

COMPATIBILITY DETERMINATION

Use: Waste Cleanup and Site Remediation

Refuge Name: Arctic National Wildlife Refuge

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

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

- i. *to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, the Porcupine caribou herd (including participation in coordinated ecological studies and management of this herd and the Western Arctic caribou herd), polar bears, grizzly bears, muskox, Dall's sheep, wolves, wolverines, snow geese, peregrine falcons and other migratory birds and Arctic char and grayling;*
- ii. *to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;*
- iii. *to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and*
- iv. *to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the Refuge.*

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

The Wilderness Act of 1964 (Public Law 88-577) creates the following additional purposes for the designated Wilderness area in the Refuge's boundaries; these purposes are within and supplemental to the Refuge's ANILCA and Range purposes: secure an enduring resource of Wilderness; protect and preserve the Wilderness character of areas in the National Wilderness Preservation System (NWPS); administer the NWPS for the use and enjoyment of the American people in a way that will leave these areas unimpaired for future use and enjoyment as Wilderness; and gather and disseminate information regarding the use and enjoyment of Wilderness areas.

National Wildlife Refuge System Mission: The mission of the National Wildlife Refuge System (Refuge System) is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans (National Wildlife Refuge System Administration Act of 1966, as amended [16 U.S.C. 668dd-668ee]).

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Description of Use(s): The Department of Defense established several Distant Early Warning stations in the 1950s in the area that later became Arctic Refuge. These sites were maintained for years until being abandoned. In recent years, the U.S. Army Corps of Engineers has begun planning for and/or actual removal of debris and contaminant wastes from these sites. Investigation and removal activities are authorized with a special use permit, and special conditions are devised to avoid impacts to Refuge resources and disruption to subsistence users and visitors. These activities can involve the use of helicopter landings, generators, barges, staging equipment, and tracked vehicles to facilitate the excavation, remediation, and removal of waste. The use of excavation equipment can be authorized for sites adjacent to the coast, but travel on land is severely restricted to the immediate area of excavation and removal, while travel across land is not authorized. Large equipment could be limited to winter activities only. Excavations range from less than one-cubic-meter removal by hand tools to 35-cubic-meter removals by larger equipment. Excavated sites are backfilled per Alaska Department of Environmental Conservation (ADEC) requirements and naturalized by removing mounded soil or debris deposited around the site and smoothing jagged edges of the site. Actions may occur at any time of the year depending on the desired outcome and logistical needs. These activities are overseen by the U.S. Fish and Wildlife Service (Service) and ADEC.

All activities within 25 miles of the coast require Marine Mammal Protection Act (MMPA) and/or Section 7 Endangered Species Act (ESA) consultation to ensure that activities do not adversely affect polar bears, other threatened or endangered species, and/or their critical

habitats. Cleanup activities in designated Wilderness are subject to Minimum Requirement Analysis.

Availability of Resources: Adequate Refuge personnel and base operational funds are available to manage activities at existing and projected levels. Administrative staff time (as many as five staff days per year) primarily involves phone conversations, written correspondence, formal or informal consultations with outside Service personnel, and personal interaction with permittees regarding ongoing activities. Field work associated with administering the program primarily involves monitoring (when applicable) activities to ensure all activities remain compatible.

Anticipated Impacts of Use(s): We anticipate moderate, localized, short-term impacts to fish and wildlife resources, other Refuge resources, or other Refuge users, mainly due to increased human activity during cleanup operations. The Refuge's administrative oversight of the activity and comprehensive State and Federal regulations continually evolve to respond to management needs. Compliance with regulations and permit conditions will be routinely checked by Refuge staff. Refuge law enforcement personnel will also help minimize direct impacts from recreational guide services by enforcing compliance with special use conditions. Consultation under Section 7 of the ESA and MMPA ensure that polar bear and polar bear critical habitat is not adversely affected by placing stipulations upon the permittee to avoid polar bear denning habitat, reduce the potential for interactions, and minimize impacts when interactions occur. ESA consultations are also initiated for other endangered or threatened species that occur on the Refuge.

Habitat impacts associated with access will be minimal and transitory because access would mainly be by barge, aircraft landing on a previous military landing strip, or sea ice. Operations on vegetated lowland tundra and disturbance to vegetation would be localized and limited under the stipulations of the special use permit. Excavation activities will have moderate, long-term, site-specific impacts on vegetation and soil at the excavation site. Winter operations would likely have less impact to surrounding soils and vegetation because activity would occur on frozen ground, covered with a layer of protective snow. The introduction of invasive species could affect Refuge resources, although it is not known to have occurred by this activity in the Refuge to date. Refuge staff will survey the site for non-native plants the year after project completion. Temporary displacement and/or disturbance to wildlife can occur. Impacts would likely be minimal and transitory. Impacts to endangered or threatened species would also likely be minimal and transitory because of preventative measures put in place by permit conditions and ESA and/or MMPA consultations.

Additional impacts will have positive effects on Refuge resources, wildlife, and Refuge users. Considerable amounts of contaminated soil, debris, and substrates will be removed, thus reducing overall contamination of the site(s) and contamination spread from the site(s). Surface exposure to contaminated soil or debris will be eliminated or reduced, lessening the probability that humans and animals will contact hazardous material. Aesthetic appearance and wilderness values will be increased by the removal of contaminated debris, such as fuel drums found above ground.

Public Review and Comment: Public comments on compatibility determinations were solicited concurrently with the draft of the Refuge's Revised Comprehensive Conservation Plan (Plan) and Environmental Impact Statement. Public comments on compatibility determinations were accepted during the public review period for the draft Plan, which was announced in the Federal Register, on local radio stations, and in local newspapers. The 90-day public comment period began on August 15, 2011, and ended on November 15, 2011. We mailed the full draft Plan, and a summary of the Plan, to the individuals and organizations on our mailing list and posted both on the Refuge's web site. Six public hearings were held in Anchorage, Arctic Village, Fairbanks, Fort Yukon, Kaktovik, and Venetie, during which the Service received comments on the draft Plan. We received no specific comments on this compatibility determination and no changes made.

Refuge Determination (check one below):

Use is not compatible

Use is compatible

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

1. Failure to abide by any part of this special use permit; violation of any refuge related provision in Titles 43 (Part 36) or 50(sub-chapters B and C), Code of Federal Regulations; or violation of any pertinent state regulation (e.g., fish or game violation) will, with due process, be considered grounds for revocation of this permit and could result in denial of future permit requests for lands administered by the U.S. Fish and Wildlife Service. This provision applies to all persons working under the authority of this permit (e.g., research assistants). Appeals of decisions relative to permits are handled in accordance with Title 50 Code of Federal Regulations Part 36.41.
2. The permittee is responsible for ensuring that all employees, party members, aircraft pilots, and any other persons working for the permittee and conducting activities allowed by this permit are familiar with and adhere to the conditions of the permit.
3. A copy of this permit must be in the permittee's or field party chief's possession at all times while exercising the privileges of the permit.
4. This permit may be cancelled or revised at any time by the Refuge manager in case of emergency (e.g., high fire danger, flooding, unusual resource problems, etc.).
5. The permittee must notify the Refuge manager during Refuge working hours in person or by telephone before beginning and upon completion of annual activities allowed by this permit.
6. Prior to beginning any activities allowed by this permit, the permittee must provide the Refuge manager with: (1) the name(s) and method of contact for the lead field guide(s); (2) aircraft and other vehicle types to be used and identification information

for these vehicles; (3) names of assistant guides and helpers; and (4) any changes in information provided in the original permit application.

7. The Refuge Manager or designee, upon request, shall be afforded the opportunity and logistical support from the nearest commercial transportation site to accompany the permittee for the purpose of inspection and monitoring permittee activities. A final inspection trip provided by the permittee of the areas of use may be required by the Refuge Manager to determine compliance with the terms of this permit.
8. This permit authorizes use only on Arctic Refuge lands. Use of land selected by or conveyed to the State of Alaska or North Slope Borough; or a Native corporation or an individual is not authorized by this permit.
9. The permittee and permittee's employees, coworkers, or contractors do not have the exclusive use of the site(s) or lands covered by this permit.
10. An annual report of activities conducted on the Refuge shall be provided to the Refuge manager within 30-days of the permit expiration (normally 1-2 pages). Copies of all final reports will be forwarded to the Refuge manager. If helicopters are used, the activity report must include a detailed summary of activities for inclusion in the Refuge helicopter landing database. The summary must include:
 - a. aircraft model
 - b. operator company or ownership,
 - c. Arctic Refuge-issued Special Use Permit number of operator,
 - d. date and time of flights,
 - e. number of hours flown,
 - f. landing locations with GPS coordinates in decimal degrees,
 - g. and date and time of each landing.
11. The permittee must take no action that interferes with subsistence activities of rural users or restricts the reasonable access of subsistence users to Refuge lands. This may include but is not limited to disturbance of wildlife and their movements near subsistence hunters, and damage to cabins, trails, traditional campsites or caches used by subsistence users.
12. Any action by a permittee or the permittee's employees which unduly interferes with or harasses other Refuge visitors or impedes access to any site is strictly prohibited. Examples of prohibited acts include, but are not limited to, low flights over camps or persons at less than 500 feet (unless landing) and parking aircraft or placing other objects (rocks, tents, etc.) on any landable area so as to restrict use by other aircraft or persons.
13. In accordance with the Archaeological Resources Protection Act (16 U.S.C. 470 ee), no person may excavate, remove, damage or otherwise alter or deface, or attempt to excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless permitted or exempted (see 16 U.S.C 470cc for permit or exception guidance). No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from public lands.

14. The operation of aircraft resulting in herding, harassment, hazing, or driving of wildlife is prohibited. It is recommended that all aircraft, except for take-off and landing, and as necessary for safety, shall maintain a minimum altitude of 2000 feet above ground level (AGL).
15. Helicopter use may be authorized in some instances. Those authorized with helicopter access must comply with the following:
 - a. Landing is prohibited except for the direct support of the activity covered by this permit and emergencies. No recreational use of helicopters is permitted. The following site is authorized: (name and site coordinates)
 - b. Overnight stays must be authorized.
 - c. Personnel transported are restricted to only those necessary to accomplish the authorized activity.
16. Unauthorized caches of fuel or other supplies are prohibited. Fuel storage, if any, will be as outlined in the operations plan, preapproved by the manager, and in compliance with regional Service fuel storage policy.
17. All fuel containers with a storage capacity greater than 55 gallons shall be of double-wall construction. All fuel containers, including those emptied, shall be capped when not in actual use.
18. The construction of landing areas or pads is prohibited. Incidental hand removal of rocks and other minor obstructions may be permitted.
19. Snowmobiles, dog teams, watercraft, and other means of transportation shall be operated in such a manner as to prevent the herding, harassment, hazing, or driving of wildlife for viewing or other purposes.
20. The use of off-road vehicles (except snowmobiles with adequate snow cover) is prohibited. The use of snowmobiles, dog teams, and other means of surface transportation may only be used when adequate snow cover is present and in such a manner as to prevent waste or damage to the Refuge. The phrase "adequate snow cover" means snow is of a depth to protect the underlying vegetation and soil.
21. Crossing barrier islands or overland travel with surface vehicles on Refuge lands is prohibited. Entry on Refuge lands is permitted only to ensure personnel and equipment safety. Vehicle travel will cease once safety is reached. The Refuge manager will be immediately notified.
22. Movement of equipment onto Refuge lands will be outlined in a work plan and preapproved by the manager. If approved, operation of removal equipment at site will be minimized to reduce damage to surrounding vegetation. Use of equipment for overland travel is not authorized.
23. Any human-wildlife interactions that have resulted in animals obtaining food; destroying property; or posing a threat to human safety; must be reported to the Refuge manager immediately at (907) 456-0250, as soon as communication becomes available. You are required to submit a written report within 30 days to the Refuge manager for all interactions with grizzly bears that have resulted in bears obtaining food; destroying property; posing a threat to human safety; or the death of a grizzly bear, so that this data can be used to help prevent future human-bear conflicts. You

- may use the Bear Incident Report form (Service 2008). Animals taken in defense of life or property must be reported to the Refuge manager immediately, and to the Alaska State Troopers at (907) 451-5350, and salvaged in accordance with State regulations.
24. In general and where possible, camps must be located on durable surfaces (snow, sand, gravel, or sea ice). Camps located on vegetation must be relocated at intervals adequate to prevent site impacts. Sites at popular aircraft access points that are already heavily impacted can continue to be used. Along high use rivers and lakes, camps must not be located on vegetated sites that show human caused scuffing or matting of vegetation.
 25. Construction of cabins, platforms, or other permanent structures is prohibited. Wall tents with floors that are completely removed from the Refuge at the end of field season are allowed.
 26. Permittees shall maintain their use areas in a neat and sanitary condition. All garbage, litter, and debris must be removed from the Refuge. Food, garbage, and other materials must be stored to minimize attraction to bears and other wildlife. All evidence of your camp must be obliterated prior to your departure from the site. Equipment and other property must be removed from the Refuge upon completion of the permitted activities.
 27. No discharge of petroleum products or toxic materials shall be made within the Refuge. All hazardous substance utilized and/or generated by permitted activity shall be contained, controlled and cleaned up. Such measures shall take precedence over all other matters except human safety. All spills or leakage of petroleum products or toxic materials, fires, fatalities, and any other conditions which threaten resources in the Refuge, the environment, or human safety, shall be reported by the permittee to the Refuge manager immediately or as soon as communication can be established.
 28. For long-term basecamps, the permittee must develop and submit a human waste management plan for approval by the Refuge manager. Otherwise, human waste must not be left less than 200 feet from springs, lakes, and streams. Bury waste under soil (or under snow at the ground level during periods when the ground is frozen). Paper toilet tissue, if used, must be packed out or burned completely to ash. Moist towelettes or sanitary products must be removed as trash.
 29. The preeminent value of Arctic Refuge lies in its wilderness condition. The permit holder shall ensure that all employees and clients seek to minimize the effect of their activities on the wilderness characteristics of the land, wildlife, and the unique experience available here.

All permitted activities that occur within 25 miles of the Beaufort Sea coastline will have the following additional condition:

- The permittee must read the Polar Bear Interaction Guidelines (Guidelines) (Arctic Refuge 2010) to these permit Special Conditions. The Guidelines must also be distributed to all employees and clients of the permittee before engaging in any activities on the Refuge. In addition, the following conditions shall be met:
 - Protection of den sites and minimizing disturbance to sows with small cubs is of critical importance. Guides operating under this permit must become

knowledgeable of the signs and behaviors indicating the presence of a den and avoid those areas. No person shall approach, or remain, within one mile of a polar bear den, or of a sow with small cubs. If at any time the permittee becomes aware of signs indicating their close proximity to a polar bear den, or encounters a sow with small cubs, all members of the guided party must immediately retreat to a distance of at least one mile. If, at any time, the location of a den becomes known to the permittee, no approach shall be made closer than one mile. When operating within 25 miles of the Beaufort Sea coastline, the permittee will store attractants (human food, dog food, garbage, etc.) in "bear-resistant" containers to minimize attracting polar bears and avoid conditioning bears to human food. Containers must be approved as "bear-resistant." Information about certified "bear resistant" containers can be found at

http://www.igbconline.org/BEAR_RESISTANT_Oct2010.pdf

- Legal take and harassment of polar bears is limited to defense of life or subsistence harvest by coastal-dwelling Native Alaskan situations only. Any killing or harassment of a polar bear in defense of life must be reported to the Refuge Manager and to the US Fish and Wildlife Service Office of Law Enforcement at (907) 456-2335 immediately, as soon as communication becomes available. You are also required to submit a completed copy of the Bear Incident Report form (Service 2008) to the Refuge Manager for all interactions with polar bears that have resulted in bears obtaining food; destroying property; posing a threat to human safety; or the death of a polar bear, so that this data can be used to help prevent future human-bear conflicts.
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Justification: Cleaning up these contaminated sites supports the purposes of the Refuge and safety of Refuge staff, subsistence users, other visitors, and wildlife. The use is conducted in accordance with a Refuge special use permit with the appropriate conditions and, when applicable, guidance under ESA and/or MMPA to protect Refuge resources. After fully considering the impacts of this activity, as described previously in the "Anticipated Impacts of the Use" section of this document, it is my determination that scientific research activities in the Refuge do not materially interfere with or detract from the purposes of the Refuge or the mission of the Refuge System.

Supporting Documents:

Arctic National Wildlife Refuge. 2010. Polar bear interaction guidelines. U.S. Fish and Wildlife Service, Fairbanks, Alaska. Unpublished. 3pp.

Interagency Grizzly Bear Committee. IBG Certified bear resistant products webpage. http://www.igbconline.org/BEAR_RESISTANT_Oct2010.pdf, Accessed 11 Feb 2011.

U.S. Fish and Wildlife Service. 1988a. Arctic National Wildlife Refuge Final Comprehensive Conservation Plan, Environmental Impact Statement, Wilderness Review, and Wild River Plans. U.S. Fish and Wildlife Service. Anchorage, Alaska. 609 pp.

U.S. Fish and Wildlife Service. 1988b. Record of Decision: Arctic National Wildlife Refuge Final Comprehensive Conservation Plan, Environmental Impact Statement, Wilderness Review, and Wild River Plans. U.S. Fish and Wildlife Service, November 10, 1988. Anchorage, Alaska, USA.

U.S. Fish and Wildlife Service. 2008. Region 7: Bear awareness and firearms safety training policy, Appendix F. U.S. Fish and Wildlife Service. Anchorage, Alaska. Unpublished. 36 pp.

U.S. Fish and Wildlife Service. 2011. Arctic National Wildlife Refuge Draft Revised Comprehensive Conservation Plan, Draft Environmental Impact Statement, Wilderness Review, and Wild and Scenic River Review. U.S. Fish and Wildlife Service, June 2011. Anchorage, Alaska, USA.

Refuge Determination:

Refuge Manager/

Project Leader Approval

Richard [Signature]

8-4-12

Date

Concurrence:

Regional Chief

National Wildlife

Refuge System

Mike Boyle (Acting)

8/15/12

Date

Mandatory 10-year Re-Evaluation Date: 2022

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

NEPA Compliance for Refuge Use Decision:

Categorical Exclusion without Environmental Action Memorandum

Categorical Exclusion and Environmental Action Memorandum

Environmental Assessment and Finding of No Significant Impact

Environmental Impact Statement and Record of Decision