

Our Response: With the revised critical habitat boundaries, only two critical habitat units fall within the TMKs listed. Both units (unit 6 and 8) fall within TMK (4) 2–8–014:01. All other proposed areas were excluded from final critical habitat designation for biological reasons, as described in the “Summary of Changes from the Proposed Rule” section.

(22) *Comment:* The DEA acknowledges that the proposed critical habitat boundaries will change with the final designation; however, the process by which final boundary determinations are made is not clear. The lack of definitive boundaries under consideration makes it impossible for anyone commenting on the economic impacts to be precise.

Our Response: The proposed critical habitat units were described and depicted in the proposed rule (67 FR 14671), as were the methods and criteria used in determining the proposed areas. We have described our methods and criteria for designating final critical habitat boundaries within this final rule.

(23) *Comment:* The DEA fails to distinguish potential costs due to designation from costs due to listing the cave animals as endangered. Nowhere does the draft provide any analysis of what impacts, if any, designating critical habitat for the cave animals would impose above and beyond those associated with the species’ listing. Because the draft economic analysis does not distinguish between these costs, it cannot exclude proposed critical habitat from a final critical habitat designation pursuant to section 4(b)(2).

Our Response: The court, as per *New Mexico Cattlegrowers Association v. U.S. Fish and Wildlife Service*, requires us to look at co-extensive costs (consideration of the impact of all section 7 effects that could be a result of the designation, even if they are the same as those that arise from the listing). This is the approach the economic analysis and addendum take. The Service recognizes that if an area is excluded under 4(b)(2), not all of the economic impacts may be avoided.

Issue 3: Economic Issues

(24) *Comment:* Elements of the economic analysis are based upon unsubstantiated and speculative development scenarios that greatly exceed foreseeable, sustainable growth for the Koloa/Po’ipu region as set by existing county zoning and State land use designations, as well as other legally-binding planning guidelines such as the Kaua’i County General Plan.

Our Response: The resort/residential development planned in Units 2 and 4 and the residential development planned in Unit 10 is consistent with the 2000 Kaua’i General Plan (General Plan), current State land use districts, and current county zoning. The resort/residential development planned in Units 6 and 8 requires minor modifications in the State land use districts and county zoning, but it is consistent with the General Plan. All of this development is likely to occur within the proposed critical habitat between 2003 and 2020 if no consideration is given to the indirect impacts of the intended designation.

The commercial development planned in Unit 10 is not in the General Plan and is not included in the State Urban District. As mentioned in the Indirect Costs section of the Addendum, this development may not occur for reasons unrelated to the intended designation. However, since the General Plan is updated every 10 years or so, the commercial development may be added to the General Plan before 2020. The property values used in the Addendum reflect the fact that the development is not fully entitled, but that the land has development potential.

Barring a hurricane or a major recession that disrupts tourism and resort/residential property sales, it is expected that, without the intended designation, all or nearly all of the planned development in the intended designation would occur by 2020.

(25) *Comment:* Most development can proceed with reasonable project modifications that will reduce or eliminate damage to the cave ecosystems, therefore the economic impacts are greatly overstated. The economic analysis indicates that \$1.9 billion of development may occur in the region and that project modifications would cost \$61.6 million. This represents 3.2 percent of the cost of development, not an unreasonable amount considering these species and their habitats are highly endangered. Another commenter stated that direct costs of consultation must actually be divided by the profits from the sales, rentals, jobs, etc., produced by all the units of resort, residential, commercial and light industrial development which are likely to be built. Figured per saleable and rental unit and calculated over time, the cost is not likely to be as staggering as portrayed.

Our Response: The estimates of direct and indirect costs in the *Draft Economic Analysis of Proposed Critical Habitat Designation for the Kaua’i Cave Wolf Spider and the Kaua’i Cave Amphipod, Island of Kaua’i, Hawai’i* (DEA) were

revised based on new information from the Service, resulting in a reduction in these estimates. For the larger projects affected by the intended designation, the revised figures represent a small percentage of the total development costs and profits.

(26) *Comment:* Direct costs are summed with indirect costs to derive a total impact estimate. Yet, direct costs are associated with development put in place, while indirect costs are associated with development foregone. The benefits of the former should be offset against the costs of the latter, not summed. Also, direct cost estimates do not include multiplier effects of these expenditures, yet indirect costs do include multiplier effects. So we see the full impact of development foregone, but only partial impacts of development actually implemented.

Our Response: Since the DEA was published, the direct costs and indirect costs have been modified to reflect new information gained since the publication of the DEA and based on the intended critical habitat designation. Direct costs include expenditures, on section 7 consultations and project modifications for assumed development. Indirect costs include additional expenditures as well as lost income benefits associated with lost development. The direct and indirect costs are no longer summed; also, the direct costs are not benefits—they do not offset indirect costs.

Indirect costs that reflect the multiplier effects of lost development are no longer included in the analysis because they would be generated in any case; to the extent that development is displaced from the intended designation due to the implementation of section 7 for the cave animals, that development would still be expected to occur but in another location of Koloa outside the critical habitat. This is now expected because of the smaller area intended for designation.

(27) *Comment:* Total impact is based on a guess that between 25 percent (low) and 50 percent (high) of all proposed development will not proceed due to habitat restrictions. [Sec 4.c] Also, Table VI–3 indicates that the “Low Projection” actually assumes a 33 percent loss, not 25 percent as claimed in the text (pg. VI–57). Thus, the “Low” impact should be 25 percent lower than reported, or about \$330 million in Net Present Value terms.

Our Response: Due to the Service’s intended modifications to the critical habitat designation, the cost estimates presented have been revised. In particular, the indirect impacts on remaining parcels are considered on a