

Manager from permitting persons in addition to historical operators to provide visitor services in the refuge at the Refuge Manager's discretion so long as historical operators are permitted to conduct a scope or level of visitor services equal to or greater than those provided prior to January 1, 1979, under terms and conditions consistent with this section. An historical operator may be permitted by the Refuge Manager under separate authority to increase the scope or level of visitor services provided prior to January 1, 1979, but no historical operating rights shall be obtained in such increase.

(2) When an historical operator permit has expired, and if the visitor services permitted thereunder continue to be adequately provided and consistent with the purposes of the refuge as determined by the Refuge Manager, the Refuge Manager shall renew the permit for a fixed term consistent with such new terms and conditions as are in the public interest. Should an historical operator decline to accept an offer of renewal, its rights as an historical operator shall be considered as terminated.

(3) If the Refuge Manager determines that permitted visitor services must be curtailed or reduced in scope or season to protect refuge resources, or for other purposes, the Refuge Manager shall require the historical operator to make such changes in visitor services. If more than one historical operator providing the same type of visitor services is required to have those services curtailed, the Refuge Manager shall establish a proportionate reduction of visitor services among all such historical operators taking into account historical operating levels and other appropriate factors so as to achieve a fair curtailment of visitor services among the historical operators. If the level of visitor services must be so curtailed that only one historical operator feasibly may continue to provide the visitor services, the Refuge Manager shall select one historical operator to continue to provide the curtailed visitor services through a competitive selection process.

(4) The rights of an historical operator shall terminate if the historical operator fails to provide the visitor services under the terms and conditions of a permit issued by the Refuge Manager or fails to provide the visitor services for a period of more than eleven consecutive months.

(5) The rights of an historical operator under this section shall terminate upon a change, after January 1, 1979, in the controlling interest in the historical

operator through sale, assignment, devise, transfer or otherwise.

(6) An historical operator may apply to the Refuge Manager for a permit or amended permit to provide similar visitor services. The Refuge Manager shall grant the request if such visitor services are determined by the Refuge Manager:

(i) To be consistent with the management of refuge resources and the purposes for which the refuge area was established;

(ii) Similar to the visitor services provided by the historical operator prior to January 1, 1979;

(iii) To not be in violation of the legal rights of any other person; and

(iv) Granting the request will not result in an increase in the scope and level of service in excess of those provided by the requesting historical operator as of January 1, 1979.

(7) The Refuge Manager may authorize other persons to provide visitor services in a refuge in addition to historical operators, as long as such other persons conducted the services in a manner compatible with the purposes of the refuge.

(d) *Visitor services initially authorized after January 1, 1979, "preferred operators"*. (1) In selecting persons to provide, and in permitting any type of visitor services, excepting guided hunting or fishing, the Refuge Manager will give a preference to preferred operators determined qualified to provide such visitor services.

(2) In selecting persons to provide any type of visitor services for refuges subject to a preferred operator preference under this section, the Refuge Manager will publicly solicit offers for persons to apply for a permit, or the renewal of a permit, to provide such visitor services pursuant to Service procedures. A preferred operator must submit a responsive offer to such solicitation in order to effect their preference. If, as a result of the solicitation, an offer from a person other than a preferred operator is determined to be the best offer received and that offeror is determined to be capable of carrying out the terms of the authorization, a preferred operator which submitted a responsive offer shall be given an opportunity to meet the terms of the best offer received by amending its offer. If the amended offer of a preferred operator is considered by the Refuge Manager as meeting the terms of the best offer, the preferred operator, if it is determined to be capable of carrying out the terms of the permit, shall be awarded the visitor service permit. If a preferred operator fails to meet these requirements, the

Refuge Manager shall award the permit to the person who submitted the best offer in response to the solicitation. In the event this process results in more than one preferred operator having submitted an offer meeting the terms of the best offer received, the Refuge Manager will select for award of the permit that preferred operator who submitted the best offer as determined by the Refuge Manager.

(3) The rights of preferred operators under this section take precedence over the permit privileges granted to satisfactorily performing current special use permit holders, but do not take precedence over the rights of historical operators as described in this section. Nothing in this section shall prohibit the Refuge Manager from authorizing persons other than preferred operators to provide visitor services in refuge areas so long as the procedures described in this section have been followed with respect to preferred operators. Preferred operators are not entitled by this section to provide all visitor services in a qualified refuge.

(4) An offer from a Native Corporation under this section must document its total ownership of the business entity making the offer.

(5) The preferences described in this section may not be sold, assigned, transferred or devised, directly or indirectly.

(e) *Preference to Cook Inlet Region, Incorporated (CIRI)*. (1) Cook Inlet Region, Incorporated, (CIRI) in cooperation with village corporations within Cook Inlet Region, when appropriate, shall have a right of first refusal to provide new visitor services within that portion of the Kenai National Moose Range, (Kenai National Wildlife Refuge), within the boundaries of Cook Inlet Region. CIRI shall have ninety (90) days from receipt of a prospectus in which to exercise its right.

(2) In order to exercise this right of first refusal, CIRI must submit a responsive offer under the terms of a Service public solicitation for offers to conduct such visitor services. A responsive offer is one which is timely made and meets the terms and conditions of the solicitation document. If CIRI makes such an offer and is determined by the Refuge Manager to be capable of carrying out the terms of the special use permit, it shall be awarded the permit. If it does not, the permit may be awarded to another person pursuant to a showing that such other person can carry out the conditions of the special use permit in a manner compatible with the purposes of the refuge. An offer from CIRI under this section must document total ownership in the entity making the