

Project district range up to \$15 million. If the entire Manele Project district is not excluded in the final rule, the DEA will have failed to analyze one of the most substantial impacts of critical habitat on Lanai. Even if excluded, proposed unit G includes approximately 110 ac of rural lands, and the DEA has undervalued these lands greatly. The undeveloped rural land in proposed unit G is adjacent to already developed infrastructure in the Manele Project district.

Our Response: The Service has removed proposed unit F and modified proposed unit G to exclude all but the cliffs in this final designation. As modified, about 8 ac of rural lands remain in the designation. However, no known plans exist for development on this rural land and the cliff areas are likely unable to be developed. As noted above, using figures provided by Castle and Cooke Resorts, LLC, the Addendum estimated that the decrease in value for those rural lands may range from \$1.2 million to \$2.7 million.

(45) *Comment:* The DEA underestimates the economic costs because they are limited to what is likely to occur within ten years even though critical habitat designation is permanent and not automatically revised if there is new evidence of the benefits of non-designation, or if the species is delisted.

Our Response: As indicated by the DEA, the landowner does not have specific development plans for the proposed designated areas for the next ten years. As such, no maps, permit applications, or other documents are available to serve as the basis for an estimate of possible impact of the designation.

A listed species is delisted when it is recovered or has gone extinct. Recovery is defined as no longer needing the protections provided by the Act, including critical habitat. Thus, when a species is delisted, critical habitat for that species would no longer be in effect.

(46) *Comment:* The DEA grossly generalizes that all land in the Conservation District is "not suitable for development due to poor access and terrain." This statement is not true for all or even most of such lands. The DEA should have a unit-by-unit review of the actual lands designated to determine whether this is the case.

Our Response: In the final designation, only about 373 ac of proposed unit B (now Lanai 1—*Tetramolopium remyi*) and the cliffs of proposed unit G (now Lanai 5—*Portulaca sclerocarpa*-Coast) are lands in the Conservation District. Lanai 1—

Tetramolopium remyi is in the State hunting unit on the mountain flanks. Lanai 5—*Portulaca sclerocarpa*-Coast is limited to the steep cliffs of southern coast, only accessible by a guided tour on a rocky trail. Therefore, we believe the lands in the Conservation District that are included in this final designation are in fact unsuitable for development. Other lands in the Conservation District that were included in the proposed designation have not been included in this final critical habitat designation.

(47) *Comment:* The economic analysis is wrong in identifying the impacts on State and county development approvals as major. The analysis completely fails to take into account the benefits of having this information and enabling State and county agencies to make better land use decisions. This benefit should be quantified and discussed in the analysis.

Our Response: The DEA concluded that the possible quarry site for proposed unit F may undergo more stringent State and county development approval because of the designation and, therefore, may result in major impacts. However, such impacts are no longer expected since we have removed proposed unit F from this final designation for scientific reasons. In addition, State and county agencies may gain better knowledge of land resources because of the critical habitat designation. However, the extent to which this may help their land-use decisions is unknown. For example, State and county agencies may need to spend less time surveying lands for natural resources, but it is not feasible to estimate to what extent the designation would reduce the number of hours or the amount of effort involved in determining the sensitivity of an area. Furthermore, it is also impossible to determine how much of the benefit is attributable to the designation alone.

(48) *Comment:* Proposed critical habitat units A, B, C, F and a small portion of D are in the Lanai Cooperative Game Management Area lease. One commenter stated that critical habitat management and game management activities are not compatible. As a result, the commenter indicated that the worst-case scenario would be for the public hunting program to be eliminated entirely, which would have an economic impact on Lanai, and that this was not reflected in the DEA. Alternatively, another commenter stated that the Service should not base its economic analysis on unlikely worst-case scenarios, but, rather, on likely scenarios. For example, this commenter indicated that the

requirement to fence all of the critical habitat areas within hunting management areas is the worst case. Further it was noted, that the more likely situation would be that the State would forego Federal funding for game mammal programs on Lanai and use State funds, in which case fencing would not be required. Therefore, the commenter indicated that at most, the cost would be those portions of the program that the State would not receive because of critical habitat. The commenter further questioned how much of this to attribute to critical habitat, because history shows us that the State has already foregone some funds due to listing, not critical habitat. Lastly, the commenter noted that there also may be some ecosystem benefits to the State from fencing that are not reflected in the analysis.

Our Response: Although DLNR does discuss the possibility of shutting down the State hunting program on Lanai in its comment to the proposed rule, the agency also states that avoiding a Federal nexus is the likely alternative. The DEA recognizes that DLNR is likely to avoid a Federal nexus by finding alternative non-Federal funds to manage State hunting units on Lanai. Therefore, in a conservative estimate of possible impacts to game management activities on Lanai, the DEA considered the worst-case scenario to be the building an enclosure fence around the proposed critical habitat that overlaps with State hunting units. It is important to note, however, that the Service has removed and modified some of these units in this final rule. As such, the Addendum has revisited the impacts on game management discussed in the DEA and revised the estimated costs according to the modification.

(49) *Comment:* Given the size of the designated areas, the vagueness of the regulatory exclusion, and the real costs of obtaining development approvals, the estimate of 15 to 24 hours is too low.

Our Response: To address these concerns, the Addendum revisited the hours estimates presented in the DEA. The DEA indicated that the landowner may want to learn how the designation may affect: (1) The use of his land (either through restrictions or new obligations) and (2) the value of his land. Since commenters did not provide an estimate of time or cost incurred in order to investigate the implications of critical habitat, the Addendum conservatively doubled the hours spent by the landowner and/or his attorneys or professional staff on investigating the issues. As described in the Addendum, using these new assumptions, the analysis estimated that total section 7