
**DRAFT COMPATIBILITY DETERMINATION
AND DRAFT ENVIRONMENTAL ACTION STATEMENT**

FOR

COMMERCIAL FISHING (PHASE-OUT)

AT

**MERRITT ISLAND NATIONAL WILDLIFE REFUGE
BREVARD AND VOLUSIA COUNTIES, FLORIDA**

Merritt Island National Wildlife Refuge
U.S. Department of the Interior
Fish and Wildlife Service
Southeast Region
Titusville, FL

February 2018

TABLE OF CONTENTS

DRAFT COMPATIBILITY DETERMINATION..... 1

 Existing Use..... 1

 References Cited..... 7

 Approval10

 Appendix A: Merritt Island National Wildlife Refuge11

 Appendix B: Proposed Special Use Permit Conditions.....12

DRAFT ENVIRONMENTAL ACTION STATEMENT FOR CATEGORICAL EXCLUSION.....14

Draft Compatibility Determination

EXISTING USE: Commercial Fishing (phase-out)

Refuge Name: Merritt Island National Wildlife Refuge

Date Established: August 28, 1963

Establishing and Acquisition Authorities: Migratory Bird Conservation Act; North American Wetlands Conservation Act

Refuge Purposes: The U.S. Fish and Wildlife Service (Service) administratively designated Merritt Island National Wildlife Refuge (NWR or refuge) in 1963 under the provisions of the Migratory Bird Conservation Act, with a primary purpose of these lands and waters identified:

"... for use as an inviolate sanctuary, or for any other management purpose, for migratory birds."

16 USC §715d (Migratory Bird Conservation Act)

In addition, the administrative designation of the refuge under the provisions of the Migratory Bird Conservation Act, which also recognizes benefits to other species, including those designated as threatened or endangered, included an additional primary purpose:

"... to conserve and protect migratory birds ... and other species of wildlife that are listed ... as endangered species or threatened species and to restore or develop adequate wildlife habitat."

16 USC §715i (Migratory Bird Conservation Act)

The primary purposes identified during designation of the refuge apply to all lands and waters managed by the refuge, regardless of when they were added to the refuge, including lands and waters under management agreements with National Aeronautics and Space Administration (NASA) and the State of Florida.

In 1995, under the authority of the North American Wetlands Conservation Act, the Service and its partners began purchasing additional lands and waters in the northwest corner of the refuge, the Turnbull Creek area, identifying a secondary purpose of the refuge for this area:

"(1) to protect, enhance, restore, and manage an appropriate distribution and diversity of wetland ecosystems and other habitats for migratory birds and other fish and wildlife in North America; (2) to maintain current or improved distributions of migratory bird populations; and (3) to sustain an abundance of waterfowl and other migratory birds consistent with the goals of the North American Waterfowl Management Plan and the international obligations contained in the migratory bird treaties and conventions and other agreements with Canada, Mexico, and other countries."

16 USC §4401(2)(b) (North American Wetlands Conservation Act)

This secondary purpose applies only to those lands and waters of the Turnbull Creek area of the refuge. However, the primary purpose also applies to the lands and waters of the Turnbull Creek area.

In the legislation that created the Canaveral National Seashore (Seashore) as a unit of the National Park Service in 1975, Congress established the Seashore on new lands and waters and on some lands and waters already being managed as part of the refuge. The refuge overlay area encompasses approximately 34,345 acres and includes southern Mosquito Lagoon. The Seashore was established “... to preserve and protect the outstanding natural, scenic, scientific, ecologic, and historic values ... and to provide for public outdoor recreation use and enjoyment of the same ... the Secretary shall retain such lands in their natural and primitive condition, shall prohibit vehicular traffic on the beach except for administrative purposes, and shall develop only those facilities which he deems essential for public health and safety” [16 USC §459(j)]. This language applies much as a wilderness designation might apply, making this a secondary purpose for the 34,345 acres of lands and waters in the refuge overlay portion of the Seashore.

National Wildlife Refuge System Mission: The mission of the National Wildlife Refuge System, as defined by the National Wildlife Refuge System Improvement Act of 1997, 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.

Description of Use: Prior to Merritt Island NWR establishment in 1963, commercial fishing/harvesting of clams, oysters, crabs, shrimp, and fin fish within the waters currently encompassed by the refuge was an important local economic activity. Under the agreement between the Service and NASA, the Service manages the non-operational areas of Kennedy Space Center (KSC) as Merritt Island NWR. The properties included in the deeds of dedication from the State of Florida to NASA conveyed all rights to the federal government for primary use for the national space program and secondary use as a national wildlife refuge or public park, including the water column and the submerged lands. Further, in 1975 Congress established Canaveral National Seashore [Public Law 93-626, 16 USC §459(j)], much of which overlaps KSC and Merritt Island NWR, including Mosquito Lagoon where much of the commercial fishing/harvesting activity occurs. In the law, Congress clearly outlined that the existing Merritt Island NWR would continue to be managed as a refuge under refuge authorities.

Merritt Island NWR encompasses 139,000 acres, including nearly 50,000 acres of the Indian River Lagoon system (a 156-mile long estuary), of which 43,000 acres are public open waters. The remaining 6,600 acres of the Indian River Lagoon system are located within KSC’s security area and are closed to all public access (Appendix A). The shallow estuarine waters within the refuge support a diversity of flora and fauna, including mangrove forests, salt marshes, seagrass flats, oyster reefs, and marine invertebrate and vertebrate species.

The Service reviewed the phase-out of commercial fishing (seafood harvesting) for compatibility during the comprehensive planning process for Merritt Island NWR, which included the draft and final Comprehensive Conservation Plans (CCPs) (FWS 2006, FWS 2008), Environmental Assessment (EA) (FWS 2006) for the CCP, and associated Finding of No Significant Impact (FONSI) (FWS 2008). In the Merritt Island NWR 2008 CCP (FWS 2008), the Compatibility Determination (CD) for the phase out of commercial fishing at Merritt Island NWR was signed in 2007 as part of the final CCP; the final CCP with the final CD for commercial fishing (phase out) was published in 2008. Since 1999, commercial fishing has been permitted by National Park Service (Canaveral National Seashore) through a joint-agency commercial use permit within the boundaries of Canaveral National Seashore and Merritt Island NWR. Because permit holders

were not adequately notified of the sunset date and the phase out was not fully implemented as outlined in the CCP and the CD, the Service proposes to extend the phase-out of commercial fishing within Merritt Island NWR for another 10 years with a sunset date of September 30, 2028. The Service would assume permitting responsibilities of commercial fishing (seafood harvesting) activities within the Merritt Island NWR on October 1, 2018. Only those commercial harvesters permitted by the National Park Service between October 1, 2015 and September 30, 2017 (80 individuals) would be allowed to apply for Merritt Island NWR commercial fishing Special Use Permits on October 1, 2018. During the 10-year phase-out period, the number of permits would be expected to decline as harvesters retire, choose not to renew their permits, or fail to meet permit requirements. Transfer of permits to family members during the 10-year phase-out would be allowed based on permit requirements.

Current commercial fishing activities on the refuge include crabbing using crab pots; clamming using rakes; and fishing using hook and line, cast nets, and seine nets. Continued use would include commercial fishing/harvesting year-round, based on regulatory limits and seasonal abundance of commercial species. A total of 13,600 acres of the public open waters within the refuge would be closed to commercial fishing/harvesting, including pole and troll zones (including the running lanes) within Mosquito Lagoon and the no motor zone within Banana River. The refuge's 54 wetland impoundments also would be closed to commercial fishing. Refuge and off-site boat ramps would continue to be utilized by commercial harvesters to access refuge waters.

Availability of Resources: The permitting process would require the tracking of annual permit applications, including reviewing boat registration, saltwater products license, and photo identification to renew each permit. The permits would expire on September 30 of each year. Administrative oversight would be required to process the permits and handle the fees collected. In addition, catch logs would continue to be maintained and submitted to the refuge by the permittee; administrative oversight would be required to review and analyze these catch logs monthly. Law enforcement patrols by Federal Wildlife Officers would be required to ensure commercial fishing/harvesting permit holders adhere to their special use permit conditions. Through permit fees and appropriated funds, the refuge would have the resources to manage this use. However, current resources of the refuge alone would not be sufficient to monitor the specific environmental impacts associated with the use and would require assistance from partnering agencies, such as Florida Fish and Wildlife Conservation Commission (FWC) and Florida Department of Agriculture and Consumer Services (FDACS).

Management Resources	Annual Cost
Permit Processing	\$52,000
Law Enforcement	\$22,000
Boat Ramp/Parking Lot Maintenance	\$5,000
Total Costs	\$79,000

The proposed annual permit/user fee is \$250. Based on an 80 permit/year limit, a maximum of \$20,000 annually would be collected, of which 80% would be returned to the refuge and 20% would be utilized by the Service's Southeast Regional Office. The number of permitted seafood harvesters would be expected to decline over the 10-year phase-out, reducing annual costs and fee revenue. The annual permit fee could increase if costs to manage the program increase.

Anticipated Impacts of Use: Although some types of commercial harvesting are declining within the 156-mile long Indian River Lagoon system (East Central Florida Regional Planning Council and Treasure Coast Regional Planning Council 2016), saltwater products harvesting is

economically important to local communities. Refuge staff has noted that wild clam harvest on the refuge is declining, but commercial baitfish harvesting is increasing. Baitfish harvesting is extremely important to local bait shops and the recreational anglers who purchase the bait for their fishing trips. In addition to bait fisheries, crabbing and finfish harvest appear to be important based on catch logs provided to the National Park Service from permitted commercial harvesters.

The inherent environmental impacts of the extension of the phase-out of commercial harvesting come from two distinct groupings: impacts that result from the operation of motorized boats in the environment and direct and indirect wildlife resource impacts. Operation of motorized vessels introduces motor exhaust, turbidity of the water, and alteration of the marine bottoms. Motorized boating has been shown to alter distribution of wildlife, reduce use of particular habitats by waterfowl and other birds, alter wildlife feeding behavior, and cause premature wildlife departure from areas. Impacts of boating can occur even at low densities, given the ability of powerboats to cover extensive areas in a short amount of time, the noise they produce, and their speed (Sterling and Dzubin 1967; Bergman 1973; Speight 1973; Skagen 1980; Korschgen et al. 1985; Kahl 1991; Bauer et al. 1992; Dahlgren and Korschgen 1992). Direct wildlife resources impacts include the direct removal of the species for harvest, while indirect impacts include trophic level interactions (e.g., less bait for gamefish to eat). We recognize that indirect impacts of harvest on food web interactions are mostly unknown and difficult to quantify. However, some direct and indirect impacts are well documented. More specifically, crabbing impacts include the by-catch in crab pots of diamond-backed terrapins (Bishop 1983, Roosenburg and Green 2000) and other organisms. In addition, derelict traps that have been abandoned or moved by storms continue to catch and kill many organisms (Bilkovic et al. 2016). Manatees have also become entangled in the float lines of the pots and suffered loss of appendages or death (Renert et al. 2017). Clamming with rakes or tongs can disturb or destroy marine grasses. Raking also adds to the turbidity of the water (Munari et al. 2006), which can impact seagrass growth.

The level of recreational fishing from the shore and from boats continues to increase in Merritt Island NWR (Scheidt and Garreau 2007). Direct competition would be expected to occur between recreational and commercial fishing activities. Disturbance to recreational boaters/anglers and commercial fishing guides from commercial black drum harvesting activities has been reported to refuge staff. Potential congestion at refuge boat ramps could be expected due to concurrent use by recreational boaters and paddlers, commercial fishing guides, and commercial harvesters. Users of kayaks, canoes, and paddleboards could be disturbed by general motor boating and/or commercial harvesting activities such as setting and retrieving crab pots and seining and cast netting.

To limit impacts from commercial fishing within the refuge, FWC state seasons and size and bag limits for commercial fish would be enforced. Closed estuarine areas within the refuge would serve to replenish fish populations in the adjacent public waters (Stevenson and Sulak 2001). Baseline data from fish monitoring conducted in 2015-16 by FWC (Paperno, et al. 2016) would be compared to future monitoring efforts to inform decisions related to management of documented natural and anthropogenic impacts to the fish community. Permitted commercial anglers/harvesters and their families would experience negative economic impacts from the phase-out of commercial fishing within the refuge; although, state-managed waters outside of the refuge would not be affected by the proposed phase-out and would remain open to commercial fishing. Additionally, the phase-out would provide time for commercial harvesters to transition to other employment.

To reduce impacts to the refuge's natural resources, visitors, and government partners, permit restrictions and conditions would be implemented, including the exclusion of commercial seafood harvesting within the 3,000-acre Mosquito Lagoon pole and troll zones (including running lanes) and the 10,600-acre Banana River no-motor boating zone. Additionally, commercial harvesters would not be allowed to operate within the refuge's 54 wetland impoundments. Commercial fishing permit restrictions would be adjusted if needed to mitigate serious documented impacts to priority public uses, wildlife, and/or the environment. Crab trap designs would be required to exclude diamond-backed terrapins. Derelict crab traps would be required to be recovered annually in accordance with State regulations. The Service would consult and coordinate with the FWC, FDACS, National Park Service, and NASA as needed and appropriate. Because the number of commercial harvesters would be expected to decline during the 10-year phase-out, environmental and user conflict impacts from commercial fishing activities also would be expected to diminish over time. However, recreational anglers, commercial fishing guides and local bait shops would be impacted if the phase-out reduces the availability of baitfish. Proposed permit conditions and restrictions are listed in Appendix B.

Public Review and Comment: The Service conducted robust public involvement during the development of the previous CD to phase out the use under the CCP for Merritt Island NWR, which included scoping and public review and comment (see FWS 2006 and FWS 2008 for details). Further, given the overlap with Canaveral National Seashore, National Park Service, this use was also discussed during the development of the General Management Plan for Canaveral National Seashore (National Park Service 2014). This current compatibility determination re-evaluation builds upon the previous planning and public involvement effort for the CCP.

The Service conducted public scoping on the proposed 10-year extension of the commercial harvesting use from August 22, 2017 through September 8, 2017. The Service mailed or emailed a public information flyer to nearly 700 individuals, organizations, permit holders, businesses, and governmental agencies. In addition, the Service posted the public information flyer at the refuge's visitor center, on the refuge's website, and on the refuge's Facebook page. A press release was also sent out. The Service received 27 comments during the 2017 scoping period expressing both support and opposition to the proposed extension of the commercial harvesting use. Combined with previous comments submitted during the CCP's planning process, these scoping comments were used to help inform development of the draft CD and the draft Environmental Action Statement (EAS). The draft CD and draft EAS were made available to the public for review and comment for a period of 30 days. The potentially interested Native American Tribes were invited to review the draft CD and draft EAS and send the Service any concerns or comments. The draft CD and draft EAS were also sent to the Florida State Clearinghouse for review and comment by State agencies. Public notice included mail and email notices to the mailing list and Merritt Island NWR special use permit holders, notice posted on the Merritt Island NWR website and Facebook page, and notice posted at the Merritt Island NWR visitor center.

All comments received on the draft CD and draft EAS will be reviewed in the development of the final CD and final EAS.

Determination:

- Use is Not Compatible
- Use is Compatible, with the Listed Stipulations

Stipulations Necessary to Ensure Compatibility:

- The number of permits issued for commercial fishing would be capped at 80. Only commercial harvesters who obtained National Park Service/Canaveral National Seashore commercial harvesting permits in 2015-2016 and 2016-2017 would be allowed to apply for commercial fishing special use permits on Merritt Island NWR.
- Permits not renewed annually would be retired. The total number of permits would be expected to decrease over time as permits are retired when users do not renew them, permit holders do not report any catch during the year, or are revoked for non-compliance. Additionally, some of the potential applicants may choose not to operate within the refuge waters and instead choose to use adjacent state waters for their commercial harvesting activities.
- Special use permits only would be valid for the open public waters of Merritt Island NWR. Certain water areas with shallow water, sensitive bottoms, and/or other sensitive resources may be closed to commercial fishing, including the Mosquito Lagoon pole and troll zones and running lanes and the no motor zone in Banana River. All refuge wetland impoundments are closed to commercial fishing.
- Permits would be able to be transferred to an immediate family member (i.e., father, son, daughter, mother, brother, sister, husband, wife).
- All stipulations/restrictions would be clearly outlined on annual special use permits.
- Crab trap designs would be required to exclude entry by diamondback terrapins. This requirement could be updated in future years in accordance with new information to protect diamondback terrapins and other non-target species.
- Crabbers would be required to recover derelict traps annually in accordance with State regulations.
- All applicable local, State, and federal laws, policies, and regulations would apply.
- The Service would continue to coordinate closely with the State and federal partners, including FWC, FDACS, National Park Service, and NASA. Coordination would include development of appropriate monitoring to understand the commercial harvesting activities and their impacts (e.g., to wildlife, habitat, and other users) and to adapt management as needed.
- Refuge user fees would be expected to increase if administration costs for this program increase.

Justification: The Service recognizes the historic and cultural importance of watermen to the local area. To not place undue hardship on these families and their business, the phased approach was designed to be fair and equitable. The Service also recognizes the shortcomings of the previous phase-out and proposes the current 10-year extension as a reasonable solution. The stipulations outlined above would minimize potential impacts relative to wildlife/human interactions. At the current permit level, phasing out commercial harvesting does not seem to conflict with the national policy to maintain the biological diversity, integrity, and environmental health of the refuge. Based on available science and best professional judgement, the Service has determined that phasing out commercial fishing/harvesting by September 30, 2028 at Merritt Island NWR, in accordance with the stipulations provided here, would not materially interfere with or detract from the fulfillment of the National Wildlife Refuge System mission or the purposes of the refuge.

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<https://ecos.fws.gov/ServCat/Reference/Profile/5972>

NEPA Compliance for Refuge Use Description and Compatibility Determination Revision:

- Categorical Exclusion without Environmental Action Statement
- Categorical Exclusion and Environmental Action Statement
- Environmental Assessment and Finding of No Significant Impact
- Environmental Impact Statement and Record of Decision

Several categorical exclusions apply to the proposed extension to September 30, 2028 of the commercial fishing/harvesting use on Merritt Island NWR, including:

- 516 DM 8.5(A)(1): Changes or amendments to an approved action when such changes have no or minor potential environmental impact.
- 516 DM 8.5(B)(2): The operation, maintenance, and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements which result in no or only minor changes in the use, and have no or negligible environmental effects on-site or in the vicinity of the site.
- 516 DM 8.5(B)(7): Minor changes in the amounts or types of public use on Service or State-managed lands, in accordance with existing regulations, management plans, and procedures, and
- 516 DM 8.5(B)(9): Minor changes in existing master plans, comprehensive conservation plans, or operations, when no or minor effects are anticipated

The above listed use was included in the Comprehensive Conservation Plan (CCP) (FWS 2008). The Environmental Assessment (EA) (FWS 2006) for the draft CCP (FWS 2006) for Merritt Island NWR previously analyzed the impacts of this use. The Finding of No Significant Impact (FWS 2008) for the 2006 EA determined that no significant impacts were anticipated; this use and the associated impacts to the affected environment have not changed substantially since that analysis. Further, the Proposed Action would not trigger any of the extraordinary circumstances outlined in 43 CFR §46.215. For the above listed reasons and citations from 43 CFR §46.210 and 516 DM 8, the Proposed Action is categorically excluded from further NEPA documentation. (For more detailed information, see the Environmental Action Statement that documents the categorical exclusions for this Proposed Action.)

Mandatory 10-year Reevaluation Date: _____

APPROVAL

Approval of Compatibility Determination: Phasing out Commercial Fishing/Harvesting from Merritt Island National Wildlife Refuge by September 30, 2028

Layne Hamilton,
Project Leader,
Merritt Island NWR Complex:

Signature Date

Pamala Wingrove,
Regional Compatibility
Coordinator,
Southeast Region:

Signature Date

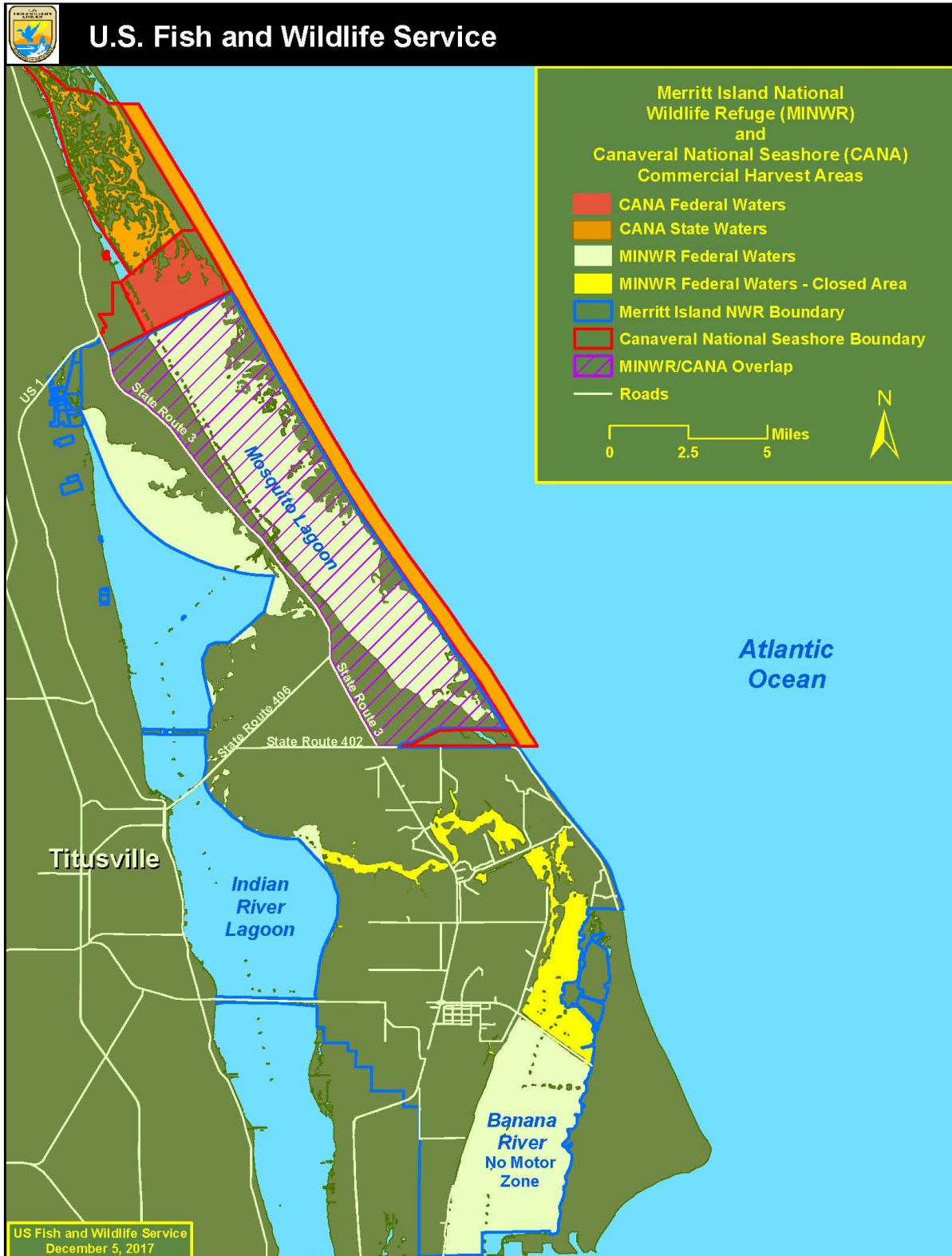
Kathleen Burchett,
Refuge Supervisor,
Area II, Southeast Region:

Signature Date

David Viker,
Regional Chief,
National Wildlife Refuge
System, Southeast Region:

Signature Date

APPENDIX A: MERRITT ISLAND NATIONAL WILDLIFE REFUGE



APPENDIX B: PROPOSED SPECIAL USE PERMIT CONDITIONS

- Any permit not renewed by the close of business at the end of September of any year would be retired and would not be re-issued in future years.
- Special use permits would only be valid for the open public waters of Merritt Island NWR. Certain water areas with shallow water, sensitive bottoms, and/or other sensitive resources may be closed to commercial fishing.
- Mosquito Lagoon Pole/Troll Zones would be closed to all commercial fishing activities, including the running lanes within the Pole/Troll Zone.
- The Banana River no motor zone would be closed to all commercial fishing activities.
- All refuge wetland impoundments would be closed to all commercial fishing activities.
- Permits would be able to be transferred to an immediate family member (i.e., father, son, daughter, mother, brother, sister, husband, wife).
- Crab trap designs would be required to have an opening that measures 1.75 inches by 4.75 inches to exclude entry by diamondback terrapins. This excluder opening can be accomplished through alteration of existing traps or through the use of a commercially available turtle excluder device. This requirement could be updated in future years in accordance with new information to protect diamondback terrapins and other non-target species.
- Crabbers would be required to recover derelict traps annually in accordance with State regulations.
- All applicable local, State, and federal laws, policies, and regulations apply.
- The Service would continue to coordinate closely with the State and federal partners, including FWC, FDACS, National Park Service, and NASA. Coordination would include development of appropriate monitoring to understand the commercial harvesting activities and their impacts (e.g., to wildlife, habitat, and other users), facilitate accurate harvest reporting, and to adapt management as needed.
- Permit fees for 2018-2019 would be set at \$250. Fees may be anticipated to increase over time to ensure that the costs associated with the program were covered.
- Permit applications must be submitted by August 1 for the upcoming fiscal year (October 1 through September 30). Permits would only be valid October 1 through September 30. (For example, for 2018-2019, applications would be required to be submitted by August 1, 2018, for permits for October 1, 2018 through September 30, 2019).
- The Service may close the commercial harvest of certain species at any time to minimize impacts.
- The Service may alter the methods of harvest and/or species at any time to minimize impacts.
- In conformance with standard National Wildlife Refuge System practices, a minimum liability insurance of \$300,000 would be required for each permit holder. The value could increase over time.
- Permits may be modified or revoked by the Service for violation of any special use permit conditions.
- Permit holders would be required to record and submit monthly catch log records to the refuge within 14 days of the end of each month. Catches of zero must be reported.
- Permits would be revoked for failure to comply with reporting requirements.
- Each permit holder would be required to have the special use permit on his/her person at all times while operating on the refuge. For multiple boats and/or agents, each would be required to have a copy of the special use permit on his/her person at all times while

operating on the refuge. All boats and agents would be required to be included in the special use permit application. Each permit holder would be limited to operating a single vessel on the refuge at any one time.

- Commercial harvesters would not be allowed to concurrently hold a refuge permit for both commercial fishing and commercial fishing guide.
- Permitted activities would be limited to only daylight hours for certain harvesting activities (e.g., for bait fish, oysters, clams, and crabs).
- The method of harvest and target species would be required to be described in the special use permit application; special use permits would be limited to these methods and species. Specific equipment and identification numbers to be used would be required to be included in the special use permit application (e.g., including boat registration numbers and crab trap identification numbers).

Draft Environmental Action Statement for Categorical Exclusion

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA), and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and determined that the following proposed action is categorically excluded from further NEPA documentation requirements consistent with 40 CFR §1508.4, 43 CFR §46.205, 43 CFR §46.210, 43 CFR §46.215, and 516 DM 8.

Proposed Action and Alternatives.

Under the Proposed Action, the U.S. Fish and Wildlife Service (Service or FWS) would update the existing Compatibility Determination (CD) (FWS 2008) and continue to approve phasing out commercial fishing from Merritt Island National Wildlife Refuge (NWR) by September 30, 2028 as presented in the draft CD for this use (FWS 2018).

Categorical Exclusions.

Multiple categorical exclusions apply to proposed revision of the CD for and the continued approval of phasing out commercial fishing/harvesting from Merritt Island NWR by September 30, 2028, as listed.

- 516 DM 8.5(A)(1) – changes or amendments to an approved action when such changes have no or minor potential environmental impact
- 516 DM 8.5(B)(2) – operation, maintenance, and management of existing facilities and routine, recurring management activities and improvements, including renovations and replacements, which result in no or only minor changes in the use, have no or negligible environmental effects on-site or in the vicinity of the site
- 516 DM 8.5(B)(7) – minor changes in the amounts or types of public use on Service or State-managed lands, in accordance with existing regulations, management plans, and procedures
- 516 DM 8.5(B)(9) – minor changes in existing master plans, comprehensive conservation plans, or operations, when no or minor effects are anticipated

The above listed use was included in the Comprehensive Conservation Plan (CCP) (FWS 2008) for Merritt Island NWR. The Environmental Assessment (EA) (FWS 2006) for the draft CCP (FWS 2006) for Merritt Island NWR previously analyzed the impacts of this use. The Finding of No Significant Impact (FWS 2008) for the 2006 EA determined that no significant impacts were anticipated; the phase-out of commercial fishing and its associated impacts to the affected environment have not change substantially since that analysis. Further, the Proposed Action would not trigger any of the extraordinary circumstances outlined in 43 CFR §46.215. For the above listed reasons and citations from 43 CFR §46.210 and 516 DM 8, the Proposed Action is categorically excluded from further NEPA documentation.

Permits/Approvals. All necessary coordination and consultation regarding the previous analysis and approval of these uses for Merritt Island NWR occurred during the development of the CCP. The use may only occur on Merritt Island NWR through a valid, Service issued special use permit (SUP); the use must also meet all applicable local, State, and federal laws, regulations, and policies. An SUP would not be issued to an applicant until all applicable requirements were

met. Since the use would be phased out from Merritt Island NWR, when SUPs are not renewed or are revoked, those SUPs would be retired and would not be re-issued.

Public Involvement/Interagency Coordination. The Service conducted robust public involvement during the development of the previous CD to phase out the use under the CCP for Merritt Island NWR, which included the scoping and public review and comment (see FWS 2006 and FWS 2008 for details). Further, given the overlap with Canaveral National Seashore, National Park Service, this use was also discussed during the development of the General Management Plan for Canaveral National Seashore (National Park Service 2014). This current compatibility determination re-evaluation builds upon the previous planning and public involvement effort for the CCP.

The Service conducted public scoping on the proposed 10-year extension of the commercial harvesting use from August 22, 2017 through September 8, 2017. The Service mailed or emailed a public information flyer to nearly 700 individuals, organizations, permit holders, businesses, and governmental agencies. In addition, the Service posted the public information flyer at the refuge's visitor center, on the refuge's website, and on the refuge's Facebook page. A press release was also sent out. One article appeared in the refuge's volunteer newsletter, the Painted Bunting, which is emailed to approximately 84 refuge volunteers. Although a press release was sent out to 10 local media outlets, none of them covered the scoping period in print or in online articles. The Service received 27 comments during the 2017 scoping period expressing both support and opposition to the proposed extension of the commercial harvesting use. Combined with previous comments submitted during the CCP's planning process, these scoping comments were used to help inform development of the draft CD and the draft Environmental Action Statement (EAS). The draft CD and draft EAS were made available to the public for review and comment for a period of 30 days. The potentially interested Native American Tribes were invited to review the draft CD and draft EAS and send the Service any concerns or comments. The draft CD and draft EAS were also sent to the Florida State Clearinghouse for review and comment by State agencies. Public notice included mail and email notices to the mailing list and Merritt Island NWR special use permit holders, notice posted on the Merritt Island NWR website and Facebook page, and notice posted at the Merritt Island NWR visitor center.

All comments received on the draft CD and draft EAS will be reviewed in the development of the final CD and final EAS.

Supporting Documents. Supporting documents for this determination include relevant office file material and the listed key references.

National Park Service. 2014. Canaveral National Seashore, Florida Final General Management Plan/Environmental Impact Statement. U.S. Department of the Interior, National Park Service. Atlanta, GA. 436 pp.
<https://www.nps.gov/cana/learn/management/upload/GMP.pdf>

U.S. Fish and Wildlife Service. 2006. Draft Comprehensive Conservation Plan and Environmental Assessment for Merritt Island National Wildlife Refuge, Brevard and Volusia Counties, Florida. U.S. Department of the Interior, Fish and Wildlife Service, Southeast Region. Atlanta, GA. 303 pp.
<https://www.fws.gov/southeast/planning/CCP/MerrittIslandDraftSinglePageDocument.htm>

U.S. Fish and Wildlife Service. 2008. Comprehensive Conservation Plan for Merritt Island National Wildlife Refuge, Brevard and Volusia Counties, Florida. U.S. Department of the Interior, Fish and Wildlife Service, Southeast Region. Atlanta, GA. 320 pp.
<https://www.fws.gov/southeast/planning/CCP/MerrittIslandFinalPg.html>

U.S. Fish and Wildlife Service. 2018. Draft Compatibility Determination and Draft Environmental Action Statement for Commercial Fishing (Phase-Out) at Merritt Island National Wildlife Refuge, Brevard and Volusia Counties Florida. Titusville, FL. 16 pp.
https://www.fws.gov/Refuge/Merritt_Island/

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Date