IN REPLY REFER TO:

United States Department of the Interior

KENAI NATIONAL WILDLIFE REFUGE
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COMPATIBILITY DETERMINATION

The National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd-668ee) states that "The Secretary is authorized, under regulations as [s]he may prescribe, to – (A) permit the use of any area within the [National Wildlife Refuge] System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access wherever [s]he determines that such uses are compatible' and that "... the Secretary shall not initiate or permit a new use of a refuge or expand, renew, or extend an existing use of a refuge, unless the Secretary has determined that the use is a compatible use and that the use is not inconsistent with public safety." A compatible use is defined as "A proposed or existing wildlife-dependent recreational use or any other use of a national wildlife refuge that, based on sound professional judgment, will not materially interfere with or detract from the fulfillment of the National Wildlife Refuge System mission or the purposes of the national wildlife refuge." The compatibility determination is to be a written determination signed and dated by the Refuge Manager and Regional Chief of the National Wildlife Refuge System, signifying that a proposed or existing use of a national wildlife refuge is a compatible use or is not a compatible use.

Applicable compatibility regulations in 50 CFR Parts 25, 26, and 29 were published in the Federal Register October 18, 2000 (Vol. 65, No. 202, pp 62458 – 62483).

Use: Marathon Alaska.Production, LLC Pipeline Right-Of-Way

Refuge: Kenai National Wildlife Refuge

Establishing and Acquisition Authorities: The Refuge was first established as the Kenai National Moose Range by Executive Order 8979 on December 16, 1941. The boundaries were modified, purposes expanded, and name changed to Kenai National Wildlife Refuge under the provisions of the Alaska National Interest Lands Conservation Act (ANILCA) on December 2, 1980 (Public Law 96-487 Stat. 2371).

Refuge Purposes: The Executive Order purpose was primarily to "... protect the natural breeding and feeding range of the giant Kenai moose on the Kenai Peninsula, Alaska...". ANILCA purposes for the Refuge include: "(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to moose, bear, mountain goats, Dall sheep, wolves and other furbearers, salmonids and other fish, waterfowl and other migratory and nonmigratory birds; (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats; (iii) 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 with the refuge; (iv) to provide in a manner consistent with subparagraphs (i) and (ii), opportunities for scientific research, interpretation, environmental education, and land management training; and (v) to provide, in a manner compatible with these

purposes, opportunities for fish and wildlife oriented recreation." The Wilderness Act of 1964 (Public Law 88-577) purposes are to secure an enduring resource of wilderness, to protect and preserve the wilderness character of areas within the National Wilderness Preservation System, and to administer this wilderness system for the use and enjoyment of the American people in a way that will leave them unimpaired for future use and enjoyment as wilderness.

Policy (FWS 603 2.8) directs that pre-ANILCA purposes remain in force and effect, except to the extent that they may be inconsistent with ANILCA or the Alaska Native Claims Settlement Act, and that such purposes only apply to those areas of the Refuge in existence prior to ANILCA. The Executive Order purpose to protect Kenai moose, however, is treated as complimentary to the broader ANILCA purpose of conserving fish and wildlife populations; therefore, no special attention is given the Executive Order purpose in this compatibility review process.

Sec. 4(a) of the Wilderness Act provides that the purposes of the Act are to be within and supplemental to the purposes for which National Wildlife Refuges are established and administered. These purposes are applied to the approximately 1.3 million acres of Congressionally designated wilderness within the Refuge. While these purposes do not apply to the remaining approximately 700,000 acres of Refuge lands that are not designated as wilderness, we must consider the effects of uses on any Refuge lands that might affect the wilderness areas.

National Wildlife Refuge System Mission: The National Wildlife Refuge System Mission 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.

Description of Use: Marathon Alaska Production, LLC has requested renewal of an existing right-of-way for their 30 year permit issued March 22, 1982. The permit granted permission to enter and occupy lands within the Refuge to install, operate, and maintain a 12-3/4 inch buried natural gas transmission pipeline within a 30-foot right-of-way. The pipeline has received routine maintenance over its life and continues to serve an important purpose of delivering gas between the Beaver Creek Unit facilities to the existing Measuring Building operated by the local gas utility (ENSTAR) where the natural gas volume is measured, scented, then transported another 725 feet to comingle with an existing 8-inch line operated by Alaska Pipeline Company. Average annual quantity of product transported is approximately 2,475,000Mcf which helps supply natural gas to ENSTAR customers.

The total length of the pipeline is about 3.64 miles. The pipeline is situated within Section 33, Township 7 North, Range 10 West: Sections 4,5,6,7, Township 6 North Range 10 West, Seward Meridiam, Alaska.

Maintenance of the right-of-way varies in duration and impact depending on the nature of the task. Maintenance may include inspection for corrosion, erosion, right-of-way clearing, and placement of nearby structures. This will include the replacement and repair of mile markers, cathodic protection test stations, valves, and telemetry and communication equipment The transmission pipeline must be checked for leaks annually and are typically performed using vehicles, snowmachines, 4-wheelers or on foot.

Corrosion control surveys are also conducted annually. These maybe test point, over-the-line, direct-current-voltage-gradient, and other related surveys. All surveys require access directly on top of the pipeline. The brush may need to be cleared down to the surface for the survey to be

effective. "Pigging" (in-line electronic pipeline inspection) and other pipeline maintenance and monitoring occurs without notice or impact on the Refuge.

Availability of Resources: No new construction or operational changes are proposed with the requested permit renewal. Current administrative costs incurred by the Refuge in permit administration and monitoring are minimal, generally limited to a request for right-of-way maintenance every 4 to 5 years. These requests are generally covered with a special use permit following discussion with Refuge staff, and are followed-up with one or more site inspections. Since there is no proposed change in operations that would significantly impact Refuge staff or resources, it is determined that adequate resources continue to exist to properly manage this Refuge use.

Anticipated Impacts of the Use: Congressional intent in applying compatibility reviews to existing rights-of-way (at the time of the National Wildlife Refuge System Administration Act 1997 amendments) dictates that no new interpretation of compatibility requirements established by the Act should be interpreted as finding existing long-term permitted uses of refuges not compatible –presuming no significant changes have occurred to when they were initially permitted (and determined to be compatible). Regulations (50 CFR 25.21 (h)) prescribe that when evaluating compatibility in the re-authorization of these historic rights-of-way, that the analysis of impacts will be based on existing conditions with the use in place, not from a pre-use perspective. In other words, only modifications from the historic permitted use are to be analyzed for impacts. An example of this would be if the proposed renewal requested replacing the existing 12-3/4 inch pipeline with two new10-inch pipelines, or if the request desired to replace the existing buried pipeline with a new above ground pipeline, etc. Since the request for permit renewal includes no modifications over the existing operational conditions, there are no significant issues to analyze.

Ongoing impacts to the area would continue through vegetation management within the 30-foot right-of-way. Pipeline repairs also may occur within the life of the renewed permit that could require equipment and crews trenching and repairing or replacing portions of the pipe. The cleared right-of-way encourages illegal ATV trespass by private individuals. Industrial use of ATVs and snowmachines provides a regular, though not likely significant, level of motorized disturbance in the area via routine right-of-way inspections.

Public Review and Comment: This compatibility determination was subject to a 30-day public comment period. A public notice was published in the Legal Notices section of the Kenai Peninsula Clarion on June 22, 2012. No comments were received.

Determination (check one below):

_____ Use is Not Compatible

____X____ Use is Compatible With Following Stipulations

Stipulations Necessary to Ensure Compatibility: The original 1982 permit included 27 terms and conditions to ensure compatibility. These stipulations are being included in the permit renewal, unless modified to address changes in regulations or policy, or to address new conservation or administrative concerns. Additionally, regulations require that any re-authorized rights-of-way permits must have a condition that allows for permit modification at any future time to ensure compatibility. This allows for additional permit stipulations to be added over the

life of the permit because of new information, technologies, or concerns, and does not require waiting for the permit to expire (as is the case with historic permits). See attached R-O-W permit for a full set of conditions.

Justification: The request for renewal of a long-standing right-of-way use has no new operational aspects that would impact the original compatibility determination for the use. Industrial standards and regulatory oversight have increased over the years as well. The proposed new permit conditions address Refuge concerns and include the ability to modify the permit conditions at any time to ensure compatibility.

Signature (Refuge Manager): Arthur J. Lovaas 25 July 2012
Signature and Date

Concurrence (Regional Chief): Matt Lee 7/31/2012
Signature and Date

Mandatory 10-year Re-evaluation Date: N/A - Rights-of-Way often are approved for extended periods of time. The National Wildlife Refuge System Administration Act of 1966, as amended, treats Refuge uses that are approved for longer than 10 years differently than other uses. During the life of the permit only compliance with the terms and conditions of the authorization are to be examined, not the authorization itself. After expiration of the permit, the use is to be re-evaluated for compatibility.