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## FINAL REPORT

# ADDENDUM TO THE ECONOMIC ANALYSIS OF CRITICAL HABITAT DESIGNATION FOR THE BAKER'S AND YELLOW LARKSPURS

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In June 2002, the U.S. Fish and Wildlife Service (the Service) proposed designation of critical habitat under the Endangered Species Act of 1973, as amended (the Act) for two species of plants in Marin and Sonoma Counties, California. Critical habitat was proposed for the Baker's larkspur (*Delphinium bakeri*) and Yellow larkspur (*Delphinium luteum*). Because the Act also calls for an economic analysis of critical habitat designation, the Service released a Draft Economic Analysis of Critical Habitat Designation for the Baker's and Yellow Larkspurs (hereafter DEA) for public review and comment in September 2002.

The primary purpose of this Addendum is to update the DEA by addressing issues raised in public comments to the DEA and incorporate additional information received through personal communication with action agencies and other stakeholders. As such, the Addendum considers newly available information and revisits assumptions and analytical conclusions presented in the DEA where necessary and appropriate.

Only one comment was received during the public comment period that addressed the DEA. The comment was submitted by an individual who owns a ranch in Marin County. He is therefore concerned primarily with the proposed habitat units located in Marin County. A large proportion of the items addressed in the comment focused on the methodologies employed and data used in the DEA. Following careful consideration, it was concluded that all of the data and analytical methods used in the DEA were sound, and therefore no revisions to either data or methods of the DEA were made. However, a minor revision to the text is noted in the "Errata" section of the Addendum.

While the comment received generally did not provide new information, it raised specific questions about or critiqued the methodology employed in EPS' original analysis. Although the Addendum does not respond to each individual statement by the author, most were grouped into general categories that are addressed in a collective manner. EPS has not revised the original methodology or findings based on the comment, but rather provides a justification for the DEA's methods in each of the general categories and provides any additional information that may be appropriate. EPS' combined most of the concerns raised in the comment into six general categories. These categories and EPS' responses are provided in the "Response to Comments" section.

## **ERRATA**

The public comment was reviewed to determine whether it provided new data, raised additional issues, or suggested alternate methodologies that warrant inclusion in this Addendum. In addition, the DEA itself was reviewed for errors in the data, calculations, or methodology used to estimate impacts from the proposed rule. These reviews were screened using the following criteria:

- Did the review identify an actual error in the data, calculations, or methodology used in the DEA?

- Did the review provide new information or data that was superior to that used in the DEA and from a reliable, independently verifiable source?
- Did the review suggest an approach or methodology that (1) is superior to that used in the DEA, (2) is consistent with Federal guidelines for an analysis of this type?

After careful review of the DEA and further research, EPS has identified one issue that meets one of the criteria described above. The necessary revision is described below.

### DATA ERROR IN 'SUMMARY OF IMPACTS' SECTION

**Chapter IV, page 14 ("Summary of Impacts"):** EPS wrote that private landowners should incur no additional costs as a result of section 7 requirements. In fact, certain private landowners participating in flood control and revegetation projects are expected to pay for costs associated with an informal consultation with the Service. The sentence was intended to apply to private landowners with an interest in residential building or commercial projects on their property and not to all private landowners. The second sentence of paragraph 68 should be deleted and replaced with the following text:

*"The BIA, recognized tribes and tribal members, private landowners requiring ACOE permits to develop their land, and the ACOE should incur no additional costs resulting from critical habitat designation or the listing of the species. Private landowners who will be involved in NRCS flood control and rehabilitation projects are anticipated to incur a section 7 cost."*

### **Response to Comments**

Aside from the correction addressed in the Errata section, EPS has not revised the original methodology or findings based on these comments, but rather provides a justification for our methods in each of the general categories and any additional information that may be appropriate. These general categories of comments and EPS' response are provided below.

### REDUCTION OF PROPERTY VALUES FROM CRITICAL HABITAT DESIGNATION

The author of the comment suggested that properties proposed for critical habitat will experience losses in value compared to land that is not proposed for designation.

### **EPS Response**

Critical habitat designation and Federal listing of species do not impose on a private landowner any additional costs if future land uses are not changed by the designation and listing. The DEA concluded that no future development would occur because of

county land use restrictions articulated to EPS by planning officials. Because no section 7 requirements will be triggered within Marin County habitat units due to development, property values are not affected by critical habitat designation or Federal listing actions. Furthermore, the author suggested that critical habitat designation and Federal listing restrict grazing activities and in turn reduce property values. Grazing activities are not expected to be changed by critical habitat designation or Federal listing, because there are no section 7 requirements triggered specifically by private landowner grazing activities.

Although the implementation of section 7 regulations are not likely to reduce the value of land designated as critical habitat, uncertainty about the scope and impact of the designation may cause the areas to be temporarily stigmatized. Because public uncertainty about the section 7 process is often heightened immediately after critical habitat designation, stigma associated with the proposed designation may reduce aggregate willingness-to-pay for the land, which in turn can result in a reduced land value. By definition, stigma effects are associated with perceived regulatory or land-value effects as opposed to actual regulatory or land-value effects. Once the public understands the actual effect of critical habitat, stigma associated with the area may be greatly reduced or even disappear. While stigma effects are solely attributable to critical habitat designation, the impacts are generally difficult to quantify.

## CONSIDERATION OF ADDITIONAL DEVELOPMENT PLANS

The author questioned why the DEA does not consider additional development plans in the habitat units that were located in Marin County.

### **EPS Response**

EPS consulted extensively with officials of the Marin County Community Development Department in effort to obtain the most current and comprehensive information about the likelihood of future planned and proposed development within areas that have been proposed for critical habitat. Officials of the Marin Community Development Department confirmed that no development applications had been submitted for the critical habitat units in Marin County, and that future development was unlikely due to lack of utility infrastructure, distance to jobs and basic supplies, and agricultural zoning restrictions established by the General Plan.<sup>1</sup>

## COSTS OF ACTIONS UNDER CEQA AND GENERAL PLAN REVISIONS

The author suggested that critical habitat designation burdens local government agencies to the extent that these agencies are required to update their general plans

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<sup>1</sup>Personal communication with Planning Counter staff, Marin County Community Development Department, San Rafael, California, June 10, 2002.

(asserting that proposed designations cause land use changes), and revising documents required by the California Environmental Quality Act (CEQA). He questions why the DEA does not factor in the cost of this burden to local government agencies.

### **EPS Response**

Critical habitat designation is not likely to affect the content or implementation of Marin County's General Plan, nor will it result in additional review under CEQA. Zoning and land use designations were determined before the proposed critical habitat designation, and the rule-making is unlikely to trigger any revisions of the General Plan. CEQA requires that an Environmental Impact Report (EIR) be prepared for all projects with significant environmental impacts. Because officials from the Marin County Community Development Department confirmed that no new development applications are anticipated for the proposed Marin County habitat units, no EIRs are likely to be prepared. Therefore, local government agencies are unlikely to be burdened with additional costs associated with the proposed designation.

### **COSTS OF STOCK POND MAINTENANCE AND QUARRY OPERATIONS**

The author questioned why the DEA does not account for the costs of stock pond maintenance and quarry operations.

### **EPS Response**

Federal assistance for stock pond maintenance is sponsored by an agency within the Natural Resource Conservation Service (NRCS), which is a program under the U.S. Department of Agriculture (USDA). However, no consultations have occurred in the past for NRCS programs that provide assistance for stock pond maintenance.<sup>2</sup> Therefore, based on the consultation history, this analysis assumes that the NRCS will continue its current operating procedures and is unlikely to consult the Service on these types of activities in the future. As stated in the DEA, other programs sponsored by the NRCS, namely technical and financial assistance to landowners for erosion and flood control projects, have a consultation history, and economic impacts of section 7 regulations for those activities have been estimated.

The U.S. Environmental Protection Agency requires under the Clean Water Act, that a private landowner obtain a National Pollutant Discharge Elimination Program (NPDES) permit for any quarry operation that may adversely impact the waters of the United States. However, the author gave no specific mention of actual quarries. In addition, officials at the Service confirmed, after consulting with an official at Region 2 of the California Water Quality Control Board, that there are no quarries on or near the habitat

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<sup>2</sup>Personal Communication with section 7 branch staff member, Sacramento Fish and Wildlife Office, Sacramento, California, February 2002 and September 5, 2002.

units proposed for Marin County.<sup>3</sup> Hence, no consultations or project modifications are likely to occur as no plans exist for additional quarries.

### COSTS OF LAWSUITS

The author questioned why the DEA does not factor in the costs of future lawsuits against local government agencies that are motivated by the proposed designation.

#### **EPS Response**

Although it is possible that lawsuits may be initiated in response to the rule-making, the costs of these legal efforts are not easy to quantify or attribute to critical habitat designation. EPS is aware that they exist, but the likelihood, duration, and/or intensity, of any litigation could vary widely, and quantifying the speculative costs that result from critical habitat designation would likely be misleading.

### BENEFITS OF CRITICAL HABITAT DESIGNATION

The author questioned why the DEA does not quantify the benefits of the proposed designation.

#### **EPS Response**

Economic Analyses typically report all quantified benefits of critical habitat designation if there are peer reviewed and published studies estimating benefits and if these studies use a relatively sound methodology. Because no such studies exist for the Baker's and Yellow Larkspurs, the DEA discusses these benefits in qualitative terms but does not provide a numerical estimate of their value.

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<sup>3</sup> Glen Tarr, U.S. Fish and Wildlife Service, personal communication, January 27, 2003.