

**Appendix D**  
**Compatibility Determinations**



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**COMPATIBILITY DETERMINATION**

**Use:** Subsistence Activities

**Supporting Uses:** Tree harvest (firewood), boating (human-powered), boating (motorized), trapping, natural resource collecting, camping, cross-country skiing, dog sledding and ski touring, hiking and backpacking, photography, video, filming, audio recording (nonwildlife-dependent, recreational—other), snowshoeing, outdoor recreation (other), photography (wildlife), wildlife observation, fixed-wing aircraft.

**Refuge Name:** Togiak National Wildlife Refuge including the Hagemeister Island portion of Alaska Maritime Refuge (Refuge).

**Establishing and Acquisition Authority(ies)**

Togiak National Wildlife Refuge encompassing approximately 4,899,000 acres, was established on December 2, 1980 when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). Former Cape Newenham Refuge, established January, 1969 was incorporated into the present Togiak National Wildlife Refuge in 1980.

Section 702(10) of ANILCA designated approximately 2,373,000 of Togiak Refuge as the Togiak Wilderness under the Wilderness Act, as amended (16 U.S.C. 1131-1136). The purposes for these lands as wilderness are supplemental to the other purposes of Togiak Refuge.

As part of the Togiak Refuge Comprehensive Conservation Plan revision, the administration of Hagemeister Island was transferred from Alaska Maritime Refuge to Togiak Refuge. Approximately 74,000 acres in size, Hagemeister Island became part of Alaska Maritime Refuge with the passage of ANILCA on December 2, 1980.

**Refuge Purpose(s)**

Cape Newenham Refuge (now part of Togiak Refuge) was established in 1969 by Public Land Order 4583 "...for the protection of wildlife and their habitat...".

Sections 303(1)(B) and 303(6)(B) of ANILCA set forth the purposes for which Togiak and Alaska Maritime Refuges (including Cape Newenham Refuge) were established and shall be managed, including:

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to,

[Togiak Refuge] salmonids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

[Alaska Maritime Refuge] marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) [Alaska Maritime Refuge] to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) 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.

The purpose for the Togiak Wilderness Area defined by the Wilderness Act is:

The Wilderness Act of 1964 (Public Law 88-577) creates additional Refuge purposes for the Togiak Wilderness Area. Designated wilderness areas are to be managed “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as 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, as amended).

### **Description of Use(s)**

Subsistence activities are an existing use provided for in the Refuge purposes. They occur year-round throughout the Refuge. Subsistence uses are defined by ANILCA to mean:

“the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of non-edible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade.”

Residents of villages located within and adjacent to the Refuge have lifestyles and economies that depend on subsistence resources. Subsistence activities are not just a way of obtaining food, but are an important mechanism for maintaining cultural values such as kinship, community, respect for elders, hospitality, sharing resources, and the passing of values to younger generations.

Specific examples of activities within the Refuge addressed in this document include hunting, fishing, trapping, firewood gathering, berry picking, gathering of other plant materials, and gathering of bird eggs.

Activities associated with subsistence uses involve camping, the use of chainsaws for wood cutting, and the construction of temporary facilities. Cabins associated with subsistence uses are allowed by special use permit only. Summer activities are concentrated along river corridors and coastlines accessed by motorboats and ATV's. Winter activities are much more dispersed and cover large portions of the Refuge. Snowmobiles are the primary mode of transportation during periods of adequate snow cover and are often used to pull sleds. The use of airplanes for subsistence purposes does occur, but is uncommon. Other

traditional methods of transportation include hiking, backpacking, snowshoeing, cross-country skiing, raft, kayak, canoe, and sled-dog teams.

Much of the subject use occurs within the approximately 2.4-million-acre Togiak Wilderness Area, which is administered according to the provisions of the Wilderness Act and ANILCA. Although the Wilderness Act prohibits the public use of motor vehicles, motorboats, aircraft, and other forms of mechanical transport, and motorized equipment, ANILCA contains special provisions for Alaska wilderness areas allowing the use of snowmachines, motorboats, airplanes, and non-motorized surface transportation methods for traditional activities. The public use of helicopters, off-highway vehicles, and motorized equipment is not allowed.

Section 811 of ANILCA requires that we ensure rural residents have reasonable access to subsistence resources on the Refuge, and that we allow them use of snowmachines, motorboats and other traditionally used means of surface transportation, subject to reasonable regulations.

The mainstay subsistence food for communities within and adjacent to the Refuge is salmon. Salmon are obtained primarily by gill net or hook-and-line fishing. All Pacific salmon species are used, although chinook, sockeye, and coho are preferred. Primary freshwater species include Dolly Varden, rainbow trout, and northern pike, but are used to a lesser extent than salmon. The most widely hunted animals for subsistence uses include caribou, moose, ptarmigan, ground squirrel, beaver, otter, fox, wolf, and marine mammals.

Until recently, most caribou harvested by local villages occurred outside the boundaries of Togiak Refuge. With the successful reintroduction of caribou to the Nushagak Peninsula in 1988 (Hinkes and Van Daele 1996) and the range and population expansion of the Mulchatna Caribou Herd (Hinkes et al. 2005), caribou became available locally and harvest opportunities were greatly liberalized. Since 1995, annual reported harvests of Nushagak Peninsula caribou have ranged from 3 to 127 with Dillingham and Manokotak hunters accounting for greater than 95% of the total harvest (Aderman and Woolington 2004). Coiley-Kenner et al. (2003) estimated harvest of Nushagak Peninsula caribou during the 1999-2000 season by Manokotak to be 126, significantly higher than the 16 reported via federal harvest permit during the same period. In the 2006 spring survey, fewer than 600 caribou were counted in the Nushagak Peninsula herd, the level at which the management plan directs that no hunting take place. No permits were issued for the fall 2006 hunting season. A very limited harvest can be expected in the next several years from this herd. Beginning in 1994, Mulchatna caribou began using Togiak Refuge in varying, but often appreciable, numbers. Subsistence harvests of Mulchatna caribou by local villages depends on availability and access. Coiley-Kenner et al. (2003) estimated harvest of Mulchatna caribou during the 1999-2000 season by Togiak and Twin Hills to be 192.

Similar to the situation with caribou, moose have only recently established themselves on Togiak Refuge lands, most notably in the Togiak and Kulukak drainages (Aderman and Woolington 2003). Moose hunting was reestablished in 1997 and since then hunters, primarily from Togiak and Twin Hills, have reported harvesting 7 to 15 moose annually during the fall. Coiley-Kenner et al. (2003) estimated harvest of moose in the Togiak drainage during the 1999-2000 season by Togiak and Twin Hills to be 56. Currently, an unlimited number of state registration permits are available to local residents during the fall and winter moose hunts in the eastern one-half of Togiak Refuge.

**Availability of Resources**

Adequate refuge personnel and base operational funds are available to manage subsistence activities at existing and projected levels. Activity related tasks are primarily conducted in cooperation with the Alaska Department of Fish and Game by the refuge manager, deputy refuge manager, subsistence coordinator, pilot/refuge officer and park ranger. Management primarily includes conducting wildlife and public-use studies and surveys specifically for the management of subsistence species, conducting harvest surveys in the local communities, and participating in the regulatory development process with the Federal Subsistence Board and Alaska Boards of Fisheries and Game.

**Anticipated Impacts of the Use(s)**

Fish and wildlife harvested by subsistence users at current and projected levels—in accordance with established state and Federal regulations pertaining to season, bag limits and methods of harvest—are not expected to have significant long-term impacts on the overall populations of refuge fish and wildlife resources. State and Federal biologists monitor fish and game populations and state and Federal regulatory bodies continually respond to management needs by adopting regulations to ensure the continued health of fish and wildlife populations.

Activities associated with subsistence uses at the Refuge occur year round in a variety of locations and habitats. There is no evidence to suggest long-term impacts to wildlife due to human disturbance occurs at the Refuge. Short-term impacts such as displacement and avoidance due to subsistence activities are isolated and have little impact on wildlife populations. At current levels of use it is not believed that subsistence activities are adversely affecting the character of the wilderness area.

Maintaining natural diversity and historic age and size composition of rainbow trout populations are goals outlined in the 1990 Togiak Refuge fisheries management plan and 1990 ADF&G Southwest Alaska rainbow trout management plan. The Alaska Board of Fisheries and ADF&G have further restricted sport fishing harvest methods and limits, but it is too early to detect any affect these changes may have. Biologists will continue to evaluate the affect of subsistence and sport fishing upon rainbow trout and other fish populations and make management recommendations to the Federal Subsistence Board and State Board of Fisheries.

**Public Review and Comment**

Draft compatibility determinations were published as a portion of the Draft Revised Comprehensive Conservation Plan, and public review was invited with comments on the plan. The State of Alaska provided several comments on this compatibility determination. They requested we clarify the access provisions on Sections 1110(a) and 811(b) of the Alaska National Interest Lands Conservation Act. The requested changes were made. The State requested that we modify our statement concerning possible changes in the size and age structure of rainbow trout to show that it was not a conclusive finding. We deleted the sentence referenced. The State requested we clarify in the justification section of this compatibility determination that refuge purposes address the “opportunity for continued subsistence uses” not simply subsistence uses. The requested change was made.

**Determination**

\_\_\_\_\_ Use is Not Compatible

X   Use is Compatible

### **Stipulations Necessary to Ensure Compatibility**

Although specific stipulations for subsistence activities are not necessary, management direction is provided in the revised Comprehensive Conservation Plan for the Refuge. The Nushagak Peninsula Caribou Herd Management Plan, the Togiak Refuge Fisheries Management Plan, the Refuge Public Use Management Plan, and the Refuge wildlife inventory plan give direction for harvest limits and current and future monitoring efforts. Findings from these wildlife, public use, and habitat monitoring efforts will be used to determine what additional management actions, if any, are needed to ensure all subsistence activities remain compatible with refuge purposes.

### **Justification**

One of the purposes of the Refuge, as established by ANILCA, is to provide the opportunity for continued subsistence uses by local residents, consistent with the other refuge purposes of conserving fish and wildlife populations and habitats and fulfilling international treaty obligations with respect to fish and wildlife. ANILCA recognized that the continued opportunity for subsistence uses of public lands is critical to physical, economic, traditional, social, and cultural existence of rural Native and non-Native residents of Alaska. ANILCA established a preference for subsistence users, stating that the taking of fish and wildlife on public lands for non-wasteful subsistence use is given priority over other consumptive uses; in times of scarcity, recreational use is limited first. Section 811 of ANILCA ensures that subsistence users can access public lands by snowmobile, motorboat, and other traditionally used means of surface transportation, subject to reasonable regulation. In conclusion, current subsistence activities occurring on the Refuge contribute to one of the purposes of the Refuge while not materially interfering with or detracting from the other purposes of the Refuge or the mission of the National Wildlife Refuge System.

### **Supporting Documents**

U.S. Fish and Wildlife Service. 1986. Togiak National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service. Anchorage, Alaska. 514 pp.

U.S. Fish and Wildlife Service. 1988. Alaska Maritime National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service. Anchorage, Alaska.

U.S. Fish and Wildlife Service. 1991. Togiak National Wildlife Refuge, Final Public Use Management Plan and Environmental Assessment. U.S. Fish and Wildlife Service. Anchorage, Alaska. 244 pp.

USFWS. 1990 "Final Fishery Management Plan, Togiak National Wildlife Refuge." U.S. Fish and Wildlife Service, Region 7, Alaska.

USFWS. 1992. Environmental Assessment for the Policy on Commercial Big-Game Guide-Outfitters and Transporters on National Wildlife Refuge in Alaska. U.S. Fish and Wildlife Service. May 22, 1992.

USFWS. 1992. Finding of No Significant Impact, Environmental Assessment for the Policy on Commercial Big-Game Guide-Outfitters and Transporters on National Wildlife Refuge in Alaska. U.S. Fish and Wildlife Service. June 9, 1992.



## COMPATIBILITY DETERMINATION

**Use:** Commercially Guided Recreational Fishing Services

**Supporting Uses:** Boating (human-powered), boating (motorized), interpretation (not conducted by Refuge staff or authorized agents), hunting (upland-game), hunting (waterfowl), hunting (other), plant gathering, natural resource collecting, camping, hiking and backpacking, pets, photography, video, filming, or audio recording (nonwildlife-dependent, recreational—other), outdoor recreation (other), photography (wildlife), wildlife observation (guiding or outfitting), fixed-wing aircraft, tree harvest (firewood)

**Refuge Name:** Togiak National Wildlife Refuge including the Hagemeister Island portion of Alaska Maritime Refuge (Refuge).

### **Establishing and Acquisition Authority(ies)**

Togiak National Wildlife Refuge encompassing approximately 4,899,000 acres, was established on December 2, 1980 when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). Former Cape Newenham Refuge, established January, 1969 was incorporated into the present Togiak National Wildlife Refuge in 1980.

Section 702(10) of ANILCA designated approximately 2,373,000 of Togiak Refuge as the Togiak Wilderness under the Wilderness Act, as amended (16 U.S.C. 1131-1136). The purposes for these lands as wilderness are supplemental to the other purposes of Togiak Refuge.

As part of the Togiak Refuge Comprehensive Conservation Plan revision, the administration of Hagemeister Island was transferred from Alaska Maritime Refuge to Togiak Refuge. Approximately 74,000 acres in size, Hagemeister Island became part of Alaska Maritime Refuge with the passage of ANILCA on December 2, 1980.

### **Refuge Purpose(s)**

Cape Newenham Refuge (now part of Togiak Refuge) was established in 1969 by Public Land Order 4583 "...for the protection of wildlife and their habitat...".

Sections 303(1)(B) and 303(6)(B) of ANILCA set forth the purposes for which Togiak and Alaska Maritime Refuges (including Cape Newenham Refuge) were established and shall be managed, including:

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to,

[Togiak Refuge] salmonids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

[Alaska Maritime Refuge] marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) [Alaska Maritime Refuge] to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) 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.

The Wilderness Act of 1964 (Public Law 88-577) creates additional Refuge purposes for the Togiak Wilderness Area. Designated wilderness areas are to be managed “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as 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, as amended).

### **Description of Use(s)**

Commercially guided recreational fishing services provided within the Refuge are allowed by Refuge special use permit only. Both multi-day and day use opportunities are provided throughout the summer months. From June through September, guides primarily target chinook and coho salmon as well as rainbow and Dolly Varden trout throughout Togiak Refuge. Other species include chum, pink and sockeye salmon, grayling, northern pike, and lake trout. All methods and means of recreational fishing are regulated by the Alaska Board of Fisheries and the Alaska Department of Fish and Game (ADF&G).

Much of the subject use occurs within the boundaries of the approximately 2.4-million-acre Togiak Wilderness Area, which is administered according to the provisions of the Wilderness Act and ANILCA. Although the Wilderness Act prohibits the public use of motor vehicles, motorboats, aircraft, and other forms of mechanical transport, and motorized equipment, ANILCA contains special provisions for Alaska wilderness areas allowing the use of snowmachines, motorboats, airplanes, and non-motorized surface transportation methods for traditional activities, including guided recreational fishing. The public use of helicopters, off-highway vehicles, and motorized equipment is not allowed.

Twenty-six special use permits to conduct guided recreational fishing services on Togiak Refuge have been awarded on a competitive basis consistent with a Public Use Management Plan finalized in 1991. These permits incorporate a variety of services and locations. Four permits have been awarded for float and motorboat use of the Goodnews River, six permits to conduct day-use fly-in fishing on wilderness lakes, two fly-in/motorboat permits for the Kulukak River, six permits for a combination of floating, motorboat, and fly-in/motorboat use on the Togiak River, and one motorboat and six float permits for the Kanektok River.

The one exception to the competitively awarded permits is on the Goodnews River. The two motorboat and two float permits which are currently awarded on an annual basis on this

river will be incorporated into the competitive process with the completion of the Public Use Management Plan revision.

Eighteen different companies share the 26 competitively awarded permits in place. Each permit is initially awarded for five years with a five year renewal option. Based on the Public Use Management Plan, each permit contains stipulations that guide the permittees operation. Examples of these stipulations include the start dates for float trips, maximum numbers of clients, maximum number of boats, and weekly limitations on the use of wilderness lakes for day use fly-in trips. Because of the nature of the competitively awarded permits for commercial sport fishing on Togiak Refuge, use has remained relatively stable and is not expected to increase in the future.

Commercial operators use a variety of transportation including aircraft, motorboats, and rafts to conduct their activities. Facilities include a variety of seasonal temporary camps and short term tent camps in the refuge, and permanent camps located outside the Refuge. Equipment caches, fuel storage, tent platforms, and long-term summer camps are allowed by special use permit only.

Other activities associated with commercially guided recreational fishing include camping, hiking, photography, backpacking, cutting of dead and downed wood for campfires.

Access to waters within Togiak Refuge is either by boat or airplane. Commercial transporters contracted by commercial guides are not considered as part of this compatibility determination. The use of helicopters or jet powered personal water craft is specifically excluded from this determination.

A detailed description of sport fishing activities throughout the Refuge is provided in Chapter 3 of the Togiak Refuge Draft Comprehensive Conservation Plan.

### **Availability of Resources**

Adequate refuge personnel and base operational funds are available to manage guided recreational fishing activities at current and projected levels. Administrative time primarily involves issuing permits, ensuring that licenses and certifications are current, collecting client use-day fees, and entering activity information into a database for analysis. Field work associated with administering the program primarily involves monitoring the permittees' compliance with the terms of the permits through the Refuge River Ranger program and law enforcement patrols. Approximately \$6000-\$8000 in commercial sport fishing guide use fees are collected annually, which are returned to the refuge for use in managing these activities over and above base operational funds.

### **Anticipated Impacts of the Use(s)**

Sport fishing and associated activities at the Refuge are concentrated along river corridors during the summer months. There is no evidence to suggest long-term impacts to wildlife due to human disturbance occurs at the Refuge. Short-term impacts such as displacement and avoidance due to sport fishing activities are isolated and have little impact on fish or wildlife populations. Camping occurs primarily on durable gravel bars, where impacts to vegetation are negligible.

Maintaining natural diversity and historic age and size composition of rainbow trout populations are goals outlined in the 1990 Togiak Refuge fisheries management plan and 1990 ADF&G Southwest Alaska rainbow trout management plan. The Alaska Board of Fisheries implemented harvest methods and limit restrictions in 1985, 1990, and 1998, but it

is too early to detect any affect these changes may have. Biologists will continue to evaluate the affect of subsistence and sport fishing upon rainbow trout and other fish populations and make management recommendations to the Federal Subsistence Board and State Board of Fisheries.

The number of commercially guided recreational fishing clients is managed through Refuge special use permits. These use levels were developed through the National Environmental Policy Act planning process to insure subsistence opportunities, wilderness character, and visitor satisfaction are maintained for all Refuge users. Togiak Refuge will continue to actively manage commercial use through special use permits, the River Ranger program, and law enforcement activities.

**Public Review and Comment**

Draft compatibility determinations were published as a portion of the Draft Revised Comprehensive Conservation Plan, and public review was invited with comments on the plan. The State of Alaska provided several comments on this compatibility determination. The State requested that we modify our statement concerning possible changes in the size and age structure of rainbow trout to show that it was not a conclusive finding. The sentence was deleted. The State requested that we clarify that off-road vehicles may be allowed by Service regulations on designated routes and areas or by special use permit and that helicopter landings may be authorized on a case-by-case basis under 43 CFR 36.11(f)(4). We did not make the requested changes as this compatibility determination is for commercially guided recreational fishing services and by terms of their special use permits we do not allow helicopters and off-road vehicles. The State requested we revise the paragraph preceding the list of conditions included in refuge permits. We made the requested change. The State also provided a number of comments on the permit special conditions. The Service’s regional permit special conditions are being reviewed in a separate process and comments on them have been forwarded to those working on this task. Comments on regional permit special conditions are not addressed in this compatibility determination and no changes were made to the regional permit special conditions. The State requested the refuge modify the special condition that prohibited fuel caches to allow consideration on a case-by-case basis. The requested change was made.

**Determination**

           Use is Not Compatible

  X   Use is Compatible

**Stipulations Necessary to Ensure Compatibility**

Management direction provided in the revised comprehensive conservation plan for the Refuge includes implementation of applicable sections of the Refuge fishery management plan. Adequate monitoring of commercial recreational fishing guide activities and other associated public-use activities will be conducted to provide information for determining what additional management actions, if any, are needed to ensure all commercial recreational fishing guide activities remain compatible with refuge purposes.

The conditions listed below are included on Refuge permits issued for commercially guided recreational fishing services, most of which 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.

- Failure to abide by any part of this special-use permit; violation of any refuge-related provision in Titles 43 (Part 36) or Title 50 (subchapters B and C) of the 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 immediate revocation of this permit and could result in denial of future permit requests for lands administered by the U.S. Fish and Wildlife Service. This provision applies to all persons working under the authority of this permit (e.g., assistants). Appeals of decisions relative to permits are handled in accordance with Title 50 Code of Federal Regulations, Part 36.41.
- A copy of this permit must be in the permittee's possession at all times while exercising the privileges of this permit.
- 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 this permit.
- Any problem with wildlife and/or animals taken in defense of life or property must be reported immediately to the refuge manager and to the Alaska Department of Fish and Game; any animal taken in defense of life or property must be salvaged in accordance with state regulations.
- The use of Native or state lands that have been conveyed (patented) is not authorized by this permit.
- This permit may be canceled or revised at any time by the refuge manager in case of emergency (e.g., high fire danger, flooding, unusual resource problems).
- Prior to beginning any activities allowed by this permit, the permittee shall provide the refuge manager with the following: (1) name and method of contact for the field party chief or supervisor and (2) any changes in information provided in the original permit application.
- Prior to beginning any activities allowed by this permit, the permittee shall provide the refuge manager with the following: (1) proof of appropriate aviation passenger liability (\$150,000 per seat plus \$100,000 property damage), marine liability, and/or comprehensive general liability insurance covering all aspects of operations throughout the annual use period; (2) aircraft and other vehicle types to be used, with identification information, if different from those described in the permit application; (3) changes in names of pilots; and (4) any other changes in information provided in the operations plan.
- In accordance with the Archaeological Resources Protection Act (16 USC 470aa), the excavation, disturbance, collection, or purchase of historical, recent, ethnological, or archaeological specimens or artifacts is prohibited.
- All noncombustible waste materials must be removed from the refuge (not buried) upon the permittee's and/or clients' departure. The permittee is responsible for removal of clients' garbage.
- The construction or clearing of landing strips or pads is prohibited. Incidental hand removal of rocks and other minor obstructions may be permitted.
- 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

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- aircraft, except for take off and landing, maintain a minimum altitude of 2,000 feet above ground level.
- The use of helicopters is prohibited.
  - All aircraft being used in a commercial operation must have 12-inch identification numbers in contrasting colors that are readily visible.
  - Failure to report the actual number of client-use days per type of authorized activity by December 31 of the permit calendar year and to pay the Service's established fees (client-use day) within 30 days after receiving a bill for collection will be grounds for denial of future permits.
  - Motorboat operators must possess a U.S. Coast Guard (USCG) license for all passenger-carrying operations, if required by USCG regulations.
  - Any action by a permittee or the permittee's employees that unduly interferes with or harasses other refuge visitors or impedes access to any site is strictly prohibited. Examples of prohibited acts include flights over camps or persons at less than 500 feet altitude (unless landing) and parking aircraft or placing other objects (rocks, tents, etc.) on any landable area to restrict use by other aircraft or persons.
  - This permit authorizes use of the Native-selected lands identified in the description block of this permit. If any of these Native-selected lands are conveyed during the term of this permit, the permittee will no longer be authorized to use those lands until and unless permission is obtained from the Native entity to which land ownership has been conveyed.
  - Commercial operators who transport persons by air for compensation or hire must comply with all Federal Aviation Administration regulatory requirements for air carriers and commercial operators.
  - The permittee and permittee's clients do not have the exclusive use of the site(s) or lands covered by this permit.

### Justification

Commercially guided recreational fishing is a form of traditional activity that Congress intended to preserve with the enactment of ANILCA, which established the refuge. Commercial visitor services are also allowed in Wilderness areas under Section 4(d)(6) of the Wilderness Act. This service supports not only fishing, but also other activities, including wildlife observation and photography, which the National Wildlife Refuge System Administration Act (as amended) identifies as priority public uses. Recreational fishing guide operations on the Refuge provide the public with safe recreational fishing opportunities of a nature found few other places in the world. These visitor services are a valuable benefit to a segment of the public that is either not physically able to, not comfortable with, or for other reasons chooses not to participate in unguided fishing trips in the extremely remote and harsh wilderness environment of the Refuge. This use supports the System Mission by enabling recreational anglers to use refuge resources. It provides a safer experience for anglers than they would have accessing the refuge on their own. It does not have serious impacts on other users or on refuge resources.

After fully considering the impacts of this activity as described in the "Anticipated Impacts" section of this compatibility determination, it is my determination that commercially guided



**COMPATIBILITY DETERMINATION**

**Use:** Commercially Guided Recreational Hunting Services

**Supporting Uses:** Boating (human-powered), boating (motorized), interpretation (not conducted by Refuge staff or authorized agents), fishing (guiding and outfitting), hunting (upland-game—guiding or outfitting), hunting (waterfowl—guiding or outfitting), hunting (other—guiding or outfitting), plant gathering, natural resource collecting, camping, hiking and backpacking, pets, photography, outdoor recreation (other), photography (wildlife), wildlife observation (guiding or outfitting), fixed-wing aircraft, tree harvest (firewood).

**Refuge Name:** Togiak National Wildlife Refuge including the Hagemeister Island portion of Alaska Maritime Refuge (Refuge).

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**Refuge Purpose(s)**

Cape Newenham Refuge (now part of Togiak Refuge) was established in 1969 by Public Land Order 4583 "...for the protection of wildlife and their habitat...".

Sections 303(1)(B) and 303(6)(B) of ANILCA set forth the purposes for which Togiak and Alaska Maritime Refuges (including Cape Newenham Refuge) were established and shall be managed, including:

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[Togiak Refuge] salmonids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

[Alaska Maritime Refuge] marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) [Alaska Maritime Refuge] to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) 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.

The Wilderness Act of 1964 (Public Law 88-577) creates additional Refuge purposes for the Togiak Wilderness Area. Designated wilderness areas are to be managed “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as 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, as amended).

#### **Description of Use(s)**

Commercial guiding services for hunting caribou, moose, and brown bear have operated on the Togiak Refuge since establishment in 1980. Authorized services include hunting opportunities for caribou, brown bear, and wolf. The majority of guided big-game hunting opportunities within the Refuge involves the use of aircraft to access short-term tent camps for periods of a few days to a week from late August to early October.

The annual harvest by guided clients from 1992 through 2005 ranged from two to six for brown bear and zero to two for caribou. Several other commercial uses conducted concurrently with and incidentally to big-game guiding activities are routinely authorized. These include wildlife photography, guided small game and waterfowl hunting, hiking, river floating, and other ecotourism-type activities. Big-game guides are competitively selected to operate on refuge lands through a formal process, established by regional policy in 1992, to limit or manage commercial guiding activities at a level compatible with refuge purposes and to ensure that quality guiding services are available to the public. There are three established big-game guide-use areas on the Refuge. No guided hunting takes place on Hagemeister Island. These use areas are designated as sole-use areas and are limited to one authorized guide. Individual guides are limited to having special-use permits for three use areas on refuge lands in Alaska at any one time. As of January 2007, there are three guides operating on the Refuge. Guides are required to follow written operations plans, which are evaluated by Service personnel during the competitive selection process. These operations plans include the following: 1) dates of field operations; 2) species to be hunted; 3) maximum and expected number of clients for each species hunted; 4) number and type of existing or new camps (i.e., tent, tent platform or frame, cabin, boat) including other needed facilities such as caches and weatherports; 5) access points and mode(s) of transportation (e.g., airplanes, boats, snowmachines, pack animals, and other nonmotorized means); 6) fuel storage needs; and 7) services provided by others (e.g., contracts for

## Appendix D: Compatibility Determinations

transportation, food services). Guides must comply with all state requirements applicable to this activity.

This compatibility determination addresses the full spectrum of uses associated with the overall activity of commercially guided hunting of big game, including all means of access, lodging and facilities, and other elements identified in the guides' operations plans.

Authorized modes of access for all areas on the Refuge include fixed-wing aircraft, motor boats, snowmachines, nonpowered boats, dogsled, foot, snowshoe, and cross country ski. Lodging and facilities include tents, tent frames, tent platforms, and weatherports. The use of off-road vehicles by big-game hunting guides and their clients is prohibited on the refuge. There are currently no cabins on the Refuge that are authorized for use in conjunction with big-game guiding operations.

Much of the subject use occurs within the approximately 2.4-million-acre Togiak Wilderness Area, which is administered according to the provisions of the Wilderness Act and ANILCA. Although the Wilderness Act prohibits the public use of motor vehicles, motorboats, aircraft, and other forms of mechanical transport, and motorized equipment, ANILCA contains special provisions for Alaska wilderness areas allowing the use of snowmachines, motorboats, airplanes, and non-motorized surface transportation methods for traditional activities, including guided recreational hunting. The public use of helicopters, off-highway vehicles, and motorized equipment is not allowed.

Commercial big-game hunting guides often contract with other commercial transporters to provide access to the Refuge. These transporters are not included as part of this compatibility determination. The use of helicopters or jet powered personal water craft is specifically excluded from this determination.

This is an existing activity that supports wildlife-dependent priority public uses. Activities would occur throughout the refuge during state regulated hunting seasons.

### Availability of Resources

Adequate refuge personnel and base operational funds are available to manage guided big-game hunting activities at existing and projected levels. Administrative time (25-30 staff days) primarily involves issuing permits, ensuring that licenses and certifications are current, collecting client use-day fees, and entering activity information into a database for analysis. Field work associated with administering the program primarily involves monitoring the permittees' compliance with the terms of the permits. Fees collected annually for commercial big-game guide use from 1992 to 2004 ranged from \$178 to \$957. These use fees are returned to the refuge for use in managing these activities over and above base operational funds.

### Anticipated Impacts of the Use(s)

Because of the Refuge administrative oversight of the activity, comprehensive state and federal regulations that continually evolve to respond to fisheries and wildlife management needs, and combined law-enforcement efforts of state and refuge personnel, existing and projected levels of commercially guided big-game guiding services should have minimal impacts on fish and wildlife resources, other refuge resources, other refuge users, and wilderness values, as discussed subsequently.

A competitive scoring process is used to select big-game guide permittees. Scores reflect the ability of the applicant to minimize impacts on refuge resources including; water quality, soil, vegetation, other refuge users, wilderness values, and non-target species. The permitting process insures qualified applicants with the ability to minimize impacts are selected.

Commercial big-game guiding operations may, in some cases, result in some competition for limited numbers of game animals or for preferred campsites or in interference with subsistence users and/or other unguided recreational hunters. However, both the Federal Subsistence Board and Alaska Board of Game regularly adopt regulations in response to big-game population levels and management needs to reduce impacts to big-game populations and to the opportunity for continued subsistence uses of these species by local residents. At current levels of use it is not believed that commercially guided recreational hunting is adversely affecting the character of the wilderness area.

Because the majority of the guides access the Refuge by landing on lakes and rivers with float-equipped aircraft, impacts on refuge habitat are minimized. Some landings are made on vegetated lowland tundra or ridge tops, usually with Piper Super Cubs or other small, light aircraft equipped with tundra tires. Disturbance to vegetation is minimal and short-term unless numerous landings are made repeatedly in exactly the same location (this practice has not been observed to date). Temporary displacement and/or disturbance to wildlife can occur during take-offs and approaches to landings. There are no known long-term impacts to refuge wildlife populations from this disturbance.

All three commercial guide use areas include portions of the Togiak Wilderness Area. All restrictions and provisions of the Wilderness Act (with ANILCA exceptions) for the general public also apply to commercial guiding operations. Due to the limited number of authorized clients and the low-impact nature of guide operations plans with respect to their temporary facilities and access methods, the wilderness character of the area is not significantly compromised.

### **Public Review and Comment**

Draft compatibility determinations were published as a portion of the Draft Revised Comprehensive Conservation Plan, and public review was invited with comments on the plan. The State of Alaska provided several comments on this compatibility determination. The State requested that we clarify that off-road vehicles may be allowed by Service regulations on designated routes and areas or by special use permit and that helicopter landings may be authorized on a case-by-case basis under 43 CFR 36.11(f)(4). We did not make the requested changes as this compatibility determination is for commercially guided recreational fishing services and by terms of their special use permits we do not allow helicopters and off-road vehicles. The State requested we revise the paragraph preceding the list of conditions included in refuge permits. We made the requested change. The State also provided a number of comments on the permit special conditions. The Service's regional permit special conditions are being reviewed in a separate process and comments on them have been forwarded to those working on this task. Comments on regional permit special conditions are not addressed in this compatibility determination and no changes were made to the regional permit special conditions. The State requested the refuge modify the special condition that prohibited fuel caches to allow consideration on a case-by-case basis. The requested change was made.

**Determination**

\_\_\_\_\_ Use is Not Compatible

  X   Use is Compatible

**Stipulations Necessary to Ensure Compatibility**

As directed in the Refuge’s revised Comprehensive Conservation Plan and wildlife inventory plan, adequate monitoring of commercial big-game guided hunting activities (and other public-use activities) will be conducted. Findings from these monitoring efforts will be used to determine what additional management actions, if any, are needed to ensure all commercial big-game guided hunting activities remain compatible with Refuge purposes.

To minimize impacts on refuge lands and resources, law-enforcement and administrative monitoring of permittees will be continued to ensure compliance with stipulations included in all commercial big-game guiding special-permits.

The conditions listed below are included on Refuge permits issued for commercially guided recreational hunting services, most of which are intended to minimize impacts and ensure compatibility. Refuge permits may also include other special conditions necessary or appropriate for the specific operations or activities that are proposed.

- Failure to abide by any part of this special-use permit; violation of any refuge-related provision in Titles 43 (Part 36) or Title 50 (subchapters B and C) of the 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 immediate revocation of this permit and could result in denial of future permit requests for lands administered by the U.S. Fish and Wildlife Service. This provision applies to all persons working under the authority of this permit (e.g., assistants). Appeals of decisions relative to permits are handled in accordance with Title 50 Code of Federal Regulations, Part 36.41.
- A copy of this permit must be in the permittee’s possession at all times while exercising the privileges of this permit.
- 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 this permit.
- Any problem with wildlife and/or animals taken in defense of life or property must be reported immediately to the refuge manager and to the Alaska Department of Fish and Game; any animal taken in defense of life or property must be salvaged in accordance with state regulations.
- The use of Native or state lands that have been conveyed (patented) is not authorized by this permit.
- This permit may be canceled or revised at any time by the refuge manager in case of emergency (e.g., high fire danger, flooding, unusual resource problems).
- Prior to beginning any activities allowed by this permit, the permittee shall provide the refuge manager with the following: (1) name and method of contact for the field party

chief or supervisor and (2) any changes in information provided in the original permit application.

- Prior to beginning any activities allowed by this permit, the permittee shall provide the refuge manager with the following: (1) proof of appropriate aviation passenger liability (\$150,000 per seat plus \$100,000 property damage), marine liability, and/or comprehensive general liability insurance covering all aspects of operations throughout the annual use period; (2) aircraft and other vehicle types to be used, with identification information, if different from those described in the permit application; (3) changes in names of pilots; and (4) any other changes in information provided in the operations plan.
- In accordance with the Archaeological Resources Protection Act (16 USC 470aa), the excavation, disturbance, collection, or purchase of historical, recent, ethnological, or archaeological specimens or artifacts is prohibited.
- All noncombustible waste materials must be removed from the refuge (not buried) upon the permittee's and/or clients' departure. The permittee is responsible for removal of clients' garbage.
- The construction or clearing of landing strips or pads is prohibited. Incidental hand removal of rocks and other minor obstructions may be permitted.
- 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 take off and landing, maintain a minimum altitude of 2,000 feet above ground level.
- The use of helicopters is prohibited.
- All aircraft being used in a commercial operation must have 12-inch identification numbers in contrasting colors that are readily visible.
- Failure to report the actual number of client-use days per type of authorized activity by December 31 of the permit calendar year and to pay the Service's established fees (client-use day) within 30 days after receiving a bill for collection will be grounds for denial of future permits.
- Motorboat operators must possess a U.S. Coast Guard (USCG) license for all passenger-carrying operations, if required by USCG regulations.
- Any action by a permittee or the permittee's employees that unduly interferes with or harasses other refuge visitors or impedes access to any site is strictly prohibited. Examples of prohibited acts include flights over camps or persons at less than 500 feet altitude (unless landing) and parking aircraft or placing other objects (rocks, tents, etc.) on any landable area to restrict use by other aircraft or persons.
- This permit authorizes use of the Native-selected lands identified in the description block of this permit. If any of these Native-selected lands are conveyed during the term of this permit, the permittee will no longer be authorized to use those lands until and unless permission is obtained from the Native entity to which land ownership has been conveyed.

## Appendix D: Compatibility Determinations

- Commercial operators who transport persons by air for compensation or hire must comply with all Federal Aviation Administration regulatory requirements for air carriers and commercial operators.
- The permittee and permittee's clients do not have the exclusive use of the site(s) or lands covered by this permit.

### Justification

Commercial big-game guiding services are a form of traditional activity that Congress intended to preserve with the enactment of ANILCA. Guided big-game hunting services provide the public with high-quality, safe, and exceptional recreational hunting opportunities found few places elsewhere in the world. These guiding services provide valuable benefits to those people who are required by State regulation or who simply choose to employ a commercial big-game hunting guide. People choose to hire a guide for many reasons: they may not be physically able to enter into, or are not comfortable with, unguided hunting in the extremely remote and harsh wilderness environment of the Refuge. This use supports the System Mission by enabling recreational hunters to utilize refuge resources. Commercial operators provide a safer experience for hunters than they would have accessing the refuge on their own. This use does not have serious impacts on other users or on refuge resources.

After fully considering the impacts of this activity, as described previously in the "Anticipated Impacts" section of this compatibility determination, it is my determination that commercial big-game guiding activities on the Refuge support our mission by providing support for priority public uses and that they contribute to the achievement of the purposes of the refuge and the mission of the National Wildlife Refuge System, and are necessary for realizing the recreational purposes of the Togiak Wilderness Area.

### Supporting Documents

U.S. Fish and Wildlife Service. 1986. Togiak National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service. Anchorage, Alaska. 514 pp.

U.S. Fish and Wildlife Service. 1988. Alaska Maritime National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service. Anchorage, Alaska.

U.S. Fish and Wildlife Service. 1991. Togiak National Wildlife Refuge, Final Public Use Management Plan and Environmental Assessment. U.S. Fish and Wildlife Service. Anchorage, Alaska. 244 pp.

USFWS. 1992. Environmental Assessment for the Policy on Commercial Big-Game Guide-Outfitters and Transporters on National Wildlife Refuge in Alaska. U.S. Fish and Wildlife Service. May 22, 1992.

USFWS. 1992. Finding of No Significant Impact, Environmental Assessment for the Policy on Commercial Big-Game Guide-Outfitters and Transporters on National Wildlife Refuge in Alaska. U.S. Fish and Wildlife Service. June 9, 1992.

USFWS. 1992. Subsistence Management for Federal Public Lands in Alaska, Final Environmental Impact Statement, Record of Decision signed April 2, 1992. U.S. Fish and Wildlife Service.



**COMPATIBILITY DETERMINATION**

**Use:** Trail Marking and Marker Maintenance

**Supporting Uses:** Camping, dog sledding, photography, video, snowshoeing, gathering (subsistence), wildlife observation, fixed-wing aircraft, tree harvest (firewood), snow machining.

**Refuge Name:** Togiak National Wildlife Refuge including the Hagemeister Island portion of Alaska Maritime Refuge (Refuge).

**Establishing and Acquisition Authority(ies)**

Togiak National Wildlife Refuge encompassing approximately 4,899,000 acres, was established on December 2, 1980 when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). Former Cape Newenham Refuge, established January, 1969 was incorporated into the present Togiak National Wildlife Refuge in 1980.

Section 702(10) of ANILCA designated approximately 2,373,000 of Togiak Refuge as the Togiak Wilderness under the Wilderness Act, as amended (16 U.S.C. 1131-1136). The purposes for these lands as wilderness are supplemental to the other purposes of Togiak Refuge.

As part of the Togiak Refuge Comprehensive Conservation Plan revision, the administration of Hagemeister Island was transferred from Alaska Maritime Refuge to Togiak Refuge. Approximately 74,000 acres in size, Hagemeister Island became part of Alaska Maritime Refuge with the passage of ANILCA on December 2, 1980.

**Refuge Purpose(s)**

Cape Newenham Refuge (now part of Togiak Refuge) was established in 1969 by Public Land Order 4583 "...for the protection of wildlife and their habitat...".

Sections 303(1)(B) and 303(6)(B) of ANILCA set forth the purposes for which Togiak and Alaska Maritime Refuge (including Cape Newenham Refuge) were established and shall be managed, including:

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to,

[Togiak Refuge] salmonids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

[Alaska Maritime Refuge] marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) [Alaska Maritime Refuge] to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) 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.

The Wilderness Act of 1964 (Public Law 88-577) creates additional Refuge purposes for the Togiak Wilderness Area. Designated wilderness areas are to be managed “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as 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, as amended).

**Description of Use(s)**

Numerous winter snowmobile trails are used for travel between villages in and around Togiak Refuge. Groups including the State of Alaska Department of Transportation, tribal governments, search and rescue organizations, and others periodically mark these trails to make travel safer in poor weather conditions. These markers are typically wooden poles or tripods with attached reflective material, or reflectors attached directly to trees. Markers are generally located no more than 500 feet apart. Marking of trails is conducted by snowmobile pulling a sled when adequate snow cover provides suitable conditions for the work. Permits are requested when initial trail marking is proposed by ADOT and village organizations, and is not on an annual basis. Approximately 120 miles of trail are currently marked on the Refuge between the villages of Dillingham and Platinum.

**Availability of Resources**

Adequate refuge personnel and base operational funds are available to manage research activities at existing levels. Management involves administrative staff time to conduct phone conversations, written correspondence, review of proposed activities, and personnel interaction with the participants. Field work associated with administering the program primarily involves monitoring compliance with the terms of the permit.

**Anticipated Impacts of the Use(s)**

There are minimal to no impacts on refuge habitat -- air quality, water quality, vegetation, etc. There are no impacts to recreational or subsistence uses anticipated due to trail markers or their associated activities. Because of the nature of the trails and location of villages, it is not expected that trails would be marked within the wilderness area. Necessary actions to minimize impacts of trail marking and markers in specific areas will be addressed on a case-by-case basis through special use permits.

**Public Review and Comment**

Draft compatibility determinations were published as a portion of the Draft Revised Comprehensive Conservation Plan, and public review was invited with comments on the plan. The State of Alaska provided several comments on this compatibility determination.

## Appendix D: Compatibility Determinations

The State requested that we clarify that off-road vehicles may be allowed by Service regulations on designated routes and areas or by special use permit and that helicopter landings may be authorized on a case-by-case basis under 43 CFR 36.11(f)(4). We did not make the requested changes as this compatibility determination is for trail marking and by terms of their special use permits we do not allow helicopters and off-road vehicles (other than snowmobiles) for this use.

### Determination

Use is Not Compatible

Use is Compatible

### Stipulations Necessary to Ensure Compatibility

The Togiak Refuge Comprehensive Conservation Plan provides direction for current and future fishery, wildlife and public use monitoring efforts. Findings from these monitoring efforts will be used to determine what additional management actions, if any, are needed to ensure trail marking activities remain compatible with refuge purposes.

Activities considered in this compatibility determination will only be allowed under the conditions of a valid special use permit, including the following stipulations.

- All items, with the exception of trail markers, used to conduct or aid in trail marking will be removed from the refuge on or before the expiration date of the special use permit.
- Trail marking will only be allowed during periods of adequate snow cover as determined by the refuge manager.
- In accordance with Region 7 Service policy, duration of activities, and types of equipment used within the Togiak Wilderness Area will be limited to the minimum length and type necessary to complete marking of specified trails consistent with an approved Wilderness Minimum Tool Analysis.
- Marking of trails on Federal refuge lands does not convey any interest in the land to another party.

### Justification

Ensuring the continuation of subsistence and wilderness recreational uses are purposes of Togiak Refuge established by ANILCA, the Refuge Improvement Act, and the Wilderness Act. Winter trail marking will improve the safety of winter travel between communities throughout the refuge and the region. These activities are supported by local residents and will not significantly restrict subsistence uses. After fully considering the impacts of these activities as described previously in the “Anticipated Impacts” section of this document, it is my determination that trail marking activities on the refuge do not materially interfere with or detract from the purposes of the refuge or the mission of the National Wildlife Refuge System.



## COMPATIBILITY DETERMINATION

**Use:** Commercial Transporter Services

**Supporting Uses:** Boating (human-powered), boating (motorized), environmental education (not conducted by NWRS staff or authorized agents), environmental education (other), interpretation (not conducted by NWRS staff or authorized agents), fishing (general), fishing (guiding and outfitting), fishing (other), hunting (big game), hunting (big-game guiding and outfitting), hunting (other migratory birds), hunting (upland game), hunting (upland game—guiding and outfitting), hunting (waterfowl), hunting (waterfowl—guiding and outfitting), hunting (other), hunting (other—guiding and outfitting), plant gathering, trapping, natural resource collecting, camping, cross-country skiing, dog sledding and ski touring, hiking and backpacking, pets, photography, video, filming, or audio recording (nonwildlife-dependent, recreational—other), snowshoeing, outdoor recreation (other), research, scientific collecting, surveys, fishing (subsistence), gathering (subsistence), trapping (subsistence), subsistence (other), photography (wildlife), wildlife observation, wildlife observation (guiding or outfitting), fixed-wing aircraft, photography, video or filming or audio recording (commercial), photography, video or filming or audio recording (news and education), residential, uses (other).

**Refuge Name:** Togiak National Wildlife Refuge including the Hagemeister Island portion of Alaska Maritime Refuge (Refuge).

### **Establishing and Acquisition Authority(ies)**

Togiak National Wildlife Refuge encompassing approximately 4,788,000 acres, was established on December 2, 1980 when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). Former Cape Newenham Refuge, established January, 1969 was incorporated into the present Togiak National Wildlife Refuge in 1980.

Section 702(10) of ANILCA designated approximately 2,270,000 of Togiak Refuge as the Togiak Wilderness under the Wilderness Act, as amended (16 U.S.C. 1131-1136). The purposes for these lands as wilderness are supplemental to the other purposes of Togiak Refuge.

As part of the Togiak Refuge Comprehensive Conservation Plan revision, the administration of Hagemeister Island was transferred from Alaska Maritime Refuge to Togiak Refuge. Approximately 60,000 acres in size, Hagemeister Island became part of Alaska Maritime Refuge with the passage of ANILCA on December 2, 1980.

### **Refuge Purpose(s)**

Cape Newenham Refuge (now part of Togiak Refuge) was established in 1969 by Public Land Order 4583 "...for the protection of wildlife and their habitat...".

Sections 303(1)(B) and 303(6)(B) of ANILCA set forth the purposes for which Togiak and Alaska Maritime Refuge (including Cape Newenham Refuge) were established and shall be managed, including:

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to,

[Togiak Refuge] salmonids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

[Alaska Maritime Refuge] marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) [Alaska Maritime Refuge] to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) 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.

The Wilderness Act of 1964 (Public Law 88-577) creates additional Refuge purposes for the Togiak Wilderness Area. Designated wilderness areas are to be managed “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as 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, as amended).

#### **Description of Use(s)**

Visitors to the Refuge typically travel by aircraft, snowmachine or boat. Commercial transporters provide services to the public participating in wildlife-dependant recreation and subsistence activities. Although almost all commercial transporting activities on the Refuge are conducted by air-taxi operators (predominantly with amphibious or float-equipped aircraft), permits could be issued for the use of motorboats, snowmobiles, dog-sleds, or other non-motorized surface transportation methods employed for traditional activities.

The use of helicopters or jet powered personal water craft is specifically excluded from this determination.

Commercial transporters currently provide air-taxi service throughout the Refuge. A Refuge special use permit is required for all commercial transporters. The number of air-taxi operators authorized to operate on the Refuge between 2000 and 2008 ranged from 11 to 15. It should also be noted that not all of the permitted businesses actually operate within the Refuge each year. The number of transporters that operated on the Refuge for those years ranged from six to 10, and two permitted businesses accounted for 59% of all trips. Most use occurs from May through October, and the number of commercial transporter trips made to the Refuge fluctuated from 162 to 217 per year between 2001 and 2004. Since the early 1990's, more anglers than hunters used commercial transporters to access the Refuge. The number of hunters using transporters steadily increased from 2001 through 2004 with

some reduction since then as a result of the decreased Mulchatna Caribou herd. The number of permits issued, and the number of clients are not restricted.

Much of the subject use occurs within the approximately 2.4-million-acre Togiak Wilderness Area, which is administered according to the provisions of the Wilderness Act and ANILCA. Although the Wilderness Act prohibits the public use of motor vehicles, motorboats, aircraft, and other forms of mechanical transport, and motorized equipment, ANILCA contains special provisions for Alaska wilderness areas allowing the use of snowmachines, motorboats, airplanes, and non-motorized surface transportation methods for traditional activities, including commercial transporter services. The public use of helicopters, off-highway vehicles, and motorized equipment is not allowed.

This activity (commercial transporter services) occurs throughout the Refuge and supports wildlife-dependent recreational activities. Timing of this activity would primarily be in response to State fishing and hunting seasons.

### Availability of Resources

Adequate refuge personnel and base operational funds are available to manage commercial transporter activities at current and projected levels. Administrative time (20-25 staff days) primarily involves annually issuing permits, ensuring that licenses and certifications are current, collecting client use-day fees, and entering activity data into a database. Field work associated with administering the program primarily involves monitoring the permittee's compliance with the terms of the permits. Approximately \$2500-\$3000 in commercial transporter use fees are collected annually, which are returned to the refuge for use in managing these activities over and above base operational funds.

### Anticipated Impacts of the Use(s)

Because of the Refuge administrative oversight of the activity, comprehensive state and federal regulations (which continually evolve to respond to fisheries and wildlife management needs) and because of combined law-enforcement efforts of state and refuge personnel, direct impacts from commercial transporter services at existing and projected levels should have minimal impacts to fish and wildlife resources, other refuge resources, other refuge users, and wilderness values. Impacts associated with the activities that occur on the refuge as a result of the commercial transporters providing the public access to the refuge are addressed in the respective compatibility determination for each activity.

Because the vast majority of transporters access the refuge by landing on lakes and rivers with float-equipped aircraft, potential impacts to refuge habitats are minimized. A few landings have been made by commercial transporters on vegetated lowland tundra or ridge tops, usually with Piper Super Cubs or other small, light aircraft equipped with tundra tires. Disturbance to vegetation is minimal and short-term unless repeated landings are made in exactly the same location (this practice has not been observed to date). Temporary displacement and/or disturbance to wildlife can occur during take-offs and landings. There are no known long-term impacts to refuge wildlife populations from this disturbance.

Operators providing transportation to the Cape Peirce Wildlife Viewing Area, and Sangor Lake are required to avoid landing in certain locations and at certain time when wildlife disturbances are likely.

The numbers of commercial transporter flights and landings currently occurring within the designated Togiak Wilderness Area do not significantly impact the wilderness character of

the area. Public use opportunities within the Togiak Wilderness Area largely depend upon commercial transporters.

### Public Review and Comment

Draft compatibility determinations were published as a portion of the Draft Revised Comprehensive Conservation Plan, and public review was invited with comments on the plan. The State of Alaska provided several comments on this compatibility determination. The State requested we edit the first sentence of the description of the use and we revised the sentence. The State requested that we clarify that off-road vehicles may be allowed by Service regulations on designated routes and areas or by special use permit and that helicopter landings may be authorized on a case-by-case basis under 43 CFR 36.11(f)(4). We did not make the requested changes as this compatibility determination is for commercially guided transporter services and by terms of their special use permits we do not allow helicopters and off-road vehicles. The State requested we revise the paragraph preceding the list of conditions included in refuge permits. We made the requested change. The State also provided a number of comments on the permit special conditions. The Service's regional permit special conditions are being reviewed in a separate process and comments on them have been forwarded to those working on this task. Comments on regional permit special conditions are not addressed in this compatibility determination and no changes were made to the regional permit special conditions. The State requested the refuge modify the special condition that prohibited fuel caches to allow consideration on a case-by-case basis. The requested change was made.

### Determination

Use is Not Compatible

Use is Compatible

### Stipulations Necessary to Ensure Compatibility

Management direction provided in the revised Comprehensive Conservation Plan for the Refuge, particularly adequate monitoring of commercial transporter activities and other associated public-use activities, will be conducted. Findings from the monitoring efforts will be used to determine what additional management actions, if any, are needed to ensure that commercial transporter activities remain compatible with refuge purposes.

Continuing law-enforcement and administrative monitoring of permittees will be carried out to ensure compliance with stipulations incorporated into all commercial transporter permits.

The conditions listed below are included on Refuge permits issued for commercial transporter services, most of which are intended to minimize impacts and ensure compatibility. Refuge permits may also include other special conditions necessary or appropriate for the specific operations or activities that are proposed.

- Failure to abide by any part of this special-use permit; violation of any refuge-related provision in Titles 43 (Part 36) or Title 50 (subchapters B and C) of the 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 immediate revocation of this permit and could result in denial of future permit requests for lands administered by the U.S. Fish and Wildlife Service. This provision applies to all persons working under the authority of this permit (e.g., assistants). Appeals of decisions relative to permits are handled in accordance with Title 50 Code of Federal Regulations, Part 36.41.

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- A copy of this permit must be in the permittee's possession at all times while exercising the privileges of this permit.
- 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 this permit.
- Any problem with wildlife and/or animals taken in defense of life or property must be reported immediately to the refuge manager and to the Alaska Department of Fish and Game; any animal taken in defense of life or property must be salvaged in accordance with state regulations.
- The use of Native or state lands that have been conveyed (patented) is not authorized by this permit.
- This permit may be canceled or revised at any time by the refuge manager in case of emergency (e.g., high fire danger, flooding, unusual resource problems).
- Prior to beginning any activities allowed by this permit, the permittee shall provide the refuge manager with the following: (1) name and method of contact for the field party chief or supervisor and (2) any changes in information provided in the original permit application.
- Prior to beginning any activities allowed by this permit, the permittee shall provide the refuge manager with the following: (1) proof of appropriate aviation passenger liability (\$150,000 per seat plus \$100,000 property damage), marine liability, and/or comprehensive general liability insurance covering all aspects of operations throughout the annual use period; (2) aircraft and other vehicle types to be used, with identification information, if different from those described in the permit application; (3) changes in names of pilots; and (4) any other changes in information provided in the operations plan.
- In accordance with the Archaeological Resources Protection Act (16 USC 470aa), the excavation, disturbance, collection, or purchase of historical, recent, ethnological, or archaeological specimens or artifacts is prohibited.
- All noncombustible waste materials must be removed from the refuge (not buried) upon the permittee's and/or clients' departure. The permittee is responsible for removal of clients' garbage.
- The construction or clearing of landing strips or pads is prohibited. Incidental hand removal of rocks and other minor obstructions may be permitted.
- 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 take off and landing, maintain a minimum altitude of 2,000 feet above ground level.
- The use of helicopters is prohibited.
- All aircraft being used in a commercial operation must have 12-inch identification numbers in contrasting colors that are readily visible.
- Failure to report the actual number of client-use days per type of authorized activity by December 31 of the permit calendar year and to pay the Service's established fees (client-

- use day) within 30 days after receiving a bill for collection will be grounds for denial of future permits.
- Motorboat operators must possess a U.S. Coast Guard (USCG) license for all passenger-carrying operations, if required by USCG regulations.
  - Any action by a permittee or the permittee's employees that unduly interferes with or harasses other refuge visitors or impedes access to any site is strictly prohibited. Examples of prohibited acts include flights over camps or persons at less than 500 feet altitude (unless landing) and parking aircraft or placing other objects (rocks, tents, etc.) on any landable area to restrict use by other aircraft or persons.
  - This permit authorizes use of the Native-selected lands identified in the description block of this permit. If any of these Native-selected lands are conveyed during the term of this permit, the permittee will no longer be authorized to use those lands until and unless permission is obtained from the Native entity to which land ownership has been conveyed.
  - Commercial operators who transport persons by air for compensation or hire must comply with all Federal Aviation Administration regulatory requirements for air carriers and commercial operators.
  - The permittee and permittee's clients do not have the exclusive use of the site(s) or lands covered by this permit.

### Justification

Commercial transporting is a traditional activity that Congress intended to preserve when it established the Refuge with the enactment of ANILCA. Commercial transporter services provide the public with safe access for the wildlife-dependent priority public uses of hunting, fishing, wildlife observation, wildlife photography, and environmental education. These are activities that the National Wildlife Refuge System Improvement Act of 1997 (§ 5) identifies as priority public uses. Commercial transporter services are necessary to a segment of the public that does not have other means of access to the extremely remote environment of these Refuge. After fully considering the impacts of this activity, as described previously in the Anticipated Impacts section of this compatibility determination, it is my determination that commercial transporter services contribute to the achievement of the purposes of the Refuge and the mission of the National Wildlife Refuge System, and are necessary for realizing the recreational purposes of the Togiak Wilderness Area.

### Supporting Documents

U.S. Fish and Wildlife Service. 1986. Togiak National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service. Anchorage, Alaska. 514 pp.

U.S. Fish and Wildlife Service. 1988. Alaska Maritime National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service. Anchorage, Alaska.

U.S. Fish and Wildlife Service. 1991. Togiak National Wildlife Refuge, Final Public Use Management Plan and Environmental Assessment. U.S. Fish and Wildlife Service. Anchorage, Alaska. 244 pp.



**COMPATIBILITY DETERMINATION**

**Use:** Native Allotment Surveys

**Supporting Uses:** Boating (motorized), hiking and backpacking, photography, video, filming, scientific collecting, photography (wildlife), wildlife observation, fixed-wing aircraft, helicopter.

**Refuge Name:** Togiak National Wildlife Refuge including the Hagemeister Island portion of Alaska Maritime Refuge (Refuge).

**Establishing and Acquisition Authority(ies)**

Togiak National Wildlife Refuge encompassing approximately 4,899,000 acres, was established on December 2, 1980 when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). Former Cape Newenham Refuge, established January, 1969 was incorporated into the present Togiak National Wildlife Refuge in 1980.

Section 702(10) of ANILCA designated approximately 2,373,000 of Togiak Refuge as the Togiak Wilderness under the Wilderness Act, as amended (16 U.S.C. 1131-1136). The purposes for these lands as wilderness are supplemental to the other purposes of Togiak Refuge.

As part of the Togiak Refuge Comprehensive Conservation Plan revision, the administration of Hagemeister Island was transferred from Alaska Maritime Refuge to Togiak Refuge. Approximately 74,000 acres in size, Hagemeister Island became part of Alaska Maritime Refuge with the passage of ANILCA on December 2, 1980.

**Refuge Purpose(s)**

Cape Newenham Refuge (now part of Togiak Refuge) was established in 1969 by Public Land Order 4583 "...for the protection of wildlife and their habitat...".

Sections 303(1)(B) and 303(6)(B) of ANILCA set forth the purposes for which Togiak and Alaska Maritime Refuge (including Cape Newenham Refuge) were established and shall be managed, including:

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to,

[Togiak Refuge] salmonids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

[Alaska Maritime Refuge] marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) [Alaska Maritime Refuge] to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

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(v) 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.

The Wilderness Act of 1964 (Public Law 88-577) creates additional Refuge purposes for the Togiak Wilderness Area. Designated wilderness areas are to be managed “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as 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, as amended).

### **Description of Use(s)**

This compatibility determination addresses the range of activities associated with the survey of Native allotments granted under the Alaska Native Allotment Act of 1906 and the 1998 amendments to ANCSA that authorized certain Alaska Native Vietnam veterans to secure allotments. There are approximately 320 Native allotments within the Refuge. Of these, approximately 26 allotments still require final conveyance. BLM representatives or their contractors conduct the survey of allotments. Transportation to the sites is generally provided by floatplane or boat. In a few cases remote allotments are not accessible via those means and would require days to access by foot, or winter access via snowmachine. In those cases, access via helicopter is considered although authorizations for the use of helicopters in the Togiak Wilderness Area are subject to a minimum requirements analysis. Surveys require from one to several hours to complete depending on the site and individual characteristics of the survey. It is anticipated that BLM will require from two to five days per year to conduct allotment surveys until the project is complete.

### **Availability of Resources**

Adequate refuge personnel and base operational funds are available to manage research activities at existing (generally no more than one requests per year) and projected levels. Administrative staff time (not more than two days) primarily involves phone conversations, written correspondence, and permit issuance. Field work associated with administering the program primarily involves monitoring compliance with the terms of the permit.

### **Anticipated Impacts of the Use(s)**

Factors such as transportation modes, number and type of aircraft and anticipated amount of aircraft use, fuel storage, and location of access points will determine the extent of impacts on the Refuge. However, allotment surveys and associated activities should not have significant impacts on the wildlife resources, other refuge resources (e.g., water quality, soil, and vegetation), and other refuge users, especially subsistence users, because of the limited scope, special use permit stipulations, and the complete administrative oversight.

## Public Review and Comment

Draft compatibility determinations were published as a portion of the Draft Revised Comprehensive Conservation Plan, and public review was invited with comments on the plan. The State of Alaska provided several comments on this compatibility determination. The State requested that we clarify that off-road vehicles may be allowed by Service regulations on designated routes and areas or by special use permit. We did not make the requested changes as this compatibility determination is for native allotment surveys and by terms of their special use permits we do not allow off-road vehicles for this use. The State requested we revise the paragraph preceding the list of conditions included in refuge permits. We made the requested change. The State also provided a number of comments on the permit special conditions. The Service's regional permit special conditions are being reviewed in a separate process and comments on them have been forwarded to those working on this task. Comments on regional permit special conditions are not addressed in this compatibility determination and no changes were made to the regional permit special conditions. State requested the refuge modify the special condition that prohibited fuel caches to allow consideration on a case-by-case basis. The requested change was made.

## Determination

Use is Not Compatible

Use is Compatible

## Stipulations Necessary to Ensure Compatibility

Refuge staff will monitor all allotment surveys being conducted on the Refuge. Findings from these monitoring efforts will be used to determine what additional management actions, if any, are needed to ensure that activities remain compatible with refuge purposes. Permits will incorporate stipulations to minimize impacts on refuge lands and resources.

The conditions listed below are included on Refuge permits issued for Native Allotment surveys, most of which are intended to minimize impacts and ensure compatibility. Refuge permits may also include other special conditions necessary or appropriate for the specific operations or activities that are proposed.

- 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. Appeals of decisions relative to permits are handled in accordance with Title 50 Code of Federal Regulations Part 36.41.
- 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 this permit.
- 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 this permit.
- Any problems with wildlife and/or animals taken in defense of life or property must be reported immediately to the refuge manager and to the Alaska Department of Fish and

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Game; animals taken in defense of life or property must be salvaged in accordance with state regulations.

- The permittee does not have the exclusive use of the site(s) or lands covered by this permit.
- The use of Native or state lands that have been conveyed (patented) is not authorized by this permit.
- Use of Native or state lands that have been selected but not yet conveyed is prohibited unless a letter of concurrence from the interested party is submitted to the refuge manager prior to beginning any activities allowed by this permit.
- This permit may be canceled or revised at any time by the refuge manager in case of emergency (e.g., high fire danger, flooding, unusual resource problems etc.).
- The permittee or party chief shall notify the refuge manager during refuge working hours in person or by telephone before beginning and upon completion of activities allowed by this permit.
- Prior to beginning any activities allowed by this permit, the permittee shall provide the refuge manager with the following: (1) name and method of contact for the field party chief or supervisor; aircraft and other vehicle types to be used, identification information for these vehicles; and names of assistants (2) any changes in information provided in the original permit application.
- The refuge manager, upon request, shall be afforded the opportunity and logistical support to accompany the permittee from the nearest commercial transportation site 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.
- The permittee shall provide the refuge manager with a report of activities under this permit within 30 days of permit expiration.
- In accordance with the Archaeological Resources Protection Act (16 USC 470aa), the excavation, disturbance, collection, or purchase of historical, recent, ethnological, or archaeological specimens or artifacts is prohibited.
- Permittees shall maintain their use areas in a neat and sanitary condition. Latrines must be located at least 150 feet from springs, lakes, and streams to avoid contamination of water resources. All property (except cabins and/or tent frames) of the permittee must be removed from refuge lands upon completion of permitted activities.
- All noncombustible waste materials must be removed from the refuge (not buried) upon the permittee's departure.
- The construction of landing strips or pads is prohibited. Incidental hand removal of rocks and other minor obstructions may be permitted.
- The use of off-road vehicles (except snow machines) is prohibited except in designated areas.



**COMPATIBILITY DETERMINATION**

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

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

**Refuge Name:** Togiak National Wildlife Refuge including the Hagemeister Island portion of Alaska Maritime Refuge (Refuge).

**Establishing and Acquisition Authority(ies)**

Togiak National Wildlife Refuge encompassing approximately 4,899,000 acres, was established on December 2, 1980 when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). Former Cape Newenham Refuge, established January, 1969 was incorporated into the present Togiak National Wildlife Refuge in 1980.

Section 702(10) of ANILCA designated approximately 2,373,000 of Togiak Refuge as the Togiak Wilderness under the Wilderness Act, as amended (16 U.S.C. 1131-1136). The purposes for these lands as wilderness are supplemental to the other purposes of Togiak Refuge.

As part of the Togiak Refuge Comprehensive Conservation Plan revision, the administration of Hagemeister Island was transferred from Alaska Maritime Refuge to Togiak Refuge. Approximately 74,000 acres in size, Hagemeister Island became part of Alaska Maritime Refuge with the passage of ANILCA on December 2, 1980.

**Refuge Purpose(s)**

Cape Newenham Refuge (now part of Togiak Refuge) was established in 1969 by Public Land Order 4583 "...for the protection of wildlife and their habitat...".

Sections 303(1)(B) and 303(6)(B) of ANILCA set forth the purposes for which Togiak and Alaska Maritime Refuges (including Cape Newenham Refuge) were established and shall be managed, including:

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to,

[Togiak Refuge] salmonids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

[Alaska Maritime Refuge] marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) [Alaska Maritime Refuge] to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) 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.

The Wilderness Act of 1964 (Public Law 88-577) creates additional Refuge purposes for the Togiak Wilderness Area. Designated wilderness areas are to be managed “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as 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, as amended).

**Description of Use(s)**

The Refuge anticipate requests to rebury human remains eroding from recorded and unrecorded prehistoric sites and remains that have been removed from prehistoric sites. The Inadvertent Discovery section (§ 3][d]) of the Native American Graves Protection and Repatriation Act of 1990 (Public Law 101-601) requires that the land management agency identify and notify the closest Native group and then, if requested, provide for the repatriation of the remains.

With this in mind, we have prepared this compatibility determination to cover an expected one to three reburial requests annually for the next 10 years. Each proposed burial and its proposed reburial location would need to be approved by the Regional Historic Preservation Officer, who will ensure compliance with the National Historic Preservation Act (§106) prior to issuance of a permit.

It is anticipated that the majority of reburial sites would be accessible by boat, which would be the mode of access for this activity. Other forms of requested access that do not use traditional means of access would be reviewed on a case by case basis using existing policy and other guidance as appropriate.

**Availability of Resources**

Except for issuance of the permit, no refuge resources are needed to administer use. All activities associated with use will be accomplished by the permittee.

**Anticipated Impacts of the Use(s)**

This project will result in minimal and short-term impacts to refuge resources, involving a few small-scale excavations with hand tools and then reburial. Reburial of repatriated human remains would take place near the place of discovery of such remains and/or near their original burial place. Each burial would involve a small excavation with hand tools.

Impacts to refuge resources would be negligible and short-term, with no foreseeable long-term effects, and would not affect subsistence use of the refuge. A copy of the Global Positioning System (GPS) coordinates and contents of the burial site will be filed at the Refuge headquarters and with the Regional Historic Preservation Officer. The remains should be buried with a modern object (e.g., coin, button—with date) to indicate it is a historical reburial.

**Public Review and Comment**

Draft compatibility determinations were published as a portion of the Draft Revised Comprehensive Conservation Plan, and public review was invited with comments on the plan. The State of Alaska provided several comments on this compatibility determination. The State requested that we clarify that off-road vehicles may be allowed by Service regulations on designated routes and areas or by special use permit. We did not make the requested changes as this compatibility determination is for native allotment surveys and by terms of their special use permits we do not allow off-road vehicles for this use. The State requested we revise the paragraph preceding the list of conditions included in refuge permits. We made the requested change. The State also provided a number of comments on the permit special conditions. The Service’s regional permit special conditions are being reviewed in a separate process and comments on them have been forwarded to those working on this task. Comments on regional permit special conditions are not addressed in this compatibility determination and no changes were made to the regional permit special conditions.

**Determination**

Use is Not Compatible

Use is Compatible

**Stipulations Necessary to Ensure Compatibility**

The following stipulations will be made part of a special-use permit for Reburial of Archaeological Human Remains per State and Federal Guidelines.

The conditions listed below are included on Refuge permits issued for reburial of archaeological human remains per State and Federal guidelines, most of which 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.

- Failure to abide by any part of the special-use permit for this activity; violation of any refuge-related provision in Titles 43 (Part 36) or 50 (subchapters 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 immediate revocation of the permit and could result in denial of future permit requests for lands administered by the U.S. Fish and Wildlife Service. This provision applies to all persons working under the authority of this permit (e.g., assistants). Appeals of decisions relative to permits are handled in accordance with Title 50 Code of Federal Regulations Part 36.41.
- 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.

- Reburial of repatriated human remains will take place near the place of discovery of such remains and/or near their original burial place.
- The permittee or permittees representatives will make the smallest possible excavation, using only hand tools
- The Global Positioning System (GPS) coordinates and contents of the burial site will be filed at the Refuge headquarters and with the Regional Historic Preservation Officer.
- Remains shall be buried with a modern object (e.g., coin, button, etc.—with date) to indicate that it is a historical reburial.
- Any problem with wildlife and/or animals taken in defense of life or property must be reported immediately to the refuge manager and the Alaska Department of Fish and Game; animals taken in defense of life or property must be salvaged in accordance with state regulations.
- The use of Native or state lands that have been selected but not yet conveyed is prohibited unless a letter of concurrence from the interested party is submitted to the refuge manager prior to beginning any activities allowed by the permit.
- The permittee shall notify the refuge manager during refuge working hours in person or by telephone before beginning and upon completion of activities allowed by the permit.
- Prior to beginning any activities allowed by this permit, the permittee shall provide the refuge manager with the following: (1) name and method of contact for the field party chief or supervisor; (2) aircraft and other vehicle types to be used, with identification information.
- The refuge manager, 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.
- 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 take off and landing, maintain a minimum altitude of 2,000 feet above ground level.
- A copy of this permit must be in the permittee's possession at all times while exercising the privileges of this permit.
- The permittee shall provide the refuge manager with a report of activities under this permit within 30 days of permit expiration.

### **Justification**

The proposed use is limited and short-term and thus will result in minimal impact to refuge resources. This use is necessary for the Refuge to comply with the Native American Graves Protection and Repatriation Act of 1990 (Public Law 101-601). It will not interfere with or detract from the National Wildlife Refuge System mission or the purposes of the Refuge.



## COMPATIBILITY DETERMINATION

**Use:** Recreational Fishing (wildlife-dependent recreation)

**Supporting Uses:** Boating (human-powered), boating (motorized), hunting (big game), hunting (other migratory birds), hunting (upland game), hunting (waterfowl), hunting (other), plant gathering, trapping, natural resource collecting, camping, hiking and backpacking, pets, photography, video, filming, audio recording (nonwildlife-dependent, recreational—other), outdoor recreation (other), photography (wildlife), wildlife observation, fixed-wing aircraft

**Refuge Name:** Togiak National Wildlife Refuge including the Hagemeister Island portion of Alaska Maritime Refuge (Refuge).

### **Establishing and Acquisition Authority(ies)**

Togiak National Wildlife Refuge encompassing approximately 4,899,000 acres, was established on December 2, 1980 when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). Former Cape Newenham Refuge, established January, 1969 was incorporated into the present Togiak National Wildlife Refuge in 1980.

Section 702(10) of ANILCA designated approximately 2,373,000 of Togiak Refuge as the Togiak Wilderness under the Wilderness Act, as amended (16 U.S.C. 1131-1136). The purposes for these lands as wilderness are supplemental to the other purposes of Togiak Refuge.

As part of the Togiak Refuge Comprehensive Conservation Plan revision, the administration of Hagemeister Island was transferred from Alaska Maritime Refuge to Togiak Refuge. Approximately 74,000 acres in size, Hagemeister Island became part of Alaska Maritime Refuge with the passage of ANILCA on December 2, 1980.

### **Refuge Purpose(s)**

Cape Newenham Refuge (now part of Togiak Refuge) was established in 1969 by Public Land Order 4583 "...for the protection of wildlife and their habitat...".

Sections 303(1)(B) and 303(6)(B) of ANILCA set forth the purposes for which Togiak and Alaska Maritime Refuge (including Cape Newenham Refuge) were established and shall be managed, including:

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to,

[Togiak Refuge] salmonids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

[Alaska Maritime Refuge] marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) [Alaska Maritime Refuge] to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) 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.

The Wilderness Act of 1964 (Public Law 88-577) creates additional Refuge purposes for the Togiak Wilderness Area. Designated wilderness areas are to be managed “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as 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, as amended).

### **Description of Use(s)**

Recreational fishing is an existing wildlife-dependent priority public use identified through the National Wildlife Refuge System Administration Act of 1997, as amended (§5C). This use is generally encouraged and receives emphasis in management of public use of the Refuge.

Recreational fishing occurs throughout the summer months. From June through September, anglers primarily target Chinook and coho salmon as well as rainbow and Dolly Varden trout throughout Togiak Refuge. Other species include chum, pink and sockeye salmon, grayling, northern pike, and lake trout. Very little, if any, recreational fishing occurs at other times of the year. All methods and means of recreational fishing are regulated by the Alaska Board of Fisheries and the Alaska Department of Fish and Game (ADF&G).

The most popular destinations for unguided anglers are the Kanektok, Goodnews, Togiak, Kulukak and Arolik Rivers. Anglers use a variety of watercraft including motorboats, rafts, kayaks, and canoes. Access for fishing by unguided anglers generally involves flying into a headwater lake and floating down or by using motor boats to go up rivers from local villages. Other activities associated with sport fishing include camping, hiking and backpacking, cutting of dead and downed wood for campfires, and the use of latrines or cat-holes for human waste disposal.

Much of the subject use occurs within the boundaries of the approximately 2.4-million-acre Togiak Wilderness Area, which is administered according to the provisions of the Wilderness Act and ANILCA. Although the Wilderness Act prohibits the public use of motor vehicles, motorboats, aircraft, and other forms of mechanical transport, and motorized equipment, ANILCA contains special provisions for Alaska wilderness areas allowing the use of snowmachines, motorboats, airplanes, and non-motorized surface transportation methods for traditional activities, including recreational fishing. The public use of helicopters, off-highway vehicles, and motorized equipment is not allowed.

Access to waters within the Refuge is most commonly either by boat or airplane. The majority of motorized recreational access is through commercial guides and transporters which are not considered as part of this compatibility determination. The use of helicopters, off-highway vehicles, or jet powered personal water craft is specifically excluded from this determination.

Total recreational fishing effort (guided and unguided) averaged an estimated 16,644 angler days for the period 1999-2003 (ADFG estimate). Angler use days and harvest are calculated for all waters within the region, and not just waters within the refuge. The average annual sport harvest during that time was 6,078 salmon and 2,182 of all other species. The primary species being harvested are coho and Chinook salmon, and Dolly Varden

A detailed description of sport fishing activities is provided in the Togiak Refuge Draft Comprehensive Conservation Plan.

### Availability of Resources

Adequate refuge personnel and base operational funds are available to manage recreational use of Refuge lands and the Togiak Wilderness Area at existing levels (300-400 staff days). Togiak Refuge anticipates that personnel and base operational funds will be available to meet the demands of maintaining compatibility as visitation increases over the next 10-15 years. Management primarily includes: conducting fish and wildlife studies and surveys specifically for the management of healthy fish and wildlife populations; conducting public use surveys specifically for the management of high quality recreational experiences including outstanding opportunities for wilderness solitude; administering the refuge special use permit program; continuing the refuge River Ranger program to monitor resource conditions, educate the public, and increase compliance with State and Federal regulations; providing information as part of the regulatory development process with the State Boards of Fish and Game; and assisting with the enforcement of Alaska sport fishing regulations and other Federal regulations.

### Anticipated Impacts of the Use(s)

Recreational fishing and associated activities are concentrated at headwater lakes and along river corridors during the summer months. There is no evidence to suggest long-term impacts to wildlife due to human disturbance occur within the Refuge. Short-term impacts such as displacement and avoidance due to sport fishing activities are isolated and have little impact on fish or wildlife populations. Camping occurs primarily on durable gravel bars, where impacts to vegetation are negligible.

Maintaining natural diversity and historic age and size composition of rainbow trout populations are goals outlined in the 1990 Togiak Refuge fisheries management plan and 1990 ADF&G Southwest Alaska rainbow trout management plan. The Alaska Board of Fisheries implemented fishing harvest methods and limit restrictions in 1985, 1990, and 1998, but it is too early to detect any effect these changes may have. Biologists will continue to evaluate the effect of subsistence and sport fishing upon rainbow trout and other fish populations and make management recommendations to the Federal Subsistence Board and State Board of Fisheries.

Increased sport fishing within the Refuge has the potential to negatively impact subsistence opportunities, wilderness character, and the quality of recreational experiences. Impacts concerning the Refuge purpose—"to provide, in a manner consistent with the other refuge

purposes, the opportunity for continued subsistence uses by local residents”—has been and must continue to be carefully addressed. An issue continually expressed by local subsistence users is conflict with recreational anglers. Sometimes this issue is more closely related to the opportunity to gather, hunt, and fish in preferred ways and at preferred places and times than with the availability of populations of fish, animals, and plants.

Monitoring of visitor use through the River Ranger program, of visitor satisfaction through angler surveys, and local resident satisfaction through interviews indicate current conditions are acceptable and are not adversely affecting the wilderness character of the area. This information also suggests if visitation increases noticeably, unacceptable crowding and conflicts between user groups are likely. Togiak Refuge will continue to actively manage angler visitation through the River Ranger program, refuge outreach and education, and special use permits to insure continued compatibility with refuge purposes.

The outhouses at Kagati Lake and Goodnews Lake, and the monitoring of public uses will mitigate various impacts near these lakes. Increased public education and monitoring will mitigate potentially negative bear-human interactions. Stipulations listed below will further mitigate impacts to subsistence opportunity and wilderness solitude.

### **Public Review and Comment**

Draft compatibility determinations were published as a portion of the Draft Revised Comprehensive Conservation Plan, and public review was invited with comments on the plan. The State of Alaska provided several comments on this compatibility determination. The State requested that we modify our statement concerning possible changes in the size and age structure of rainbow trout to show that it was not a conclusive finding. The sentence was deleted. The State requested that we clarify that off-road vehicles may be allowed by Service regulations on designated routes and areas or by special use permit. We did not make the requested changes as this compatibility determination is for recreational fishing. The plan does not allow recreational use of helicopters. There are no designated routes for ORVs and the use of ORVs by special use permit is not covered under this compatibility determination. The State requested we revise wording about access to the refuge in the description of use section. The requested changes were made. The State of Alaska asked us to clarify that ADF&G angler use days and harvest are calculated for all waters within the region, not just waters within the refuge. We added the clarification requested.

### **Determination**

Use is Not Compatible

Use is Compatible

### **Stipulations Necessary to Ensure Compatibility**

The Togiak Refuge Comprehensive Conservation Plan provides direction for current and future fishery, wildlife and public use monitoring efforts. Findings from these monitoring efforts will be used to determine what additional management actions, if any, are needed to ensure sport fishing activities remain compatible with refuge purposes. To minimize impacts on refuge lands and resources, law enforcement patrols will routinely be conducted in an effort to maximize compliance with Refuge policies, rules, and/or regulations.

**Justification**

All refuge lands in the Togiak Refuge and the Hagemeister Island portion of Alaska Maritime Refuge are open to general public access unless specifically closed. The National Wildlife Refuge System Administration Act of 1997, as amended (§5C), identifies the priority public uses of the System as wildlife-dependent recreation, defined as uses of a refuge involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation. These uses are generally encouraged and receive emphasis in management of public use of the Refuge. Togiak Refuge has consistently taken actions to insure subsistence opportunity and to preserve the wilderness character of the Togiak Wilderness Area. Stipulations in this compatibility determination will assist in meeting the Refuge goals and to fulfill the purposes of the Togiak Refuge and the mission of the National Wildlife Refuge System.

Over the past 35-plus years, means of access—including airplanes, motorboats, and snowmachines—for traditional activities, as provided by ANILCA and as currently regulated by the Service, have not materially interfered with or detracted from refuge purposes. Should motorized transportation grow to levels where it interferes with refuge purposes, steps would be taken to maintain compatibility.

Recreational fishing is a form of traditional activity that Congress intended to preserve when the Refuge were established by ANILCA. As previously stated, recreational fishing on the Refuge provides the public with high-quality, safe, and unique recreational fishing opportunities found in few places in the world. To reduce impacts to fishery resources and to provide the continued opportunity for subsistence uses of these species by local residents, both the Federal Subsistence Board and Alaska Board of Fisheries regularly adopt regulations in response to fish population levels and management needs. These regulations currently provide adequate protection for the Refuge fishery resources, continued subsistence opportunities, and other refuge purposes. After fully considering the impacts of this activity, as described previously in the “Anticipated Impacts” section of this Compatibility Determination, it is my determination that recreational fishing activities on the Refuge do not materially interfere with or detract from the purposes of the refuge or the mission of the National Wildlife Refuge System. These activities will remain compatible with the implementation of the compatibility stipulations.

**Supporting Documents**

U.S. Fish and Wildlife Service. 1986. Togiak National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service. Anchorage, Alaska. 514 pp.

U.S. Fish and Wildlife Service. 1988. Alaska Maritime National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service. Anchorage, Alaska.

U.S. Fish and Wildlife Service. 1991. Togiak National Wildlife Refuge, Final Public Use Management Plan and Environmental Assessment. U.S. Fish and Wildlife Service. Anchorage, Alaska. 244 pp.

USFWS. 1990 “Final Fishery Management Plan, Togiak National Wildlife Refuge.” U.S. Fish and Wildlife Service, Region 7, Alaska.



## COMPATIBILITY DETERMINATION

**Use:** Recreational Hunting (wildlife-dependent recreation)

**Supporting Uses:** Boating (electric and wind-driven), boating (human-powered), boating (motorized), fishing (general), fishing (other), plant gathering, rock collecting, trapping, natural resource collecting, camping, dog training (including field trials), hiking and backpacking, pets, photography, video, filming, audio recording (nonwildlife-dependent, recreational—other), swimming and beach use, outdoor recreation (other), photography (wildlife), wildlife observation, fixed-wing aircraft

**Refuge Name:** Togiak National Wildlife Refuge including the Hagemeister Island portion of Alaska Maritime Refuge (Refuge).

### **Establishing and Acquisition Authority(ies)**

Togiak National Wildlife Refuge encompassing approximately 4,899,000 acres, was established on December 2, 1980 when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). Former Cape Newenham Refuge, established January, 1969 was incorporated into the present Togiak National Wildlife Refuge in 1980.

Section 702(10) of ANILCA designated approximately 2,373,000 of Togiak Refuge as the Togiak Wilderness under the Wilderness Act, as amended (16 U.S.C. 1131-1136). The purposes for these lands as wilderness are supplemental to the other purposes of Togiak Refuge.

As part of the Togiak Refuge Comprehensive Conservation Plan revision, the administration of Hagemeister Island was transferred from Alaska Maritime Refuge to Togiak Refuge. Approximately 74,000 acres in size, Hagemeister Island became part of Alaska Maritime Refuge with the passage of ANILCA on December 2, 1980.

### **Refuge Purpose(s)**

Cape Newenham Refuge (now part of Togiak Refuge) was established in 1969 by Public Land Order 4583 "...for the protection of wildlife and their habitat...".

Sections 303(1)(B) and 303(6)(B) of ANILCA set forth the purposes for which Togiak and Alaska Maritime Refuges (including Cape Newenham Refuge) were established and shall be managed, including:

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to,

[Togiak Refuge] salmonids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

[Alaska Maritime Refuge] marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) [Alaska Maritime Refuge] to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) 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.

The Wilderness Act of 1964 (Public Law 88-577) creates additional Refuge purposes for the Togiak Wilderness Area. Designated wilderness areas are to be managed “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as 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, as amended).

### **Description of Use(s)**

During hunting seasons a variety of wildlife are pursued which primarily include waterfowl, upland game birds, brown bear, caribou, and furbearers. All methods and means of recreational hunting are regulated by the Alaska Board of Game and the Alaska Department of Fish and Game (ADF&G).

Hunters use snowmobiles, airplanes and a variety of watercraft including motorboats and rafts to access the refuge. Activities such as camping, backpacking, hiking, and other incidental uses are associated with recreational hunting and trapping activities.

Much of the subject use occurs within the approximately 2.4-million-acre Togiak Wilderness Area, which is administered according to the provisions of the Wilderness Act and ANILCA. Although the Wilderness Act prohibits the public use of motor vehicles, motorboats, aircraft, and other forms of mechanical transport, and motorized equipment, ANILCA contains special provisions for Alaska wilderness areas allowing the use of snowmachines, motorboats, airplanes, and non-motorized surface transportation methods for traditional activities, including recreational hunting. The public use of helicopters, off-highway vehicles, and motorized equipment is not allowed.

The majority of motorized recreational access to the Refuge is through commercial guides and transporters, which are not considered as part of this compatibility determination. The use of helicopters or jet powered personal water craft is specifically excluded from this determination.

A detailed description of recreational hunting activities throughout Togiak Refuge is provided in the Togiak Refuge Draft Comprehensive Conservation Plan.

**Availability of Resources**

Adequate refuge personnel and base operational funds are available to manage recreational use of Refuge lands and the Togiak Wilderness Area at existing and projected levels. Administrative staff time (20-30 staff days) involves phone conversations, written correspondence, personal interaction with visitors at the visitor center, and entering activity data into a database for analysis. Field work associated with administering the activity primarily involves conducting law-enforcement patrols (as many as 20 staff days) via aircraft and boat to increase recreational hunters' compliance with state and Federal regulations and to foster respect for local residents' activities and property.

**Anticipated Impacts of the Use(s)**

The estimated harvest of wildlife resources on the Refuge is well within the limits established in various Alaska Department of Fish and Game management plans. Past impact evaluations and studies have focused primarily on impacts to the brown bear, moose, and caribou populations.

Increased recreational hunting has the potential to negatively impact subsistence opportunity, wilderness character and the quality of recreational experiences. Participation in recreational hunting has remained very low compared with other wildlife dependant activities, and does not typically coincide with peak periods of recreational fishing. Recreational hunting for caribou, the main target species, increased significantly on the refuge from the mid 1990's through about 2004 as the Mulchatna Caribou Herd expanded its range westward. By 2005 this herd had declined significantly and successful hunting opportunities, and correspondingly the number of hunters, on the refuge were much reduced. The moose population in Game Management Unit 17A (mainly the Togiak River Valley) continues to increase and it is expected that non-subsistence hunting opportunities in this area will be made available by 2010. No formal monitoring of visitor satisfaction for recreational hunting is conducted by the refuge. Recreational hunting activities may, in some cases, result in competition for limited resources such as preferred campsites or use areas, or in interference with subsistence users and/or other refuge users. This has been most evident at several mountain lakes within the wilderness area where concentrations of caribou have led to a corresponding concentration of hunters. Both the Federal Subsistence Board and the Alaska Board of Game regularly adopt regulations in response to wildlife population levels and management needs to reduce impacts to wildlife resources and to support opportunities for continued subsistence uses by local residents. Numerous regulation changes have been made by these boards in recent years to address the Refuge wildlife resource management needs.

Impacts related the Refuge purpose, "to provide, in a manner consistent with the other refuge purposes, the opportunity for continued subsistence uses by local residents," has been and must continue to be carefully addressed.

State and Federal regulations continually evolve and respond to wildlife management needs. Regulations, combined with law-enforcement efforts of state and refuge personnel, minimize impacts of recreational hunting to wildlife resources, other refuge resources, other refuge users, and wilderness values. Togiak Refuge will continue to actively manage visitation through the River Ranger program, and refuge outreach and education. Togiak Refuge will continue to work with ADF&G in monitoring biological changes and potential impacts.

## **Public Review and Comment**

Draft compatibility determinations were published as a portion of the Draft Revised Comprehensive Conservation Plan, and public review was invited with comments on the plan. The State of Alaska provided several comments on this compatibility determination. The State requested that we clarify that off-road vehicles may be allowed by Service regulations on designated routes and areas or by special use permit. We did not make the requested changes as this compatibility determination is for recreational hunting. The plan does not allow recreational use of helicopters. There are no designated routes for ORVs and the use of ORVs by special use permit is not covered under this compatibility determination. The State requested we change the phrase “sport hunting” to “recreational hunting” and we made the requested change.

## **Determination**

Use is Not Compatible

Use is Compatible

## **Stipulations Necessary to Ensure Compatibility**

The Togiak Refuge Comprehensive Conservation Plan provides direction for current and future fishery, wildlife and public use monitoring efforts. Findings from these monitoring efforts will be used to determine what additional management actions, if any, are needed to ensure recreational hunting activities remain compatible with refuge purposes. To minimize impacts on refuge lands and resources, law enforcement patrols will routinely be conducted in an effort to maximize compliance with Refuge policies, rules, and/or regulations.

## **Justification**

All refuge lands in the Togiak Refuge and the Hagemester Island portion of Alaska Maritime Refuge are open to general public access unless specifically closed. The National Wildlife Refuge System Administration Act of 1997, as amended (§5C), identifies the priority public uses of the System as wildlife-dependent recreation, defined as uses of a refuge involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation. These uses are generally encouraged and receive emphasis in management of public use of the Refuge. Togiak Refuge has consistently taken actions to insure subsistence opportunity and maintain outstanding opportunities for wilderness naturalness and solitude.

Over the past 25-plus years, means of access—including airplanes, motorboats, and snowmachines—for traditional activities, as provided by ANILCA and as currently regulated by the Service, have not materially interfered with or detracted from refuge purposes. Should motorized transportation grow to levels where it interferes with refuge purposes, steps would be taken to maintain compatibility.

Recreational hunting is a form of traditional activity that Congress intended to preserve with the enactment of ANILCA, which established the refuge. As stated previously, recreational hunting on the Refuge provides the public with quality, safe, and exceptional hunting opportunities found few places elsewhere in the world. In response to wildlife population levels and management needs, both the Federal Subsistence Board and the Alaska Board of Game regularly modify regulations to reduce impacts to wildlife resources and to provide the continued opportunity to pursue a subsistence lifestyle. After fully considering the impacts of this activity as described previously in the “Anticipated Impacts” section of this compatibility determination, it is my determination that



**NEPA Compliance for Refuge Use Decision**

- Categorical Exclusion without Environmental Action Memorandum
- Categorical Exclusions and Environmental Action Memorandum
- Environmental Assessment and Finding of No Significant Impact
- Environmental Impact Statement and Record of Decision

**COMPATIBILITY DETERMINATION**

**Use:** Scientific Research

**Supporting Uses:** Boating (human-powered), boating (motorized), environmental education (not conducted by NWRS staff or authorized agents), environmental education (other), interpretation (not conducted by NWRS staff or authorized agents), fishing (general), fishing (other), plant gathering, rock collecting, trapping, natural resource collecting, camping, cross-country skiing, hiking and backpacking, photography, video, filming, audio recording (nonwildlife-dependent, recreational—other), snorkeling or scuba diving, snowshoeing, outdoor recreation (other), scientific collecting, photography (wildlife), wildlife observation, fixed-wing aircraft, helicopter.

**Refuge Name:** Togiak National Wildlife Refuge including the Hagemeister Island portion of Alaska Maritime Refuge (Refuge).

**Establishing and Acquisition Authority(ies)**

Togiak National Wildlife Refuge encompassing approximately 4,899,000 acres, was established on December 2, 1980 when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). Former Cape Newenham Refuge, established January, 1969 was incorporated into the present Togiak National Wildlife Refuge in 1980.

Section 702(10) of ANILCA designated approximately 2,373,000 of Togiak Refuge as the Togiak Wilderness under the Wilderness Act, as amended (16 U.S.C. 1131-1136). The purposes for these lands as wilderness are supplemental to the other purposes of Togiak Refuge.

As part of the Togiak Refuge Comprehensive Conservation Plan revision, the administration of Hagemeister Island was transferred from Alaska Maritime Refuge to Togiak Refuge. Approximately 74,000 acres in size, Hagemeister Island became part of Alaska Maritime Refuge with the passage of ANILCA on December 2, 1980.

**Refuge Purpose(s)**

Cape Newenham Refuge (now part of Togiak Refuge) was established in 1969 by Public Land Order 4583 "...for the protection of wildlife and their habitat...".

Sections 303(1)(B) and 303(6)(B) of ANILCA set forth the purposes for which Togiak and Alaska Maritime Refuge (including Cape Newenham Refuge) were established and shall be managed, including:

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to,

[Togiak Refuge] salmonids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

[Alaska Maritime Refuge] marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) [Alaska Maritime Refuge] to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) 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.

The Wilderness Act of 1964 (Public Law 88-577) creates additional Refuge purposes for the Togiak Wilderness Area. Designated wilderness areas are to be managed “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as 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, as amended).

### **Description of Use(s)**

This compatibility determination addresses the full spectrum of uses associated with the scientific research of fish, wildlife, habitat, and other refuge resources. It includes all means of access, lodging, facilities, and other elements that would be included in a typical research proposal. The scope of this determination includes research conducted by all agencies or entities other than the Service and the Alaska Department of Fish and Game. Specific authorized means of access for all areas on the Refuge will be noted in each special-use permit. Potential means of access include fixed-wing aircraft, helicopter, motorboat, snowmobile, nonpowered boat, dogsled, foot, snowshoes, and cross-country skis. Authorizations for all activities and forms of access included in this CD within the Togiak Wilderness Area are subject to a minimum requirements analysis. Potential lodging and facilities includes tents, tent frames, weatherports, existing cabins, and caches.

A wide range of various research activities (e.g., biological, paleontological, geological, meteorological) have been conducted on the Refuge since their creation. Future activities would likely be dispersed and be of low magnitude.

### **Availability of Resources**

Adequate refuge personnel and base operational funds are available to manage research activities at existing (generally no more than two requests per year) and projected levels. Administrative staff time (not more than five days) primarily involves phone conversations, written correspondence, proposal review, and personal interaction with researchers. Field work associated with administering the program primarily involves monitoring researchers' compliance with the terms of the permit.

### Anticipated Impacts of the Use(s)

Factors such as target species, number of researchers, transportation modes, number of aircraft and anticipated amount of aircraft use, fuel storage, garbage and human waste management, type and location of lodging, and location of access points will determine the extent of impacts on the Refuge. However, scientific research and associated activities should not have significant impacts on the wildlife resources, other refuge resources (e.g., water quality, soil, and vegetation), and other refuge users, especially subsistence users, because of the limited scope, special use permit stipulations, and the complete administrative oversight of research.

Prior to initiating field work, the permittee must provide documentation that recognized Institutional Animal Care and Use Committee (IACUC) personnel have reviewed and approved (as required by the Animal Welfare Act) activities and proposed procedures involving invasive procedures or procedures that could harm or materially alter the behavior of an animal under study.

For all projects proposed in the designated Togiak Wilderness Area, a minimum requirements analysis (MRA) will be included as part of the decision process. A MRA is a two-step process to decide if a proposed activity is necessary in wilderness, and if so, determine the minimum tool to accomplish the project. Although required for all administrative activities, including issuing special use permits, a MRA can not be used to authorize prohibited activities in designated wilderness by the public.

Research concerning fish, wildlife, and other refuge resources is expected to contribute to Refuge purposes of conserving fish and wildlife populations and protecting resources of the refuge.

### Public Review and Comment

Draft compatibility determinations were published as a portion of the Draft Revised Comprehensive Conservation Plan, and public review was invited with comments on the plan. The State of Alaska provided comments on this compatibility determination. The State also provided a number of comments on the permit special conditions. The Service's regional permit special conditions are being reviewed in a separate process and comments on them have been forwarded to those working on this task. Comments on regional permit special conditions are not addressed in this compatibility determination and no changes were made to the regional permit special conditions. The State requested the refuge modify the special condition that prohibited fuel caches to allow consideration on a case-by-case basis. The requested change was made. The state requested that we include mention of ANILCA Section 101 language about opportunities for scientific research in the justification section. We made the requested change.

### Determination

Use is Not Compatible

Use is Compatible

### Stipulations Necessary to Ensure Compatibility

Refuge staff will monitor all research being conducted on the Refuge. Findings from these monitoring efforts will be used to determine what additional management actions, if any, are needed to ensure that research activities remain compatible with refuge purposes.

## Appendix D: Compatibility Determinations

Monitoring of all authorized research activities will be continued to ensure compliance with specific terms and conditions tailored for each research project's permit as well stipulations incorporated into all research permits to minimize impacts on refuge lands and resources.

The conditions listed below are included on Refuge permits issued for scientific research, most of which 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.

- 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. Appeals of decisions relative to permits are handled in accordance with Title 50 Code of Federal Regulations Part 36.41.
- The permittee is responsible for obtaining appropriate collection permits from the State of Alaska, Department of Fish and Game, for research involving fish and wildlife.
- 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 this permit.
- 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 this permit.
- Any problems with wildlife and/or animals taken in defense of life or property must be reported immediately to the refuge manager and to the Alaska Department of Fish and Game; animals taken in defense of life or property must be salvaged in accordance with state regulations.
- The permittee does not have the exclusive use of the site(s) or lands covered by this permit.
- The use of Native or state lands that have been conveyed is not authorized by this permit.
- This permit may be canceled or revised at any time by the refuge manager in case of emergency (e.g., high fire danger, flooding, unusual resource problems etc.).
- The permittee or party chief shall notify the refuge manager during refuge working hours in person or by telephone before beginning and upon completion of activities allowed by this permit.
- Prior to beginning any activities allowed by this permit, the permittee shall provide the refuge manager with the following: (1) name and method of contact for the field party chief or supervisor; aircraft and other vehicle types to be used, identification information for these vehicles; and names of assistants (2) any changes in information provided in the original permit application.
- The refuge manager, upon request, shall be afforded the opportunity and logistical support to accompany the permittee from the nearest commercial transportation site 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.

- The permittee shall provide the refuge manager with a report of activities under this permit within 30 days of permit expiration.
- In accordance with the Archaeological Resources Protection Act (16 USC 470aa), the excavation, disturbance, collection, or purchase of historical, recent, ethnological, or archaeological specimens or artifacts is prohibited.
- Permittees shall maintain their use areas in a neat and sanitary condition. Latrines must be located at least 150 feet from springs, lakes, and streams to avoid contamination of water resources. All property (except cabins and/or tent frames) of the permittee must be removed from refuge lands upon completion of permitted activities.
- All noncombustible waste materials must be removed from the refuge (not buried) upon the permittee's departure.
- The construction of landing strips or pads is prohibited. Incidental hand removal of rocks and other minor obstructions may be permitted.
- The use of off-road vehicles (except snow machines) is prohibited except in designated areas.
- 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 take-off and landing, maintain a minimum altitude of 2,000 feet above ground level.
- Construction of cabins or other permanent structures is prohibited.
- Activity will be curtailed if the Service does not have adequate staff, equipment, or supplies to ensure proper monitoring.

### **Justification**

Natural and social science information is necessary for the proper management of units within the National Wildlife Refuge System. It is the policy of the Service (4 RM 6.1) to encourage and support research and management studies in order to provide scientific data upon which to base decisions regarding management of units of the refuge system.

The Service will also permit the use of a refuge for other investigatory scientific purposes when such use is compatible with the objectives for which the refuge is managed. Priority will be given to studies that contribute to the enhancement, protection, use, preservation, and management of native wildlife populations and their habitats in their natural diversity. Under ANILCA Section 101, purposes for all refuges in Alaska include maintaining opportunities for scientific research. Under ANILCA Section 303, scientific research of marine resources is a purpose of the Hagemeister Island portion of Alaska Maritime Refuge. Under the Wilderness Act, scientific use is a purpose of the Togiak Wilderness Area. For all scientific activities proposed in the Togiak Wilderness Area, a minimum requirements analysis will be prepared prior to authorizing the activity.

All proposed research conducted by other agencies or entities will be thoroughly evaluated prior to authorization and then monitored closely to ensure that the activities do not



## COMPATIBILITY DETERMINATION

**Use:** State of Alaska Management Activities

**Supporting Uses:** Boating (human-powered), boating (motorized), environmental education (not conducted by NWRS staff or authorized agents), interpretation (not conducted by NWRS staff or authorized agents), fishing (general), fishing (other), plant gathering, rock collecting, trapping, natural resource collecting, camping, cross-country skiing, hiking and backpacking, photography, video, filming, audio recording (nonwildlife-dependent, recreational—other), snorkeling or scuba diving, snowshoeing, swimming and beach use, outdoor recreation (other), research, scientific collecting, surveys, photography (wildlife), wildlife observation, fixed-wing aircraft and helicopter access, tree harvest (firewood).

**Refuge Name:** Togiak National Wildlife Refuge including the Hagemeister Island portion of Alaska Maritime Refuge (Refuge).

### Establishing and Acquisition Authority(ies)

Togiak National Wildlife Refuge encompassing approximately 4,899,000 acres, was established on December 2, 1980 when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). Former Cape Newenham Refuge, established January, 1969 was incorporated into the present Togiak National Wildlife Refuge in 1980.

Section 702(10) of ANILCA designated approximately 2,373,000 of Togiak Refuge as the Togiak Wilderness under the Wilderness Act, as amended (16 U.S.C. 1131-1136). The purposes for these lands as wilderness are supplemental to the other purposes of Togiak Refuge.

As part of the Togiak Refuge Comprehensive Conservation Plan revision, the administration of Hagemeister Island was transferred from Alaska Maritime Refuge to Togiak Refuge. Approximately 74,000 acres in size, Hagemeister Island became part of Alaska Maritime Refuge with the passage of ANILCA on December 2, 1980.

### Refuge Purpose(s)

Cape Newenham Refuge (now part of Togiak Refuge) was established in 1969 by Public Land Order 4583 "...for the protection of wildlife and their habitat...".

Sections 303(1)(B) and 303(6)(B) of ANILCA set forth the purposes for which Togiak and Alaska Maritime Refuge (including Cape Newenham Refuge) were established and shall be managed, including:

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to,

[Togiak Refuge] salmonids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

[Alaska Maritime Refuge] marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) [Alaska Maritime Refuge] to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) 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.

The Wilderness Act of 1964 (Public Law 88-577) creates additional Refuge purposes for the Togiak Wilderness Area. Designated wilderness areas are to be managed “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as 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, as amended).

### **Description of Use(s)**

This compatibility determination addresses routine management activities conducted by the Alaska Department of Fish and Game that may not be encompassed by the Master Memorandum of Understanding between the Alaska Department of Fish and Game, Juneau, Alaska, and the U.S. Fish and Wildlife Service, Department of the Interior, Anchorage, Alaska, signed March 13, 1982, and law enforcement activities conducted by Alaska Department of Public Safety Fish and Wildlife Protection Officers. This includes the following activities: fish and wildlife surveys conducted by boat, foot, or other means not restricted by regulation or policy; aircraft landings in support of aerial fish and wildlife surveys; vegetation and habitat classification and surveys; and law-enforcement activities. This compatibility determination does not address predator management, fish and wildlife control (with the exception of emergency removal of individual rogue animals), reintroduction of species, nonindigenous species management, pest management, disease prevention and control, fishery restoration, fishery enhancement, indigenous fish introductions, nonindigenous species introductions, invasive types of data collection (e.g., immobilization and collaring of animals), construction of facilities, or any other nonpermitted activity that could alter Refuge ecosystems. Separate compatibility determinations addressing specific proposals will be required for those activities. All management and research activities conducted by the Alaska Department of Fish and Game under a specific cooperative agreement with the Fish and Wildlife Service to fulfill one or more purposes of the refuge or the National Wildlife Refuge System mission are not subject to a compatibility determination.

Potential means of access include fixed-wing aircraft, helicopter, motorboats, snowmobiles, nonpowered boats, dogsled, foot, snowshoes, and cross-country skis. Potential lodging and facilities include tents, tent frames, tent platforms, weatherports, existing permitted cabins,

and caches. Authorizations for all activities and forms of access included in this compatibility determination within the Togiak Wilderness Area are subject to a minimum requirements 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 10 staff days annually) primarily involves phone conversations, written correspondence, and personal interaction with state personnel regarding ongoing activities. Field work associated with administering the program primarily involves monitoring (when applicable) the state’s activities to ensure all activities are compatible with the Master Memorandum of Understanding.

**Anticipated Impacts of the Use(s)**

Because ADF&G and Public Safety personnel are trained professionals, we anticipate that routine law-enforcement and fish and wildlife monitoring and management activities will have positive overall impacts on the wildlife resources, other refuge resources (such as water quality, soil, and vegetation), and refuge users. These positive impacts will support refuge purposes and goals and the Service mission.

For all projects proposed in the designated Togiak Wilderness Area, analysis of projects will be conducted to ensure compliance with the “minimum-requirement” philosophy to ensure that the project is essential to protect physical, biological, or experiential resources of the wilderness. In addition, “minimum-tool” analysis will be conducted to ensure that the methods and equipment have the least impact and are the least manipulative or restrictive means of achieving the project.

**Public Review and Comment**

Draft compatibility determinations were published as a portion of the Draft Revised Comprehensive Conservation Plan, and public review was invited with comments on the plan. The State of Alaska provided comments on this compatibility determination. The State also provided a number of comments on the permit special conditions. The state requested that we include mention of ANILCA Section 101 language about opportunities for scientific research in the justification section. We made the requested change.

**Determination**

Use is Not Compatible

Use is Compatible

**Stipulations Necessary to Ensure Compatibility**

A compatibility determination is not required for state activities on refuge lands where an established agreement is in place. Refuge staff will monitor state activities on the Refuge. Findings from these monitoring efforts will be used to determine what additional management actions, if any, are needed to ensure state activities remain compatible with refuge purposes and in compliance with established agreements.

**Justification**

Natural and social science information is necessary for the proper management of the National Wildlife Refuge System. It is the policy of the Service to encourage and support



## COMPATIBILITY DETERMINATION

**Use:** Wildlife Observation, Photography, Environmental Education, and Environmental Interpretation (wildlife-dependent recreation)

**Supporting Uses:** Boating (human-powered), boating (motorized), fishing (general), fishing (other), hunting (big game), hunting (other migratory birds), hunting (upland game), hunting (waterfowl), hunting (other), plant gathering, trapping, natural resource collecting, camping, cross-country skiing, dog sledding and ski touring, hiking and backpacking, pets, photography, video, filming, audio recording (nonwildlife-dependent, recreational—other), snowshoeing, outdoor recreation (other), fishing (subsistence), gathering (subsistence), hunting (subsistence), photography (wildlife), wildlife observation, fixed-wing aircraft, tree harvest (firewood).

**Refuge Name:** Togiak National Wildlife Refuge including the Hagemeister Island portion of Alaska Maritime Refuge (Refuge).

### **Establishing and Acquisition Authority(ies)**

Togiak National Wildlife Refuge encompassing approximately 4,899,000 acres, was established on December 2, 1980 when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). Former Cape Newenham Refuge, established January, 1969 was incorporated into the present Togiak National Wildlife Refuge in 1980.

Section 702(10) of ANILCA designated approximately 2,373,000 of Togiak Refuge as the Togiak Wilderness under the Wilderness Act, as amended (16 U.S.C. 1131-1136). The purposes for these lands as wilderness are supplemental to the other purposes of Togiak Refuge.

As part of the Togiak Refuge Comprehensive Conservation Plan revision, the administration of Hagemeister Island was transferred from Alaska Maritime Refuge to Togiak Refuge. Approximately 74,000 acres in size, Hagemeister Island became part of Alaska Maritime Refuge with the passage of ANILCA on December 2, 1980.

### **Refuge Purpose(s)**

Cape Newenham Refuge (now part of Togiak Refuge) was established in 1969 by Public Land Order 4583 "...for the protection of wildlife and their habitat...".

Sections 303(1)(B) and 303(6)(B) of ANILCA set forth the purposes for which Togiak and Alaska Maritime Refuge (including Cape Newenham Refuge) were established and shall be managed, including:

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to,

[Togiak Refuge] salmonids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

[Alaska Maritime Refuge] marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) [Alaska Maritime Refuge] to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) 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.

The Wilderness Act of 1964 (Public Law 88-577) creates additional Refuge purposes for the Togiak Wilderness Area. Designated wilderness areas are to be managed “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as 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, as amended).

### **Description of Use(s)**

The Refuge provide excellent opportunities for “Big Six” wildlife-dependent, priority public uses, which are hunting, fishing, wildlife viewing, wildlife photography, and environmental education and interpretation. These activities predate refuge establishment. They occur throughout the Refuge and throughout the year. Hunting and fishing are discussed on other, separate compatibility determinations.

Associated activities such as camping, backpacking, hiking, and other incidental uses are considered part of these wildlife-dependent activities.

Recreational settings on the Refuge are remote and not accessible by road. Typical forms of access for all areas on the Refuge include fixed-wing aircraft, motorboat, snowmachine, nonpowered boats, dogsled, foot, snowshoes, cross-country skis, and other nonmotorized means. However, the vast majority of visitors participating in these activities access the Refuge by commercial air taxi. The most common means of access by the relatively few recreational users not using commercial transporters (air taxis) are private aircraft and boats. Use of helicopters, jet-powered watercraft, and airboats is specifically excluded from this evaluation.

Much of the subject use occurs within the approximately 2.4-million-acre Togiak Wilderness Area, which is administered according to the provisions of the Wilderness Act and ANILCA. Although the Wilderness Act prohibits the public use of motor vehicles, motorboats, aircraft, and other forms of mechanical transport, and motorized equipment, ANILCA contains special provisions for Alaska wilderness areas allowing the use of snowmachines, motorboats, airplanes, and non-motorized surface transportation methods for traditional activities, including recreational fishing. The public use of helicopters, off-highway vehicles, and motorized equipment is not allowed.

Wildlife viewing and photography primarily occur incidental to hunting and fishing activities. Increased use of the Refuge for ecotourism activities (which would include wildlife viewing) has occurred since 2000 but can be largely attributed to one commercial operator. This activity is somewhat variable depending on wildlife concentrations and use is not expected to increase significantly in the near future.

The Cape Peirce wildlife viewing area is a key location that attracts visitors to the Togiak Refuge for photography and wildlife observation during summer months. The area provides one of the few reliable walrus haulout sites in Bristol Bay that is reasonably accessible for visitors. Seabird concentrations and outstanding vistas are also attractants to the area. Wildlife observation and photography are also incidental to other activities including sport fishing, recreational hunting, and various subsistence uses.

Because of the lack of developed visitor facilities on the Refuge, interpretive and education efforts occur primarily off-refuge at the headquarters in Dillingham or surrounding villages.

The Refuge has an active education and outreach program. Environmental education programs focus on the National Wildlife Refuge System, the purposes for which the Refuge were established, and significant resource-management issues. A week long Marine Science and Yup'ik Culture Camp is held annually at Cape Peirce, a Riparian Ecology Camp is done annually by floating a refuge river, and staff participate in teaching segments of the Bristol Bay Salmon Camp held each year at Lake Aleknagik.

A detailed discussion of non-consumptive recreational activities can be found in the Togiak Refuge Draft Comprehensive Conservation Plan.

### **Availability of Resources**

Adequate refuge personnel and base operational funds are available to manage on-refuge wildlife-dependent recreational activities at existing and projected levels. Administrative staff time primarily involves phone conversations, written correspondence, and interaction with visitors at the visitor center. There is additional work entering activity data into a database. Field work associated with administering the program related to wildlife observation and photography primarily involves monitoring recreational users' compliance with state and federal regulations. The only environmental education and interpretation occurring on the Refuge and under the scope of this compatibility determination are in conjunction with the annually conducted Yup'ik culture camp.

### **Anticipated Impacts of the Use(s)**

Wildlife viewing associated activities at the Refuge are concentrated within the Cape Peirce wildlife viewing area and to some extent along river corridors during the summer months. There is no evidence to suggest long-term impacts to wildlife due to human disturbance occur at the Refuge. Short-term impacts such as displacement and avoidance due to wildlife-viewing and photography activities are isolated and have little impact on wildlife populations. Camping occurs primarily on sand dunes, and durable gravel bars, where impacts to vegetation are negligible.

Increased visitation within the Refuge has the potential to negatively impact wilderness character and the quality of recreational experiences. Monitoring of visitor use through the River Ranger program, and of visitor satisfaction through visitor surveys indicate current conditions are acceptable and provide outstanding opportunities for wilderness solitude. This information also suggests if visitation increases noticeably, unacceptable crowding and

## Appendix D: Compatibility Determinations

conflicts between user groups are likely. Togiak Refuge will continue to actively manage recreational visitation through the River Ranger program, refuge outreach and education, cooperation with the State and other adjoining landowners, and special use permits to insure continued compatibility with refuge purposes.

A detailed analysis of anticipated impacts due to wildlife viewing, photography, environmental education and interpretation is included in the Togiak Refuge Draft Comprehensive Conservation Plan.

### Public Review and Comment

Draft compatibility determinations were published as a portion of the Draft Revised Comprehensive Conservation Plan, and public review was invited with comments on the plan. The State of Alaska provided comments on this compatibility determination. The State requested that we clarify that off-road vehicles may be allowed by Service regulations on designated routes and areas or by special use permit. We did not make the requested changes as this compatibility determination is for recreational fishing. The plan does not allow recreational use of helicopters. There are no designated routes for ORVs and the use of ORVs by special use permit is not covered under this compatibility determination. The State requested we change “sport hunting” to “recreational hunting.” The change was made. The State asked that we include coordination with the State and other land owners as part of our active management in the “Anticipated Impacts of the Use(s)” section. We added the requested language.

### Determination

Use is Not Compatible

Use is Compatible

### Stipulations Necessary to Ensure Compatibility

The Togiak Refuge Comprehensive Conservation Plan provides direction for current and future fishery, wildlife and public use monitoring efforts. Findings from these monitoring efforts will be used to determine what additional management actions, if any, are needed to ensure wildlife-dependent recreational activities remain compatible with refuge purposes. To minimize impacts on refuge lands and resources, law enforcement patrols will routinely be conducted in an effort to maximize compliance with Refuge policies, rules, and/or regulations.

The following actions will be implemented to maintain compatibility between wildlife observation, wildlife photography, environmental education, environmental interpretation, and the purposes for the Refuge.

- Monitor site impacts on Refuge lands surrounding Kagati, Goodnews, Kukatlim, within the Cape Peirce Wildlife Viewing Area, and other areas with concentrated public use and potential resource impacts.
- Monitor all activities to ensure that wildlife-dependent recreation and its impacts remain compatible with refuge purposes.

**Justification**

All refuge lands in the Togiak Refuge and the Hagemeister Island portion of Alaska Maritime Refuge are open to general public access unless specifically closed. The National Wildlife Refuge System Administration Act of 1997, as amended (§5C), identifies the priority public uses of the System as wildlife-dependent recreation, defined as uses of a refuge involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation. These uses are generally encouraged and receive emphasis in management of public use of the Refuge. Togiak Refuge has consistently taken actions to insure subsistence opportunity and maintain outstanding opportunities for wilderness naturalness and solitude. In an effort to facilitate additional wildlife observation and photography, and environmental education and interpretation it has been determined the stipulations in this compatibility determination are necessary to meet this and other Refuge goals and to fulfill the purposes of the Togiak Refuge and the Togiak Wilderness Area.

Over the past 25-plus years, means of access—including airplanes, motorboats, and snowmachines—for traditional activities, as provided by ANILCA and as currently regulated by the Service, have not materially interfered with or detracted from refuge purposes. Should motorized transportation grow to levels where it interferes with refuge purposes, steps would be taken to maintain compatibility.

To protect and manage land and wildlife resources for the benefit of the American people is part of the Refuge System's mission. It is important to provide the opportunity, when possible, for the public to visit the Refuge, allowing them to observe wildlife and its habitats in the simplest and most basic form. The Refuge provide an incredible opportunity to function as an outdoor classroom, promoting an awareness of ecological functions and the interrelationship between human activities and the natural system, and to educate and motivate future generations of people so that they effectively support wildlife conservation. The current and projected levels of wildlife-dependent recreational activities (wildlife observation, wildlife photography, environmental education, and interpretation) occurring on the Refuge will remain relatively low. After fully considering the impacts of this activity, as described previously in the "Anticipated Impacts" section of this compatibility determination, it is my determination that wildlife observation and photography, environmental education, and environmental interpretation activities on the Refuge do not materially interfere with or detract from the purposes of the Refuge or the mission of the National Wildlife Refuge System. These activities will remain compatible with the implementation of the compatibility stipulations.

**Supporting Documents**

U.S. Fish and Wildlife Service. 1986. Togiak National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service. Anchorage, Alaska. 514 pp.

U.S. Fish and Wildlife Service. 1988. Alaska Maritime National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service. Anchorage, Alaska.

U.S. Fish and Wildlife Service. 1991. Togiak National Wildlife Refuge, Final Public Use Management Plan and Environmental Assessment. U.S. Fish and Wildlife Service. Anchorage, Alaska. 244 pp.



**COMPATIBILITY DETERMINATION**

**Use:** Trapping

**Primary Use:** Trapping

**Supporting Uses:** Boating (motorized), hunting (subsistence), plant gathering, camping, dog sledding, photography, video, snowshoeing, fishing (subsistence), gathering (subsistence), wildlife observation, fixed-wing aircraft, tree harvest (firewood).

**Refuge Name:** Togiak National Wildlife Refuge including the Hagemester Island portion of Alaska Maritime Refuge (Refuge).

**Establishing and Acquisition Authorities**

Togiak National Wildlife Refuge encompassing approximately 4,899,000 acres, was established on December 2, 1980 when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). Former Cape Newenham Refuge, established January, 1969 was incorporated into the present Togiak National Wildlife Refuge in 1980.

Section 702(10) of ANILCA designated approximately 2,373,000 of Togiak Refuge as the Togiak Wilderness under the Wilderness Act, as amended (16 U.S.C. 1131-1136). The purposes for these lands as wilderness are supplemental to the other purposes of Togiak Refuge.

As part of the Togiak Refuge Comprehensive Conservation Plan revision, the administration of Hagemester Island was transferred from Alaska Maritime Refuge to Togiak Refuge. Approximately 74,000 acres in size, Hagemester Island became part of Alaska Maritime Refuge with the passage of ANILCA on December 2, 1980.

**Refuge Purposes**

Cape Newenham Refuge (now part of Togiak Refuge) was established in 1969 by Public Land Order 4583 "...for the protection of wildlife and their habitat...".

Sections 303(1)(B) and 303(6)(B) of ANILCA set forth the purposes for which Togiak and Alaska Maritime Refuge (including Cape Newenham Refuge) were established and shall be managed, including:

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to,

[Togiak Refuge] salmonids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

[Alaska Maritime Refuge] marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) [Alaska Maritime Refuge] to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) 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.

The Wilderness Act of 1964 (Public Law 88-577) creates additional Refuge purposes for the Togiak Wilderness Area. Designated wilderness areas are to be managed “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as 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 Use**

This determination re-evaluates trapping furbearing animals on Togiak refuge under federal subsistence and State of Alaska trapping regulations. Beaver, red fox, river otter, wolf, coyote, wolverine, mink, muskrat, marten, and short-tailed weasel are trapped. Most trapping takes place from October through March and access is generally via snowmachine. Open water or lack of adequate snow may prohibit access and thus, reduce trapping effort.

Some of the subject use occurs within the approximately 2.4-million-acre Togiak Wilderness Area, which is administered according to the provisions of the Wilderness Act and ANILCA. Although the Wilderness Act prohibits the public use of motor vehicles, motorboats, aircraft, and other forms of mechanical transport, and motorized equipment, ANILCA contains special provisions for Alaska wilderness areas allowing the use of snowmachines, motorboats, airplanes, and non-motorized surface transportation methods for traditional activities, including trapping. The public use of helicopters, off-highway vehicles, and motorized equipment is not allowed.

### **Availability of Resources**

Adequate Refuge personnel and base operational funds are available to manage trapping on Togiak Refuge.

### **Anticipated Impacts of the Use**

State and federal trapping regulations are established to ensure healthy sustainable wildlife populations. Trappers themselves have little impact on the Refuge. Occasionally a nontargeted animal could be harvested. No long-term adverse impacts on wildlife populations or other Refuge resources are likely to occur because of continuation of trapping on the Refuge.

## Public Review and Comment

Draft compatibility determinations were published as a portion of the Draft Revised Comprehensive Conservation Plan, and public review was invited with comments on the plan. The State of Alaska provided comments on this compatibility determination. The State requested that we clarify that off-road vehicles may be allowed by Service regulations on designated routes and areas or by special use permit and that helicopter landings may be authorized on a case-by-case basis under 43 CFR 36.11(f)(4). We did not make the requested changes as this compatibility determination is for trapping. We do not allow helicopters for trapping. There are no designated routes for ORVs and the use of ORVs by special use permit is not covered under this compatibility determination. The State commented, “trapping is a public use that is not classified under federal or state law as commercial, subsistence, or recreation.” We removed a sentence that characterized trapping as either a subsistence or recreational activity.

## Determination

Use is Not Compatible

Use is Compatible With the Following Stipulations

## Stipulations Necessary to Ensure Compatibility

The management direction provided in the revised Comprehensive Conservation Plan for the refuge will be implemented. Monitoring would be used to determine what additional management actions, if any, were needed to ensure compatibility. Continuing law enforcement will be carried out to ensure compliance with applicable regulations.

## Justification

Trapping is a long-established use on the Refuge. All species targeted are native to the Refuge. Both the State of Alaska and Federal Subsistence Board manage harvest of wildlife to ensure long-term sustainability of harvest. Most trapping occurs when there are few other visitors on the Refuge. Although pelts of animals trapped may be sold, trapping on Togiak Refuge is not a major commercial venture. The current level of trapping, or even a substantial increase in trapping activities, would have only negligible adverse effects on the resources of Togiak refuge because of State and Federal harvest management oversight.

## Supporting Documents

U.S. Fish and Wildlife Service. 1986. Togiak National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service. Anchorage, Alaska. 514 pp.

U.S. Fish and Wildlife Service. 1988. Alaska Maritime National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service. Anchorage, Alaska.

USFWS. 1992. Subsistence Management for Federal Public Lands in Alaska, Final Environmental Impact Statement, Record of Decision signed April 2, 1992. U.S. Fish and Wildlife Service.



## COMPATIBILITY DETERMINATION

**Use:** Helicopter Use to Support Authorized Activities by Other Federal, State, and Local Governments

**Primary Use:** Helicopters

**Supporting Uses:** Research, scientific collecting, surveys, Native allotment surveys, ANCSA land conveyance surveys.

**Refuge Name:** Togiak National Wildlife Refuge including the Hagemeister Island portion of Alaska Maritime Refuge (Refuge).

### **Establishing and Acquisition Authorities**

Togiak National Wildlife Refuge encompassing approximately 4,788,000 acres, was established on December 2, 1980 when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). Former Cape Newenham Refuge, established January, 1969 was incorporated into the present Togiak National Wildlife Refuge in 1980.

Section 702(10) of ANILCA designated approximately 2,270,000 of Togiak Refuge as the Togiak Wilderness under the Wilderness Act, as amended (16 U.S.C. 1131-1136). The purposes for these lands as wilderness are supplemental to the other purposes of Togiak Refuge.

As part of the Togiak Refuge Comprehensive Conservation Plan revision, the administration of Hagemeister Island was transferred from Alaska Maritime Refuge to Togiak Refuge. Approximately 60,000 acres in size, Hagemeister Island became part of Alaska Maritime Refuge with the passage of ANILCA on December 2, 1980.

### **Refuge Purposes**

Cape Newenham Refuge (now part of Togiak Refuge) was established in 1969 by Public Land Order 4583 "...for the protection of wildlife and their habitat...".

Sections 303(1)(B) and 303(6)(B) of ANILCA set forth the purposes for which Togiak and Alaska Maritime Refuge (including Cape Newenham Refuge) were established and shall be managed, including:

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to,

[Togiak Refuge] salmonids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

[Alaska Maritime Refuge] marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) [Alaska Maritime Refuge] to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) 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.

The Wilderness Act of 1964 (Public Law 88-577) creates additional Refuge purposes for the Togiak Wilderness Area. Designated wilderness areas are to be managed “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as 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 Use**

This determination re-evaluates helicopter use to support authorized activities of local, state, and other federal agencies. One or two applications per year are normally received to allow helicopter landings as part of some other authorized use such as geologic research, Native allotment conveyance surveys, or ANCSA land conveyance surveys. Less than one permit request per year is made for helicopter landings within the Togiak Wilderness area. Permits could be issued for any time of the year but are most likely to be for activities during spring, summer, or fall. Requests almost always specify sites to be accessed, but on occasion a permittee may stop at a site not designated in advance, mainly when conducting geological research.

### **Availability of Resources**

Adequate refuge personnel and base operational funds are available to manage permits.

### **Anticipated Impacts of the Use**

Adverse impacts associated with helicopter landings on the Refuge would be associated with displacement of wildlife, especially bears, caribou, moose, and raptors, and disturbance to refuge visitors. Hunters would be especially vulnerable to disturbance by helicopters if allowed to operate at times when significant hunting is taking place.

### **Public Review and Comment**

Draft compatibility determinations were published as a portion of the Draft Revised Comprehensive Conservation Plan, and public review was invited with comments on the plan. The State of Alaska provided comments on this compatibility determination. The State also provided a number of comments on the permit special conditions. The Service’s regional permit special conditions are being reviewed in a separate process and comments on them have been forwarded to those working on this task. Comments on regional permit

special conditions are not addressed in this compatibility determination and no changes were made to the regional permit special conditions. The State requested the refuge modify the special condition that prohibited fuel caches to allow consideration on a case-by-case basis. The requested change was made. The State requested we modify the stipulation about archaeological resources to state, “unless specifically authorized in this permit.” We did not modify the stipulation, a stipulation prohibiting disturbance of archaeological sites would not include it in a permit for archaeological research. The State objected to a refuge special use permit condition that requires helicopters to cross certain rivers and lakes in a generally perpendicular manner. We did not change the special use condition as it is an important way to minimize conflicts between helicopters and other refuge users and in no way affects safety of flight.

### Determination

Use is Not Compatible

Use is Compatible With the Following Stipulations

### Stipulations Necessary to Ensure Compatibility

Management direction provided in the revised Comprehensive Conservation Plan for the Refuge, particularly adequate monitoring of permits that authorize the use of helicopters, will be conducted. Findings from the monitoring efforts will be used to determine what additional management actions, if any, are needed to ensure that these activities remain compatible with refuge purposes.

Continuing law-enforcement and administrative monitoring of permittees will be carried out to ensure compliance with stipulations incorporated into all permits that incorporate the use of helicopters.

The conditions listed below are included on Refuge permits issued for helicopter use to support authorized activities by other federal, state, and local governments, most of which 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.

### Regional conditions

- Failure to abide by any part of this special use permit; violation of any refuge-related provision in Titles 43 or 50, Code of Federal Regulations; or violation of any pertinent state regulation (e.g., fish or game violation) will be considered grounds for immediate revocation of this permit and could result in denial of future permit requests for lands administered by the U.S. Fish and Wildlife Service. This provision applies to all persons working under the authority of this permit (e.g., assistants or contractors). Appeals of decisions relative to permits are handled in accordance with 50 Code of Federal Regulations 36.41.
- The permittee is responsible for ensuring that all employees, party members, contractors, aircraft pilots, and any other persons working for the permittee and conducting activities allowed by this permit are familiar with and adhere to the conditions of this permit.
- Any problems with wildlife and/or animals taken in defense of life or property must be reported immediately to the refuge manager, the Alaska Department of Fish and Game,

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- and the Alaska State Troopers. Animals taken must be salvaged in accordance with state regulations.
- The permittee and permittee's employees do not have the exclusive use of the site(s) or lands covered by the permit.
  - This permit may be cancelled or revised at any time by the refuge manager for noncompliance or in case of emergency (e.g., public safety, unusual resource problems).
  - Prior to beginning any activities allowed by this permit, the permittee shall provide the refuge with (1) a copy of current business license; (2) proof of comprehensive general liability insurance, listing Togiak National Wildlife Refuge as additionally insured, (\$300,000 each occurrence, \$500,000 aggregate) covering all aspects of operations throughout the annual use period.
  - In accordance with the Archaeological Resources Protection Act (16 U.S.C. 470aa), the disturbance of archaeological or historical sites, and the removal of artifacts are prohibited. The excavation, disturbance, collection, or purchase of historical, ethnological, or archaeological specimens or artifacts is prohibited.
  - The construction of landing strips or pads is prohibited.
  - 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 take-off and landing, maintain a minimum altitude of 2,000 feet above ground level.

### Togiak Refuge Conditions

- Use of Native or State lands that have been selected but not yet conveyed is prohibited unless a letter of concurrence is submitted to the refuge manager prior to beginning any activities allowed by this permit.
- River corridors and lakes, including but not limited to the following list, that receive anything above minimum levels of recreational and/or subsistence use will not be overflown except to cross in a generally perpendicular manner.

Kanektok River	Togiak River and Lake
Kagati Lake	Pungokepuk River and Lake
Goodnews River (all forks) and Lake	Ongivinuck River and Lake
Middle Fork Lake	Gechiak River and Lake
Kukatlim Lake	Kulukak River
Arolik River and Lake	

### Justification

Under 43 CFR 36.11(4), helicopter use on national wildlife refuge requires a special use permit. The current conservation plan states "use of helicopters is not permitted for recreational activities; other uses require a special use permit." As only occasional and limited use of helicopters would be authorized, and with special conditions in place that generally separate helicopter activity from refuge visitors, the potential for adverse effects to refuge resources and visitors would be negligible. Helicopter landings would only be

