

Draft Compatibility Determination

Title

Draft Compatibility Determination for Commercial Filming by BBC Natural History and Factual Productions Ltd. in the Northeast Canyons and Seamounts Marine National Monument.

Refuge Use Category

Wildlife Observation and Photography

Refuge Use Type(s)

Filming (commercial)

Refuge

Northeast Canyons and Seamounts Marine National Monument

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

The Northeast Canyons and Seamounts Marine National Monument was established by Presidential Proclamation 9496 on September 15, 2016. The Monument's purpose is three-fold:

...to protect unique geologic features and vulnerable ecological communities of scientific interest, including corals and other structure-forming fauna that provide food, spawning habitat and shelter for an array of fish and invertebrate species, and which are extremely sensitive to disturbance from extractive activities;

...to provide opportunities for research and scientific exploration designed to further understanding of Monument resources and qualities or knowledge of the North Atlantic Ocean ecosystem and resources, and;

...to provide opportunities for activities that will further the educational value of the Monument and connect people with its unique ecosystems.

National Wildlife Refuge System Mission

The mission of the National Wildlife Refuge System (NWRS), 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?

No

What is the use?

Commercial filming, per 43 CFR 5.12, is the film, electronic, magnetic, digital, or other recording of a moving image by a person, business, or other entity for a market audience with the intent of generating income. Examples include, but are not limited to, feature film, videography, television broadcast, documentary, or other similar projects.

This compatibility determination covers a one-time commercial filming activity that is incidental to a management activity conducted by the National Marine Fisheries Service (NOAA Fisheries, NOAA) as a joint-management federal agency. The commercial filming will focus on deep sea habitats including deep sea coral and associated wildlife. The filming will occur in conjunction with management research activities and will collect video that may be incorporated into a commercial film promoting ocean research and conservation for many audiences.

Is the use a priority public use?

No

Where would the use be conducted?

This use would occur in Oceanographer and Gilbert Canyons, within the Canyons Unit of the Northeast Canyons and Seamounts Marine National Monument (Monument). Please visit the Monument's website for a map (<https://www.fws.gov/national-monument/northeast-canyons-and-seamounts-marine>).

When would the use be conducted?

This one-time, incidental commercial filming activity would occur for approximately 2 days between July 17 to 31, 2024 (expected to occur on July 18 and 19). Flexibility on the exact dates is given to account for weather and other logistic considerations in relation to the research cruise.

How would the use be conducted?

Only one commercial filming project has been proposed thus far in the Monument, in conjunction with a NOAA research cruise. This is a one-time, incidental use to occur during a scheduled research cruise conducted as a management activity by NOAA. This incidental use in the Monument will require issuance of a commercial special use permit (SUP) in accordance with [43 C.F.R. § 5.2](#). The SUP will cover use by a specified individual or organization and cannot be assigned or sub-permitted to others.

The commercial film crew will coordinate all activity with NOAA and activities will be at the discretion of NOAA. A cinematographic camera will be attached to a NOAA directed remotely operated vehicle (ROV). The film crew will not direct any activities and will be filming concurrently to research activities performed by NOAA staff. Film crew members would be provided berthing space on the NOAA research vessel and supplied room for their equipment. The film crew members would be given the opportunity to film for a pre-determined number of hours per day. The number of hours a day the crew is able to film will be determined on a case-by-case basis by the expedition chief scientist. In this situation, where a commercial film crew is invited to join a NOAA research expedition to the Monument, the film crew members would be considered members of the expedition and would be operating under the authority of the expedition's chief scientist or vessel captain.

Why is this use being proposed or reevaluated?

The use is being proposed as the U.S. Fish and Wildlife Service (Service) has received a request for commercial filming and because this use will be important to fulfilling the Monument's purpose, which is to, "provide opportunities for activities that will further the educational value of the Monument and connect people with its unique ecosystems." Given the remoteness of the Monument and the inaccessibility of its canyons and seamounts, widely distributed film of the Monument, including its species and habitats, is a crucial tool for educating the public about the Monument and connecting people to its unique resources and ecosystems.

The Monument's Management Plan (FWS and NOAA 2024) emphasizes the need to connect people to the Monument virtually and commercial filming will be an important part of creating that connection. The Service and NOAA are particularly interested in cultivating relationships and partnerships with documentary and other filmmakers in order to find opportunities for filmmakers to join Service and NOAA expeditions to the Monument and share the Monument with the wider public.

This one-time incidental use of commercial filming has been found to be an appropriate commercial use because it will contribute to the public's understanding of marine and wildlife conservation and the Service's role in managing and protecting wildlife and other natural resources. Commercial filming in the Monument may contribute to increased public engagement, by facilitating an appreciation from afar, for the Monument resources, their stewardship, and the issues that affect them. This commercial filming will utilize a cinematographic camera that will capture footage that is not feasible for either agency to collect and will address a wide and varied audience which will steward ocean conservation. The BBCNHFP has indicated it will share its footage with the Service and NOAA, which will help achieve the Management Plan goal of surveying the Monument and more broadly to "conduct innovative, collaborative, and interdisciplinary research and exploration to improve

understanding of biological, physical, cultural, and historical resources in the Monument”.

Availability of Resources

As a one-time, incidental use to a management activity, the Service has sufficient staffing and funding to administratively support this commercial filming activity in the Monument. Service Monument staff will process a SUP and coordinate with other agencies that may need to be aware of commercial filming taking place in the Monument, including the U.S. Coast Guard, U.S. Navy, U.S. Air Force, Tribes, and NOAA Office of Law Enforcement.

Anticipated Impacts of the Use

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

As this is a one-time, incidental use to occur concurrently with a planned NOAA management activity, the anticipated impacts are negligible. This instance of commercial filming will be conducted by attaching a cinematographic camera to a NOAA operated ROV and will not result in any additional impacts, beyond the impacts of the research activity, which has been previously analyzed. Monument resources including geology, hydrology, air and water quality, biological resources, threatened and endangered species and their critical habitats, cultural resources, socioeconomics, and environmental justice, will not be more than negligibly impacted by the action and have been dismissed from further analyses.

The potential impacts of commercial filming and photography on the Monument's biological, physical, cultural, historic, and socioeconomic resources were also evaluated in the Final Environmental Assessment (EA) for the Northeast Canyons and Seamounts Marine National Monument Final Management Plan (USFWS and NOAA 2024). The EA concluded that there were no significant adverse impacts associated with commercial filming in the Monument so long as it is conducted in accordance with the Monument's founding Presidential Proclamation 9496, all relevant laws and regulations (including the National Wildlife Refuge System Administration Act and Improvement Act, the Marine Mammal Protection Act and the Endangered Species Act) and the stipulations provided in this compatibility determination.

Short-term impacts

There are no adverse short-term impacts associated with commercial filming as proposed in this compatibility determination.

Long-term impacts

There are no adverse long-term impacts associated with commercial filming as

proposed in this compatibility determination given that it will be a one-time incidental use concurrent to a research management activity. The Monument's Management Plan sets a goal to "conduct innovative, collaborative, and interdisciplinary research and exploration to improve understanding of biological, physical, cultural, and historical resources in the Monument" which will be positively impacted by this use.

Public Review and Comment

The draft compatibility determination will be available for public review and comment for 14 days. The public will be made aware of this comment opportunity through posting on the Monument's website. An electronic copy of the draft compatibility determination will be made available on the refuge website <https://www.fws.gov/national-monument/northeast-canyons-and-seamounts-marine>. Tribes have been asked to review and comment on the draft compatibility determination. Please contact NCSMNM@fws.gov if you need the documents made available in an alternative format. Concerns expressed during the public comment period will be addressed in the final document.

Determination

Is the use compatible?

Yes

Stipulations Necessary to Ensure Compatibility

1. This one-time incidental commercial filming activity will occur concurrently to NOAA's planned research management activity. The commercial film crew will coordinate all activity with NOAA and activities will be at the discretion of NOAA. A cinematographic camera will be attached directly to a NOAA directed ROV. The film crew will not direct any activities and will be filming concurrently to research activities performed by NOAA staff.

Justification

The stipulations outlined above would help ensure that the use is compatible in the Northeast Canyons and Seamounts Marine National Monument. Commercial filming, as outlined in this compatibility determination, would not conflict with the national policy to maintain the biological diversity, integrity, and environmental health of the Monument. Based on available science and best professional judgment, the Service has determined that commercial filming in the Northeast Canyons and Seamounts Marine National Monument, in accordance with the stipulations provided here, would not materially interfere with or detract from the fulfillment of the National Wildlife Refuge System (NWRS) mission or the purpose of the Northeast Canyons and

Seamounts Marine National Monument.

Commercial filming can promote ethical outdoor behavior, thereby helping to reduce and minimize adverse impacts to wildlife and habitats. Conditions imposed in SUPs will help ensure that impacts associated with commercial filming activities are minimized or eliminated. They would not conflict with the national policy to maintain the biological diversity, integrity, and environmental health, nor would they materially interfere with or detract from the purposes of the Monument.

Commercial filming provides virtual opportunities through which the American public can develop an appreciation for fish and wildlife and contribute to achieving the mission of the NWRS and the purposes for which the Monument was established.

Signature of Determination

Refuge Manager Signature and Date

Signature of Concurrence

Assistant Regional Director Signature and Date

Mandatory Reevaluation Date

2034

Literature Cited/References

USFWS and NOAA. 2024. Northeast Canyons and Seamounts Marine National Monument: Final Management Plan and Environmental Assessment.
<https://www.fws.gov/project/monument-management-plan>