

Compatibility Determination

Use: Hydroelectric development

Refuge Name: Alaska Maritime National Wildlife Refuge, Kenai Peninsula Borough, Homer, Alaska.

Establishing and Acquisition Authority:

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

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

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

Refuge Purposes:

As designated by Executive Order No. 1733:

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

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

- (i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;
- (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;
- (iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;
- (iv) to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and
- (v) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in subparagraph (i), water quality and necessary water quantity within the refuge.

National Wildlife Refuge System Mission:

The National Wildlife Refuge System Mission will not be considered in a compatibility determination evaluation with regard to lands under Section 22(g) of ANSCA, per 50 CFR 2521(b)(1)(iii).

Description of Use:

(a) What is the use?

The proposed project is a small hydroelectric power project located about one half mile southwest of Old Town in Atka. The power is produced by diverting and returning water from Chuniisax Creek.

(b) Where would the use be conducted?

The project is located about 3/4 mile to the south of the City of Atka in Township 92 South, Range 176 West, Section 22 of the Seward Meridian. The powerhouse will be located at approximately latitude 52° 11' 28" north and longitude 174° 11' 37" west. Atxam Corporation owns a band of private lands across Atka Island between Korovin Bay and Nazan Bay.

The proposed project is located roughly midway between refuge lands to the northeast and southwest of the band of private land, and approximately three to four miles from either area (see attached map). Refuge lands to the south and southwest of corporation lands would be upstream of the project. The small dam and powerhouse structures would not be visible from the refuge.

(c) When would the use be conducted?

Project construction is scheduled to begin in August or September 2003. The structures will remain for the duration of the project.

(d) How would the use be conducted?

The characteristics of the project are defined in the report *Hydroelectric Feasibility Study and Preliminary Design for the City of Atka, November 1996*. For more information about the report or the project, contact polarconsult alaska, inc. at 907-258-2420. The construction materials will be transported by low ground pressure equipment along existing ridges. The trail will be reinforced with timber in a few spots, and several hummocks will be leveled. The largest construction item is the pipe. The pipeline will lay on the ground surface with minor grading to assure uniform support. Anchors grouted into drill holes in the underlying rock will restrain the pipeline.

The dam will be made out of timber and steel. There will be a small amount of concrete used to seal the toe of the structure and to support some of the columns. The pipeline will run a short distance suspended from the rock ledge. Some blasting work and rock excavation will be required in the first two hundred feet of pipeline. Placement of the pipeline will be done using a track hoe.

It is intended to put the powerhouse on metal pipeline in dug holes and set in concrete. The power line will be buried using a small trencher or a track hoe with a rock bucket.

An access trail along the power line route will be established for maintenance in the event that bad weather makes it impractical to travel to the project by boat. For safety reasons, a winch may be located at the top of the bluff that will pull a cart up with supplies. A small storage building may be constructed to house a 4-wheeler at the head of the winch line. There will be access to the south side of the creek over the pen stock bridge and over a bridge across the top of the dam. Both of the bridges will be gated and locked to discourage access.

Use of Federal subsurface sand and gravel at the site has not been requested for this project and is not covered under this compatibility determination. Use of sand and gravel would require a Special Use Permit and a separate analysis.

(e) Why is the use proposed?

Currently Atka generates its electricity with diesel electric generators. The generators are getting old and do not achieve high fuel efficiency. There is a small fish processing plant in Atka that does not use electricity from the local generator. It is stated that there is not sufficient capacity to handle the load and as a result the plant has its own generator. This processing plant is very important and represents opportunities for residents to earn money without leaving home. The Chuniisax hydro will provide power to this plant most of the time.

Atka has fuel storage tanks located just off of the beach and near the power plant. Most of these tanks do not meet current regulations. There are no protective linings. The Chuniisax hydro plant, in addition to displacing diesel fuel for generation, is also capable of displacing fuel for heat. With the hydro plant, substantially less fuel will be required, thereby reducing the number of tanks to be brought to standard and also decreasing the probability of spills through decreased fuel deliveries and handling.

Availability of resources:

The construction and operation of a small hydroelectric plant in Atka on Atxam Village Corporation 22(g) lands will not result in an increase of costs for the refuge staff to administer or manage.

Anticipated impacts of the use:

Impacts to adjacent refuge lands and trust fish and wildlife resources are anticipated to be non-existent. The closest refuge surface estate lands are located approximately three to four miles from the project site, and none of these lands are downstream of the project. Activity associated with construction and use of the proposed hydroelectric plant would not "spill over" onto adjacent refuge lands because the refuge lands are separated from the project site by miles of rugged roadless tundra and wetlands.

Public review and comment:

The period of public review and comment began July 14, 2003 and ended August 8, 2003.

A Public Notice, dated July 14, 2003, was sent to Postmasters in Dutch Harbor, Unalaska, and Atka for posting in post offices; to the City of Atka and the Atxam Corporation in Atka; was posted in the store, post office, and City Hall on Adak; and posted in the refuge offices in Adak and Homer. The notice (attached) asked for public comment over a 30-day period.

Comments Received:

Determination:

Use is Not Compatible

Use is Compatible

Justification:

In 1971, Congress enacted ANCSA to settle aboriginal land claims of Alaska's Natives by providing land and money in exchange for extinguishment of their land claims. Section 22(g) of the Act made National Wildlife Refuge lands available for selection by Native Village Corporations, but it also contained a provision that "...such lands remain subject to the laws and regulations governing use and development of such Refuge." This means that the refuge laws and regulations requiring that we determine the compatibility of proposed refuge uses applies to the village lands in national wildlife refuges in Alaska withdrawn under Section 22(g) of ANSCA. These lands were deeded to Alaska Native Village Corporations with specific restrictions, called covenants, on their sale and use. **On 22(g) lands refuge managers focus their compatibility determination on how the impacts of the proposed use would affect adjacent refuge lands and the degree that the proposed use would materially interfere with the refuge's ability to achieve its legally mandated purposes.** This is the fundamental protection provided to the parent refuges from the effects of uses of 22(g) lands that Congress provided in Section 22(g) of ANCSA.

The impacts of this project are confined to Atxam Corporation ANCSA 22(g) lands. The use area is located approximately three to four miles from refuge surface estate lands and will not have a significant impact on refuge lands or materially interfere with or materially detract from fulfilling the purposes of the refuge.

Mandatory Re-Evaluation Date:

Re-evaluation is not required for compatible uses on 22(g) lands unless the use changes significantly, significant new information is made available that could affect the compatibility determination, or if requested by the landowner.

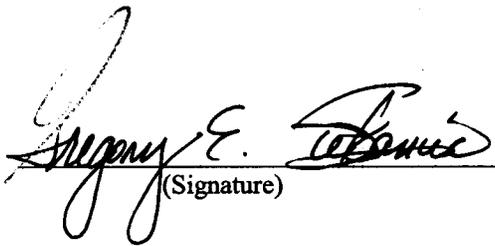
NEPA Compliance for Refuge Use Decision:

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

This use is not occurring on refuge lands. The biological environment was described and assessed for the private lands on which the use would occur in the *Feasibility Study Data Collection Program for the Proposed Hydroelectric Project at Atka, Alaska*, Northern Technical Services, Inc. and Van Gulik & Associates, Inc., June 6, 1984. The Refuge Manager consulted the biological information in this report along with recent site information from the Alaska Department of Fish and Game for preparation of the Compatibility Determination.

Refuge Determination:

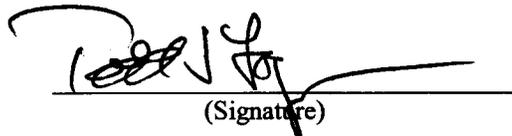
Refuge Manager/
Project Leader
Approval:


(Signature)

August 21, 2003
(Date)

Concurrence:

Regional Chief,
National Wildlife
Refuge System:


(Signature)

9/22/03
(Date)