FINDING OF NO SIGNIFICANT IMPACT

ENVIRONMENTAL ASSESSMENT
for RECREATIONAL FISHING
CANAAN VALLEY NATIONAL WILDLIFE REFUGE
TUCKER AND GRANT COUNTIES, WEST VIRGINIA

The U.S. Fish and Wildlife Service (Service) proposes to open fishing at Canaan Valley National Wildlife Refuge (NWR, refuge) in accordance with the refuge's Recreational Fishing Plan. This plan seeks to: (1) officially open recreational fishing at Canaan Valley NWR; (2) provide refuge-specific regulations that closely align with West Virginia regulations, and (3) comply with goals and objectives detailed in the refuge's 2011 Comprehensive Conservation Plan (CCP).

Selected Action

Proposed Action Alternative

Under this alternative, recreational fishing will be allowed on the refuge for the Blackwater River and its tributaries wherever a managed road or trail crosses a body of water (river, stream, or pond) or comes within approximately 10 yards of a body of water (see maps in Appendix A - Compatibility Determination: Figures 1-A and 2-A). West Virginia water law states that the refuge owns to the low-water mark of navigable streams (such as the Blackwater River) and to the middle of non-navigable streams (all other streams and tributaries on the refuge). After reaching a river or stream via a road or trail, anglers may travel along the stream, staying below the ordinary low-water mark. Two new canoe/kayak launches will also allow unlimited access to fishing spots not accessible by land. Beaver ponds on the refuge last a variable length of time, and if a managed road or trail provides access to a pond within approximately 10 yards, then it is open to fishing.

Fishing is permitted according to West Virginia Division of Natural Resources (WVDNR) regulations, with some additional refuge-specific conditions to protect fish, wildlife, and habitat, and reduce potential conflicts with other public uses. Fishing can be conducted during the seasons specified in the fishing regulations established by WVDNR, and permitted 1 hour before legal sunrise and 1 hour after legal sunset on refuge land. A valid West Virginia fishing license and any required additional stamps will be required to fish on the refuge; however, no additional refuge permit is required.

There are no unresolved conflicts about the proposed action with respect to the alternative uses of available resources, because the minor changes proposed by this action are not expected to have harmful impacts to the ecological, aesthetic, historic, cultural, economic, social, or health aspects of the refuge and surrounding communities. Therefore, the Service does not need to consider additional alternatives (43 CFR 46.310(b)).

This alternative was selected over other alternatives because it offers the best opportunity for recreational fishing that would result in a minimal impact on physical and biological resources, while meeting Service mandates under the National Wildlife Refuge System Administration Act

(NWRSAA) of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997. The Service believes that opening a fishing program on Canaan Valley NWR is not expected to have a significant impact to wildlife, other uses, or refuge administration. This alternative will best meet the purpose and need, refuge goals and objectives, and Service mandates.

The Department of the Interior Secretarial Order 3347 – "Conservation Stewardship and Outdoor Recreation," signed March 2, 2017, and Secretarial Order 3356 – "Hunting, Fishing, Recreational Shooting, and Wildlife Conservation Opportunities and Coordination with States, Tribes, and Territories," signed September 15, 2017, includes direction to Department of the Interior agencies to "…enhance recreational fishing, specifically regarding efforts to enhance and expand recreational fishing access." The selected alternative will also promote one of the priority public uses of the National Wildlife Refuge System (Refuge System), and providing opportunities for visitors to fish will promote stewardship of our natural resources and increase public appreciation and support for the refuge.

Other Alternatives Considered and Analyzed

No Action Alternative

The No Action Alternative would not allow fishing opportunities. Not allowing fishing would adversely affect the refuge's credibility with local communities and state partners. This alternative would likely be viewed by these groups as an inability of the Service to fulfill the commitments for the continuation of public access and traditional uses (including fishing) that the agency made upon refuge establishment and during the development of Canaan Valley NWR's CCP. In addition, not allowing fishing does not fulfill our mandates under the NWRSAA.

Summary of Effects of the Selected Action

An Environmental Assessment (EA) was prepared in compliance with the National Environmental Policy Act of 1969, as amended (NEPA) to provide a decision-making framework that: (1) explored a reasonable range of alternatives to meet project objectives; (2) evaluated potential issues and impacts to the refuge, resources and values; and (3) identified mitigation measures to lessen the degree or extent of these impacts. The EA evaluated the effects associated with the opening of fishing at Canaan Valley NWR, as well as the effects of a no-action alternative. It is incorporated as part of this finding.

Implementation of the agency's decision would be expected to result in the following environmental, social, and economic impacts:

Affected Environment	Selected Action
Fished Species	Minor, long-term adverse impacts to species. The largest pressure on fish populations on the refuge, however, comes from stocked rainbow and brown trout populations. These are non-native species in the Blackwater River watershed and are stocked annually by the State. Since the fishery is artificially stocked, the

	rainbow and brown trout populations are supplemented to compensate for angling pressures.
Other Wildlife and Aquatic Species	Minor, short-term adverse impacts to non-other species.
Threatened and Endangered Species	Not likely to adversely affect threatened and endangered species. The threatened Cheat Mountain salamander (*Plethodon nettingi*) is found on the refuge. This species is found associated with high elevation forested habitat, typically with some component of red spruce and/or Eastern hemlock, and it is likely they are restricted to the cooler mountain slopes and ridges. Primary access for fishing will occur only in the lower elevations and valley floor and will not traverse known or potentially occupied habitat of either species. Indiana, Northern long-eared, and Virginia big-eared bats are not likely to be affected, as most disturbance to bats during the breeding season occurs due to removing trees or destroying habitat. Anglers are prohibited from removing trees; therefore, impacts to these species will be minimal.
Vegetation	Minor, short-term impacts to vegetation, and minor long-term benefits to vegetation. It is anticipated that allowing fishing access will cause minor vegetation loss. Foot travel may slightly increase root exposure and trampling, and some rare plant species could be impacted by anglers walking around beaver ponds or along riparian corridors. Sedimentation impacts will also likely be minor from foot travel. Continuing pedestrian access for fishing, at the current level of use, is not anticipated to cause any significant impacts to plants or plant communities.
Water Resources	Negligible impacts. Angler foot traffic on existing trails will create only minor hydrologic impacts (e.g., drainage) and is not anticipated to measurably worsen existing hydrologic problems.
Cultural Resources	No impacts.
Visitor Use and Experience	Minor, short-term adverse impacts to other public uses. Based on interviews with individuals and user groups, conflicts among groups are not significant in Canaan Valley. This is likely due to the relatively low number of visitors in the area as compared with heavy use and conflict sites reported in the literature.
Socioeconomics	Minor, short-term and minor, long-term benefits.
Refuge Management & Operations	Minor, short-term and minor, long-term impacts to refuge management and operations.

Fishing is viewed as an effective and justifiable method of access that enables the public to discover, experience, and enjoy the refuge and participate in a priority public use. Potential habitat degradation from angler foot traffic to breeding/nesting birds and wildlife species warrants monitoring. Due to the low level of fishing activity occurring on beaver ponds and rivers on the refuge, no significant impacts to refuge resources are anticipated. However, if

unanticipated impacts are noted, corrective actions will be taken to protect refuge resources.

Increasing opportunities to areas within 10 yards of a river, stream or pond would be added in the selected alternative. Most of the sites are in a low-populated area (Tucker County) with few other freshwater fishing options, so opening will increase the number of anglers on the refuge by an estimated 400 angler visits per year, which is about 1 additional angler visit per day.

While refuges, by their nature, are unique areas protected for conservation of fish, wildlife and habitat, the selected action will not have a significant impact on refuge resources and uses for several reasons. Measures to mitigate and/or minimize adverse impacts have been incorporated into the proposal:

1. The Refuge System uses an adaptive management approach to all wildlife management on refuges. This approach involves monitoring and re-evaluating the fishing opportunities on the refuge on a regular basis to ensure that the fishing programs continue to contribute to the biodiversity and ecosystem health of the refuge and these opportunities do not contribute to any cumulative impacts to habitat or wildlife.
2. The refuge-specific regulations detailed in 50 CFR are measures under action that will reduce or avoid impacts. Fishing regulations will be enforced by refuge and State law enforcement officers. Providing fishing information through various forums will ensure the public is aware of applicable laws and policies.
3. The action is not in an ecologically sensitive area.
4. The action is not likely to adversely affect any threatened or endangered species; and will have no effect to federally designated critical habitat.

Additionally, stipulations are necessary to ensure compatibility:

- Anglers must properly discard monofilament line and all other fishing waste.
- The use of gasoline motors is prohibited on the refuge.
- The possession, use or collection of baitfish (including minnows, crayfish, and amphibians) is prohibited anywhere on the refuge.
- We prohibit fishing by any means other than two or fewer attended poles with hook and line attached.
- We prohibit the use of lead sinkers in freshwater ponds on the refuge.

The proposal is compatible with the purpose of the refuge and the mission of the Refuge System (see the Compatibility Determination, Appendix A, in the Recreational Fishing Plan). Furthermore, the action is consistent with applicable laws and policies regarding the establishment of fishing on national wildlife refuges.

Public Review

The proposal has been thoroughly coordinated with all interested and/or affected parties. Parties contacted included the West Virginia Division of Natural Resources (WVDNR). We notified the public through local venues, the refuge website, and notification in the Federal Register (as part of other expansions and openings on national wildlife refuges). A 30-day comment period on the draft documents began on March 23, 2020. Due to the unprecedented pandemic response, the comment period was extended an additional 16 days, to May 8, for a total period of 46 days.

Comments on the plan were received from a total of five individuals or groups during the 46-day comment period. Substantive comments were reviewed and considered when finalizing the plan. Summarized comments and responses for each are as follows.

Comment: Unrestricted access along the banks has potential to harm breeding success for important species, including the State-listed belted kingfisher. Impacts to avian species of greatest conservation needs (belted kingfisher and green heron, as well as Virginia rail and American bittern) due to increased human disturbance, which in the case of fishing often overlaps periods of peak breeding activity.

> RESPONSE: Our interpretation of West Virginia water laws states that the refuge owns to the low water mark of navigable streams (such as the Blackwater River) and to the middle of non-navigable streams (all other streams and tributaries on the refuge). After reviewing these comments, we are proposing that we restrict anglers to the low water mark of the Blackwater River and its tributaries and streams. Anglers are allowed to access the streams where a road or trail intersects the stream but not to walk on the bank, whether social fishing trails exist or not. The refuge will attempt to eliminate social fishing trails along the refuge's rivers and streams while educating anglers on the importance of staying off the bank. We will continue to monitor the growth of the fishing program and any impacts it may have to the refuge's resources. If it is determined that there is an impact we will evaluate implementing further restrictions.
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> To help alleviate the impacts of anglers to avian species, the refuge has installed two canoe/kayak launches at Timberline Fishing Pier and Camp 70 Road to improve fishing access and to increase fishing opportunities.

Comment: Provide receptacles for proper disposal of monofilament line.

> RESPONSE: The refuge requires anglers to properly discard their monofilament line. We recognize that not all anglers may do that. We are proposing to place monofilament line receptacles at high use areas, such as Timberline Fishing Pier. As we monitor the growth of recreational fishing on the refuge, more receptacles may be placed in strategic areas. Signage demonstrating proper discarding of monofilament line will be place in key fishing areas.

Comment: It is important that prohibitions on lead tackle be extended to all angling activities that rely on usage of sinkers and weights within the refuge, not just on ponds, particularly given widely available and affordable non-toxic alternatives.

RESPONSE: The refuge does not have jurisdiction over the entire streambed. To be consistent with State regulations, we cannot prohibit the use of lead sinkers at this time in streams. The refuge will educate anglers on other alternatives to lead sinkers, as well as work with the refuge's friends group to provide alternatives to lead sinkers in their bookstore.

The Service shares commenters concerns regarding the bioavailability of lead in the environment. Although there is not a Service-wide ban on lead ammunition for non-migratory bird hunting activities or lead sport fishing tackle, the Service has taken specific steps to limit the use of lead in hunting and fishing activities on refuges and hatcheries. The Service continues to educate hunters and anglers on the impacts of lead on the environment, and particularly on human health and safety concerns of ingesting animals harvested with lead ammunition. We always encourage hunters and fishers to voluntarily use non-toxic ammunition and tackle for all harvest activities.

The Service believes it is important to encourage refuge-State partnerships to reach decisions on lead usage. We continue to research this issue and engage with States and other partners to promote the use of non-lead ammunition and tackle. We share a strong partnership with the States in managing wildlife, and, therefore, we are proceeding with the phase-out of toxic ammunition in a coordinated manner with each respective State wildlife agency.

At Canaan Valley NWR, where we prohibit lead tackle on refuge ponds but are consistent with State regulations for the Blackwater River, we estimate the number of new anglers expected to be using lead tackle as a result of the new or expanded opportunities to be very low; thus, the resulting addition of lead into the environment is negligible or minor. Where lead tackle is still allowed (although discouraged) on Service lands, when compared to the lead in the environment as a result from other fishing, hunting or other activities in the local, regional and national area, the addition of lead and the associated impacts to the environment are negligible.

Comment: "Illegal" fishing activities concerning fishing for trout observed through the ice; specifically, the use of a wooden pallet and using a drop-line through a drilled hole in the ice to catch trout. Is this legal? Commenter says legal trout fishing is only fly rod and legal fly imitations.

RESPONSE: The refuge follows State rules and regulations unless otherwise stated in the fishing plan. Ice fishing is allowed on the Blackwater River as long as holes are no larger than 10 inches per State regulations. While it may not be always safe, the use of a pallet to fish is not illegal. Legal means of trout fishing are varied throughout West Virginia. Many kinds of tackle may be used for trout on the Blackwater River and its tributaries on the refuge per State regulations. The only restrictions for trout in the Blackwater River is below Route 29/1 bridge in Blackwater State Park, 3.5 miles downstream to the mouth of the north fork.

Comment: The plan does not identify what licenses, stamps, permits would be required and enforced by whom.

> RESPONSE: The refuge follows State rules and regulations unless otherwise stated in the Recreational Fishing Plan. On page 5, under section C. Fishing Permit Requirements, we document that a valid West Virginia fishing license and any required additional stamps will be required to fish on the refuge. Under section E. Law Enforcement, we note that we will have regular patrols and compliance checks by Federal Wildlife Officers.

Comment: Suggest the use of single hooks and catch and release fishing regulations would better preserve the unique habitat of the refuge.

> RESPONSE: The refuge strives to maintain a healthy and diverse aquatic ecosystem. There are several streams on the refuge where the success and reproduction of brook trout is important. We propose that the following streams (Freeland Run and Idleman's Run) be catch and release only for brook trout. We will encourage anglers to keep non-native species such as rainbow and brown trout, as they can outcompete brook trout for resources. To help facilitate the catch and release of brook trout unharmed, these two streams will be single hook use only as well. We will coordinate with WVDNR with implementation of catch and release and single hook regulations.

Comment: Potential impacts to specific fish Species of Greatest Conservation Need (SGCN), such as redside dace, brown bullhead, and brook trout. Allowing fishing in the refuge may actually benefit the extant redside dace population by reducing the predation from introduced brown trout and rainbow trout. Brown bullhead is also known to occur in the refuge, although it is regionally stable. Fishing within the refuge should not have deleterious effects on this species. Brook trout should not be negatively affected within the refuge if regulations are followed that are set by WVDNR.

> RESPONSE: We concur that while following WVDNR and refuge-specific regulations, brook trout, redside dace, and brown bullhead will not be negatively affected. We are also proposing that two streams (Freeland Stream and Idleman's Run) be catch and release only for brook trout. We will encourage anglers to keep non-native species such as rainbow and brown trout that can outcompete brook trout and redside dace.

Comment: More information regarding number and location of ponds/standing water closely adjacent to trails/roads that will be affected should be provided. It is therefore impossible to assess potential impacts of disturbance on avian communities that use those habitats other than general comments above related to human disturbance.

> RESPONSE: The refuge proposes to limit disturbance to sensitive vegetation and avian species around beaver ponds. In the Recreational Fishing Plan we state that anglers could access any beaver pond when a trail or road came within approximately 10 yards of a pond. Currently, there are only two known locations where this happens: via Brown Mountain Overlook Trail and Fish Hook Trail. The refuge proposes to limit the fishing

in beaver ponds to these two locations to limit confusion. If future beaver ponds develop or new trails intersect them, the refuge will then assess whether to add them to the fishing plan.

Comment: Concerns that proper NEPA was not followed. To comply with NEPA, each federal agency is required to take a "hard look" at the impacts of its actions prior to the point of commitment, so that the agency does not act on incomplete information, only to regret its decision after it is too late to correct. Furthermore, the Environmental Assessment should consider an alternative that would require use of nontoxic tackle for all fishing on the refuge. The cumulative impacts analysis is also deficient, as it fails to provide an adequate analysis of the cumulative impacts of lead tackle on the refuge, the cumulative impacts of this refuge along with use outside of this one refuge – and past, present, or foreseeable future use could have cumulatively significant impacts on wildlife.

RESPONSE: The Recreational Fishing Plan is a step-down plan of the refuge's Comprehensive Conservation Plan (CCP). The CCP provides long-term guidance for management decisions, and set forth goals, objectives, and strategies needed to accomplish the refuge mission. This included the opening of recreational fishing on the refuge, as well as significant public involvement and NEPA documentation in the form of an EA. On page 4-15 of the CCP, we state that most of the major actions in this document are described and analyzed in enough detail to comply with NEPA, and will not require additional environmental analysis.

Canaan Valley NWR does not have jurisdiction over the entire streambed; thus, to be consistent with State regulations, we cannot prohibit the use of lead sinkers at this time in streams. The refuge will educate anglers on other alternatives to lead sinkers, as well as work with the refuge's friends group to provide alternatives to lead sinkers in their bookstore. We will encourage anglers on the refuge to use lead-free tackle, but we will continue to follow WVDNR regulations as related to the allowance of lead tackle. In the final EA we will not further explore an alternative that evaluates only the use of non-toxic tackle for fishing, as it does not meet the purpose and need defined in the EA to further align with State regulations. Alternatives can be considered but eliminated from detailed analysis, such as when an alternative while possible, is not practical and does not fit the purpose and need statement well enough to warrant detailed analysis. The Administration Act, as amended, directs the Service to make refuge regulations as consistent with State regulations as practicable. We share a strong partnership with the States in managing wildlife and, therefore, we are proceeding with the phase-out of toxic ammunition and tackle in a coordinated manner with each respective State wildlife agency.

As stated in an earlier response, where we prohibit lead tackle on refuge ponds but are consistent with State regulations for the Blackwater River, we estimate the number of new anglers expected to be using lead tackle as a result of the new or expanded opportunities to be very low and, so the resulting addition of lead into the environment is negligible or minor. Where lead tackle is still allowed (although discouraged) on Service lands, when compared to the lead in the environment as a result from other fishing,

hunting or other activities in the local, regional and national area, the addition of lead and the associated impacts to the environment are negligible.

The final EA does includes analysis for use of lead tackle outside of the refuge and in past, present, and foreseeable future use within the cumulative impact section. After review of additional scientific literature provided by the organization that submitted the comment, and additional research, it was still found that allowing the use of lead tackle would result in no more than a negligible increase of lead in the environment when compared to the lead ammunition and sport fishing tackle being used in the surrounding areas as well as within the refuge.

Minor changes were made to the plan based on the comments include:

- We will restrict anglers to the low water mark of the Blackwater River and its tributaries and streams. Anglers are allowed to access the streams where a road or trail intersects the stream but not to walk on the bank, whether social fishing trails exist or not. The refuge will attempt to eliminate social fishing trails along the refuge's rivers and streams while educating anglers on the importance of staying off the bank.

- To help alleviate the impacts of anglers to avian species, the refuge has installed two canoe/kayak launches at Timberline Fishing Pier and Camp 70 Road to improve fishing access and to increase fishing opportunities.

- We propose to place monofilament line receptacles at high use areas, such as Timberline Fishing Pier. As we monitor the growth of recreational fishing on the refuge, more receptacles may be placed in strategic areas. Signage demonstrating proper discarding of monofilament line will be place in key fishing areas.

- We propose that two streams (Freeland Run and Idleman's Run) be catch and release only for brook trout. We will encourage anglers to keep non-native species such as rainbow and brown trout, as they can outcompete brook trout for resources. To help facilitate the catch and release of brook trout unharmed, these two streams will be single hook use only as well. We will coordinate with WVDNR with implementation of catch and release and single hook regulations.

- We clarify identification of freshwater beaver ponds when a trail or road came within approximately 10 yards of a pond. Currently, there are two known locations, via Brown Mountain Overlook Trail and Fish Hook Trail. The refuge proposes to limit fishing in beaver ponds to these two locations to limit confusion. If future beaver ponds develop or new trails intersect them, the refuge will then assess whether to add them to the fishing plan.

Determination

Based upon a review and evaluation of the information contained in the EA, as well as other documents and actions of record affiliated with this proposal, the Service has determined that the

proposal to open to recreational fishing at Canaan Valley NWR does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of section 102(2)(c) of NEPA. As such, an environmental impact statement is not required. An EA has been prepared in support of this finding (Appendix B) and is available upon request to Canaan Valley NWR.

The Service has decided to select the proposed action as described in the EA, and implement the Recreational Fishing Plan for Canaan Valley NWR upon publication of the final 2020-2021 Station-Specific Hunting and Sport Fishing Regulations. This action is compatible with the purpose of the refuge and the mission of the Refuge System, and consistent with applicable laws and policies. See attached Compatibility Determination (Appendix A).

SCOTT KAHAN Digitally signed by SCOTT KAHAN
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Regional Chief Date
National Wildlife Refuge System