

Use: Commercial Film, Video, and Audio Production in Wilderness and Non-Wilderness

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

Refuge Name: Togiak National Wildlife Refuge and the Hagemeister Island portion of Alaska Maritime Refuge.

Establishing and Acquisition Authority(ies)

Togiak National Wildlife Refuge encompassing approximately 4,899,000 acres, was established on December 2, 1980 as part of the National Wildlife Refuge System (NWRS) of the U.S. Fish and Wildlife Service (Service) 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 with the passage of ANILCA.

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 in 1980 with the passage of ANILCA.

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. 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 (NWRS) 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 production of films, video, and audio products (hereafter, media production) as an activity would be conducted by a small (3-8) group of people comparable in size to commercially-guided recreational groups. They would use hand-held cameras, video recorders, and audio recording equipment to collect electronic media. Recording devices are generally powered by integral, replaceable, and rechargeable batteries. The activity could occur at any time of year, but is likely to be most common during warmer months. Associated activities such as camping, backpacking, hiking, boating (both motorized and non-motorized), and other incidental activities would be considered supporting uses. This evaluation does not analyze the compatibility of large-scale productions or those using structures, mechanized or wheeled filming equipment, or stages.

The Togiak Refuge provides an excellent opportunity for media productions about wilderness values and purposes for education and interpretation. Similarly media production can portray wildlife-dependent priority public uses (“the Big Six”: hunting, fishing, wildlife viewing, wildlife photography, and environmental education and interpretation) of the National Wildlife Refuge System. The wildlife dependent uses as well as guided hunting and fishing have already been determined to be appropriate and compatible and are discussed by separate Compatibility Determinations.

When filming within wilderness, the intent of the producer is important. The primary purpose of media productions should be to capture wilderness values, character, and experiences that may be incidental to hunting, fishing, and ecotourism activities (i.e., non-consumptive uses) and other “public purposes” of wilderness (e.g., recreational, scenic, scientific educational). The opposite may also be true: capturing “Big Six” activities may be the primary purpose of a media production, with wilderness purposes and values of secondary importance, because documenting consumptive uses can provide popular media products. Service policy on filming in wilderness (610 FW 2 2.12 D.) makes a distinction between the two intentions described above. By policy, the Service generally prohibits commercial photography in wilderness areas unless it is necessary to provide educational information about wilderness uses and values, and it does not degrade the wilderness character of the area. In non-wilderness areas, media production that support refuge purposes is supported as long as it does not materially interfere and is not detrimental to the purposes of the Togiak NWR.

Recreational settings on the Refuges are remote and not accessible by road. Typical forms of access 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 Refuges by commercial air taxi. Access for media production is expected likely be the same. Use of helicopters, personal jet-powered watercraft, off-highway vehicles, and airboats for access are specifically excluded from this evaluation.

Media production can sometimes assist in education, outreach, and interpretation of Refuge resources and issues. The Refuge has an active education and outreach program that focuses on the mission of the National Wildlife Refuge System, the purposes for which the Refuge was established, and significant resource and management issues. Commercial film and video productions can reach a broader public better than the Refuge by providing increased coverage that the Refuge can not afford, as well as providing additional materials in the form of “B-roll” footage, which can be used by the Refuge for education and outreach purposes.

Availability of Resources

Adequate refuge personnel and base operational funds are available to manage on-refuge media production activities at existing and projected levels. Administrative staff time primarily involves phone conversations, written correspondence, and interaction with interested parties at the headquarters building in Dillingham. There is additional work entering activity data into a database. Field work associated with administering the program and related media productions fits well with ongoing monitoring of recreational users’ compliance with state and federal regulations.

Anticipated Impacts of the Use(s)

All activities associated with a media production on Refuge are expected to be negligible and fit within other Refuge priority uses. Impacts if any kind would mirror those of other commercially guided activities. There is no evidence to suggest long-term impacts to wildlife due to human disturbance occur at the Refuges. 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 film crew activities will be conducted through the River Ranger program, and the use of visitor satisfaction surveys, which indicate that current conditions are acceptable and provide outstanding opportunities for wilderness solitude. Togiak Refuge will continue to actively manage media productions through special use permits to insure continued compatibility with refuge purposes.

Results of a detailed analysis of the anticipated impacts of wildlife viewing, photography, environmental education and interpretation contained in the Togiak Refuge Comprehensive Conservation Plan (2009), lead to this determination that media production will have negligible impact.

Public Review and Comment

Commercial Filming and recording activities were discussed in the NEPA document entitled Comprehensive Conservation Plan Togiak National Wildlife Refuge printed in 2009. This Compatibility determination was available for Public comment at the Refuge Headquarters and U.S. Fish and Wildlife Service, Region 7, Web Page (www.r7.fws.gov/compatibility).

Determination

_____ Use is Not Compatible

 X 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 media production 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 media productions, and the purposes for the Refuges.

- Monitor site impacts on Refuge lands on Togiak Refuge's surrounding Kagati, Goodnews, and Kukatlim lakes, within the Cape Peirce Wildlife Viewing Area, Wilderness Rivers, and other areas with concentrated public use and potential resource impacts.
- Group sizes would be limited to those required by other permitted commercial services.
- Monitor all activities to ensure that recreation and subsistence users are not impacted and use remains compatible with refuge purposes.
- Permit requests that include media production in the Wilderness would require more scrutiny. An applicant's intent must be aligned with Wilderness purposes and be necessary regarding education and interpretation as per policy (610 FW 2). Also, an applicant must ensure their activity would not degrade the character of the Wilderness or the experience of other users.
- For request in Wilderness 610 FW 2.13 states, "(3) If the refuge does not have an approved WSP or has one more than 15 years old, we must ensure that appropriateness and compatibility determinations are current, and we must conduct a new MRA before renewing a special use permit for commercial services." Prohibited uses would not be allowed (e.g., motorized equipment, installations, and structures) except as allowed by the enabling legislation, ANILCA.
- Activities associated with an already permitted commercial guide would be limited to that guides permit and incorporated plan of operation.
- General permit stipulations are at minimum:
 1. Failure to abide by any part of this Special Use Permit; convictions of willful violation of any refuge related provision in Titles 43 (Part 36) or 50 (Subchapters B and C) Code of Federal Regulations; or violations of any pertinent state regulation (e.g., fish or game violation) will be considered grounds for revocation of this permit and could result in denial of future

permit requests for lands administered by the U.S. Fish and Wildlife Service. This provision applies to all persons working under the authority of this permit (e.g., assistants or contractors). Appeals of decisions relative to permits are handled in accordance with 50 Code of Federal Regulations 36.41.

2. 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.
3. Any animal taken in defense of life or property must be reported to the Refuge Manager immediately. Alaska Department of Fish and Game requirements with regard to taking wildlife in defense of life or property must also be adhered to.
4. The permittee does not have the exclusive use of the site(s) or land(s) covered by this permit.
5. This permit may be canceled or revised at any time by the Refuge Manager to protect refuge resources.
6. This permit is applicable only on Togiak National Wildlife Refuge lands. Activity on Native Allotments is not authorized.
7. 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.
8. Prior to beginning any activities allowed under this permit, the permittee shall provide the Refuge Manager with: (1) name and method of contact for the field party chief/supervisor; aircraft and other vehicle types to be used, identification information for these vehicles; and name of the assistant guides and helpers (2) any changes in information provided in the original permit application.
9. In accordance with the Archeological Resources Protection Act (16 USC 470aa), the disturbance of archeological or historical sites and the removal of artifacts is prohibited. The excavation, disturbance, collection, or purchase of historical, recent, ethnological, or archeological specimens or artifacts is prohibited.
10. Permittees shall maintain their use areas in a neat and sanitary condition. Latrines must be located a minimum of 150 feet from springs, lakes, and streams. All property of the permittee, including non-combustible waste materials, is to be removed from refuge lands upon completion of

permitted activities, or as often as necessary to maintain sanitary camp conditions. No waste materials may be buried on refuge lands.

11. 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 (AGL).
12. The permittee is not allowed to construct cabins or any form of permanent shelter.
13. The use of helicopters for recreational purposes is prohibited.
14. The discharge of firearms, fireworks or other explosive devices is prohibited, except in conjunction with authorized hunting seasons or for protection of life or property.
15. The use of off road vehicles is prohibited.
16. Fuel caches are not permitted.
17. Refrain from activities that may disturb wildlife. These include active harassment, discharge of firearms, and disruptive photographic activities.

Justification

The policy of the Service (8 RM 16.1) is to provide refuge access and/or assistance to legitimate producers of audio and/or visual recordings provided that the production is not incompatible with refuge or Service objectives. Priority consideration is extended to producers of wildlife and natural resource related productions. In Togiak Refuge specifically, media production is encouraged and managed by Special Use Permit (Comprehensive Conservation Plan, pg. 2-53-54). Media production is managed by Department of the Interior regulation (43 CFR 5.1). Media production portraying habitat, wildlife, and wildlife-dependent uses extend, enhance, and broaden the visitor experience thus allowing the Refuge to further accomplish its mission by building core values into a constituency who must value the land and wildlife for the NWRS to be successful in accomplishing its mission.

The Service Policy regarding media production in Designated Wilderness (610 FW 2.12.D) distinguishes between productions with the primary purpose of portraying wilderness uses and values in contrast to those productions whose primary purpose is to film other activities (e.g., fish, hunting) that happen to occur in a wilderness setting. The first is allowed while the second is generally prohibited. Wilderness purposes can be taught through education and interpretation, and media production can accomplish that goal by nurturing those values in a constituency that will never have the opportunity to set foot in the Togiak Wilderness.

Togiak Refuge has consistently taken actions to insure outstanding opportunities to experience wilderness purposes (e.g., to maintain naturalness, solitude) and character (e.g., untrammelled lands.) Working against the refuges effort are those who have values not compatible with Refuge or

Wilderness. In addition, a lack of contact with nature in today's society is well-recognized, the so called "nature deficit" disorder. The lack of connection with natural areas is especially prevalent in today's youth, who are tomorrow's leaders. Proposed here is that if the values for conservation areas and wilderness are lost by the majority, then other values could compromise existing wilderness. Examples include (Izembek Wilderness vs. road; Arctic Refuge proposed wilderness vs. oil production). To assure the missions of the National Wilderness Preservation System and the NWRS are accomplished in the long run, it is necessary to maintain a constituency that values wilderness and natural habitats. Media production in Togiak Refuge assists in accomplishing that necessity.

Stipulations listed in this compatibility determination are the minimum necessary to manage and minimize impacts to the wilderness, refuge, and refuge users. The permit stipulations must be monitored to ensure effectiveness.

The protection and management of land and wildlife resources for the benefit of the American people is part of the NWRS's mission. It is important to provide the opportunity, when possible, for the public to visit the Refuges, allowing them to observe wildlife and its habitats in the simplest and most basic form. Broadening those audiences can only serve to enhance the accomplishment of the missions of the Service, NWRS and Togiak Wilderness. Refuges function as outdoor classrooms. This promotes awareness of ecological functions and the interrelationship between human activities and the natural system which helps to educate and motivate future generations of people to support wilderness and wildlife conservation. The current level of media production on the Refuges is relatively low and projected to remain the same. 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 media production activities on the Refuges do not materially interfere with or detract from the purposes of the Refuges or the mission of the NWRS. These activities will remain compatible with the implementation of the listed 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. 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.

U.S. Fish and Wildlife Service. 2009. Comprehensive Conservation Plan, Togiak National Wildlife Refuge. U.S. Fish and Wildlife Service.

Refuge Determination

Refuge Manager /
Project Leader Approval: _____

(Signature)

(Date)

Concurrence

Regional Chief,
National Wildlife
Refuge System:

(Signature)

(Date)

Mandatory 10-Year Re-Evaluation Date (provide month and year for allowed uses only): _____

Mandatory 15-Year Re-Evaluation Date (for priority public uses): _____

NEPA Compliance for Refuge Use Decision

_____ Categorical Exclusion without Environmental Action Memorandum

_____ Categorical Exclusions and Environmental Action Memorandum

X _____ Environmental Assessment and Finding of No Significant Impact

_____ Environmental Impact Statement and Record of Decision