

Compatibility Determination

Title

Compatibility Determination for Commercial Tours, Hanalei National Wildlife Refuge.

Refuge Use Category

Environmental Education and Interpretation

Refuge Use Type(s)

Interpretation (commercial).

Refuge

Hanalei National Wildlife Refuge

Refuge Purpose(s) and Establishing and Acquisition Authority(ies)

The Refuge purpose(s):

“...to conserve (a) fish or wildlife which are listed as endangered species or threatened species...or (b) plants...” (Endangered Species Act of 1973, as amended [16 U.S.C. 1531-1544]))

Establishing and Acquisition Authority:

Endangered Species Conservation Act of 1969, as amended (16 U.S.C. 668aa).

National Wildlife Refuge System Mission

The mission of the National Wildlife Refuge System, otherwise known as 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 (Pub. L. 105-57; 111 Stat. 1252).

Description of Use

Is this an existing use?

Yes. This Compatibility Determination (CD) replaces and expands upon the CD for *Commercial Tours, Photography, Cultural Education and Cultural Interpretation at the historic Haraguchi Rice Mill* (2003).

What is the use?

Commercial tours (or ecotourism) consist of any fee-based service providing educational enjoyment of Refuge lands and waters to the visiting public. These services must aim to enhance the Refuge visitor's knowledge and enjoyment of the key natural, cultural, and historical resources and the mission of the Refuge. This use includes tour groups brought to Refuge lands for guided wildlife observation or photography, natural or cultural interpretation, nature study, and other wildlife-oriented activities. The use may be conducted by a U.S. Fish & Wildlife Service (Service) conservation partner, concessionaire, or private business. In all cases, participants pay a fee to the individual guide, business, or nonprofit organization for the unique skills, equipment, and expertise of the leader who enhances the experience of the participating individual or party on Refuge lands.

Operating a commercial program on a refuge is a specialized use under Service policy (Administration of Specialized Uses, 5 RM 17). To the extent that this use facilitates a program on a refuge, it is also an economic use under relevant Federal regulation (50 CFR 29.1). Official authorization to access the Refuge for this use will occur through issuance of a Special Use Permit (SUP). Individual guides, entities or companies would need to request SUP issuance for review by Refuge management on a case-by-case basis.

Is the use a priority public use?

No

Where would the use be conducted?

Commercial tours have previously been permitted through SUP at the Haraguchi Rice Mill, located immediately off of 'Ōhiki Road and bounded on the west by lo'i kalo (taro patches) farmed by cooperators under a cooperative agriculture agreement. There will be no expansion of commercial activities in the wetlands or along 'Ōhiki Road. Permitted commercial use may continue at the Haraguchi Rice Mill and will be expanded to include the newly developed 5-acre Hanalei Viewpoint located adjacent to Kūhio Highway that includes two lookouts with views of the greater Hanalei Valley and Bay, Hanalei NWR, and the Halele'a Forest Reserve. The site includes parking for 25 cars, two buses, interpretive displays, vault toilets, seating, and native plantings that will provide students, residents, and visitors with opportunities to learn about the natural and cultural history of the Hanalei Valley and the Hanalei NWR. The Viewpoint site is located away from breeding populations of native wetland bird species and a Finding of No Significant Impact was issued for the operation of the site on November 26, 2019 (USFWS 2019).

When would the use be conducted?

Commercial tours can occur year-round at the Viewpoint during regular daylight operating hours and at Haraguchi Rice Mill during daylight hours (sunrise to sunset). With limited parking and potential to impact overall public enjoyment and access to these sites, timing of each tour accessing the Refuge will be assigned via Special Use Permits.

How would the use be conducted?

Commercial tours will be authorized and managed by SUP. Participants in commercial tours would pay a fee to a Service conservation partner, or private business to guide, supervise, and provide them with interpretative, educational, and photographic opportunities on the Refuge.

The Viewpoint is the primary area for this use given safe access, ample parking, restroom facilities, and interpretive material available to visitors. At the Viewpoint, up to two (2) 30-passenger mini-buses will be permitted at a time. Scheduling will be regulated through individual SUPs.

Why is this use being proposed or reevaluated?

This Compatibility Determination (CD) expands upon the 2004 compatibility determination for Commercial Tours, Photography, Cultural Education and Cultural Interpretation. Additional sites for commercial tours include the new Hanalei Viewpoint. The Service is proposing to continue to allow this use of the Refuge to provide the public with the opportunity to understand, observe and appreciate the natural resources located within the Refuge. This use allows commercial operators the ability to use Refuge parking and viewing areas adjacent to the Kūhio Highway in a way that minimizes impacts to native wildlife and habitat, taro farmers, and other Refuge users.

Availability of Resources

The Service would use existing administrative resources to monitor, evaluate and regulate the impacts of commercial tours of Refuge resources and compliance with stipulations contained within an SUP. Administrative, maintenance, and public use facilities required for this use serve multiple purposes, thus would not be considered a cost above general operational cost.

Off-setting Revenue: The commercial use SUP application processing fee is \$60. Annual SUP administration fees currently range from \$100 to \$300, based on the number of visits per year. Fees will be re-evaluated annually, and the public would be notified via press release and website updates if changed. Current SUP holders would be notified by email or letter. Approximately 80% of SUP fee revenue collected is returned to the Refuge to offset costs of administering the commercial tour program.

The incremental costs above general operational costs for salary and employee overhead expenses associated with this use are calculated as follows:

Table 1. Costs to Administer and Manage Commercial Tours

| Category and Itemization | One-time Cost | Recurring Annual Expenses |
|---|---------------|---------------------------|
| Staff time (LE, administration, and management) | -- | \$18,000 |
| Maintenance | -- | \$12,000 |
| Monitoring | -- | \$2,200 |
| Total one-time expenses | \$0 | |
| Total recurring annual expenses | | \$32,200 |
| Offsetting revenues | -- | -\$1,500 |
| Total expenses | \$0 | \$30,700 |

Anticipated Impacts of the Use

Potential impacts of a proposed use on the refuge's purpose(s) and the Refuge System mission

In addition to migratory birds and native flora and fauna, the Refuge supports the recovery of five threatened and endangered Hawaiian waterbirds: ae'o (Hawaiian stilt), 'alae ke'oke'o (Hawaiian coot), 'alae 'ula (Hawaiian gallinule), koloa maoli (Hawaiian duck), and nēnē (Hawaiian goose). Anticipated impacts to these species were reviewed during Section 7 consultation for the 2004 compatibility determination and found Haraguchi Rice Mill commercial tours to have no effect. The endangered 'ōpe'ape'a (Hawaiian hoary bat) is nocturnal, active only from sunset to sunrise when the Refuge is closed, therefore daylight tours would have no effect. The Service consulted with the State Historic Preservation Office and found there would be no adverse impact to cultural or historical resources (USFWS 2004).

There are no anticipated effects to air and water quality, geology and soils, floodplains, wilderness, socioeconomics, or refuge management and operations document. An Environmental Assessment was completed for the Viewpoint with a Finding of No Significant Impact (USFWS 2019). Expanding the scope of this new CD with the Viewpoint site is not anticipated to add any additional impacts, rather it is

expected that fewer visitors will travel on 'Ōhiki Road, thus improving current habitat conditions for threatened and endangered waterbirds and reducing the likelihood of vehicular strikes.

The Hanalei Valley, including the Refuge, contains numerous historic and pre-contact resources. During the 1980s, the Hanalei Valley was identified by the National Trust for Historic Preservation as an important site for rural preservation. Potential impacts to cultural resources exist, but stipulations outlined within this compatibility determination will mitigate potential impacts by including clear maps depicting areas of authorized access and prohibitions related to cultural resources.

Although not anticipated, any potential impacts to cultural resources will be mitigated by stipulations outlined within this compatibility determination and associated SUPs and by including clear maps depicting areas of authorized access.

Short-term impacts

Short term impacts to threatened and endangered waterbirds and other bird species may occur when visitors and wildlife species are present at the same time. During nonbreeding periods, nēnē, ae'ō, and 'alae ke'oke'ō appear to be fairly tolerant of disturbance. However, when birds are breeding or in heavy molt, they are more vulnerable to disturbance. Koloa maoli and 'alae'ula are very wary and often flush or move quickly into dense cover when disturbed (Gutscher-Chutz 2011). Although individual birds may vacate the immediate area during a tour, the effect would be temporary. It is unlikely the birds would relocate due to the presence of abundant suitable habitat in the vicinity.

Visitors could cause trampling of native plants, erosion, and introduction or spread of invasive species which would adversely affect native fish, wildlife, plants, and their habitats. Visitor snacks or lunches could result in litter or food for invasive rodents or insects and exacerbate current threats to ground nesting birds and chicks (e.g., invasive ants have been observed eating soft parts and killing seabird chicks on nearby Kīlauea Point NWR); however, eating would only be allowed off-Refuge or in designated areas so this potential impact would be minimal. Consumption of food at the Viewpoint would have minimal impact on wildlife if stipulations are followed.

Long-term impacts

The long-term impacts to wildlife resources may include altered behavior, vigor, productivity, or death of individuals; altered population abundance, distribution, or demographics; and altered community species composition and interactions. Disturbance can cause nest desertion and affect survival of individual birds, their eggs, nestlings, or broods and alter behavior of nonbreeding waterbirds. Habituation to some types and levels (intensity and frequency) of human disturbance appears to vary among species, within species, between resident and migratory populations, and potentially between inexperienced and experienced breeders. Although an increase in

the amount of commercial tour activities is expected, changes in wildlife use patterns in the lowland areas of the Refuge are not anticipated. We anticipate an increase in activities primarily focused on the new Viewpoint; however, this area is located further away from breeding populations of native waterbird species, and therefore negative impacts to these species would be negligible to minor.

The Service notes that unpermitted commercial activities are occurring along ‘Ōhiki Road adjacent to the Refuge with adverse effects of traffic along the small one-lane rural road to both wildlife and the road itself. The Refuge is sensitive to these issues impacting our wildlife and taro farm cooperators. Increased signage along ‘Ōhiki Road will allow Refuge law enforcement officers to write warnings or fines to individuals or companies who attempt to pursue non-sanctioned commercial tours within the lowland areas of Hanalei Refuge.

Threatened and endangered birds are struck and killed by vehicles on ‘Ōhiki Road at a rate of about 1 bird lost per month. By shifting the emphasis of commercial tours to the Viewpoint, a decrease in vehicles along ‘Ōhiki Rd is expected. Minimization measures have been implemented to decrease vehicle strikes through increased signage, community public service announcements and increased staff presence at the Refuge. The Refuge will work with the County of Kaua‘i to add or maintain signage and other features for ‘Ōhiki Road, potentially including the following:

1. Speed limit (15 mph) and/or speed bumps or other speed-limiting devices.
2. A sign noting that ‘Ōhiki Rd is a dead-end road.
3. A sign advising drivers that the road is single lane and prohibiting parking along the road.
4. Enhanced trail head and parking signs at ‘Ōkolehao trail.

Public Review and Comment

The draft compatibility determination was available for public review and comment for 14 calendar days from March 8 -28, 2034. The public was advised of this comment opportunity through newspapers, radio, postings at local libraries, emails to adjacent landowners, state natural resource agencies, and permit holders. The State and Native Hawaiian Organizations were provided notice of availability. A summary of comments and Service responses is posted on the refuge website at <https://www.fws.gov/refuge/Hanalei>.

Determination

Is the use compatible?

Yes

Stipulations Necessary to Ensure Compatibility

1. Permission to conduct commercial tours at the Refuge will be authorized through issuance of a Commercial Special Use Permit. SUP applications will be reviewed during April and October each year, with an October deadline for a January issuance and an April deadline for June issuance.
2. Each SUP may authorize a one-time use or repeated uses over a period not to exceed two (2) years. New applicants will only be allowed to have one-time use or repeated uses over a period not to exceed one (1) year. SUPs cannot be re-assigned or sub-permitted to others (i.e., the permit is not transferable).
3. Haraguchi Rice Mill tours would be limited to Class 3 license passenger vehicles (less than 18,000 pounds and hold no more than 15 passengers). Up to two (2) 30-passenger mini-buses will be permitted at a time at the Hanalei Viewpoint.
4. The Rice Mill is closed to the public and accessible by tour van only under the guidance of Haraguchi Rice Mill non-profit organization staff with an approved SUP.
5. Permittees are required to maintain a Certificate of Insurance and all licenses, permits, and approvals required by State and local governments to engage in the commercial activities they are proposing or pursuing.
6. Tour guides will not approach, feed, or disturb threatened or endangered species. Groups will be kept far enough away to avoid disturbing the birds (ideally 20+ feet). If the birds show any sign of agitation as a result of human presence, quietly and slowly retreat until the birds no longer appear disturbed.
7. The frequency of commercial tours on the Refuge may be curtailed during Refuge special events. The Service reserves the right to close access in case of accidents, hazards, unavoidable impacts to wildlife, or safety issues.
8. Permittees are required to provide all tour participants with information about the Refuge System, the Refuge, natural and cultural resources of concern, rules and regulations, and any hazardous conditions. The Refuge will provide permittees with training materials and other information needed to comply with these requirements.
9. Permittees are required to report dead, injured, or sick wildlife to Refuge staff within 24 hours of discovery.
10. Permittees must report any safety issues or suspicious activity to Refuge management as soon as possible, no more than 24 hours from the incident. Permittees are annually required to fill out a short form to list any problems encountered.

11. Permittees and their clients are prohibited from disturbing, collecting, or removing any archaeological or historic artifacts, abiotic or biological specimens or samples, or mementos from any refuge.
12. Permittees are prohibited from obstructing other Refuge visitors from participating in observation, photography, interpretation, education, or other approved uses.
13. Permittees and tour participants are prohibited from bringing dogs, cats, or other pets with them to the Refuge. An exception is a service animal, as defined under Title II and Title III of the American Disabilities Act (1990).
14. Permittees are prohibited from engaging in active business or political operations while on the Refuge such as soliciting contributions, campaigning for election to any public office, collecting private debts, soliciting and vending for commercial purposes, displaying or distributing commercial advertising, and collecting signatures on petitions, polls, or surveys.
15. Permittees are prohibited from constructing new or maintaining existing structures on the Refuge without specific, prior written approval of the Refuge Manager.
16. Permittees will be required to bring and use trash receptacles on tours through the Refuge. Permittees and their clients are prohibited from discarding any items on the Refuge.
17. Picnicking at the Refuge is not authorized for commercial tours.
18. Travel within the Refuge is by designated road, parking lot, or trail. Permittees and their clients are prohibited from straying outside the areas depicted on their SUP maps or accessing the Refuge during closure or outside of public hours.
19. All visitors are required to comply with Refuge System-related and other applicable laws, regulations, and policies. Permittees will be expected to comply and ensure their clients comply with Refuge rules and safety, interpretive, regulatory, and other signage. Permittees will be required to advise Refuge staff within 48 hours of signs that are missing or damaged.
20. Permittees are required to hold the United States Government harmless from any damages or injury to the permittee or members of the general public in areas and facilities accessed via the terms of their SUP.

Violation of any of these stipulations could result in temporary or permanent withdrawal of the SUP. Special Use Permits could be revoked by the Refuge Manager with 30 days written notice of noncompliance with these stipulations.

The Refuge reserves the right to add to or otherwise modify the stipulations listed above to ensure the continued compatibility of this use. New or modified stipulations may be instituted due to new regulatory or policy requirements; significant changes to the Refuge environment or status of native fish, wildlife, plants, or their habitats; changes to commercial tour activities or related practices; or by mutual agreement with the permittees. Except in the case of emergencies, permittees would be advised of new or significantly modified stipulations at least 90 days prior to their becoming effective.

Justification

Commercial tours as outlined in this compatibility determination would not conflict with the national policy to maintain the biological diversity, integrity, and environmental health of the Refuge. Based on available science and best professional judgement, the Service has determined that the commercial tours would not materially interfere with or detract from the fulfillment of the Refuge System mission or the purpose of the Refuge. Rather, appropriate and compatible commercial tours would be a use through which the public can develop an appreciation for cultural, historical, and wildlife resources.

The limited number of individual animals expected to be adversely affected because of ecotourism will not cause wildlife populations to materially decline. The physiological condition and production of species present will not be impaired; their behavior and normal activity patterns will not be altered dramatically; and their overall welfare will not be negatively impacted. The cultural and historical resources of the Refuge would not be negatively impacted by ecotourism as described in this compatibility determination.

Commercial tours provide an opportunity for members of the public to enjoy the Refuge as part of a larger birding or nature program that also visits areas elsewhere on Kaua'i. It is expected that the public will benefit from high-quality environmental and cultural interpretation. Appropriate and compatible Commercial Tours at the Hanalei National Wildlife Refuge can help the public develop an appreciation for wetlands, wildlife, and habitats that the U.S. Fish and Wildlife Service works to protect.

Signature of Determination

Refuge Manager Signature and Date **HEATHER ABBEY** Digitally signed by HEATHER ABBEY
Date: 2024.05.01 08:31:32 -10'00'

Signature of Concurrence

Assistant Regional Director Signature and Date

Mandatory Reevaluation Date

2034

Literature Cited/References

Gutscher-Chutz, J.L. 2011. Relationships Among Aquatic Macroinvertebrates, Endangered Waterbirds, and Macrophytes in Taro Lo'i at Hanalei National Wildlife Refuge, Kaua'i, Hawai'i. Master's Thesis. South Dakota State University, SD.

USFWS. 2019. Hanalei Valley Viewpoint Final Environmental Assessment, Hanalei National Wildlife Refuge.

USFWS. 2021. Wetland Management and Waterbird Conservation Plan, Hanalei National Wildlife Refuge. Figure 2-12, pp 50.

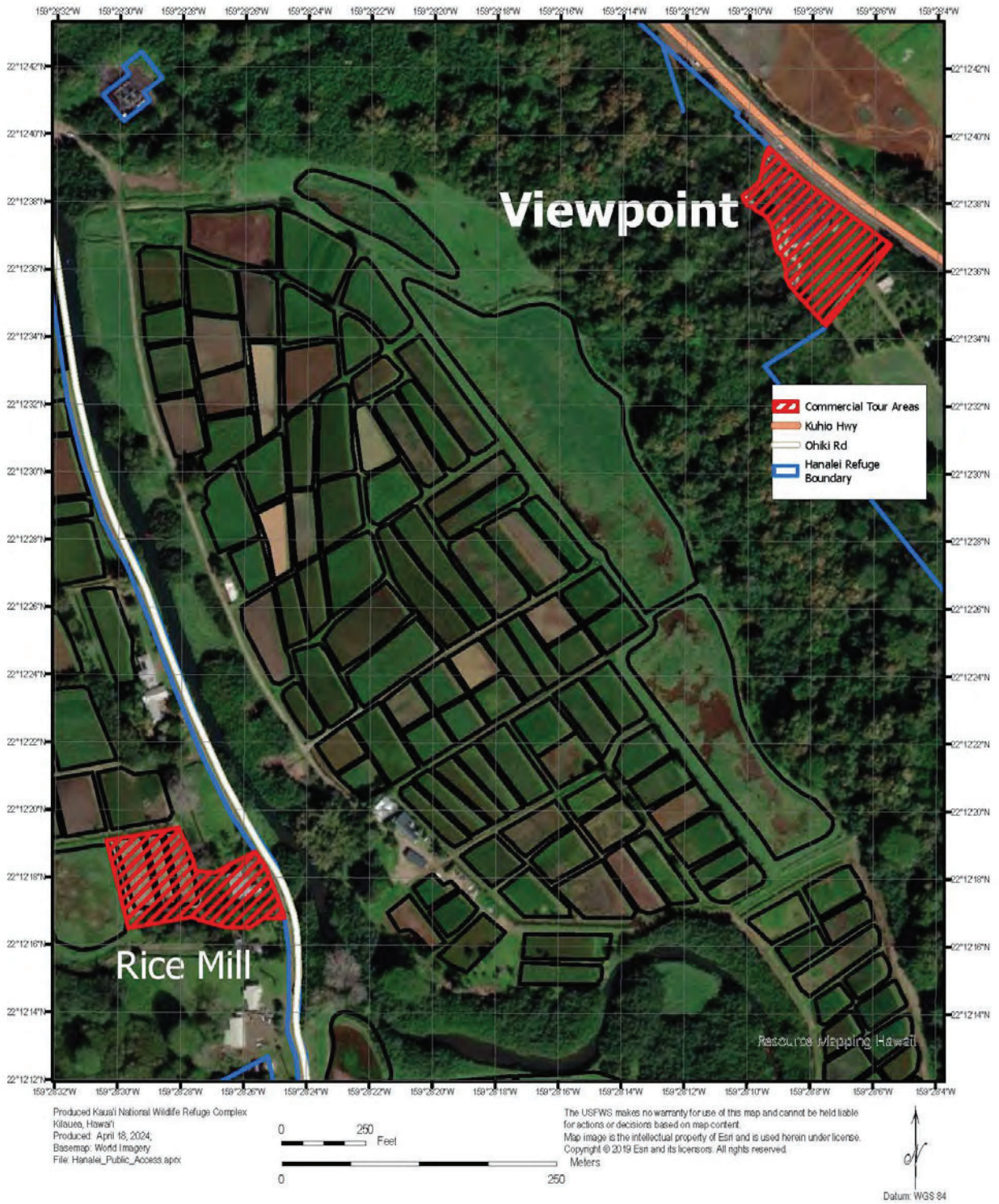


Figure 1. Hanalei NWR Commercial Tour map

| Birds | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|-------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Nēnē | | | | | | | | | | | | |
| Koloa | | | | | | | | | | | | |
| 'Alae ke'oke'o | | | | | | | | | | | | |
| 'Alae 'ula | | | | | | | | | | | | |
| A'e'o | | | | | | | | | | | | |
| Waterfowl (Mig.) | | | | | | | | | | | | |
| Shorebirds (Mig.) | | | | | | | | | | | | |

Breeding periods of focal species of threatened and endangered Hawaiian waterbirds. Nēnē and ae'o breed seasonally, however, koloa, 'alae 'ula and 'alae ke'oke'o species peak during their breeding season but can breed year-round.

Figure 2. Breeding periods of T&E waterbirds



Figure 3. Hanalei Viewpoint Site Plan