

Compatibility Determination

March 21, 2001

Use: Construction/Operation of Corps of Engineers, False Pass Harbor Project, and associated upland structures and related activities on Isanotski Corporation, ANSCA 22(g) Lands.

Refuge Name: Alaska Maritime National Wildlife Refuge, Unimak Island; administered by Izembek National Wildlife Refuge.

Establishing and Acquisition Authority:

In December 1980, Congress enacted the Alaska National Interest Lands Conservation Act (ANILCA; 94 Stat. 2371). This act established the Alaska Maritime National Wildlife Refuge by merging 11 previously existing refuges and adding additional acreage. The Alaska Maritime National Wildlife Refuge includes Unimak Island. Unimak Island was part of the Aleutian Islands Reservation established by Executive Order No. 1733, signed by President Taft on March 3, 1913.

A legislative proposal to adjust the boundaries of several Alaskan refuges, including Izembek National Wildlife Refuge (NWR), was first submitted to Congress in 1988, but has not yet passed into law. Although the boundary adjustment has not yet been authorized by Congress, Izembek NWR has managed Unimak Island since 1982 as an administrative unit.

The Alaska Native Claims Settlement Act (ANCSA) was enacted in 1971 to settle aboriginal land claims of Alaska's Natives by providing land and money in exchange for extinguishment of their land claims. Section 22(g) of the Act made National Wildlife Refuge (Unimak Island) lands available for selection by Native Village Corporations, but contained a provision that "...such lands remain subject to the laws and regulations governing use and development of such Refuge." These lands were deeded to the Isanotski Native Corporation with specific restrictions, called covenants, on their sale and use.

Final Compatibility Regulations pursuant to the National Wildlife Refuge System Improvement Act of 1997 went into effect on October 18, 2000. The Code of Federal Regulations, 50 CFR 25.21(b)(1), states that compatibility determinations will be completed for uses of ANSCA 22(g) lands. Compatibility determinations, for proposed uses of 22(g) lands, will include only evaluations of how the proposed use would affect the ability of the refuge to meet its mandated purposes [50 CFR 25.21(b)(1)(iii)]. Compatibility determinations for proposed uses of 22(g) lands will only evaluate the effects of the use on the adjacent refuge lands, and the ability of that refuge to achieve its purposes, not on the effects of the proposed use to the 22(g) lands [50 CFR 25.21(b)(1)(v)]. Therefore, only the upland aspects of this project, which are located on lands within the ANCSA boundaries of Unimak Island, Aleutian Islands Reserve, now known as Alaska Maritime National Wildlife Refuge, are subject to the compatibility requirements.

From the Wilderness Act of 1964 (78 Stat. 892), ANILCA, Section 702(13) designates “Proposed Wilderness” as wilderness. It states, “Unimak Wilderness of approximately nine hundred and ten thousand acres, as generally depicted on a map entitled “Unimak Wilderness”, dated October 1978”.

Refuge purposes:

As designated by Executive Order No. 1733:

“...to set apart as a preserve and breeding ground for native birds, for the propagation of reindeer and fur bearing animals, and for the encouragement and development of the fisheries.”

As designated by ANILCA, Section 303(1)(B):

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to 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 the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) 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 subparagraph (i), water quality and necessary water quantity within the refuge.

As designated by Wilderness Act of 1964 (16 U.S.C. 1131-1136), Section 2.(a):

“For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by the Congress as “wilderness areas,” and these shall be administered 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 National Wildlife Refuge System Mission will not be considered in a compatibility determination evaluation with regard to lands under Section 22(g) of ANSCA, per 50 CFR 2521(b)(1)(iii).

Description of Use:

(a) What is the use?

A small boat harbor is proposed for future construction at False Pass, Alaska, 54° 51' north latitude, 163° 24' west longitude, Section 28, Township 61 South, Range 94 West, Seward Meridian. The project is described in the *U.S. Army Corps of Engineers, Navigation Improvements Environmental Assessment and Finding of No Significant Impact, False Pass, Alaska*, dated August 2000. Two rubblemound breakwaters would enclose a dredged mooring basin and entrance channel. The 3-hectare basin could accommodate a fleet of 88 vessels, 6 meters to 30 meters in length. Entrance to the harbor would be from the east and vessels would make a 90-degree approach from the maneuvering area into the floats. The entrance channel depth would be -5 m mean low low water and 30 m wide. (See attached map of Plan 1-E) The south breakwater would include a 180 meter long causeway leading to a sheetpile dock at the seaward end. The width and depth of the dock designed would allow access for a 100 meter long barge.

The majority of this project is located below mean high tide, only the upland construction and associated operating impacts are to be addressed in the compatibility determination. Upland impacts are anticipated to include the leveling and partial graveling of an 150' x 400' area immediately adjacent to the harbor site to accommodate vehicle and boat (dry dock storage) parking and a harbor master building of approximately 24' x 40'.

(b) Where would the use be conducted?

Intended use would only occur on Isanotski Native Corporation, ANSCA 22(g) lands (surface estate lands). Approximately 1.2 acres of uplands also would be required to construct the breakwater-land intertie supports.

The back of the harbor would be dredged slightly inland (0.8 upland acres) to minimize the amount of breakwater construction in deep water. This dredge area impacts sub-surface estate refuge lands and will require a Right-of-Way Permit from the U.S. Fish and Wildlife Service, Region 7, Realty Division.

(c) When would the use be conducted?

Upon beginning of construction, start date anticipated to be Spring 2002. Use would be 24-7-365 once the harbor is completed.

(d) How would the use be conducted?

Construction and operation of a small boat harbor. Most of the construction will be from the water. Nearly all materials will have to be brought in by barge and set in place to construct the harbor.

In the off-season some fishing vessels would remain in False Pass and be pulled from the water and stored on the 150' x 400' area immediately adjacent to the harbor site. It is estimated that approximately six vessels will be stored.

(e) Why is the use being proposed?

False Pass is a small village on the eastern shore of Isanotski Strait, which connects the northern Pacific Ocean to the Bering Sea through Bechevin Bay. This passageway is important to Bristol Bay and Bering Sea fishing fleets, which transit frequently between their homeports and processors on the Pacific Gulf of Alaska and fishing grounds in the Bering Sea and Bristol Bay. The False Pass community and its existing marine facilities and associated support services are used as a staging area for the transient crab, herring and salmon fleets as well as resident salmon vessels. Limited moorage is available at the existing city dock and Peter Pan dock. No protected moorage is available. Resident and transient salmon vessels fishing in the area are subject to damages while tying up and rafting along the unprotected dock facilities. During frequent storms these vessels must scatter to protected coves and beaches away from the docks and associated marine facilities to wait out storms. Resident vessels must leave the community during the off-season or pull their vessels up onto the beach, risking damage. It is proposed that a small boat harbor would provide cost effective and safer operating conditions for commercial and subsistence users of this area.

All activity during construction and operation of the harbor will be off refuge surface-estate lands. Most of the activity will occur on the waters of Isanotski Strait.

Availability of resources:

The construction and operation of a small boat harbor in False Pass on Isanotski Native Corporation ANSCA 22(g) lands will not result in an increase of costs for the refuge staff to administer or manage.

Anticipated impacts of the use:

The U.S. Army Corps of Engineers, *Navigation Improvements Environmental Assessment and Finding of No Significant Impact, False Pass, Alaska, August 2000* provides an analysis of the potential impacts to wildlife resources. Most of the resources addressed, i.e., Steller's eider, would not be found on adjacent refuge lands. This document primarily addresses local water based resources.

Roundtop Creek is reported by Alaska Department of Fish and Game as not supporting anadromous fish. It frequently goes dry in the summer when mountain snowpack and precipitation are low. The upper reaches of this body of water are located on refuge lands.

Impacts to adjacent refuge lands and trust fish and wildlife resources are anticipated to be non-existent. The closest refuge surface estate lands are located approximately 1.4 miles south (Section 4, Township 62 South, Range 94 West, Seward Meridian) of the project site. Activity associated with construction and use of the proposed harbor project should not “spill over” onto adjacent refuge lands.

Public review and comment:

A Public Notice, dated January 15, 2001, was published in the Anchorage Daily News and Dutch Harbor Times; sent to Postmasters in Sand Point, King Cove, Nelson Lagoon, Cold Bay, False Pass and Akutan for posting in the Post Offices; local Native corporations and Tribal offices, Alaska Dept. of Fish and Game local and State offices, and Alaska non-government organizations. The notice (attached) asked for public comments over a 30 day period.

Comments Received

Comments were received from the Aleutians East Borough and City of False Pass. Both responses were in favor of a “compatible” determination and felt that the minor upland development would not have any negative impact upon the neighboring refuge lands. The letters are included with this document.

Use is Compatible or Not Compatible:

I find this use COMPATIBLE, based on my personal experience, knowledge of the refuge, the best science available, principles of fish and wildlife management and administration, and other applicable laws. This use will not materially interfere with or materially detract from fulfilling the purposes of the refuge.

Stipulations Necessary to Ensure Compatibility:

A new or significant enlargement of a gravel or fill material quarry site on ANSCA 22(g) or refuge land (surface or subsurface) is not part of this compatibility determination. Such a site would require a separate analysis.

Justification:

The upland impacts of this project are confined to a small portion of the Isanotski Native Corporation ANSCA 22(g) surface estate lands located immediately adjacent to the waters of Isanotski Strait, within the limits of the 2nd Class City of False Pass. The 150' x 400' area immediately adjacent to the harbor site to accommodate vehicle and boat (dry dock storage) parking and a harbor master building of approximately 24' x 40' are minor improvements located 1.4 miles from refuge surface estate lands. This use will not materially interfere with or materially detract from fulfilling the purposes of the refuge.

Signature:

Refuge Manager: /s/Rick D. Poetter
(Signature)

Date: 3/21/01

Concurrence:

Alaska Regional Chief of Refuges: /s/ Todd Logan
(Signature)

Date: 4/9/01

Mandatory 10 Reevaluation Date: April 2011