

partner, and to provide incentives for other private landowners on the island of Hawaii 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 authority (Wilcove *et al.* 1996). In addition, recovery actions involving the reintroduction of listed species onto private lands require the voluntary cooperation of the landowner (Bean 2002; James 2002; Knight 1999; Main *et al.* 1999; Norton 2000; Shogren *et al.* 1999; Wilcove *et al.* 1998). Therefore, “a successful recovery program is highly dependent on developing working partnerships with a wide variety of entities, and the voluntary cooperation of thousands of non-Federal landowners and others is essential to accomplishing recovery for listed species” (Crouse *et al.* 2002). Because large tracts of land suitable for conservation of threatened and endangered species are mostly owned by private landowners, successful recovery of listed species on the island of Hawaii is especially dependent upon working partnerships and the voluntary cooperation of private landowners.

Kamehameha Schools owns over 6,800 acres of land proposed as critical habitat in the Agricultural District. According to the final economic analysis, if this land were redistricted to the Conservation District, the total potential loss in property value could be more than approximately \$1,997,000. They could also spend over \$50,000 contesting a proposed redistricting. Thus, designation of critical habitat on Kamehameha Schools land could result in an economic impact to the Trust of over \$2 million.

### (3) The Benefits of Exclusion Outweigh the Benefits of Inclusion

Based on the above considerations, we have determined that the benefits of excluding the Kamehameha Schools lands in proposed units Hawaii G, W, and Z as critical habitat outweigh the benefits of including them as critical habitat for *Argyroxiphium kauense*, *Bonamia menziesii*, *Cyanea shipmanii*, *Cyanea stictophylla*, *Delissea undulata*, *Neraudia ovata*, *Phyllostegia racemosa*, *Phyllostegia velutina*, and *Pleomele hawaiiensis*.

This conclusion is based on the following factors:

1. A substantial amount of the Kamehameha Schools lands in proposed units Hawaii G, W, and Z is currently

being managed by the landowner on a voluntary basis in cooperation with us, cultural practitioners (the Edith Kanakaole Foundation and the Polynesian Voyaging Society), ranching and timber interests (Hawaii Forest Industry Association), researchers and scientists (UH Manoa and Hilo, the Zoological Society of San Diego, U.S. Forest Service, Silversward Foundation, and USGS-BRD), educators (Nawahi Charter School), and natural resource managers (Olaa-Kilauea Management Group, DOFAW, HVNP, National Tropical Botanical Garden, and TNCH) to achieve important conservation goals.

2. In the past, Kamehameha Schools has cooperated with Federal and State agencies and private organizations to implement voluntary conservation activities on their lands that have resulted in tangible conservation benefits.

3. Simple regulation of “harmful activities” is not sufficient to conserve these species. Landowner cooperation and support is required to prevent the extinction and promote the recovery of all of the listed species on this island, because of the need to implement proactive conservation actions such as ungulate management, weed control, fire suppression, plant propagation, and outplanting. This need for landowner cooperation is especially acute because the proposed units Hawaii G, W, and Z are unoccupied by three of the nine species. Future conservation efforts, such as translocation of these three plant species back into unoccupied habitat on these lands, will require the cooperation of Kamehameha Schools. Exclusion of Kamehameha Schools lands from this critical habitat designation will help the Service maintain and improve this partnership by formally recognizing the positive contributions of Kamehameha Schools to plant recovery, and by streamlining or reducing unnecessary oversight.

4. Especially given the current partnership agreements between Kamehameha Schools and many other organizations, we believe the benefits of including Kamehameha Schools lands as critical habitat are relatively small. The designation of critical habitat can serve to educate the general public as well as conservation organizations regarding the potential conservation value of an area, but this goal is already being accomplished through the identification of this area in the management agreements described above. Likewise, there will be little Federal regulatory benefit to the species because: (a) There is a low likelihood that these proposed critical habitat units will be negatively affected to any

significant degree by Federal activities requiring section 7 consultation, and (b) these areas are already occupied by six listed species and a section 7 nexus already exists. We are unable to identify any other potential benefits associated with critical habitat for these portions of the proposed units.

5. We believe it is necessary to establish positive working relationships with representatives of the Native Hawaiian community. This approach of excluding critical habitat and entering into a mutually agreeable conservation partnership strengthens this relationship and should lead to conservation benefits beyond the boundaries of Kamehameha Schools land. It is an important long term conservation goal of the Service to work cooperatively with the Native Hawaiian community to help recover Hawaii's endangered species. This partnership with Kamehameha Schools is an important step forward toward this goal.

6. While we didn't find that designating critical habitat on Kamehameha Schools land would have a significant economic impact on them, the potential cost of over \$1.65 million could affect Kamehameha Schools' willingness to continue their conservation partnerships. Even if they did continue to implement conservation activities on their Kamehameha Schools' land, this potential cost may result in a reduction of the amount of funding they would commit to conservation activities.

7. It is well documented that publicly owned lands and lands owned by private organizations alone are too small and poorly distributed to provide for the conservation of most listed species (Bean 2002; Crouse *et al.* 2002). Excluding these Kamehameha Schools lands from critical habitat may, by way of example, provide positive social, legal, and economic incentives to other non-Federal landowners on the island of Hawaii who own lands that could contribute to listed species recovery if voluntary conservation measures on these lands are implemented (Norton 2000; Main *et al.* 1999; Shogren *et al.* 1999; Wilcove and Chen 1998). As resources allow, the Service would be willing to consider future revisions or amendments to this final critical habitat rule if landowners affected by this rule develop conservation programs or partnerships (e.g., Habitat Conservation Plans, Safe Harbor Agreements, conservation agreements) on their lands that outweigh the regulatory and other benefits of a critical habitat designation.

In conclusion, we find that the exclusion of critical habitat in the Kamehameha Schools portions of