

Appendix B. Compatibility Determinations and Appropriate Use Findings

B.1 Introduction

B.1.1 Uses Evaluated

The following section includes full CDs for all Refuge uses that are required to be evaluated at this time. According to Service policy, CDs will be completed for all uses proposed under a CCP that have been determined to be appropriate. Existing wildlife-dependent recreational uses must also be reevaluated and new CDs prepared during development of a CCP. According to the Service’s compatibility policy, uses other than wildlife-dependent recreational uses are not explicitly required to be reevaluated in concert with preparation of a CCP, unless conditions of the use have changed or unless significant new information relative to the use and its effects have become available or the existing CDs are more than 10 years old. However, the Service planning policy recommends preparing CDs for all individual uses, specific use programs, or groups of related uses associated with the proposed action. The following CDs were included in the public review draft of the CCP/EA and presented as approved in this document.

Table B.1 Summary of Compatibility Determinations.

Refuge Use	Page	Compatible?	Year Due for Reevaluation
Wildlife Observation, Interpretation, and Photography	B-5	yes	2026
Environmental Education (EE)	B-11	yes	2026
Research, Scientific Collecting, and Surveys	B-17	yes	2021

B.1.2 Compatibility – Legal and Historical Context

Compatibility is a tool refuge managers use to ensure that recreational and other uses do not interfere with wildlife conservation, the primary focus of refuges. Compatibility is not new to the Refuge System and dates back to 1918 as a concept. As policy, it has been used since 1962. The Refuge Recreation Act of 1962 directed the Secretary of the Interior to allow only those public uses of Refuge lands that were “compatible with the primary purposes for which the area was established.”

Legally, Refuges are closed to all public uses until officially opened. Regulations require that adequate funds be available for administration and protection of refuges before opening them to any public uses. However, wildlife-dependent recreational uses (hunting, fishing, wildlife observation and photography, EE and interpretation) are to receive enhanced consideration and cannot be rejected simply for lack of funding resources unless the refuge has made a concerted effort to seek out funds from all potential partners. Once found compatible, wildlife-dependent recreational uses are deemed the priority public uses at the refuge. If a proposed use is found not compatible, the refuge manager is legally precluded from approving it. Economic uses that are conducted by or authorized by the refuge also require CDs.

Under compatibility policy, uses are defined as recreational, economic/commercial, or management use of a refuge by the public or a non-Refuge System entity. Uses generally providing an economic return (even if conducted for the purposes of habitat management) are also subject to CDs. The Service does not prepare CDs for uses when the Service does not have jurisdiction. For example, the Service may have limited jurisdiction over Refuge areas where property rights are vested by others; where legally binding agreements exist; or where there are treaty rights held by tribes. In addition, aircraft over-flights, emergency actions, some activities on navigable waters, and activities by other Federal agencies on “overlay Refuges” are exempt from the compatibility review process.

New compatibility regulations were adopted by the Service in October 2000. The regulations require that a use must be compatible with both the Refuge System mission and the purpose(s) of the individual Refuge. This standard helps to ensure consistency in application across the Refuge System. The Administration Act also requires that CDs be in writing and that the public have an opportunity to comment on most use evaluations.

The Refuge System mission emphasizes that the needs of fish, wildlife, and plants must be of primary consideration. The Improvement Act defined a compatible use as one that “. . . in the sound professional judgment of the Director, will not materially interfere with or detract from the fulfillment of the mission of the System or the purposes of the Refuge.” Sound professional judgment is defined under the Improvement Act as “. . . a finding, determination, or decision, that is consistent with principles of sound fish and wildlife management and administration, available science and resources . . .” Compatibility for wildlife-dependent uses may depend on the level or extent of a use.

Court interpretations of the compatibility standard have found that compatibility is a biological standard and cannot be used to balance or weigh economic, political, or recreational interests against the primary purpose of the refuge (*Defenders of Wildlife v. Andrus*).

The Service recognizes that CDs are complex. For this reason, refuge managers are required to consider “principles of sound fish and wildlife management” and “best available science” in making these determinations (House of Representatives Report 105-106). Evaluations of the existing uses on the James Campbell NWR are based on the professional judgment of Refuge and planning personnel including observations of Refuge uses and reviews of relevant scientific literature.

B.1.3 Appropriate Use Findings

The Appropriate Refuge Uses Policy outlines the process that the Service uses to determine when general public uses on refuges may be considered. Priority public uses previously defined as wildlife-dependent uses (hunting, fishing, wildlife observation and photography, and EE and interpretation) under the Improvement Act are generally exempt from appropriate use review. Other exempt uses include situations where the Service does not have adequate jurisdiction to control the activity and refuge management activities. In essence, the Appropriate Use policy, 603 FW 1 (2006), provides refuge managers with a consistent procedure to first screen and then document decisions concerning a public use. When a use is determined to be appropriate, a refuge manager must then decide if the use is compatible before allowing it on a refuge. The policy also requires review of existing public uses. During the CCP process, the refuge manager evaluated all existing and proposed Refuge uses at James Campbell NWR using the following guidelines and criteria as outlined in the appropriate use policy:

- Do we have jurisdiction over the use?
- Does the use comply with applicable laws and regulations (Federal, State, tribal and local)?
- Is the use consistent with applicable Executive orders and Department and Service policies?
- Is the use consistent with public safety?
- Is the use consistent with goals and objectives in an approved management plan or other document?
- Has an earlier documented analysis not denied the use or is this the first the use has been proposed?
- Is the use manageable within available budget and staff?
- Will this be manageable in the future within existing resources?
- Does the use contribute to the public’s understanding and appreciation of the refuge’s natural or cultural resources, or is the use beneficial to the refuge’s natural or cultural resources?
- Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality, compatible, wildlife dependent recreation into the future?

Using this process and these criteria, and as documented on the following pages, the Refuge Manager determined the following uses are appropriate, and directed that a CD be completed for these uses: research, scientific collecting, and surveys. The Refuge Manager determined the following uses are not appropriate: sea asparagus farming and private aircraft operations.

Table B.2. Summary of Appropriate Use Findings.

Refuge Use	Page	Appropriate?
Research, Scientific Collecting, and Surveys	B-24	yes
Commercial Operation, Sea Asparagus Farming	B-27	no
Private Aircraft Operations	B-31	no

B.1.4 References

Compatibility regulations, adopted by the Service in October 2000:

<http://Refuges.fws.gov/policymakers/nwrpolicies.html>

Defenders of Wildlife v. Andrus (Ruby Lake Refuge I). 11 Env'tl. Rptr. Case 2098 (D.D.C. 1978), p. 873.

Fish and Wildlife Service. 2010. James Campbell National Wildlife Refuge: *Draft Comprehensive Conservation Plan and Environmental Assessment*. 109 p. + Appendices

House of Representatives Report 105-106 (on Improvement Act):

<http://refuges.fws.gov/policyMakers/mandates/HR1420/part1.html>

B.2 Compatibility Determination for Wildlife Observation, Interpretation, and Photography

Refuge Name(s): James Campbell National Wildlife Refuge

County and State: Honolulu County, Hawai‘i

Establishing and Acquisition Authority(ies):

James Campbell NWR was established in 1976 under the authority of the:

- Fish and Wildlife Coordination Act of 1956, as amended (16 U.S.C. 742a – 742j)
- Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1544)
- James Campbell National Wildlife Refuge Expansion Act of 2005, Pub. Law 109-225 (16 U.S.C. 668dd)

Refuge Purpose(s):

“... to conserve (A) fish or wildlife which are listed as endangered species or threatened species or (B) plants ...”.

National Wildlife Refuge System Mission:

“The mission of the National Wildlife Refuge System (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” (Administration Act).

Description of Use(s):

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee), as amended by the National Wildlife Refuge System Improvement Act of 1997 identifies wildlife observation, interpretation, and photography (WO/I/P) among wildlife-dependent public uses which, when compatible with the purpose(s) of the refuge, are priority public uses and receive special consideration in planning for and management of the Refuge System. This CD addresses the Wildlife Observation/Interpretation/Photography program, as well as modest new increases and opportunities being provided on both existing refuge lands and the expansion lands planned for addition to the Refuge, once acquired. These activities are proposed to continue while acquisition of new Refuge lands is completed and a subsequent Visitor Services Plan (VSP) is developed (within 5 years of final land acquisition). This VSP will identify and evaluate a range of alternatives and options for new refuge visitor facilities and uses all across the expanded Refuge lands including the location of roads, parking area, overlooks, trails and possible construction of a visitor center. An updated CD, if needed, will be prepared in conjunction with this plan and all activities identified in this CD are subject to review and change at that time.

Interpretation is the communication of information about, or the explanation of, the nature, origin, and purpose of historical, natural, or cultural resources, objects, sites and phenomena using various methods. The docent-guided tour program provides interpretive information about the identity and life histories of both endangered and migratory birds viewed along the tour route. Scheduled from

October 15-February 28 of each year, the tours last about 90 minutes and follow a designated route along dikes around a portion of the Refuge wetlands.

Wildlife observation, interpretation, and photography are considered together in this CD because they are considered to be wildlife-dependent, nonconsumptive uses and many elements of these programs are similar. Activities would be allowed as described below:

- On designated portions of Ki‘i Unit at designated dates, times and routes; and
- During daylight hours on the Refuge coastal area within the beach transit corridor only.

The Ki‘i Unit is closed to general public entry and use and the only access to the unit is through a coded automatic gate. Under this CD the current docent guided tour program would continue to be conducted on Thursdays and Saturdays providing WO/I/P opportunities up to 42 days per season for approximately 820 total visitors. Trained docents provide information about the identity and life histories of both endangered and migratory birds viewed along the tour route. In addition to these docent-guided tours, new individual self-guided tours will be initiated during this same season to allow additional visitors in small parties (1-5 of the same party) to view and photograph wildlife at their own pace, not in a group. This will be of particular benefit to persons wishing to photograph wildlife who will not have to continually move to stay with a larger group, as in the guided tours. While providing limited new WO/I/P opportunities this new self-guided program is small in scale by necessity due to the extremely small size of the Ki‘i Unit, very limited public access and facilities, the need to limit disturbance to wildlife and prevent scheduling conflicts with both guided tours and EE tours that occur in this same area during this same season. Both guided and self-guided tours will be conducted under a reservation system.

Except when and where closed for protection of individual ‘īlio-holo-i- ka-uaua and/or honu, WO/I/P use will be permitted in the State-defined “beach access corridor” (Hawai‘i Revised Statutes §115-5) by public access routes at either end of the Refuge boundary. The designated open portion of the Refuge extends to the highest reach of the highest wash of the waves, up to the first line of naupaka and tree heliotrope vegetation that is well established all along the dunes. Refuge lands mauka (inland) of this line will remain closed to the public.

Availability of Resources:

Category and Itemization	One-time \$	Annual \$/yr
Administration and management:	\$0	\$800
Maintenance:	\$0	\$1,400
Monitoring costs:	\$0	\$3,600
Special equipment, facilities, or improvements:	\$2,000	\$1,800
Offsetting revenues:	\$0	\$0

The Refuge has sufficient budget and staff to manage this use.

Anticipated Impacts of the Use(s):

Short-term impacts:

Ki‘i Unit: The continuation of the current guided tours on the Ki‘i Unit will not produce any new short-term impacts. The current program has been in place for many years and through observation

the impacts to wildlife are well known and understood. The primary short-term impact is to individual wildlife as birds may flush, swim away or seek cover and hide in vegetation as tour groups pass by. These impacts are minimized by the tours being limited by following designated times, routes and numbers of participants. The additional new self-guided tours will result in only a small increase in activity over the current level of guided tours and EE programs combined that occur in generally the same area and during the same season. This additional activity will result in only a very small increase in the impacts already described, i.e., temporary disturbance to wildlife.

Refuge coastal dunes: Currently a number of people access the coastal area by entering along the shoreline at either end of the property (Refuge expansion land) or by crossing over the adjacent private land (James Campbell Company) by either permission or trespassing. The public transit corridor along the shoreline is indistinguishable for most users from the adjacent private property due to the similarity in appearance (beach), immediate close proximity and lack of any identifiers such as signs or fences. Consequently current uses on the shoreline occur without regard to property boundaries. Under this CD, once acquired, visitor uses described as WO/I/P will continue and be allowed on the Refuge portion of the coastal area up to the naupaka line of vegetation. The level of use will actually decline in the short-term as public access along the shoreline will not change and should remain about the same but private access across James Campbell Company land, once acquired by the Refuge, will not be allowed.

The primary short-term impacts from this use are the possible disturbance to wildlife, primarily ‘Īlio-holo-i-ka-uaua and honu that may haul out on shore. Coordination and cooperation with wildlife monitoring groups should reduce disturbance to these individual animals due to closer monitoring. A particular concern is nighttime activity which can distract or disorient wildlife, particularly nesting turtles (which come ashore at night) or nesting and fledgling seabirds. To minimize the risk of this impact occurring, access to the Refuge portion of the shoreline will be open to public use such as WO/I/P only during daylight hours (½-hour before sunrise to ½-hour after sunset).

Long-term impacts:

Ki‘i Unit - As additional lands are acquired and added to the Refuge, new opportunities for WO/I/P will become available. These new opportunities will be identified and evaluated in the preparation of a VSP. As new opportunities and facilities necessary to conduct these uses are developed, the existing uses on the Ki‘i Unit will be re-evaluated and likely phased out or reduced. Therefore long-term impacts (occasional temporary disturbance to wildlife) of the use described in this CD are expected to diminish over time and will be re-evaluated for uses proposed under any new CD in conjunction with the preparation of the VSP.

Refuge coastal dunes - Visitor use in this habitat is not expected to increase and should decrease slightly due to stricter control of access. This could result in a slight decrease of impacts over time. A significant long-term concern will be the presence of nesting seabirds. A few seabirds, primarily wedge-tailed shearwaters, attempt to nest along the coast each year, but have been generally unsuccessful due to the uncontrolled presence of nonnative predators. To aid in protection of seabirds, a predator control program will be implemented along the Refuge coastal dunes, and it is anticipated that a variety of seabird species will once again be able to successfully nest in this area. Both seabird and human activity along the shoreline will need to be monitored to determine the level of disturbance that may be occurring to nesting seabirds from Refuge activities, including WO/I/P. As described below under stipulations, the Refuge Manager has the authority to close areas open to public uses if the need arises to protect wildlife.

Cumulative impacts: The level and type of use from activities described in this CD is not expected to result in any significant cumulative impacts.

Public Review and Comment:

Public review and comments on this CD were solicited in conjunction with the release of the James Campbell National Wildlife Refuge Draft CCP/EA (2011), in order to comply with NEPA and Service policy. This CD was released as an integral part of the CCP and received the same level of public review and comments as the CCP, in accordance with Service planning policy.

Determination: (check one below)

Use is Not Compatible

Use is Compatible With Following Stipulations

Stipulations Necessary to Ensure Compatibility:

Ki'i Unit - Activity (both guided and self-guided tours) is allowed only during the non-nesting season of ae'o to prevent disturbance to this sensitive species (October 15-February 28).

During this seasonal use, designated times, areas and routes established by the Refuge Manager for both guided and self-guided tours will be used to further minimize disturbance to all wildlife and prevent conflicts with Refuge management actions being conducted by the staff. Tour group sizes are limited to 20 for docent-guided tours and 5 for self-guided tours, limited to 1 tour per day. Self-guided tours will be allowed only during regular business hours Monday-Friday. Due to the closed nature of the Refuge it is not desirable or advisable to have persons on self-guided tours enter and be present on the Refuge when Refuge staff is not present. Docent-guided tours are only conducted on Thursday and Saturday.

Self-guided tours would be required to register for designated areas and hear or read orientation materials regarding appropriate wildlife viewing behavior and Refuge regulations to protect wildlife.

Refuge coastal area - The Refuge Manager would still maintain the authority to close any portion of the Refuge-owned and -managed shoreline to the public for any period of time (temporarily, seasonally or year-round) to protect wildlife including 'ilio-holo-i-ka-uaua, honu, seabirds or native plants (CFR 25.21(e) and 25.31). Closing is generally accomplished by signing and/or fencing. Access along the shore is pedestrian only, no entry by horseback or motorized vehicles permitted.

Activities would be restricted to daylight hours only (sunrise to sunset).

Justification:

Wildlife observation, interpretation, and photography are identified as priority public uses of the Refuge System and are identified in the goals of the James Campbell NWR CCP; therefore a program which includes these uses fulfills a part of the Refuge System mission and Refuge goals.

The current WO/I/P program on the Ki'i Unit has been in place many years. Even in combination with the EE program which occurs in the same area and during the same season, the disturbance to

wildlife is considered to be minimal. The small increase in visitor numbers planned by adding small (up to 5) self-guided tours during this same timeframe and in the same area of the Refuge will not significantly change or increase the level of disturbance to wildlife.

Shoreline use will continue similar to what is occurring now (pre-acquisition) but with much improved monitoring, closed night-time use and authority to close Refuge owned/managed portions of the shoreline (under 50 CFR 25.21(e)) if it becomes necessary to prevent disturbance and protect wildlife. The land acquisition process is ongoing and recently or soon-to-be acquired lands will significantly change the size and nature of the Refuge. Management jurisdiction for the new property boundary along the shoreline is under review, subject to the Service solicitor's opinion. If needed, we will pursue an Executive Order from the Governor of Hawai'i to transfer State management jurisdiction to the Refuge to help fulfill Refuge purposes and eliminate conflicting uses or regulations. Once acquisition of these new lands is completed, it will take careful consideration and planning to determine the most suitable and practical sites for new public roads, parking areas, trails, areas both open or closed to the public, and special regulations necessary to protect wildlife, fragile natural and cultural resources, and the visiting public. An updated CD for WO/I/P uses may be prepared at that time which will incorporate new facilities and stipulations identified in the VSP. All uses and stipulations identified in this CD will be subject to review and change at that time.

Although WO/I/P activities can result in disturbance to wildlife, disturbance will be intermittent and short-term. There is more than adequate undisturbed habitat available to Refuge wildlife for escape and cover. It is anticipated that wildlife populations will find sufficient food resources and resting places such that their abundance and use of the Refuge will not be measurably lessened from these activities. The relatively limited number of individuals expected to be adversely affected due to this Refuge use will not cause wildlife populations to materially decline, the physiological condition and production of any plant or animal species will not be impaired, and their overall welfare will not be negatively impacted. Thus allowing WO/I/P on the Refuge will not materially interfere with or detract from the fulfillment of the Refuge System mission or the purposes of this Refuge.

Mandatory Reevaluation Date: (provide month and year for "allowed" uses only)

September 2026 Mandatory 15-year reevaluation date (for wildlife-dependent public uses)

_____ Mandatory 10-year reevaluation date (for all uses other than wildlife-dependent public uses)

NEPA Compliance for Refuge Use Decision: (check one below)

Categorical Exclusion without Environmental Action Statement

Categorical Exclusion and Environmental Action Statement

Environmental Assessment and Finding of No Significant Impact

Environmental Impact Statement and Record of Decision

Signatures:

The Compatibility Determination for Wildlife Observation, Interpretation, and Photography is compatible with stipulations.

Prepared by:

Refuge Planner,
Hawaiian and Pacific Islands NWRC

Laura Beauregard
(Signature)

8-25-11
(Date)

Project Leader,
O'ahu National Wildlife Refuge Complex
Approval:

[Signature]
(Signature)

8/25/11
(Date)

Concurrence:

Project Leader,
Hawaiian and Pacific Islands NWRC

Barry W. [Signature]
(Signature)

9/1/11
(Date)

Regional Chief,
National Wildlife Refuge System:

[Signature]
(Signature)

9/9/11
(Date)

B.3 Compatibility Determination for Environmental Education

Refuge Name(s): James Campbell National Wildlife Refuge

County and State: Honolulu County, Hawai‘i

Establishing and Acquisition Authority(ies):

James Campbell NWR was established in 1976 under the authority of the:

- Fish and Wildlife Coordination Act of 1956, as amended (16 U.S.C. 742a – 742j)
- Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1544)
- James Campbell National Wildlife Refuge Expansion Act of 2005, Pub. Law 109-225 (16 U.S.C. 668dd)

Refuge Purpose(s):

“... to conserve (A) fish or wildlife which are listed as endangered species or threatened species or (B) plants ...”.

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” (Administration Act).

Description of Use(s):

Environmental education is defined as a wildlife-dependent recreational use under the Improvement Act. Environmental education consists of educational activities conducted by Refuge staff, volunteers, partners and teachers. This CD addresses the current EE program which is proposed to continue while acquisition of new Refuge lands is completed and a subsequent Visitor Services Plan (VSP) is developed. This plan will identify and evaluate a wide range of new EE opportunities associated with the expanded Refuge, including the possible construction of a dedicated EE facility.

Currently, the EE program on the Refuge serves a range of 900-1500 students annually, depending on the level of participation by individual schools. The program focuses on the management and protection of endangered waterbirds, wetlands, and other native wildlife. The entire program is conducted under a Special Use Permit (SUP) issued to the non-profit organization Papahana Kuaola, which organizes and conducts the programs. As the Refuge currently has limited staff available for EE, the program could not be conducted without this cooperation/participation of Papahana Kuaola or other nonprofit partner. Due to a lack of suitable and safe access (roads and parking) and other facilities on other portions of the Refuge, all EE activities currently take place on the Ki‘i Unit where limited access and facilities are available.

During the interim period after land acquisition is complete and while the VSP is being developed, most EE activities will continue to be conducted on the Ki‘i Unit. Additional EE activities may be

conducted on new Refuge lands but may be limited by road conditions or lack of other facilities and conducted on a case by case basis under a SUP or by Refuge staff, if available.

Environmental education activities on the Ki'i Unit will continue during the non-nesting season of ae'o (October 15-February 28) to minimize disturbance to this sensitive species. Programs are conducted with a maximum of 60 students allowed along with teachers and chaperones. These programs are conducted from 11:30 a.m.-1:30 p.m. Under the current EE program structure, approximately 55 days per year (depending on holidays) are allocated for EE programs (M,W,F, October 15-February 28). While the actual number of programs conducted varies from year to year, many dates currently identified for EE programs are not utilized. Therefore, under the current program structure up to approximately 3,300 students could be accommodated each EE season.

This EE program supports the environmental/wetlands curriculum being provided by schools to grades 3-5. After participating in classroom learning about Hawaiian wetlands and birds, the field trip to the Refuge is the first opportunity for most students to visit a refuge, see endangered Hawaiian waterbirds, and learn first-hand about efforts to manage and protect these species and their habitats.

Availability of Resources:

Category and Itemization	One-time \$	Annual \$/yr
Administration and management:	\$0	\$1,000
Maintenance:	\$0	\$900
Materials:	\$0	\$1,000
Special equipment, facilities, or improvements:	\$0	\$1,000
Offsetting revenues:	\$0	\$

Minimal costs of EE will be covered by Refuge visitor services funding provided in the annual Refuge budget.

Anticipated Impacts of the Use(s):

Short-term impacts: Under the current program, the number of school groups and students visiting the Refuge may vary from year to year but this variation is already considered in the guidelines and structure established for the program. The primary impacts come from temporary disturbance to individual animals (primarily birds) due to the presence and activity of the students as they are guided around the wetlands. The animals may flush, swim away or seek cover and hide in vegetation. These impacts are mitigated by restricting the days, times, routes and locations that EE activities take place. This allows the students to participate in the EE experience while causing temporary disturbance over the smallest area and to the fewest birds. This program has been in place many years and while, as noted, it does have an effect on individual birds it has not had a noticeable impact on bird populations using the Refuge.

Long-term impacts: The current, ongoing EE program covered by this CD will not cause any significant long-term impacts. With the recently acquired or pending acquisition of Refuge expansion lands many new possibilities and opportunities for EE programs and facilities will be available. To identify and evaluate these new possibilities a VSP will be developed within 5 years of the final land acquisition. This plan will identify and evaluate major new features and facilities, such

as roads, parking area and trails that will be developed and used to support and implement an expanded EE program, as well as other visitor use programs. It is anticipated that this plan will consider and develop EE opportunities and facilities on other areas of the refuge shifting EE activities away from the Ki'i Unit in the long-term so that the current low level of disturbance associated with the current EE program on the Ki'i Unit will be reduced.

Cumulative impacts: This EE program has been conducted in the current manner for many years and no cumulative impacts to wildlife resources on the refuge have been observed or are anticipated. Although the potential of the EE program could bring 6,000 students to the Refuge, the limitation to 60 students per day retains the current impact regime. Although these activities can result in disturbance to wildlife, disturbance will be intermittent and short-term. There is more than adequate undisturbed habitat available to Refuge wildlife for escape and cover. It is anticipated that wildlife populations will find sufficient food resources and resting places such that their abundance and use of the Refuge will not be measurably lessened from these activities. The relatively limited number of individuals expected to be adversely affected due to this Refuge use will not cause wildlife populations to materially decline, the physiological condition and production of any plant or animal species will not be impaired, and their overall welfare will not be negatively impacted. Thus allowing EE on the Refuge will not materially interfere with or detract from the fulfillment of the Refuge System mission or the purposes of this Refuge.

Public Review and Comment:

Public review and comments on this CD were solicited in conjunction with the release of the James Campbell National Wildlife Refuge Draft CCP/EA (2011), in order to comply with the National Environmental Policy Act and Service policy. This CD was released as an integral part of the CCP and received the same level of public review and comments as the CCP, in accordance with Service planning policy.

Determination: (check one below)

Use is Not Compatible

Use is Compatible with Following Stipulations

Stipulations Necessary to Ensure Compatibility:

All access to the Refuge for EE activities not directly supervised by Service personnel is regulated by issuance of annual SUPs. The use of SUPs allows the Refuge Manager to continually adjust the activity to any significant new or changing conditions on the Refuge, as needed. However, the current programs are well established and such changes have been infrequent.

To prevent disturbance to sensitive ae'o during their nesting season, regularly scheduled EE activities will occur during the non-nesting season (October 15-February 28) and are limited to designated times, locations and routes of travel to reduce overall disturbance to wildlife. Group size is limited to a maximum of 60 students.

The current EE program on the Ki'i Unit has been in place many years. Even in combination with the wildlife tour program which occurs in the same area and during the same season, the disturbance to wildlife is considered to be minimal and at an acceptable level.

Justification:

Compatible EE is a priority wildlife-dependent public use of the Refuge System and is a goal in the James Campbell NWR CCP; therefore, implementation of the program fulfills a part of the Refuge System mission and Refuge goals. The program is intended to foster a better understanding of the Refuge and in turn build a public that is more knowledgeable about and supportive of natural resource issues and needs. Minimal impacts are incurred by implementation of existing EE programs or expected by modest increases as proposed in the CCP and as long as the stipulations to ensure compatibility are followed, the benefits received through public education, participation, and involvement outweigh the minimal impacts.

Although EE activities can result in disturbance to wildlife, disturbance will be intermittent and short-term. There is more than adequate undisturbed habitat available to Refuge wildlife for escape and cover. It is anticipated that wildlife populations will find sufficient food resources and resting places such that their abundance and use of the Refuge will not be measurably lessened from these activities. The relatively limited number of individuals expected to be adversely affected due to this Refuge use will not cause wildlife populations to materially decline, the physiological condition and production of any plant or animal species will not be impaired, and their overall welfare will not be negatively impacted. Additionally, it is anticipated that monitoring, as needed, will prevent unacceptable or irreversible impacts to fish, wildlife, plants, and their habitats. Thus conducting the EE program will not materially interfere with or detract from the fulfillment of the Refuge System mission or the purposes of this Refuge.

Mandatory Reevaluation Date: (provide month and year for “allowed” uses only)

September 2026 Mandatory 15-year reevaluation date (for wildlife-dependent public uses)
_____ Mandatory 10-year reevaluation date (for uses other than wildlife-dependent public uses)

NEPA Compliance for Refuge Use Decision: (check one below)

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

Signatures:

The Compatibility Determination for Environmental Education is compatible with stipulations.

Prepared by:

Refuge Planner,
Hawaiian and Pacific Islands NWRC

Laura Beauregard 8-25-11
(Signature) (Date)

Project Leader,
O'ahu National Wildlife Refuge Complex
Approval:

[Signature] 8/25/11
(Signature) (Date)

Concurrence:

Project Leader,
Hawaiian and Pacific Islands NWRC

Barry W. [Signature] 9/1/11
(Signature) (Date)

Regional Chief,
National Wildlife Refuge System:

[Signature] 9/9/11
(Signature) (Date)

B.4 Compatibility Determination for Research, Scientific Collecting, and Surveys

CD Terminology:

Research: Planned, organized, and systematic investigation of a scientific nature.

Scientific collecting: Gathering of refuge natural resources or cultural artifacts for scientific purposes.

Surveys: Scientific inventory or monitoring.

Refuge Name(s): James Campbell National Wildlife Refuge

County and State: Honolulu County, Hawai‘i

Establishing and Acquisition Authority(ies):

James Campbell NWR was established in 1976 under the authority of the:

- Fish and Wildlife Coordination Act of 1956, as amended (16 U.S.C. 742a – 742j)
- Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1544)
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Refuge Purpose(s):

“... to conserve (A) fish or wildlife which are listed as endangered species or threatened species or (B) plants ...”.

National Wildlife Refuge System Mission:

“The mission of the 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” (Administration Act).

Description of Use(s):

The Refuge staff receives periodic requests from non-Service entities (e.g., universities, State agencies, other Federal agencies, nongovernmental organizations) to conduct research, scientific collecting, and surveys on Refuge lands. These project requests can involve a wide range of natural and cultural resources as well as public use management issues, including basic absence/presence surveys, collection of new species for identification, habitat use and life-history requirements for specific species/species groups, practical methods for habitat restoration, extent and severity of environmental contaminants, techniques to control or eradicate pest species, effects of climate change on environmental conditions and associated habitat/wildlife response, identification and analyses of paleontological specimens, wilderness character, modeling wildlife populations, and assessing response of habitat/wildlife to disturbance from public uses. Projects may be species-specific, Refuge-specific, or evaluate the relative contribution of the Refuge lands to larger landscapes (e.g., ecoregion, region, flyway, national, international) issues and trends.

The Service's research and management and Appropriate Refuge Uses (603 FW1.10D(4)) policies indicate priority for scientific investigatory studies that contribute to the enhancement, protection, use, preservation, and management of native wildlife populations and their habitat as well as their natural diversity. Projects that contribute to refuge-specific needs for resource and/or wilderness management goals and objectives, where applicable, would be given a higher priority over other requests.

Availability of Resources:

Refuge staff responsibilities for projects by non-Service entities will primarily be limited to the following: review of proposals, prepare special use permits (SUP) and other compliance documents (e.g., Section 7 of the ESA, Section 106 of the National Historic Preservation Act), and monitor project implementation to ensure that impacts and conflicts remain within acceptable levels (compatibility) over time. Additional administrative support, logistical and operational support may also be provided depending on each specific request. Estimated costs for one-time (e.g., prepare SUP) and annually recurring tasks by Refuge staff and other Service employees will be determined for each project. Sufficient funding in the general operating budget of the Refuge must be available to cover expenses for these projects. The terms and conditions for funding and staff support necessary to administer each project on the Refuge will be clearly stated in the SUP(s).

The Refuge has the following staffing and funding to administratively support and monitor research that is currently taking place on Refuge lands (see table below). Any substantial increase in the number of projects would create a need for additional resources to oversee the administration and monitoring of the investigators and their projects. Any substantial additional costs above those itemized below may result in finding a project not compatible unless expenses are offset by the investigator(s), sponsoring agency, or organization.

Category and Itemization	One-time \$	Annual \$/yr
Administration and management	\$0	\$4,200
Maintenance	\$0	\$0
Monitoring	\$0	\$3,100
Special equipment, facilities, or improvement	\$0	\$0
Offsetting revenues	\$0	\$0

Itemized costs in the table above are current estimates calculated using 7% of the base cost for a GS-12 Refuge Biologist/Refuge Manager and a 3% cost of a GS-13 Refuge Manager.

Anticipated Impacts of the Use:

Use of the Refuge to conduct research, scientific collecting, and surveys will generally provide information that would benefit wildlife, plants, and their habitats. Scientific findings gained through these projects provide important information regarding life-history needs of species and species groups as well as identify or refine management actions to achieve resource management objectives in Refuge management plans (especially CCPs). Reducing uncertainty regarding wildlife and habitat responses to Refuge management actions in order to achieve desired outcomes reflected in resource management objectives is essential for adaptive management in accordance with 522 DM 1.

If project methods impact or conflict with Refuge-specific resources, priority wildlife-dependent public uses, other high-priority research, and Refuge habitat and wildlife management programs, then it must be clearly demonstrated that the scientific findings will contribute to resource management and that the project cannot be conducted off-Refuge for the project to be compatible. The investigator(s) must identify methods/strategies in advance required to eliminate or minimize the potential impact(s) and conflict(s). If unacceptable impacts cannot be avoided, then the project will not be compatible.

Impacts would be project- and site-specific, where they will vary depending upon nature and scope of the field work. Data collection techniques will generally have minimal animal mortality or disturbance, habitat destruction, no introduction of contaminants, or no introduction of nonnative species. In contrast, projects involving the collection of biotic samples (plants or animals) or requiring intensive ground-based data or sample collection will have short-term impacts. To reduce impacts, the minimum number of samples (e.g., water, soils, vegetative litter, plants, macroinvertebrates, and vertebrates) will be collected for identification and/or experimentation and statistical analysis. Where possible, researchers would coordinate and share collections to reduce sampling needed for multiple projects.

Investigator(s) obtaining required State and Federal collecting permits will also ensure minimal impacts to fish, wildlife, plants, and their habitats. If, after incorporating the above strategies, the project results in long-term or cumulative effects, it will not be deemed compatible. A Section 7 consultation under the ESA will be required for activities that may affect a federally listed species and/or critical habitat. Only projects that have no effect or will result in not likely to adversely affect determinations will be considered compatible.

Spread of pest plants and/or pathogens is possible from ground disturbance and/or transportation of project equipment and personnel, but it will be minimized or eliminated by requiring proper cleaning of investigator equipment and clothing as well as quarantine methods, where necessary. If after all practical measures are taken, an unacceptable spread of pest species is anticipated to occur, then the project will be found not compatible without a restoration or mitigation plan.

Localized and temporary effects may occur from vegetation trampling, collecting of soil and plant samples, or trapping and handling of wildlife. Impacts may also occur from infrastructure necessary to support a project (e.g., permanent transects or plot markers, exclosure devices, monitoring equipment, solar panels to power unattended monitoring equipment). Some level of disturbance is expected with these projects, especially if investigator(s) enter areas closed to the public and collect samples or handle wildlife. However, wildlife disturbance (including altered behavior) will usually be localized and temporary in nature. Where long-term or cumulative unacceptable effects cannot be avoided, the project will not be found compatible. Project proposals will be reviewed by Refuge staff and others, as needed, to assess the potential impacts (short-term, long-term, and cumulative) relative to benefits of the investigation to Refuge management issues and understanding of natural systems.

At least 6 months before initiation of field work (unless an exception is made by prior approval of the Refuge Manager), project investigator(s) must submit a detailed proposal. Project proposals will be reviewed by Refuge staff and others, as needed, to assess the potential impacts (short-term, long-term, and cumulative) relative to benefits of the investigation to Refuge management issues and understanding of natural systems. This assessment will form the primary basis for allowing or denying a specific project. Projects that result in unacceptable Refuge impacts will not be found

compatible. If allowed and found compatible after approval, all projects also will be assessed during implementation to ensure impacts and conflicts remain within acceptable levels.

If the proposal is approved, then the Refuge Manager will issue a SUP(s) with required stipulations (terms and conditions) of the project to avoid and/or minimize potential impacts to Refuge resources as well as conflicts with other public-use activities and Refuge field management operations. After approval, projects also are monitored during implementation to ensure impacts and conflicts remain within acceptable levels based upon documented stipulations.

Projects that are not covered by the CCP will require additional NEPA documentation.

Public Review and Comment:

Public review and comments on this CD were solicited in conjunction with the release of the James Campbell National Wildlife Refuge Draft CCP/EA (2011), in order to comply with the National Environmental Policy Act and Service policy. This CD was released as an integral part of the CCP and received the same level of public review and comments as the CCP, in accordance with Service planning policy.

Determination: (check one below)

The use is not compatible.

The use is compatible with the following stipulations.

Stipulations Necessary to Ensure Compatibility:

Each project will require an SUP. Annual or other short-term SUPs are preferred; however, some permits will be a longer period, if needed, to allow completion of the project. All SUPs will have a definite termination date. Permit renewals will be subject to Refuge Manager review and approval based on timely submission of and content in progress reports, compliance with SUP stipulations, and required permits. Other stipulations and provisions would include the following:

- Projects will adhere to scientifically defensible protocols for data collection, where available and applicable.
- Investigators must possess appropriate and comply with conditions of State and Federal permits for their projects.
- If unacceptable impacts to natural resources or conflicts arise or are documented by the Refuge staff, then the Refuge Manager can suspend, modify conditions of, or terminate an on-going project already permitted by SUP(s) on a Refuge.
- Progress reports are required at least annually for multiple-year projects.
- Final reports are due 1 year after completion of the project unless negotiated otherwise with the Refuge Manager.
- Continuation of existing projects will require approval by the Refuge Manager.
- The Refuge staff will be given the opportunity to review draft manuscript(s) from the project before being submitted to a scientific journal(s) for consideration of publication.
- The Refuge staff will be provided with copies (including, but not limited to: reprints, videos, and CDs) of all publications resulting from a Refuge project.
- The Refuge staff will be provided with copies of raw data (preferably electronic database format) at the conclusion of the project.

- Upon completion of the project or annually, all equipment and markers (unless required for long-term projects), must be removed and sites must be restored to the Refuge Manager's satisfaction. Conditions for clean-up and removal of equipment and physical markers will be stipulated in the SUP(s).
- All samples collected on Refuge lands are the property of the Service even while in the possession of the investigator(s). Any future work with previously collected samples not clearly identified in the project proposal will require submission of a subsequent proposal for review and approval. In addition, a new SUP will be required for additional project work. For samples or specimens to be stored at other facilities (e.g., museums), a memorandum of understanding will be necessary.
- Sampling equipment as well as investigator(s) clothing and vehicles (e.g., ATV, boats) will be thoroughly cleaned (free of dirt and plant material) before being allowed for use on Refuge lands and/or waters to prevent the introduction and/or spread of pests.
- The Service, specific Refuge unit, names of Refuge staff and other Service personnel who supported or contributed to the project will be appropriately cited and acknowledged in all written and oral presentations resulting from projects on Refuge lands.
- At any time, Refuge staff may accompany investigator(s) in the field.
- Investigator(s) and support staff will follow all Refuge-specific regulations that specify access and travel on the Refuge.

Justification:

Research, scientific collecting, and surveys on Refuge lands are inherently valuable to the Service because they will expand scientific information available for resource management decisions. In addition, only projects that directly or indirectly contribute to the enhancement, protection, use, preservation, and management of Refuge wildlife populations and their habitats generally will be authorized on Refuge lands. In many cases, if it were not for the Refuge staff providing access to Refuge lands and waters along with some support, the research project would likely not occur and less scientific information would be available to the Service to aid in managing and conserving resources. By allowing the use to occur under the stipulations described above, it is anticipated that wildlife species that could be disturbed during the use would find sufficient food resources and resting places so their abundance and use will not be measurably lessened on the Refuge. Additionally, it is anticipated that monitoring, as needed, will prevent unacceptable or irreversible impacts to fish, wildlife, plants, and their habitats. The combination of stipulations identified above and conditions included in any SUP(s) will ensure that proposed projects contribute to the enhancement, protection, conservation, and management of native wildlife populations and their habitats on the Refuge. As a result, these projects will not materially interfere with or detract from fulfilling Refuge purpose(s); contributing to the mission of the Service and Refuge System; and maintaining the biological integrity, diversity, and environmental health of the Refuge.

Mandatory Re-evaluation Date: (provide month and year for “allowed” uses only)

_____ Mandatory 15-year re-evaluation date (wildlife-dependent public uses)

September 2021 Mandatory 10-year re-evaluation date (uses other than wildlife-dependent public uses)

NEPA Compliance for Refuge Use Decision: (check one below)

_____ Categorical Exclusion without Environmental Action Statement

_____ Categorical Exclusion and Environmental Action Statement

Environmental Assessment and Finding of No Significant Impact

_____ Environmental Impact Statement and Record of Decision

Signatures:

The Compatibility Determination for Research, Scientific Collecting, and Surveys is compatible with stipulations.

Prepared by:

Refuge Planner,
Hawaiian and Pacific Islands NWRC

Laura Beauregard 8-25-11
(Signature) (Date)

Project Leader,
O'ahu National Wildlife Refuge Complex
Approval:

[Signature] 8/25/11
(Signature) (Date)

Concurrence:

Project Leader,
Hawaiian and Pacific Islands NWRC

Barry W. Sly 9/1/11
(Signature) (Date)

Regional Chief,
National Wildlife Refuge System:

J. S. West 9/9/11
(Signature) (Date)

James Campbell National Wildlife Refuge Comprehensive Conservation Plan

FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: James Campbell National Wildlife Refuge

Use: Research, Scientific Collecting, and Surveys

Decision Criteria:	YES	NO
(a) Do we have jurisdiction over the use?	✓	
(b) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?	✓	
(c) Is the use consistent with applicable Executive orders and Department and Service policies?	✓	
(d) Is the use consistent with public safety?	✓	
(e) Is the use consistent with goals and objectives in an approved management plan or other document?	✓	
(f) Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?	✓	
(g) Is the use manageable within available budget and staff?	✓	
(h) Will this be manageable in the future within existing resources?	✓	
(i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?	✓	
(j) Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future?	✓	

This form is not required for wildlife-dependent recreational uses; take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997. Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will generally not allow the use.

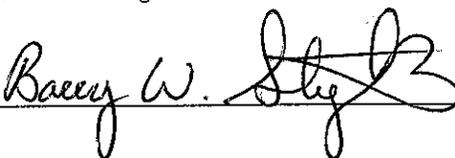
If indicated, the refuge manager has consulted with State fish and wildlife agencies. Yes No

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence. Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate Appropriate

Refuge Manager:  Date: 8/25/11

If found to be **Not Appropriate**, the refuge supervisor does not need to sign concurrence if the use is a new use. If an existing use is found **Not Appropriate** outside the CCP process, the refuge supervisor must sign concurrence. If found to be **Appropriate**, the refuge supervisor must sign concurrence.

Refuge Supervisor:  Date: 9/1/11

FWS Form 3-2319

A compatibility determination is required before the use may be allowed.

02/06

Attachment 1: Appropriate Uses Justification

Date: September 16, 2010

Refuge: James Campbell National Wildlife Refuge (Refuge)

Project: Research, Scientific Collecting, and Surveys

Summary: The Refuge receives requests to conduct scientific research on Refuge lands and waters. Research applicants must submit a proposal that would outline: (1) objectives of the study; (2) justification for the study; (3) detailed methodology and schedule; (4) potential impacts on Refuge wildlife and/or habitat, including disturbance (short-term and long-term), injury, or mortality; (5) personnel required; (6) costs to Refuge, if any; and (7) end products (i.e., reports, publications). Research proposals would be reviewed by Refuge staff, Regional Office Branch of Refuge Biology, and others as appropriate prior to the Refuge issuing a SUP. Projects will not be open-ended, and at a minimum, will be reviewed annually.

For each of the findings listed on FWS Form 3-2319, a justification has been provided below:

a. Do we have jurisdiction over the use?

Some or all of the proposed activities would take place within Refuge boundaries. The Refuge has jurisdiction over those research projects that are sited within Refuge boundaries.

b. Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?

Proposed research activities should comply with all applicable laws and regulations. Any restrictions or qualifications that are required to comply with law and regulations would be specified in the SUP. The State of Hawai'i DLNR was invited on two occasions to participate on core planning teams, but declined due to insufficient staffing. However, as this Appropriate Use Justification does not propose a significant deviation from the status quo, and no comments on this topic were received from the State during the comment period, we believe additional coordination was not necessary.

c. Is the use consistent with applicable Executive orders and Department and Service policies?

Through the review of individual projects, the Refuge would ensure that they are consistent with applicable policies, especially Research on Service Lands Policy (803 FW 1).

d. Is the use consistent with public safety?

Through individual project review, the Refuge will ensure that each project is consistent with public safety. If necessary, stipulations to ensure public safety will be included in the project's SUP.

e. Is the use consistent with goals and objectives in an approved management plan or other document?

Research activities are approved in instances where they can provide meaningful data that may contribute to Refuge management and public appreciation of natural resources.

f. Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?

Earlier documented analysis has approved the use and touted the benefits of research, scientific collecting, and surveys on national wildlife refuges.

g. Is the use manageable within available budget and staff?

The Refuge receives <10 requests per year for this activity, and it is manageable with available budget and staff.

h. Will this be manageable in the future within existing resources?

The proposed activity at current levels would be manageable in the future with the existing resources.

i. Does the use contribute to the public's understanding and appreciation of the Refuge's natural or cultural resources, or is the use beneficial to the Refuge's natural or cultural resources?

The proposed use is beneficial to the Refuge's natural and cultural resources because the types of research projects approved are those that have the distinct likelihood to help achieve Refuge purposes by providing information useful for the management of trust resources and may contribute to the public's understanding and appreciation of natural and/or cultural resources.

j. Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future?

The Refuge will ensure that the research activities will not impair existing or future wildlife-dependent recreational use of the Refuge during individual project review, prior to issuing a SUP for the project.

James Campbell National Wildlife Refuge Comprehensive Conservation Plan

FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: James Campbell National Wildlife Refuge

Use: Commercial operation, sea asparagus farm

Decision Criteria:	YES	NO
(a) Do we have jurisdiction over the use?	✓	
(b) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?		✓
(c) Is the use consistent with applicable Executive orders and Department and Service policies?		✓
(d) Is the use consistent with public safety?	✓	
(e) Is the use consistent with goals and objectives in an approved management plan or other document?		✓
(f) Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?	✓	
(g) Is the use manageable within available budget and staff?		✓
(h) Will this be manageable in the future within existing resources?		✓
(i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?	✓	
(j) Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future?		✓

This form is not required for wildlife-dependent recreational uses; take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will generally not allow the use.

If indicated, the Refuge manager has consulted with State fish and wildlife agencies. Yes No

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence. Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Refuge Manager: *[Signature]* Not Appropriate Appropriate Date: 8/25/11

If found to be **Not Appropriate**, the Refuge supervisor does not need to sign concurrence if the use is a new use. If an existing use is found **Not Appropriate** outside the CCP process, the Refuge supervisor must sign concurrence. If found to be **Appropriate**, the Refuge supervisor must sign concurrence.

Refuge Supervisor: *[Signature]* Date: 9/1/11

FWS Form 3-2319

A compatibility determination is required before the use may be allowed.

02/06

Attachment 1: Appropriate Uses Justification

Date: June 1, 2011

Refuge: James Campbell National Wildlife Refuge (Refuge)

Proposed Use: Commercial operation, sea asparagus farm

Summary: This small commercial business occupies land under the long-term Refuge lease of Ming Dynasty. This operation was not covered by the December 2008 purchase agreement with the James Campbell Company and is not covered as part of the Ming Dynasty lease and therefore does not have pre-existing rights. This commercial operation does not meet requirements of 50 CFR 27.92 or 50 CFR 27.97, regarding the use of Private Structures and Private Operations (commercial enterprise), respectively. The owner has been advised of this circumstance and has agreed to move to a new location. Due to the desire of the Service not to cause this small business undue hardship, we have provided up to 3 years from the date of purchase of the land for this owner to find and relocate to a suitable alternate location off-Refuge. This land was purchased in December of 2009 and must be vacated by December 2012.

For each of the findings listed on FWS Form 3-2319, a justification has been provided below:

a. Do we have jurisdiction over the use?

Yes. The proposed use takes place within Refuge boundaries.

b. Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?

No. This commercial operation does not meet requirements of 50 CFR 27.92 or 50 CFR 27.97, regarding the use of Private Structures and Private Operations (commercial enterprise), respectively.

c. Is the use consistent with applicable Executive orders and Department and Service policies?

No. This operation was not covered by the December 2008 purchase agreement with the James Campbell Company and is not covered as part of the Ming Dynasty lease and therefore does not have pre-existing rights.

d. Is the use consistent with public safety?

Yes. There are no public safety issues with this use.

e. Is the use consistent with goals and objectives in an approved management plan or other document?

No. The first goal is to protect and manage seasonal wetland habitats to meet the life-history needs of endangered waterbirds to promote their recovery.

f. Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?

Yes. This is the first time the use has been proposed as the land has just recently been acquired by the Refuge.

g. Is the use manageable within available budget and staff?

No. The Refuge has no staff available to manage coordination with this commercial operation.

h. Will this be manageable in the future within existing resources?

No. The proposed activity would not be manageable in the future with the existing resources.

i. Does the use contribute to the public's understanding and appreciation of the Refuge's natural or cultural resources, or is the use beneficial to the Refuge's natural or cultural resources?

The proposed use does not contribute to the public's understanding and appreciation of the Refuge's natural or cultural resources.

j. Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future?

No. Commercial sea asparagus farming operations would impair existing or future wildlife-dependent recreational use of the Refuge.

James Campbell National Wildlife Refuge Comprehensive Conservation Plan

FINDING OF APPROPRIATENESS OF A REFUGE USE

Refuge Name: James Campbell National Wildlife Refuge

Use: Private Aircraft Operation of abandoned runway (former Kāhuku Army Airfield)

Decision Criteria:	YES	NO
(a) Do we have jurisdiction over the use?	✓	
(b) Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?		✓
(c) Is the use consistent with applicable Executive orders and Department and Service policies?		✓
(d) Is the use consistent with public safety?		✓
(e) Is the use consistent with goals and objectives in an approved management plan or other document?		✓
(f) Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?	✓	
(g) Is the use manageable within available budget and staff?		✓
(h) Will this be manageable in the future within existing resources?		✓
(i) Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?		✓
(j) Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future?		✓

This form is not required for wildlife-dependent recreational uses; take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will **generally** not allow the use.

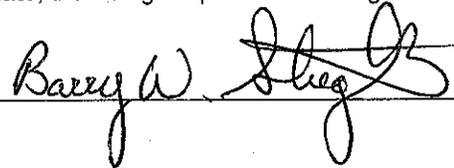
If indicated, the Refuge manager has consulted with State fish and wildlife agencies. Yes No

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence. Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate Appropriate

Refuge Manager:  Date: 8/25/11

If found to be **Not Appropriate**, the Refuge supervisor does not need to sign concurrence if the use is a new use. If an existing use is found **Not Appropriate** outside the CCP process, the Refuge supervisor must sign concurrence. If found to be **Appropriate**, the Refuge supervisor must sign concurrence.

Refuge Supervisor:  Date: 9/1/11

FWS Form 3-2319

A compatibility determination is required before the use may be allowed.

02/06

A compatibility determination is required before the use may be allowed.

02/06

Attachment 1: Appropriate Uses Justification

Date: June 1, 2011

Refuge: James Campbell National Wildlife Refuge (Refuge)

Proposed Use: Use of abandoned runway (former Kahuku Army Airfield) for operation of aircraft (practice landings and takeoffs or other operation)

Summary: Remnant open portions of the former Kahuku Army Airfield runway still exist on lands recently purchased by the Service and now administered as part of the James Campbell NWR. Refuge management plans include removing existing encroaching invasive vegetation on the runway and aprons of the runway to improve the site as potential seabird nesting habitat. The current remnant runway is frequently used by migratory birds, including kioea and kōlea.

Under Federal regulations at 50 CFR 27.34, aircraft are prohibited from operating over national wildlife refuges at altitudes that result in harassment of wildlife and specifically prohibits unauthorized landings or take-offs. Due to the designated wildlife purposes of the James Campbell NWR and planned habitat management on and around the runway to benefit birds any request for authorized use of the runway would not be an appropriate use. As provided for in 50 CFR 27.34, emergency aircraft operations (i.e., emergency landings) are permitted.

For each of the findings listed on FWS Form 3-2319, a justification has been provided below:

a. Do we have jurisdiction over the use?

All of the proposed activities would take place within Refuge boundaries. The Refuge has jurisdiction over remnant open portions of the former Kahuku Army Airfield runway that are sited within Refuge boundaries.

b. Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?

No. Under Federal regulations at 50 CFR 27.34, aircraft are prohibited from operating over national wildlife refuges at altitudes that result in harassment of wildlife and specifically prohibits unauthorized landings or take-offs.

c. Is the use consistent with applicable Executive orders and Department and Service policies?

No. Due to the designated wildlife purpose of the James Campbell NWR and planned habitat management on and around the runway to benefit birds, any request for authorized use of the runway would not be an appropriate use.

d. Is the use consistent with public safety?

No. All aircraft are associated with different hazards. Members of the public would likely have no knowledge of important safety issues specific to an aircraft using an unsecured and unmanned landing area. Prior to Service acquisition, private helicopters landed in the vicinity of the old runway. The rotor wash, or air being blown by a hovering aircraft, is roughly 80-90 mph (more than a Category I hurricane) and it also reaches over 50 feet away. The other hazard of particular note is rotor strikes. Even highly experienced aircrews sometimes blindly walk into a spinning rotor and lose their lives. A sudden wind gust or pilot-input can suddenly and quickly change the pitch or angle of the rotor blade and bring it within head-strike distance. Many helicopters have tail rotors that are close to the ground and well within the head-strike zone. They also spin so fast as to be nearly invisible.

e. Is the use consistent with goals and objectives in an approved management plan or other document?

No. The Service proposes to improve potential seabird nesting sites on and around the abandoned Kahuku Airfield runway.

f. Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?

Yes. This is the first time the use has been proposed as the land has just recently been acquired by the Refuge.

g. Is the use manageable within available budget and staff?

No. The Refuge has no staff available to manage coordination with private aircraft.

h. Will this be manageable in the future within existing resources?

No. The proposed activity would not be manageable in the future with the existing resources.

i. Does the use contribute to the public's understanding and appreciation of the Refuge's natural or cultural resources, or is the use beneficial to the Refuge's natural or cultural resources?

The proposed use is detrimental to seabird nesting and does not contribute to the public's understanding and appreciation of the Refuge's natural or cultural resources.

j. Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D, 603 FW 1, for description), compatible, wildlife-dependent recreation into the future?

No. Private aircraft operations would impair existing or future wildlife-dependent recreational use of the Refuge.