

critical habitat designation process, the portion of unit Maui H that lies within Ulupalakua Ranch and the portion of units Maui H, I1, I2, and I4 that lie within Haleakala Ranch have been identified as essential to the conservation of 25 of the 60 Maui plant species addressed in this rule. In addition, the existing conservation activities being conducted within proposed unit Maui H that lies within Ulupalakua Ranch and the portion of proposed units Maui H, I1, I2, and I4 that lie within Haleakala Ranch, as well as other portions of each ranch, by the Service and other Federal agencies (e.g., USDA NRCS), the State, and private organizations (e.g., Ducks Unlimited) demonstrate that the public is already aware of the importance of this area for the conservation of the species located on each ranch. These examples and other media extol and explain the conservation importance of these lands and their conservation value. A final designation of critical habitat would simply affirm what is already widely accepted by Hawaii's conservationists, public agencies, and most of the public concerning the conservation value of these lands.

In sum, we believe that a critical habitat designation for listed plants on these lands on Maui would provide a relatively low level of additional regulatory conservation benefit to each of the plant species beyond what is already provided by existing section 7 consultation requirements due to the physical presence of the listed species. Any regulatory conservation benefits would accrue through the benefit associated with additional section 7 consultation associated with critical habitat. Based on a review of past consultations and consideration of the likely future activities in this specific area, there is little Federal activity expected to occur on this land that would trigger section 7 consultation. The Service also believes that a final critical habitat designation provides little additional educational benefits since the conservation value is already well known by the landowner, the State, Federal agencies, private organizations, and the public.

(2) Benefits of Exclusion

Proactive voluntary conservation efforts are necessary to prevent the extinction and promote the recovery of these listed plant species on Maui and other Hawaiian islands (Shogren *et al.* 1999, Wilcove and Chen 1998, Wilcove *et al.* 1998). Consideration of this concern is especially important in areas where species have been extirpated and their recovery requires access and

permission for reintroduction efforts (Bean 2002, Wilcove *et al.* 1998). For example, three of the 16 species associated with Waikamoi and Kapunakea Preserve are extirpated from TNCH lands, *Cyanea mceldownei* associated with Hawaii NAR lands, three of the 12 species associated with proposed unit Maui H on Ulupalakau Ranch, and 11 of the 18 species associated with proposed units Maui H, I1, I2, and I4 on Haleakala Ranch Company are extirpated from these respective lands, and repopulation is likely not possible without human assistance and landowner cooperation. Although none of the species associated with ML&P lands are extirpated, augmentation of existing populations and establishment of new populations are also likely not possible without human assistance and landowner cooperation.

As described earlier, TNCH, the State, and ML&P have a history of entering into conservation agreements with various Federal and State agencies and other private organizations on their lands. The Nature Conservancy's mission is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. The State's NAR mission is to preserve and protect representative samples of the Hawaiian biological ecosystems and geological formations. One of ML&P's missions is to practice prudent stewardship of their land and water resources ensuring the protection of crucial water resources for the community, as well as the rare and endangered species of plants and animals.

To address the conservation needs of the species in a larger area, Ulupalakua Ranch has expanded their Partners for Fish and Wildlife projects with the Service, in cooperation with the State NAR program for conserving additional areas, which include the following important voluntary actions by Ulupalakua Ranch: (1) Construction of enclosure fencing around a portion of Ulupalakua Ranch and the Kanaio NAR (a portion of proposed Maui unit H) with \$50,000 provided by Service, matched by in-kind services (e.g., labor and materials) valued at \$50,000; (2) Active management of feral ungulates that are negatively impacting listed plants within the fenced areas; (3) Active management of nonnative grasses and other fire hazards, and development of fire control measures; and (4) Nursery propagation and planting of native flora, including some of the 12 species, within the fenced areas.

Haleakala Ranch Company informed the Service that they are currently devising management plans for conserving resources, which include the following important voluntary actions by Haleakala Ranch Company: (1) Construction of a 9 ha (22 ac) enclosure fence around Keokea Gulch in Kihei to reduce sedimentation on the shoreline and reef and to reduce the fire hazard in the area by using R-1 reclaimed water to irrigate a riparian buffer. construction of an enclosure fence for a dryland lava flow in the Keokea area. In cooperation with DOFAW, fence construction of an enclosure in the Waiopae area for habitat protection of native forest and riparian areas (proposed units H, I1, I2, and I4); (2) Control of feral ungulates that are negatively impacting listed plants within the fenced areas; (3) Control of nonnative grasses and other fire hazards, and development of fire control measures; and (4) Habitat protection for natural regeneration of native flora within the fenced areas.

The Service believes that each of the listed species within these areas is benefitting substantially from the landowner's proactive management actions. Voluntary management actions include a reduction in ungulate browsing and habitat conversion, a reduction in competition with nonnative weeds, a reduction in risk of fire, and the reintroduction of species currently extirpated from various areas, and for which the technical ability to propagate these species currently exists or will be developed in the near future.

The conservation benefits of critical habitat are primarily regulatory or prohibitive in nature. But on Maui, simply preventing "harmful activities" alone will not slow the extinction of listed plant species (Bean 2002). Where consistent with the discretion provided by the Act, the Service believes it is necessary to implement policies that provide positive incentives to private landowners to voluntarily conserve natural resources and that remove or reduce disincentives to conservation (Wilcove *et al.* 1998). Thus, we believe it is essential for the recovery of these species to build on continued conservation activities such as these with a proven partner, and to provide positive incentives for other private landowners on Maui who might be considering implementing voluntary conservation activities but have concerns about incurring incidental regulatory or economic impacts.

Approximately 80 percent of imperiled species in the United States occur partly or solely on private lands where the Service has little management