

Rule" section, the lands referred to in this comment were excluded from critical habitat designation because the primary constituent elements for the plant species proposed in this area are not present (former Oahu L unit).

(19) *Comment:* The draft economic analysis states that if a landowner needs a Federal permit or receives Federal funding for a specific activity, the Federal agency issuing the permit or dispersing the funds would consult with the Service to determine how the action may affect the designated critical habitat. The commenter questioned what is meant by the term "consult." The nature of the consultation could result in control over whether the Federal government conducts its proposed action on those lands or not, thereby controlling the land to the extent that the private landowner could or could not do business with the Federal government. What would the consultation result in when a proposed Federal action is benign compared to the activities not affected by critical habitat designation, such as, grazing, farming, hunting, or recreational use?

*Our Response:* Under section 7 of the Act, all Federal agencies must consult with the Service to insure that any action that they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat. If the Service finds that the proposed actions are likely to jeopardize the continued existence of an endangered or threatened species or result in destruction or adverse modification of critical habitat, we suggest reasonable and prudent alternatives that would allow the Federal agency to implement their proposed action without such adverse consequences.

Every consultation is unique, and it is impossible to comment on what the results of a future consultation will be without details of the proposed activity and the status of the species and its critical habitat at the time of the consultation. However, the consultation is focused on the direct and indirect effects of the proposed Federal action on the species or critical habitat and on effects of activities that be interrelated or interdependent. If the effects of the action, when added to the environmental baseline in the project area, would not destroy or adversely modify critical habitat or jeopardize the species, the project could proceed without modification.

### *Issue 3: Site-Specific Biological Comments*

(20) *Comment:* One landowner stated that, based on the methodology used and the fact that many areas are not occupied by any listed species in the 7,500 acres in units I and M that they own, and which are either within the agricultural district and in agricultural use or which are in the conservation district and developed for and in active use for telecommunications, these lands should be excluded.

*Our Response:* Based on comments received from field experts, these areas were removed from the final critical habitat designation because either they do not contain the primary constituent elements necessary for the conservation of these species or there are less degraded areas on Oahu that provide habitat essential for the conservation of these species.

(21) *Comment:* One landowner indicated that the boundary of a particular proposed critical habitat area runs through a small eucalyptus grove that is used quite extensively for educational purposes. By moving the boundary line in this location as requested in a map supplied by the landowner, there would be no impact upon existing operations (cattle ranching or otherwise).

*Our Response:* This area was removed from the final critical habitat designation because it does not contain the primary constituent elements necessary for the conservation of the species in this area.

(22) *Comment:* Two commenters were unclear how water source and distribution facilities in Unit L and other units in which the Waiahole Ditch is included will be affected if additional irrigation water is allocated for delivery to the central Oahu isthmus. They also expressed concern that routine ditch operations and maintenance may become problematic, especially if a section 7 consultation becomes necessary. Another commenter stated that the proposed rule identifies the alteration of watersheds and water diversion as activities that could trigger section 7 consultation if there is Federal involvement. If the ability to divert or take water from these sources or systems is restricted or limited, the impact would affect all lands served by such water sources or systems. In some cases, these water systems are very extensive and therefore the impacts could be quite substantial and far-reaching.

*Our Response:* Water infrastructure, including ditch irrigation systems, are considered manmade features and therefore are not critical habitat. As

such, their operation and maintenance are not likely to be subject to the critical habitat provisions of section 7 because these features and structures normally do not affect critical habitat.

(23) *Comment:* One peer reviewer commented that Unit L could be potentially expanded to include valley corridors linking the unit at its northern end to lowland/coastal habitats, thus allowing for an elevational gradient to be protected. These areas include the Hauula Beach Park area and the Kawaihoa area. Similarly, a corridor linking Unit L with Unit O would also provide additional protected potential habitat. Extending Unit L at its extreme southeastern tip to include remaining ridge top habitat and possibly providing an elevational corridor with Unit X may also prove beneficial.

*Our Response:* We believe that the area we have designated meets the recovery goals of 8 to 10 populations for these 99 plant species. Areas outside of the designated critical habitat may be important for the conservation of the species; however, at this time, we do not believe that they are essential to the conservation of these species.

(24) *Comment:* The Navy believes that the designation of critical habitat is redundant and subjects their Federal installations to unnecessary burdens when applied to species whose protection is addressed and managed under an installation's INRMP. Naval Magazine Pearl Harbor is the largest ammunition storage and ordnance operation in Hawaii. Consistent with this mission, large areas of land and water are constrained by the need for safety buffers. Naval Computer and Telecommunication Area Master Station Pacific (NCTAMS PAC) is the largest communications station in the world, and its mission is to provide communications for command and control to all naval commands ashore and afloat in the Pacific and to a wide variety of Army, Marine Corps, Coast Guard, and Air Force commands. The existing and future national defense operations to be conducted in these areas may present incompatibilities with species preservation.

*Our Response:* We have reviewed the 2001 INRMP for Navy lands on Oahu. It is currently not adequate to outweigh the benefit of including these areas in a final designation (See "*Analysis of Impacts Under Section 4(b)(2): Other Impacts*"). It does not include specific information on the conservation of the listed species found on Navy lands or information about conservation of unoccupied habitat for species historically known from the area. As far as we are aware, this INRMP has not yet