

on this property and to provide positive 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 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 non-Federal landowners. Without additional voluntary conservation efforts for these two species, recovery will not occur.

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

Based on the above considerations, we have determined that the benefits of excluding the Queen Liliuokalani Trust portion of proposed unit Hawaii Y2 from critical habitat outweigh the benefits of including it as critical habitat for *Isodendron pyriform* and *Neraudia ovata*.

This conclusion is based on the following factors:

1. The Queen Liliuokalani Trust has agreed to implement voluntary conservation measures for *Isodendron pyriform* and *Neraudia ovata* on currently unoccupied habitat within Queen Liliuokalani Trust's portion of proposed unit Hawaii Y2.

2. Simple regulation of "harmful activities" is not sufficient to conserve these species. Critical habitat designation would not encourage, and may discourage, reintroductions of these species to these lands. Landowner cooperation and support will be required to prevent the extinction and promote the recovery of all of the listed island-endemic species caused by 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 proposed unit Hawaii Y2 is unoccupied by both of these species. Future conservation efforts, such as reintroduction of these plant species back onto these lands, will require the cooperation of Queen Liliuokalani Trust. Exclusion of Queen Liliuokalani Trust's land from this critical habitat designation will help the Service maintain and improve the voluntary cooperation of Queen Liliuokalani Trust by formally recognizing the positive contributions of Queen Liliuokalani Trust to plant conservation, and by streamlining or reducing unnecessary regulatory oversight. A critical habitat designation absent this cooperation would provide little meaningful conservation benefit to these species because the land would likely remain unoccupied.

3. Given the agreement between the landowner and us, as well as other planned conservation activities on their property, we believe the overall regulatory and educational benefits of including this portion of the unit 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 has been effectively accomplished through the identification of this area in the January 17, 2003, proposal described above. Likewise, there will be little Federal regulatory benefit to the species because (a) there is a low likelihood that this proposed critical habitat unit will be negatively affected to any significant degree by Federal activities requiring section 7 consultation, and (b) the fear that a critical habitat designation on this property will harm the ability of this landowner to generate funds to benefit orphan and destitute Hawaiian children, and any positive educational benefit of designation is negatively impacted when the impression is given that conservation goals can undermine the philanthropic goals of the landowner. We are unable to identify any other potential benefits associated with critical habitat for this portion of the proposed unit.

4. 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 Queen Liliuokalani Trust land. The Service has an important long term conservation goal to work cooperatively with the Native Hawaiian community to help recover Hawaii's endangered species. The partnership with Queen Liliuokalani Trust, as articulated in the Trust's letter to us, is an important step forward toward this goal.

5. While we didn't find designating critical habitat on Queen Liliuokalani Trust land would prevent the Trust from proceeding with their proposed development or have a significant economic impact on them, the potential cost of up to \$21.6 million due to possible delays in obtaining State and county approvals and completing the development could affect their willingness to continue their conservation partnerships. Even if they did continue to implement conservation activities on their land, this potential cost may result in a reduction of the amount of funding available for implementing conservation activities. In addition, Queen Liliuokalani Trust uses revenue from its land holding to provide care for orphans and destitute children (with a preference to children of Native Hawaiian ancestry). This potential reduction in revenue could have significant social and cultural impacts on the community.

6. It is well documented that publicly owned lands, lands owned by conservation organizations and privately owned lands alone, are too small and poorly distributed to provide for the conservation of most listed species (Bean 2002, Crouse *et al.* 2002). Excluding these privately owned 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).

In conclusion, we find that the exclusion of critical habitat in the Queen Liliuokalani Trust portion of proposed unit Hawaii Y2 would have a net positive conservation effect on the recovery and conservation of *Isodendron pyriform* and *Neraudia ovata* when compared to the conservation effects of a critical habitat designation. As described above, the overall benefits to these species of a critical habitat designation on the Queen Liliuokalani Trust portion of proposed unit Hawaii Y2 are relatively small. We conclude there is a greater likelihood of beneficial conservation