

Hedyotis mannii, *Hesperomannia arborescens*, *Hibiscus brackenridgei*, *Ischaemum byrnone*, *Isodendron pyrifolium*, *Labordia triflora*, *Mariscus fauriei*, *Melicope munroi*, *Peucedanum sandwicense*, *Plantago princeps*, *Platanthera holochila*, *Schiedea nuttallii*, *Sesbania tomentosa*, *Silene lanceolata*, *Solanum incompletum*, *Spermolepis hawaiiensis*, *Vigna o-wahuensis*, and *Zanthoxylum hawaiiense* (64 FR 48307, 68 FR 1220, 68 FR 9116)

Three species no longer occur on Molokai but are reported from one or more other islands. To find whether critical habitat would be prudent for these three species, we analyzed the potential threats and benefits for each species in accordance with the court's orders. These three plants were listed as endangered species under the Act between 1991 and 1996. At the time each plant was listed, we determined that designation of critical habitat was not prudent because designation would increase the degree of threat to the species and/or would not benefit the plant. We examined the evidence available for these three species and have not, at this time, found specific evidence of taking, vandalism, collection, or trade of these species or of similar species. Consequently, while we remain concerned that these activities could potentially threaten *Eugenia koolauensis*, *Phyllostegia mollis*, or *Pteris lidgatei* in the future, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)) and the court's discussion of these regulations, we do not find that these species are currently threatened by taking or other human activity, which would be exacerbated by the designation of critical habitat. In the absence of finding that critical habitat would increase threats to a species, if there are any benefits to critical habitat designation, then a prudent finding is warranted. The potential benefits include: (1) Triggering section 7 consultation in new areas where it would not otherwise occur because, for example, it is or has become unoccupied or the occupancy is in question; (2) focusing conservation activities on the most essential areas; (3) providing educational benefits to State or county governments or private entities; and (4) preventing people from causing inadvertent harm to the species. In the case of *Eugenia koolauensis*, *Phyllostegia mollis*, and *Pteris lidgatei* there would be some benefits to designating critical habitat. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action

that destroys or adversely modifies critical habitat. None of these three species are reported from Federal lands on Molokai where actions are subject to section 7 consultation. However, all three of these species are reported from Federal lands or lands that are administered by a Federal agency on Oahu (*Eugenia koolauensis* is reported from the United States Army's Kahuku Training Area; *Phyllostegia mollis* is reported from the United States Army's Schofield Barracks Military Reservation/Schofield Barracks East Range; and *Pteris lidgatei* is reported from the United States Army's Schofield Barracks Military Reservation/Schofield Barracks East Range and Kawaihoa Training Area, as well as the Service's Oahu Forest National Wildlife Refuge). While a critical habitat designation for habitat currently occupied by *Eugenia koolauensis*, *Phyllostegia mollis*, and *Pteris lidgatei* would not likely change the section 7 consultation outcome there may be instances where section 7 consultation would be triggered only if critical habitat were designated. There may also be some educational or informational benefits to the designation of critical habitat. Educational benefits include the notification of landowner(s), land managers, and the general public of the importance of protecting the habitat of these species and dissemination of information regarding their essential habitat requirements. Therefore, we find that designating critical habitat is prudent for *Eugenia koolauensis*, *Phyllostegia mollis*, and *Pteris lidgatei*.

We examined the evidence available for the other 18 taxa and have not, at this time, found specific evidence of taking, vandalism, collection, or trade of these taxa or of similar species. Consequently, while we remain concerned that these activities could potentially threaten these 18 plant species in the future, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)) and the court's discussion of these regulations, we do not find that any of these species are currently threatened by taking or other human activity, which would be exacerbated by the designation of critical habitat.

In the absence of finding that critical habitat would increase threats to a species a prudent finding is warranted. The potential benefits include: (1) Triggering section 7 consultation in new areas where it would not otherwise occur because, for example, it is or has become unoccupied; (2) focusing conservation activities; (3) providing educational benefits to State or county governments or private entities; and (4)

preventing people from causing inadvertent harm to the species.

In the case of these 18 species, there would be some benefits to critical habitat. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely modifies critical habitat. One of these species is reported on or near Federal lands (see Table 2), where actions are subject to section 7 consultation. Although a majority of the species considered in this rule are located exclusively on non-Federal lands with limited Federal activities, there could be Federal actions affecting these lands in the future. While a critical habitat designation for habitat currently occupied by these species would not likely change the section 7 consultation outcome, there may be instances where section 7 consultation would be triggered only if critical habitat were designated. There would also be some educational or informational benefits to the designation of critical habitat. Benefits of designation would include the notification of land owners, land managers, and the general public of the importance of protecting the habitat of these species and dissemination of information regarding their essential habitat requirements.

Therefore, designation of critical habitat is prudent for these 18 plant species: *Bidens wiebkei*, *Canavalia molokaiensis*, *Clermontia oblongifolia* ssp. *brevipes*, *Cyanea dunbarii*, *Cyanea mannii*, *Cyanea procera*, *Hibiscus arnottianus* ssp. *immaculatus*, *Lysimachia maxima*, *Marsilea villosa*, *Melicope mucronulata*, *Melicope reflexa*, *Neraudia sericea*, *Phyllostegia mannii*, *Schiedea lydgatei*, *Schiedea sarmentosa*, *Silene alexandri*, *Stenogyne bifida*, and *Tetramolopium rockii*.

B. Methods

As required by the Act and regulations (section 4(b)(2) and 50 CFR 424.12), we used the best scientific information available to determine areas that contain the physical and biological features that are essential for the conservation of *Adenophorus periens*, *Alectryon macrococcus*, *Bidens wiebkei*, *Brighamia rockii*, *Canavalia molokaiensis*, *Centaurium seabaeoides*, *Clermontia oblongifolia* ssp. *brevipes*, *Ctenitis squamigera*, *Cyanea dunbarii*, *Cyanea grimesiana* ssp. *grimesiana*, *Cyanea mannii*, *Cyanea procera*, *Diellia erecta*, *Diplazium molokaiense*, *Eugenia koolauensis*, *Flueggea neowawraea*, *Hesperomannia arborescens*, *Hibiscus arnottianus* ssp. *immaculatus*, *Hibiscus brackenridgei*, *Ischaemum byrnone*,