

in the future that have endangered karst invertebrates and may not be within the areas currently designated as critical habitat.

Section 4(a)(3) of the Act provides that subsequent to the designation of critical habitat, we “may, from time-to-time thereafter as appropriate, revise such designation.” Any new caves discovered to contain the listed species may be important to the conservation of the species, and we will consider them for potential future revisions of this designation, provided the available science at the time supports the designation. This would require the same procedures for public comment and full economic analysis as this final rule has followed. We note also that new areas found to be occupied by the endangered species and not included in this designation of critical habitat may be considered and included in the recovery plan being prepared for these species. Also, the species at those new locations will receive protection under sections 7 (pursuant to requirements for Federal agencies related to the “jeopardy” standard), 9, and 10 of the Act, regardless of whether the area is designated as critical habitat.

(15) *Comment:* Restricted access to private property limits the knowledge of other caves that may contain endangered karst invertebrates.

Our Response: The help of private property owners will be essential for the recovery of these endangered karst invertebrates. Any surveys for caves or cave invertebrates on private property are completely voluntary and at the discretion of the landowner. We appreciate the cooperation the Service has received from many landowners in Bexar County who allowed geologists and biologists access. We want to continue to build positive, voluntary relationships with private landowners for the conservation of listed species.

(16) *Comment:* Does critical habitat designation comply with the Federal Data Quality Act and Service Information Quality Guidelines?

Our Response: The U.S. Department of the Interior, of which the Fish and Wildlife Service is part, issued guidelines regarding data quality, in response to the passage of Public Law 106–554, referenced by the commenter. These guidelines, Information Quality Guidelines Pursuant to Section 515 of the Treasury and General Government Appropriations Act For Fiscal Year 2001, became effective October 1, 2002. The Service’s rulemaking procedure, inclusive of this designation of critical habitat, includes a comprehensive public comment process and imposes a legal obligation on us to respond to

comments on the proposed action. These procedural safeguards can ensure a thorough response to comments on quality of information. The thorough consideration required by this process generally meets the needs of the request for correction of information process, under the Federal Data Quality Act and Service Information Quality Guidelines. In the case of rulemakings and other public comment procedures, where we disseminate a study analysis or other information prior to the final rulemaking, requests for correction are considered prior to the final action. The commenter did not specifically identify how the draft economic analysis or proposed rule might not meet the criteria that the guidelines require. Regardless, we believe that this process used the best and most reliable scientific and commercial data available regarding the designation and meets the criteria of the data quality guidelines.

(17) *Comment:* The proposed rule states that of about 400 caves known in Bexar County, only 57 contain the listed species. Have the other 343 caves been surveyed?

Our Response: The final rule has been updated to reflect the best available information on the total number of caves known from Bexar County (475 caves as of December 2002). Seventy four caves are currently known to contain listed species. Not all of the known caves in Bexar County have been adequately surveyed for invertebrates. It is likely that some of these caves will be found to contain one or more of the listed species. We also expect more caves to be discovered as additional surveys are completed.

Issue 3: Site-Specific Comments

(18) *Comment:* Many individual landowners commented that their property should be excluded from the critical habitat because it did not contain either the caves with the species or the primary constituent elements necessary for critical habitat. Several units have already been significantly disturbed from urban development and others are planned for development.

Response: The specific properties of most of the individual landowners who expressed these concerns have been either removed from the critical habitat designation, or the amount of their property included in the designation is now significantly reduced. This is a result of the reduction in area designated in all of the units based on the updated criteria used in the final rule to determine the areas for critical habitat (refer to the “Methods” and the “Criteria Used to Identify Critical Habitat” sections of the final rule for the

specific changes). All of the revised critical habitat units designated in this final rule contain one or more of the primary constituent elements essential for the conservation of these endangered species. Conservation of some species may be dependent, in part, on habitat restoration activities in some areas that have been disturbed. Such activities may include, but are not limited to, restoration of native vegetation, control of invasive species, and the installation of berms to protect the cave opening from pollutants.

(19) *Comment:* The groundwater drainage basins for Black Cat Cave and Logan’s Cave (Units 13 and 17, respectively) extend beyond the boundaries of their proposed critical habitat areas. These units should be expanded to include the appropriate drainage basins. The surface water drainage area for Springtail Crevice Cave (Unit 21) extends more than 6 km outside of its proposed critical habitat area. All, or at least a significantly greater percentage, of the lower drainage area within about 2 km of the cave should be included within the critical habitat area to better protect the cave from degradation of water quality due to urbanization.

Our Response: The subsurface drainage areas associated with the caves from units 13 and 17, and the surface drainage area for the cave in Unit 21, were delineated after the proposed rule was published (Veni 2002). These drainage areas extend outside of the boundaries of the proposed critical habitat boundaries. These areas were not included in this final determination because they were not identified in the proposed rule and, therefore, were not available for public comment. Although not included in the critical habitat designation, minimizing future impacts to the subsurface and surface drainage areas associated with these caves will likely be important for the conservation of the listed species in these caves. We have emphasized the importance of these areas in this final rule (see “Critical Habitat Unit Descriptions” section).

(20) *Comment:* The boundaries of Unit 20 are arbitrary, and 160 ha (395 ac) are not required to protect the species in Robber Baron Cave.

Our Response: The boundaries of Unit 20 have been redrawn based on the cave footprint and the subsurface drainage area of the cave and reduced to include 23 ha (57 ac). The amount of Zone 1 area included in the critical habitat designation was also reduced due to a lack of information on the importance of this area to the listed species within the cave. We also reduced the area included