

process would provide an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by *S. keckii*. The process would also enable us to conduct detailed evaluations of the importance of such lands to the long-term survival and conservation of the species in the context of constructing a system of interlinked habitat blocks configured to promote the conservation of the species through application of the principles of conservation biology.

We will provide technical assistance and work closely with applicants throughout the development of any future HCPs to identify lands essential for the long-term conservation of *S. keckii*, and appropriate management for those lands. Furthermore, we will complete intra-Service consultation on our issuance of section 10(a)(1)(B) permits for these HCPs to ensure permit issuance will not destroy or adversely modify critical habitat.

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific information available, and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species concerned. Following the publication of the proposed critical habitat designation, we conducted a draft economic analysis to estimate the potential economic effect of the designation. The draft analysis was made available for review on October 31, 2002 (67 FR 66378). We accepted public comment on the draft analysis until December 2, 2002.

Our economic analysis evaluated the potential future effects associated with the listing of *Sidalcea keckii* as an endangered species under the Act, as well as any potential effect of the critical habitat designation above and beyond those regulatory and economic impacts associated with listing. To quantify the proportion of total potential economic impacts attributable to the critical habitat designation, the analysis evaluated a "without section 7" scenario and compared it to a "with section 7" scenario. The "without section 7" baseline represented the level of protection currently afforded to the species under the Act if section 7 protective measures were absent, and includes protections afforded by other

Federal, State, and local laws such as the California Environmental Quality Act. The "with section 7" scenario identifies land-use activities likely to involve a Federal nexus that may affect the species or its designated critical habitat and which have the potential to be subject to future consultations under section 7 of the Act.

Upon identifying section 7 impacts, the analysis proceeds to consider the subset of impacts that can be attributed exclusively to the critical habitat designation. The upper-bound estimate includes both jeopardy and critical habitat impacts (e.g., total section 7 impacts). The subset of section 7 impacts likely to be affected solely by the designation of critical habitat represents the lower-bound estimate of the analysis. The categories of potential costs considered in the analysis included costs associated with: (1) Conducting section 7 consultations associated with the listing or with the critical habitat, including reinitiated consultations and technical assistance; (2) modifications to projects, activities, or land uses resulting from the section 7 consultations; (3) uncertainty and public perceptions resulting from the designation of critical habitat; (4) potential indirect effects associated with the designation; and (5) potential offsetting beneficial costs associated with critical habitat including educational benefits. There may also be economic effects due to the reaction of the real estate market to critical habitat designation, as real estate values may be lowered due to a perceived increase in the regulatory burden.

The analysis estimated that there will be seven future section 7 consultations related to the proposed critical habitat designation for *Sidalcea keckii*. The seven consultations included a reinitiated programmatic consultation for oil pipeline maintenance, five informal consultations for private land acquisition using BOR funds, and one internal consultation by the Service to insure compliance with an HCP that is currently under development. The administrative cost of these consultations is estimated to range from \$19,500 to \$50,700 over a 10-year period. No project modifications are expected to occur as a result of these consultations. The total consultation cost attributable solely to the critical habitat designation is estimated between \$7,000 and \$12,600 over a 10-year period, with the remainder attributable co-extensively to the listing.

Total costs resulting from technical assistance, formal and informal consultations, development of biological assessments, and project modifications

due to listing and critical habitat designation are presented in the economic analysis, according to land use activities and individual critical habitat units. Costs incurred by third parties result from technical assistance, consultations, and development of a biological assessment. Costs to Federal action agencies include those incurred from consultations. Costs to the Service result from technical assistance and consultations.

We did not receive any comments on the draft economic analysis of the proposed determination. Following the close of the comment period, the economic analysis was finalized. There were no revisions or additions to the draft economic analysis.

A copy of the final economic analysis and supporting documents are included in our supporting record for this rulemaking and may be obtained by contacting the Sacramento Fish and Wildlife Office (see **ADDRESSES** section). Copies of the final economic analysis also are available on the Internet at <http://pacific.fws.gov/news/>.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, the Office of Management and Budget (OMB) has determined that this critical habitat designation is not a significant regulatory action. This rule will not have an annual economic effect of \$100 million or more or adversely affect any economic sector, productivity, competition, jobs, the environment, or other units of government. This designation will not create inconsistencies with other agencies' actions or otherwise interfere with an action taken or planned by another agency. It will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Finally, this designation will not raise novel legal or policy issues. Accordingly, OMB has not reviewed this final critical habitat designation.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government