

The National Wildlife Refuge System is the only network of federal lands and waters dedicated to wildlife conservation. Comprising 567 refuges with at least one in every U.S. state and territory, the Refuge System is essential to protecting our nation's astounding diversity of wildlife, and also provides endless recreational and educational opportunities; supports more than 41,000 jobs nationwide; and generates 3.2 billion dollars in local, sustainable economic revenue.³¹² Okefenokee National Wildlife Refuge is an exceptional unit of the System.

The Service manages Okefenokee Refuge in accordance with the Refuge Administration Act, which provides that it is the policy of the United States that "each refuge shall be managed to fulfill the mission of the system as well as the specific purposes for which that refuge was established."³¹³ The mission of the National Wildlife 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.³¹⁴

Refuge purposes are derived from the laws, executive orders, permits or other legal documents that authorize land acquisition for a refuge. The original purpose of Okefenokee Refuge is to serve as "a refuge and breeding ground for migratory birds and other wildlife."³¹⁵ As it expanded Okefenokee, Congress also added conservation of threatened and endangered species as a refuge purpose. Both the Corps and the Service must consider how authorizing proposed strip mining adjacent to Okefenokee Refuge detracts from the wildlife conservation mission of the Refuge System and conflicts with the purposes of the refuge.

In addition, the agencies must examine how the mining project could affect the Service's ability to carry out substantive refuge management requirements in accordance with the Refuge Administration Act. The law requires all refuge uses to be compatible with the primary purpose of the individual refuge and the wildlife conservation mission of the Refuge System.³¹⁶ There is no doubt that industrial mining is an inappropriate, incompatible use of the Okefenokee, so if the project encroaches upon the Refuge in any way, the Service must invoke its authority to deny such use prior to resource damage occurring.³¹⁷

³¹² U.S. Fish & Wildlife Serv., *Banking on Nature* 2017 at i (June 2019).

³¹³ 16 U.S.C. § 668dd(a)(3)(A).

³¹⁴ 16 U.S.C. § 668dd(a)(2).

³¹⁵ Executive Order 7593 (March 30, 1937)

³¹⁶ 16 U.S.C. § 668dd(d)(3)

³¹⁷ It is worth noting that courts have upheld the Service's denial of a Section 668dd(d) permit for access to a refuge based on considerations involving the impacts *occurring outside* refuge boundaries, in areas not owned by the federal government. *See McGrail & Rowley, Inc. v. Babbitt*, 986 F. Supp. 1386, 1394-95 (S.D. Fla. 1997) *aff'd sub nom. McGrail & Rowley, Inc. v. U.S. Dep't. of Interior*, 226 F. 3d 646 (11th Cir. 2000) ("This [district] court finds that the FWS was acting within its authority pursuant to the Property Clause in regulating MRI's operations through state-owned water to federally owned Boca Grande Key. The agency has the power to regulate conduct 'on or off the public land that would threaten the designated purpose of federal