

implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid the likelihood of jeopardizing the continued existence of listed species, or resulting in the destruction or adverse modification of critical habitat.

Reasonable and prudent alternatives can vary from slight project modification to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinstate consultation on previously reviewed actions under certain circumstances, including instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement, or control has been retained, or is authorized by law. Consequently, some Federal agencies may request reinstitution of consultation or conference with us on actions for which formal consultations has been completed, if those actions may affect designated critical habitat, or adversely modify or destroy proposed critical habitat.

Federal activities that may affect *Sidalcea keckii* or its critical habitat will require consultation under section 7 of the Act. Activities on private lands that require a permit from a Federal agency, such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1344 *et seq.*), a section 10(a)(1)(B) of the Act permit from the Service, or any other activity requiring Federal action (*e.g.*, funding or authorization from the Federal Highways Administration or Federal Emergency Management Agency) will also continue to be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on non-Federal lands that are not federally funded, authorized, or permitted do not require section 7 consultation. Not all of the areas within these units are capable of supporting *S. keckii* or its primary constituent elements, and such areas would not be subject to section 7 consultation unless the action would affect the species or primary constituent elements in adjacent designated critical habitat.

To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for

actions that may affect a listed species. Section 7 of the Act ensures that actions funded, authorized, or carried out by Federal agencies are not likely to jeopardize the continued existence of a listed species, or destroy or adversely modify the listed species' critical habitat. Actions likely to "jeopardize the continued existence" of a species are those that would appreciably reduce the likelihood of the species' survival and recovery. Actions likely to "destroy or adversely modify" critical habitat are those that would appreciably reduce the value of critical habitat for the recovery of the listed species.

Section 4(b)(8) of the Act requires us to evaluate briefly and describe, in any proposed or final regulation that designates critical habitat, those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat would be those that alter the primary constituent elements to the extent that the value of critical habitat for the conservation of *Sidalcea keckii* is appreciably reduced. We note that such activities may also jeopardize the continued existence of the species.

Activities that, when carried out, funded, or authorized by a Federal agency may directly or indirectly destroy or adversely modify critical habitat for *Sidalcea keckii* include, but are not limited to:

(1) Ground disturbances which destroy or degrade primary constituent elements of the plant (*e.g.*, clearing, tilling, grading, construction, road building, mining, etc.);

(2) Activities that directly or indirectly affect *Sidalcea keckii* plants or underlying seed bank (*e.g.*, herbicide application and off-road vehicle use that could degrade the habitat on which the species depends, incompatible introductions of non-native herbivores, incompatible grazing management during times when *S. keckii* is producing flowers or seeds, clearing, tilling, grading, construction, road building, mining, etc.);

(3) Encouraging the growth of *Sidalcea keckii* competitors (*e.g.*, widespread fertilizer application); and

(4) Activities which significantly degrade or destroy *Sidalcea keckii* pollinator populations (*e.g.* pesticide applications).

If you have questions regarding whether specific activities will constitute destruction or adverse modification of critical habitat, contact the Field Supervisor, Sacramento Fish and Wildlife Office (*see* **FOR FURTHER INFORMATION CONTACT** section). Requests

for copies of the regulations on listed wildlife, and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Branch of Endangered Species, 911 NE. 11th Ave., Portland, OR 97232 (telephone 503/231-2063; facsimile 503/231-6243).

Exclusions Under Section 4(b)(2)

Subsection 4(b)(2) of the Act allows us to exclude areas from the critical habitat designation where the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in extinction of the species. Following a review of available information from our files, public comments on the proposal, and the economic analysis of the proposed designation, we have determined that none of the lands proposed as critical habitat warranted exclusion from the final designation based on economic impacts or other relevant impacts pursuant to section 4(b)(2).

Relationship to Habitat Conservation Plans and Other Planning Efforts

Section 10(a)(1)(B) of the Act authorizes us to issue permits for the take of listed wildlife species incidental to otherwise lawful activities. An incidental take permit application must be supported by a habitat conservation plan (HCP) that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the permitted incidental take. Although take of listed plants is not generally prohibited by the Act on private land, listed plant species may also be covered in an HCP for wildlife species. Currently, no HCPs exist that include *Sidalcea keckii* as a covered species. However, we are currently working with PG&E on the development of an HCP on operations and maintenance activities. This HCP is intending to treat *S. keckii* as a covered species, and the area designated as critical habitat for *S. keckii* may overlap with the planning area for this HCP.

In the event that future HCPs covering *S. keckii* are developed within the boundaries of designated critical habitat, we will work with applicants to ensure that the HCPs provide for protection and management of habitat areas essential for the conservation of this species. This will be accomplished by either directing development and habitat modification to nonessential areas, or appropriately modifying activities within essential habitat areas so that such activities will not adversely modify the primary constituent elements. The HCP development