

My name is Rory Frampton, I am a Land Use Planning Consultant. I have been retained by Haleakala Ranch Company (HRC) since 2011 to assist in land use planning and regulatory matters affecting their various land holdings.

This is in response to recent United States Department of the Interior, Fish and Wildlife Service (USFWS) letter dated July 25, 2013, that was sent to the State of Hawaii Land Use Commission in regards to Docket A10-787 Maui R&T Partner, LLC, ("MRTP") Petition for District Boundary Amendment and Exhibits, TMK 2-2-2-002:084.

As further described below, the potential area for USFWS critical habitat designation is over a mile away from Docket A10-787 MRTP's Petition area and will not have any impact on their petition for district boundary amendment.

I am familiar with the proposal by the USFWS in regards to approximately 200 ac in the southern portion of TMK 2-2-2-002:084 being considered for designation as critical habitat as published in the USFWS proposed rule for the islands of Maui Nui (77 FR 24464, June 11, 2012) ("USFWS Proposed Rule") and referenced in the above mentioned USFWS letter.

As a general background, HRC has played a key role in progressive land management and conservation on Maui and is committed to responsible land stewardship and protection of environmental resources. In 1983, HRC established the 5,230 acre Waikamoi Preserve in partnership with The Nature Conservancy. In addition, HRC has implemented or accommodated a wide range of conservation initiatives including comprehensive watershed planning, game fencing, rare plant protection, riparian corridor restoration and native bird propagation facilities in conjunction with partners such as the USFWS, Haleakala National Park, Natural Resource Conservation Service, Hawaii Department of Land and Natural Resources, Hawaii Plant Extinction Protection Program, US Environmental Protection Agency, and others.

Attached as Exhibit 1 is proposed Map 10 from the USFWS Proposed Rule which illustrates Maui Lowland Dry – Units 2, 3 and 4. Maui Lowland Dry – Unit 2 as shown on Map 10 covers portions of parcel 2-2-002: 084 (Parcel 84) which is owned by HRC.

The MRTP Petition is not within TMK 2-2-2-002:084 (Parcel 84). Up until April, 2013, Parcel 84 was approximately 2,301 acres in size, of which approximately 123 acres has been included in the MRTP District Boundary Amendment. On April 26, 2013, the County of Maui granted final subdivision approval of the Anawio Subdivision (File No. 2.3070) which subdivided the 123 acre area into a separate parcel. The MRTP 123 acre

parcel is no longer a part of Parcel 84, however, the County of Maui has yet to assign a Tax Map Key number to this parcel.

The MRTP Petition area is a mile away from USFWS proposed area. Attached as Exhibit 2 is a Google Earth Map produced by the USFWS showing the Unit 2 area in relation to existing land uses. Exhibit 3 is a zoom in of the USFWS Google Earth Map showing an approximate distance of 1 mile between the nearest portion of the MRTP project area and the proposed Unit 2 critical habitat area. (shown as yellow line)

Exhibit 4 is a County of Maui produced map showing the approximate boundary of Parcel 84 (prior to subdivision) in relation to existing land uses.

USFWS proposed rules excludes 8,746 acres of HRC lands from critical habitat designation. The USFWS, as part of the USFWS Proposed Rule, has proposed excluding the portion of Unit 2 owned by HRC due to HRC's demonstrated willingness to manage their landholdings in a manner compatible with the conservation of listed and non-listed species. Attached as Exhibit 5 are pages 34581 through 34583 of the proposed rule which describes the basis and rationale for the USFWS excluding portions of HRC's lands from the critical habitat designation. Figure 6 on page 34582 is a map illustrating the HRC lands proposed for exclusion, including the portion of Maui Lowland Dry - Unit 2 which is owned by HRC. Attached as Exhibit 6 is a figure which depicts the approximate area of Unit 2 proposed for exclusion. HRC, appreciates and supports the USFWS's proposal to exclude 8,746 acres of HRC lands from critical habitat designation.

In summary:

The location of the proposed Maui Lowland - Unit 2 critical habitat area is approximately 1 mile away from the nearest portion of the MRTP project area.

The portion of Unit 2 which is owned by HRC, has been proposed to be excluded from the Unit 2 critical habitat area.

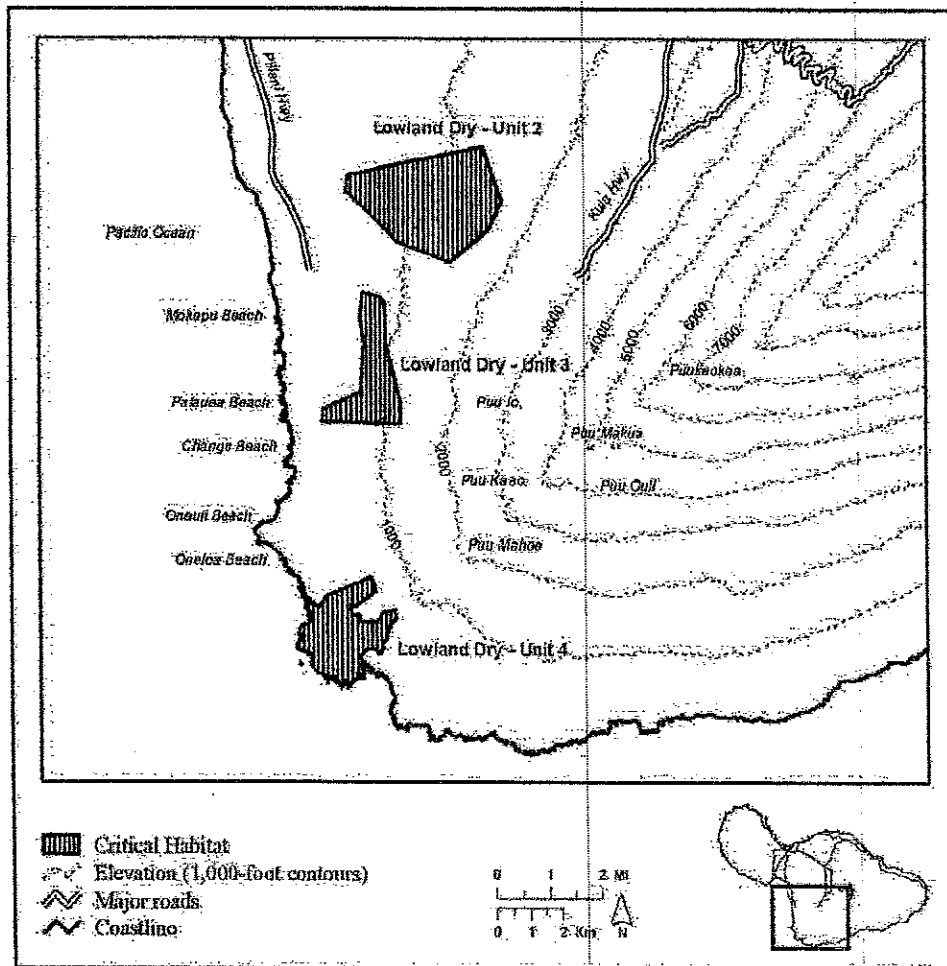
The 123 acre parcel which is included in the MRTP District Boundary Amendment request is no longer a part of Parcel 84.

The nearest distance between the 123 acre parcel and the proposed Unit 2 critical habitat is approximately 1.25 miles.

## Map 10

## Maui—Lowland Dry

## Unit 2, Unit 3 and Unit 4



(xi) Maui—Lowland Dry—Unit 5 (5,448 ac, 2,205 ha) and Maui—Lowland Dry—Unit 6 (579 ac, 234 ha)

(A) [Reserved for textual description of Unit 5.] This unit is critical habitat for *Asplenium dielerectum*, *Bidens campylotheca* ssp. *pentanera*, *Cenchrus agrinonioides*, *Ctenitis squamigera*, *Cyanea obtusa*, *Gouania hillebrandii*, *Hesperomannia arbuscula*, *Hibiscus brackenridgei*, *Kadua coriacea*, *Lysimachia lydgatei*, *Nerandia sericea*,

*Remya mauiensis*, *Santalum haleakalae* var. *lanaiense*, *Schiedea salicaria*, *Sesbania tomentosa*, *Spermolepis hawaiiensis*, *Tetramolopium capillare*, and *Tetramolopium remyi*.

(B) [Reserved for textual description of Unit 6.] This unit is critical habitat for *Asplenium dielerectum*, *Bidens campylotheca* ssp. *pentanera*, *Cenchrus agrinonioides*, *Ctenitis squamigera*, *Cyanea obtusa*, *Gouania hillebrandii*, *Hesperomannia arbuscula*, *Hibiscus*

*brackenridgei*, *Kadua coriacea*, *Lysimachia lydgatei*, *Nerandia sericea*, *Remya mauiensis*, *Santalum haleakalae* var. *lanaiense*, *Schiedea salicaria*, *Sesbania tomentosa*, *Spermolepis hawaiiensis*, *Tetramolopium capillare*, and *Tetramolopium remyi*.

(C) NOTE: Map of Maui—Lowland Dry—Unit 5 and Maui—Lowland Dry—Unit 6 (Map 11) follows:

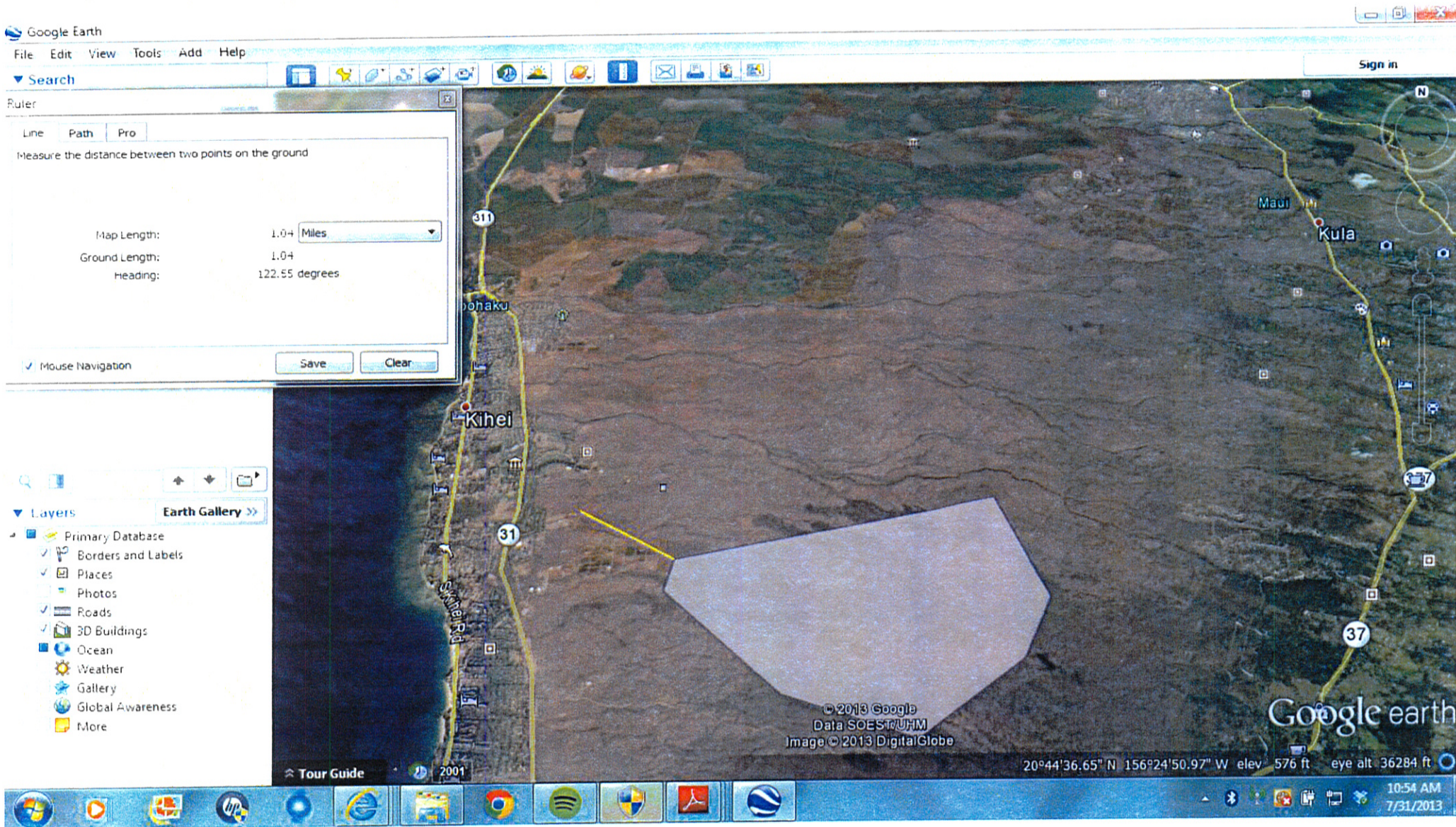


Exhibit 2: USFWS generated Google Earth Map showing proposed critical habitat, Maui Lowland Dry - Unit 2



Exhibit 3: Zoom in of USFWS Google Earth Map showing approximate distance to MRTP project area (1.03 miles)



Exhibit 4: Maui County Parcel Map highlighting parcel 84 prior to subdivision of MRTP expansion parcel

Service and is currently carrying out activities on their lands for the conservation of rare and endangered species and their habitats. In 1997 and 1998, respectively, Ulupalakua Ranch entered into the Partners for Fish and Wildlife Auwahi and Puu Makua agreements to protect and restore dryland forest, including construction of ungulate exclosure fences, a greenhouse to propagate rare plants for outplanting, an access road, and propagation and outplanting of native plants. Preservation of habitat in Auwahi and Puu Makua benefits the 48 listed and proposed plant and animal species discussed above. Over the last 14 years, the Service has provided funding for 3 projects in the Auwahi area (Auwahi I, II, and III). Labor, material, and technical assistance is provided by Ulupalakua Ranch, U.S. Geological Survey-Biological Resources Discipline (USGS-BRD), and volunteers. The Auwahi I project area encompasses 10 ac (4 ha) on the southwest slope of Haleakala. Ulupalakua Ranch and its partners built an ungulate exclosure fence; outplanted native plants, including the listed endangered plants *Alectryon macrococcus* var. *auwahiensis* and *Zanthoxylum hawaiiense*; and removed all nonnative plants and feral ungulates within the fenced exclosure. The Auwahi II project area encompasses 23 ac (9 ha) adjacent to Auwahi I, and the Auwahi III project area encompasses an additional 181 ac (73 ha) (USFWS 2009, in litt.). Ulupalakua Ranch and its partners built additional ungulate exclosure fences, propagated and outplanted native plants, and removed nonnative plants and feral ungulates within the fenced exclosures (USFWS 2009, in litt.). Within 5 years of fence construction and nonnative species management activities, these three areas have been transformed from nonnative grasslands to a native species-dominated, self-sustaining, dryland forest.

Community volunteer participation is a key element to the success of these projects, and monthly volunteer trips often exceed 50 participants from a pool of 700 interested Maui residents, including school groups, Hawaiian native dance groups, canoe clubs, and other special interest groups.

In 1998, Ulupalakua Ranch entered a 10-year partnership with Ducks Unlimited (a private conservation organization) and the Natural Resources Conservation Service's (NRCS) Wetland Reserve Program (WRP) to create four wetland complexes (completed in 2001) suitable for two endangered birds, the Hawaiian goose or nene (*Branta sandvicensis*) and Hawaiian duck or koloa (*Anas wyvilliana*) (NRCS 2001, pp. 1-2). While the endangered nene and koloa are not addressed in this proposed rule, the establishment of wetland complexes for these endangered birds demonstrates the willingness of Ulupalakua Ranch to protect and conserve native plants and animals on their lands.

Between 1999 and 2007, the Service and the DOFAW NARs Fund provided funding for habitat restoration at Puu Makua. Ulupalakua Ranch and its partners, which include USGS-BRD, the Leeward Haleakala Watershed Restoration Partnership, and volunteers, built a 100-ac (40-ha) ungulate exclosure, removed feral ungulates and controlled nonnative plants within the fenced exclosure, and outplanted native plants. This project provides public outreach through on going volunteer participation to control nonnative plants and outplant native plants.

Impacts to habitat resulting from the installation and operation of eight wind turbines by Auwahi Wind at Ulupalakua Ranch (within an area considered as part of proposed Maui-Lowland Dry—Unit 1) were addressed in a Habitat Conservation Plan. Auwahi Wind will offset the development of 0.3 ac (0.1 ha) of native habitat and 28 ac (11 ha) of degraded habitat with 6 ac (2.4 ha) of

habitat restoration at Ulupalakua Ranch's Auwahi project area. The Service issued a section 10 permit for the Auwahi Wind project in January, 2012.

The Honuaula Partners with Ulupalakua Ranch, are offsetting impacts to species from development of an area that is part of proposed Maui—Lowland Dry—Unit 3 in a 400 ac (162 ha) area of Ulupalakua Ranch land above Kanaio NAR.

The ongoing management strategies at Auwahi and Puu Makua are consistent with recovery objectives outlined in the recovery plans for the 46 plant species and the akohekohe and kiwikiu (USFWS 1995a; USFWS 1995b; USFWS 1996a; USFWS 1996b; USFWS 1997; USFWS 1998a; USFWS 1998b; USFWS 1998c; USFWS 1999; USFWS 2002; USFWS 2006; 61 FR 53130). Designation of critical habitat on the 6,538 ac (2,644 ha) of Ulupalakua Ranch lands could be a disincentive to the landowner, who has demonstrated a willingness to manage these lands in a manner compatible with the conservation of listed and non-listed species; therefore, we are considering excluding 6,538 ac (2,644 ha) of land owned and managed by Ulupalakua Ranch from the designation of critical habitat. We are requesting comments and information regarding these areas and will determine whether these lands may warrant exclusion from critical habitat for the 48 plants and animals for which critical habitat is proposed on Ulupalakua Ranch lands, in our final rule.

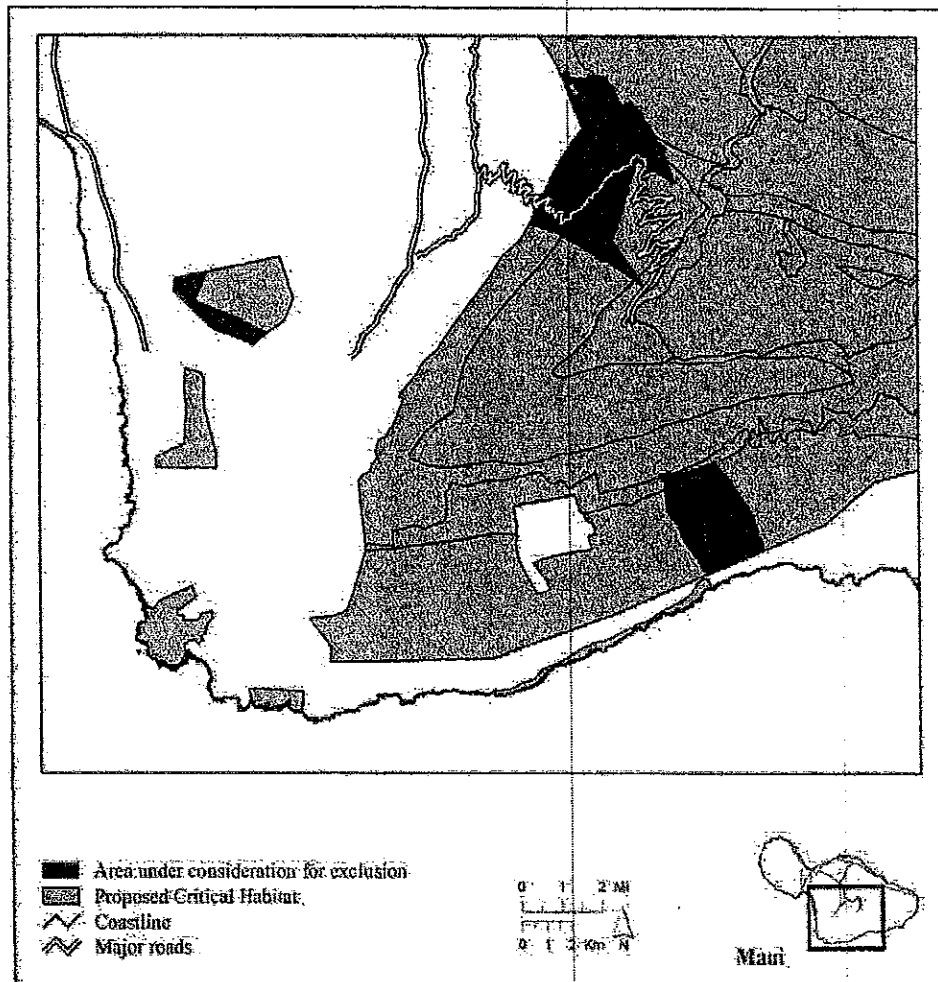
#### Haleakala Ranch Company

In addition to the Haleakala Ranch Company lands managed by TNC as Waikamoi Preserve under a perpetual conservation easement (see discussion above), the Service is considering excluding 8,746 ac (3,539 ha) of habitat associated with Haleakala Ranch Company lands on east Maui (Figure 6).

Start  
↓

Figure 6

## Haleakala Ranch



Four plant species included in this rule (*Argyroxiphium sandwicense* ssp. *macrocephalum*, *Canavalia pubescens*, *Geranium arboreum*, and *Hibiscus brackenridgei*) and the akohekohe and kiwikiu are reported from this area. The area under consideration falls within seven proposed critical habitat units for plants (Maui—Lowland Dry—1, Maui—Lowland Dry—2, Maui—Montane Wet—1, Maui—Montane Mesic—1, Maui—Montane Dry—1, Maui—Subalpine—1, and Maui—Alpine—1), and six proposed units for the akohekohe and kiwikiu (*Palmeria dolei*—Unit 10—Montane Wet, *Pseudonestor xanthophrys*—Unit 10—Montane Wet, *Palmeria dolei*—Unit 13—Montane Mesic, *Pseudonestor xanthophrys*—Unit 13—Montane Mesic, *Palmeria dolei*—

Unit 24—Subalpine, and *Pseudonestor xanthophrys*—Unit 24—Subalpine). These units are occupied by the plants *Alectryon macrococcus*, *Argyroxiphium sandwicense* ssp. *macrocephalum*, *Asplenium dielerectum*, *A. peruvianum* var. *insulare*, *Bidens campylotheca* ssp. *pentamera*, *B. micrantha* ssp. *kalealaha*, *Bonamia menziesii*, *Canavalia pubescens*, *Cenchrus agrimonoides*, *Clermontia lindseyana*, *C. oblongifolia* ssp. *mauiensis*, *Cyanea copelandii* ssp. *haleakalensis*, *C. duvalliorum*, *C. horrida*, *C. kunthiana*, *C. maritae*, *C. mceldowneyi*, *C. obtusa*, *Cyrtandra ferrispilosa*, *C. oxybapha*, *Diplazium molokaiense*, *Flueggea neowawraea*, *Geranium arboreum*, *G. multiflorum*, *Hibiscus brackenridgei*, *Huperzia maanii*, *Melanthera kamolensis*,

*Melicope adscendens*, *M. balloui*, *M. knudsenii*, *Neoraudia sericea*, *Phyllostegia pilosa*, *Santalum haleakalae* var. *lanaiense*, *Sesbania tomentosa*, *Spermolepis hawaiiensis*, and *Zanthoxylum hawaiiense*, and by the akohekohe and kiwikiu. This area contains unoccupied habitat that is essential to *Adenophorus periens*, *Bidens campylotheca* ssp. *waihoiensis*, *Clermontia samuelii*, *Colubrina oppositifolia*, *Ctenitis squamigera*, *Cyanea glabra*, *C. hamatiflora* ssp. *hamatiflora*, *Geranium hanaense*, *Melicope mucronulata*, *M. ovalis*, *Nototrichium humile*, *Peperomia subpetiolata*, *Phyllostegia bracteata*, *P. manii*, *Platanthera holochila*, *Schiedea haleakalensis*, *S. jacobii*, *Solanum incompletum*, and *Wikstroemia villosa*.



Haleakala Ranch Company is involved in several important voluntary conservation agreements with the Service and is currently carrying out activities on their lands for the conservation of rare and endangered species and their habitats. Haleakala Ranch Company is a member of the EMWP, which was formed in 1991, as a model for large-scale forest protection in Hawaii. The members agree to pool resources and implement a watershed management program to protect 100,000 ac (40,469 ha) of forest across east Maui (EMWP 2009). The management program includes: (1) Control of feral pigs by public hunting in the privately owned lower watershed areas; (2) control of the invasive plant *miconia*; and (3) construction of ungulate exclosure fences to protect 12,000 ac (4,856 ha) of lowland and montane wet forest (Tri-Isle Resource Conservation and Development Council, Inc. 2011). In partnership with DOFAW, Haleakala Ranch controls feral ungulates (e.g., axis deer and goats) on their lands in lowland dry habitat at Waiopae, on the south coast of east Maui. In addition to feral ungulate control, Haleakala Ranch and DOFAW control invasive plants that threaten wild populations of two endangered plants, *Alectryon macrococcus* and *Melanthera kamolensis*.

In 1999, Haleakala Ranch entered into an agreement with the Partners for Fish and Wildlife, USGS-BRD, and DHHL, for habitat protection at Puu o Kali, on the west slope of Haleakala. This agreement funded management actions

to conserve and protect native dryland forest, including construction of a fence to exclude nonnative axis deer and feral goats, nonnative plant control, and propagation and outplanting of native plants. The project area was accessed through cooperation of the landowner, Haleakala Ranch. Currently, 236 ac (96 ha) are protected within the fenced area, and all axis deer and goats were removed from the fenced area.

In 2001, the Service and NRCs provided funding for management actions to conserve and protect the endangered plant *Geranium arboreum* and subalpine habitat on Puu Pahu on the northwestern slopes of Haleakala (USFWS 2007b). These management actions include construction of ungulate exclosure fences and removal of ungulates within the fenced area. The first increment of the fence is completed and encloses approximately 670 ac (271 ha) (Higashino 2011, in litt.). Upon project completion, the fenced area will adjoin the fenced area of Haleakala National Park at 7,500 ft (2,290 m), and will exclude ungulates and allow for their removal from an area larger than 670 ac (271 ha) (USFWS 2007b).

In 2009, Haleakala Ranch entered into a safe harbor agreement (SHA) with the Hawaii DLNR and the Service, to establish a population of the endangered nene on their lands at Waiopae. While the endangered nene is not a species addressed in this proposed rule, the establishment of a SHA for this endangered bird demonstrates the willingness of Haleakala Ranch to

protect and conserve native plants and animals on their lands.

The protection and management of habitat at Puu o Kali, Puu Pahu, and Waiopae are consistent with the recovery objectives outline in the recovery plans for the 55 plant species and the akohakohe and kiwikiu (USFWS 1995a; USFWS 1995b; USFWS 1996a; USFWS 1996b; USFWS 1997; USFWS 1998a; USFWS 1998b; USFWS 1999; USFWS 2002; USFWS 2006; 61 FR 53130). Designation of critical habitat on the 9,796 ac (4,072 ha) of Haleakala Ranch Company lands could be a disincentive to the landowner, who has demonstrated a willingness to manage these lands in a manner compatible with the conservation of listed and non-listed species; therefore, we are considering excluding 8,746 ac (3,530 ha) of land owned and managed by Haleakala Ranch Company from the designation of critical habitat. We are requesting comments and information regarding these areas and will determine whether these lands may warrant exclusion from critical habitat for the 57 plant and animal species for which critical habitat is propose on Haleakala Ranch Company lands, in our final rule.

East Maui Irrigation Company, Ltd.

The Service is considering excluding 6,721 ac (2,720 ha) of habitat associated with East Maui Irrigation Company's (EMI) lands in Haiku Uka (below Waikamoi Preserve, from Opana Gulch to Pohakupalaha) on east Maui (Figure 7).

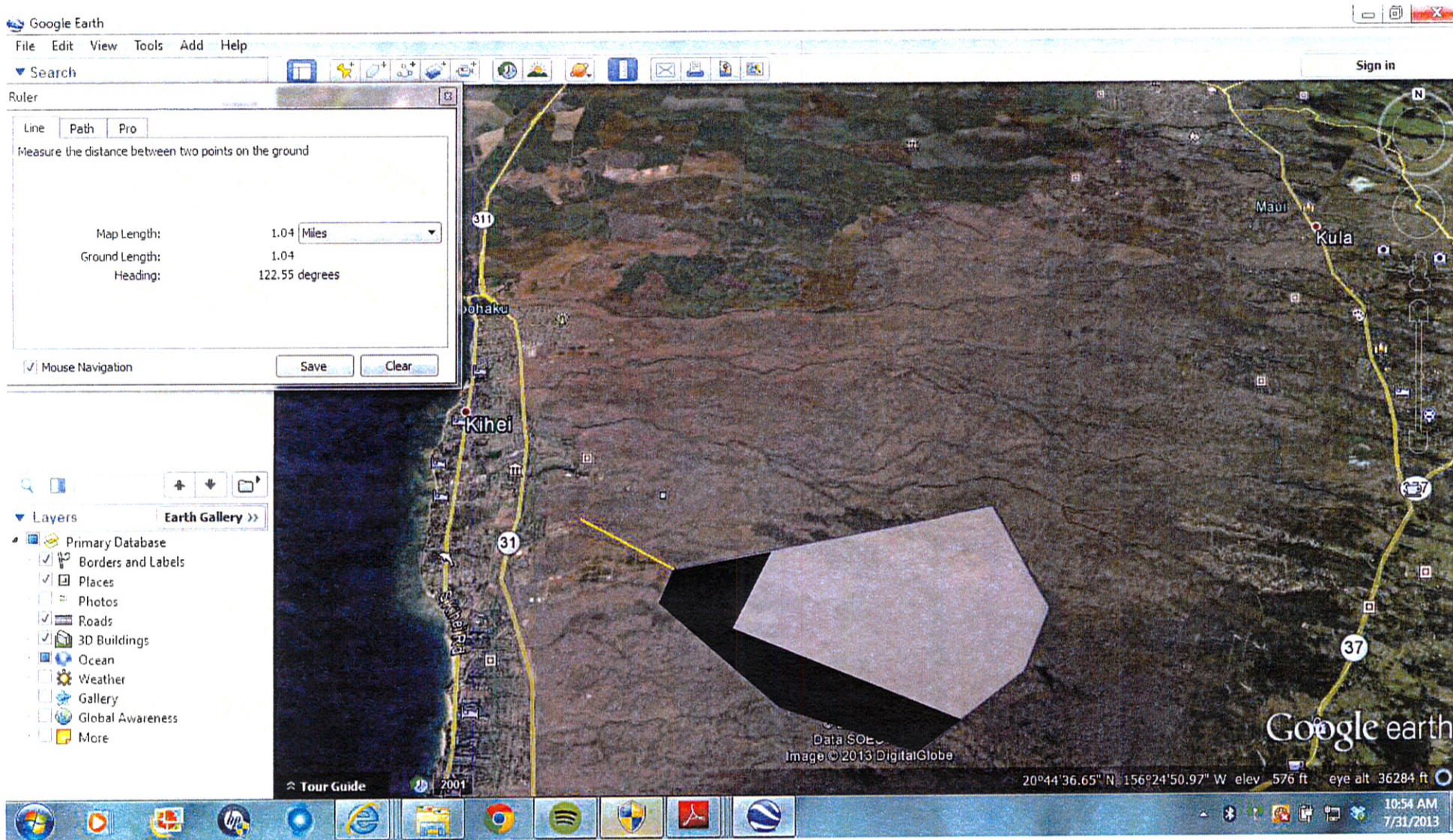


Exhibit 6: USFWS generated Google Earth Map showing proposed critical habitat, Maui Lowland Dry - Unit 2, and area under consideration for exclusion

■ Area under consideration for exclusion

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of ) DOCKET NO. A10-787  
)  
MAUI R&T PARTNERS, LLC ) CERTIFICATE OF SERVICE  
)  
To Amend the Land Use District )  
Boundary of certain lands situated at )  
Kihei, Island of Maui, State of Hawai'i, )  
consisting of 253.05 acres from the )  
Agricultural District to the Urban )  
District, Tax Map Key Nos. )  
(2) 2-2-024:016 and 017, and )  
(2) 2-2-002:084 (por.) )  
\_\_\_\_\_)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was duly served upon the following by depositing the same in the AS INDICATED BELOW on August 2, 2013:

JESSE SOUKI, Director (HAND DELIVERY)  
Office of Planning, State of Hawai'i  
235 Beretania Street, 6<sup>th</sup> Floor  
Honolulu, Hawai'i 96813

BRIAN C. YEE, ESQ. (HAND DELIVERY)  
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