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SUPPLEMENTARY INFORMATION:

Background

On May 26, 2006, TSA published a final rule in a separate Part II of the **Federal Register** (71 FR 30478), revising various regulations to enhance and improve the security of air cargo transportation. TSA inadvertently left out the amendatory instruction to remove the word "passenger" in § 1548.1. This document adds the amendatory change as instruction number 31a.

List of Subjects

49 CFR part 1548 Air transportation, Reporting and recordkeeping requirements, Security measures.

Correcting Amendment

■ For the reasons set forth in this document and in the final rule on air cargo security requirements published on May 26, 2006 (71 FR 30478), the Transportation Security Administration amends part 1548 of Title 49, Code of Federal Regulations, as follows:

■ In rule FR Doc. 06-4800 published on May 26, 2006 (71 FR 30478) make the following correction: On page 30513 add the following amendment:

PART 1548—INDIRECT AIR CARRIER SECURITY

§ 1548.1 [Amended]

■ 31a. In § 1548.1 introductory paragraph, remove the word "passenger".

Issued in Arlington, Virginia, on June 2, 2006.

Mardi Ruth Thompson,

Deputy Chief Counsel for Regulations.

[FR Doc. E6-8852 Filed 6-7-06; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 36

RIN 1018-AU08

Refuge-Specific Public Use Regulations for Kodiak National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are opening certain private lands within the

boundaries of Kodiak National Wildlife Refuge in Alaska to public use with a permit. We are taking this action to comply with our commitments made under a Conservation Easement among the United States, the State of Alaska, and Koniag, Inc. The Conservation Easement furthers the missions of the Service and the National Wildlife Refuge System and the purposes of Kodiak National Wildlife Refuge. While the Conservation Easement encompasses more than 56,000 acres, the lands affected by this rule are only those easement lands within a ½-mile band of land on either side of the Karluk River and lands within ½ mile of the shoreline of Karluk Lake on Kodiak Island, Alaska. The rule will apply as long as the Conservation Easement is in place. Without this rule, the Service would fail to comply with the terms of the Conservation Easement.

DATES: This rule is effective June 8, 2006.

FOR FURTHER INFORMATION CONTACT: Abbey Kucera, (907) 487-2600; Fax (907) 487-2144.

SUPPLEMENTARY INFORMATION: Kodiak National Wildlife Refuge was established in 1941 by Executive Order for the purpose of protecting the natural feeding and breeding ranges of brown bears and other wildlife on Uganik and Kodiak Islands. The lands now under the Conservation Easement were once refuge lands. The Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601-1624) (Act) allowed refuge lands to be conveyed to Alaska Native Corporations established under the Act, including the 56,822.61 acres now covered by the Conservation Easement. In 2002, the State of Alaska, Koniag, Inc., and the Service signed the Conservation Easement, which calls for these lands to be managed similarly to refuge lands and allows for public use of these lands consistent with 50 CFR part 36 and subject to applicable Alaska regulations for the taking of fish and wildlife. As a condition of the easement, a refuge-issued permit is required for most public recreational uses occurring within a ½-mile band of land on either side of the Karluk River and lands within ½ mile of the shoreline of Karluk Lake.

Background About Kodiak National Wildlife Refuge

The Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 *et seq.*, 43 U.S.C. 1602) expanded the purposes for which Kodiak National Wildlife Refuge was established: (i) To conserve fish and wildlife populations and habitats in their natural diversity,

including but not limited to Kodiak brown bears, salmonids, sea otters, sea lions, and other marine mammals and migratory birds; (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and other habitats; (iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii) above, the opportunity for continued subsistence uses by local residents; and (iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in subparagraph (i) above, water quality and necessary water quantity within the refuge.

Kodiak National Wildlife Refuge encompasses almost 2 million acres in southwestern Alaska, including about two-thirds of Kodiak Island. The city of Kodiak, where refuge headquarters is located, is about 250 air miles south of Anchorage, about 20 miles northeast of the refuge boundary on Kodiak Island, and about 60 air miles northeast of Karluk Lake.

Kodiak National Wildlife Refuge is characterized by a large range of habitats within a relatively small geographic area. Because of this, the refuge supports some of the highest densities of brown bears, nesting bald eagles, and spawning salmon found anywhere in North America. The mountainous interior of Kodiak Island, with several peaks over 4,000 feet in elevation, is covered by lush, dense vegetation during the summer, with alpine vegetation on the highest slopes. No place on the refuge is more than 15 miles from the ocean. Access to the refuge is primarily by float plane and boat. Karluk River and Karluk Lake have runs of five species of Pacific salmon (chinook, sockeye, coho, pink, and chum) and steelhead. Rainbow trout, Dolly Varden, and Arctic char are also found there.

Kodiak National Wildlife Refuge was established primarily to protect the brown bear. With an estimated population of 2,100 bears, the refuge contains some of the best brown bear habitat, and supports one of the highest concentrations of brown bear, in the world. These bears feed on spawning salmon and forage throughout most of the refuge. The Karluk River drainage is one of the most important feeding areas for bears, with up to 200 bears using the Karluk area from mid-June to the end of September.

Under our regulations implementing the Alaska National Interest Lands Conservation Act (50 CFR 36.31), all refuge lands in Alaska are open to public recreational activities as long as such activities are conducted in a

manner compatible with the purposes for which the refuge was established. Such recreational activities include, but are not limited to: Sightseeing, nature observations and photography, hunting, fishing, boating, camping, hiking, picnicking, and other related activities (50 CFR 36.31(a)). The National Wildlife Refuge Administration Act of 1966 (16 U.S.C. 668dd–668ee), as amended by the National Wildlife Refuge System Improvement Act of 1997, defines “wildlife-dependent recreation” and “wildlife-dependent recreational use” as “hunting, fishing, wildlife observation and photography, or environmental education and interpretation” (16 U.S.C. 668ee(2)). We encourage these uses, and they will receive emphasis in management of the public use of the refuge.

Key Provisions of the Conservation Easement

The Conservation Easement established a management group composed of one representative from each of the following: Koniag, Inc., Kodiak National Wildlife Refuge, and the Alaska Department of Fish and Game. This management group is the means by which the three entities combine resources and ideas on improving habitat quality, quality of experience for visitors, and protection of fish and wildlife in accordance with the Conservation Easement.

Under the Conservation Easement, Koniag, Inc., agrees to confine use of all easement lands to fish and wildlife management and conservation activities, subsistence gathering activities, archaeological investigations, and recreational activities. We agree to establish, maintain, and enforce a permit system that imposes specific limits on the level and location of public recreational use on that portion of the easement within a ½-mile band of land on either side of the Karluk River and lands within ½ mile of the shoreline of Karluk Lake. The Conservation Easement establishes a limited-use period of June 10 through July 15, which is the time of peak run for king salmon and, subsequently, greatest visitor use. The Conservation Easement also requires us to conduct a study to establish appropriate visitor use limits.

Required Study

We began the required study in 2002, and Koniag Inc., managed use of the Karluk River that year. During the limited-use period (June 10 through July 15), Koniag, Inc., charged a user fee of \$125 per person per year but imposed no visitor limit.

In 2003, the Kodiak National Wildlife Refuge took over management responsibilities. The refuge limited visitor use during the limited-use period but did not impose a user fee. The Conservation Easement calls for free public use under refuge management and requires us to limit the number of recreational visitors to the area during the limited-use period to a maximum of 70 scheduled visitors on any day. This limit applied to both visitors obtaining permits from us (maximum of 28 per day) and visitors using the area as clients of guides authorized by Koniag, Inc., (maximum of 42 per day). Under the authority of temporary restrictions that the Refuge Manager issued, we required permits for visitors to the area from 2003 through 2005.

Parties of up to six people applied together for permits, and the refuge issued permits for each member of the party. Each individual was allowed to obtain only one nontransferable permit for a visit of up to 7 consecutive days during the limited-use period. Parties had to apply by a deadline that the refuge established and would have been selected by a lottery if there were more visitors than scheduled visits available. To date, we have not had visitor use reach the limit of 70 people per day during the limited-use period. During the remainder of the year (July 16 through June 9), there are no limits on the number of permits available.

The study explored the possible effects changes in river management had on visitor experience. We analyzed data from both guided and unguided visitors to explore potential differences with respect to their feelings towards conflict, crowding, use, and solitude. We concluded that current management of the river under the permit system is acceptable to visitors and that the current use limits were a reasonable approach to managing visitor use and complying with the terms of the Conservation Easement.

Conclusion

In summary, the Conservation Easement allows the Service to open and manage public use of private lands. It also requires us to establish a permit system for most public use of easement lands within a ½-mile band of land on either side of the Karluk River and lands within ½ mile of the shoreline of Karluk Lake. This regulation replaces the temporary restrictions and allows us to continue to implement the Conservation Easement. The refuge plans to:

(1) Maintain the 70-person daily limit during the limited-use period (June 10 to July 15),

(2) Manage the area for natural setting and character by limiting infrastructure expansion, and

(3) Distribute uses temporally and spatially throughout the limited-use period (June 10 to July 15).

This regulation does not extinguish the public’s right to use public access easements reserved under section 17(b) of the Alaska Native Claims Settlement Act.

Plain Language Mandate

In this rule, we use “you” to refer to the reader and “we” to refer to the Service. We use the word “allow” instead of “permit” when we do not require a permit for an activity. Where the word “permit” occurs, a permit is required.

Statutory Authority

The National Wildlife Refuge System Administration Act (Administration Act) of 1966 (16 U.S.C. 668dd–668ee, as amended) and the Refuge Recreation Act (Recreation Act) of 1962 (16 U.S.C. 460k–460k–4) govern the administration and public use of refuges.

The Recreation Act authorizes the Secretary to administer areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that doing so is practicable and not inconsistent with the primary purpose(s) for which Congress and the Service established the areas. The Recreation Act requires that any recreational use of refuge lands be compatible with the primary purpose(s) for which we established the refuge and not inconsistent with other previously authorized operations.

The Administration Act and Recreation Act also authorize the Secretary to issue regulations to carry out the purposes of the Acts and regulate uses.

Section 1302(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(a)) and the National Wildlife Refuge Administration Act, as amended by the Refuge Improvement Act of 1997, (16 U.S.C. 668dd) authorize us to enter into the Conservation Easement with Koniag, Inc., and the State of Alaska.

Response to Comments Received

In the September 30, 2005, **Federal Register** (70 FR 57242), we published a proposed rule and invited public comments. We also provided notices locally in Kodiak and Larson Bay that announced the publication of the proposed rule and invited public comments. We received one comment letter on the proposed rule from the State of Alaska. The State of Alaska

requested that we: (1) Clarify that the proposed rule would apply only to lands within a 1/2-mile band of land on either side of the Karluk River and lands within 1/2 mile of the shoreline of Karluk Lake; (2) eliminate explanatory language from the proposed rule, specifically paragraph (j)(3)(ii); and (3) use the word "uplands" rather than the word "lands" in the rule to clarify that the rule does not apply to water.

In response to this comment, the final rule clearly states that the rule applies only to easement lands within a 1/2-mile band of land on either side of the Karluk River and lands within 1/2 mile of the shoreline of Karluk Lake. We also use this specific language throughout this **Federal Register** document to clarify the lands subject to this rule. In addition, we are not including proposed paragraph (j)(3)(ii), which contained explanatory material, in this final rule. Instead, the explanatory material is included in preamble of this **Federal Register** document. Finally, we did not use the word "uplands" in this rule. Instead, we use the phrase "easement lands within a 1/2-mile band of land on either side of the Karluk River and lands within 1/2 mile of the shoreline of Karluk Lake" from Section 5(a) of the Conservation Easement.

Effective Date

This rule is effective upon publication in the **Federal Register**. We have determined that any further delay in implementing these refuge-specific regulations would not be in the public interest, in that a delay could hinder public use of the private lands within the boundaries of Kodiak National Wildlife Refuge. This rule does not impact the public generally in terms of requiring lead time for compliance. Rather, it allows activities that would otherwise be prohibited. Therefore, we find good cause under 5 U.S.C. 553(d)(3) to make this rule effective upon publication in the **Federal Register**.

Regulatory Planning and Review

Executive Order (E.O.) 12866

In accordance with the criteria in E.O. 12866, the Service asserts that this rule is not a significant regulatory action. The Office of Management and Budget (OMB) makes the final determination under E.O. 12866.

a. This rule would not have an annual economic effect of \$100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A brief assessment to clarify the costs and benefits associated with this rule follows.

This rule would require a permit for recreational activities on some Conservation Easement lands, specifically lands within a 1/2-mile band of land on either side of the Karluk River and lands within 1/2 mile of the shoreline of Karluk Lake, which are owned by Koniag, Inc., and are within the boundaries of Kodiak National Wildlife Refuge in Alaska. To access the area, visitors must: (1) Have a permit from the refuge; (2) be a concessionaire or a client of a concessionaire authorized by Koniag, Inc.; (3) be an authorized subsistence user as defined in the Conservation Easement; or (4) limit their use to public easements reserved under section 17(b) of the Alaska Native Claims Settlement Act. The baseline (status quo) is defined as the conditions before the temporary restriction was adopted. Therefore, all permits associated with the Conservation Easement land are new.

Visitation to the easement land consists primarily of anglers because of the world class king salmon fishing on the Karluk River. In addition to angling, other activities may include hiking, camping, hunting, and watching wildlife such as Kodiak brown bears.

During the limited-use period from June 10 to July 15, the maximum number of recreational visitors that can access the area requiring a permit is limited to 70 people per day (28 holding refuge permits and 42 clients of guides holding Koniag, Inc., permits). Outside of this limited-use time period (July 16 to June 9), there is no limit on the number of visitors. In all of 2004, 339 visitors were guided with permits from Koniag, Inc., and 240 visitors were unguided with permits from Kodiak National Wildlife Refuge. Approximately 110 refuge permits were for the limited-use period, and 130 refuge permits were for outside of the limited-use period. Thus, 579 people visited the Karluk River and Lake Conservation Easement land where a permit was required for recreation in 2004.

During the temporary restriction on the number of recreational visitors that could access the area during the limited-use period, official monitoring of visitation has shown that no applicants have been denied access to easement lands within a 1/2-mile band of land on either side of the Karluk River and lands within 1/2 mile of the shoreline of Karluk Lake. Therefore, we do not expect that the permit requirement will have an effect on the number of users on the easement lands within a 1/2-mile band of land on either side of the Karluk River and lands within 1/2 mile of the shoreline of Karluk Lake.

Costs Incurred

There are no monetary fees for any of these permits. Any costs incurred would be due to the time needed to fill out the permit application. Please see the "Paperwork Reduction Act" section of this document for more information.

Benefits Accrued

a. This rule allows the public to continue to use the lands within a 1/2-mile band of land on either side of the Karluk River and lands within 1/2 mile of the shoreline of Karluk Lake. It provides an official system to gather the information necessary to track visitor use and help ensure visitor safety. We expect this rule will better distribute the number of visitors throughout the peak season in the future if use increases. While we do not expect the number of visitors to change in the immediate future, if use does increase in the future, visitors could continue to experience conditions similar to those today along Karluk River and Lake and the refuge could distribute the number of visitors throughout the peak season to avoid fishing congestion.

b. This rule would not create inconsistencies with other Federal agencies' actions. This action pertains solely to the management of Conservation Easement lands within a 1/2-mile band of land on either side of the Karluk River and lands within 1/2 mile of the shoreline of Karluk Lake within Kodiak National Wildlife Refuge.

c. This rule would not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This rule does not affect entitlement programs. There are no grants or other Federal assistance programs associated with public use of the Conservation Easement.

d. This rule would not raise novel legal or policy issues. This rule requires a permit to access the Koniag, Inc., Conservation Easement lands within a 1/2-mile band of land on either side of the Karluk River and lands within 1/2 mile of the shoreline of Karluk Lake. This rule continues the practice of allowing recreational public use of many lands managed by national wildlife refuges.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory

flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions) (5 U.S.C. 601 *et seq.*). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for "significant impact" and a threshold for a "substantial number of small entities." See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

Small businesses that may be affected would include those located in Kodiak Island Borough, Alaska. Because this rule is not expected to affect recreational activities in the area, this rule would not have a significant effect on small businesses engaged in activities in the borough. Therefore, we certify that this rule would not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act. A final Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act 5 U.S.C. 804(2). This rule:

- a. Does not have an annual effect on the economy of \$100 million or more;
- b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and
- c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information

required by the Unfunded Mandates Reform Act is not required.

Takings (E.O. 12630)

In accordance with E.O. 12630, the rule does not have any takings implications. This regulation will affect only Conservation Easement lands within a ½-mile band of land on either side of the Karluk River and lands within ½ mile of the shoreline of Karluk Lake owned by a willing participant, Koniag, Inc., by allowing public use of private lands.

Federalism (E.O. 13132)

This rule has no Federalism implications to warrant the preparation of a Federalism Assessment under E.O. 13132. Permit holders who choose to fish are regulated by Alaska Department of Fish and Game regulations. In negotiating the Conservation Easement, we coordinated with State and Tribal governments, and the State of Alaska is a party to the Conservation Easement.

Civil Justice Reform (E.O. 12988)

In accordance with E.O. 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. A violation of the rule is classified as a misdemeanor offense.

Energy Supply, Distribution, or Use (E.O. 13211)

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. The rule has no effect on energy supplies, distribution, and use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Consultation and Coordination With Indian Tribal Governments (E.O. 13175)

In accordance with E.O. 13175, we have evaluated possible effects on federally recognized Indian tribes and have determined there are no effects. Koniag, Inc., consulted with area tribal governments in drafting the Conservation Easement. Other provisions of the Conservation Easement give preference for certain visitor services on easement lands to Koniag, Inc., shareholders who reside in Larsen Bay or Karluk and to the tribal governments of Larsen Bay and Karluk.

Paperwork Reduction Act

This regulation does not contain any information collection requirements

other than those already approved by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and assigned OMB control number 1018-0014. See 50 CFR 36.3 for information concerning that approval. We will amend our information collection to include the burden hours associated with this regulation. These burden hours involve the time required to complete the permit application. Applicants need approximately 15 minutes to apply for a permit and to fax or mail it to the refuge. The majority of applications are completed electronically and faxed to the refuge. The average annual time commitment for visitors is approximately 60 hours (15 minutes × 240 applications). An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Endangered Species Act Section 7 Consultation

No species listed as endangered under the Endangered Species Act is known to occur within the easement lands, including lands within a ½-mile band of land on either side of the Karluk River and lands within ½ mile of the shoreline of Karluk Lake. In 2004, a section 7 consultation under the Endangered Species Act was conducted for the Draft Revised Comprehensive Conservation Plan, Kodiak National Wildlife Refuge. This plan includes the proposed management of all Conservation Easement lands. The plan was found to be fully consistent with section 7 of the Endangered Species Act by the Service and the National Marine Fisheries Service.

National Environmental Policy Act

We analyzed this rule in accordance with the criteria of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)) (NEPA) and 516 DM 6, Appendix 1. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/assessment is not required. A categorical exclusion from NEPA documentation applies under the Department of the Interior Manual, 516 DM 8 B(10).

Primary Author

Abbey Kucera, Supervisory Natural Resources Specialist, Kodiak National Wildlife Refuge, is the primary author of this document.

List of Subjects in 50 CFR Part 36

Alaska, Recreation and recreation areas, Reporting and recordkeeping requirements, Wildlife refuges.

■ For the reasons set forth in the preamble, we amend title 50, chapter 36, subpart E of the Code of Federal Regulations as follows:

PART 36—[AMENDED]

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460(k) et seq., 668dd-668ee, as amended, 742(a) et seq., 3101 et seq.; and 44 U.S.C. 3501 et seq.

■ 2. Amend § 36.39(j) by adding paragraph (3) to read as follows:

§ 36.39 Public use.

* * * * *

(j) Kodiak National Wildlife Refuge.

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(3) Permit requirement for Conservation Easement lands. Pursuant to the terms of a Conservation Easement held by the United States and the State of Alaska, we manage public use of certain lands owned by Koniag, Inc. These lands are inholdings within the exterior boundaries of the Kodiak National Wildlife Refuge. The Conservation Easement was recorded in the Kodiak Recording District, Alaska, on December 6, 2002, as document number 2002-003448-0. The lands subject to the Conservation Easement to which the permit requirement in this paragraph apply are all lands within 1/2 mile of the west shore of Karluk Lake, from the lake outlet to the southern boundary of T. 32 S., R. 30 W. (surveyed), Seward Meridian; all lands within 1/2 mile of the east shore of Karluk Lake, from the lake outlet to a point due east of the north end of Camp Island; and all lands within a 1/2-mile band of land on either side of the Karluk River, from the Karluk Lake outlet

downstream to the refuge boundary. A map is available from the refuge showing the location of the easement lands that are subject to the permit requirement. You are prohibited from using these lands unless:

(i) You have a nontransferable permit from the refuge;

(ii) You are a concessionaire or a client of a concessionaire authorized by Koniag, Inc., to provide revenue-producing visitor services;

(iii) You are an authorized user in accordance with section 7(d) of the Conservation Easement; or

(iv) You are limiting your use of the property to public access easements established under section 17(b) of the Alaska Native Claims Settlement Act.

Dated: May 22, 2006.

Matt Hogan,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E6-8873 Filed 6-7-06; 8:45 am]

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