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# Part VI

# Department of the Interior

## Fish and Wildlife Service

## 50 CFR Part 17

## Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Plant Lesquerella Thamnophila (Zapata Bladderpod); Final Rule

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**RIN 1018–AG24**

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

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), designate critical habitat pursuant to the Endangered Species Act of 1973, as amended (Act), for the plant *Lesquerella thamnophila* (Rollins & Shaw) (Zapata bladderpod). Critical habitat includes seven sites on 2,088 hectares (ha) (5,158 acres (ac)) of Lower Rio Grande Valley National Wildlife Refuge property in Starr County, Texas, and a privately owned 0.55 ha (1.36 ac) site also located in Starr County, Texas. Section 7 of the Act requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to destroy or adversely modify designated critical habitat. As required by section 4 of the Act, we considered economic and other relevant impacts prior to making a final decision on what areas to designate as critical habitat.

**DATES:** The effective date of this rule is January 22, 2001.

**ADDRESSES:** You may inspect the complete file for this rule, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Ecological Services Field Office, c/o TAMUCC, Box 338, 6300 Ocean Drive, Corpus Christi, Texas, 78412.

**FOR FURTHER INFORMATION CONTACT:** Allan Strand, Field Supervisor of the Ecological Services Field Office in Corpus Christi, Texas (Telephone 361/994–9005; facsimile 361/994–8262).

**SUPPLEMENTARY INFORMATION:**

### Background

*Lesquerella thamnophila,* a member of the Brassicaceae (= Cruciferae or Mustard) family, was first collected by Neally in Starr County during his collections between 1882 and 1894. The first type specimen was collected in Zapata County, Texas, by R. C. Rollins in 1959. The species was named *L. thamnophila* in 1973 by R. C. Rollins and E. A. Shaw in their work on the genus *Lesquerella* (Rollins and Shaw 1973). Most of the collected specimens of *L. thamnophila* have come from Starr and Zapata Counties in Southern Texas. One specimen has been identified from Tamaulipas, Mexico.

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

All known populations of *Lesquerella thamnophila* in the United States occur in Starr and Zapata Counties, Texas, within approximately 3.2 kilometers (km) (2 miles (mi)) of the Rio Grande. Populations of *L. thamnophila* typically occur in upland sites that have not had extensive previous soil disruption. Soil types at known population sites suggest that the species is not closely tied to a specific soil texture; while many of the known populations occur on soils with moderate alkalinity, soil textures range from clay (Catarina soils) to fine sandy loam (Copita soils).

*Lesquerella thamnophila* can occur on graveled to sandy-loam upland terraces above the Rio Grande flood plain. The known populations are associated with three Eocene-age geologic formations—Jackson, Laredo, and Yegua—which have yielded fossiliferous (containing fossils) and highly calcareous (comprised 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 5 to 6 meters (m) (20 to 50 feet (ft)) above the flood plain 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 the narrow valleys between them. Quemado soils occur as narrow areas on ridge tops, where the slope range is 3 to 20 percent. Steep escarpments can be present with rocky outcrops adjacent to the river flood plain.

Catarina Series soils consist of clayey, saline upland soils developed from calcareous, gypsiferous (containing gypsum), and/or saline clays that usually contain many drainage and erosional features. The underlying material of the soils contain calcareous concretions (rounded masses of mineral matter), gypsum crystals, and marine shell fragments (Thompson et. al. 1972).

Zapata 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 5 to 25 cm (2 to 10 in) in thickness, 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 1–10 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 collection has become a pastime for residents and visitors in the area.

*Lesquerella thamnophila* grows opportunistically; that is, the density of *L. thamnophila* plants and the size of populations fluctuate in response to availability of rainfall during the time of year with adequate temperatures for plant growth. 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 shrub lands 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 ciliaria* (buffelgrass), is extensive at some of the sites. *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 *L. thamnophila* sites, although not as extensively as buffelgrass.

Biologists have located and described a total of 10 populations of *Lesquerella thamnophila,* including the type locality discovered by R. C. Rollins in Zapata County in 1959. Six of the ten populations were found in Starr County and four in Zapata County. Of these ten populations, four are still known to support plants in varying numbers. Service personnel have visited populations at the locations where access is available. Following substantial rainfall in October 2000, Service biologists documented Zapata bladderpod plants at the Lower Rio Grande Valley National Wildlife Refuge's Cuellar Tract in Starr County, and at the Siesta Shores subdivision (5–10 plants) and the U.S. Highway 83 ROW site adjacent to the Siesta Shores subdivision (5–10 plants) in Zapata County. The October 2000 site visit failed to find the population on the U.S. 83 ROW near the Tigre Chiquito Bridge in Zapata County, where we proposed critical habitat. Other earlier attempts to relocate this population have also been unsuccessful and it is likely that this population has been extirpated due to vehicle disturbance and the encroachment of buffelgrass, despite a management agreement between the Texas Department of Transportation (TxDOT) and the Texas Parks and Wildlife Department (TPWD) designed to protect the site by excluding grass mowing during the plant's active growing season, and use of a six-inch mowing height to avoid damage to late-flowering or early-growing plants. The fourth Zapata County site, Falcon Heights West Subdivision (private land), is the type locality discovered in 1959 by Rollins and Shaw, and is also believed to be extirpated due to construction activity and invasion of buffelgrass.

In Starr County, biologists verified extant populations at two of the six sites previously known to have plants; the Lower Rio Grande Valley National Wildlife Refuge's Cuellar Tract and a private ranch near Roma/Los Saenz-West. Service biologists visited the private ranch site in July 2000 and documented bladderpod plants. The four remaining Starr County sites are located on private land where access is limited or the exact location is unknown, making it difficult to survey for the plants.

*Lesquerella thamnophila* likely occurs in other areas in south Texas, in addition to these documented population sites. However, while the extent of potentially occupied habitat can be estimated from mapped soils, access to most of the land where *L. thamnophila* may occur is in private ownership, with limited access for survey efforts.

**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 report, designated as House Document No. 94–51, was presented 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 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 determine approximately 1,700 species of vascular plants as endangered, including *Lesquerella thamnophila.* 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 *L. 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 that 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. We accepted the 1975 Smithsonian report as a petition, and we treated all the plants noted within the report, including *Lesquerella thamnophila,* as being newly petitioned on October 13, 1982. In each subsequent year from 1983 to 1993, we determined that listing *L. thamnophila* was warranted, but precluded by other listing actions of higher priority, and that additional data on vulnerability and threats were still being compiled.

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 *L. thamnophila* as endangered. ''Category 1 candidates'' were those species for which we had substantial information indicating that listing under the Act was warranted.

We published notices revising the 1980 list of plants under review for listing as endangered or threatened in the **Federal Register** on September 27, 1985 (50 FR 39626), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51171). We included *Lesquerella thamnophila* 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 for which we have on file sufficient information on biological vulnerability and threats to support proposals to list them as threatened or endangered species. We retained *L. 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), and 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, we reconsidered the issue. We published a final rule listing *L. 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 with a final determination to be made no later than December 15, 2000. We proposed critical habitat for the species on July 19, 2000 (65 FR 44717).

**Summary of Comments and Recommendations**

In the proposed rule to designate critical habitat, we requested all interested parties to submit factual reports or information that might contribute to the development of a final rule. In addition, we prepared an Environmental Assessment of this action pursuant to the National Environmental Policy Act. We made the draft Environmental Assessment available for public review and comment. We also contacted appropriate Federal and State agencies, county governments, scientific organizations, and other interested parties and requested their comments before the closing date of September 18, 2000. We published newspaper notices in the Rio Grande Herald and the Zapata News on August 13, 2000, inviting general public comment. We posted approximately 200 letters soliciting comments on the proposed rule, announcing the public hearing, and providing information on the Zapata bladderpod. One Texas State agency representative reviewed the proposal and provided valuable biological and habitat information and commented on the selection of critical habitat areas.

On August 24, 2000, we held an informal meeting and formal public hearing at Fort Ringgold in Rio Grande City to discuss the proposal and accept formal comments from the public. Fifteen individuals attended the meeting and hearing. One State representative provided formal comments at the public hearing.

Section 4 of the Act requires us to consider economic and other relevant impacts of specifying any particular area as critical habitat. An analysis of the economic effects of Zapata bladderpod critical habitat designation was prepared (Industrial Economics, Incorporated, 2000) and made available for public review and comment on October 3, 2000 (65 FR 58981). In that notice we solicited data and comments from the public on all aspects of the proposal, including data on economic impacts and other impacts of the designation. We also reopened the comment period, extending it until November 2, 2000.

We addressed written comments and oral statements presented at the public hearing and received during the comment periods in the following summary. The issues and our response to each issue is discussed below. Comments that we incorporated into this final rule are discussed in the Changes Between Proposed and Final Rules portion of this document.

*Issue 1:* Private land should not be included in critical habitat designation without the acknowledgment and consent of the owner.

*Service Response:* We made several attempts to contact the owner(s) of the private land site proposed as critical habitat. While a landowner's permission is not required to designate an area as critical habitat, it is our practice to contact landowners to the extent practicable. In the near future, we hope to work with the landowner(s) to conserve the native habitat that supports Zapata bladderpod, as well as other endangered plant and rare animal species.

*Issue 2:* Comments from one reviewer indicated that in the final rule listing *Lesquerella thamnophila* as endangered, we identified a historical *L. thamnophila* locality along a roadside cut of Highway 83. The commenter questioned why that site was not proposed as critical habitat.

*Service Response:* We have not found *Lesquerella thamnophila* plants at this site in a number of years, nor have we heard from other agencies that the plant has been relocated at this location. We believe the species to be extirpated from this site and therefore, do not consider this essential to the conservation of the species.

*Issue* 3: Critical habitat designation will do little to benefit *Lesquerella thamnophila.* The areas proposed on State and private land are extremely small, probably too small to support viable populations. While the amount of acreage on Federal land is certainly adequate, the occupied habitat should already receive adequate protection. The areas of unoccupied habitat on Federal land are best guesses at what might provide suitable habitat for reintroduction.

*Service Response:* We agree that lands within the geographic range occupied by *Lesquerella thamnophila* already receive protection through section 7 of the Act for activities that a Federal agency carries out, funds, or permits; however, critical habitat may provide additional benefits by focusing conservation activities in areas determined to be essential for recovery of *L. thamnophila.* Although some of the areas are small, they still support the bladderpod and the small number of known populations of this species makes protection of those sites essential. We selected the refuge sites that are of unknown occupancy as critical habitat, on the basis of soil surveys and vegetation studies by refuge biologists and botanists familiar with the tract sites. Additionally, results of a habitat suitability modeling study, contracted by TxDOT and designed to predict habitat for rare plant species along the southern portion of the Rio Grande, indicates that the refuge sites are favorable for recovery efforts (Wu & Smeins 1999). Since there is still much that needs to be learned about the biology, distribution, and habitat of the species, we chose as critical habitat the sites most likely to either yield as-yet discovered populations or be most suitable for translocation of the bladderpod, if this becomes necessary for the species recovery.

*Issue 4:* The Texas Transportation Commission approved U.S. Highway 83 as part of the Priority One Texas Trunk System by Minute Order 107484. This type of highway would be built to a minimum of a four-lane divided highway to connect cities with populations of 20,000 or more. A completed feasibility study has determined that a future freeway would be possible along this route. The costs

for compensatory mitigation, biological assessments, and alternative analysis are anticipated to be extremely high and may cause construction delays on the expansion of U.S. 83 in the area of the Tigre Chiquito proposed critical habitat site.

*Service Response:* No Zapata bladderpod plants have been found at the Tigre Chiquito site since 1997. Biologists surveyed the site in March and October 2000 after significant rainfall in the area. Buffelgrass is now the dominant cover in the area of the ROW where the Zapata bladderpod plants historically grew, and the population appears to be extirpated. We removed the Tigre Chiquito site from the final critical habitat designation since it does not have the features and habitat characteristics that are necessary to sustain the species. We do not consider this area to be essential habitat for the conservation of the species.

*Issue 5:* The Environmental Protection Agency (EPA) indicated that we should evaluate Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, in our economic analysis.

*Service Response:* Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. We do not believe that the designation of critical habitat for endangered and threatened species results in any changes to human health or environmental effects on surrounding human populations, regardless of their socioeconomic characterization. As such, we do not believe that Executive Order 12898 applies to critical habitat designations.

*Issue 6:* The EPA provided detailed comments on additional information that they felt should be included in the economic analysis to better characterize the economic effects on the refuge and the local economy, including the addition of figures and tables showing economic and population growth, an evaluation of historical patterns and current information describing section 7 consultations, including time and costs, and an evaluation of refuge visitation statistics.

*Service Response:* We attempted to estimate economic impacts that are reasonably certain to result from designation of critical habitat. We did this by considering what specific activities are likely to occur on the refuge, TxDOT, and private lands included in the proposed designation. We identified whether these activities are likely to involve a Federal nexus, whether such a nexus will result in a section 7 consultation and, in turn, whether the consultation will result in modifications to projects. We do not feel it necessary to include the additional information described above in this economic analysis. We feel that the methodology used is adequately designed to distill the salient and relevant aspects of any potential economic impacts of designation. We also do not believe that the designation of critical habitat will affect refuge visitation, as the designation only affects Federal activities that are likely to destroy or adversely modify the area of critical habitat.

*Issue 7:* The EPA felt that the economic analysis should rely on established sources of information and not only the opinions of Fish and Wildlife staff.

*Service Response:* In addition to contacting Fish and Wildlife staff, personal communications were made with the TxDOT and attempts were also made to contact the private landowner(s) (see Issue 1). Unfortunately, since comments and information on land uses and the effects of the designation were not available from the private landowner, Fish and Wildlife staff could only speculate as to activities likely to occur on the private land. In this particular designation, we also note that the majority of land proposed for critical habitat is part of the Lower Rio Grande Valley National Wildlife Refuge; therefore, it was appropriate to contact Fish and Wildlife Refuge staff as the primary source of information on specific activities that would likely take place on the refuge, and the possible effect of the designation on these activities.

*Issue 8:* The EPA commented that the economic analysis does not adequately address potential benefits associated with the critical habitat designation.

*Service Response:* The primary purpose of critical habitat designation is to protect areas that are needed to conserve endangered and threatened species. However, we expect the benefits associated with this designation to be limited. We conclude this because the designation is unlikely to have any significant effect on both current and planned economic activities within the designated areas. For reasons previously stated, Federal agencies are already required to consult with us on activities that may affect the Zapata bladderpod. While critical habitat designation for the Zapata bladderpod may have some benefit by focusing conservation activities in areas considered essential for recovery of the bladderpod, we expect the benefit to be minimal due to the fact that Federal agencies are already aware of the importance of these areas.

*Issue 9:* EPA commented that the U.S. Geological Survey or similar agency should be contacted to determine whether locations of oil and gas reserves or leases/claims exist for the critical habitat areas.

*Service Response:* According to Fish and Wildlife refuge staff there are mineral right claims in the critical habitat areas. However, the refuge already requires any party seeking to use National Wildlife Refuge land to perform surveys and environmental assessments, and the refuge manager must make a written determination of compatibility with the refuge purposes and the mission of the National Wildlife Refuge System, regardless of whether the proposed project will take place in critical habitat. A project can take place on the Refuge only if the Service deems that the project does not materially detract from the fulfillment of the refuge purpose or System mission. Therefore, we believe that any costs associated with project modifications or administrative effort would be due to the refuge's requirement to comply with the National Wildlife Refuge System Administration Act, not due to the designation of critical habitat. We appreciate the comment and have incorporated the information on mineral rights into the final economic analysis.

**Peer Review**

In accordance with our peer review policy of July 1, 1994 (59 FR 34270), we sent the proposed rule to four knowledgeable biologists and/or botanists who are familiar with the Zapata bladderpod. Only one of the peer reviewers provided comments on the proposed designation. Those comments included clarifications on the status of known populations and additional biological information that we incorporated into this final rule, and also discussed in the ''Summary of Comments'' section (above).

**Changes Between Proposed and Final Rules**

*Locations of extant populations.* The TPWD provided information clarifying the locations and status of some *Lesquerella thamnophila* populations. Although the proposed rule discussed population locations and status based on information in our files which came from various sources over time, drought conditions and inaccessibility to most private lands have hampered efforts to

survey for the species. Surveys of known populations following rain events even as recently as October 2000 have confirmed the plant's presence at three of the four sites.

*Agreement between TxDOT and TPWD.* In the proposed rule we stated that the agreement between these two agencies was to exclude mowing practices at the two highway ROW sites. The final rule clarifies that the agreement was for TxDOT to mow only between June and January, thus avoiding what was considered to be the active growing season. Also, a recommended six-inch mowing height is specified in the agreement to avoid damaging any late-flowering or early-growing plants.

*Mapping errors.* The TPWD pointed out two corrections to map 2: The TxDOT site in the vicinity of Lopeno is south rather than north of Lopeno, and the Cuellar's tract shape was incorrect. We appreciate the corrected information and applied it to the final rule, although we determined that the TxDOT sites will not be included in the final critical habitat designation.

*Removal of Proposed Sites.* Based on the results of the October 2000 and earlier surveys, we removed the two TxDOT Highway 83 ROW sites from this final critical habitat designation since we determined that these sites are no longer considered essential for the conservation of the species. No *Lesquerella thamnophila* plants have been found at the Tigre Chiquito site since 1997. Since buffelgrass is now the dominant cover in the area of the ROW where *Lesquerella thamnophila* plants historically grew, and biologist found no plants during surveys of the site in March and October 2000 after significant rainfall in the area, we believe it is highly likely the population is extirpated. The U.S. Highway 83 ROW site adjacent to the Siesta Shores subdivision does not appear to be a viable population due to the low number of plants (approximately 5 plants). In addition to the low number of plants, the site is located on a high bluff that is eroding away and the area is invaded by buffelgrass. Since the proposal, the site has continued to degrade and we no longer consider it essential for the conservation of the species. We removed these two sites from this final critical habitat designation since the areas do not have, and are unlikely to develop, the features and habitat characteristics that are necessary to sustain the species; we do not consider these areas to be essential for the conservation of the species.

**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 a 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 the Act is no longer necessary. We have designated critical habitat sites based on the regulatory, educational, and informational benefits that may further protect the species and its associated habitats. Designation of critical habitat can help focus conservation activities for a listed species by identifying areas, both within and outside the geographical range occupied by the species, which contains one or more of the essential habitat features (primary constituent elements) described below in the critical habitat units section, and 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.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. We selected critical habitat areas to provide for the conservation of *Lesquerella thamnophila* within a large portion of its geographic range in the United States. One segment of critical habitat contains the largest known population of the species. Another area is known to support a smaller extant population. The additional segments provide the necessary primary constituent elements and are believed capable of supporting the species. It is unknown whether the plant occurs on these sites, since Service biologists have not been able to survey at a time when the plants presence would likely be evident (*i.e.*, following significant rainfall). These areas are within the historical range of the species, contain habitats that are protected from disturbance, and support the ecological requirements of *Lesquerella thamnophila.*

The critical habitat areas described below constitute our best assessment of the areas needed for the species' conservation. 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 two larger extant populations, plus translocation of the plant in suitable areas of 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 and recovery of the species that critical habitat for *Lesquerella thamnophila* include both areas that currently sustain the species, and areas of unknown occupancy that contain the primary constituent elements. We selected the following sites based on suitable soil types, as taken from survey maps and vegetation types similar to the plant communities in which the bladderpod currently exists. Additionally, selection of these sites is supported by the results of a habitat suitability modeling study which indicates these sites to be favorable for recovery efforts (Wu & Smeins 1999).

Seven Lower Rio Grande National Wildlife Refuge tracts in Starr County are designated as critical habitat, including the Cuellar, Chapeno, and Arroyo Morteros Tracts located south/southwest of the Falcon Heights sub-division; 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. These areas include both the largest known population of Zapata bladderpod as well as additional suitable habitat of uncertain occupancy, as described above. One private land site northeast of the town of Salineno has also been designated as critical habitat in Starr County. This site supports the largest known population of Zapata bladderpod outside the refuge.

Section 4(b)(8) of the Act requires us to describe in any proposed or final regulation that designates critical habitat those activities (public or private) which may destroy or adversely modify such habitat or be affected by such designation. Activities which 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 areas currently occupied by the species are affected. Such activities may include those that appreciably degrade or destroy native Tamaulipan thornscrub communities. Activities such as road building, land clearing for oil/gas exploration, soil disturbance for pasture improvement, livestock overgrazing, introducing or encouraging the spread of nonnative species, and heavy recreational use may likely destroy or adversely modify critical habitat.

Designation of critical habitat on the National Wildlife Refuge tracts could affect the following actions and agencies. These effects may be direct, due to actions on the refuge tracts, or indirect effects from actions taken on surrounding lands. 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 the 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 non-native grasses, funded through or assisted by the U.S. Department of Agriculture's Natural Resource Conservation Service and Farm Service Agency.

**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 specifying such areas as part of critical habitat. We cannot exclude such areas from critical habitat if such exclusion would result in the extinction of the species concerned.

Economic effects caused by listing the Zapata bladderpod as an endangered species and by other statutes are the baseline against which the effects of critical habitat designation are evaluated. The economic analysis must then examine the incremental economic effects and benefits of the critical habitat designation. Economic effects are measured as changes in national income, regional jobs, and household income. We made the draft economic analysis available for public review and comment as described in the ''Summary of Comments'' section of this document. The final analysis, which reviewed and incorporated public comments as appropriate, concluded that no significant economic impacts are expected from critical habitat designation above and beyond that already imposed by the listing of the Zapata bladderpod under the Act and other statutes.

A copy of the final economic analysis is included in our administrative record and may be obtained by contacting our office (see **ADDRESSES** section).

**Available Conservation Measures**

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through designating critical habitat encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed species are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is listed as endangered or threatened and with respect to its critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a listed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed or critical habitat is designated subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with us. Consequently, some Federal agencies may request reinitiation of consultation on actions for which consultation has been completed on effects to the species, but that did not consider the effects of the action on 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 funding of a highway project by the Federal Highway Administration, 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.

**Required Determinations**

*Regulatory Planning and Review*

In accordance with Executive Order 12866, this rule is a significant regulatory action and has been reviewed by the Office of Management and Budget (OMB).

(a) This rule will not 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 conducted an analysis of the economic impact of the designation prior to making this final determination.

(b) This rule will not create inconsistencies with other agencies' actions. Table 1 shows a comparison of the effects on Federal actions resulting from the species' listing versus those expected to result from critical habitat designation. Federal agencies have been required to ensure that their actions do not jeopardize the continued existence of *Lesquerella thamnophila* since the species was listed. We will continue to review proposed activities with other Federal agencies as afforded through section 7 interagency consultation per the Endangered Species Act regulations.

TABLE 1.—FEDERAL ACTIONS POTENTIALLY AFFECTED BY LISTING OF LESQUERELLA THAMNOPHILA AND ADDITIONAL EFFECTS THAT MAY RESULT FROM CRITICAL HABITAT DESIGNATION

| 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 which 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 which appreciably degrade or destroy unoccopied critical habitat. |
| Private and other non-Federal Activities Potentially Affected [4]. | Activities which 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 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 under the Endangered Species Act (November 22, 1999; 64 FR 224).
[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.

(c) This final rule will not significantly impact 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. This final rule follows the requirements for determining critical habitat contained in the Endangered Species Act.

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

In the economic analysis (under section 4 of the Act), we determined that the designation of critical habitat will have no significant 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 determined that designation of critical habitat will not cause (a) any effect on the economy of $100 million or more, (b) an increase 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.

*Takings*

In accordance with Executive Order 12630, this rule does not have significant takings implications, and a takings implication assessment is not required. As discussed above, 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.* Critical habitat designation does not preclude development of habitat conservation plans and issuance of incidental take permits. The private landowner whose property is included in the designated critical habitat will continue to have opportunity to utilize their property in ways consistent with the survival of *Lesquerella thamnophila.*

*Government-to-Government Relationship With Tribes*

In accordance with the Presidential Memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), we are required to assess the effects of critical habitat designation on tribal lands and tribal trust resources. We are not designating any tribal lands as critical habitat, and we do not anticipate any effects on tribal trust resources.

**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.

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.

**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 designation 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, has 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 reviewed this final determination. We made every effort to ensure that this final determination contains no drafting errors, provides clear standards, simplifies procedures, reduces burden, and is clearly written such that litigation risk is minimized.

**National Environmental Policy Act**

It is our position that, outside these areas covered by the U.S. Tenth Circuit Court, 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*), 48 F.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 prepared an Environmental Assessment and a Finding of No Significant Impact for this action.

**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. This rule references incidental take permits which contain information collection activity. The Fish and Wildlife Service has OMB approval for the collection under OMB Control Number 1018–0094. The Service may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**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.

Wu, Ben X., and Fred E. Smeins. 1999. Multiple-Scale Habitat Models of Rare Plants: Model Development and Evaluation. TxDOT (Pharr District-Environmental Affairs Division).

**Author**

The author of this final determination is Loretta Pressly (see **ADDRESSES** section).

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend 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. In § 17.12(h) revise 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 | | | | | | | |
| * | * | * | * | * | * | | * |
| *Lesquerella thamnophila* | Zapata bladderpod | U.S.A. (TX). Mexico. | Brassicaceae | E | 671 | 17.96(a) | N/A |
| * | * | * | * | * | * | | * |

3. In § 17.96 add 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 County, Texas, on the maps below. Critical habitat includes National Wildlife Refuge tracts and one private land site. Maps are for general informational purposes only; the legal descriptions precisely define critical habitat boundaries.

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

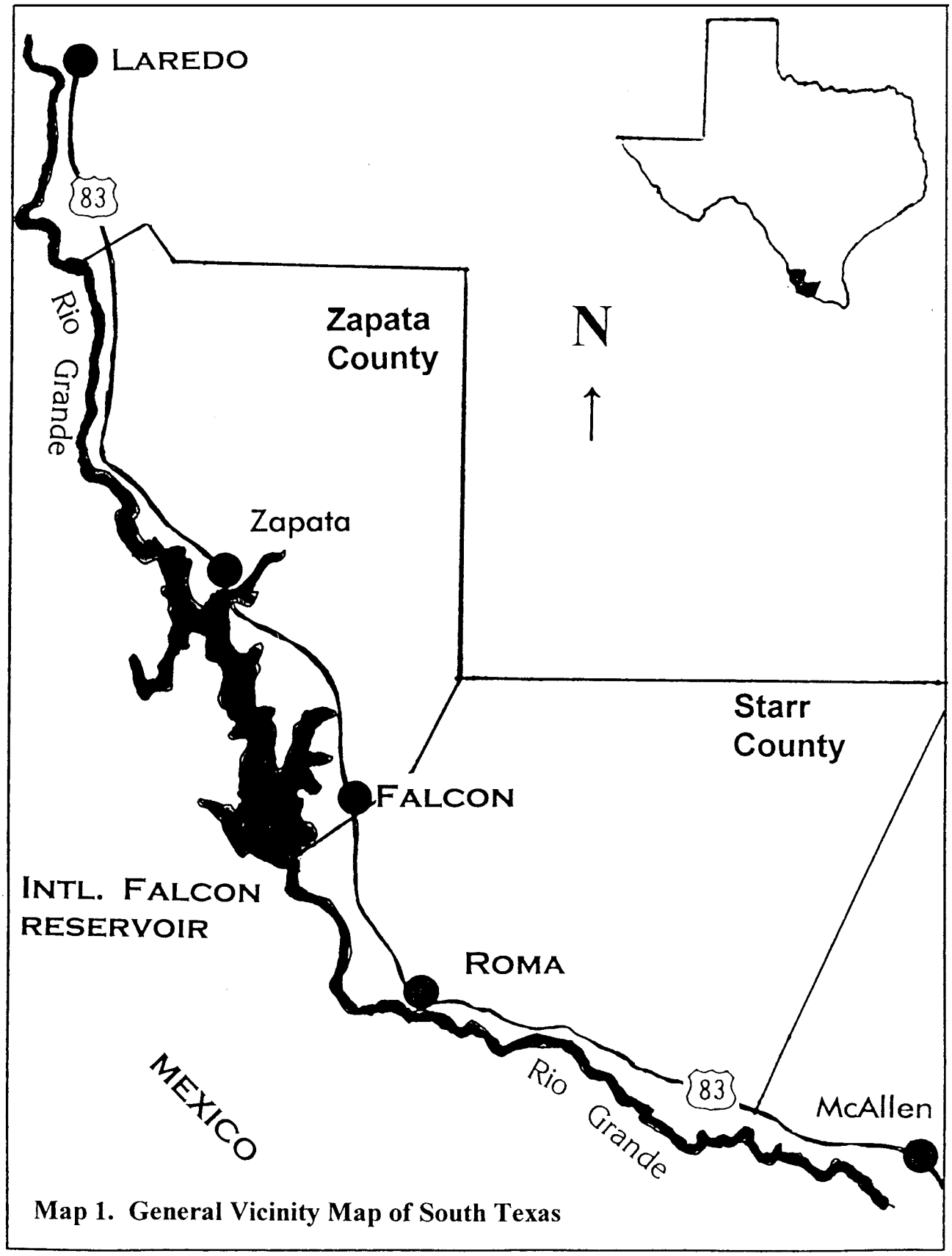
(a) Arid upland habitats of various soil types, including highly calcareous

sandy loam to loamy sand, with low to moderate salinity levels on low sloping hills;

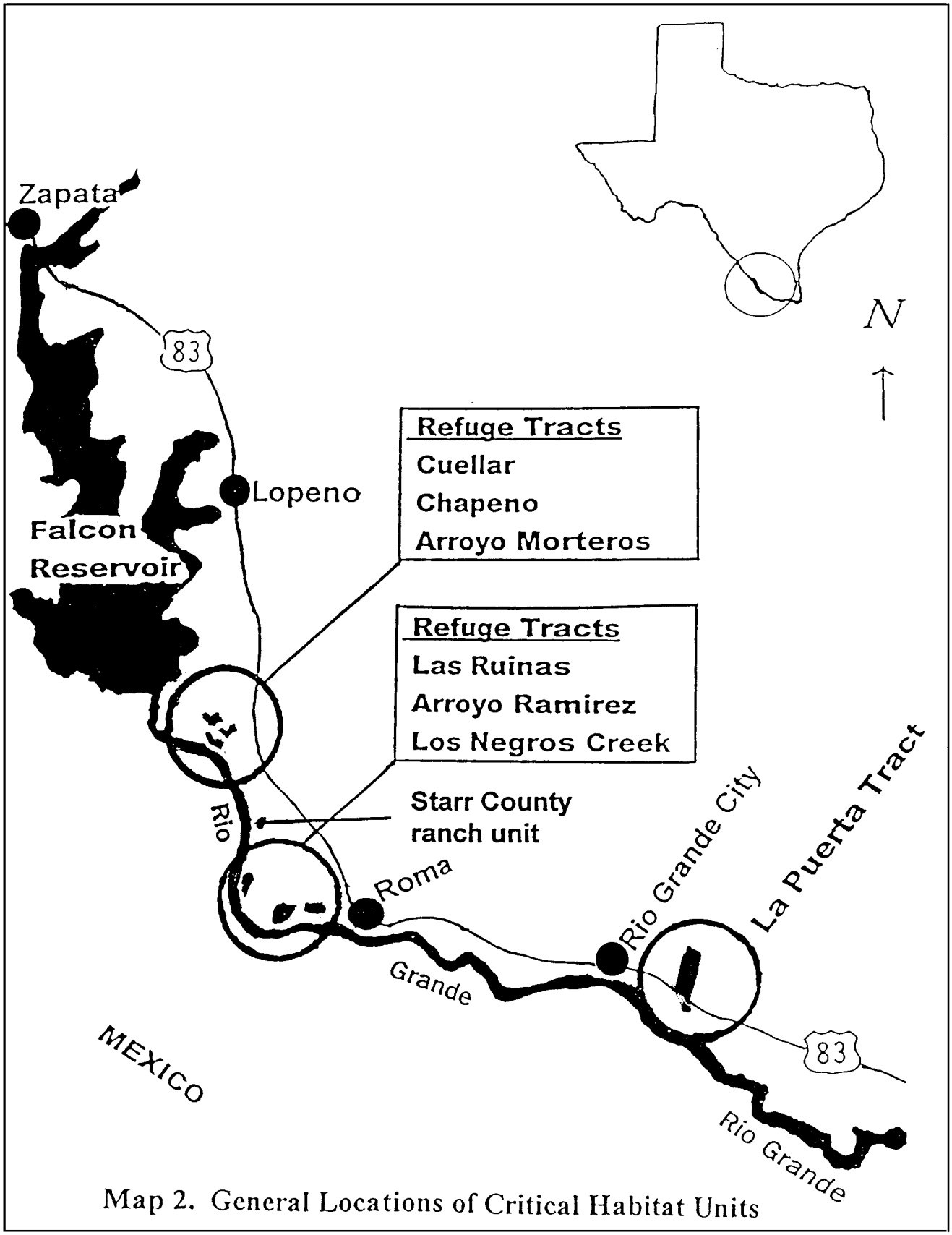
(b) Absence of substantial previous soil disturbance and seeding or sodding of exotic grasses; and

(c) 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*).

3. Existing features and structures, such as buildings, roads, railroads, urban development, and other features not containing primary constituent elements, are not considered critical habitat.




Map 1. General Vicinity Map of South Texas




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.):

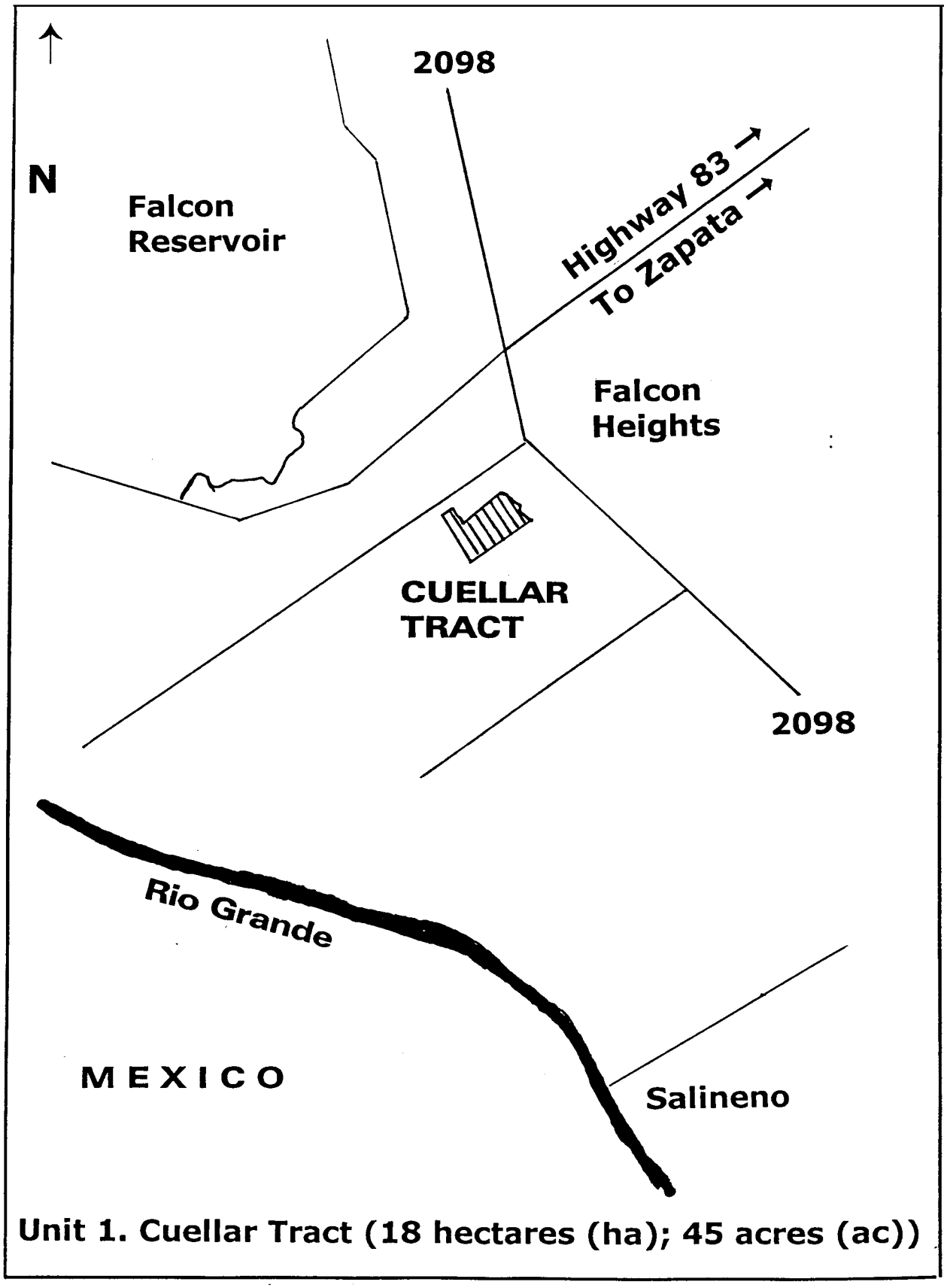
Unit 1, Cuellar Tract (18 hectares (ha); 45 acres (ac))—(Segment 669). Note: All bearings are based on the Texas State Plane Coordinate System, South Zone, as referenced by the National Geodetic Survey Triangulation Station ''LABRA'' (not found) having State plane coordinates of N = 331,881.065, E = 1,794,777.75. The scale factor used is *0.9999252,* and the theta angle is *−00° 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° 08′ 38″W, 12,737.98 feet; thence, in a southwesterly direction along the common line of Porcion 59 and 60, S 54° 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° 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° 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° 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° 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° 22′ 02″ E, 7,920.94 feet; thence, in a southeasterly direction along the common line of Porcion 59 and 60, S 54° 27′ 12″W, 806.50 feet to a standard FWS aluminum monument set for corner, being the southeast corner of said north one-half (½) of Share 26, same being the northeast corner of the south one-half (½) 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 (½) of Share 26; N 35° 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° 32Prime;; 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° 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° 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° 27′ 21″ E, 8,356.40 feet; thence, in a southwesterly direction along the common line of Shares 26 and 27, S 54° 32′ 24″ N, 806.50 feet to a standard FWS aluminum monument set for corner, being the southeast corner of said north one-half (½) of Share 27, same being the northeast corner of the south one-half (½) 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 (½) of Share 27; N 35° 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° 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° 27′ 36″ E, 592.30 feet to the point of beginning and containing 10.966 acres of land.

(Cuellar Tract—Segment 672). 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° 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° 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° 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° 32′ 24″ W, 806.50 feet to a standard FWS aluminum monument set for the southeasterly corner of said north one-half (½) of Share 28, same being the northeasterly corner of the south one-half (½) 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 (½) of Share 28, N 35° 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° 32′ 24″ E, 806.50 feet to the point of beginning and containing 10.966 acres of land.




Unit 1. Cuellar Tract (18 hectares (ha); 45 acres (ac))

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° 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° 08′ 43″ W, a distance of 9,020.47 feet to the northwesterly boundary line of said 44.900-acre tract for the northmost 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° 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° 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° 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° 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° 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 00.9999252, and the theta angle is *−00° 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° 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° 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° 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° 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° 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° 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 00.9999252, and the theta angle is −00° 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° 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° 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° 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° 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° 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° 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° 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 *00.9999252,* and the theta angle is *−00° 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° 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° 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.

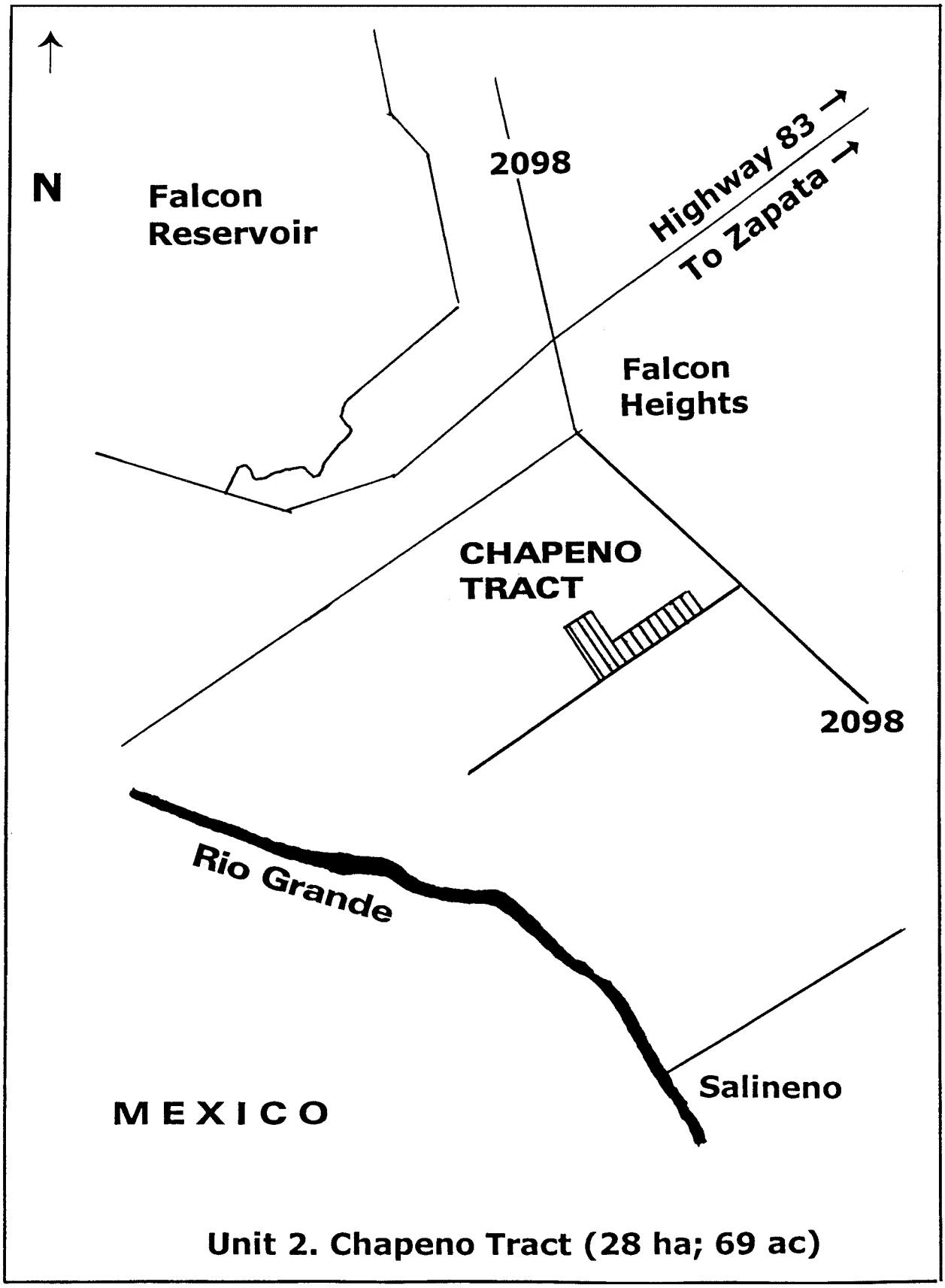
(Chapeno Tract—Segment 664). Note: All bearings and distances are based on the International Boundary Commission Monuments as referenced by the U.S.C. & G.S. triangulation station ''LABRA.'' The scale factor used is *00.9999252,* and the theta angle is *−00° 37′ 32″* (NAD 1927). All areas shown are true 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 fence line 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° 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 = 1794,777.75, 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 fence line 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° 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′ 03″ 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 fence line 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 fence line 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° 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 fence line 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 fence line 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 fence line for the easternmost corner of Share No. 24 and

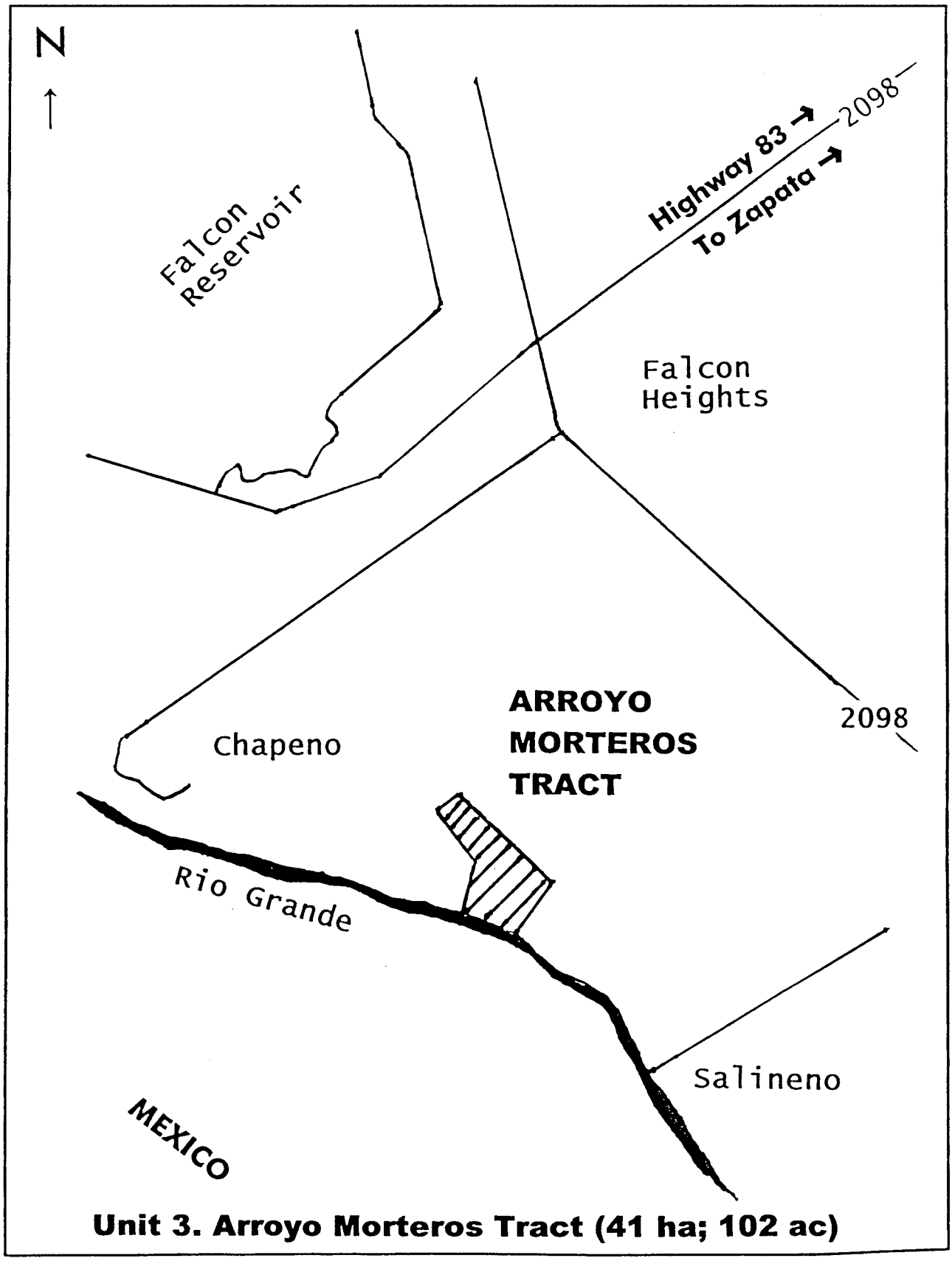
being on the southeasterly boundary line of said 44.900-acre tract and being corner No. 4 of this tract; thence, following said fence line along the southeasterly boundary line of share No. 24 and the southeasterly boundary line of said 44.900-acre tract, S 54° 17′ 59″ W, 197.94 feet to the southernmost corner of Share No. 24 and being corner No. 5 of this tract; thence, following said fence line 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.




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° 37′ 32″.* All areas and distances are true surface measurements. Beginning at a ½-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° 31′ 49″ E, 7,816.59 feet; thence, in a northeasterly direction along the common line of Porcion 59 and 60; N 54° 27′ 12″ E, 510.43 feet to a standard FWS aluminum monument set for corner replacing a ½-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° 20′ 27″ E, 3,621.01 feet to a standard FWS aluminum monument set for corner replacing a ½-inch iron rod found, being the northeast corner of the herein-described tract and stamped ''Tract 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 23′ 41″ W, 28.84 feet to a ½-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° 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° 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° 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° 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° 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° 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°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° 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° 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° 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° 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° 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° 13′ 28″ W, 136.03 feet to a ½-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° 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° 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° 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° 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,

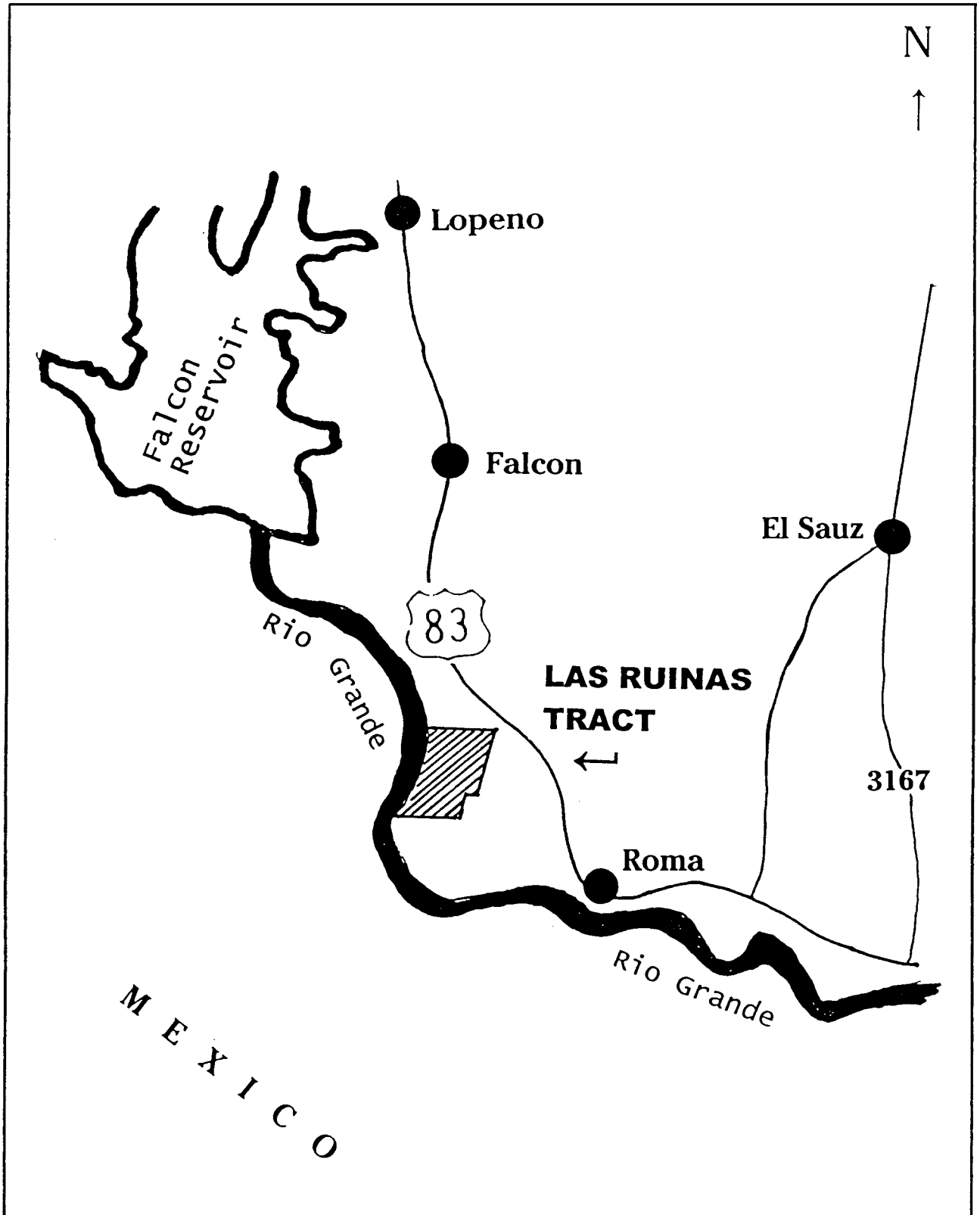
493.82 feet to a fence post found for angle point and corner No. 34; thence, in a northeasterly direction continuing along the common line between said 127.71-acre tract and the herein described tract, as fenced; N 46° 28′ 41″ E, 643.50 feet to a fence post found for angle point and corner No. 35; thence, 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.




**Unit 3. Arroyo Morteros Tract (41 ha; 102 ac)**

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

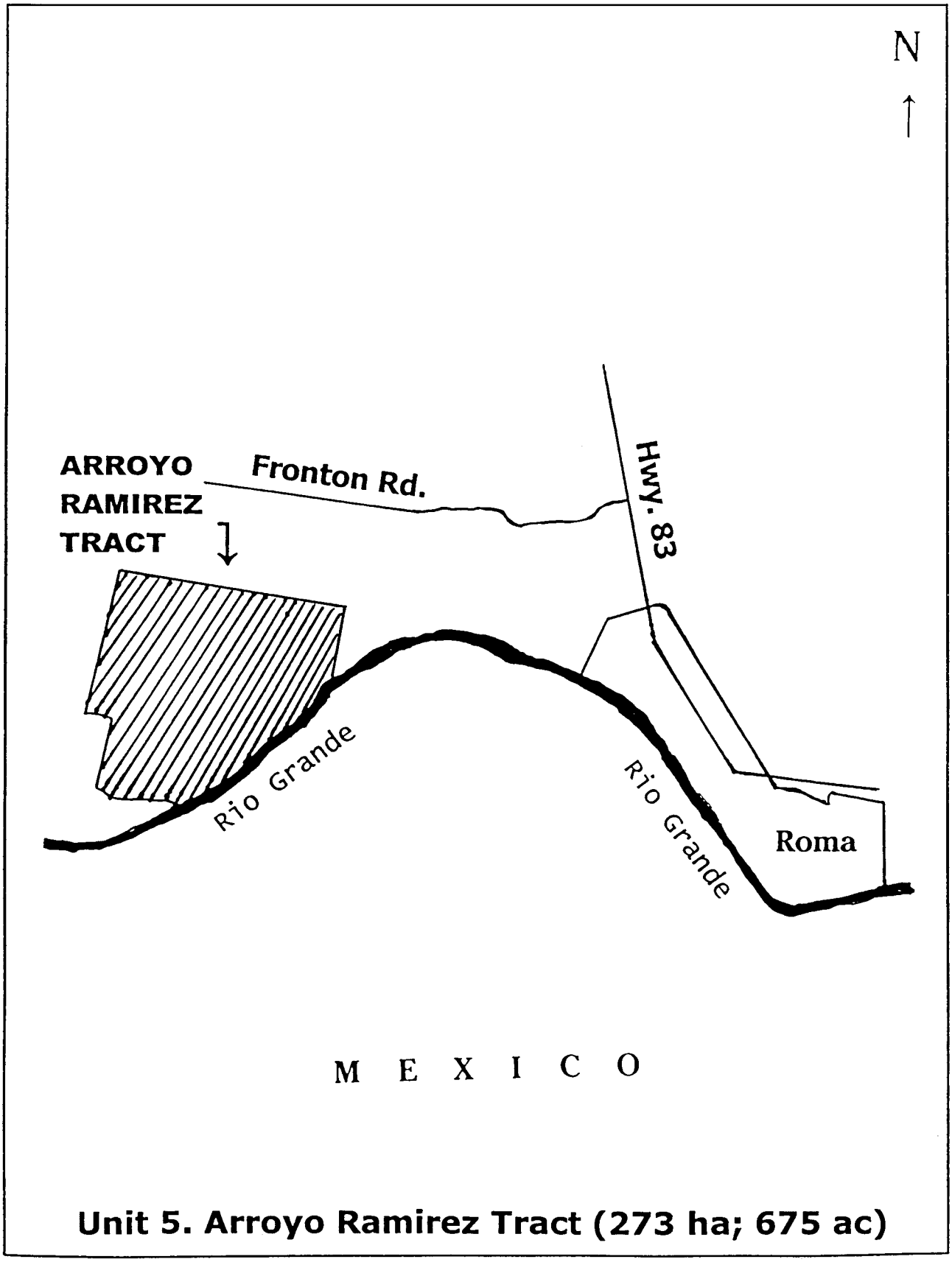
coordinates (NAD 27) of N = 275,335.73, E = 1.833,217.01. The scale factor used is *0.9999421,* and the theta angle is *-00° 16′ 22″.* All areas and distances are true surface measurements. Beginning at a 2-inch iron pipe having State plane coordinates of N = 280,488.40, E = 1,804,584.01 for the northerly southeast corner of the herein described tract, from which said triangulation station ''GORGORA'' bears S 79° 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° 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° 22′ 35″ W, 837.18 feet, to a 1¾″ 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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 1-½ 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.




**Unit 4. Las Ruinas Tract (104 ha; 256 ac)**

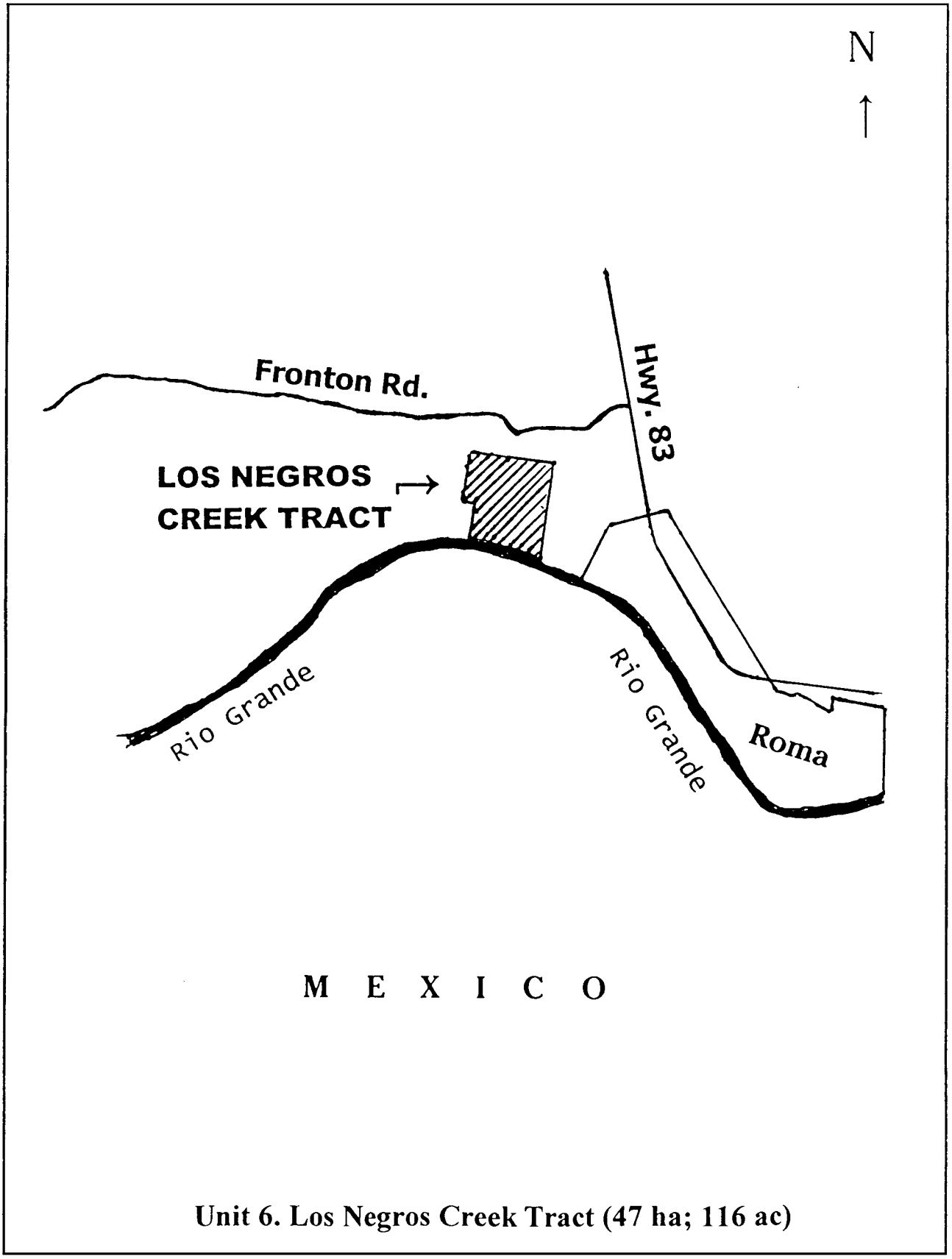
Unit 5, Arroyo Ramirez Tract (273 ha; 675 ac)—Formal surveying of the tract has not been performed. Described as, ''All of Share 79, Porcion 68, Abstract 191, Former Jurisdiction of Mier, Mexico, now Starr County, Texas, and

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 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 fence line 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 fence line 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 fence line, 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)**

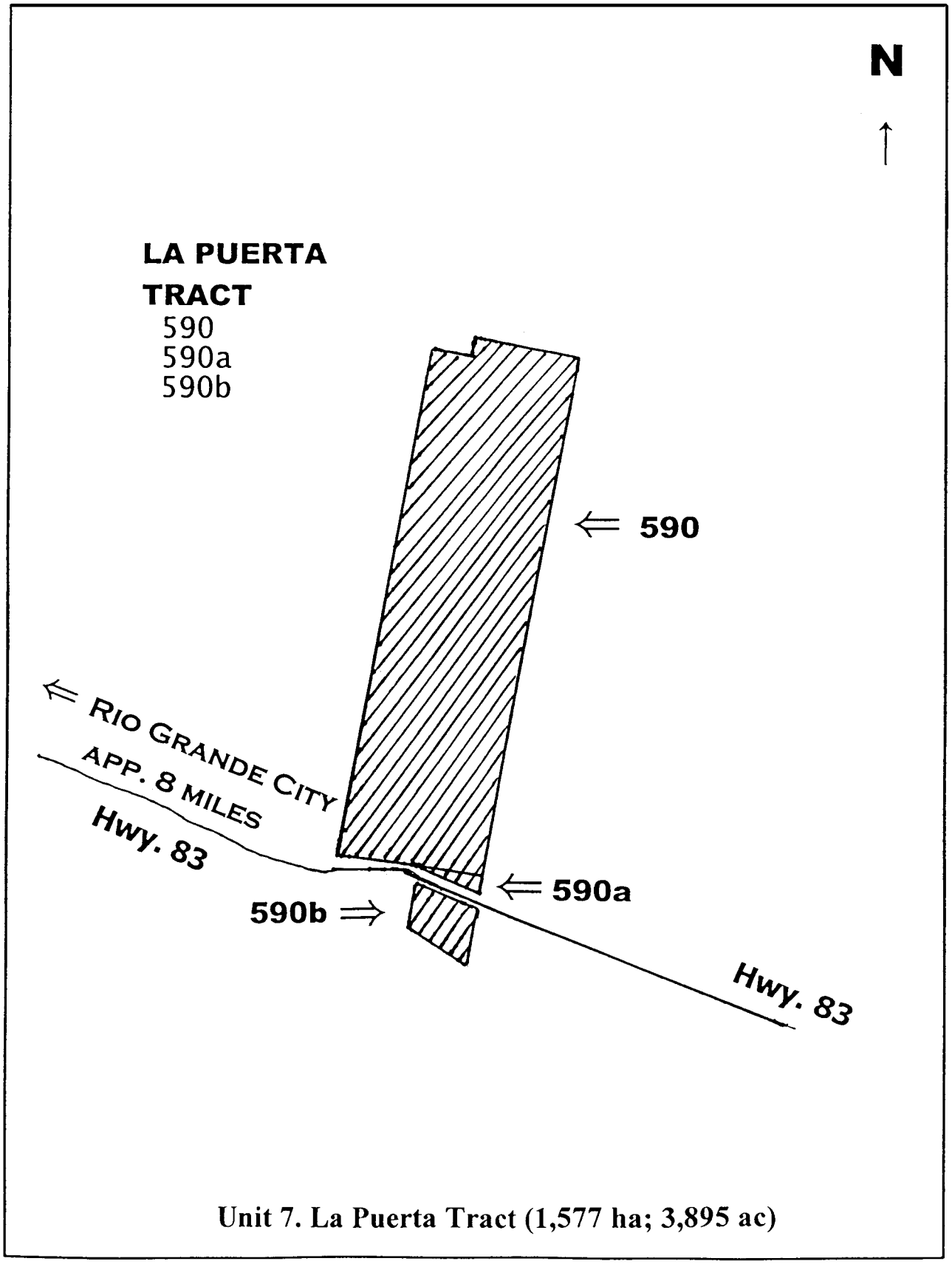
Unit 7, La Puerta Tract (1,577 ha; 3,895 ac) (Segment 590). Note: All bearings and distances are based on the Texas State Plane Coordinate System, South Zone, as referenced by National Geodetic Survey (NGS) triangulation

station ''Fordyce 2'' and NGS triangulation station ''Monument''. Scale factor used was *0.99993949;* theta angle used was *−00° 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° 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° 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° 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° 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° 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° 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° 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° 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 ⅝-inch iron pin; thence, from corner No. 7, continuing with fence, S 08° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 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° 14′ 14″ W, 1,084.94 feet to corner No. 8, a ⅝-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° 43′ 04″ W, 200.90 feet to corner No. 9, a ⅝-inch iron rod found for an angle point; thence, from corner No. 9, continuing along said proposed north right-of-way line, N 69° 54′ 31″ W, 300.83 feet to corner No. 10, a ⅝-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° 16′ 51″ W, 399.70 feet to corner No.11, a standard FWS aluminum monument stamped ''TR 590A COR 11'' set over a ½-inch iron rod found for an angle point; thence, from corner No. 11, continuing along said existing North right-of-way line, N 64° 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° 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

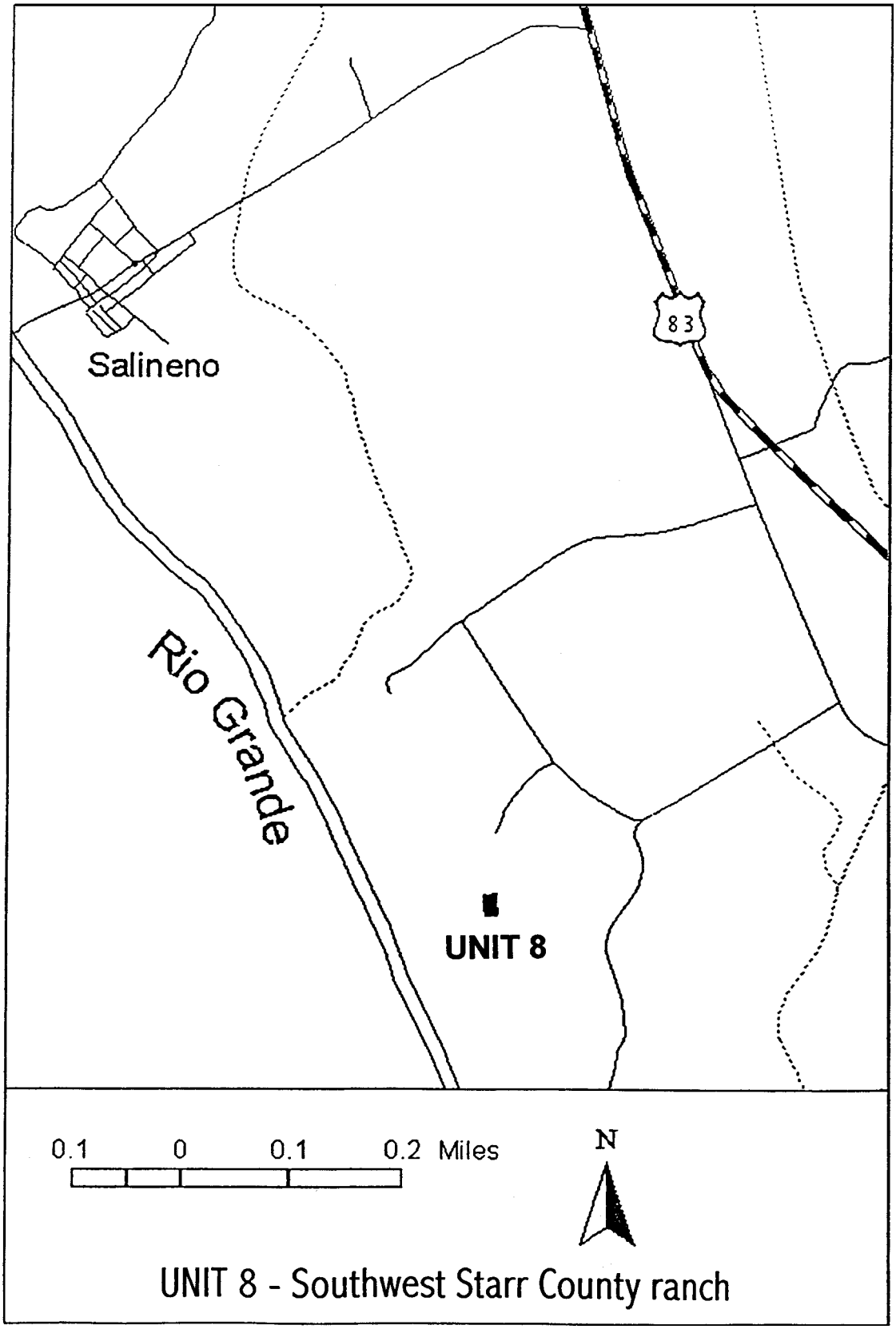
coordinate value of N = 250,167.56′ E = 1,912,489.81. Scale factor applied equals *0.00003040;* theta angle equals *−00° 06′ 15″.* All areas are based on true ground measurements. Beginning at corner No. 1, a ⅝-inch iron rod found at the intersection of the west boundary line of Porcion 87, east boundary line of Porcion 86 with the proposed south right-of-way line of U.S. Highway 83, said point bears S 08° 57′ 33″ W, 139.55 feet from a ⅝-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° 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° 14′ 23″ E, 3,043.33 feet to corner No. 2, a ⅝-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° 59′ 29″ W, 2,925.70 feet to corner No. 3, a standard FWS aluminum monument stamped ''TR 590B COR 3'' set over a ½-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° 58′ 07″ W, 3,333.49 feet to corner No. 4, a standard FWS aluminum monument stamped ''TR 590B COR 4'' set over a ⅜-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° 56′ 13″ E, 1,715.55 feet to corner No. 5, a standard FWS aluminum monument stamped ''TR 590B COR 5'' set over a ½-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° 08′ 05″ E, 418.93 feet to corner No. 1, the point of beginning and containing 170.950 acres of land.




**Unit 7. La Puerta Tract (1,577 ha; 3,895 ac)**

Unit 8-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.



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Dated: December 14, 2000.

**Kenneth L. Smith,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 00–32465 Filed 12–21–00; 8:45 am]

BILLING CODE 4310–55–C