



Investigative Report of Alleged Illegal Construction of Cabin at Tetlin National Wildlife Refuge

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This is a version of the report prepared for public release.

SYNOPSIS

On December 29, 2015, Public Employees for Environmental Responsibility (PEER) contacted the Office of Inspector General requesting an investigation into an alleged illegal cabin construction project completed in 2015 in the U.S. Fish and Wildlife Service (FWS) Tetlin National Wildlife Refuge in Alaska. PEER alleged that a refuge official illegally authorized the construction of a cabin on Stuver Lake, supposedly to support a scientific lynx study but actually intended for private guests to use as a base for moose hunting on the refuge. PEER questioned the refuge official's authority for the project; FWS' compliance with applicable laws, regulations, and policies; the creation of a trail and felling of trees; and the alleged project cost of \$50,000.

Our investigation found that the refuge official acted within his authority, with regional approval, and with the intent to facilitate scientific research and availability of emergency shelter. We confirmed that the cabin had been used by refuge staff to conduct lynx research. We found one instance where the cabin was used by a local resident, who reserved the cabin for moose hunting. The route created for access to the cabin in the winter was temporary and minimally disruptive to vegetation, and there was no evidence that any trees were cut down. The 12-by-16-foot cabin was constructed using approximately \$5,200 in materials, not \$50,000.

Regarding PEER's concerns about FWS documenting compliance with the National Environmental Policy Act and National Historic Preservation Act, we found that the refuge official failed to complete these required assessments prior to initiating the construction project.

DETAILS OF INVESTIGATION

On December 29, 2015, Public Employees for Environmental Responsibility (PEER) contacted the Office of Inspector General requesting an investigation into an alleged illegal cabin construction project in 2015 on wilderness-eligible lands in the U.S. Fish and Wildlife Service (FWS) Tetlin National Wildlife Refuge in Alaska. PEER alleged that a refuge official illegally authorized the construction of a cabin on Stuver Lake, supposedly for a scientific lynx study but actually intended as a base for private guests to use while moose hunting on the refuge. PEER requested this investigation based on what it considered to be an insufficient FWS response on November 23, 2015, to PEER's Freedom of Information Act (FOIA) request on October 19, 2015, regarding the cabin construction project. On February 4, 2016, the then-FWS regional director issued a response letter to PEER's press release, refuting a number of PEER's allegations and stating the regional office's intent to review compliance assessments.

On the same day PEER contacted us, it published a press release on its website, which included a link to the complaint letter to us. PEER included the following concerns and allegations in its request for an investigation:

- FWS did not provide any document describing scientific research activities linked to or to be conducted at the cabin.
- The refuge official authorized the construction project without regional approval.
- The refuge Comprehensive Conservation Plan (CCP) for scientific research prohibited cabin construction.
- The refuge official did not document National Environmental Policy Act (NEPA) or the National Historic Preservation Act (NHPA) compliance for the construction project and "disingenuously" claimed the cabin was needed to further scientific research to evade applicable laws, regulations, and policies.
- The project included felling an unknown number of trees to build a 22-mile trail.
- FWS expended approximately \$50,000 to construct the cabin.
- The refuge official intended the cabin to be used as a base for moose hunting on the refuge by private guests.
- FWS claimed that the cabin was designated as an administrative field camp, which could only be used by the public for emergency use, but the cabin had been made available for reservation according to the public-use cabin protocol.

We contacted PEER for further information regarding the allegations and received copies of the FOIA correspondence, response materials from FWS, and the contact information for the former refuge employee who had reached out to PEER with concerns about the cabin construction project. The refuge employee worked at Tetlin from September 2012 to December 2014. She told us she had little firsthand information and had never been to the cabin because she was not working at the refuge during the cabin construction project. She identified three refuge employees—later referred to as refuge employee 1, refuge employee 2, and refuge employee 3—who worked on the project and suggested they be contacted for specific details.

The former refuge employee gave us a copy of the information she emailed to PEER in September 2015. Her primary concerns were that there was no environmental impact statement

or required permits and that “hundreds of trees” were cleared to create the 22-mile trail to access the cabin. She did not witness, or know of anyone who witnessed, refuge employees cutting down trees to create the trail; she deferred to the three refuge employees who completed the project, later. She spoke with an FWS regional refuge ecologist about her concerns but did not report her concerns to FWS. She did not know of anyone else who contacted PEER. The former refuge employee confirmed that she had seen the press release issued by PEER and stated that it contained much stronger language than her email. Specifically, she stated: “But that [language] wasn’t mine . . . I just tried to stick to the facts.”

The Refuge Official’s Cabin Project Planning, Approval, and Authority

Allegation That There Was No Scientific Research Linked to the Cabin

We did not substantiate PEER’s allegation that FWS did not use the cabin for scientific research. All 16 individuals we interviewed during this investigation were aware of the ongoing lynx research conducted at Tetlin and believed that there was a legitimate scientific reason for the cabin. The former refuge employee stated that the lynx research was valid but suggested that it was not the primary intended use for the cabin.

The refuge official in question told us that he proposed cabin construction on a preexisting foundation by Stuver Lake, which was previously used as a tent platform, to accommodate refuge biologists conducting lynx research and to provide additional shelter in a remote part of the refuge. While preparing materials in response to PEER’s FOIA request, he created a briefing paper detailing his motivation and process for initiating the project, including pictures of the cabin construction. He provided documentation about the proposed lynx survey prepared by a refuge biologist.

The refuge biologist who conducted the proposed lynx survey estimated that for at least 16 years, scientists had used the Stuver Lake site as a camp while conducting research. The existing platform consisted of cinder blocks under the corners of a wooden surface that was not a permanent foundation (no concrete was poured and no underlying land was disturbed). During lynx season, which runs from November to April, the refuge biologist would spend weeks at a time in the refuge. Following the construction of the Stuver Lake cabin, he began using the cabin as the base for his scientific research during the November 2015 through April 2016 lynx season. He provided a copy of the September 2016 Refuge Report, “Northwest Boreal Lynx Project: 2016 Summary Report for Tetlin National Wildlife Refuge,” documenting his research. He had also used the cabin in weather emergencies, as temperatures on the refuge often drop below -60°F, which is too cold to drive a snow machine, trap lynx, or even remain outside for more than a few minutes. He said the four refuge cabins made the “difference between life or death.” In the summer months, refuge employees use the cabin for scientific research, such as snowshoe hare surveys.

The previous refuge manager estimated that 15 years’ worth of scientific survey work had been done at the Stuver Lake cabin site and that the lynx survey had been initiated several years before he left the refuge. In addition, the previous refuge supervisor stated that Tetlin was one of a few refuges committed to a multiyear study of lynx and snowshoe hare. The chief of refuges

said that refuge staff had wanted to improve the cabin site to support their field activities in the Stuver Lake area of the refuge for some time.

Allegation That the Refuge Official Acted Without Authority or Regional Approval

We did not substantiate PEER's allegation that the refuge official in question authorized the project without the knowledge or approval of the regional office and had no authority to initiate the project. The refuge official consulted with his then-supervisor throughout project planning and the cabin and winter route construction. Both of them stated that the supervisor at the time knew of and approved of the project. The then-supervisor further stated that, "under management discretion," the refuge official could construct a cabin for administrative use to do biological work or for the health and safety of refuge employees. She also said that the refuge official got clearance for the cabin project from the regional engineer.

The former refuge employee admitted she did not have any knowledge as to whether the project had regional approval; she questioned it but left open the possibility that she was wrong.

Allegation That the Refuge CCP Prohibited Cabin Construction

We did not substantiate PEER's allegation that the cabin construction was prohibited according to the compatibility determination for scientific research in Tetlin's CCP. PEER incorrectly cited the compatibility determination from the FOIA materials provided by FWS. The CCP contains the compatibility determination in Appendix E, and the stipulation cited by PEER is in reference to "research activities not conducted by or in cooperation with the Service," which requires a special-use permit from the refuge and precludes outside users from constructing cabins in the refuge. This correction was also provided to PEER in the then-FWS regional director's response letter, which further stated that constructing additional cabins was supported by the CCP and its accompanying environmental assessment, which "received public input."

Previous and current regional and refuge officials confirmed that the refuge CCP supported cabin construction and agreed that the refuge official in question, following the appropriate procedures, had the authority to construct small facilities to support refuge operations. The refuge supervisor said that Tetlin's CCP contained language to support public-use facilities, specifically cabins and trails, as well as administrative and research components.

PEER's letter also incorrectly claimed that the cabin was constructed on lands eligible for wilderness designation. According to the CCP, Section 4.4, "Wilderness Values," Tetlin has no lands recommended for wilderness designation. A refuge biologist and previous and current refuge officials confirmed that there was no designated wilderness on the refuge, and none believed that the cabin would affect the potential for wilderness designation.

Allegation Regarding Cabin Construction NEPA and NHPA Compliance

We confirmed that the refuge official in question did not complete NEPA or NHPA compliance assessments prior to the cabin construction project. FWS managers and experts at the regional level agreed that the cabin construction project was a site-specific project that required NEPA

and NHPA compliance assessment but that NEPA could not be completed retroactively. We did not substantiate PEER's allegations that the refuge official falsely claimed that the cabin was needed to further scientific research of lynx with the intent to evade applicable laws, regulations, and policies. In addition to the confirmation of lynx research, no one we interviewed believed the refuge official acted with malicious intent to avoid compliance assessments. The refuge official, previous refuge supervisor, and current refuge supervisor indicated that the refuge official consulted refuge guidance and believed he was covered. The chief of refuges said that there may have been "confusion," but he did not believe that the refuge official had "an intent to sneak anything by"; rather, he felt it was "an honest mistake." FWS NEPA experts believed that the refuge official did not act with "intent" to avoid NEPA requirements.

The refuge official explained his process and defended his interpretation of the CCP, but acknowledged that he should have documented his "finding of no significant impact" to address NEPA compliance. Both the refuge official and his then-supervisor believed that the CCP and its compatibility determinations authorized the project. Neither believed an additional compliance assessment for NEPA or NHPA was necessary. The then-supervisor explained that each refuge has a CCP, which undergoes NEPA compliance and compatibility determinations and is released to the public. When a construction project is initiated, the CCP's compatibility determinations are "redone" and signed for various topics, such as scientific research and cabins. She believed that the CCP covered the NEPA process and felt that there would be no additional disturbance or impact based on previous use of the cabin site and the fact that the route a temporary, winter-use-only route.

The previous refuge manager explained that the guidance is not "black and white," and noted that the refuge official in question had latitude to make the interpretation; he said that he might not have acted any differently. He said that he could see how the refuge official in question might not complete a NEPA assessment for an existing cabin, but a new cabin construction was a new Federal action and he should first determine if construction was covered under NEPA, which would require either a categorical exclusion or an environmental assessment.

As indicated by the then-FWS regional director, FWS reviewed the cabin construction project and its compliance assessments. Following the FOIA response, the chief of refuges and the refuge supervisor found that the project did not have a cultural resources review and was not in compliance with NEPA.

The chief of refuges stated that once FWS became aware of these compliance issues, they consulted an FWS regional historic preservation officer and cultural resources specialist to conduct a review. He inspected the Stuver Lake cabin site on June 1, 2016, and found no significant cultural resources; he also determined that the winter-use route to the site did not require inspection. According to him, the CCP did not exempt the agency from NEPA or NHPA compliance but neither compliance assessment could be completed after the fact. The refuge official in question, the chief of refuges, the refuge supervisor, an FWS NEPA expert, an FWS regional ecologist, and the Department of the Interior (DOI) regional solicitor confirmed that NEPA compliance could not be completed after the fact for the cabin construction project.

The refuge supervisor felt that the refuge official genuinely “thought he had everything he needed” because of the references in the CCP, the longstanding plans and support for the cabin construction project, and the preexisting foundation at the cabin site. He acknowledged, however, that the CCP did not have “site-specific” NEPA planning, which he felt should have been completed.

An FWS NEPA expert and the DOI regional solicitor explained that the compatibility determinations completed in a CCP are separate from NEPA compliance and provided guidance from the National Wildlife Refuge System Improvement Act. Site-specific projects in refuges require environmental assessments (EAs) and that an EA with a “finding of no significant impact” would have been sufficient NEPA compliance for the Stuver Lake cabin.

The chief of refuges stated that in the last 2 years, the regional office “brought NEPA training to Alaska” and that an FWS regional historic preservation officer conducts cultural compliance workshops for refuge officials so that they can learn their obligations, but neither training was mandatory. The FWS regional historic preservation officer stated that despite the training not being mandatory, he observed a good turnout among refuge officials, including the official in question. An FWS NEPA expert spoke positively of recent training provided at the regional office.

Associated Construction Project and Costs

Allegation That a Trail Was Created and Trees Were Cut Down To Access Cabin Site

We did not substantiate PEER’s allegation that the project included felling an unknown number of trees to build a 22-mile trail. Our investigation disclosed that the access to the cabin site was “an unimproved, marked route,” as FWS claimed and that there was no evidence of any trees being cut down. In fact, no one we interviewed had witnessed—or knew of anyone who had witnessed—refuge employees cutting down trees to create the access route.

The refuge official in question told us that he recommended creating an additional route from the highway to the foundation site because of a longstanding conflict with the Northway Village Council over the use of a trap line on the only existing refuge trail, which was used exclusively by one family in the village. The new route would allow access to the cabin site and avoid further conflict surrounding the existing trail. The refuge official notified and obtained consent to create the alternate route from the Northway Village Council. He also consulted with his then-supervisor who agreed that creating an alternate access route “alleviated a lot of angst” among refuge staff and users. The previous refuge supervisor and the refuge official agreed that no trees would be cut down and that the goal was to not disturb vegetation or scar the landscape.

Refuge employee 1 created the access route at the refuge official’s request and referred to the route as an administrative “flag line,” not a trail. He minimized the impact on refuge vegetation by following the contours of the landscape and using florescent tape, flags, and wire to mark the flag line. He was adamant that the route was designed for winter use only, using snow cover and frozen surfaces for snow machine access that could not be used in the spring or summer, after the snow melted.

The refuge official directed his staff to avoid cutting down trees and went out on the route to observe their work. He explained that the type of vegetation allowed a route to be created without cutting anything down and some vegetation could be “run over.” Included in the materials the refuge official had initially prepared for the FOIA response are pictures of the route and the refuge vegetation.

Refuge employee 2, who volunteered on the Tetlin maintenance crew and worked directly on the cabin construction project, noted that their efforts to avoid cutting vegetation and follow the path of least resistance through the landscape lengthened the route, which curved back on itself many times. The refuge official confirmed that because of this approach, the access route was 22 miles in length despite a distance of 14 miles from the highway to the cabin site. A refuge biologist said that it took employees 6 to 8 hours—by sled over rough terrain—to reach the research site using the new route and required a GPS to find and follow the route. Refuge employee 1 noted that even with the route marked, refuge staff would get lost and needed him to provide a track log from his GPS device to find the route.

During our site visit, we flew over the refuge and observed that the landscape, vegetation, and access route were consistent with the refuge employees’ descriptions; we flew along the access route and did not observe any areas where it appeared trees had been cut down. The FWS regional historic preservation officer said that what he observed while flying over the refuge supported the claim that it was a flag line for winter use and he did not see evidence of any trees cut down. He did not examine the route during his evaluation because he visited during the months the route did not exist.

The former refuge employee had no firsthand knowledge of and knew of no one who witnessed trees being cut down. Her concern was about obtaining permission to create the route. She acknowledged that the route was planned, that it could only be used during winter months, and that refuge employee 1 and refuge employee 3 were directed to create it. When we told the former refuge employee about the efforts of the maintenance crew to minimize effects on vegetation, she replied: “They would know better than I.” She went on to say: “If that’s what [refuge employee 1] says, then I believe it.”

The same two refuge employees both said the allegation of felling trees was false and that no trees were cut to create the route.

The former refuge employee also said that the FWS zone officer had made similar claims about the access route and felled trees. When we interviewed the FWS zone officer, however, he said he had no firsthand knowledge of the access route or the cabin.

Allegation that FWS Expended \$50,000 To Construct the Cabin

We did not substantiate PEER’s allegation that FWS expended approximately \$50,000 to construct the cabin. PEER did not provide any support for the \$50,000 cost estimate. It appears the \$50,000 cost estimate was mistakenly derived from two lumber purchases from Alaska Wilderness Supply and Spenard Builders Supply, totaling \$46,225, made by the former refuge

employee and authorized under the previous refuge manager on July 28, 2014, for various decking and housing repair projects. Our interviews of the refuge employees who were involved in the project revealed that the actual cost to build the cabin was approximately \$5,000 to \$5,200.

The former refuge employee claimed that the Stuver Lake cabin project was not documented in the refuge budget and that it would be hard to verify the cost of the project because the funding was never allocated. She recalled two lumber purchases, approximately \$25,000 each, in August 2014, which she believed were used to construct the cabin. She could not recall the specifics of the purchases or whether the proposed projects were completed, and acknowledged that she “might be wrong.” She did not believe the Stuver Lake cabin would have required all of the lumber from these purchases. She did not recall providing the \$50,000 cost estimate to PEER, but indicated that she had many conversations where she could have disclosed it following her initial email.

Refuge employees 2 and 3 used the access route to transfer construction materials to the cabin site by snow machine, which was safer and more economical than flying the materials into the refuge, and completed construction between February and May 2015. We were told that, since the cabin measured only 12 feet by 16 feet, they framed it within 3 days. A refuge biologist said that Stuver Lake cabin was the smallest of the refuge’s four cabins, with no running water or electricity.

The refuge official in question and three refuge employees who worked on the project estimated the cost of the project to be between \$5,000 and \$5,200. The refuge official created a “build list,” detailing the materials used to construct the cabin and the approximate value of each item, which totaled \$5,185.01. Because most of the materials used were already in the refuge’s possession, this figure represented the estimated value, not the cost of the project. A refuge biologist, the previous refuge manager, the former and current refuge supervisors, and refuge employee 1 confirmed that using leftover materials was “a norm” and indicated that refuges would “stockpile” purchased materials to use in future projects. The few purchases made for the project totaled less than \$2,000. Based on the build list, the cabin required approximately 50 pieces of lumber; by comparison, the \$24,912 purchase from Alaska Wilderness Supply included over 2,800 units of lumber.

The former refuge employee agreed that the cabin was built quickly and said that she had seen pictures and it was “not a fancy cabin” but “pretty much a shack” that would suffice for hunting or to avoid freezing. The refuge official provided a picture of the cabin, which confirmed the former refuge employee’s description. During our site visit, we flew over and took pictures of the cabin, which also confirmed the above descriptions.

Cabin Use and Designation

Allegation Regarding Use of Cabin for Moose Hunting

We did not substantiate PEER’s allegation that the cabin was constructed for private guests to use while hunting moose in the refuge. Our investigation disclosed that the cabin was used once for hunting by a local resident in September 2015. Both the refuge official in question and a

refuge biologist explained that moose hunting is only permitted in the refuge for 15 days out of the year; there is a 5-day season in August for Tok residents only and a 10-day season in September for public reservation of refuge cabins for moose hunting. The refuge official, a refuge biologist, and refuge employee 2 stated that no refuge staff members or their friends or families had used the cabin for moose hunting.

A private citizen, the only individual known to have used the cabin, stated that he used it during moose hunting season, in September 2015, after applying to use the cabin according to the refuge's public-use cabin protocol. He was not told about the cabin by refuge staff; rather, he observed it while flying over the refuge. He had only met the refuge official once before he used the cabin. He was not friends with the refuge official and did not see any of the refuge official's friends at the cabin; he believed that he was the only visitor to use the cabin.

The former refuge employee confirmed that a private citizen and his guest were the only individuals she knew of who had used the cabin for moose hunting.

Allegation Regarding Use Designation

PEER's questions on the cabin's designation of use require further review by FWS. The cabin was constructed for administrative use, meaning the public may only use it for emergencies, yet a private citizen was able to reserve the cabin. Current refuge policy allows public use of administrative cabins.

In his letter to PEER, the then-FWS regional director confirmed that none of the refuge staff or anyone associated with refuge staff had used the cabin for personal reasons, but also expressed the intent to open the cabin for public use eventually. The refuge official in question supported use of the cabin by local residents and the desire to open the cabin for public use. The former refuge supervisor indicated that it was within the authority of the refuge official to revisit the designation of use on an administrative cabin and to propose the cabin be opened for public use. Regional managers and experts noted, however, that further assessment would be necessary before the cabin could be opened for public use.