

was impossible to estimate due to the speculative nature of such development at this time in light of the fact that there were no current plans for development of these parcels. In addition, section 4.b. concluded that while it is possible that the designation of critical habitat could trigger a petition to redistrict land designated as critical habitat to the Conservation District, the likelihood is small that the petition would actually result in redistricting any particular parcel of land into the Conservation District. This conclusion was based on the requirements for redistricting, including the requirement that the Land Use Commission consider the "commitment of State funds and resources" as well as "the preservation or maintenance of important natural systems or habitats" when considering a petition for redistricting.

(59) *Comment:* DOTA stated that the proposed designations on the islands of Maui and Hawaii would greatly increase costs to maintain and repair State Highway facilities. Specifically, the proposed Kanaha Pond-Spreckelsville unit would impact costs to the planned widening project for Route 36. The proposed Kailua-Kona Unit 5b will impact planned widening for Route 197, and the proposed Puu Waawaa Unit will impact planned improvements for Route 190. DOTA recommends that a buffer zone of 30 m (100 ft) on the sides of the State highway right of way lines be excluded from critical habitat units to eliminate or minimize designation-related additional costs for improvements, maintenance, and repair.

Our Response: Section 3.j. of the Addendum evaluated the impact of critical habitat designation on these three identified road projects. While the existing roadway of Route 36 (Hana Highway) is located outside of the Blackburn sphinx moth critical habitat designation, future widening of the roadway could possibly involve use of land inside the critical habitat designation. The widening of the area adjacent to the critical habitat designation was planned for construction between 1996 and 2000 in the 1997 Maui Long Range Transportation Plan. However, in the January 2002 Final Joint County/State Maui Interim Transportation Plan, the project is designated as a long-term project with no anticipated date of construction. Given the circumstances and the number of other priority projects listed before it, it is deemed unlikely that widening of Hana Highway will occur within the next 10 years.

The Mamalahoa Highway (Route 190) safety improvements in proposed Unit 6

(Unit 8, island of Hawaii) involve simple reading and resurfacing of the existing roadway. As mentioned in the DEA, the critical habitat provisions of section 7 do not apply to the operation and maintenance of existing manmade features and structures because these features are excluded from the designation. Although we are unable to individually map out every road and other manmade features and structures, they have been excluded in narrative form. Thus, the reading and resurfacing of the existing roadway planned for Mamalahoa Highway in proposed Unit 6 (Unit 8, island of Hawaii) would not be subject to section 7 consultation for critical habitat because they would not occur within designated critical habitat.

Finally, because proposed Kailua-Kona Unit 5b is not included the proposed widening of Kealahou Parkway (Route 197) will not be affected by this critical habitat designation.

(60) *Comment:* Multiple commenters stated the following: The DEA failed to consider economic impacts of critical habitat that result through interaction with Hawaii's Land Use Law. Critical habitat could result in changes to zoning under State law. There is an overriding directive under State law that endangered plant species are to be protected in the State's planning and zoning process. HRS § 205-2(e) states that Conservation Districts shall include areas necessary for conserving endangered species. HRS 195D-5.1 states that DLNR shall initiate amendments in order to include the habitat of rare species. Even if DLNR does not act, the Land Use Commission may initiate such changes, or they may be forced by citizen lawsuits. Areas for endangered species are placed in the protected Subzone with the most severe restrictions. While existing uses can be grandfathered in, downzoning will prevent landowners from being able to shift uses in the future, will reduce market value, increase property tax, and make the land unmortgageable. Although the Service acknowledges that there could be substantial indirect costs relating to redistricting of land to the Conservation District, several commentators disagreed with the characterization of these costs as "minor" and with the statement that the probabilities of redistricting as "slight to small."

Our Response: As indicated in the section 4.b. of the Addendum, about 20,547 ha (50,772 ac) of Agricultural land, 0.4 ha (1 ac) of Rural land, and 174 ha (430 ac) of Urban land are included in the intended designation. Of this, approximately 5,099 ha (12,600 ac) of Agricultural land is owned by private

landowners; 0.4 ha (1 ac) of Rural land is owned by private landowners; and 18 ha (45 ac) of Urban land is owned by private landowners. Assuming a most extreme scenario, the potential cost to agricultural activities could range from \$250,000 to \$3 million. Reduction in land values for unplanned land due to redistricting from the Agricultural, Rural, or Urban District to Conservation District could range from \$17 million to \$169 million, and the cost of contesting redistricting could reach \$2.5 million. Under this scenario, even if a landowner has no plans to sell the land, the loss in land value could reduce potential mortgage financing. However, as discussed more fully in section 4.b., while it is possible that the designation of critical habitat could trigger a petition to redistrict land designated as critical habitat to the Conservation District, the likelihood is small that the petition would actually result in redistricting any particular parcel of land into the Conservation District.

In addition, under a most extreme scenario, planned development on the privately owned Agricultural and Urban land would be stopped. The economic impact to the developer would include the amount of money already invested in the project plus the expected profits that would not be realized due to redistricting. The potential cost associated with such a scenario is approximately \$62.4 million to \$74.4 million. Combined with the impacts mentioned above, the total economic cost associated with redistricting could range from \$80 million to \$249 million. Again, and as discussed more fully in section 4.b., while it is possible that the designation of critical habitat could trigger a petition to redistrict land designated as critical habitat to the Conservation District, the likelihood is small that the petition would actually result in redistricting any particular parcel of land into the Conservation District.

(61) *Comment:* Multiple commenters stated that the DEA fails to consider economic impacts of critical habitat that result through interaction with State law, specifically Hawaii's Environmental Impact Statement Law. HRS 343-5 applies to any use of conservation land, and a full Environmental Impact Statement is required if any of the significance criteria listed in HAR 11-200-12 apply. One of these criteria is that an action is significant if it "substantially affects a rare, threatened or endangered species or its habitat." This will result in costly procedural requirements and delays.

Our Response: Chapter VI, section 4.f. of the DEA discussed the concern that