

materialize. The exclusion of this NAR will not increase the risk of extinction to any of these species, and it may increase the likelihood these species will recover by encouraging other landowners to implement voluntary conservation activities as the State has done.

In addition, critical habitat is being designated on another area of Maui for all three endemic species (Maui 9—*Clermontia samuelii*—a, Maui 8—*Cyanea mceldowneyi*—a, Maui 8—*Geranium multiflorum*—a, Maui 9—*Geranium multiflorum*—b, and Maui 9—*Geranium multiflorum*—c). These other designations identify conservation areas for the maintenance and expansion of the existing populations.

In considering whether or not exclusion of the Puu Kukui WMA might result in the extinction of any of the eight species, the Service first considered the impacts to the Maui endemic, *Hesperomannia arborescens*.

For both the endemic *Hesperomannia arborescens* and the seven “multi-island” species, it is the Service’s conclusion that ML&P’s mission and management programs will provide as much or more net conservation benefits as would be provided if this area was designated as critical habitat. These management programs, which are described above, will provide tangible proactive conservation benefits that will reduce the likelihood of extinction for the listed plants in these areas of Maui and increase their likelihood of recovery. Extinction for any of these species as a consequence of this exclusion is unlikely because there are no known threats in Puu Kukui WMA due to any current or reasonably anticipated Federal actions that might be regulated under section 7 of the Act. Further, this area is already occupied by all of the eight species and thereby benefit from the section 7 protections of the Act, should such an unlikely Federal threat actually materialize. The exclusion of Puu Kukui WMA will not increase the risk of extinction to any of these species, and it may increase the likelihood these species will recover by encouraging other landowners to implement voluntary conservation activities as ML&P has done.

In addition, critical habitat has been designated elsewhere on Maui, and proposed or designated on other islands for the remaining seven multi-island species consistent with the guidance in recovery plans. These other designations identify conservation areas for the maintenance and expansion of the existing populations.

In considering whether or not exclusion of Ulupalakua Ranch’s

proposed unit Maui H might result in the extinction of any of the 12 species, the Service first considered the impacts to the three species endemic to Maui (*Geranium arboreum*, *Lipochaeta kamolensis*, and *Melicope adscendens*), and second to the nine species known from Maui and one or more other Hawaiian islands.

For both the three endemic and the nine “multi-island” species, it is the Service’s conclusion that the partnership agreements developed by Ulupalakua Ranch and the Service will provide more net conservation benefits than would be provided by designating the portion of proposed unit Maui H as critical habitat. These agreements, which are described above, will provide tangible proactive conservation benefits that will reduce the likelihood of extinction for the listed plants in this area of Maui and increase their likelihood of recovery. Extinction for any of these species as a consequence of this exclusion is unlikely because there are no known threats in this portion of proposed unit Maui H due to any current or reasonably anticipated Federal actions that might be regulated under section 7 of the Act. Implementation of the partnership agreements between the landowner and the Service and the exclusion of the portion of proposed unit Maui H have the highest likelihood of preventing extinction of these 12 species, especially the species endemic to the island of Maui.

In addition, critical habitat is being designated on another area of Maui for all three of the endemic species (Maui 9—*Geranium arboreum*—a, Maui 9—*Lipochaeta kamolensis*—a, and Maui 13—*Melicope adscendens*—a). These other designations identify conservation areas for the maintenance and expansion of the existing populations.

In considering whether or not exclusion of Haleakala Ranch Company’s portions of proposed units Maui H, I1, I2, and I4 might result in the extinction of any of the 18 species, the Service first considered the impacts to the six species endemic to Maui (*Argyroxiphium sandwicense* ssp. *macrocephalum*, *Cyanea mceldowneyi*, *Geranium arboreum*, *Geranium multiflorum*, *Lipochaeta kamolensis*, and *Melicope balloui*), and second to the 12 species known from Maui and one or more other Hawaiian islands.

For both the six endemic and the 12 “multi-island” species, it is the Service’s conclusion that the partnership agreements developed by Haleakala Ranch and the Service will provide more net conservation benefits than would be provided by designating

the portion of proposed units H, I1, I2, and I4 as critical habitat. These agreements, which are described above, will provide tangible proactive conservation benefits that will reduce the likelihood of extinction for the listed plants in this area of Maui and increase their likelihood of recovery. Extinction for any of these species as a consequence of this exclusion is unlikely because there are no known threats in these portions of proposed units Maui H, I1, I2, and I4 due to any current or reasonably anticipated Federal actions that might be regulated under section 7 of the Act. Implementation of the partnership agreements between the landowner and the Service, and the exclusion of the portion of proposed units Maui H, I1, I2, and I4, have the highest likelihood of preventing extinction of these 18 species, especially the species endemic to the island of Maui.

In addition, critical habitat is being designated on other areas of Maui for all six of the endemic species (Maui 9—*Argyroxiphium sandwicense* ssp. *macrocephalum*—a, Maui 8—*Cyanea mceldowneyi*—a, Maui 9—*Geranium arboreum*—a, Maui 14—*Geranium arboreum*—b, Maui 14—*Geranium arboreum*—c, Maui 8—*Geranium multiflorum*—a, Maui 8—*Geranium multiflorum*—b, Maui 9—*Geranium multiflorum*—c, Maui 9—*Lipochaeta kamolensis*—a, Maui 8—*Melicope balloui*—a, and Maui 8—*Melicope balloui*—b), and critical habitat has been designated elsewhere on Maui, and proposed or designated on other islands for the remaining 12 multi-island species consistent with the guidance in the recovery plans for these species. These other designations identify conservation areas for the maintenance and expansion of the existing populations.

In addition, § 195D–4 (Hawaii Revised Statutes, Endangered species and threatened species) stipulates that species determined to be endangered or threatened under the Federal ESA shall be deemed endangered or threatened under the state law. It is unlawful under the state law, with some exceptions, to “take” such species, or to possess, sell, carry or transport them. For plants, take is defined in the State statute as to “cut, collect, uproot, destroy, injure, or possess”. The statutory protections for these plants provide additional assurances that exclusion of these areas from critical habitat will not result in extinction of the species in question.

In sum, the above analysis concludes that an exclusion of these areas from final critical habitat on Maui will have a net beneficial impact with little risk of