

4. Section 594.8 would be amended by revising paragraph (c) to read as follows:

§ 594.8 Fee for importing a vehicle pursuant to a determination by the Administrator.

* * * * *

(c) If a determination has been made on or after October 1, 2000, pursuant to the Administrator's initiative, the fee for each vehicle is \$125. * * *

5. Section 594.9 would be amended by revising paragraph (c) to read as follows:

§ 594.9 Fee for reimbursement of bond processing costs.

* * * * *

(c) The bond processing fee for each vehicle imported on and after October 1, 2000, for which a certificate of conformity is furnished, is \$5.75.

5. Section 594.10 would be amended by adding two new sentences at the end of paragraph (d) to read as follows:

§ 594.10 Fee for review and processing of conformity certificate.

* * * * *

(d) * * * However, if the vehicle covered by the certificate has been entered electronically with the U.S. Customs Service through the Automated Broker Interface and the registered importer submitting the certificate has an e-mail address, the fee for the certificate is \$6, provided that the fee is paid by a credit card issued to the registered importer. If NHTSA finds that the information in the entry or the certificate is incorrect, requiring further processing, the processing fee shall be \$16.

Issued on: July 7, 2000.

Kenneth N. Weinstein,
Associate Administrator for Safety Assurance.

[FR Doc. 00-18012 Filed 7-18-00; 8:45 am]

BILLING CODE 4910-52-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AG24

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Plant *Lesquerella thamnophila* (Zapata Bladderpod)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of supplementary information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose designation of critical habitat pursuant to the Endangered Species Act of 1973, as amended (Act), for the plant *Lesquerella thamnophila* (Rollins & Shaw) (Zapata bladderpod). Proposed critical habitat includes approximately 2,157 hectares (ha) (5,330 acres(ac)) of the Lower Rio Grande Valley National Wildlife Refuge property in Starr County, Texas, a 402 meter (m) (0.25 mile (mi)) length of highway right-of-way at each of two sites located along Highway 83, in Zapata County, Texas, and a 0.55 ha (1.36 ac) site on private land in Starr County, Texas. If this proposal is made final, section 7 of the Act would prohibit destruction or adverse modification of the critical habitat by any activity funded, authorized, or carried out by any Federal agency. Section 4 of the Act requires us to consider economic and other relevant impacts of specifying any particular area as critical habitat. We are preparing an economic analysis of this action and will announce its availability for public review and comment at a later date. In addition, we are preparing an Environmental Assessment of this action pursuant to the National Environmental Policy Act. The draft Environmental Assessment may be obtained for review and comment by contacting us (see **ADDRESSES**). We solicit data and comments from the public on all aspects of this proposal, including data on the economic and other impacts of the designation. We may revise this proposal to incorporate or address new information received during the comment period.

DATES: We will accept comments until September 18, 2000. We will hold a public meeting and hearing in Rio Grande City on August 24, 2000, regarding this proposal. We will hold the meeting from 5:00 p.m. to 7:00 p.m., and, immediately following the meeting, we will hold the hearing from 7:00 p.m. to 9:00 p.m.

ADDRESSES: Send comments and materials to: Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, c/o Texas A&M University-Corpus Christi, Campus Box 338, 6300 Ocean Drive, Corpus Christi, TX 78412. We will make comments and materials received available for public inspection, by appointment, during normal business hours at the above address. We will hold the public meeting and public hearing at the Rio Grande City Activity Center, Fort Ringgold Highway (Highway 83), Rio Grande City, Texas.

FOR FURTHER INFORMATION CONTACT: Loretta Pressly, Corpus Christi Ecological Services Field Office, at the address above (Telephone 361/994-9005; facsimile 361/994-8262).

SUPPLEMENTARY INFORMATION:

Background

Lesquerella thamnophila is a pubescent (covered with short hairs), somewhat silvery-green herbaceous perennial plant, with sprawling stems 43-85 centimeters (cm) (17-34 inches (in)) long. The plant exhibits a taproot system demonstrating a perennial life habit. It possesses narrow basal leaves 4-12 cm (1.5-4.8 in) long, and 7-15 millimeters (mm) (0.3-0.6 in) wide, with entire (undivided) to wavy or slightly toothed margins. Stem leaves are 3-4 cm (1-1.5 in) long and 2-8 mm (0.1-0.3 in) wide, with margins similar to basal leaves. The bright yellow-petaled flowers are bunched loosely on a single stem. The flowers appear at different seasons of the year depending upon timing of rainfall, with the lower flowers maturing first. Fruits are round, 4.5-6.5 mm (0.2-0.8 in) in diameter, and located on short, downward curving pedicels (slender stalks) (Poole 1989). Little is known of the population genetics, structure, or dynamics of the species.

Lesquerella thamnophila, a member of the Brassicaceae (Cruciferae-Mustard) Family, was first collected in Zapata County, Texas, by R. C. Rollins in 1959. The species was named *Lesquerella thamnophila* in 1973 by R. C. Rollins and E. A. Shaw in their review of the genus *Lesquerella* (Rollins and Shaw 1973). The few collected specimens of *Lesquerella thamnophila* have all come from Starr and Zapata Counties in Southern Texas, except for one specimen that has been identified from Tamaulipas, Mexico.

Habitat Characteristics

All known populations of *Lesquerella thamnophila* in the United States occur in Starr and Zapata Counties, Texas, within approximately 3.22 kilometers (km) (2 mi) of the Rio Grande. These populations are found on upland sites that have not had previous soil disruption and are relatively free of nonnative species. Soil types sites suggest that the species is not closely tied to a specific soil texture; but the soil textures ranges from clay (Catarina soils) to fine sandy loam (Copita soils). Many of the known populations occur on soils with moderate alkalinity.

Lesquerella thamnophila can occur on graveled to sandy-loam upland terraces above the Rio Grande floodplain. The known populations are associated with

three Eocene-age geologic formations, Jackson, Laredo, and Yegua, which have yielded fossiliferous (containing fossils) and highly calcareous (composed of calcium carbonate) sandstones and clays.

Known Starr County populations occur within the Jimenez-Quemado soil association and on Catarina series soils. Jimenez-Quemado soils are well-drained, shallow, and gravelly to sandy loam underlain by caliche (a hard soil layer cemented by calcium carbonate). This soil association is broad, dissected, and irregularly shaped, and occurs on huge terraces 6–15 m (20–50 feet (ft)) above the floodplains of the Rio Grande. In most areas, the Jimenez soils occupy the slope breaks extending from the tops of ridges to the bottoms of the slopes, and in the narrow valleys between them. Quemado soils occur as narrow areas on ridge tops, where the slope ranges from 3 to 20 percent. Steep escarpments can be present with rocky outcrops adjacent to the river floodplain.

The Catarina series consists of clayey, saline upland soils developed from calcareous, gypsiferous (containing gypsum), or saline clays; areas dominated by Catarina series soils usually contain many drainages and other erosional features. The underlying material contains calcareous concretions (rounded masses of mineral matter), gypsum crystals, and marine shell fragments (Thompson *et al.* 1972).

Bladderpod populations in Zapata County occur within the Zapata-Maverick soil association. Zapata soils are shallow, loamy or mixed, hyperthermic (high temperature), well-drained, and nearly level with undulating slopes ranging from 0 to 18 percent, primarily on uplands occurring over caliche. The upper portion of the soil horizon ranges from 5 to 25 cm (2 to 10 in) thick, with chert gravel and coarse fragments consisting of a few to 25 percent of angular caliche 2.5 to 20 cm (1 to 8 in) long.

Maverick soils consist of upland clayey soils occurring over caliche with underlying calcareous material containing shale and gypsum crystals (Thompson, *et al.* 1972). The upper zone consists of well-drained, moderately deep soft shale bedrock, sloping 1 to 10 percent and forming clayey sediments. Ancient deposition of rock material from the Rio Grande can be found in portions of these soils, and rock and Indian artifact collecting has become a pastime for residents and visitors in the area.

Lesquerella thamnophila grows opportunistically; that is, the density of *Lesquerella thamnophila* plants and the

sizes of populations fluctuate in response to rainfall during the growing season. Populations can respond dramatically to rainfall events, going from barely detectable to a substantial assemblage of thousands of individuals.

Lesquerella thamnophila occurs as an herbaceous component of an open *Leucophyllum frutescens* (cenizo) shrub community that grades into an *Acacia rigidula* (blackbrush) shrub community. Both plant communities dominate upland habitats on shallow soils near the Rio Grande (Diamond 1990). These shrublands are sparsely vegetated due to the shallow, fast-draining, highly erosional soils and semi-arid climate (Poole 1989). Other related plant species in the cenizo and blackbrush communities include *Acacia berlandieri* (guajillo), *Prosopis* sp. (mesquite), *Celtis pallida* (granjeno), *Yucca treculeana* (Spanish dagger), *Zizyphus obtusifolia* (lotebush), and *Guaiacum angustifolium* (guayacan).

The coverage of an aggressively invasive, nonnative grass, *Cenchrus ciliaris* (buffelgrass), is extensive at three of the four extant sites (see below) and present at the fourth. *Dichanthium annulatum* (Kleberg bluestem grass), which is used for erosion control on roadways, has also begun to invade natural areas and is present at all four *Lesquerella thamnophila* sites, although not as extensively as buffelgrass.

Biologists have located a total of 10 populations of *Lesquerella thamnophila*, including the type locality (the area from which the specimens that were used to first describe the species were taken) discovered by Rollins and Correll in Zapata County in 1959. Of the 10 total populations found, 4 sites either are known to still support or have recently supported live plants, including one on private land in Starr County, one on Service refuge property in Starr County, one on the Highway 83 right-of-way (ROW) near the Tigre Chiquito Bridge in Zapata County, and a fourth site discovered in March 2000 on a bluff on private land.

The site located on refuge property supports the largest known population. Biologists confirmed, through multiple site visits performed since 1994, that the plant's vegetational growth is highly dependent upon rainfall. The Texas Parks and Wildlife Department (TPWD) discovered this site initially, finding approximately 50 plants. During subsequent surveys, TPWD and Service personnel found 131 plants in 1996 and up to 8,000 plants in 1997. Few individuals were found in 1998 when drought conditions were severe. In June of 1999, after 4–6 inches of rain fell in the area, we observed a large number of

plants flowering and producing fruit. In March of 2000, we found numerous rosettes, but few plants reproducing.

Plants have not been observed on the Highway 83 ROW site near the Tigre Chiquito bridge since 1998. Although this site may still support the plant, drought conditions have prevented above-ground vegetative growth, making observation impossible. This site also has been invaded by buffelgrass. The Texas Department of Transportation (TxDOT) and TPWD had developed a management agreement to protect the site by excluding mowing practices, but, due to the almost complete coverage of buffelgrass at the site, management plans at the area may have to be modified.

One population in a subdivision near Falcon Lake supported up to 1,000 plants in the past. When this site was visited in 1999, only one plant was found. Extensive housing construction, invasion of buffelgrass, and continued soil erosion from land disturbance may have completely eliminated this population.

Three other populations are believed extirpated, including the type locality in Zapata County. The remaining two populations have not been re-verified due to inaccessibility on private land. While the extent of occupied habitat can be estimated, access to private land has curtailed survey efforts by various State and Federal biologists. The plant likely occurs in other areas within its historical range in Texas, and recent reports provide reliable evidence of the plant in the State of Tamaulipas, Mexico.

Previous Federal Action

Federal action involving this species began with section 12 of the Act (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct. The Smithsonian Institution presented the report, designated as House Document No. 94–51, to Congress on January 9, 1975. On July 1, 1975, we published a notice in the **Federal Register** (40 FR 27823) accepting the Smithsonian report as a petition to list the species within the context of section 4(c)(2) of the Act, now section 4(b)(3)(A), and announcing that we would initiate a review of the status of those plants. *Lesquerella thamnophila* was included as threatened in the Smithsonian report and in our notice.

On June 16, 1976 (41 FR 24523), we published a proposed rule to list approximately 1,700 species of vascular plants as endangered. *Lesquerella thamnophila* was included in this

proposal. However, the 1978 amendments to the Act required the withdrawal of all proposals over 2 years old (although a 1-year grace period was allowed for those proposals already over 2 years old). On December 10, 1979 (44 FR 70796), we published a notice withdrawing that portion of the June 16, 1976, proposal that had not been made final, which included *Lesquerella thamnophila*.

On December 15, 1980 (45 FR 82823), we published a list of plants under review for listing as threatened or endangered, which included *Lesquerella thamnophila* as a category 2 candidate. "Category 2 candidates" were those species for which available information indicated listing as threatened or endangered may have been appropriate, but for which substantial data were not available to support preparation of a proposed rule.

Section 4(b)(3)(B) of the Act requires that we make findings on petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments to the Act required that all petitions pending as of October 13, 1982, be treated as having been submitted on that date. The 1975 Smithsonian report was again accepted as a petition, and all the plants noted within the report, including *Lesquerella thamnophila*, were treated as being newly petitioned on October 13, 1982. In each subsequent year from 1983 to 1993, we determined that listing *Lesquerella thamnophila* was warranted, but precluded by other listing actions of higher priority, and that we were still compiling additional data on vulnerability and threats.

A status report on *Lesquerella thamnophila* was completed on August 8, 1989 (Poole 1989). That report provided sufficient information on biological vulnerability and threats to warrant designating the species as a category 1 candidate and to support preparation of a proposed rule to list *Lesquerella thamnophila* as endangered. "Category 1 candidates" were those species for which we had substantial information indicating that listing under the Act was warranted.

Notices revising the 1980 list of plants under review for listing as endangered or threatened were published in the **Federal Register** on September 27, 1985 (50 FR 39626), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51171). *Lesquerella thamnophila* was included in the September 30, 1993, notice as a category 1 candidate.

Upon publication of the February 28, 1996, Notice of Review (61 FR 7605), we ceased using category designations for candidate species and included *Lesquerella thamnophila* simply as a

candidate species. Candidate species are those species for which we have on file sufficient information on biological vulnerability and threats to support proposals to list them as threatened or endangered. We retained *Lesquerella thamnophila* as a candidate species in the September 19, 1997, Review of Plant and Animal Taxa (62 FR 49398).

On January 22, 1998, we published a proposed rule to list *Lesquerella thamnophila* as endangered, without critical habitat (63 FR 3301). We invited the public and State and Federal agencies to comment on the proposed listing.

Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, we designate critical habitat at the time we determine a species to be endangered or threatened. Regulations at 50 CFR 424.12 state that critical habitat designation is not prudent when one or both of the following situations exist:

(i) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species, or

(ii) Such designation of critical habitat would not be beneficial to the species.

In the proposed rule we indicated that designation of critical habitat was not prudent for *Lesquerella thamnophila* because of a concern that publication of precise maps and descriptions of critical habitat in the **Federal Register** could increase the vulnerability of this species to incidents of collection and vandalism. We also indicated that designation of critical habitat was not prudent because we believed it would not provide any additional benefit beyond that provided through listing as endangered. However, after consideration of recent court decisions overturning "not prudent" determinations for other species (see discussion below), we reconsidered the issue. We published a final rule listing *Lesquerella thamnophila* as endangered on November 22, 1999, (64 FR 63745), and stated that, based on limited funding for our listing program, we would defer critical habitat designation until other higher-priority listing actions were completed.

Subsequent to the final rule listing the species as endangered, the Southwest Center for Biological Diversity filed suit to compel us to designate critical habitat for several species, including *Lesquerella thamnophila* (Southwest Center for Biological Diversity *et al.* v. *Babbitt* Civil No. 99–D–1118). We entered into settlement negotiations with the plaintiff and agreed to propose critical habitat by July 14, 2000, with a

final determination to be made no later than December 15, 2000.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures that are necessary to bring an endangered species or a threatened species to the point at which listing under Act is no longer necessary.

Section 4(b)(2) of the Act requires that we base critical habitat designations upon the best scientific and commercial data available, taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when the benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in the extinction of the species.

Designation of critical habitat can help focus conservation activities for a listed species by identifying areas, both occupied and unoccupied, that contain or could develop the physical and biological features that are essential for the conservation of a listed species. Designation of critical habitat alerts the public as well as land-managing agencies to the importance of these areas.

Critical habitat also identifies areas that may require special management considerations or protection, and may provide additional protection to areas where significant threats to the habitat have been identified. Critical habitat receives protection from the prohibition against destruction or adverse modification through required consultation under section 7 of the Act with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the adverse modification or destruction of proposed critical habitat. Aside from the protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat.

Section 7(a)(2) of the Act prohibits Federal agencies from funding, authorizing, or carrying out actions likely to jeopardize the continued existence of a threatened or endangered species, or that are likely to destroy or adversely modify critical habitat. "Jeopardize the continued existence" (of a species) is defined as an appreciable reduction in the likelihood of survival and recovery of a listed species. "Destruction or adverse modification" (of critical habitat) occurs when a Federal action significantly reduces the value of critical habitat for the survival and recovery of the listed species for which critical habitat was designated. Thus, the definitions of "jeopardy" to the species and "adverse modification" of critical habitat are similar.

Designating critical habitat does not, in itself, lead to recovery of a listed species. Designation does not create a management plan, establish numerical population goals or prescribe specific management actions (inside or outside of critical habitat). Specific management recommendations for critical habitat are most appropriately addressed in recovery plans and management plans, and through section 7 consultations.

Critical habitat identifies specific areas that have the features that are essential to the conservation of a listed species and that may require special management considerations or protection. Unoccupied areas that we determine are essential to the conservation of the species may also be designated as critical habitat.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we are required to consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species and that may require special management considerations or protection. These include, but are not limited to, the following:

- (1) Space for individual and population growth, and for normal behavior;
- (2) Food, water, air, light, minerals, or other nutritional or physiological requirements;
- (3) Cover or shelter;
- (4) Sites for breeding, reproduction, germination, or seed dispersal; and

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

The primary constituent elements of critical habitat for *Lesquerella thamnophila* are:

(1) Arid upland habitats of various soil types, including highly calcareous sandy loam to loamy sand, with low to moderate salinity levels on low, sloping hills;

(2) Absence of substantial previous soil disturbance and seeding or sodding of exotic grasses; and

(3) A sparse overstory of shrub species typical of the Tamaulipian biotic province, but lacking a complete canopy as might be provided by a continuous overstory dominated by mesquite (*Prosopis glandulosa*).

Proposed Critical Habitat Designation

We are proposing critical habitat to provide for the conservation of *Lesquerella thamnophila* within a large portion of its geographic range in the United States. One segment of the proposed critical habitat contains the largest known population of the species. Another proposed area is known to have had an extant population as recently as 1998. The additional proposed segments contain the necessary primary constituent elements and are believed capable of supporting the species, although it has not been documented on these sites. These areas are within the historical range of the species, contain habitats that are protected from disturbance, support the ecological requirements of *Lesquerella thamnophila*, and are essential to the conservation of the species.

Because of this species' precarious status, mere stabilization of *Lesquerella thamnophila* populations at their present levels will not achieve conservation. Maintenance and enhancement of the existing populations, plus reestablishment of populations in suitable areas within the historical range, are necessary for the species' survival and recovery. One of the most important conservation actions will be establishment of secure, self-reproducing populations in suitable habitats. Thus, we find that it is essential for the conservation of the species that critical habitat for *Lesquerella thamnophila* include both areas known to currently sustain the species and other areas where *Lesquerella thamnophila* is not

currently present but support the primary constituent elements where additional populations can be established for the recovery of the species.

We are proposing to not include one site, in a subdivision near Falcon Lake, which has undergone significant development in recent years and has been invaded by buffelgrass. This site does not contain and is unlikely to develop, the primary constituent elements that are essential to the conservation of the species. This population may have already been eliminated, and we have little hope that the site can contribute to the species' recovery. Therefore, this site is not essential to the conservation of *Lesquerella thamnophila* and thus, does not meet the definition of critical habitat.

The proposed critical habitat areas described below constitute our best assessment at this time of the areas needed for the species' conservation. However, we seek additional information regarding the importance of areas proposed for critical habitat as well as identification of additional areas.

We are proposing seven Lower Rio Grande National Wildlife Refuge tracts in Starr County for critical habitat designation, including the Cuellar, Chapeno, and Arroyo Morteros Tracts located south/southwest of the Falcon Heights subdivision; the Las Ruinas, Los Negros, and Arroyo Ramirez tracts located west and northwest of the City of Roma; and the La Puerta Tract located southeast of Rio Grande City. We are also proposing to designate one currently populated and one historically populated area (i.e. currently unoccupied) owned by the State of Texas along the Highway 83 ROW in Zapata County. One of these areas is located near the Siesta Shores subdivision on the east side of Highway 83, and the other is located farther south, also on the east side of Highway 83, near the Tigre Chiquito bridge. Additionally, we are proposing to designate one of the known populations that occur on private land. This area, located on a high bluff, is less than 1.6 km (1.0 mi) northeast of the Rio Grande, and approximately 3.44 km (2.136 mi) northeast of the town of Salineno.

Table 1 shows land ownership for areas of critical habitat that are currently occupied and unoccupied.

TABLE 1.—ACRES/HECTARES OF PROPOSED OCCUPIED AND UNOCCUPIED CRITICAL HABITAT FOR FEDERAL AND STATE PROPERTIES.

County	State occupied acres/hectares	State unoccupied acres/hectares	Federal occupied acres/hectares	Federal unoccupied acres/hectares	Private occupied acres/hectares	Private unoccupied acres/hectares	Total acres/hectares
Starr	0.0/0.0	0.0/0.0	45.0/18.2	5,284.0/ 2,138.0	1.36/0.552	0.0/0.0	5,330.36/ 2,156.75
Zapata	1.51/0.60	1.51/0.60	0.0/0.0	0.0/0.0	0.0/0.0	0.0/0.0	3.02/1.2

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out do not destroy or adversely modify critical habitat to the extent that the action appreciably diminishes the value of the critical habitat for the survival and recovery of the species. Individuals, organizations, States, local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. In 50 CFR 402.02, “jeopardize the continued existence” (of a species) is defined as engaging in an activity likely to result in an appreciable reduction in the likelihood of survival and recovery of a listed species. “Destruction or adverse modification” (of critical habitat) is defined as a direct or indirect alteration that appreciably diminishes the value of critical habitat for the survival and recovery of the listed species for which critical habitat was designated. Thus, the definitions of “jeopardy” to the species and “adverse modification” of critical habitat are nearly identical.

Section 7(a)(4) requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory.

We may issue a formal conference report if requested by a Federal agency. Formal conference reports on proposed critical habitat contain a biological opinion that is prepared according to 50 CFR 402.14, as if critical habitat were designated. We may adopt the formal conference report as a biological opinion if the critical habitat is designated, if no significant new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

Under section 7(a)(2), if a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with us. Through this consultation, we would advise the agencies whether the permitted actions would likely jeopardize the continued existence of the species or adversely modify critical habitat.

When we issue a biological opinion concluding that a project is likely to result in jeopardy or the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency’s legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid the likelihood of jeopardizing the continued existence of listed species or resulting in the destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained

discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conferencing with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Activities on Federal lands that may affect *Lesquerella thamnophila* or its critical habitat will require section 7 consultation. Activities on non-Federal lands requiring a permit or utilizing funding from a Federal agency, such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act or Federal funding of a highway project, would also be subject to the section 7 consultation process. Federal actions not affecting the species, as well as actions on non-Federal lands that are not federally funded or permitted, would not require section 7 consultation.

Section 4(b)(8) of the Act requires us to describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat include those that alter the primary constituent elements to the extent that the value of critical habitat for both the survival and recovery of *Lesquerella thamnophila* is appreciably reduced. We note that such activities may also jeopardize the continued existence of the species when affecting areas currently occupied by the species. When determining whether any of these activities may adversely modify critical habitat, we base our analysis on the effects of the action on the entire critical habitat area and not just on the portion where the activity will occur. Adverse effects on constituent elements or segments of critical habitat generally do not result in an adverse modification determination unless that loss, when added to the environmental baseline, is likely to appreciably diminish the

capability of the critical habitat to satisfy essential requirements of the species. For *Lesquerella thamnophila*, activities that appreciably degrade or destroy native Tamaulipan thornscrub communities, such as road building, land clearing for oil or gas exploration and other purposes, soil disturbance for pasture improvement, livestock overgrazing, introducing or encouraging the spread of nonnative species, and heavy recreational use may destroy or adversely modify critical habitat.

Critical habitat on the National Wildlife Refuge tracts could be affected directly by actions on the refuge, as well as indirectly by actions taken on surrounding lands. These actions include, but are not limited to, recreation management, road construction, granting of utility rights of way, and habitat restoration projects by the Fish and Wildlife Service; oil and gas exploration, extraction, and/or transportation permitted by Bureau of Land Management and the Federal Energy Regulatory Commission; road construction and brush clearing by the Immigration and Naturalization Service; and range improvement projects, including establishment of nonnative grasses, by the Natural Resource Conservation Service.

On the TxDOT tracts, actions, when carried out, funded, or authorized by a Federal agency, that may destroy or adversely modify critical habitat include highway construction projects funded by the Federal Highway Administration.

On the private land site, indirect as well as direct actions such as road construction and brush clearing by the Immigration and Naturalization Service, and range improvement projects, including establishment of nonnative grasses by the Natural Resource Conservation Service may adversely affect the population of Zapata bladderpod.

If you have questions regarding whether specific activities will likely constitute adverse modification of critical habitat, contact the Field Supervisor, Ecological Services Field Office, in Corpus Christi, Texas (see **ADDRESSES** section). If you want copies of the regulations on listed wildlife or have inquiries about prohibitions and permits, contact the U.S. Fish and Wildlife Service, Branch of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103 (telephone (505) 248-6920, facsimile (505) 248-6922).

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial

information available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of designating these areas as part of critical habitat. We cannot exclude areas from critical habitat if the exclusion would result in the extinction of the species concerned. We will conduct an analysis of the economic impacts of designating these areas as critical habitat prior to a final determination. The economic analysis will be available for public review and comment; when completed, we will announce its availability in the **Federal Register** and local newspapers, and we will open a 30-day comment period at that time.

American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act

In accordance with the Presidential Memorandum of April 29, 1994, we are required to assess the effects of critical habitat designation on tribal lands and tribal trust resources. No tribal lands are proposed for designation as critical habitat, and no effects on tribal trust resources are anticipated if this proposal is made final.

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, the Republic of Mexico, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of designating areas as critical habitat will outweigh the benefits of excluding those areas from the designation;

(2) Specific information on the amount and distribution of *Lesquerella thamnophila* habitat, and what habitat is essential to the conservation of the species and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or families; and

(5) Economic and other values associated with designating critical habitat for *Lesquerella thamnophila*, such as those derived from non-consumptive uses (e.g., hiking, camping, bird-watching, enhanced watershed protection, improved air quality, increased soil retention, "existence values," and reductions in administrative costs);

Executive order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this document easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the proposed rule easier to understand?

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours.

Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this request prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Peer Review

In accordance with our policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of this peer review is to ensure that listing decisions are based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite

them to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the 60-day comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final determination may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal. We will hold a public meeting in the Rio Grande City Activities Center (see **ADDRESSES**) from 5 p.m. to 7 p.m. on August 24, 2000, to share information on this proposal and answer questions from interested persons. Immediately following the meeting, we will hold a public hearing from 7 p.m. to 9 p.m., to provide the public with the opportunity to provide formal testimony on this proposal.

Written comments submitted during the comment period receive equal consideration with those comments presented at a public hearing.

Required Determinations

Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, this rule is a significant regulatory action and has been reviewed by the Office of Management and Budget (OMB). We will prepare a draft economic analysis of this proposed action to determine the economic consequences of designating the specific areas as critical habitat. We will announce in the **Federal Register** the availability of the draft economic

analysis for public review and comment.

(a) We do not anticipate that this rule will have an annual economic effect of \$100 million or more, or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. We will conduct an analysis of the economic impact of this proposed designation prior to making a final determination. Under the Act, critical habitat may not be adversely modified by a Federal agency action; critical habitat does not impose any restrictions on non-Federal persons unless they are conducting activities funded or otherwise sponsored or permitted by a Federal agency (see Table 2 below). Section 7 requires Federal agencies to ensure that they do not jeopardize the continued existence of the species. Based upon our experience with the species and its needs, we believe that any Federal action or federally authorized action that could potentially cause an adverse modification of the proposed critical habitat would currently be considered as “jeopardy” under the Act. Accordingly, the designation of currently occupied areas as critical habitat does not have any incremental impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons who receive Federal authorization or funding. Non-Federal persons who do not have a Federal “sponsorship” of their actions are not restricted by the designation of critical habitat (however, they continue to be bound by the provisions of the Act concerning “take” of the species). Designation of unoccupied areas as critical habitat may have impacts on what actions may or may not be

conducted by Federal agencies or non-Federal persons who receive Federal authorization or funding. We will evaluate any impact through our economic analysis (under section 4 of the Act; see Economic Analysis section of this rule).

(b) This rule will not create inconsistencies with other agencies’ actions. Table 2 shows a comparison of the effects on Federal actions resulting from the species’ listing versus those expected to result from critical habitat designation. For areas currently occupied by *Lesquerella thamnophila*, Federal agencies have already been required to consult with us through section 7 of the Act to ensure that their actions do not jeopardize the continued existence this species since it was listed. Designation of critical habitat in these areas will not change or add to this requirement. We will continue to review this proposed action for any inconsistencies with other Federal agency actions.

(c) The proposed rule, if made final, will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies are currently required to ensure that their activities do not jeopardize the continued existence of the species, and we do not anticipate that the adverse modification prohibition (resulting from critical habitat designation) will have significant incremental effects.

(d) This rule will not raise novel legal or policy issues.

The proposed rule follows the requirements for determining critical habitat contained in the Endangered Species Act.

TABLE 2.—IMPACTS OF DESIGNATING CRITICAL HABITAT FOR LESQUERELLA THAMNOPHILA

Categories of activities	Activities potentially affected by species listing only ¹	Additional activities potentially affected by critical habitat designation ²
Federal Activities Potentially Affected ³ .	Activities that remove or destroy occupied habitat whether by mechanical, chemical, or other means (e.g., soil disturbance for purposes including pasture improvement, heavy recreational use, inappropriate application of herbicides, etc.); sale, exchange, or lease of Federal land that contains occupied habitat that is likely to result in the habitat being destroyed or appreciably degraded.	Same activities, except for herbicide application, which appreciably degrade or destroy unoccupied critical habitat.

TABLE 2. IMPACTS OF DESIGNATING CRITICAL HABITAT FOR LESQUERELLA THAMNOPHILA—Continued

Categories of activities	Activities potentially affected by species listing only ¹	Additional activities potentially affected by critical habitat designation ²
Private and other non-Federal Activities Potentially Affected ⁴ .	Activities that require a Federal action (permit, authorization, or funding) and which: (1) Remove or destroy occupied habitat, whether by mechanical, chemical, or other means (e.g., road building and other construction projects, inappropriate application of herbicides, land clearing for purposes including oil and gas exploration, soil disturbance for purposes including pasture improvement, significant overgrazing, etc.); or (2) appreciably decrease habitat value or quality through indirect effects (e.g., introducing or encouraging the spread of nonnative species).	Same activities, except herbicide application, which appreciably degrade or destroy unoccupied critical habitat.

¹ This column represents the activities potentially affected by listing the Zapata bladderpod as an endangered species on November 22, 1999, under the Endangered Species Act (64 F 63745).

² This column represents the activities potentially affected by the critical habitat designation beyond the effects resulting from the species' listing.

³ Activities initiated by a Federal agency.

⁴ Activities initiated by a private or other non-Federal entity that may need Federal authorization or funding.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

In the economic analysis, (under section 4 of the Act), we will determine whether designation of critical habitat will have a significant economic effect on a substantial number of small entities. As discussed under Regulatory Planning and Review above, this rule is not expected to result in any significant restrictions in addition to those currently in existence.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

In the economic analysis, we will determine whether designation of critical habitat will cause (a) any effect on the economy of \$100 million or more, (b) any increases in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.):

a. This rule will not “significantly or uniquely” affect small governments. A Small Government Agency Plan is not required. No land is being designated that is under the jurisdiction of any small governments.

b. This rule will not produce a Federal mandate on State, local, or tribal governments or the private sector of \$100 million or greater in any year, i.e., it is not a “significant regulatory action” under the Unfunded Mandates Reform Act. The designation of critical habitat

imposes no obligations on State or local governments.

Takings

In accordance with Executive Order 12630, this rule does not have significant takings implications, and a takings implication assessment is not required. This proposed rule, if made final, will not “take” private property. The designation of critical habitat affects only Federal agency actions. The rule will not increase or decrease the current restrictions on private property concerning take of *Lesquerella thamnophila*. Additionally, critical habitat designation does not preclude development of habitat conservation plans and issuance of incidental take permits. Landowners in areas that are included in the designated critical habitat will continue to have opportunity to utilize their property in ways consistent with the survival of *Lesquerella thamnophila*.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required.

In keeping with Department of the Interior policy, we requested information from and coordinated development of this critical habitat proposal with appropriate State resource agencies in Texas. We will continue to coordinate any future designation of critical habitat for *Lesquerella thamnophila* with the appropriate State agencies. The designation of critical habitat will impose few additional restrictions beyond those currently in place and, therefore, will have little incremental impact on State and local governments and their activities. The designation

may have some benefit to these governments in that the areas essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are specifically identified.

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The Office of the Solicitor will review the final determination for this proposal. We will make every effort to ensure that the final determination contains no drafting errors, provides clear standards, simplifies procedures, reduces burden, and is clearly written such that litigation risk is minimized.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any information collection requirements for which Office of Management and Budget approval under the Paperwork Reduction Act is required.

National Environmental Policy Act

Our position is that, outside the U.S. Tenth Circuit, we do not need to prepare an environmental analysis as defined by the National Environmental Policy Act (NEPA) in connection with designating critical habitat. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (*Douglas County v. Babbitt*, 48F.3d 1495 (Ninth Circuit Oregon 1995), cert. denied 116 S. Ct.698 (1996)). However, when critical

habitat involves States within the Tenth Circuit, pursuant to the ruling in *Catron County Board of Commissioners v. U.S. Fish and Wildlife Service*, 75 F.3d 1429 (10th Circuit 1996), we undertake a NEPA analysis for critical habitat designation. Although *Lesquerella thamnophila* does not occur in any 10th Circuit States, this designation is subject to 10th Circuit review because the case compelling the settlement agreement was filed in New Mexico. Thus, we are preparing an environmental assessment of this action. Send your request for copies of the draft environmental assessment for this proposal to the Field Supervisor, Corpus Christi Ecological Services Field Office (see ADDRESSES).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM 2, we understand that Federally recognized Tribes must be related to on a Government-to-Government basis.

We determined that no Tribal lands are essential for the conservation of *Lesquerella thamnophila* because no Tribal lands support populations of this plant or suitable habitat. Therefore, we are not proposing to designate critical habitat for *Lesquerella thamnophila* on Tribal lands.

References Cited

Diamond, D. 1990. Plant Communities of Texas (series level). Texas Parks and Wildlife Department. Austin, Texas.
 Poole, J. 1989. Status Report on *Lesquerella thamnophila*. U.S. Fish and Wildlife Service, Albuquerque, New Mexico.
 Rollins, R. C. and E. A. Shaw. 1973. The Genus *Lesquerella*. Harvard University Press, Cambridge, Massachusetts.
 Thompson, C.M., R.R. Sanders, and D. Williams. 1972. Soil Survey of Starr County, Texas. U.S. Department of Agriculture. Soil Conservation Service, Temple, Texas.

Authors

The authors of this notice are Loretta Pressly and Lee Elliott (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend 50 CFR part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h), by revising the entry for "*Lesquerella thamnophila*" under "FLOWERING PLANTS" to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *
 (h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
*	*	*	*	*	*	*	*
FLOWERING PLANTS							
*	*	*	*	*	*	*	*
<i>Lesquerella thamnophila</i>	Zapata bladderpod	U.S.A (TX), Mexico.	Brassicaceae	E	671	17.96(a)	N/A
*	*	*	*	*	*	*	*

3. Amend § 17.96 by adding critical habitat for *Lesquerella thamnophila*, Zapata bladderpod, in alphabetical order by scientific name under Family Brassicaceae to read as follows:

§ 17.96 Critical habitat-plants.

(a) *Flowering plants.*

* * * * *
 Family Brassicaceae * * *
Lesquerella thamnophila (Zapata bladderpod).

1. Critical habitat units are depicted for Starr and Zapata

Counties, Texas, on the maps below. Critical habitat includes National Wildlife Refuge tracts, highway right-of-way sites, and one site on private land.

2. Within these areas, the primary constituent elements are:

(1) Arid upland habitats of various soil types, including highly calcareous sandy loam to loamy sand, with low to

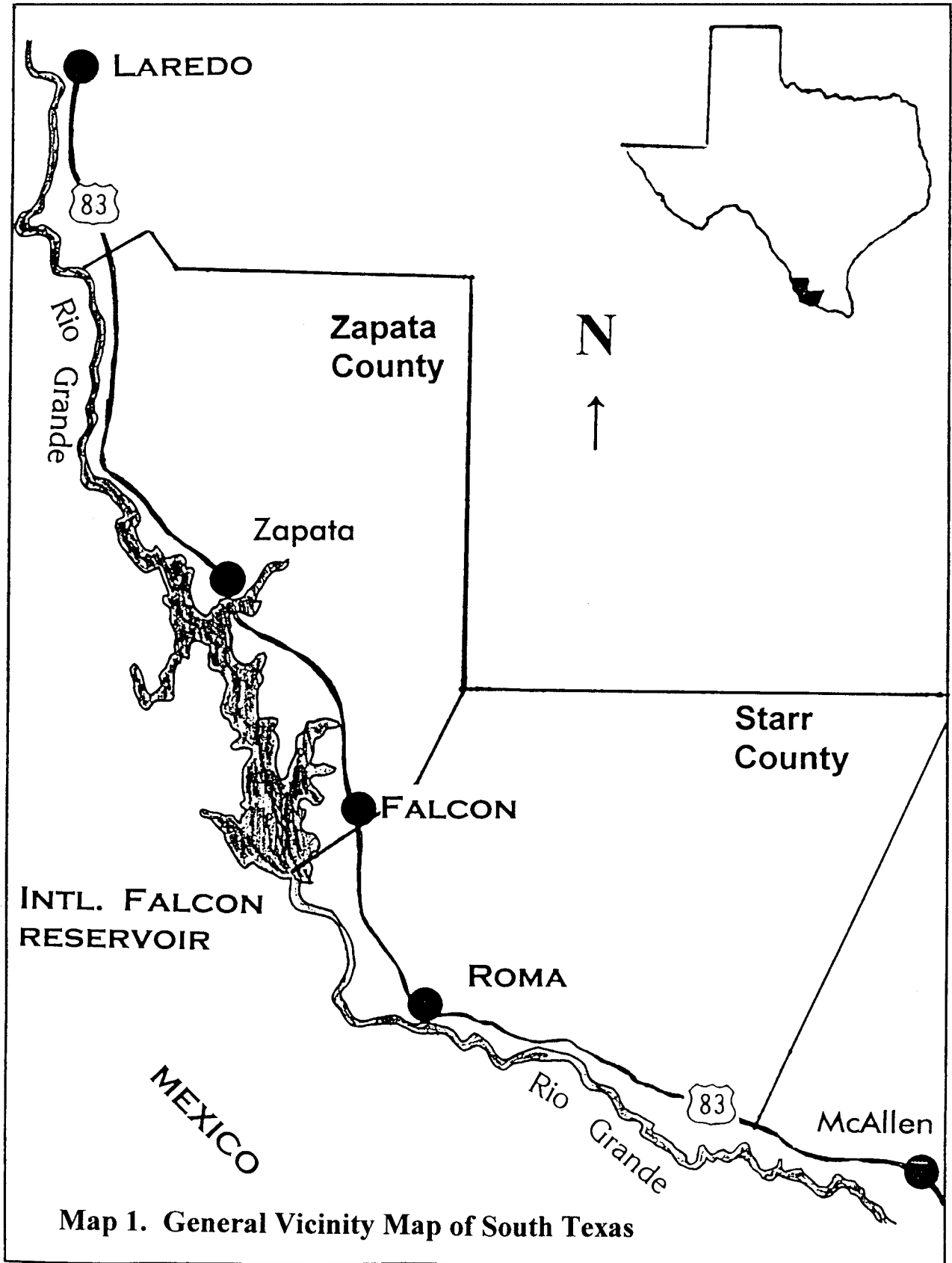
moderate salinity levels on low, sloping hills;

(2) Absence of substantial previous soil disturbance and seeding or sodding of exotic grasses; and

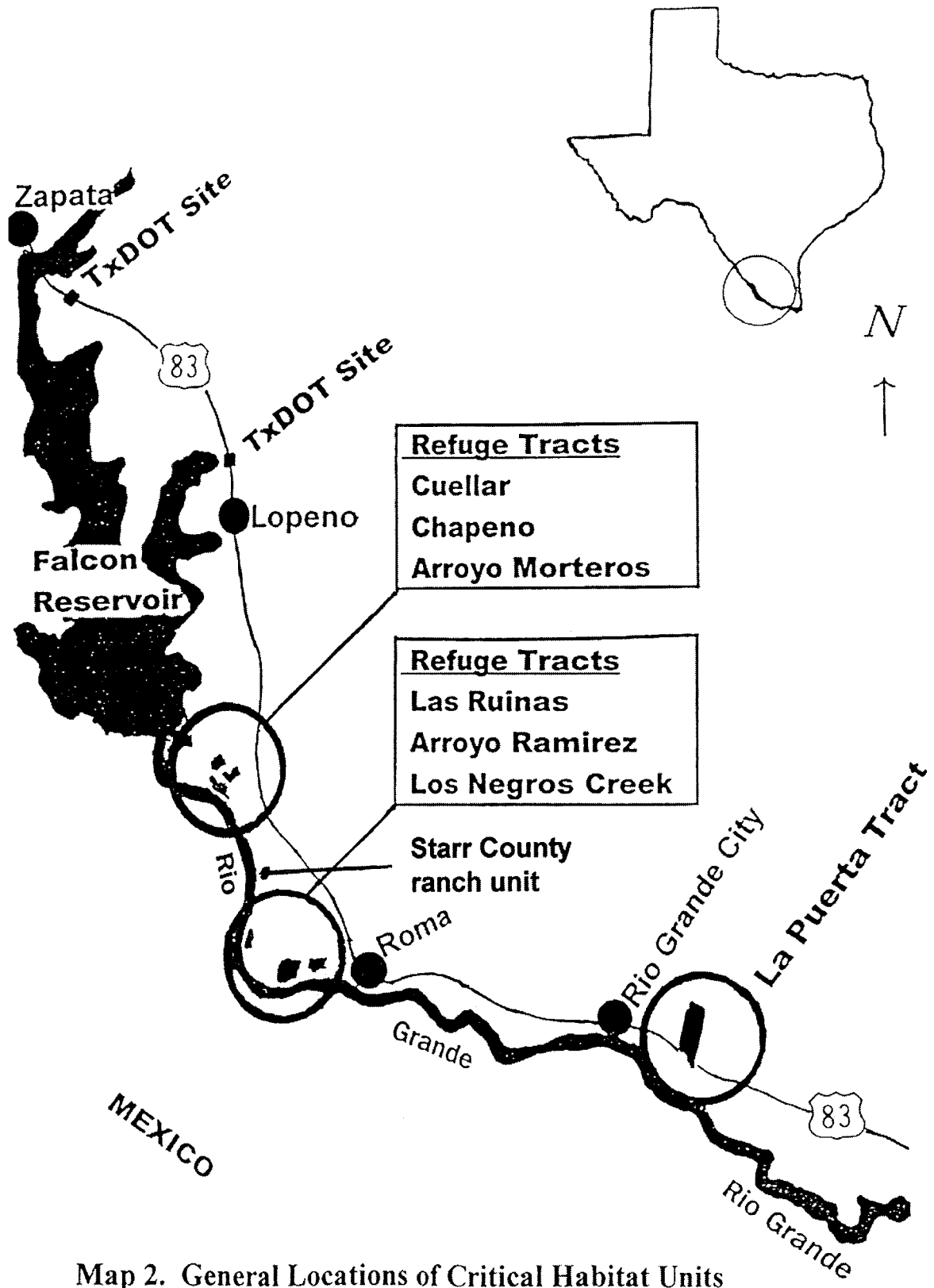
(3) A sparse overstory of shrub species typical of the Tamaulipan biotic province, but lacking a complete canopy as might be provided by a continuous overstory dominated by mesquite (*Prosopis glandulosa*).

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Map 1. General Vicinity Map of South Texas



Map 2. General Locations of Critical Habitat Units



Map 2. General Locations of Critical Habitat Units

Critical Habitat on Lower Rio Grande Valley National Wildlife Refuge Tracts, Starr County, Texas (Area measurements are approximate.):

Unit 1, Cuellar Tract (18 hectares (ha); 45 acres (ac))—(Segment 669). Note: All bearings are based on the Texas State Plane Coordinate System, South Zone, as referenced by the National Geodetic Survey Triangulation Station “LABRA” (not found) having State plane coordinates of N=331,881.065, E=1,794,777.75. The scale factor used is 0.9999252, and the theta angle is $-00^{\circ}37'32''$. All areas and distances are true surface measurements. Beginning at a standard U.S. Fish and Wildlife Service (FWS) aluminum monument set for corner on the southeasterly line of Porcion No. 59 and the northeast corner of Share 35 and stamped “Tract 669, COR No. 1, R.P.L.S. #4303” and having a State plane coordinate value of N=320,083.51, E=1,799,578.77, from which triangulation station “LABRA”, bears N $22^{\circ}08'38''$ W, 12,737.98 feet; thence, in a southwesterly direction along the common line of Porcion 59 and 60, S $54^{\circ}32'24''$ W, 2,290.19 feet, to a standard FWS aluminum monument set for corner, being the common corner of Shares 35 and 26 and stamped “Tract 669, COR No. 2, R.P.L.S. No. 4303; thence, in a northwesterly direction along the common line of Share 35 with Shares 26 and 27, N $35^{\circ}27'36''$ W, 640.00 feet to a standard FWS aluminum monument set for corner, being the most southerly common corner of Shares 35 and 34 and stamped “Tract 669, COR. No. 3, R.P.L.S. No. 4303”; thence, in a northeasterly direction along the common line of Shares 35 and 34; N $54^{\circ}32'24''$ E, 2,290.19 feet to a standard FWS aluminum monument set for corner, being the most northerly common corner of shares 35 and 34 and stamped “Tract 669, COR No. 4, R.P.L.S. No. 4303; thence, in a southeasterly direction along the common line of Shares 35 and 36 Parcel-A; S $35^{\circ}27'36''$

E, 640.00 feet to the point of beginning and containing 33.648 acres of land.

(Cuellar Tract—Segment 672). Note: All bearings are based on the Texas State Plane Coordinate System, South Zone, as referenced by U.S. Fish and Wildlife Service GPS Monument No. 105 having State plane coordinates (NAD 27) of N=311,099.90, E=1,799,824.45. The scale factor used is 0.9999252, and the theta angle is $-00^{\circ}37'32''$. All areas and distances are true surface measurements. Beginning at a standard FWS aluminum monument set for corner on the common line between Porcions 59 and 60, and being the northeast corner of Share 26 and stamped “Tract 672, COR. No. 1, R.P.L.S. No. 3680” and having a State plane coordinate value of N=318,737.64, E=1,797,725.36, from which FWS GPS Monument No. 105 bears S $15^{\circ}22'02''$ E, 7,920.94 feet; thence, in a southeasterly direction along the common line of Porcion 59 and 60, S $54^{\circ}27'12''$ W, 806.50 feet to a standard FWS aluminum monument set for corner, being the southeast corner of said north one-half ($\frac{1}{2}$) of Share 26, same being the northeast corner of the south one-half ($\frac{1}{2}$) of Share 26 and stamped “Tract 672, COR. No. 2, R.P.L.S. No. 3680”; thence, in a northwesterly direction along the common line of said north and south one-half ($\frac{1}{2}$) of Share 26; N $35^{\circ}27'36''$ W, 463.31 feet to a standard FWS aluminum monument set for corner in the common line between Shares 26 and 27 and stamped “Tract 672, COR. No. 3, R.P.L.S. No. 3680”; thence, in a northeast direction along the common line of Shares 26 and 27; N $54^{\circ}32'24''$ E, 806.50 feet to a standard FWS aluminum monument set for corner, being the most northerly common corner of Shares 26 and 27 in the south line of Share 35 and stamped “Tract 672, COR. No. 4, R.P.L.S. No. 3680”; thence, in a southeasterly direction along the common line of Shares 35 and 26; S $35^{\circ}27'36''$ E, 462.09

feet to the point of beginning and containing 8.567 acres of land.

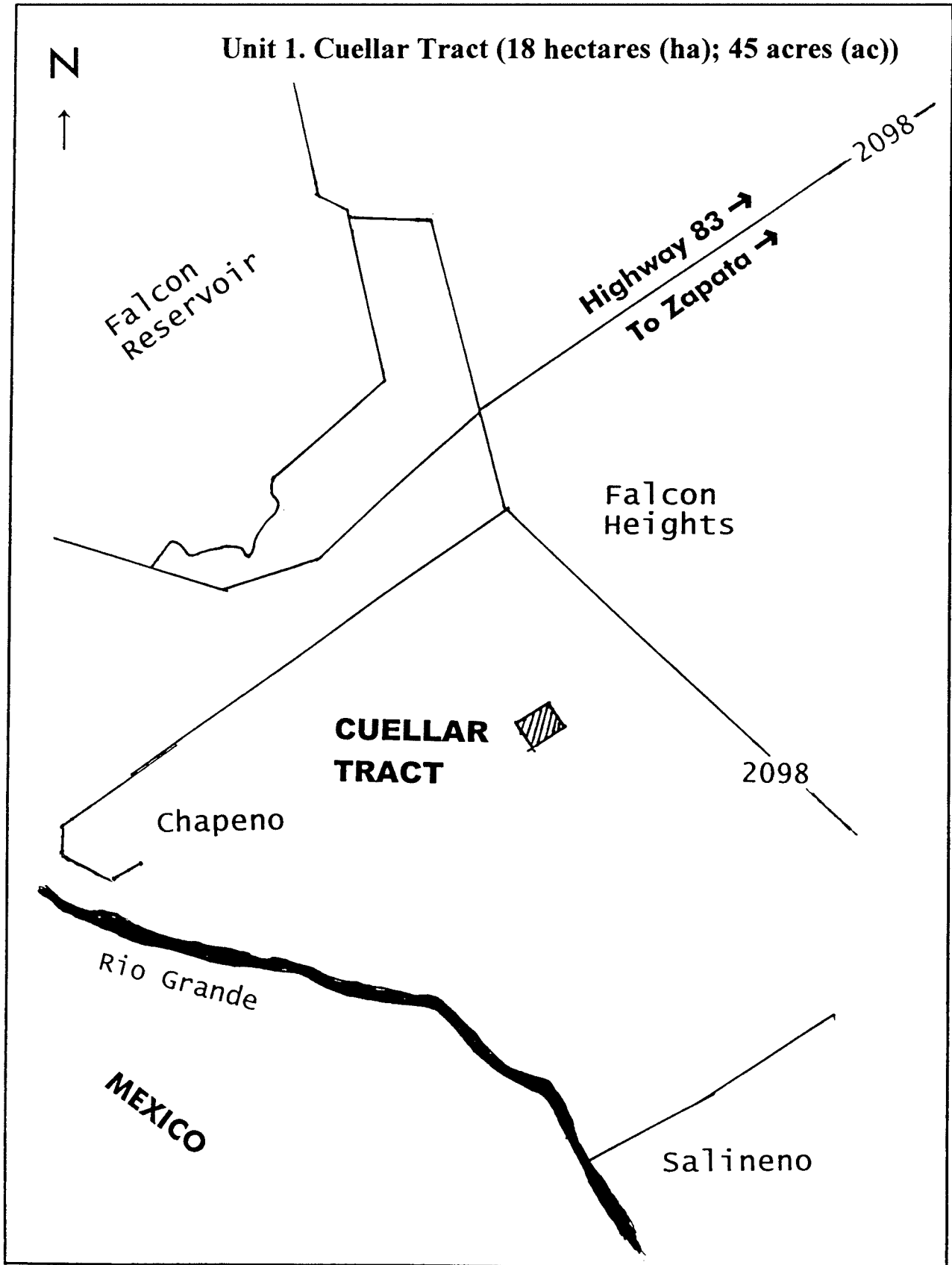
(Cuellar Tract—Segment 673). Note: All bearings are based on the Texas State Plane Coordinate System, South Zone, as referenced by FWS GPS Monument No. 105 having State plane coordinates (NAD 27) of N = 311,099.90, E = 1,799,824.45. The scale factor used is 0.9999252, and the theta angle is $-00^{\circ}37'32''$. All areas and distances are true surface measurements. Beginning at a standard FWS aluminum monument set for the common north corner of Shares 26 and 27, in the south line of Share 35 and stamped “Tract 672, COR. No. 4, R.P.L.S. No. 3680” and having a state plane coordinate value of N = 319,114.02, E = 1,797,457.29, from which FWS GPS Monument No. 105 bears S $16^{\circ}27'21''$ E, 8,356.40 feet; thence, in a southwesterly direction along the common line of Shares 26 and 27, S $54^{\circ}32'24''$ N, 806.50 feet to a standard FWS aluminum monument set for corner, being the southeast corner of said north one-half ($\frac{1}{2}$) of Share 27, same being the northeast corner of the south one-half ($\frac{1}{2}$) of Share 27 and stamped “Tract 672, COR. No. 3, R.P.L.S. No. 3680”; thence, in a northwesterly direction along the common line of said north and south one-half ($\frac{1}{2}$) of Share 27; N $35^{\circ}27'36''$ W, 592.30 feet to a standard FWS aluminum monument set for corner in the common line between Shares 27 and 28 and stamped “Tract 674, COR. No. 3, R.P.L.S. No. 3680”; thence, in a northeasterly direction along the common line of Shares 27 and 28, N $54^{\circ}32'24''$ E, 806.50 feet to a standard FWS aluminum monument set for corner, being the most northerly common corner of Shares 27 and 28 in the south line of Share 34 and stamped “Tract 674, COR. No. 2, R.P.L.S. No. 3680”; thence, in a southeasterly direction along the common line of Shares 34 and 27, S $35^{\circ}27'36''$ E, 592.30 feet to the point of beginning and containing 10.966 acres of land.

(Cuellar Tract—Segment 674). Note: All bearings are based on the Texas State Plane Coordinate System, South Zone, as referenced by FWS GPS Monument No. 105 having State plane coordinates (NAD 27) of N = 311,099.90, E = 1,799,824.45. The scale factor used is 0.9999252, and the theta angle is $-00^{\circ} 37' 32''$. All areas and distances are true surface measurements. Beginning at a standard FWS aluminum monument set replacing a 1-inch iron pipe found for the common north corner of Shares 28 and 29, in the south line of Share 33 and stamped "Tract 674, COR. No. 1, R.P.L.S. No. 3680" and having a state plane coordinate value of N = 320,078.90, E = 1,796,770.06, from

which FWS GPS Monument No. 105 bears S $18^{\circ} 47' 11''$ E, 9,484.36 feet; thence, in a southeasterly direction along the common line of Share 28 and Shares 33 and 34, S $35^{\circ} 27' 36''$ E, 592.30 feet to a standard FWS aluminum monument set for corner, being the common northerly corner of Shares 28 and 27 and stamped "Tract 674, COR. No. 2, R.P.L.S. No. 3680"; thence, in a southwesterly direction along the common line of said Share 28 and 27; S $54^{\circ} 32' 24''$ W, 806.50 feet to a standard FWS aluminum monument set for the southeasterly corner of said north one-half ($\frac{1}{2}$) of Share 28, same being the northeasterly corner of the south one-half ($\frac{1}{2}$) of Share 28 and

stamped "Tract 674, COR. No. 3, R.P.L.S. No. 3680"; thence, in a northwesterly direction along the common line of the north and south one-half ($\frac{1}{2}$) of Share 28, N $35^{\circ} 27' 36''$ W, 592.30 feet to a standard FWS aluminum monument set for corner in the common line between Shares 28 and 29 and stamped "Tract 674, COR. No. 4, R.P.S. No. 3680"; thence, in a northeasterly direction along the common line of Shares 28 and 29; N $54^{\circ} 32' 24''$ E, 806.50 feet to the point of beginning and containing 10.966 acres of land.

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Unit 2, Chapeno Tract (28 ha; 69 ac)—(Chapeno Tract—Segment 660). Note: All bearings and distances are based on the International Boundary Commission Monuments as referenced by the U.S.C. & G. S. Triangulation Station “LABRA.” The scale factor used is 0.9999252, and the theta angle is $-00^{\circ} 37' 32''$ (NAD 1927). All areas shown are true ground areas. Commencing for reference at the U. S. C. & G. S. triangulation station “LABRA,” having coordinate values: $x = 1,794,777.75$, $y = 331,881.06$; thence, S $02^{\circ} 08' 43''$ W, a distance of 9,020.47 feet to the northwesterly boundary line of said 44.900-acre tract for the northernmost corner of said Share No. 17 and being corner No. 1 and the northernmost corner and place of beginning of the tract herein-described; thence, along the northeasterly boundary line of Share No. 17 and the southwesterly boundary line of a 35-foot perpetual easement, S $32^{\circ} 11' 36''$ E, 840.62 feet to the easternmost corner of said Share No. 17 and being corner No. 2 of this tract; thence, along the southeasterly boundary line of Share No. 17 and the northwesterly boundary line of Share No. 18, S $47^{\circ} 29' 30''$ W, 293.59 feet to a said point on a fence line along the southwesterly boundary line of said 44.900-acre tract for the southernmost corner of said Share No. 17 and being corner No. 3 of this tract; thence, following said fence line along the southwesterly boundary line of Share No. 17 and the southwesterly boundary line of said 44.900-acre tract, N $30^{\circ} 16' 28''$ W, 166.16 feet to a standard FWS aluminum monument stamped “Tract (660), R.P.S. No. 4731” set for a corner of said 44.900-acre tract and being corner No. 4 of this tract; thence, continuing along said fence line along the southwesterly boundary line of Share No. 17 and the southwesterly boundary line of said 44.900-acre tract, N $31^{\circ} 04' 59''$ W, 684.02 feet to a standard FWS aluminum monument stamped “Tract (660), R. P. S. No. 4731” set for the westernmost corner of said 44.900-acre tract and being corner No. 5 of this tract, thence, following a fence line along the northwesterly boundary line of Share No. 17 and the northwesterly boundary line of said 44.900-acre tract, N $48^{\circ} 42' 36''$ E, 273.46 feet to the place of beginning and containing 5.396 acres of land.

(Chapeno Tract—Segment 661). Note: All bearings and distances are based on the International Boundary Commission Monuments as referenced by the U. S. C. & G. S. triangulation station “LABRA.” The scale factor used is 0.9999252, and the theta angle is $-00^{\circ} 37' 32''$ (NAD 1927). All areas shown are

true ground areas. Commencing for reference at the U. S. C. & G. S. triangulation station “LABRA,” having coordinate values: $x = 1,794,777.75$, $y = 331,881.06$; thence, S $00^{\circ} 48' 20''$ E, a distance of 9,702.45 feet to the northernmost corner of said Share No. 18 and being corner No. 1 and the northernmost corner and place of beginning of the tract herein-described; thence, along the northeasterly boundary line of Share No. 18 and the southwesterly boundary line of Share No. 19, S $42^{\circ} 40' 05''$ E, 623.01 feet to a point on a fence line along the southeasterly boundary line of said 44.900-acre tract for the easternmost corner of said Share No. 18 and being corner No. 2 of this tract; thence, following said fence line along the southeasterly boundary line of Share No. 18 and the southeasterly boundary line of said 44.900-acre tract, S $54^{\circ} 58' 43''$ W, 14.82 feet to a standard FWS aluminum monument stamped “Tract (661), R. P. S. No. 4731” set for a corner of said 44.900-acre tract and being corner No. 3 of this tract; thence, continuing along said fence line along the southeasterly boundary line of Share No. 18 and the southeasterly boundary line of said 44.900-acre tract, S $54^{\circ} 17' 40''$ W, 442.61 feet to a standard FWS aluminum monument stamped “Tract (661), R. P. S. No. 4731” set for the southernmost corner of said 44.900-acre tract and being corner No. 4 of this tract; thence, following a fence line along the southwesterly boundary line of Share No. 18 and the southwesterly boundary line of said 44.900-acre tract, N $30^{\circ} 16' 28''$ W, 581.86 feet to a point for the westernmost corner of said Share No. 18 and being corner No. 5 of this tract; thence, along the southeasterly boundary line of Share No. 17 and the northwesterly boundary line of Share No. 18, N $47^{\circ} 29' 30''$ E, 329.16 feet to the place of beginning and containing 5.396 acres of land.

(Chapeno Tract—Segment 662). Note: All bearings and distances are based on the International Boundary Commission Monuments as referenced by the U.S.C. & G.S. triangulation station “LABRA.” The scale factor used is 0.9999252, and the theta angle is $-00^{\circ} 37' 32''$ (NAD 1927). All areas shown are true ground areas. Commencing for reference at the U. S. C. & G. S. triangulation station “LABRA,” having coordinate values: $x = 1,794,777.75$, $y = 331,881.06$; thence, S $00^{\circ} 53' 22''$ E, a distance of 9,308.09 feet to the northernmost corner of said Share No. 19 and being corner No. 1 and the northernmost corner and the place of beginning of the tract herein-described; thence, along the northeasterly

boundary line of Share No. 19 and the southwesterly boundary line of Share No. 20, S $41^{\circ} 14' 45''$ E, 941.54 feet to a point on a fence line along the southeasterly boundary line of said 44.900-acre tract for the easternmost corner of said Share No. 19 and being corner No. 2 of this tract; thence, following said fence line along the southeasterly boundary line of Share No. 19 and the southeasterly boundary line of said 44.900-acre tract, S $55^{\circ} 22' 51''$ W, 8.49 feet to a standard FWS aluminum monument stamped “Tract (662), R. P. S. No. 4731” set for a corner of said 44.900-acre tract and being corner No. 3 of this tract; thence, continuing along said fence line along the southeasterly boundary line of Share No. 19 and the southeasterly boundary line of said 44.900-acre tract, S $54^{\circ} 58' 43''$ W, 243.72 feet to the southernmost corner of Share No. 19 and being corner No. 4 of this tract; thence, along the northeasterly boundary line of Share No. 18 and the southwesterly boundary line of Share No. 19, N $42^{\circ} 40' 05''$ W, 623.01 feet to a corner of Share No. 19 and being corner No. 5 of this tract; thence, along the northeasterly boundary line of a 35-foot perpetual easement and the southwesterly boundary line of Share No. 19, N $32^{\circ} 08' 41''$ W, 293.64 feet to the westernmost corner of said Share No. 19 and being corner No. 6 of this tract; thence, along the southeasterly boundary line of a 35-ft. perpetual easement and the northwesterly boundary line of Share No. 19, N $48^{\circ} 23' 35''$ E, 219.73 feet to the place of beginning and containing 5.396 acres of land.

(Chapeno Tract—Segment 663). Note: All bearings and distances are based on the International Boundary Commission Monuments as referenced by the U.S.C. & G.S. triangulation station “LABRA.” The scale factor used is 0.9999252, and the theta angle is $-00^{\circ} 37' 32''$ (NAD 1927). All areas shown are true ground areas. Commencing for reference at the U. S. C. & G. S. triangulation station “LABRA,” having coordinate values: $x = 1,794,777.75$, $y = 331,881.06$; thence, S $01^{\circ} 55' 50''$ E, a distance of 9,166.26 feet to the northernmost corner of said share No 20, and being corner No. 1, and the northernmost corner and place of beginning of the tract herein-described; thence, along the northeasterly boundary line of Share No. 20 and the southwesterly boundary line of Share No. 21, S $44^{\circ} 17' 45''$ E, 975.87 feet to a point on a fence line along the southeasterly boundary line of said 44.900-acre tract for the easternmost

corner of said Share No. 20 and being corner No. 2 of this tract; thence, following said fence line along the southeasterly boundary line of Share No. 20 and the southeasterly boundary line of said 44.900-acre tract; S 55° 22' 51" W, 273.48 feet to the southernmost corner of Share No. 20 and being corner No. 3 of this tract; thence, along the northeasterly boundary line of Share No. 19 and the southwesterly boundary line of Share No. 20, N 41° 14' 45" W, 941.54 feet to the westernmost corner of Share No. 20 and being corner No. 4 of this tract; thence, along the southeasterly boundary line of a 35-ft. perpetual easement and the northwesterly boundary line of Share No. 20, N 48° 23' 35" E, 219.73 feet to the place of beginning and containing 5.396 acres of land.

(Chapeno Tract—Segment 664). Note: All bearings and distances are based on the International Boundary Commission Monuments as referenced by the U.S.C. & G.S. triangulation station "LABRA." The scale factor used is 00.9999252, and the theta angle is $-00^{\circ} 37' 32''$ (NAD 1927). All areas shown are true ground areas. Commencing for reference at the U. S. C. & G. S. triangulation station "LABRA," having coordinate values: x = 1,794,777.75, y = 331,881.06; thence, S 03° 00' 15" E, a distance of 9,027.56 feet to the northernmost corner of said Share No. 21 and being corner No. 1 and the northernmost corner and place of beginning of the tract herein-described; thence, along the northeasterly boundary line of Share No. 21 and the southwesterly boundary line of Share No. 22, S 46° 18' 57" E, 1,008.60 feet to a point on a fence line along the southeasterly boundary line of said 44.900-acre tract for the easternmost corner of Share No. 21 and being corner No. 2 of this tract; thence, following said fence line along the southeasterly boundary line of Share No. 21 and the southeasterly boundary line of said 44.900-acre tract, S 54° 17' 59" W, 56.04 feet to a standard FWS aluminum monument stamped "Tract (664), R. P. S. No. 4731" set for a corner of said 44.900-acre tract and being corner No. 3 of this tract; thence, continuing along said fenceline along the southeasterly boundary line of Share No. 21 and the southeasterly boundary line of said 44.900-acre tract, S 55° 22' 51" W, 202.51 feet to the southernmost corner of Share No. 21 and being corner No. 4 of this tract; thence, along the northeasterly boundary line of Share No. 20 and the southwesterly boundary line of Share No. 21, N 44° 17' 45" W, 975.87 feet to the westernmost corner of Share No. 21 and being corner No. 5 of

this tract; thence, along the southeasterly boundary line of a 35-foot perpetual easement and the northwesterly boundary line of Share No. 21, N 48° 23' 35" E, 219.73 feet to the place of beginning and containing 5.396 acres of land.

(Chapeno Tract—Segment 665). Note: All bearings and distances are based on the International Boundary Commission Monuments as referenced by the U.S.C. & G.S. Triangulation station "LABRA." The scale factor used is 00.9999252, and the theta angle is $-00^{\circ} 37' 32''$ (NAD 1927). All areas shown are true ground areas. Commencing for reference at the U.S.C. & G.S. Triangulation station "LABRA," having coordinate values: x = 1,794,777.75, y = 331,881.06; thence, S 04° 06' 38" E, a distance of 8,892.12 feet to the northernmost corner of said Share No. 22 and being corner No. 1 and the northernmost corner and place of beginning of the tract herein-described; thence, following a fence line along the northeasterly boundary line of Share No. 22 and the southwesterly boundary line of Share No. 23, S 47° 33' 31" E, 1,036.06 feet to a point on a fence line along the southeasterly boundary line of said 44.900-acre tract for the easternmost corner of said Share No. 22 and being corner No. 2 of this tract; thence, following said fenceline along the southeasterly boundary line of Share No. 22 and the southeasterly boundary line of said 44.900-acre tract, S 54° 17' 59" W, 245.67 feet to the southernmost corner of Share No. 22 and being corner No. 3 of this tract; thence, along the northeasterly boundary line of Share No. 21 and the southwesterly boundary line of Share No. 22, N 46° 18' 57" W, 1,008.60 feet to the westernmost corner of Share No. 22 and being corner No. 4 of this tract; thence, along the southeasterly boundary line of a 35-foot perpetual easement and the northwesterly boundary line of Share No. 22, N 48° 23' 35" E, 219.73 feet to the place of beginning and containing 5.396 acres of land.

(Chapeno Tract—Segment 666). Note: All bearings and distances are based on the International Boundary Commission Monuments as referenced by the U.S.C. & G.S. triangulation station "LABRA." The scale factor used is 00.9999252, and the theta angle is $-00^{\circ} 37' 32''$ (NAD 1927). All areas shown are true ground areas. Commencing for reference at the U.S.C. & G.S. Triangulation station "LABRA," having coordinate values: x = 1,794,777.75, y = 331,881.06; thence, S 05° 15' E, a distance of 8,710.10 feet to the northernmost corner of said Share No. 23 and being corner No. 1 and the northernmost corner and place of

beginning of the tract herein-described; thence, following a fenceline along the northeasterly boundary line of Share No. 23 and the southwesterly boundary line of said Share No. 24, S 48° 10' 23" E, 1,061.62 feet to a point on a fence line along the southeasterly boundary line of said 44.900-acre tract for the easternmost corner of Share No. 23 and being corner No. 2 of this tract; thence, following said fenceline along the southeasterly boundary line of Share No. 23 and the southeasterly boundary line of said 44.900-acre tract, S 54° 17' 59" W, 234.95 feet to the southernmost corner of Share No. 23 and being corner No. 3 of this tract; thence, along the northeasterly boundary line of Share No. 22 and the southwesterly boundary line of Share No. 23, N 47° 33' 31" W, 1,036.06 feet to the westernmost corner of Share No. 23 and being corner No. 4 of this tract; thence, along the southeasterly boundary line of a 35-ft. perpetual easement and the northwesterly boundary line of Share No. 23, N 48° 23' 35" E, 219.73 feet to the place of beginning and containing 5.396 acres of land.

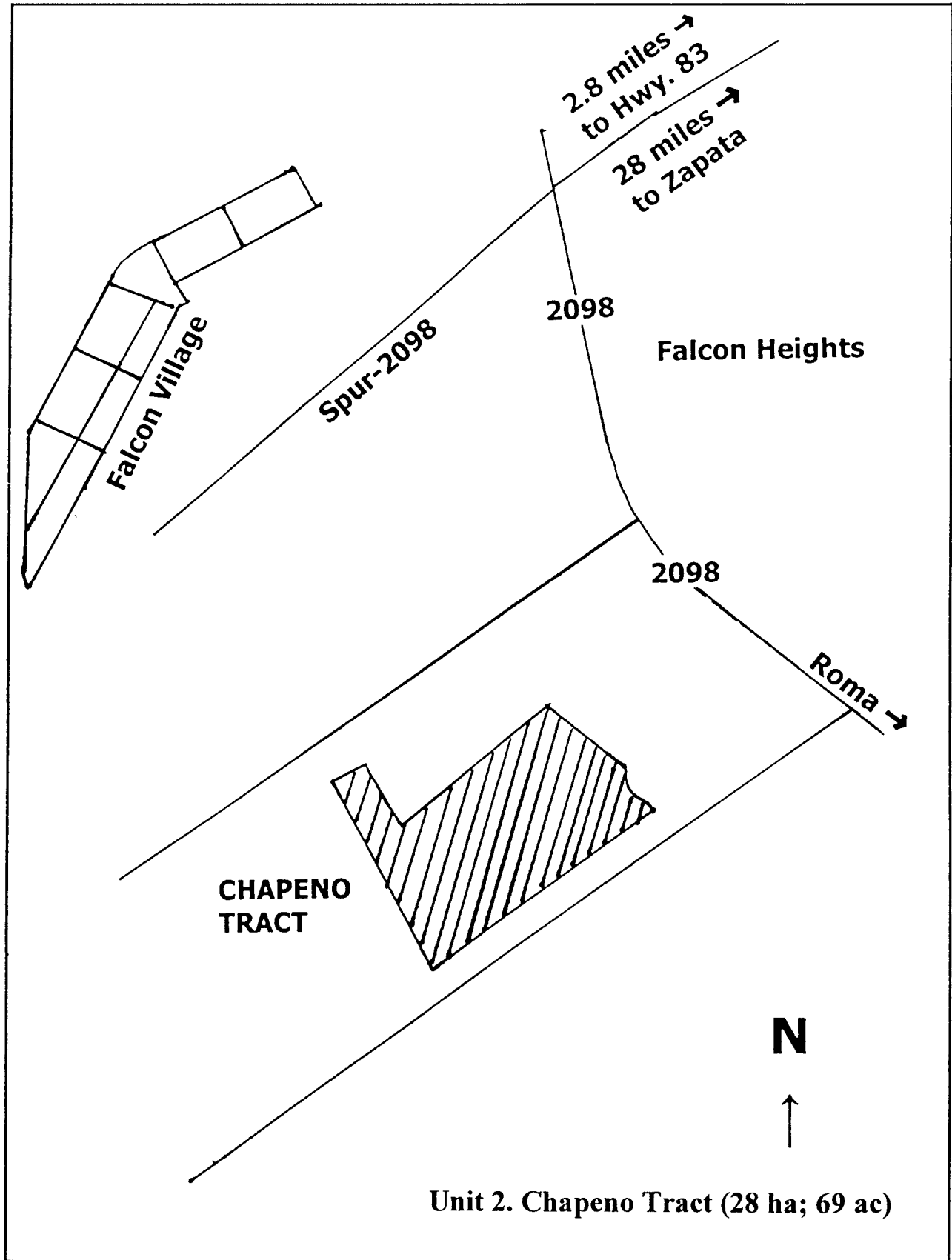
(Chapeno Tract—Segment 667). Note: All bearings and distances are based on the International Boundary Commission Monuments as referenced by the U.S.C. & G.S. Triangulation station "LABRA." The scale factor used is 00.9999252, and the theta angle is $-00^{\circ} 37' 32''$ (NAD 1927). All areas shown are true ground areas. Commencing for reference at the U.S.C. & G.S. Triangulation station "LABRA," having coordinate values: x = 1,794,777.75, y = 331,881.06; thence, S 06° 25' 32" E, a distance of 8,631.65 feet to the northeasterly boundary line of said 44.900-acre tract for corner No. 1 and the place of beginning of the tract herein-described; thence, following a fence line along the northeasterly boundary line of share No. 24 and the northeasterly boundary line of said 44.900-acre tract, S 51° 42' 47" E, 679.97 feet to a standard FWS aluminum monument stamped "Tract (667), R. P. S. No. 4731" set for a corner of said 44.900-acre tract and being corner No. 2 of this tract; thence, continuing along the fenceline along the northeasterly boundary line of Share No. 24 and the northeasterly boundary line of said 44.900-acre tract, S 01° 11' 48" E, 136.46 feet to a standard FWS aluminum monument stamped "Tract (667), R. P. S. No. 4731" set for a corner of said 44.900-acre tract and being corner No. 3 of this tract; thence, continuing along the fenceline along the northeasterly boundary line of Share No. 24 and the

northeasterly boundary line of said 44.900-acre tract, S 54°15'17"E, 309.21 feet to a standard FWS aluminum monument stamped "Tract (667), R. P. S. No. 4731" set on a fenceline for the easternmost corner of Share No. 24 and being on the southeasterly boundary line of said 44.900-acre tract and being corner No. 4 of this tract; thence, following said fence line along the southeasterly boundary line of share No.

24 and the southeasterly boundary line of said 44.900-acre tract, S 54°17'59"W, 197.94 feet to the southernmost corner of Share No. 24 and being corner No. 5 of this tract; thence, following said fenceline along the southwesterly boundary line of Share No. 24 and the northeasterly boundary line of Share No. 23, N 48°10'23"W, 1,061.62 feet to the westernmost corner of Share No. 24 and northernmost corner of Share No.

23 and being corner No. 6 of this tract; thence, along the southeasterly boundary line of a 35-ft. perpetual easement and the northwesterly boundary line of Share No. 24, N 48°23'35"E, 219.73 feet to the place of beginning and containing 5.396 acres of land.

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Unit 3, Arroyo Morteros Tract (41 ha; 102 ac)—Note: All bearings are based on the Texas State Plane Coordinate System, South Zone, (NAD 27), as referenced by FWS GPS Monument No. 105 having State plane coordinates of N = 311,099.90, E = 1,799,824.45. The scale factor used is 0.9999252, and the theta angle is $-00^{\circ}37'32''$. All areas and distances are true surface measurements. Beginning at a 1/2-inch iron rod found for corner No. 1 on the common line between Porcions 59 and 60, and being the northwest corner of that certain 127.71-acre tract and having a State plane coordinate value of N = 315,746.07, E = 1,793,538.58, from which FWS GPS monument No. 105 bears S $53^{\circ}31'49''$ E, 7,816.59 feet; thence, in a northeasterly direction along the common line of Porcion 59 and 60; N $54^{\circ}27'12''$ E, 510.43 feet to a standard FWS aluminum monument set for corner replacing a 1/2-inch iron rod found, being the northwest corner of the herein described tract and stamped "Tract 670, Cor. No. 2, R. P. L. S. No. 3680"; thence, in a easterly direction through the interior of said 536.485 acre tract; S $35^{\circ}20'27''$ E, 3,621.01 feet to a standard FWS aluminum monument set for corner replacing a 1/2-inch iron rod found, being the northeast corner of the herein-described tract and stamped "Track 670, Cor. No. 3, R.P.L.S. No. 3680"; thence, in a southerly direction continuing through the interior of said 536.485 acre tract; S $61^{\circ}18'54''$ W, 219.24 feet to a fence corner post found for a northwesterly corner of that certain 17.408 acre tract and being corner No. 4; thence, in a easterly direction along the common line between said 17.408 acre tract and the herein described tract; S $88^{\circ}47'16''$ W, 110.41 feet to a fence post found for angle point and corner No. 5; thence, in a easterly direction continuing along said common line between a 17.408 acre tract and herein described tract; N $79^{\circ}11'33''$ W, 67.63 feet to a fence post found for angle point and corner No. 6; thence, in a easterly direction continuing along said common line between a 17.408 acre tract and herein described tract; S $71^{\circ}49'04''$ W, 50.57 feet to a fence post found for angle point and corner No. 7; thence, in a southerly direction continuing along said common line between a 17.408 acre tract and herein described tract; S $15^{\circ}40'49''$ W, 44.43 feet to a fence post found for angle point and corner No. 8; thence, in a southerly direction continuing along said common line between a 17.408 acre tract and herein described tract; S $00^{\circ}18'59''$ E, 253.83 feet to a fence post found for angle point and corner No. 9; thence, in a southerly

direction continuing along said common line between a 17.408 acre tract and herein described tract; S $06^{\circ}36'21''$ W, 182.88 feet to a fence post found for angle point and corner No. 10; thence, in a southerly direction continuing along said common line between a 17.408 acre tract and herein described tract; S $26^{\circ}38'19''$ W, 125.18 feet to a fence post found for angle point and corner No. 11; thence, in a southerly direction continuing along said common line between a 17.408 acre tract and herein described tract; S $67^{\circ}33'26''$ W, 129.76 feet to a fence post found for angle point and corner No. 12; thence, in a southerly direction continuing along said common line between a 17.408-acre tract and herein described tract; S $45^{\circ}58'19''$ W, 73.00 feet to a fence post found for angle point and corner No. 13; thence, in a southerly direction continuing along said common line between a 17.408 acre tract and herein described tract; S $35^{\circ}10'19''$ W, 113.60 feet to a fence post found for angle point and corner No. 14; thence, in a southerly direction continuing along said common line between a 17.408 acre tract and herein described tract; S $19^{\circ}34'19''$ W, 42.80 feet to a fence post found for angle point and corner No. 15; thence, in a southerly direction continuing along said common line between a 17.408-acre tract and herein described tract; S $15^{\circ}23'41''$ W, 28.84 feet to a 1/2-inch iron rod found on the apparent gradient boundary of the Rio Grande for the southeast corner hereof and corner No. 16; thence, in a westerly direction along said apparent gradient boundary of the Rio Grande; N $62^{\circ}26'09''$ W, 81.47 feet to a point on said apparent gradient boundary of the Rio Grande for corner No. 7; thence, in a northwesterly direction continuing along said apparent gradient boundary of the Rio Grande; N $36^{\circ}34'14''$ W, 122.63 feet to a point on said apparent gradient boundary of the Rio Grande for corner No. 18; thence, in a northerly direction continuing along said apparent gradient boundary of the Rio Grande; N $20^{\circ}15'10''$ W, 58.91 feet to a point on said apparent gradient boundary of the Rio Grande for corner No. 19; thence, in a northwesterly direction continuing along said apparent gradient boundary of the Rio Grande; N $34^{\circ}02'20''$ W, 118.95 feet to a point on said apparent gradient boundary of the Rio Grande for Corner No. 20; thence, in a westerly direction continuing along said apparent gradient boundary of the Rio Grande; S $73^{\circ}36'56''$ W, 17.73 feet to a point on said apparent gradient boundary of the Rio Grande for corner No. 21; thence, in a northwesterly direction continuing

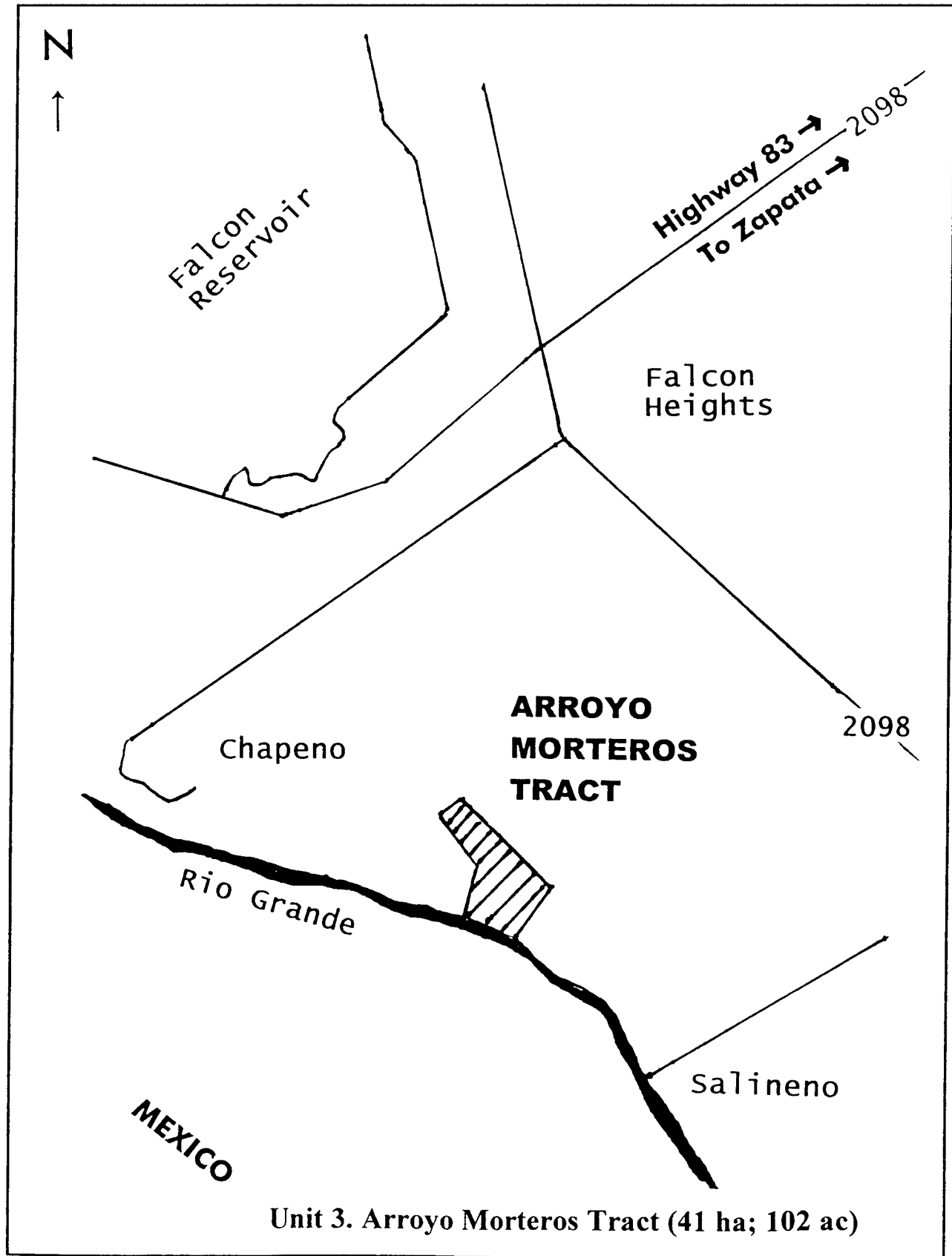
along said apparent gradient boundary of the Rio Grande; N $43^{\circ}36'30''$ W, 118.21 feet to a point on said apparent gradient boundary of the Rio Grande corner No. 22; thence, in a northerly direction continuing along said apparent gradient boundary of the Rio Grande; N $28^{\circ}12'58''$ W, 168.21 feet to a point on said apparent gradient boundary of the Rio Grande for corner No. 23; thence, in a northwesterly direction continuing along said apparent gradient boundary of the Rio Grande; N $49^{\circ}09'29''$ W, 149.82 feet to a point on said apparent gradient boundary of the Rio Grande for corner No. 24; thence, in a westerly direction continuing along said apparent gradient boundary of the Rio Grande; N $66^{\circ}23'26''$ W, 123.27 feet to a point on said apparent gradient boundary of the Rio Grande for corner No. 25; thence, in a westerly direction continuing along said apparent gradient boundary of the Rio Grande; N $77^{\circ}18'49''$ W, 240.49 feet to a point on said apparent gradient boundary of the Rio Grande for corner No. 26; thence, in a westerly direction continuing along said apparent gradient boundary of the Rio Grande; S $80^{\circ}06'32''$ W, 129.98 feet to a point on said apparent gradient boundary of the Rio Grande for corner No. 27; thence, in a westerly direction continuing along said apparent gradient boundary of the Rio Grande; N $79^{\circ}54'48''$ W, 218.17 feet to a point on said apparent gradient boundary of the Rio Grande for corner No. 28; thence, in a westerly direction continuing along said apparent gradient boundary of the Rio Grande; S $81^{\circ}13'28''$ W, 136.03 feet to a 1/2-inch iron rod found on said apparent gradient boundary of the Rio Grande for the southeast corner of the aforementioned 127.71 acre tract, same being the southwest corner hereof and corner No. 29; thence, in a northerly direction along the common line between said 127.71-acre tract and the herein described tract; N $06^{\circ}09'33''$ W, 237.00 feet to a fence post found for angle point and corner No. 30; thence, in a northerly direction continuing along the common line between said 127.71-acre tract and the herein described tract; N $05^{\circ}51'34''$ W, 198.49 feet to a fence post found for angle point and corner No. 31; thence, in a Northerly direction continuing along the common line between said 127.71-acre tract and the herein described tract; N $07^{\circ}49'27''$ E, 161.97 feet to a fence post found for angle point and corner No. 32; thence, in a Northerly direction continuing along the common line between said 127.71-acre tract and the herein described tract; N $07^{\circ}47'00''$ E, 302.39 feet to a fence post found for

angle point and corner No. 33; thence, in a northerly direction continuing along the common line between said 127.71 acre tract and the herein described tract; N 07°17'37"E, 493.82 feet to a fence post found for angle point and corner No. 34; thence, in a northeasterly direction continuing along the common line between said 127.71-

acre tract and the herein described tract, as fenced; N 46°28'41"E, 643.50 feet to a fence post found for angle point and corner No. 35; thence, in a northwesterly direction continuing along the common line between said 127.71 acre tract and the herein described tract; N 47°51'47"W, 1,087.49 feet to a fence post found for angle point

and corner No. 36; thence, in a northerly direction continuing along the common line between said 127.71-acre tract and the herein described tract; N 21°22'25"W, 375.05 feet to the point of beginning and containing 89.90 acres of land.

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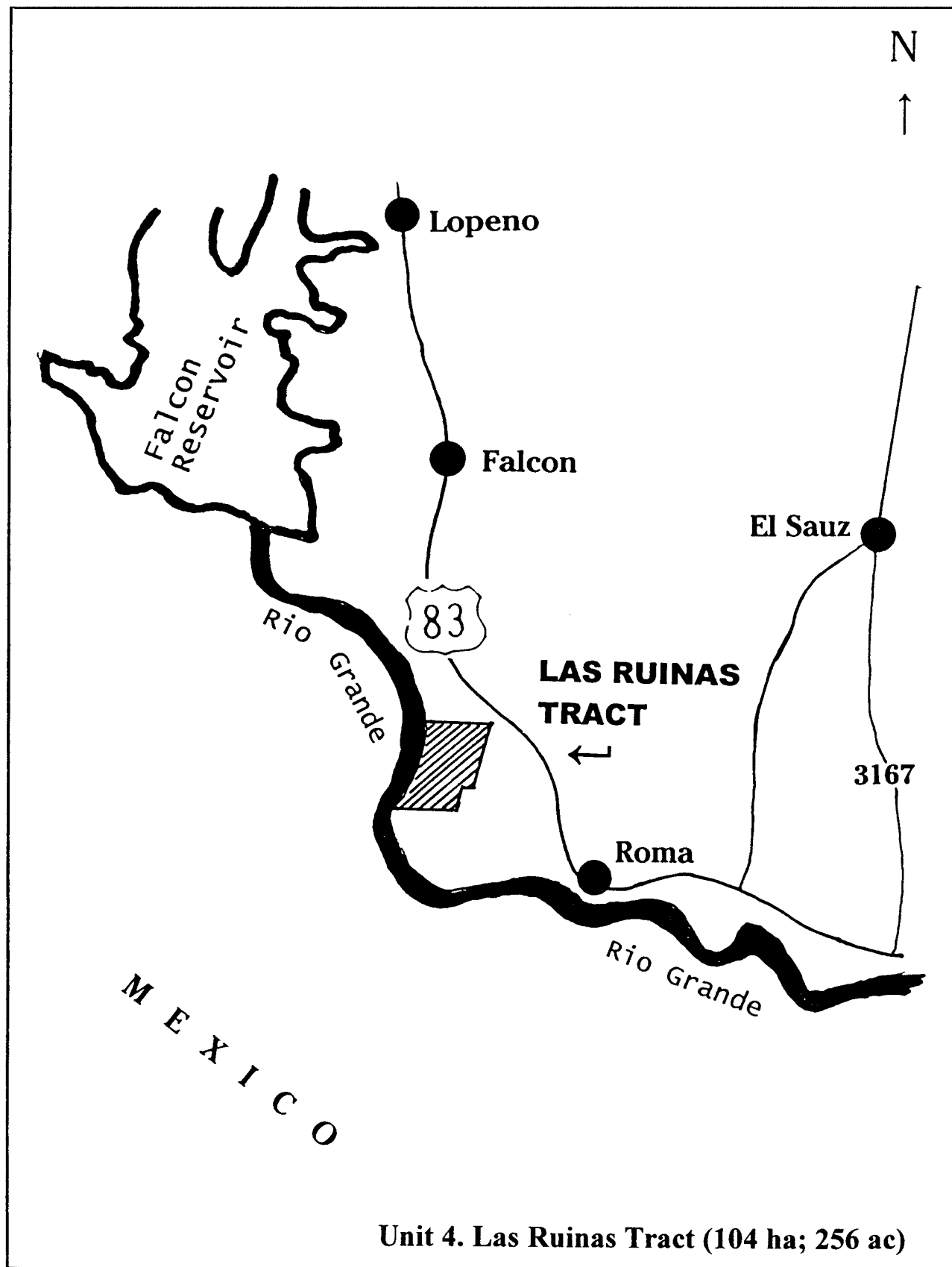


Unit 4, Las Ruinas Tract (104 ha; 256 ac)—Note: All bearings are based on the Texas State Plane Coordinate System, South Zone, as referenced by National Geodetic Survey (NGS.) Triangulation Station "GORGORA" having State plane coordinates (NAD 27) of N = 275,335.73, E = 1,833,217.01. The scale factor used is 0.9999421, and the theta angle is $-00^{\circ}16'22''$. All areas and distances are true surface measurements. Beginning at a 2-inch iron pipe having State plane coordinates of N = 280,488.40, E = 1,804,584.01 for the northerly southeast corner of the herein described tract, from which said triangulation station "GORGORA" bears S $79^{\circ}47'55''$ E, a distance of 29,092.93 feet, same being the southwest corner of Share 96, of said Porcion 66, and the southwest corner of a 1455.52-acre tract of land as described, same being in the north line of Share 94, of said Porcion 66, same being in the north line of Tract "K", a 26.82-acre tract of land as described, for corner No. 1 and point of beginning of the herein described tract of land. Thence, westerly along the common line between said northerly line of tract "K" and the southerly line hereof N $80^{\circ}30'29''$ W, 871.09 feet to a 6" iron pipe found for corner No. 2, same being the northwest corner of said Tract "K"; thence, southerly along the common line between the westerly line of said Tract "K" and the easterly line hereof S $09^{\circ}22'35''$ W, 837.18 feet, to a $1\frac{3}{4}$ " iron pipe found for the southwest corner of said tract "K" and the northwest corner of a 23.5131-acre tract of land at corner No. 3, thence, southerly along the common line between said 23.5131-acre tract and the most southerly easterly line hereof, S $09^{\circ}22'35''$ W, 540.00 feet to a standard FWS aluminum monument set, said monument being in the north line of a 56.82-acre tract of land as described for corner No. 4 and stamped "Tract 630, Ref. No. 4, RPLS 3680"; thence, westerly along the common northerly line between said 56.82 acre tract and the southerly line hereof, N $80^{\circ}31'16''$ W, 3295.18 feet to the apparent gradient boundary of the Rio Grande, and passing a standard FWS aluminum monument set for reference at a distance of 3,210.08 feet and stamped "Tract 630, Ref. No. 5, RPLS 3680"; thence, northerly along the apparent gradient boundary of the Rio Grande N $63^{\circ}00'17''$ E, 192.97 feet to a point on the apparent gradient boundary of the Rio Grande for Corner No. 6; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $62^{\circ}39'49''$ E, 398.99 feet to a point on the apparent gradient boundary

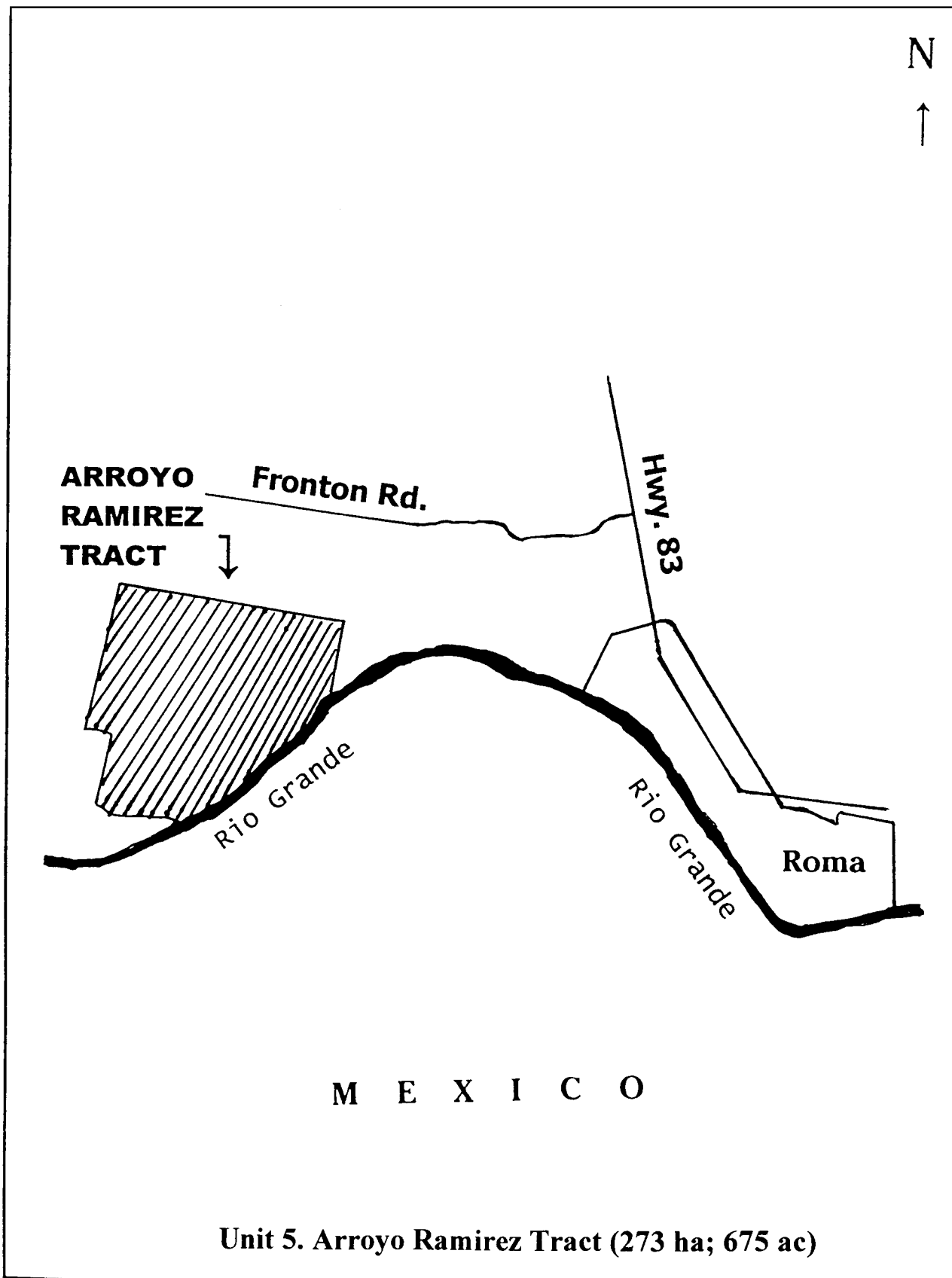
of the Rio Grande for corner No. 7; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $60^{\circ}14'39''$ E, 722.34 feet to a point on the apparent gradient boundary of the Rio Grande for Corner No. 8; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $57^{\circ}28'43''$ E, 416.75 feet to a point on the apparent gradient boundary of the Rio Grande for corner No. 9; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $57^{\circ}55'40''$ E, 171.44 feet to a point on the apparent gradient boundary of the Rio Grande for corner No. 10; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $47^{\circ}49'48''$ E, 287.44 feet to a point on the apparent gradient boundary of the Rio Grande for corner No. 11; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $43^{\circ}00'00''$ E, 246.79 feet to a point on the apparent gradient boundary of the Rio Grande for corner No. 12; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $39^{\circ}40'14''$ E, 295.08 feet to a point on the apparent gradient boundary of the Rio Grande for corner No. 13; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $35^{\circ}41'43''$ E, 380.79 feet to a point on the apparent gradient boundary of the Rio Grande for corner No. 14; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $31^{\circ}28'24''$ E, 370.58 feet to a point on the apparent gradient boundary of the Rio Grande for corner No. 15; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $33^{\circ}19'15''$ E, 293.00 feet to a point on the apparent gradient boundary of the Rio Grande for corner No. 16; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $13^{\circ}43'08''$ E, 146.31 feet to a point on the apparent gradient boundary of the Rio Grande for corner No. 17; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $11^{\circ}00'57''$ E, 189.14 feet to a point on the apparent gradient boundary of the Rio Grande for corner No. 18; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $02^{\circ}10'54''$ W, 305.51 feet to a point on the apparent gradient boundary of the Rio Grande for Corner No. 19; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $01^{\circ}31'51''$ W, 416.25 feet to a point on the apparent gradient boundary of the Rio Grande for Corner No. 20; thence, northerly continuing along said

apparent gradient boundary of the Rio Grande N $00^{\circ}01'29''$ W, 441.45 feet to a point on the apparent gradient boundary of the Rio Grande for corner No. 21; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $03^{\circ}29'26''$ E, 405.03 feet to a point on the apparent gradient boundary of the Rio Grande for corner No. 22; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $08^{\circ}08'02''$ E, 308.09 feet to a point on the apparent gradient boundary of the Rio Grande for corner No. 23; thence, northerly continuing along said apparent gradient boundary of the Rio Grande N $39^{\circ}03'01''$ E, 218.95 feet to a point on the apparent gradient boundary line of the Rio Grande, for Corner No. 24 and northwest corner of this tract, same being the southwest corner of a 60.77-acre tract of land; thence, easterly along the common line between the south line of said 60.77-acre tract and the northerly line hereof S $80^{\circ}31'16''$ E, 1942.92 feet to a standard FWS aluminum monument set and stamped "Tract 630, Ref. No. 25, RPLS 3680" for corner No. 25, same being the southeast corner of said 60.77-acre tract, same being in the west line of Share 339 of said Porcion 66, same being in the west line of said 1,455.52-acre tract of land, and passing a standard FWS aluminum monument set for Reference at a distance of 38.95 feet and stamped "Tract 630, Ref. No. 24, RPLS 3680"; thence, southerly along the common line between the west line of said Share 339, Share 319, Share 227, Share 231, Share 230, Share 229, Share 518, Share 226, Share 225, Share 224, and said Share 96, same being the west line of said 1,455.52-acre tract and the east line hereof S $09^{\circ}28'44''$ W, 3,845.12 feet and passing a 2-inch iron pipe found for the southwest corner of Share 339, same being the northwest corner of Share 319 at a distance of 315.48 feet, and being 0.46 feet easterly of and perpendicular to this line, and also passing a $1\frac{1}{2}$ inch iron pipe found for the southwest corner of Share 319, same being the northwest corner of Share 227 at a distance of 711.48 feet, and being 0.39 feet easterly of and perpendicular to this line, and also passing a 2-inch iron pipe found for the southwest corner of Share 231, same being the northwest corner of Share 230 at a distance of 1,320.71 feet, and being 0.09 feet easterly of and perpendicular to this line, to the point of beginning of the herein described tract and containing 254.42 acres of land.

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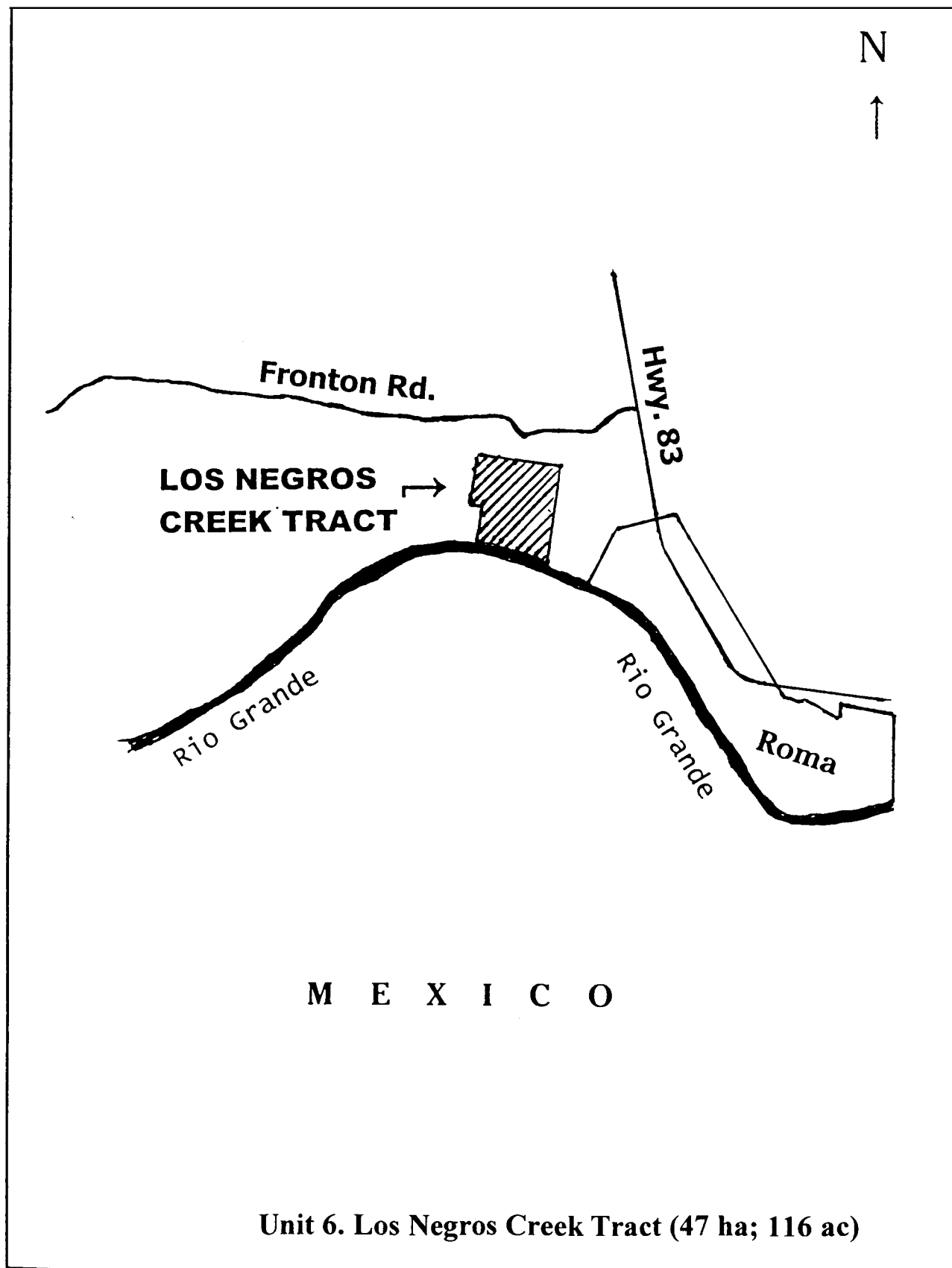


Unit 5, Arroyo Ramirez Tract (273 ha; 675 ac)—Formal surveying of the tract has not been performed. Described as, “All of Share 79, Porcion 68, Abstract 191, Former Jurisdiction of Mier, Mexico, now Starr County, Texas, and all of Share 166, Porcion 69, Abstract No. 160, Former Jurisdiction of Mier, Mexico, now Starr County, Texas. Description by approximated latitude/longitude coordinates (attached maps): Beginning at Latitude/Longitude 26°24′00.9″ N/099°03′23.9″ W, westward to Latitude/Longitude 026°24′04.7″ N/099°03′46.5″ W, northward to Lat/Long 026°24′25.2″ N/099°03′43.3″ W, westward to Lat/Long 026°24′26.0″ N/099°03′49.8″ W, northward to Lat/Long 026°25′05.5″ N/099°03′42.6″ W, eastward to Lat/Long 026°24′56.6″ N/099°02′40.3″ W to the apparent gradient boundary of the Rio Grande River.



Unit 5. Arroyo Ramirez Tract (273 ha; 675 ac)

Unit 6, Los Negros Creek Tract (47 ha; 116 ac)—The following described tract of land is located in Starr County, Texas, about 1 mile northwest of the town of Roma, being 111.67 acres out of Share 13, Porcion 70, and being more particularly described as follows: Beginning at Cor. No. 1, an iron pin set for the northeast corner of Share No. 13 of Porcion No. 70; thence, along an old fenceline and the dividing line between Share Nos. 13, 1-B and 12-A, S 09°15' W, 2,694.00 feet to Cor. No. 2 an iron pin set on the Old High Bank of the Rio Grande and the southeast corner of this tract; thence leaving said fence line and along said Old High Bank with the following two courses, N 63°17'27" W, 1,161.54 feet to Cor. No. 3 and N 87°10'00" W, 612.00 feet to Cor. No. 4, a set iron pin and the southwest corner of this tract; thence leaving said Old High Bank and along the dividing line of Tract 2 and 3 of said Share 13 and an old fenceline with the following three courses, N 09°15' E, 841.30 feet to Cor. No. 5, a set iron pin; N 80°45' W, 397.50 feet to Cor. No. 6, a set iron pin; and N 09°15' E, 1,572.60 feet to Cor. No. 7 & iron pin set for the northwest corner of this tract; thence leaving said dividing line and along the north line of this tract and an old fenceline, S 80°45' E, 2,113.70 feet to Cor. No. 1 and the true place of beginning, containing 111.67 acres of land bounded on the West, North, and East by lands of unknown owner and on the South by the Rio Grande.



Unit 6. Los Negros Creek Tract (47 ha; 116 ac)

Unit 7, La Puerta Tract (1,577 ha; 3,895 ac) (Segment 590). Note: All bearings and distances are based on the Texas State Plane Coordinate System, South Zone, as referenced by National Geodetic Survey (NGS) triangulation station "Fordyce 2" and NGS triangulation station "Monument". Scale factor used was 0.99993949; theta angle used was $-00^{\circ}06'15''$. All areas are true ground measured areas. Beginning at corner No. 1, a standard U.S. Fish and Wildlife Service (FWS) aluminum monument stamped "TR 590 COR 1" set in the west boundary of Porcion 86, said point being at the southwest corner of the aforementioned 8,061-acre tract, and also being the northeast corner of a 160-acre tract recorded in volume 60, pages 47-48, Deed Records, Starr County, Texas, from which NGS triangulation station "Monument" bears N. $68^{\circ}59'27''$ W, 8,477.20 feet; thence, from corner No. 1, along the western boundary line of said 8,061-acre tract and Porcion 86, N $09^{\circ}02'27''$ E, 25,125.17 feet to corner No. 2, a standard FWS aluminum monument stamped "TR 590 COR 2", set at a fence corner from which NGS triangulation station "Monument" bears S $28^{\circ}34'49''$ W, 24,795.18 feet; said corner No. 2 also being the northwest corner of the herein described tract, thence, from corner No. 2, departing said western boundary line, with fence, S. $78^{\circ}52'36''$ E, 1,889.04 feet, to corner No. 3, a standard FWS aluminum monument stamped "TR 590 COR 3" set at fence corner; thence, from corner No. 3, continuing with fence, N $06^{\circ}16'07''$ E, 1,007.99 feet to corner No. 4, a standard FWS aluminum monument stamped "TR 590 COR 4" set at fence corner; thence, from corner No. 4, continuing with fence, S $78^{\circ}42'12''$ E, 2,691.33 feet to corner No. 5, a standard FWS aluminum monument stamped "TR 590 COR 5" set for angle; thence from corner No. 5, continuing with fence, S $72^{\circ}35'38''$ E, 2,000.57 feet to corner No. 6, a standard FWS aluminum monument stamped "TR 590 COR 6" set at fence corner, said point being a perpendicular distance of 20.20 feet from the eastern boundary line of Porcion 87, said point also being the Northeast corner of the herein described tract; thence, from corner No. 6, continuing with fence, S $09^{\circ}01'08''$ W, 10,831.38 feet to corner No. 7, a standard FWS aluminum monument stamped "TR 590 COR 7" set for angle adjacent to a found $\frac{5}{8}$ -inch iron pin; thence, from corner No. 7, continuing with fence, S $08^{\circ}56'57''$ W, 10,030.04 feet, to corner No. 8, a standard FWS aluminum monument stamped "TR 590

COR 8" set for angle point, said point being at the intersection of said fence with the east boundary line of Porcion 87; thence, from corner No. 8, departing said fence, along the east boundary line of Porcion 87, S $09^{\circ}02'27''$ W, 4,824.69 feet to corner No. 9, a standard FWS aluminum monument stamped "TR 590 COR 9" set for corner; thence, from corner No. 9, departing said east line, N $80^{\circ}47'09''$ W, 6,527.80 feet to the place of beginning and containing 3,844.674 acres.

(La Puerta 590a). Note: All bearings and distances are based on the Texas State Plane Coordinate System, South Zone, (NAD 27), as referenced by the National Geodetic Survey (NGS) Triangulation Station "Monument" having a coordinate value of N = 250,167.56 ; E = 1,912,489.81. Scale factor applied equals 0.99993949; theta angle equals $-00^{\circ}06'15''$. All areas are based on true ground measurements. Beginning at corner No. 1, a standard FWS aluminum monument stamped "TR 590A COR 1" set over a 2-inch iron pipe found in the west boundary line of Porcion 87, east boundary line of Porcion 86, at the northwest corner of said Lot 22, also being the northeast corner of a 2.83-acre tract as described by deed recorded in Volume 516, Page 62, Official Records, Starr County, Texas and being in the south boundary line of USA Tract (590) as described by deed recorded in Volume 608, Page 309, Official Records, Starr County, Texas said point having a coordinate value of N = 246,550.96; E = 1,923,962.74 and bearing S $72^{\circ}30'13''$ E, 12,029.47 feet from NGS Triangulation Station "Monument"; thence from corner No. 1, with south boundary line of said USA Tract (590), the north boundary line of said Lot 22, S $80^{\circ}47'09''$ E, 2,922.00 feet to corner No. 2, a standard FWS aluminum monument stamped "TR 590 COR 9" found at the southeast corner of said USA Tract (590), also being the northeast corner of said Lot 21, and being in the east boundary line of Porcion 87, west boundary line of Porcion 88 for the northeast corner of the herein-described tract of land; thence, from Corner No. 2, with the said east boundary line of Porcion 87, west boundary line of Porcion 88, and also being the east boundary line of said Lot 21, S $08^{\circ}18'30''$ W, 1,130.60 feet to corner No. 3, a standard FWS aluminum monument stamped "TR 590A COR 3" set in the existing north right-of-way line of U.S. Highway 83 with the intersection of said east boundary line of Porcion 87, west boundary line of Porcion 88 for the southeast corner of the herein described tract of land;

thence, from corner No. 3, with and along the said existing north right-of-way line of U.S. Highway 83, N $66^{\circ}14'23''$ W, 18.20 feet to corner No. 4, a standard FWS aluminum monument stamped "TR 590A COR 4" set for an angle point; thence, from corner No. 4, continuing along said existing north right-of-way line, N $60^{\circ}31'23''$ W, 100.39 feet to corner No. 5, a standard FWS aluminum monument stamped "TR 590A COR 5" set for an angle point; thence, from corner 5, continuing along said existing north right-of-way line, N $66^{\circ}14'23''$ W, 499.97 feet to corner No. 6, a standard FWS aluminum monument stamped "TR 590A COR 6" set for an angle point; thence, from corner No. 6, continuing along said existing north right-of-way line, N $71^{\circ}57'23''$ W, 100.39 feet to a corner No. 7, a standard FWS aluminum monument stamped "TR 590A COR 7" set for an angle point; thence, from corner No. 7, continuing along said existing north right-of-way line, N $66^{\circ}14'14''$ W, 1,084.94 feet to corner No. 8, a $\frac{5}{8}$ inch iron rod found at the intersection of the said existing north right-of-way line with the proposed north right-of-way line of U.S. Highway 83; thence, from corner No. 8, departing said existing north right-of-way line with and along the proposed north right-of-way line of U.S. Highway 83, N $60^{\circ}43'04''$ W, 200.90 feet to corner No. 9, a $\frac{5}{8}$ -inch iron rod found for an angle point; thence, from corner No. 9, continuing along said proposed north right-of-way line, N $69^{\circ}54'31''$ W, 300.83 feet to corner No. 10, a $\frac{5}{8}$ -inch iron rod found at the intersection of said proposed north right-of-way line with the existing north right-of-way line of U.S. Highway 83; thence, from corner No. 10, with the said existing north right-of-way line of U.S. Highway 83, N $66^{\circ}16'51''$ W, 399.70 feet to corner No. 11, a standard FWS aluminum monument stamped "TR 590A COR 11" set over a $\frac{1}{2}$ -inch iron rod found for an angle point; thence, from corner No. 11, continuing along said existing North right-of-way line, N $64^{\circ}31'54''$ W, 335.45 feet to corner No. 12, a standard FWS aluminum monument stamped "TR 590A COR 12" set at the intersection of said existing north right-of-way line with the west boundary line of Porcion 87, east boundary line of Porcion 86; thence, from corner No. 12, departing said existing north right-of-way line with the said west boundary line of Porcion 87, east boundary line of Porcion 86, N $08^{\circ}56'59''$ E, 357.90 feet to corner No. 1, the point of beginning and containing 50.033 acres of land.

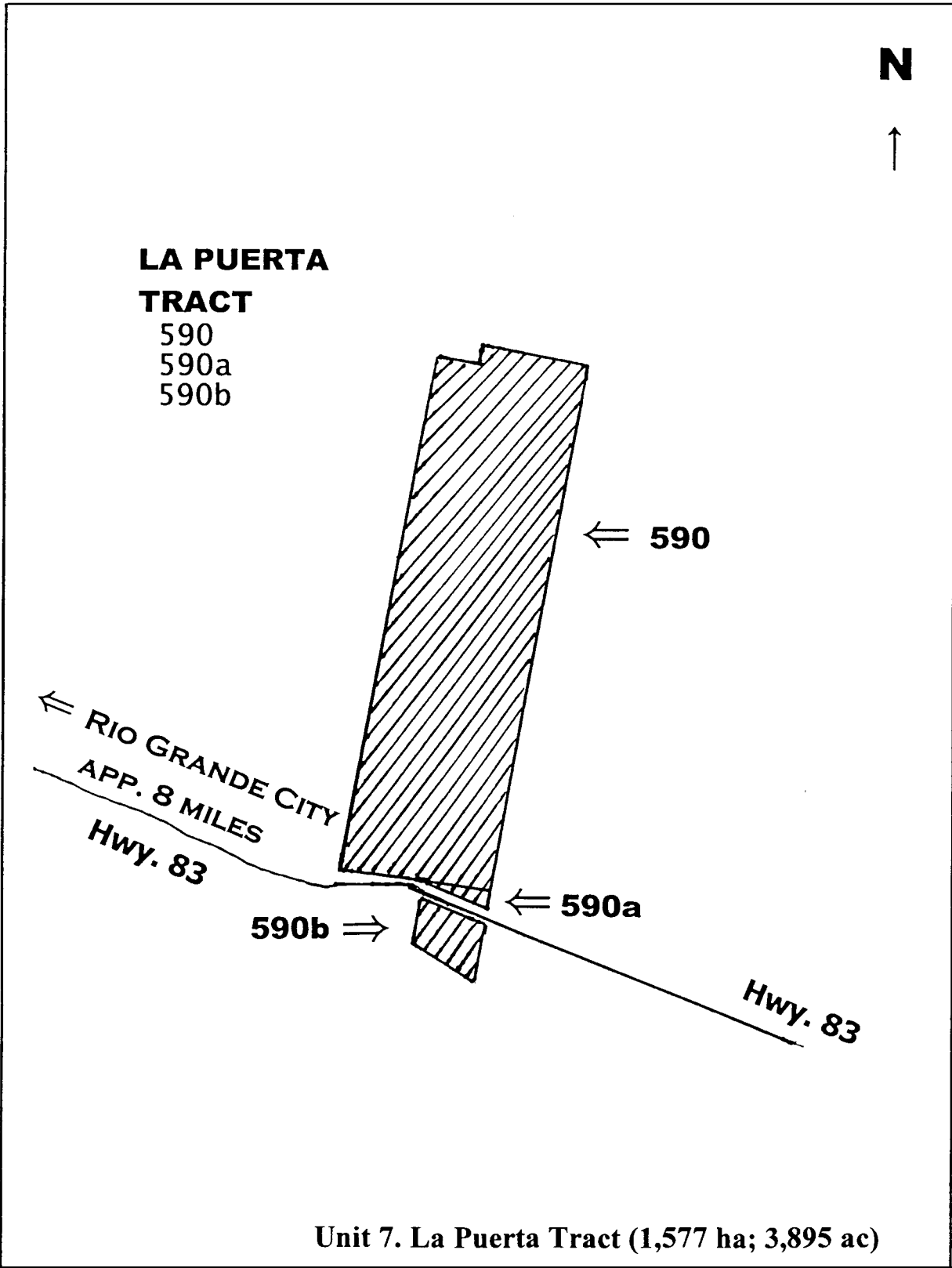
(La Puerta Tract—Segment 590b). Note: All bearings and distances are

based on the Texas State Plane Coordinate System, South Zone, (NAD 27), as referenced by the National Geodetic Survey (NGS) Triangulation Station "Monument" having a coordinate value of N = 250,167.56' E = 1,912,489.81. Scale factor applied equals 0.00003040; theta angle equals $-00^{\circ}06'15''$. All areas are based on true ground measurements. Beginning at corner No. 1, a $\frac{5}{8}$ -inch iron rod found at the intersection of the west boundary line of Porcion 87, east boundary line of Porcion 86 with the proposed south right-of-way line of U.S. Highway 83, said point bears S $08^{\circ}57'33''$ W, 139.55 feet from a $\frac{5}{8}$ -inch iron rod found in the existing south right-of-way line of U.S. Highway 83, said point having a coordinate value of N = 245,880.85, E = 1,923,857.21 and bearing S $69^{\circ}20'18''$ E, 12,148.81 feet from NGS Triangulation Station "Monument"; thence, from

corner No. 1, with the said proposed south right-of-way line, S $66^{\circ}14'23''$ E, 3,043.33 feet to corner No. 2, a $\frac{5}{8}$ -inch iron rod found at the intersection of the east boundary line of Porcion 87, the west boundary line of Porcion 88 and the said proposed south right-of-way line, thence, from corner No. 2, with the said east boundary line of Porcion 87, west boundary line of Porcion 88, S $08^{\circ}59'29''$ W, 2,925.70 feet to corner No. 3, a standard FWS aluminum monument stamped "TR 590B COR 3" set over a $\frac{1}{2}$ -inch iron rod found at the intersection of said east boundary line of Porcion 87, west boundary line of Porcion 88 with the north right-of-way line of the Missouri-Pacific Railroad; thence, from corner No. 3, with the said north right-of-way line of the Missouri-Pacific Railroad, N $52^{\circ}58'07''$ W, 3,333.49 feet to corner No. 4, a standard FWS aluminum monument stamped

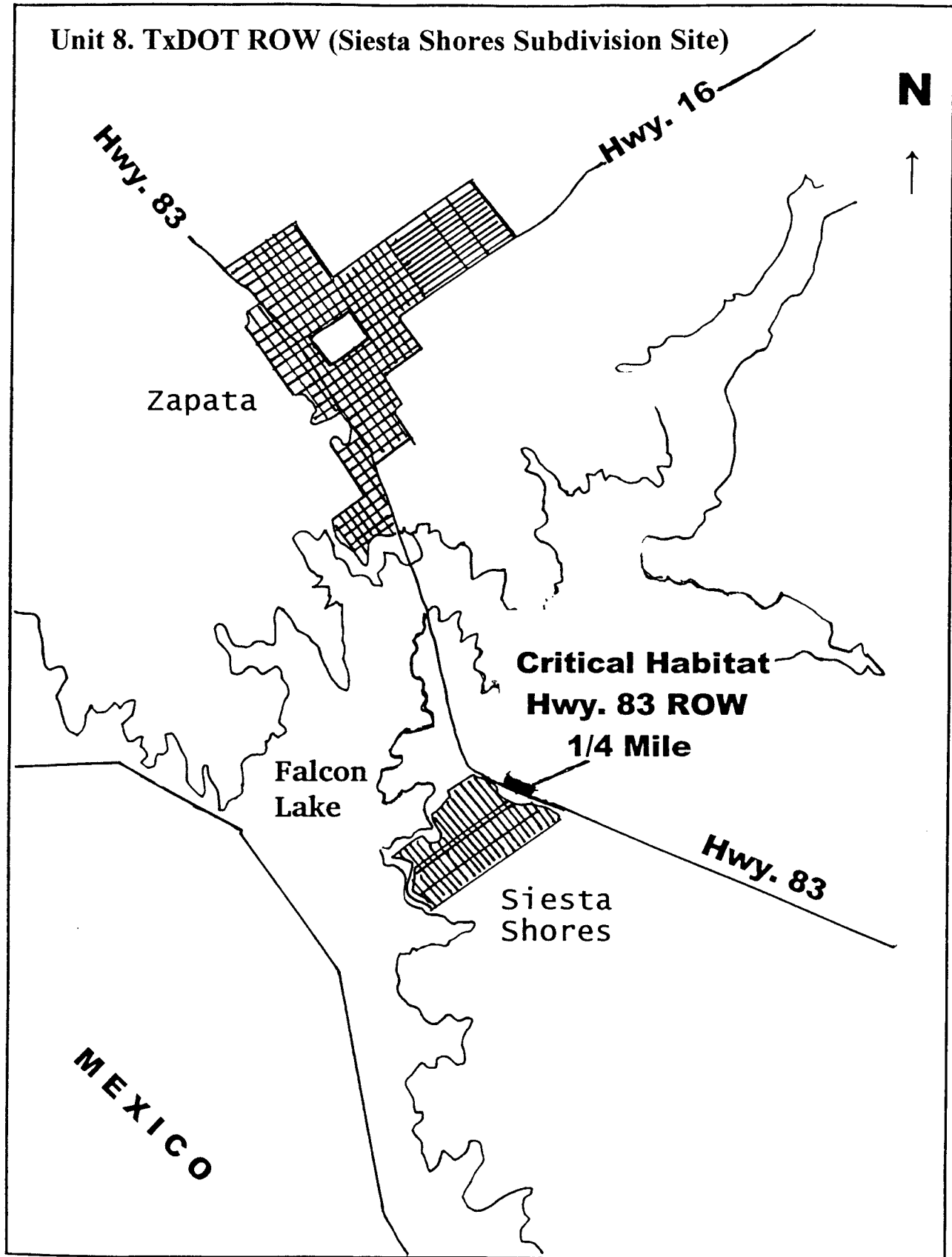
"TR 590B COR 4" set over a $\frac{3}{8}$ -inch iron rod found at the intersection of the said north right-of-way line with the said west boundary line of Porcion 87, the east boundary line of Porcion 86, said point also being the southeast corner of a 39.492-acre tract, thence from corner No. 4, with the said west boundary line of Porcion 87, east boundary line of Porcion 86, N $08^{\circ}56'13''$ E, 1,715.55 feet to corner No. 5, a standard FWS aluminum monument stamped "TR 590B COR 5" set over a $\frac{1}{2}$ -inch iron rod found at the southeast corner of a 2.0-acre tract, thence, from corner No. 5, continuing along said west boundary line of Porcion 87, east boundary line of Porcion 86, N $09^{\circ}08'05''$ E, 418.93 feet to corner No. 1, the point of beginning and containing 170.950 acres of land.

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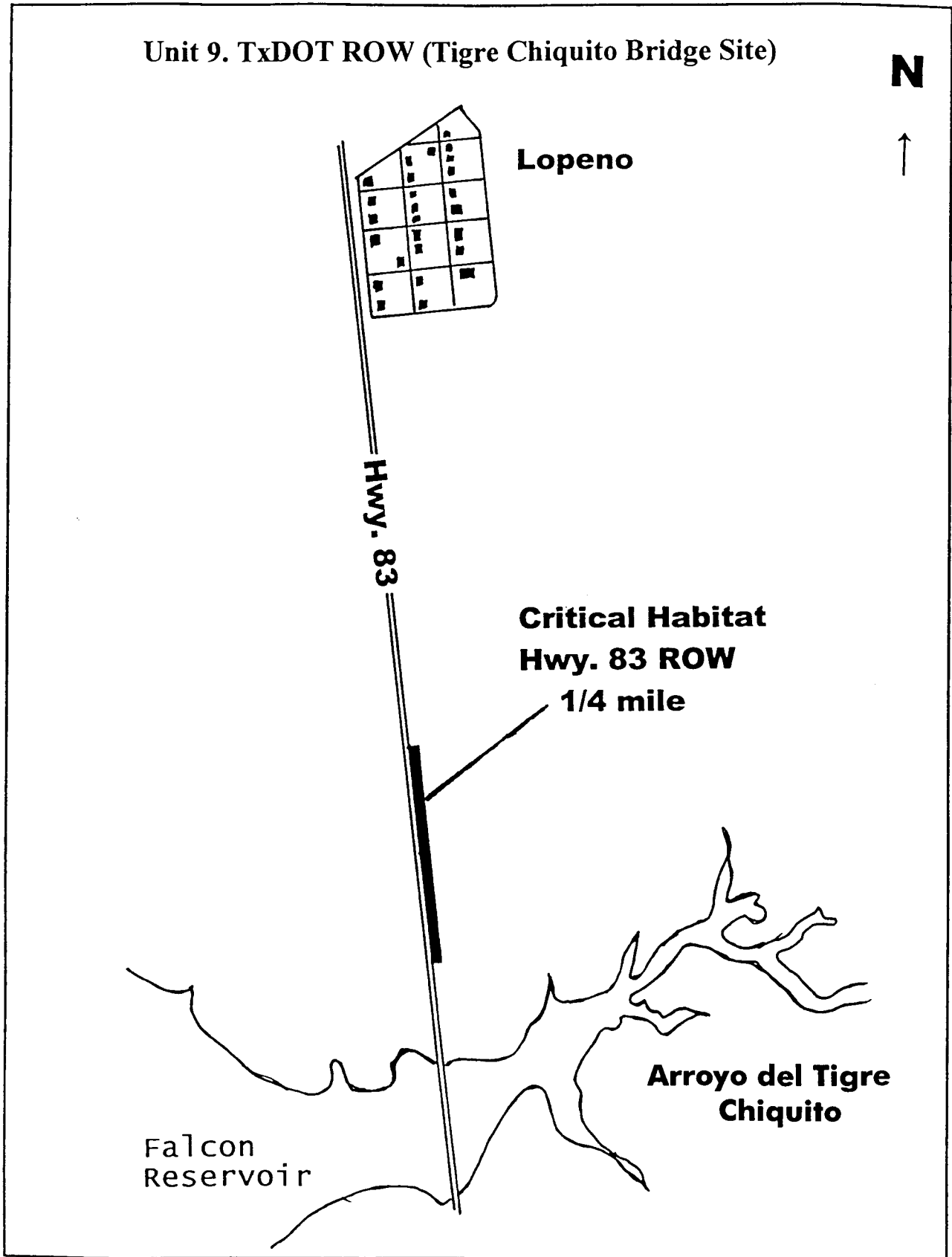


Critical Habitat on Texas Department of Transportation Highway Rights of Way, Zapata County, Texas:

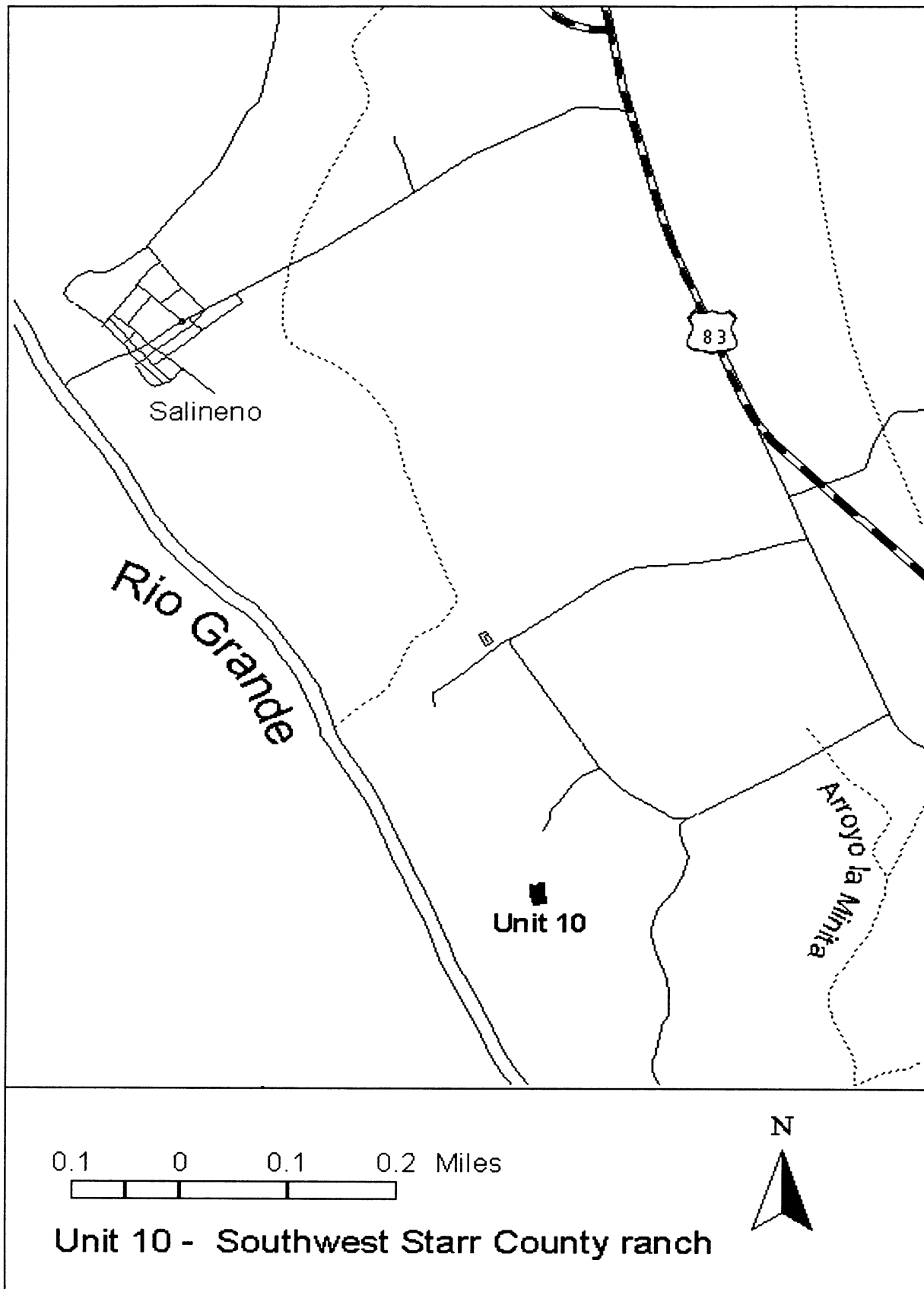
Unit 8 includes the existing maintained highway right of way along Highway 83, extending 201.2 m (0.125 mi) each direction, along the east side of the highway and approximately 15.2 m (50 ft) away from the road's edge, from the known *Lesquerella thamnophila* population located at Lat/Long 26°51'45"/99°14'48".



Unit 9 includes the existing maintained highway right of way along Highway 83, extending 201.2 m (0.125 mile) each direction, along the east side of the highway and approximately 15.2 m (50 ft) away from the road's edge, from the known *Lesquerella thamnophila* population located at Lat/Long 26°41'55"/99°06'31".



Unit 10—Private ranch site comprises 0.552 hectares (1.36 acres) within the Universal Transverse Mercator, Zone 14 and begins at UTM 490706 E, 2929709 N; thence to 490729 E, 2929706 N; to 490748 E, 2929720 N; to 490762 E, 2929722 N; to 490767 E, 2929704 N; to 490767 E, 2929679 N; to 490769 E, 2929654 N; to 490770 E, 2929637 N; to 490770 E, 2929629 N; to 490760 E, 2929619 N; to 490743 E, 2929614 N; to 490732 E, 2929612 N; to 490720 E, 2929614 N; to 490709 E, 2929670 N; and thence to point of beginning.



0.1 0 0.1 0.2 Miles



Unit 10 - Southwest Starr County ranch

* * * * *

Dated: July 13, 2000.

Stephen C. Saunders,*Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 00-18279 Filed 7-18-00; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635**

[I.D. 070500C]

Atlantic Highly Migratory Species (HMS) Fisheries; Bycatch Reduction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to prepare a Supplemental Environmental Impact Statement (SEIS); notice of availability of Biological Opinion; announcement of scoping meetings.

SUMMARY: NMFS announces its intent to prepare an SEIS to address requirements of the Biological Opinion dated June 30, 2000, that was issued pursuant to a formal consultation under section 7 of the Endangered Species Act (ESA); and, relative to fishing activities for Atlantic HMS, to assess the impacts of potential management options on the natural and human environment. The purpose of this notice is to inform the interested public of the intent to prepare the SEIS; announce the availability of, and provide information on, the Biological Opinion; announce that NMFS is considering regulatory and non-regulatory measures to address the requirements of the Biological Opinion for the Atlantic HMS fisheries for the current fishing year and for the long-term; and announce public scoping meetings on issues and management options that NMFS should consider in addressing the requirements of the Biological Opinion and in preparing the SEIS.

DATES: Public scoping meetings will take place in July and August, 2000. See **SUPPLEMENTARY INFORMATION** for dates and times of the scoping meetings. Additional scoping meetings may be scheduled at a later date and will be announced in the **Federal Register**.

ADDRESSES: Comments on the proposal to prepare the SEIS and suggestions for the times and locations of additional scoping meetings should be sent to: Rebecca Lent, Chief, Highly Migratory

Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. See **SUPPLEMENTARY INFORMATION** for the locations of the scoping meetings.

FOR FURTHER INFORMATION CONTACT:

Margo Schulze-Haugen or Karyl Brewster-Geisz, 301-713-2347; fax 301-713-1917.

SUPPLEMENTARY INFORMATION:**Background**

The Atlantic HMS fisheries are managed under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP), Amendment 1 to the Atlantic Billfish Fishery Management Plan, and their implementing regulations found at 50 CFR part 635. The Atlantic shark regulations are issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Stevens Act)(16 U.S.C. 1801 *et seq.*). The Atlantic tunas, swordfish, and billfish fisheries are managed under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA) (16 U.S.C. 971 *et seq.*).

Biological Opinion Requirements

In 1999, the Atlantic pelagic longline fishery exceeded its authorized take of loggerhead sea turtles as set out in the Incidental Take Statement previously issued with the April 23, 1999, Biological Opinion. As required under the ESA, NMFS requested, on November 19, 1999, a re-initiation of consultation under Section 7 of the ESA. On June 30, 2000, NMFS issued a new Biological Opinion that concluded the operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of the leatherback and loggerhead sea turtles.

In order to eliminate the threat of jeopardy, NMFS must address the level of sea turtle takes in the pelagic longline fishery. The Biological Opinion provides a framework for development of reasonable and prudent alternatives (RPAs) designed to remove the threat of jeopardy by reducing the number of loggerhead and leatherback sea turtles that are incidentally captured, injured, and killed by pelagic longline gear. The Biological Opinion provides two RPAs that, if implemented, would avoid the jeopardy finding. However, any combination of management measures, regulatory and/or non-regulatory, that have the effect of reducing the number of loggerhead and leatherback turtles that are incidentally captured, injured, and killed by pelagic longline gear by 75

percent will meet the requirements of the Biological Opinion. These combinations could include monitoring requirements, gear and/or fishing method modifications, and time/area closures. During the scoping period, NMFS plans to meet with fishery participants, particularly pelagic longline vessel operators who fish the northeast distant water statistical area (Grand Banks), to determine which combination of measures will reduce turtle takes to the required level while mitigating impacts to the industry.

The Biological Opinion also identified required reasonable and prudent measures (RPMs) and terms of conditions (T&Cs) for all HMS fisheries as part of the revised Incidental Take Statement. For example, education and outreach, monitoring requirements, and sea turtle resuscitation requirements were identified for several HMS fisheries. NMFS will work with fishery constituents to implement these required provisions of the Incidental Take Statement.

Management Measures Under Consideration

Because of the findings of the Biological Opinion, participants in the HMS fisheries may be required to operate under alternative management measures that may redistribute fishing effort and alter current fishing methods in order to avoid jeopardizing protected species. NMFS will consider regulatory and non-regulatory measures for managing the Atlantic tunas, swordfish, sharks, and billfish fisheries consistent with the requirements of the ESA. These measures will address the RPAs, RPMs, and T&Cs identified in the June 30, 2000, Biological Opinion, and may implement time/area closures, gear restrictions, crew training, monitoring and reporting requirements.

Scoping Meetings

Scoping for the SEIS will be held in consultation with the HMS and Billfish Advisory Panels. Public scoping meetings will be scheduled at times and locations convenient for affected parties. The following scoping meetings have been scheduled:

Monday, July 31, 2000—Silver Spring, MD, 1-3:30 p.m.

NMFS, SSMC2, 1325 East-West Highway, Room 2358, Silver Spring, MD 20910.

Tuesday, August 1, 2000—Barnegat Light, NJ, 7-9:30 p.m.

Barnegat Light Firehouse, Barnegat, NJ 08006.