

Analysis of Impacts Under Section 4(b)(2)

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude areas from critical habitat when such exclusion will result in the extinction of the species concerned.

Following the publication of the revised proposed critical habitat designation on January 28, 2002, a draft economic analysis was conducted to estimate the potential economic impact of the designation, in accordance with recent decisions in the N.M. *Cattlegrowers Ass'n v. U.S. Fish and Wildlife Serv.*, 248 F.3d 1277 (10th Cir. 2001). The draft analysis was made available for review on May 28, 2002 (67 FR 36851). We accepted comments on the draft analysis until the comment period closed on September 30, 2002.

Our draft economic analysis evaluated the potential future effects of section 7 of the Act associated with the listing of the 83 species (*Adenophorus periens*, *Alectryon macrococcus*, *Alsinidendron lychnoides*, *Alsinidendron viscosum*, *Bonamia menziesii*, *Brighamia insignis*, *Centaurium sebaeoides*, *Chamaesyce halemui*, *Ctenitis squamigera*, *Cyanea asarifolia*, *Cyanea recta*, *Cyanea remyi*, *Cyanea undulata*, *Cyperus trachysanthos*, *Cyrtandra cyaneoides*, *Cyrtandra limahuliensis*, *Delissea rhytidisperma*, *Delissea rivularis*, *Delissea undulata*, *Diellia erecta*, *Diellia pallida*, *Diplazium molokaiense*, *Dubautia latifolia*, *Dubautia pauciflora*, *Euphorbia haeleleana*, *Exocarpos luteolus*, *Flueggea neowawraea*, *Gouania meyenii*, *Hedyotis cookiana*, *Hedyotis st.-johnii*, *Hesperomannia lydgatei*, *Hibiscadelphus woodii*, *Hibiscus clayi*, *Hibiscus waimeae* ssp. *hannerae*, *Ischaemum byrnone*, *Isodendron laurifolium*, *Isodendron longifolium*, *Kokia kauaiensis*, *Labordia lydgatei*, *Labordia tinifolia* var. *wahiawaensis*, *Lipochaeta fauriei*, *Lipochaeta micrantha*, *Lipochaeta waimeae*, *Lobelia niihauensis*, *Lysimachia filifolia*, *Mariscus pennatifolius*, *Melicope haupuensis*, *Melicope knudsenii*, *Melicope pallida*, *Munroidendron racemosum*, *Myrsine linearifolia*, *Nothocestrum peltatum*, *Panicum niihauense*, *Peucedanum*

sandwicense, *Phlegmariurus nutans*, *Phyllostegia knudsenii*, *Phyllostegia waimeae*, *Phyllostegia wawrana*, *Plantago princeps*, *Platanthera holochila*, *Poa mannii*, *Poa sandwicensis*, *Poa siphonoglossa*, *Pteralyxia kauaiensis*, *Remya kauaiensis*, *Remya montgomeryi*, *Schiedea apokremnos*, *Schiedea helleri*, *Schiedea kauaiensis*, *Schiedea membranacea*, *Schiedea nuttallii*, *Schiedea spergulina* var. *leiopoda*, *Schiedea spergulina* var. *spergulina*, *Schiedea stellarioides*, *Sesbania tomentosa*, *Solanum sandwicense*, *Spermolepis hawaiiensis*, *Stenogyne campanulata*, *Viola helenae*, *Viola kauaiensis* var. *wahiawaensis*, *Wilkesia hobdyi*, *Xylosma crenatum*, and *Zanthoxylum hawaiiense*), as well as any potential effect of the critical habitat designation above and beyond the impacts associated with listing. To quantify the proportion of total potential economic impacts attributable to the critical habitat designation, the analysis evaluated a "without critical habitat" baseline and compared it to a "with critical habitat" scenario. The "without critical habitat" baseline represented the current and expected economic activity under all modifications prior to the critical habitat designation, including protections afforded the species under Federal and State laws. The difference between the two scenarios measured the net change in economic activity attributable to the designation of critical habitat. The categories of potential costs considered in the analysis included the costs associated with: (1) Conducting section 7 consultations associated with the listing or with the critical habitat, including incremental consultations and technical assistance; (2) modifications to projects, activities, or land uses resulting from the section 7 consultations; (3) potential delays associated with reinitiating completed consultations after critical habitat is finalized; (4) uncertainty and public perceptions resulting in loss of land value from the designation of critical habitat; (5) potential effects on property values including potential indirect costs resulting from the loss of hunting opportunities and increased regulation related costs due to the interaction of State and local laws; and (6) potential offsetting benefits associated with critical habitat, including educational benefits. The most likely economic effects of critical habitat designation are on activities funded, authorized, or carried out by a Federal agency.

Following the close of the comment period on the draft economic analysis, a final addendum was completed which

incorporated public comments on the draft analysis and made other changes in the draft as necessary. Together, these constitute our final economic analysis. The addendum to the draft economic analysis estimates that, over the next 10 years, the designation may result in potential direct economic effects of between approximately \$178,200 and \$1,124,800, and concludes that economic impacts from the designation of critical habitat for the 83 species would not be significant. This is a reduction of between approximately \$799,700 and \$1,318,430 from the costs estimated in the original draft economic analysis, and is due to the exclusion of the proposed unit Kauai D1 from final designation and the significant reduction in size to proposed units Kauai A2, Kauai B, Kauai C, Kauai D2, Kauai E, Kauai G, Kauai H1, H2, and H3, Kauai I, Kauai J, Kauai K, Kauai L, Kauai M, Kauai N, Kauai O and Niihau A (designation of 21,410 ha (52,906 ac) versus the 40,429 ha (99,903 ac) proposed as critical habitat, a reduction of approximately 19,019 ha (46,997 ac)). As described in the analysis, direct costs result from section 7 consultations and project modifications at the Pacific Missile Range Facility while there is a small risk of compromising national defense as an indirect cost. Other indirect costs include: a reduction in State and County development approvals; a change in game management to reduce ungulates and as a result hunting activity; mandated conservation management; redistributing by the State of land in the Urban and Agricultural Districts to the Conservation District; and a loss in landowner participation in conservation projects. However, these indirect costs are not subject to accurate quantification and had slight to small probabilities of occurring. Therefore, we do not believe that they are significant. A more detailed discussion of our economic analysis is contained in the draft economic analysis and the addendum. Both documents are available for inspection at the Pacific Islands Fish and Wildlife Office (see **ADDRESSES** section).

No critical habitat units in the proposed rule were excluded or modified due to economic impacts. However, as described above, section 4(b)(2) of the Act requires us to consider other relevant impacts, in addition to economic impacts, of designating critical habitat. No critical habitat units were excluded or modified due to non-economic impacts. (While units were excluded or reduced, as noted above, because they lacked primary constituent