signature)

Regional Chief,
National Wildlife
Refuge System

Carolyn L. Bohan Date 5/23/07
(Signature)

Appendix F.5 Nonwildlife-Dependent Beach Use

FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: Midway Atoll National Wildlife Refuge/Battle of Midway National Mem.

Use: Nonwildlife-Dependent Beach Use

This form is not required for wildlife-dependent recreational uses, take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

| Decision Criteria: | YES | NO |
|--|-------------------------------------|-------------------------------------|
| (a) Do we have jurisdiction over the use? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (b) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (c) Is the use consistent with applicable Executive orders and Department and Service policies? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (d) Is the use consistent with public safety? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (e) Is the use consistent with goals and objectives in an approved management plan or other document? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (f) Has an earlier documented analysis not denied the use or is this the first time the use has been proposed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (g) Is the use manageable within available budget and staff? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (h) Will this be manageable in the future within existing resources? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (j) Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will generally not allow the use.

If indicated, the refuge manager has consulted with State fish and wildlife agencies. Yes No

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate

Appropriate

Refuge Manager: Barry Christensen Date: May 14, 2007

If found to be **Not Appropriate**, the refuge supervisor does not need to sign concurrence if the use is a new use.

If an existing use is found **Not Appropriate** outside the CCP process, the refuge supervisor must sign concurrence.

If found to be **Appropriate**, the refuge supervisor must sign concurrence.

Refuge Supervisor: Forest Williams Date: May 14, 2007

A compatibility determination is required before the use may be allowed.

FWS Form 3-2319
02/06

FINDING OF APPROPRIATENESS OF A REFUGE USE; ATTACHMENT 1

USE: Nonwildlife-dependent Beach Use

Supplemental information for Decision Criteria (e) and (i):

(e) Is the use consistent with goals and objectives in an approved management plan or other document?

This use is consistent with the approved 1996 Public Use Plan.

Both island residents and visitors are aware through an orientation given to all persons when they first arrive on the island that this privilege is allowed only as long as it has no negative impacts to fish or wildlife resources using the area. No negative impacts to Hawaiian monk seals, seabirds, or other wildlife have been detected by refuge staff during casual, periodic monitoring during the past 4 years. A more rigid and quantifiable impact analysis will be developed prior to full scale implementation of this visitor program. Detected negative impacts to sensitive wildlife species, notably monk seals, will require that the use parameters be changed or the use discontinued.

(i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?

Swimming or sunbathing does not directly contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, nor is the use beneficial to the refuge's natural or cultural resources. However, if the refuge rules for use of the beach are followed, neither do they detract from them.

Although not a priority public use as determined by the National Wildlife Refuge System Improvement Act of 1997, nonwildlife-dependent beach use at Midway Atoll NWR is popular and compatible. The opportunity to relax on the beach and swim in the lagoon waters will enhance the quality of life for Midway residents, many of whom are stationed at the refuge for extended periods, without access to amenities normally available in a typical urban setting. Although their primary interest may be swimming or sunbathing, the abundance of birdlife that continually flies overhead makes these activities a wildlife observation opportunity as well.

These opportunities will also be available for refuge visitors, to improve their experience without jeopardizing Midway's wildlife resources or conflicting with the high priority wildlife-dependent activities.

Compatibility Determination

- Use(s):** Nonwildlife-dependent Beach Use
- Refuge Name:** Midway Atoll National Wildlife Refuge and Battle of Midway National Memorial
- City/County and State:** Midway Atoll is the penultimate western atoll in the Northwestern Hawaiian Islands, is an unincorporated territory of the United States, and lies outside the State of Hawaii.

Establishing and Acquisition Authority(ies):

Midway Atoll National Wildlife Refuge was established in 1988 as an overlay National Wildlife Refuge (NWR) under a cooperative agreement with the U.S. Navy. Under this agreement, administrative responsibility for the refuge was shared by the U.S. Fish and Wildlife Service (FWS) and the U.S. Navy (Navy). The Naval Air Facility at Midway was operationally closed in 1993. Facility cleanup was completed by June 30, 1997, when the Navy and its contractors departed. Custody and accountability for Midway Atoll were officially transferred from the Navy to the FWS in May 1996. Executive Order 13022, signed by President Clinton on October 31, 1996, superseded earlier orders that assigned responsibility for Midway to the Navy. Secretary of the Interior Babbitt signed Secretary's Order 3217 on September 13, 2000, designating Midway Atoll NWR concurrently as the Battle of Midway National Memorial. On June 15, 2006, President Bush signed Presidential Proclamation 8031 making Midway Atoll NWR part of the newly established Papahānaumokuākea Marine National Monument. Under that Proclamation, Midway has unique authority and responsibility as a Special Management Area.

Refuge Purpose(s):

Midway Atoll NWR was established pursuant to the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act of 1934. Pertinent language in those statutes includes:

1. "... for the development, advancement, management, conservation and protection of fish and wildlife resources . . . for the benefit of the U.S. Fish and Wildlife Service, in performing its activities and services." (Fish and Wildlife Act of 1956)
2. "... shall be administered by the Secretary of the Interior directly in accordance with cooperative agreements . . . and in accordance with such rules and regulations for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon . . ." (Fish and Wildlife Coordination Act of 1934).

The following additional purposes were included in Executive Order 13022, dated October 31, 1996, which transferred jurisdiction and control over the Midway Islands from the U.S. Navy to the U.S. Department of the Interior:

1. Maintaining and restoring biological diversity within the refuge;
2. Providing for the conservation and management of fish and wildlife and their habitats within the refuge;
3. Fulfilling the international treaty obligations of the United States with respect to fish and wildlife;
4. Providing opportunities for scientific research, environmental education, and compatible wildlife-dependent recreational activities; and
5. In a manner compatible with refuge purposes, recognizing and maintaining Midway's historic significance.

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. (16 U.S.C. 668dd et seq.)

Description of Use(s):

Midway Atoll NWR residents and visitors use North Beach for nonwildlife-dependent beach activities such as sunbathing and swimming. Although all of North Beach is open for visitor use, most activities occur in the small area between Captain Brooks and the Clipper House. The entire North Beach is open as a "trail" for wildlife observation and receives use from refuge residents and visitors. Impacts to refuge resources under that use are covered in the Wildlife Observation Compatibility Determination.

A small number (6) of heavy, plastic lounge chairs will be set out for visitor use. This type of solid chair with no openings has been in use on North Beach for nearly 10 years and has caused no negative impacts on nearby seabirds or monk seals. Visitors and residents typically spend only a small part of a day on the beach (less than 1 hour), usually to relax and swim during the afternoon. Swimming is typically of short duration and is restricted to areas close to shore. In the interest of public safety, a pole with a throw line and life saving ring are mounted in the center of this use area. Beach users will be advised that swimming will be allowed from ½ hour after sunrise until ½ hour before sunset. Sunrise/sunset tables will be posted in the Captain Brooks beach facility.

Availability of Resources:

Current refuge staffing is not adequate to properly run a quality visitor program. For Fiscal Year 2007 it is anticipated that the refuge will add at least one refuge ranger on-island to work with visitors. Additional staff support will be provided by the Hawaiian and Pacific Islands NWR Complex for periods of peak visitor use. To properly support the full visitor program envisioned in 2008 and beyond, two additional visitor services specialists and a law enforcement officer will be required in addition to increased staffing needs by the refuge infrastructure support contractor.

Midway Atoll NWR has been charged by Congress and the FWS with developing a visitor program that is self-sustaining financially. To help us meet this goal Congress has also given the refuge receipts authority, which allows the refuge to keep reasonable fees collected for services provided at Midway Atoll. These fees will be used to offset costs of implementing the visitor services program. Costs for administration of this use are estimated below:

| Category and Itemization | One-time (\$) | Annual (\$/yr) |
|---|---------------|----------------|
| Administration and Management | \$ | \$ |
| Maintenance | | |
| Monitoring | | 1350 |
| Special equipment, facilities or improvements | 400 | |
| Offsetting revenues | \$0 | \$27,500 |

Monitoring costs were calculated based on 1.5 hours per week for 9 months for a GS-7 refuge ranger. Special equipment includes the one time purchase of new beach chairs. Offsetting revenues were calculated for 500 visitors paying a daily refuge access fee of \$55, part of which would be used to support this use.

Anticipated Impacts of the Use(s):

Minimal to no negative impacts to refuge resources are expected from this activity. Visitors could displace resting monk seals from preferred beach areas if refuge visitor guidelines regarding beach use are not followed. Sea turtles have not been seen on North Beach, but should one choose to haul out there, the standard 150-foot viewing distance would be required. Since no seabird or Laysan duck nesting occurs in the areas used for this activity, no impacts to albatrosses, petrels, shearwaters, Laysan ducks, or other birds are expected. If a monk seal has hauled out in an area frequently used by visitors, the area will be signed as temporarily closed until the seal changes locations, thereby preventing disturbance to the seal.

Public Review and Comment:

This determination was issued for public review and comment as part of the Draft Interim Visitor Services Plan from the period of December 8, 2006, through February 6, 2007. The plan and associated compatibility determinations were made available through printed copies upon request and through the FWS Website at <http://www.fws.gov/midway>. This level of review and comment was selected to meet FWS requirements under the National Wildlife Refuge System Administration Act of 1966, as amended.

Determination:

- Use is Not Compatible
- Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility:

- As part of their orientation, visitors will receive information on how to avoid disturbance to wildlife, especially Hawaiian monk seals and green sea turtles, and how to recognize behavioral indicators of disturbance.
- Beach areas occupied by resting monk seals will be signed with small portable seal shaped placards placed 50 yards from the seals to advise visitors of the seals' presence so they do not inadvertently cause disturbance.
- Swimmers will be advised to leave the water if a monk seal or sea turtle approaches them in the water.
- Beach users will be advised how to respond if approached on the beach by a monk seal or sea turtle.

Justification:

Although not a priority general public use as determined by the National Wildlife Refuge System Improvement Act of 1997, compatible nonwildlife-dependent beach use at Midway Atoll NWR is a popular activity. Visitors and residents alike benefit from the chance to sit and relax on North Beach. Although their primary interest may be sunbathing, reading, or relaxing, the abundance of birdlife continually flying overhead makes this activity a wildlife observation opportunity as well.

Alternative recreational opportunities will enhance the quality of life for Midway residents, many of whom are stationed at the refuge for extended periods, without access to amenities normally available in a typical urban setting.

Mandatory 10- or 15-year Reevaluation Date:

Mandatory 15-year reevaluation date (for wildlife-dependent public uses)

Mandatory 10-year reevaluation date (for nonwildlife-dependent public uses)

NEPA Compliance for Refuge Use Decision (check one below)

Categorical Exclusion without Environmental Action Statement

Categorical Exclusion and Environmental Action Statement

Environmental Assessment and Finding of No Significant Impact

Environmental Impact Statement and Record of Decision

Refuge Determination:

Refuge Manager
Approval:

Benny Christensen
(Signature)

Date: 5/21/07

Project Leader,
Hawaiian and Pacific
Islands NWRC

Benny W. Stegitz
(Signature)

Date 5/21/07

Concurrence:

Refuge Supervisor
National Wildlife
Refuge System
Pacific Region

Lawrence W. Cameron Date 5/23/07
(Signature)

Regional Chief,
National Wildlife
Refuge System

Arloynal Bohor Date 5/23/07
(Signature)

Appendix F.6 Nonwildlife-Related Outdoor Sports

FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: Midway Atoll National Wildlife Refuge/Battle of Midway National Mem.

Use: Nonwildlife-Related Outdoor Sports

This form is not required for wildlife-dependent recreational uses, take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

| Decision Criteria: | YES | NO |
|--|-------------------------------------|-------------------------------------|
| (a) Do we have jurisdiction over the use? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (b) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (c) Is the use consistent with applicable Executive orders and Department and Service policies? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (d) Is the use consistent with public safety? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (e) Is the use consistent with goals and objectives in an approved management plan or other document? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (f) Has an earlier documented analysis not denied the use or is this the first time the use has been proposed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (g) Is the use manageable within available budget and staff? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (h) Will this be manageable in the future within existing resources? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (j) Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will generally not allow the use.

If indicated, the refuge manager has consulted with State fish and wildlife agencies. Yes No

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate

Appropriate

Refuge Manager: Barry Christensen Date: May 14, 2007

If found to be Not Appropriate, the refuge supervisor does not need to sign concurrence if the use is a new use.

If an existing use is found Not Appropriate outside the CCP process, the refuge supervisor must sign concurrence.

If found to be Appropriate, the refuge supervisor must sign concurrence.

Refuge Supervisor: Laurel W. Hanna Date: May 14, 2007

A compatibility determination is required before the use may be allowed.

FWS Form 3-2319
02/06

FINDING OF APPROPRIATENESS OF A REFUGE USE; ATTACHMENT 1

USE: Nonwildlife-dependent outdoor sports

Supplemental information for Decision Criteria (e) and (i):

(e) Is the use consistent with goals and objectives in an approved management plan or other document?

This use is consistent with the 1996 Public Use Plan for Midway Atoll. Nonwildlife-dependent sports on Midway are also consistent with the right-sizing plan completed by contractors for FWS in 2003. That planning document is used by FWS to make long-term commitments for infrastructure improvements. It acknowledges the need for island residents and visitors to participate in sporting activities by leaving structures such as the gym and All Hands Club.

This use is considered appropriate only due to the unique circumstances that make Midway Atoll both a NWR and a remote, functioning community of 60-85 persons. Normally, refuge staff and visitors have many alternative locations to participate in sports activities and do not need to conduct them on a refuge. However, Midway's location, a remote island over 1,200 miles from the nearest other community with sports facilities, means that island residents and visitors have no alternative to use of the refuge for this purpose. Allowance of this use, especially for refuge residents, helps the participants stay in good physical shape and contributes toward overall morale and improved mental health.

(i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?

Although not a priority general public use as determined by the National Wildlife Refuge System Improvement Act of 1997, nonwildlife-dependent sports at Midway Atoll NWR are popular. Alternative recreational opportunities will enhance the quality of life for Midway residents, many of whom are stationed at the refuge for extended periods without access to amenities normally available in a typical urban setting. Although their primary interest may be biking or jogging, the abundance of birdlife that continually flies overhead or literally covers the field along the road makes these activities a wildlife observation opportunity as well.

These opportunities will also be available for refuge visitors, to improve their experience without jeopardizing Midway's wildlife resources or conflicting with the high priority wildlife-dependent activities.

Compatibility Determination

- Use(s):** Nonwildlife-related Outdoor Sports
- Refuge Name:** Midway Atoll National Wildlife Refuge and Battle of Midway National Memorial
- City/County and State:** Midway Atoll is the penultimate western atoll in the Northwestern Hawaiian Islands, is an unincorporated territory of the United States, and lies outside the State of Hawaii.

Establishing and Acquisition Authority(ies):

Midway Atoll National Wildlife Refuge (NWR) was established in 1988 as an overlay NWR under a cooperative agreement with the U.S. Navy (Navy). Under this agreement, administrative responsibility for the refuge was shared by the U.S. Fish and Wildlife Service (FWS) and the U.S. Navy. The Naval Air Facility at Midway was operationally closed in 1993. Facility cleanup was completed by June 30, 1997, when the Navy and its contractors departed. Custody and accountability for Midway Atoll were officially transferred from the Navy to FWS in May 1996. Executive Order 13022, signed by President Clinton on October 31, 1996, superseded earlier orders that assigned responsibility for Midway to the Navy. Secretary of the Interior Babbitt signed Secretary's Order 3217 on September 13, 2000, designating Midway Atoll NWR concurrently as the Battle of Midway National Memorial. On June 15, 2006, President Bush signed Presidential Proclamation 8031 making Midway Atoll NWR part of the newly established Papahānaumokuākea Marine National Monument. Under that Proclamation, Midway has unique authority and responsibility as a Special Management Area.

Refuges Purpose(s):

Midway Atoll NWR was established pursuant to the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act of 1934. Pertinent language in those statutes includes:

1. ". . . for the development, advancement, management, conservation and protection of fish and wildlife resources . . . for the benefit of the U.S. Fish and Wildlife Service, in performing its activities and services." (Fish and Wildlife Act of 1956)
2. ". . . shall be administered by the Secretary of the Interior directly in accordance with cooperative agreements . . . and in accordance with such rules and regulations for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon . . ." (Fish and Wildlife Coordination Act of 1934).

The following additional purposes were included in Executive Order 13022, dated October 31, 1996, which transferred jurisdiction and control over the Midway Islands from the U.S. Navy to the U.S. Department of the Interior:

1. Maintaining and restoring biological diversity within the refuge;
2. Providing for the conservation and management of fish and wildlife and their habitats within the refuge;
3. Fulfilling the international treaty obligations of the United States with respect to fish and wildlife;
4. Providing opportunities for scientific research, environmental education, and compatible wildlife-dependent recreational activities; and
5. In a manner compatible with refuge purposes, recognizing and maintaining Midway's historic significance.

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. (16 U.S.C. 668dd et seq.)

Description of Use(s):

Several forms of nonwildlife-dependent recreation will be permitted at Midway Atoll for visitors and residents. Permitted outdoor recreation will include bicycling, jogging, volleyball, and tennis. Most sports will continue to be concentrated within the most developed areas of Sand Island. Volleyball will be allowed only in the designated sand court area adjacent to the Captain Brooks facility. Jogging and exercise bicycling will be restricted to hard surface roads in the town and industrial/historical area of Sand Island during daylight hours only (sunrise to sunset) to avoid wildlife collisions and promote safety. The tennis court is located on concrete under the roofline of the airport hangar.

Availability of Resources:

The proposed use is conducted by refuge residents and visitors during their free time, thus no refuge staff time is needed for direct supervision or involvement. However, periodic oversight

will be required to ensure that this use is not having unexpected impacts on wildlife. Adequate biological staff is available for that review, but a refuge officer is needed on island to handle any law enforcement situation that may arise from residents or visitors who do not follow refuge rules regarding closed areas. Annual cost estimates below were calculated using the cost for a GS-11 biologist for one day and a GS-7 refuge officer for one day. Monitoring will be occasional in nature and is not expected to exceed 8 hours per year for each person. All biking and jogging will occur on existing roads and trails that are also used for refuge administrative purposes, therefore no new maintenance costs will occur. All other costs associated with this use are born by the island Morale, Welfare, and Recreation fund.

| Category and Itemization | One-time (\$) | Annual (\$/yr) |
|---|----------------------|-----------------------|
| Administration and Management | | |
| Maintenance | | |
| Monitoring | | \$520 |
| Special equipment, facilities or improvements | | |
| Offsetting revenues | \$0 | \$0 |

Anticipated Impacts of the Use(s):

Occasional disturbance to nesting albatrosses or albatross chicks may occur around the outdoor volleyball court, but the court has a nest-free margin of 20-30 feet, giving the birds an adequate buffer from court activity and stray balls. The court area is free of petrel or shearwater burrows, so no impacts will occur to those ground nesting birds. The court area is at the extreme edge of the typical beach use area by monk seals (300 feet from the water’s edge) so direct or even indirect impacts to seals from volleyball in this location is unlikely. No sea turtles have been observed on North Beach. Bicycling and jogging will also result in little or no impact on wildlife because bikers and joggers will remain on paved roads or marked trails. Joggers will be directed to stay on the paved/gravel roads due to the high risk of stepping into or collapsing a petrel burrow.

Public Review and Comment:

This determination was issued for public review and comment as part of the Draft Interim Visitor Services Plan from the period of December 8, 2006, through February 6, 2007. The plan and associated compatibility determinations were made available through printed copies upon request and through the FWS Website at <http://www.fws.gov/midway>. This level of review and comment was selected to meet FWS requirements under the National Wildlife Refuge System Administration Act of 1966, as amended.

Compatibility Determination:

- Use is Not Compatible
- Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility:

- Closed areas will be posted and regulations strictly enforced. Residents and visitors will be informed about closed area restrictions through orientation sessions and posted notices.
- Bicycling and jogging will be limited to paved and gravel roads and trails during daylight hours only (sunrise to sunset).
- A 150-foot approach restriction for seals and turtles will be strictly enforced. If a seal moved to within this distance of the volleyball court, the area would not be used (or the game stopped) until the seal voluntarily left the area.
- The volleyball net will be taken down and stored when not in use to eliminate the threat of injuring a bird in flight.

Justification:

Although not a priority general public use as determined by the National Wildlife Refuge System Improvement Act of 1997, compatible nonwildlife-dependent sports at Midway Atoll NWR are popular. Alternative recreational opportunities will enhance the quality of life for Midway residents, many of whom are stationed at the refuge for extended periods, without access to amenities normally available in a typical urban setting. Although their primary interest may be biking or jogging, the abundance of birdlife that continually flies overhead or literally covers the field along the road makes these activities a wildlife observation opportunity as well.

These opportunities will also be available for refuge visitors, to improve their experience without jeopardizing Midway’s wildlife resources or conflicting with the high priority wildlife-dependent activities.

Mandatory 10- or 15-year Reevaluation Date:

- Mandatory 15-year reevaluation date (for wildlife-dependent public uses)
- Mandatory 10-year reevaluation date (for nonwildlife-dependent public uses)

NEPA Compliance for Refuge Use Decision (check one below)

Categorical Exclusion without Environmental Action Statement

Categorical Exclusion and Environmental Action Statement

Environmental Assessment and Finding of No Significant Impact

Environmental Impact Statement and Record of Decision

Refuge Determination:

Refuge Manager
Approval:

Barry Christensen
(Signature)

Date: 5/21/07

Project Leader,
Hawaiian and Pacific
Islands NWRC

Barry W. Steitz
(Signature)

Date 5/21/07

Concurrence:

Refuge Supervisor
National Wildlife
Refuge System
Pacific Region

Lance W. Cameron
(Signature)

Date 5/23/07

Regional Chief,
National Wildlife
Refuge System

Michael D. Bohan
(Signature)

Date 5/23/07

Appendix F.7 Amateur Radio Use

FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: Midway Atoll National Wildlife Refuge/Battle of Midway National Mem.

Use: Amateur Radio Use

This form is not required for wildlife-dependent recreational uses, take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

| Decision Criteria: | YES | NO |
|--|-------------------------------------|-------------------------------------|
| (a) Do we have jurisdiction over the use? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (b) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (c) Is the use consistent with applicable Executive orders and Department and Service policies? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (d) Is the use consistent with public safety? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (e) Is the use consistent with goals and objectives in an approved management plan or other document? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (f) Has an earlier documented analysis not denied the use or is this the first time the use has been proposed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (g) Is the use manageable within available budget and staff? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (h) Will this be manageable in the future within existing resources? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (j) Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will generally not allow the use.

If indicated, the refuge manager has consulted with State fish and wildlife agencies. Yes No

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate

Appropriate

Refuge Manager: Barry Christensen Date: May 14, 2007

If found to be **Not Appropriate**, the refuge supervisor does not need to sign concurrence if the use is a new use.

If an existing use is found **Not Appropriate** outside the CCP process, the refuge supervisor must sign concurrence.

If found to be **Appropriate**, the refuge supervisor must sign concurrence.

Refuge Supervisor: Garrett W. Carver Date: May 14, 2007

A compatibility determination is required before the use may be allowed.

FWS Form 3-2319
02/06

FINDING OF APPROPRIATENESS OF A REFUGE USE; ATTACHMENT 1

USE: Amateur radio operation

Supplemental information for Decision Criteria (e), (g), (h), and (i):

(e) Is the use consistent with goals and objectives in an approved management plan or other document?

Yes. Although amateur radio operation at Midway Atoll NWR is not specifically addressed in goals and objectives in an approved management plan or other document, this use does not conflict with refuge purposes.

(g) Is the use manageable within existing budget and staff?

No. Existing staffing and funding levels are not adequate to run a quality visitor program. With additional staff and funds to operate a visitor program, this use could easily be included.

(h) Will this be manageable in the future within existing resources?

No. Only through additional staffing and funds to support a visitor services program will the refuge be able to support this use. For Fiscal Year 2007 it is anticipated that the refuge will add at least one park ranger on-island to work with visitors. Additional staff support will be provided by the Hawaiian and Pacific Islands NWR Complex for periods of peak visitor use. To properly support the full visitor program envisioned in 2008 and beyond, two additional visitor services specialists and a law enforcement officer will be required in addition to increased staffing needs by the refuge infrastructure support contractor. This use will not be allowed until there is adequate staffing and funding to properly manage it on the refuge. Visitor fees and monument permit fees paid by amateur radio operators will be used to offset the added management cost of this use.

(i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?

Amateur radio operation at Midway Atoll NWR will not directly contribute to the public's understanding and appreciation of the refuge's natural, historic, or cultural resources, nor is it beneficial to those resources. However, any visitor to Midway, even one whose primary reason for visiting does not relate to the refuge mission or purpose, cannot spend a week on the refuge without gaining some understanding of its historical significance and its diverse wildlife. Both the history and the wildlife are so direct, obvious, and unavoidable that all visitors garner some appreciation of both through observation or discussions with island residents or refuge staff. In addition, amateur radio operators have the opportunity to educate people around the world about the refuge and Papahānaumokuākea Marine National Monument. One stipulation associated with this use is that amateur radio users will be required to provide educational messages about the monument and Midway Atoll as a condition of their permit.

Compatibility Determination

Use(s): Amateur Radio Operation

Refuge Name: Midway Atoll National Wildlife Refuge and the Battle of Midway National Memorial

City/County and State: Midway Atoll is the penultimate western atoll in the Northwestern Hawaiian Islands, is an unincorporated territory of the United States, and lies outside the State of Hawaii.

Establishing and Acquisition Authority(ies):

Midway Atoll National Wildlife Refuge (NWR) was established in 1988 as an overlay NWR under a cooperative agreement with the U.S. Navy. Under this agreement, administrative responsibility for the refuge was shared by the U.S. Fish and Wildlife Service (FWS) and the U.S. Navy (Navy). The Naval Air Facility at Midway was operationally closed in 1993. Facility cleanup was completed by June 30, 1997, when the Navy and its contractors departed. Custody and accountability for Midway Atoll were officially transferred from the Navy to FWS in May 1996. Executive Order 13022, signed by President Clinton on October 31, 1996, superseded earlier orders that assigned responsibility for Midway to the Navy. Secretary of the Interior Babbitt signed Secretary's Order 3217 on September 13, 2000, designating Midway Atoll NWR concurrently as the Battle of Midway National Memorial. On June 15, 2006, President Bush signed Presidential Proclamation 8031 making Midway Atoll NWR part of the newly established Papahānaumokuākea Marine National Monument. Under that Proclamation, Midway has unique authority and responsibility as a Special Management Area.

Refuge Purpose(s):

Midway Atoll NWR was established pursuant to the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act of 1934. Pertinent language in those statutes includes:

1. "... for the development, advancement, management, conservation and protection of fish and wildlife resources . . . for the benefit of the U.S. Fish and Wildlife Service, in performing its activities and services." (Fish and Wildlife Act of 1956)
2. "... shall be administered by the Secretary of the Interior directly in accordance with cooperative agreements . . . and in accordance with such rules and regulations for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon . . ." (Fish and Wildlife Coordination Act of 1934).

The following purposes were included in Executive Order 13022, dated October 31, 1996, which transferred jurisdiction and control over the Midway Islands from the Navy to the Department of the Interior:

1. Maintaining and restoring biological diversity within the refuge;
2. Providing for the conservation and management of fish and wildlife and their habitats within the refuge;
3. Fulfilling the international treaty obligations of the United States with respect to fish and wildlife;
4. Providing opportunities for scientific research, environmental education, and compatible wildlife-dependent recreational activities; and
5. In a manner compatible with refuge purposes, recognizing and maintaining Midway's historic significance.

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. (16 U.S.C. 668dd-668ee)

Description of Use(s):

Midway Atoll NWR receives occasional requests from amateur radio enthusiasts for permission to travel to the refuge for the purpose of broadcasting as an amateur radio operator. Amateur radio operators are those who use radio transmitters and receivers to communicate with other amateur radio operators as a hobby. The demand for this use at Midway Atoll NWR stems from a list of geographic locations which are designated as "countries." It is an objective of these amateur radio enthusiasts to receive and/or transmit from these "countries" and certain remote, uninhabited, or otherwise difficult to reach sites become desirable sites from which to broadcast and receive due to the rarity of transmissions from those sites.

At Midway, amateur radio operators are able to set up and transmit from inside existing buildings. In the past, the airport hangar has been used for this purpose. In most cases, the operators would set up temporary antennas for transmission, usually on the roof of the building. Newer technology allows transmissions with smaller antennae (typically less than 30 feet) than previously possible. Since the goal of the individual or group is to maximize transmissions, the station is normally operated 24 hours a day during the visit period. These visitors are primarily

interested in operating their radios but their proximity to Midway’s wildlife will ensure that they also spend time observing and learning about our nesting seabirds and marine life.

Availability of Resources:

Current refuge staffing is not adequate to properly run a quality visitor program. For Fiscal Year 2007 it is anticipated that the refuge will add at least one refuge ranger on-island to work with visitors. Additional staff support will be provided by the Hawaiian and Pacific Islands NWR Complex for periods of peak visitor use. To properly support the full visitor program envisioned in 2008 and beyond, two additional visitor services specialists and a law enforcement officer will be required in addition to increased staffing needs by the refuge infrastructure support contractor. Certain refuge infrastructure improvements will also be needed to support the visitor program. These will include improved signing, larger and safer boats, on-island transportation (bicycles or golf carts), and kayaks.

The estimated costs below were calculated for 20 hours of management oversight and 8 hours of biological monitoring. They will also use an indeterminate amount of refuge electricity and special improvements to accommodate their equipment. The off-setting revenue shown is the cost of a Special Use Permit at Midway Atoll NWR for an activity by a third party that has no link to refuge purposes or mission. These fees are being re-evaluated as part of the new monument designation.

| Category and Itemization | One-time (\$) | Annual (\$/yr) |
|---|----------------------|-----------------------|
| Administration and Management | \$1,150 | \$ |
| Maintenance | | |
| Monitoring | 320 | |
| Special equipment, facilities or improvements | 400 | |
| Offsetting revenues | \$5,000 | \$ |

Midway Atoll NWR has been charged by Congress and FWS with developing a visitor program that is self-sustaining financially. To help us meet this goal Congress has also given the refuge receipts authority, which allows the refuge to keep reasonable fees collected for services provided at Midway Atoll. These fees will be used to offset costs of implementing the visitor services program.

Anticipated Impacts of the Use(s):

The antenna for transmitting the radio signal is the only aspect of this use that has potential for impacting refuge resources. The high density of nesting seabirds on Sand Island makes installation of additional tall antennae, even for a short period, a concern as they are a strike hazard for flying birds. Shorter antennae, locations away from primary flight lanes, attachment or close proximity to large objects avoided by the birds (e.g., the water tower) and time of year

are all means to reduce this impact. With proper use of the above techniques, minimal or no impacts are expected to refuge resources.

The administrative oversight necessary to allow this use takes time from refuge staff that could be used for other, higher priority refuge business. It is expected that each applicant (or group) will require up to 1 day for permit review, communication, etc. Additionally, once on Midway the group will require special handling and more time due to the complexity of their use and possible impacts. It is estimated that a week visit from a radio group will use 8-12 hours of staff time for oversight while they are on-island – an indirect impact to refuge resources.

Public Review and Comment:

This determination was issued for public review and comment as part of the Draft Interim Visitor Services Plan from the period of December 8, 2006, through February 6, 2007. The plan and associated compatibility determinations were made available through printed copies upon request and through the FWS Website at <http://www.fws.gov/midway>. This level of review and comment was selected to meet FWS requirements under the National Wildlife Refuge System Administration Act of 1966, as amended.

Determination:

- Use is Not Compatible
- Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility:

- Use of freestanding antennae will be allowed only during the months of August, September, and October when albatross are off-island, unless installed in close proximity to other large objects, such as the water tower, so as not to incur an additional flight hazard to seabirds. The location must be approved by the refuge manager to ensure that other species (Bonin petrel, wedge-tailed shearwaters, white terns) are not affected.
- Amateur radio users must apply for a separate monument recreation permit in order to visit Midway Atoll. They will not be covered under the refuge manager's recreation permit.
- Amateur radio users will be required to provide educational messages about the monument and Midway Atoll as a condition of their permit.
- Allowance of this use will only be scheduled if it does not displace a visitor whose purpose is one of the Refuge System's wildlife-dependent public uses.

Justification:

Although not a priority public use, amateur radio operation can be allowed at Midway Atoll NWR due to the refuge's extensive existing infrastructure. Amateur radio operators can use existing facilities and/or mount their antennae in a manner that will not materially interfere with or detract from achievement of the refuge's primary purposes or the Refuge System mission.

Mandatory 10- or 15-year Reevaluation Date:

Mandatory 15-year reevaluation date (for wildlife-dependent public uses)

Mandatory 10-year reevaluation date (for nonwildlife-dependent public uses)

NEPA Compliance for Refuge Use Decision (check one below)

Categorical Exclusion without Environmental Action Statement

Categorical Exclusion and Environmental Action Statement

Environmental Assessment and Finding of No Significant Impact

Environmental Impact Statement and Record of Decision

Refuge Determination:

Refuge Manager
Approval:

Benny Christensen
(Signature)

Date: 5/21/07

Project Leader,
Hawaiian and Pacific
Islands NWRC

Barry W. Steg
(Signature)

Date 5/21/07

Concurrence:

Refuge Supervisor
National Wildlife
Refuge System
Pacific Region

Lawrence W. Clamer
(Signature)

Date 5/23/07

Regional Chief,
National Wildlife
Refuge System

Carolyn L. Bohan
(Signature)

Date 5/23/07