

Compatibility Determination

Use: Commercial Transporter Services

Primary Uses: Air taxi, big game transporter, charter boat services

Supporting and Incidental Uses: Boating (motorized and non-motorized), fixed-wing aircraft landings, environmental education, interpretation, fishing (non-guided), hunting (guided and non-guided), trapping, natural resource gathering, camping, picnicking, cross-country skiing, dog sledding and skijoring, pets, hiking and backpacking, wildlife photography, videography and audio recording, snowshoeing, research, scientific collecting, surveys, and wildlife observation.

Refuge Name: Selawik National Wildlife Refuge

Establishment and Acquisition Authority: The Alaska National Interest Lands Conservation Act (ANILCA) established the 2.5-million-acre Selawik National Wildlife Refuge (Selawik refuge, refuge) as part of the U. S. Fish and Wildlife Service National Wildlife Refuge System (Department of the Interior) on December 2, 1980.

Selawik Refuge Purposes: As stated in ANILCA Section 302 (7) (B), the purposes for which the Selawik refuge was established and shall be managed include:

- (i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, the Western Arctic caribou herd (including participation in coordinated ecological studies and management of these caribou), waterfowl, shorebirds and other migratory birds, and salmon and Sheefish;
- (ii) to fulfill 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 subparagraph (i), water quality and necessary water quantity within the refuge.

The purpose of the congressionally designated Selawik Wilderness Area is to secure an enduring resource of wilderness, protect and preserve the wilderness character of the area as part of the National Wilderness Preservation System (NWPS), and administer the area for the use and enjoyment of the American people in a way that will leave it unimpaired for future use and enjoyment as designated wilderness.

National Wildlife Refuge System Mission

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

Description of Uses

This is a re-evaluation of the compatibility of commercial transporter services as a use of Federal lands within Selawik refuge. Use of the refuge by commercial transporters was originally found to be compatible in 1987 during the development of the original Comprehensive Conservation Plan. It was again determined to be compatible in 1994, subject to reasonable regulation.

Commercial transporter services contribute to the fulfillment of refuge purposes and the National Wildlife Refuge System mission by providing access to visitors otherwise unable to reach refuge lands. These services facilitate priority public uses such as recreational hunting, fishing, wildlife observation, and other compatible uses and outdoor activities on the remote and largely inaccessible Selawik refuge. The Service authorizes and manages commercial transporter services in a responsible and proactive manner to ensure that visitors to the refuge and community residents continue to have high quality hunting experiences.

Most commercial transporting activities on the refuge are conducted by air taxis with float-equipped aircraft. Transporters are required, as a condition of their permits, to provide information about their clients' trips such as primary activity, location, length of stay, group size, and other related items. These reports provide the most accurate and reliable information the Service has on refuge use by unguided visitors. Since establishment, the refuge has issued 2–6 special use permits annually to commercial air taxi businesses and charter boat operators providing transportation services within the refuge. The number of people utilizing this service has been declining since 2000 when 154 clients were transported onto the refuge. Since 2000, commercial transporters provided services to 8–22 groups per year with an average group size of two. Their clients primarily hunted, fished, or floated rivers in the refuge. The lengths of these trips were typically 7–10 days, although shorter trips sometimes occurred. The trips took place June through October, with most coinciding with the fall hunting season in late August and September.

Commercial transporters are not authorized to drop clients on specified lands in the western portion of the refuge between the villages of Selawik and Noorvik. The affected area is composed of some refuge lands interspersed with conveyed Native corporation lands. There is currently no limit to the number of trips or clients air-taxi operators can take to the refuge, nor is there a limit to the number of air-taxi operators permitted to operate on the refuge; however, annual applications require a projected maximum number of clients and proposed area of operation. Two application periods are available for commercial transporters to request a permit: January 1 to March 15 and October 1 to November 30. This system allows refuge staff an opportunity to evaluate the potential impacts of permit applicants on refuge resources, including subsistence opportunity. It also allows a transporter time to appeal should his/her application be denied.

Availability of Resources

Adequate refuge personnel and base operational funds are available to manage commercial transporter service activities at existing and projected levels. Administrative staff time primarily involves reviewing permit applications, responding to applicants, issuing and renewing special use permits, collecting client use fees, and interagency coordination. Field work associated with administering the program primarily involves patrolling during hunting and fishing seasons to monitor permit holders' compliance with permit terms and to determine whether non-permitted operators are using the refuge. It is anticipated that this use will require three weeks of staff time for permit issuance and/or renewal, activity reporting, administration of use-day fees, and field compliance checks. An administrative fee of \$100 is assessed for each special use permit. Use-

day fees are assessed for each day a transporter drops off and/or picks up a client on the refuge. Fees collected are returned to the refuge to administer the program.

Anticipated Impacts of Uses

Impacts associated with the activities for which commercial transporters provide access (such as hunting and fishing) are addressed in the respective compatibility determinations for each activity.

Commercial transporter services could concentrate public use in the most accessible portions of the refuge and potentially compete or interfere with subsistence hunters in locations where user groups overlap. However, most hunting by Federally qualified subsistence hunters living in nearby communities occurs on private lands in the lower Selawik and Kobuk river drainages where transporter activities are not authorized. Refuge lands on the Kobuk Delta and lower Selawik River interspersed with private lands are not authorized for use by commercial transporters to reduce conflicts between user groups. Most commercial transporter activity occurs on lakes and in the upper portions of major drainages (Selawik, Kugarak, and Tagagawik rivers) not readily accessible to local subsistence hunters.

The overall number of hunters transported into the refuge has been constrained by more restrictive State moose hunting regulations, which now require a registration permit (obtainable only in person during a limited period) for Alaska residents and a drawing permit for non-residents. If conflicts should arise, the Service will work to address them through permit conditions and through the regulatory process of the Federal Subsistence Board and Alaska Board of Game. These boards establish regulations aimed at managing populations of animals at sustainable levels and avoiding conflicts between user groups.

Commercial transporter services would have minimal and transitory impacts to refuge habitats because transporters primarily use float-equipped aircraft, which do little, if any, damage to vegetation. Transporters also occasionally use boats, which similarly have little impact on vegetation. Landings on lowland tundra and subsequent disturbance to vegetation would be limited under the stipulations of the special use permit. The introduction of invasive species carried on aircraft floats and boat hulls could affect refuge resources, although this is not known to have occurred within the refuge to date. Aircraft traffic could affect nesting, molting, or staging birds (Ward et al. 1994); however, most birds have molted by the time the majority of commercial transporter services takes place in the fall. Members of the refuge staff have reported that important staging areas are located along the coast and not in the inland areas favored by transporters. Disturbance to vegetation from spilled fuel would be minimal due to permit conditions requiring secondary containment for any fuel stored in the field.

Temporary displacement or disturbance to wildlife can occur in response to low level over-flights and during takeoffs and landings (Calef et al. 1976), but these impacts would likely be short term and minimal.

Public Review and Comment

Public comments were solicited concurrently with the draft revised Comprehensive Conservation Plan and Environmental Assessment for Selawik National Wildlife Refuge (USFWS 2010). Public comments on compatibility determinations were accepted during the public review period for the draft plan and announced in the Federal Register. The public comment period was October 21, 2010 to March 15, 2011, which provided 145 days for public review. We mailed the

full draft plan and a summary to the individuals and organizations on our mailing list. We invited public comments through an advertisement in a local newspaper and attended city council meetings in Selawik and Noorvik to receive comments on the draft plan. Planning team members met with the Citizen's Advisory Commission on Federal Areas to discuss the issues at Selawik refuge and alternatives that were proposed in the draft plan. The draft compatibility determinations were posted on the Service's Region 7 Web page.

The only comments we received on the draft of this compatibility determination were from the State of Alaska. The State commented that it believes and expects that the permit stipulations already written in the compatibility determination, (unrelated to the area not authorized for commercial use) will adequately address the majority of potential on-the-ground impacts of transporter use for big game hunting. For example, see stipulation number eight. The Service agrees that the intent of this stipulation is to minimize on-the-ground impacts, primarily to wildlife resources. This stipulation and the operator education program referenced by the State are important tools but are not adequate to minimize and essentially prevent social conflicts between commercial hunters and resident subsistence hunters on refuge lands. In accordance with the final decision (i.e., Finding of No Significant Impact) and the revised management direction in the final comprehensive plan, the Service has added permit stipulation number 25 to proactively manage commercial hunting and to prevent most if not all social conflicts related to big game hunting on refuge lands.

The State requested that the following be included in the 'Description of Uses' section: "...commercial transporting is 'a traditional activity that Congress intended to preserve when it established the Refuge with the enactment of ANILCA.'" This language was used in the case of the Togiak refuge's compatibility determination for commercial transporter services. The Service has observed that different levels and patterns of use were occurring when Congress established the refuges through enactment of ANILCA than occur today. Congress identified unique purposes for each refuge. Togiak refuge's enabling legislation and management goals differ significantly from those for Selawik refuge. Unlike Selawik refuge, Togiak refuge has a long history of the public utilizing commercial transporter services for river recreation and angling. This is a different context than commercial hunting of big game species in the Northwest Arctic region. In the case of Selawik refuge, the Service does not support this addition, or believe it necessary to describe use by commercial transporters as a traditional activity to justify it as a compatible use at Selawik refuge. This is not standard language used to address compatibility of commercial transporters on refuges in Region 7 and was not adopted by the refuges near the Selawik refuge (e.g., Innoko and Koyukuk/Nowitna refuges).

The State requested that the following sentences be moved into a separate paragraph: "Commercial transporter services could concentrate public use in the most accessible portions of the refuge. This could lead to loss of opportunities for visitors seeking solitude and wilderness experiences on the refuge." In addition, the terms "solitude" and "wilderness experience" implies the discussion is about designated wilderness. The State recommended this be clarified in the final compatibility determination, using different terminology if the concern applies to non-designated wilderness. The Service agreed, and we moved the sentence to the beginning of a different paragraph, deleted the reference to wilderness and solitude, and rearranged the section to start with general points and end with more specific details.

Refuge Determination (check one below)

Use is not compatible

Use is compatible

Stipulations Necessary to Ensure Compatibility

A special use permit with stipulations is required for commercial transporter services. The permit includes the details of the services provided. The following section lists typical special use permit conditions, some of which are necessary for compatibility.

SPECIAL USE PERMIT CONDITIONS

1. Prior to beginning any activities allowed under this permit, the permit holder shall provide the land manager with a method of contact (including a local phone number) for the permit holder during the permit period; a list of aircraft, boats, and/or other vehicle types to be used, along with descriptions and registration numbers; and a list of employees.
2. Any changes or deviations from information provided in the original permit must be reported to and approved by the land manager prior to any activity or this permit will be invalid.
3. The permit holder is responsible for ensuring all employees, party members, contractors, aircraft pilots, or any other persons working for the permit holder and conducting activities allowed by this permit are familiar with and adhere to the conditions of this permit.
4. This permit may be canceled or revised at any time by the issuing official.
5. The permit holder and permit holder's clients do not have exclusive use of any site(s) or lands covered by this permit and are prohibited from blocking access to any point of ingress or egress (air strip, gravel bar that can be used as a landing site etc.) to them.
6. Permit holder may not sublet any part of this permit.
7. The permit holder must acquire all permits or licenses of State or local government, as applicable, necessary to provide the services described previously and must operate in compliance with all applicable Federal, State, and local laws and regulations.
8. State and Federal regulations prohibit harassing people and wildlife from aircraft. The operation of aircraft at altitudes and in flight paths resulting in the herding, harassment, hazing, or driving of wildlife is prohibited. It is recommended that all aircraft, except for takeoff and landing, maintain a minimum altitude of 2,000 feet above ground level to minimize disturbance to wildlife and other refuge visitors.
9. A big game transporter may only provide transportation services as defined by Alaska State law Title 8 Sec. 08.54.650. Any additional services such as providing gear to hunters in the field is defined as guiding/outfitting by Alaska Statute Title 8 Sec. 08.54.790 and not allowed. Any rental of gear must take place out of the field, and gear must be transported out of the field after each transaction.
10. The permit holder will follow the professional ethics standards for transporters identified by the State of Alaska's Big Game Commercial Services Board (12AAC75.440) and allow appropriate buffer areas between hunters and camps transported by the same service to avoid disrupting hunts and hunter experience.
11. The permit holder shall maintain and provide proof of comprehensive general liability insurance throughout the use period specified on the permit.
12. Any problems with wildlife and/or animals taken in defense of life or property must be reported immediately to the permitting agency and Alaska Department of Fish and Game. Any animals taken in defense of life or property must be salvaged in accordance with State regulations.

13. The permit holder is required to report any illegal activity to the permitting agency or the Alaska State Troopers as soon as practical.
14. Tail numbers on aircraft operating under this permit must be at least 12 inches high and in contrasting colors that are readily visible.
15. The construction of landing strips or pads is prohibited. Incidental removal of rocks and other minor obstructions by hand is permitted.
16. The use of helicopters is prohibited.
17. Construction of tent platforms, cabins, or other permanent structures is prohibited.
18. The permit holder is responsible for accurate record keeping throughout the permit period and shall provide the permitting agency with a comprehensive report by February 1. The report will contain: (1) the phone number, names, and addresses of clients transported; dates; number of client days; and game animals taken. (2) The drop-off and pickup locations must include latitude and longitude along with description (e.g., 67° 12.50' N 159° 34.30' W, on the NE corner of unnamed lake). The permit holder may submit his/her State of Alaska Transporter Activity Report as long as longitude and latitude coordinates are included to meet this permit condition.
19. In accordance with the Archaeological Resources Protection Act (16 USC 470aa) and 50CFR36.31 (b), the removal or disturbance of archaeological or historical artifacts and collection of fossils is prohibited on Federal public lands. The excavation, disturbance, collection, or purchase of historical or archaeological specimens or artifacts on Federal public lands is also prohibited. If the permit holder finds an historical or archeological artifact or site, the permit holder should avoid affecting such materials and report all information to the permitting agency.
20. The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any historic, prehistoric, or archaeological resources on State lands. The act also covers mammoth and mastodon ivory and prehistoric animal bone. The act applies to all land owned or controlled by the State, including tidal and submerged lands.
21. This permit does not authorize the use of Native conveyed lands, Native selected lands, or privately owned lands within refuge boundaries. It's the responsibility of the operator to be aware of land status and contact the appropriate landowner for permission prior to operating on private lands.
22. The use of off-road vehicles is prohibited with the exception of snowmobiles. Snowmobiles may be used when adequate snow cover exists to prevent scarring of underlying vegetation.
23. One fuel cache of up to 30 gallons for emergency use may be established on Federal lands. Secondary containment is required. The name, address, and contact phone number of the permit holder must be marked on each fuel container. Any deviations from this requirement must be pre-approved by the issuing official.
24. The permit holder is required to pay all fees to the permitting agency within 30 days of receiving a bill for collection.
25. Use of refuge lands in close proximity to or intermingled with, private lands in the northwest portion of the refuge (west and north of latitude 66 degrees 28.63 minutes and longitude 159 degrees 24.67) is not authorized. A map of the area is provided with the approved permit and the legal description of the area is available upon request.

Justification

The objective of allowing commercial transporter services in national wildlife refuges is to make available a variety of quality opportunities for the public to hunt, fish, or otherwise enjoy outdoor activities where such activities are compatible with the refuge's purposes, resources, and management objectives. The Congressional Committee Report on the National Wildlife Refuge System Improvement Act of 1997 states: "It establishes as the policy of the United States that wildlife-dependent recreation, when it is compatible, is a legitimate and appropriate public use of the Refuge System, through which the American public can develop an appreciation for fish and wildlife."

Commercial transporter services provide the public with safe access to unique hunting, fishing, wildlife observation, wildlife photography, and environmental education opportunities found few places in the world. These are activities that the National Wildlife Refuge System Administration Act (as amended) identifies as priority public uses. These visitor services are a valuable benefit to a segment of the public that does not have other means of access to the extremely remote environment of the refuge. 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 commercial transporter activities within the refuge do not materially interfere with or detract from the purposes of the refuge or mission of the National Wildlife Refuge System.

Supporting Documents

Calef, G. W., E. A. DeBock, and G. M. Lortie. 1976. The reaction of barren-ground caribou to aircraft. *Arctic* 29(4): 201-212.

Ward, D. H., R. A. Stehn, D. V. Derksen. 1994. Response of staging brant to disturbance at the Izembek Lagoon, Alaska. *Wildlife Society Bulletin* 22: 220-228.

U. S. Fish and Wildlife Service. 1987. Selawik National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review and Environmental Impact Statement. U. S. Fish and Wildlife Service, Anchorage, Alaska. 378 pp.

U. S. Fish and Wildlife Service. 1987b. Record of Decision: Selawik National Wildlife Refuge Comprehensive Conservation Plan, Environmental Impact Statement, Wilderness Review, and Wild River Plan. U. S. Fish and Wildlife Service, Anchorage, Alaska. 15 pp.

U.S. Fish and Wildlife Service. 2010. Draft Revised Comprehensive Conservation Plan and Environmental Assessment. Selawik National Wildlife Refuge. U.S. Fish and Wildlife Service, Anchorage, AK. 285 pp (plus ten appendices).

U. S. Fish and Wildlife Service. 2011. Final Revised Comprehensive Conservation Plan. Selawik National Wildlife Refuge. U.S. Fish and Wildlife Service, Anchorage, AK.

U. S. Fish and Wildlife Service. 2011. Decision and Finding of No Significant Impact: Environmental Assessment: Revised Comprehensive Conservation Plan. Selawik National Wildlife Refuge. U.S. Fish and Wildlife Service, Anchorage, AK. 5 pp.

Refuge Determination

Refuge Manager/
Project Leader Approval:



Lee Anne Ayres

14 July 2011
Date

Concurrence

Regional Chief
National Wildlife
Refuge System:



Mitch Ellis

7-20-2011
Date

Mandatory 10-Year Re-evaluation Date: 2021

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