

Issue 2: Effects of Designation

(14) *Comment:* A strongly preferred approach is to encourage the establishment of voluntary partnerships with landowners to bring about the desired species conservation.

Our Response: We realize that designation of critical habitat alone will not achieve recovery. Many threatened and endangered species occur on private lands and we recognize the importance of conservation actions by private landowners. Cooperation from private landowners is an important element of our conservation efforts, and we have had considerable success in developing partnerships with large and small landowners, government agencies, and non-governmental organizations for conservation activities on Oahu, elsewhere in the State of Hawaii, and throughout the Nation. We also recognize the importance of partnerships with other Federal and State agencies and land managers.

We administer several programs aimed at providing incentives for landowners to conserve endangered and threatened species on their lands; one of these incentives is the Endangered Species Landowner Incentive Program, which was first funded by Congress in fiscal year 1999. Under this program, we provide technical assistance and funding to landowners for carrying out conservation actions on their lands. In the first year alone, 145 proposals totaling \$21.1 million competed for \$5 million in grant money. Additional information on our landowner incentive programs may be found on our Web site (<http://endangered.fws.gov/landowner/index.html>). In addition, we have excluded areas under 4(b)(2) of the Act from the final designation of critical habitat on several islands because landowners have developed voluntary partnerships to manage the resources on their lands. We believe that the benefits of excluding these areas outweigh the benefits of including these areas in a final critical habitat designation.

(15) *Comment:* One peer reviewer stated that it is both prudent and necessary to designate critical habitat for these rare species. This provides the needed long-term management stability that allows government agencies and private organizations to cooperate and concentrate on recovery efforts. It may provide additional incentives for securing funding to research and recover populations. Designation of critical habitat also provides for additional protection of habitat that is unoccupied by a particular species, therefore allowing for future reintroduction of the species. In the

absence of critical habitat protection, much of the currently unoccupied habitat will continue to be destroyed by nonnative plants and animals, urban sprawl, and other development. On the other hand, one commenter stated that if site-specific locality information will have to be published in the final rule for every species, then the potential harm (from trespassing and theft of the species) far outweighs any potential benefit from designating critical habitat. Another commenter failed to see how imposing the proposed designation of critical habitat on privately owned, privately managed lands with no Federal nexus can lead to the recovery of the identified species.

Our Response: See **SUPPLEMENTARY INFORMATION** above.

(16) *Comment:* One commenter stated that all species should be offered protection, but they cannot support protection for some and not for others. They are concerned about the nonnative animals, whose fate would be decided by agencies that consider them invasive and kill them. The current interpretation of critical habitat allows the Federal government and its partners to utilize any methodology they wish in dealing with feral animals with impunity, although such methods may be cruel and environmentally unsound.

Our Response: The designation of critical habitat does not give the Federal government and its partners the authority to utilize any methodology they wish in dealing with feral animals. Any potential animal control program would be subject to all applicable State, Federal, and local laws. Also, critical habitat does not allow or enable the Federal government to control feral animals on non-Federal land. Such decisions will still be made by the landowner and are not regulated by critical habitat.

(17) *Comment:* The designation of critical habitat in areas actively used by the 25th Infantry Division (Light Infantry) for national defense purposes will adversely affect the Army's ability to carry out its essential mission. Training is essential to maintain specific proficiencies that are critical to wartime performance. Designating the proposed areas as critical habitat would have a negative effect on the Army's ability to carry out its national defense mission as well as to undergo the proposed transformation of its forces in the State of Hawaii. Designations of critical habitat will negatively impact the missions of the United States Marine Corps units who rely on the Army lands for their training. The skills learned at Makua and Schofield Barracks are critical to our Marines' ability to

perform all manner of combat operations, because the natural and physical attributes of the training areas mirror battlefield conditions found in other nations in the Pacific region and are found nowhere else in the United States. The Army has a comprehensive conservation program that provides better accountability and management of endangered plant species than the speculative benefit of critical habitat. The Army's natural resource programs provide sufficient management of rare plants, negating the need for critical habitat designation. For example, the Makua Implementation Plan details the actions required to stabilize 28 plant taxa and the Oahu tree snail. Further, the Army has worked with the Service to develop Integrated Natural Resource Management Plans (INRMPs) for its installations on Oahu.

Our Response: We have removed Makua Military Reservation, Schofield Barracks, Schofield Barracks East Range, Kahuku Training Area, Kawaihoa Training Area, and Dillingham Military Reservation from final critical habitat designation because the benefits of excluding these lands under 3(5)(A) and 4(b)(2) outweigh the benefits of including these lands in a final designation (see "*Analysis of Impacts Under Section 4(b)(2): Other Impacts*"). We agree that the Army has implemented a comprehensive program of endangered species management on its lands under the INRMP process and appreciate the amount of financial and manpower resources they have provided for this effort. Army cooperation and support will be required to prevent the extinction and promote the recovery of all of the listed species on this island due to the need to implement proactive conservation actions such as ungulate management, weed control, fire suppression, and plant propagation.

(18) *Comment:* One landowner was concerned that their past cooperative efforts were not considered in this designation. In particular, this landowner had conveyed to the Service the southern portion of the Oahu Forest National Wildlife Refuge. In conveying the southern portion of the refuge to the Service, the landowner understood that a primary motivation for and purpose of the conveyance was to protect the native forest and certain native plant species therein, and therefore, the parties worked together to include certain lands in the conveyance. By its proposed rules, the Service appears to ignore or fails to consider this process, with the result being that the conveyance is treated as if it occurred in a vacuum.

Our Response: As summarized in the "Summary of Changes to the Proposed