

Planning, Coastal Zone Management Program, work together to address nonpoint source pollution through outreach and education and programs that utilize incentives. Under the Coastal Zone Act Reauthorization Amendments, Section 6217, the State is required to meet various conditions for approval of the State's Coastal Nonpoint Pollution Control Program by the U.S. Environmental Protection Agency. To meet these conditions, the State Department of Health is developing administrative rules to create Statewide enforceable policies and mechanisms to address nonpoint source pollution. These draft rules are currently the subject of public informational meetings. Public comments and suggestions received during these meetings will be considered before final rules are drafted and proposed to the Governor.

At the present time, there is no permit requirement for nonpoint source pollution. Moreover, the proposed rules regarding nonpoint source pollution make no reference to either water quality standards or to critical habitat. Until the State administrative rules are finalized, the economic impact caused by the interplay of nonpoint source pollution requirements and the designation of critical habitat is entirely speculative.

(66) *Comment:* The designation of critical habitat will impose costly procedural burdens on the Navy's ongoing efforts to clear ordnance at Kahoolawe. A careful analysis of the benefits and burdens of critical habitat designation may result in a determination that critical habitat designation on Kahoolawe is not prudent, especially in light of potential prescribed burns for clearing ordnance.

Our Response: Chapter VI, Section 3.e. of the DEA notes that November 2003 marks the end of the Navy's congressionally-mandated cleanup period. After that point, Kahoolawe Island Reserve Commission (KIRC) is likely to seek some form of Federal assistance. In the event that KIRC receives Federal funding in the future, the DEA estimates section 7 consultation costs at \$10,400 to \$78,500 including minor project modification costs (based on two to five consultations). However, as noted above, the Service reduced the designation on Kahoolawe for biological reasons, and the number of section 7 consultations over the next 10 years is expected to decrease to zero to three consultations as a result. As such, the Addendum revises future section 7 consultation costs to range from \$0 to \$47,100.

(67) *Comment:* Many commenters questioned the utility of critical habitat designation because it will not result in on-the-ground improvement of habitat or endangered species. Conversely, some commenters pointed out that critical habitat will prevent the Federal government from carrying out activities that destroy habitat or species in need of recovery and that it will benefit the people of Maui by preserving native forests, thus preventing erosion that pollutes water and smothers reefs.

Our Response: There is little disagreement in the published economic literature that real social welfare benefits can result from the conservation and recovery of endangered and threatened species (Bishop 1978, 1980; Brookshire and Eubanks 1983; Boyle and Bishop 1986; Hageman 1985, Samples *et al.* 1986; Stoll and Johnson 1984). Such benefits have also been ascribed to preservation of open space and biodiversity (see examples in Pearce and Moran (1994) and Fausold and Lilieholm (1999)), both of which are associated with species conservation. Likewise, a regional economy can benefit from the preservation of healthy populations of endangered and threatened species, and the habitat on which these species depend.

It is not feasible, however, to fully describe and accurately quantify these benefits in the specific context of the proposed critical habitat for the plants, because no quantified data on the value of the Maui and Kahoolawe species exists, and the Service is unable to provide specific data on the change in the quality of the ecosystem and the species as a result of the designation (for example, how many fewer ungulates will roam into the critical habitat, how many fewer invasive plants will be introduced as a result, and therefore how many more of the plants will be present in the area). The discussion presented in the DEA and in the Addendum provides examples of potential benefits, which derive primarily from the listing of the species, based on information obtained in the course of developing the economic analysis. It is not intended to provide a complete analysis of the benefits that could result from section 7 of the Act in general, or of critical habitat designation in particular. In short, the Service believes that the benefits of critical habitat designation are best expressed in biological terms that can be weighed against the expected cost impacts of the rulemaking.

(68) *Comment:* The State Department of Land and Natural Resources, Land Division, requests that 15 tax map

parcels be excluded from critical habitat because they: (1) Are currently being leased for activities that could be adversely affected by the designation (e.g., agricultural leases); (2) have been identified as parcels with possible lease or development potential; (3) could suffer a significant loss in value; or (4) include water sources of water systems.

Our Response: As noted earlier, the Service modified the critical habitat designation for biological reasons, and as a result of the changes, five of the 15 parcels were no longer within the designation. The ten parcels remaining in the designation are located in Units A, G1, G3, H, I1, I2, I3, I4, K, and L. These ten parcels overlap with the designation in the amount of approximately 7,015 ac (2,839 ha). Approximately 90 percent (6,305 ac (2,552 ha)) is within the Conservation District. The other 10 percent (710 ac (287 ha)) is within the Agricultural District.

Chapter VI, Section 3.g. of the DEA and Section 4.e. of the Addendum discuss activities on Agricultural land and specifically recognize that some of the State managed Agricultural land is leased out to private entities as pastureage. DLNR-Land Division specifically identified three parcels within the proposed critical habitat designation that are leased for pasture purpose. Two of these parcels are no longer within the designation. The third parcel, approximately 710 ac (287 ha) in the Agricultural District, remains within the designation. No direct section 7 costs involving these leases are anticipated because there is no known Federal involvement.

Indirect costs, specifically the possibility of restrictions on the State's ability to lease the land caused by the interplay between critical habitat designation and State law, are discussed in Section 5.b. of the Addendum. As noted in Section 5.b., the likelihood of a future lawsuit interfering with existing agricultural activity within the designated critical habitat is considered low, based upon review of the existing Federal and State law provisions and professional judgment. However, for illustration purposes, an estimate of the potential impact is \$7,100 per year utilizing the land rents of \$10 per acre per year (as used in the DEA) since DLNR did not provide any additional information regarding the value of the affected leases.

Of the remaining ten parcels, DLNR did not identify which have possible lease or development potential, could suffer a significant loss in value, or include water sources for water systems. As noted above, the portions of these