

Kenai National Wildlife Refuge
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COMPATIBILITY DETERMINATION

The National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd-668ee) states that “The Secretary is authorized, under regulations as [s]he may prescribe, to – (A) permit the use of any area within the [National Wildlife Refuge] System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access wherever [s]he determines that such uses are compatible’ and that “... the Secretary shall not initiate or permit a new use of a refuge or expand, renew, or extend an existing use of a refuge, unless the Secretary has determined that the use is a compatible use and that the use is not inconsistent with public safety.” A compatible use is defined as “A proposed or existing wildlife-dependent recreational use or any other use of a national wildlife refuge that, based on sound professional judgment, will not materially interfere with or detract from the fulfillment of the National Wildlife Refuge System mission or the purposes of the national wildlife refuge.” The compatibility determination is to be a written determination signed and dated by the Refuge Manager and Regional Chief of the National Wildlife Refuge System, signifying that a proposed or existing use of a national wildlife refuge is a compatible use or is not a compatible use.

Applicable compatibility regulations in 50 CFR Parts 25, 26, and 29 were published in the Federal Register October 18, 2000 (Vol. 65, No. 202, pp 62458 – 62483).

Use: Miscellaneous Uses (Includes field trials, technical climbing, hot air balloons, swimming and beach use, special events and group gatherings, ice skating, roller blading/skating, snorkeling/scuba, skydiving, highway use on Refuge roads, and picnicking)

Refuge: Kenai National Wildlife Refuge

Establishing and Acquisition Authorities: The Refuge was first established as the Kenai National Moose Range by Executive Order 8979 on December 16, 1941. The boundaries were modified, purposes expanded, and name changed to Kenai National Wildlife Refuge under the provisions of the Alaska National Interest Lands Conservation Act (ANILCA) on December 2, 1980 (Public Law 96-487 Stat. 2371).

Refuge Purposes: The Executive Order purpose was primarily to “... protect the natural breeding and feeding range of the giant Kenai moose on the Kenai Peninsula, Alaska...”. ANILCA purposes for the Refuge include: “(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to moose, bear, mountain goats, Dall sheep, wolves and other furbearers, salmonids and other fish, waterfowl and other migratory and nonmigratory birds; (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats; (iii) 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 with the refuge; (iv) to provide in a manner consistent with subparagraphs (i) and (ii), opportunities for scientific research, interpretation, environmental education, and land management training; and (v) to provide, in a manner compatible with these purposes, opportunities for fish and wildlife oriented recreation.” The Wilderness Act of 1964

(Public Law 88-577) purposes are to secure an enduring resource of wilderness, to protect and preserve the wilderness character of areas within the National Wilderness Preservation System, and to administer this wilderness system for the use and enjoyment of the American people in a way that will leave them unimpaired for future use and enjoyment as wilderness.

Policy (FWS 603 2.8) directs that pre-ANILCA purposes remain in force and effect, except to the extent that they may be inconsistent with ANILCA or the Alaska Native Claims Settlement Act, and that such purposes only apply to those areas of the Refuge in existence prior to ANILCA. The Executive Order purpose to protect Kenai moose, however, is treated as complimentary to the broader ANILCA purpose of conserving fish and wildlife populations; therefore, no special attention is given the Executive Order purpose in this compatibility review process.

Sec. 4(a) of the Wilderness Act provides that the purposes of the Act are to be within and supplemental to the purposes for which national wildlife refuges are established and administered. These purposes are applied to the approximately 1.3 million acres of Congressionally designated wilderness within the Refuge. While these purposes do not apply to the remaining approximately 700,000 acres of Refuge lands that are not designated as wilderness, we must consider the effects of uses on any Refuge lands that might affect the wilderness areas.

National Wildlife Refuge System Mission: The National Wildlife Refuge System Mission 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.

Description of Use: Public recreational uses are permitted on Alaska refuges if found to be compatible with the purposes of the refuge and are not otherwise restricted (50 CFR 36.31(a)). Many popular recreational uses are managed by specific regulations or processes, such as hunting, fishing, or snowmachine use. Generalized public uses, whether strictly viewed as “recreational” or “commercial” include a wide variety of activities from swimming and picnicking to holding a sled dog race. This compatibility determination is meant to cover a broad range of these types of generalized uses which are often one-time events or activities that are uncommon in nature, or of which may be common but of little consequence.

For one-time or not regularly scheduled events the list includes dog training/field trial events; special events such as weddings, competitive races, or other specifically scheduled events or group gatherings that are commercial in nature, or are scheduled specifically to use portions of the Refuge and/or Refuge facilities. All of these special events and group gatherings require a Special Use Permit. The use may be a one-time event like a wedding, an annual event like a race, or a long-term seasonal activity such as the use and maintenance of a sled dog trail system. The activities may be short or long in duration (from a few hours to a few months) and may result in a variety of impacts.

Those generalized uses covered by this determination that are uncommon in nature and do not require a special use permit include technical climbing on ice and rocks, swimming and beach use, ice skating, roller-blading or skating, skydiving/landing with a parachute, and snorkeling/SCUBA. Currently these activities are rare or completely absent from the Refuge, but remain individual recreational activities that may be accommodated within current Refuge regulations and policies.

Common activities that are included in this determination are general highway use of roads within the Refuge and picnicking, both at established campgrounds and at informal waysides.

Availability of Resources: Management of generalized uses fits into the day-to-day management regime of the Refuge and requires no additional staff or funding to permit or monitor with rare exception. In those cases in which additional resources are required the needs can be included in the decision-making process for the specific event.

Anticipated Impacts of the Use: In general, impacts from the list of miscellaneous public uses are expected to be minor. Special events or commercial activities requiring Special Use Permits may have stipulations to mitigate impacts or the proposed use may be denied. Impacts from dog training events can include disturbance to wildlife and habitats. All group activities can result in some wildlife and habitat disturbance as well, but is generally minor. Litter, noise, vehicle parking, and potential negative encounters with bears are considerations with some group activities. Activities such as swimming, snorkeling, and skating are uncommon enough that they are of little consequence. Picnicking generally has little impact unless illegal feeding of wildlife occurs, or if food or litter is left at sites after the activity is completed. Road use can have significant impacts to Refuge resources, especially wildlife and habitats. Public transportation granted via rights-of-way is evaluated during construction and upgrade planning phases. Road use, such as traffic on the Sterling Highway bisecting the Refuge is significant and does result in regular loss of wildlife, and occasionally human life and property. Wetlands and other important habitats can be negatively impacted by roads and road use through direct habitat loss, improper water movement with improperly functioning culverts, and contaminants from vehicle exhaust accumulating in melting snow during run-off. Stipulations on road use for non-public roads (such as oil field industrial roads and industrial rights-of-way such as Mystery Creek Road) can be designed to minimize impacts from public use of these areas. These restrictions have included seasonal closures and/or vehicle restrictions in the past.

Public Review and Comment: This compatibility determination has been prepared while revising the Refuge's Comprehensive Conservation Plan and Environmental Impact Statement. Future revisions can be accomplished outside of this planning process if deemed necessary and would be completed with public notice and involvement. Legal notice of the draft compatibility determination was published in the Anchorage Daily News and the Kenai Peninsula Clarion on February 25, which initiated a 45-day public comment period. The notice was also posted on a bulletin board at the Refuge headquarters for the same time period, made available starting February 28, 2007 on a list server fws-akrefugecompatibility@lists.fws.gov to 137 addresses, and made available on the Regional Refuge Planning web site at <http://alaska.fws.gov/nwr/planning/completed.htm>.

Comments on some or all of the (15) compatibility determinations were received from: The State of Alaska, The Wilderness Society, The National Wildlife Refuge Association, Friends of Kenai National Wildlife Refuge, Alaska Trappers Association, Defenders of Wildlife, Kenai Field Office (FWS), and The Humane Society of the United States.

Both Defenders of Wildlife and the State of Alaska expressed concern that this compatibility determination was too general to be of much value. We understand the concern. The National Wildlife Refuge System Administration Act provides for no minimum amount of use to trigger a compatibility review yet many uses are extremely minor in frequency and impact. At a large widely visited Refuge such as Kenai, there are also many public use requests that are generally understood but cannot be fully predicted in advance. This compatibility determination attempts to cover those infrequent and benign uses that may occasionally occur without requiring a new full evaluation for compatibility. Managers must review any new use not generally covered in this determination or another. They must also re-evaluate compatibility if a use changes

significantly, if new information is made available about potential impacts of the use, or for any reasonable cause.

Determination (check one below):

Use is Not Compatible

Use is Compatible With Following Stipulations

Stipulations Necessary to Ensure Compatibility: Special Use Permits are required for field trials and other special events. Individual compatibility determinations (with stipulations) may also be required for any of these activities at the discretion of the Refuge Manager. Stipulations are included in the permits to mitigate impacts to Refuge resources and to address any potential public safety concerns. Some specific requests may be denied even though the generalized use has been found to be compatible. Additionally, general and specific Refuge regulations (prohibiting litter, harassment of wildlife, etc.) will protect Refuge resources from many common impacts associated with these generalized uses. A minimum tool analysis, and general review of policy and statutory restrictions will be undertaken for any proposed administrative uses in wilderness.

Justification: Most generalized public uses are limited in scope and relatively benign in effect. Those that have known impacts will be regulated via special use permit to mitigate the impacts, or be denied. Uses that increase in intensity or effect, develop concerns, or otherwise require specific attention will be separated from this generalized review and a specific compatibility determination completed.

Signature (Refuge Manager): /s/ Robin L. West 6/13/07
Signature and Date

Concurrence (Regional Chief): /s/ Todd J. Logan 8/14/07
Signature and Date

Mandatory 10-year Re-evaluation Date: 8/14/17