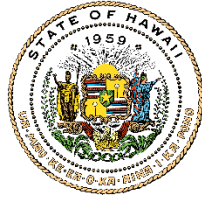


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November 27, 2024

Endangered Species Recovery Committee
State of Hawai'i
Honolulu, Hawai'i

Committee Members:

SUBJECT: Request for comments and review of the Draft Safe Harbor Agreement for Introduction of Endangered Orangeblack Hawaiian Damselfly (*Megalagrion xanthomelas*) to a Conservation Area on the Island of Lāna'i, between Lāna'i Resorts, LLC dba Pūlama Lāna'i, U.S. Fish and Wildlife Service, and State of Hawai'i Department of Land and Natural Resources.

Dear Committee Members,

The Department of Land and Natural Resources (DLNR; Department), Division of Forestry and Wildlife (DOFAW) is requesting the Endangered Species Recovery Committee (ESRC) to review and provide biological input on the Draft Safe Harbor Agreement for Introduction of Endangered Orangeblack Hawaiian Damselfly (*Megalagrion xanthomelas*) to a Conservation Area on the Island of Lāna'i. The draft Safe Harbor Agreement was prepared by Pūlama Lāna'i and represents a State Safe Harbor Agreement (SHA) and a Federal Conservation Benefit Agreement. The developing Safe Harbor Agreement was presented to the ESRC for their initial feedback on March 29th, 2023.

BACKGROUND:

The SHA is between Lāna'i Resorts, LLC dba Pūlama Lāna'i, the U.S. Fish and Wildlife Service, and the State of Hawai'i Department of Land and Natural Resources ("The Parties") and includes conservation actions that will be implemented and monitored on properties owned by Pūlama Lāna'i for the Orangeblack Hawaiian damselfly (*Megalagrion xanthomelas*) ("Damselfly"), ae'ō (Hawaiian stilt, *Himantopus mexicanus knudseni*) ("Hawaiian Stilt"), 'alae ke'oke'ō (Hawaiian coot, *Fulica americana alai*) ("Hawaiian Coot") and assimilans yellow-faced bee (*Hylaeus assimilans*) ("Yellow-Faced Bee") (collectively the "Covered Species"). The purpose of the agreement is to implement conservation actions that will result in a net conservation benefit for

the Covered Species in accordance with applicable law and the terms of the agreement, and to contribute to their recovery. This agreement furthers conservation of the Covered Species by: (1) introducing the damselfly to a conservation area on Lānaʻi (“Conservation Area”); (2) memorializing conservation measures that will be taken to provide and maintain a net conservation benefit that furthers the recovery of each of the Covered Species; (3) describing how The Parties will work together to implement shared goals to benefit the Covered Species and create habitat; and (4) affirming that Pūlama Lānaʻi receives assurances and limited authority to cause purposeful¹ and Incidental Take of Covered Species associated with Conservation Measures and activities in accordance with the terms of this agreement and applicable law.

1. “Purposeful take” is allowed under Section 10(a)(1)(A) of the Endangered Species Act (ESA). Under this section, the U.S. Fish and Wildlife Service (Service) may permit any act otherwise prohibited by section 9 for scientific purposes or to enhance the propagation or survival of the affected species.

Baseline Status and Covered activities

Currently no wetland habitat for Covered Species is present in the Conservation Area. The Damselfly is not present on Lānaʻi. The Hawaiian Coot, Hawaiian Stilt, and Yellow-Faced Bee are present on Lānaʻi, but not in the Conservation Area. In addition to the Conservation Area, Pūlama Lānaʻi, owns and controls additional lands (“Other Areas”). The Incidental Take of the Damselfly is covered in the Conservation Area and Other Areas. While there is documentation of listed waterbirds and Yellow-faced bees in the Other Areas, incidental take of these species is only covered in the Conservation Area.

The introduced Damselfly may disperse from the Conservation Area to Other Areas, especially those that have standing or flowing water. The probability of Damselfly dispersing to the Other Areas is low given the habitat requirements of the Damselfly, however conservation measures will be implemented to avoid and minimize take of the damselfly in the Other Areas. A wide variety of land uses, including habitat conservation lands, commercial resort properties, residential homes, businesses and industrial uses, take place in the Other Areas. Pūlama Lānaʻi will consult with DLNR and the Service prior to conducting covered activities in Other Areas that may impact the damselfly, including but not limited to maintaining, removing, modifying or expanding wastewater treatment and storage facilities, ponds or flowing water features at resort and park areas, stormwater management features, and water utility transmission infrastructure.

Orangeblack Hawaiian damselfly (*Megalagrion xanthomelas*)

The Damselfly is endemic to the Hawaiian Islands and was once the most abundant damselfly species in Hawaiʻi, found on all the main islands save Kahoʻolawe. The species has since been extirpated from Kauaʻi and Lānaʻi, and is limited to 34 known populations: 1 on Oʻahu, 3 on Maui, 7 on Molokaʻi, and 23 on Hawaiʻi (USFWS 2022a, c).

One of the greatest threats to the Damselfly includes poor habitat quality and reduced availability. The Recovery Plan for the Damselfly was finalized in 2022 (USFWS 2022a). Recovery of the Damselfly will require resilient populations on Kauaʻi, Oʻahu, Molokaʻi, Lānaʻi,

Maui, and Hawai'i in accordance with the recovery plan (USFWS 2022a). This will require habitat creation, protection, translocation and introduction of genetically appropriate Damselfly to new areas. Populations should exist within habitats capable of supporting natural dispersal, breeding opportunities, expansion, and redundancy on each island.

Historically, Lāna'i likely supported the second largest populations of Damselflies in the State. Current Damselfly's ranges are much reduced and Damselflies were likely extirpated from Lanai since 2019 (Polhemus et al., 2020). Damselfly populations on Lāna'i formerly existed in Maunalei Gulch in association with a leak in a small water pipeline, near Keōmuku on the island's windward coast, and at the artificial ponds at the former Koele Lodge and The Experience at Koele Course (Polhemus and Asquith 1996).

Safe Harbor Net Conservation Benefits

This SHA will facilitate establishment of a self-sustaining Damselfly population on Lāna'i, in a location that was decided in consultation with DOFAW and USFWS, contributing to the species' recovery by increasing the number of extant populations, their distribution, and resiliency of the species to stochastic events. As is described in greater detail below, conservation measures center around constructing a man-made water source, and implementing creation and stewardship of an up to 3-acre (1.2 hectare) area in a degraded historic wetland. Furthermore, this SHA will facilitate establishment of a predator-free artificial wetland habitat that may provide food, nesting, or both types of resources to Hawaiian Coot and the Hawaiian Stilt. Constructing a man-made water source on the Conservation Area and implementing creation and stewardship of a 3-acre (1.2 ha) area would provide a small, protected area, free of the above threats, that could benefit the Hawaiian Coot and Hawaiian Stilt population on Lāna'i. Moreover, while not specifically intended to attract Yellow-Faced Bee, outplanting of native plant species and pollen sources may attract and provide food, nesting or both types of resources to Yellow-Faced Bee. This supports recovery criteria for the Yellow Faced Bee (USFWS 2022a). The Conservation Measures include (1) an ungulate-free site for native dry shrubland outplanting in the Conservation Area; and (2) pollen, nectar, and potential nesting resources for Yellow-Faced Bees.

Overall, the net conservation benefits of this draft SHA include:

- Increasing the range of each Covered Species, thereby helping to protect against catastrophic loss of the species.
- Reintroducing a new population of orangeblack Hawaiian damselflies.
- Preventing ecological damage to the created habitat from ungulates and invasive plant species.

Additional benefits include:

- Increasing collaborative recovery efforts between the Service, the Hawaii Department of Land and Natural Resources, and Pūlama Lāna'i.
- Increasing opportunity for environmental education and conservation public outreach.

State of Hawai'i Safe Harbor Agreement Regulatory Framework

The Legislature of the State of Hawai'i deemed the execution of safe harbor agreements pursuant to section 195D-22, HRS, for the purpose of providing incentives to conserve endangered species, is a public purpose and in the public interest, for the general welfare of the state. Section 195D-22(b) authorizes the DLNR to authorize the take of an endangered, threatened, proposed, or candidate species incidental to an otherwise lawful activity in or affecting the created, restored, maintained, or improved habitat, provided that certain criteria set forth in subsection (b)(1) through (7) are met.

RECOMMENDATION:

In alignment with HRS 195D-22, DOFAW seeks comments from the ESRC on the Draft Safe Harbor Agreement for Introduction of Endangered Orangeblack Hawaiian Damselfly (*Megalagrion xanthomelas*) to a Conservation Area on the Island of Lāna'i.

Respectfully submitted,

TA for



DAVID G. SMITH, Administrator
Division of Forestry and Wildlife

Attachments: Exhibit 1 – Safe Harbor Agreement/ Conservation Benefit Agreement for Introduction of Endangered Orangeblack Hawaiian Damselfly (*Megalagrion xanthomelas*) to a Conservation Area on the Island of Lāna'i, between Lāna'i Resorts, LLC dba Pūlama Lāna'i, U.S. Fish and Wildlife Service, and State of Hawai'i Department of Land and Natural Resources.