

*Our Response:* The commenter suggested that critical habitat designation and Federal listing restricts grazing activities which, in turn, reduces property values. In this situation, grazing activities are not expected to be changed by critical habitat designation or Federal listing because there are no section 7 requirements triggered specifically by private landowner grazing activities in the areas being designated as critical habitat. Although the implementation of section 7 regulations is not likely to reduce the value of land designated as critical habitat, uncertainty about the scope and impact of the designation may cause the areas to be temporarily stigmatized. Because public uncertainty about the section 7 process is often heightened immediately after critical habitat designation, stigma associated with the proposed designation may cause a reduction in a willingness-to-pay for the land. This, in turn, can result in a reduced land value. By definition, stigma effects are associated with perceived regulatory or land-value effects as opposed to actual regulatory or land-value effects. As explained in the final economic analysis, once the public understands the actual effect of critical habitat, any stigma associated with the area may be greatly reduced or even disappear. While stigma effects are solely attributable to critical habitat designation, the impacts are generally difficult to quantify. Therefore, a count of grazing acres within critical habitat would not have helped to quantify property values lost due to stigma effects.

Critical habitat designation and Federal listing of species do not impose on a private landowner any additional costs if future land uses are not changed by the designation and listing. The economic analysis concluded that because of county land use restrictions, no future development would occur in the areas we are designating as critical habitat. The county land use restrictions are independent of our designation of critical habitat. No section 7 consultation requirements are expected to be triggered within Marin County habitat units due to development.

The commenter also stated that the economic analysis did not attempt to quantify "the most basic economic effects a critical habitat designation will cause." The intent of this statement is not entirely clear to us, and it may have been meant to reiterate the point discussed above, namely that the concern the economic analysis did not quantify possible losses in property value. Alternatively, the comment may be interpreted as being intended to

point out that the economic benefits of critical habitat designation remained unquantified in the analysis, so we also are responding to that possible concern. We typically report all quantified benefits of critical habitat designation if there are peer reviewed and published studies estimating benefits, and if these studies use a relatively sound methodology. Because no such studies exist for *Delphinium bakeri* and *D. luteum*, the draft economic analysis discusses these benefits in qualitative terms, but does not provide a numerical estimate of their value. The section of this preamble entitled "Critical Habitat" (below) also addresses the benefits of designating critical habitat.

(16) *Comment:* A commenter stated that the draft economic analysis did not consider additional development plans in the designated critical habitat units located in Marin County.

*Our Response:* We consulted with officials of the Marin County Community Development Department (CDD) in an effort to obtain the most current and comprehensive information about the likelihood of future planned and proposed development within areas that were proposed for critical habitat. CDD officials confirmed that no development applications had been submitted for the critical habitat units in Marin County, and that future development is unlikely due to lack of utility infrastructure, distance to jobs and basic supplies, and agricultural zoning restrictions established by the Marin County General Plan.

(17) *Comment:* Two commenters mentioned that the economic analysis failed to account for costs associated with the treatment of critical habitat by State and local requirements such as the California Environmental Quality Act (CEQA) and the general plan for Marin County.

*Our Response:* The comments could be interpreted as expressing concern over the potential costs to landowners, or the concern may have been the potential costs to State and local governments of revising documents such as the county general plan to reflect critical habitat designation. We are responding to both of these potential interpretations. Critical habitat designation is not likely to affect the content or implementation of Marin County's General Plan, nor will it result in additional review under CEQA. Zoning and land use designations were determined prior to the proposed designation of critical habitat, and our rulemaking is unlikely to trigger any revisions of the General Plan. According to section 15065 (California Code of Regulations Title 14, Chapter 3) of

CEQA guidelines, an environmental impact report (EIR) is required by local lead agencies, when, among other things, a project has the potential to "reduce the number or restrict the range of an endangered, rare or threatened species." Although federally listed species are presumed to meet the CEQA definition of "endangered, rare or threatened species" under section 15380 (California Code of Regulations Title 14, Chapter 3), few additional constraints should result from the designation of critical habitat beyond those now in place as a result of the earlier listing of *Delphinium bakeri* and *D. luteum* as endangered species. Only if loss or degradation of the proposed project site's habitat resources (viewed comprehensively) are determined to be significant will significant impacts to habitat be analyzed and mitigation, where feasible, be planned as part of a project. Because officials from the CDD confirmed that no new development applications are anticipated for the proposed Marin County habitat units, no EIRs are likely to be prepared. Therefore, neither landowners nor State or local governments are likely to experience additional costs anticipated by the commenters.

(18) *Comment:* A commenter questioned why the draft economic analysis does not account for impacts of critical habitat designation on existing land uses such as stock pond maintenance and quarry operations.

*Our Response:* Federal assistance for stock pond maintenance is sponsored by the Natural Resource Conservation Service (NRCS), an agency in the U.S. Department of Agriculture (USDA). However, no consultations have occurred with the Service in the past for NRCS programs that provide assistance for stock pond maintenance. Therefore, based on the consultation history, this analysis assumes that the NRCS will continue its current operating procedures and is unlikely to consult with us on these types of activities in the future. As stated in the draft economic analysis, other programs sponsored by NRCS, namely technical and financial assistance to landowners for erosion and flood control projects, have a consultation history, and economic impacts of section 7 regulations for those activities have been estimated.

The U.S. Environmental Protection Agency requires under the Clean Water Act (33 U.S.C. 1251 *et seq.*), that a private landowner obtain a National Pollutant Discharge Elimination Program permit for any quarry operation that may result in a point source discharge of a pollutant into waters of