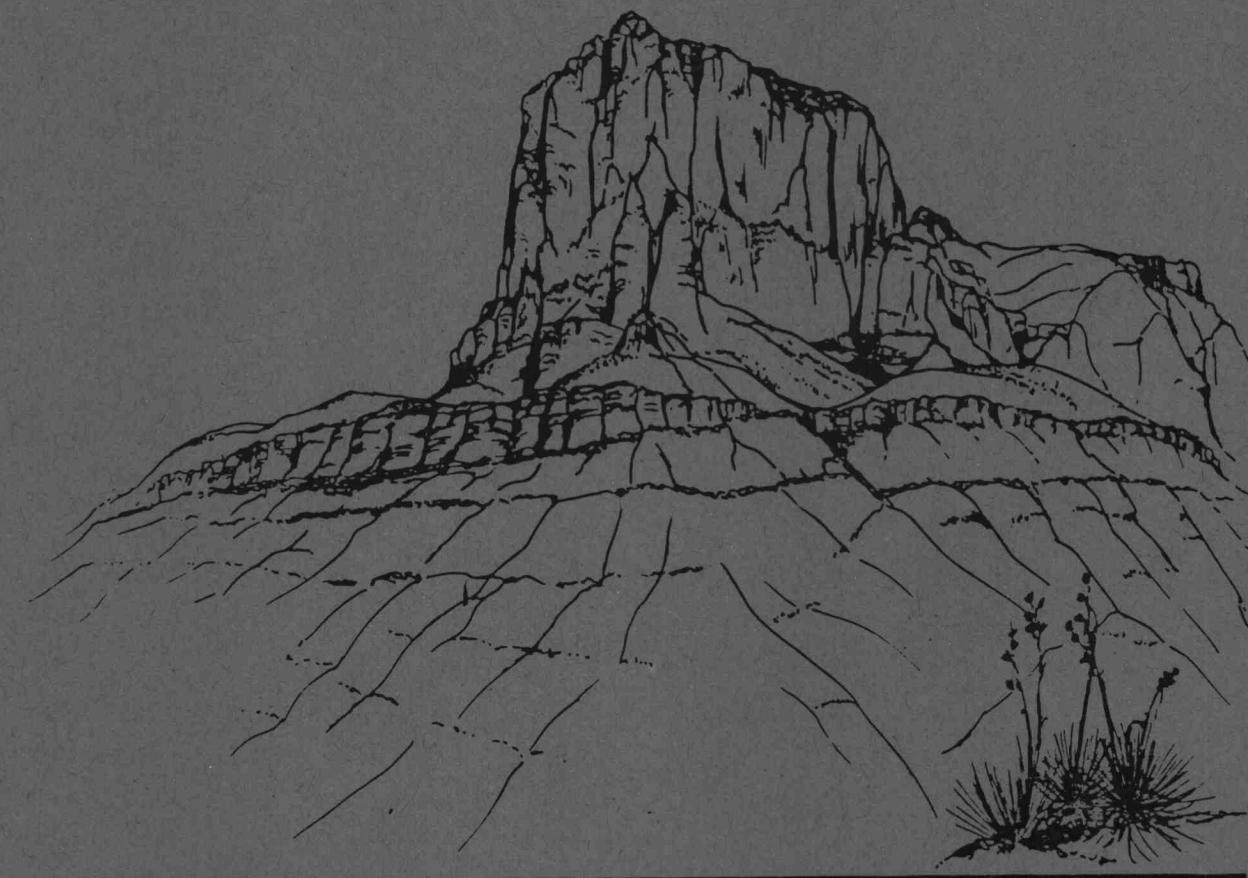


LAND PROTECTION PLAN

GUADALUPE MOUNTAINS

NATIONAL PARK

February 1992



Prepared by

GUADALUPE MOUNTAINS NATIONAL PARK

and

SOUTHWEST REGIONAL OFFICE
NATIONAL PARK SERVICE

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LAND PROTECTION PLAN

GUADALUPE MOUNTAINS NATIONAL PARK

February 1992

Prepared by

Guadalupe Mountains National Park

With assistance from

**Southwest Regional Office
Office of the Assistant Regional Director, Planning
Santa Fe, New Mexico**

**DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE**

GUADALUPE MOUNTAINS NATIONAL PARK

Land Protection Plan

Recommended by: Darryl Denison
Superintendent
Guadalupe Mountains NP

Dec 25, 1991
Date

Approved by: Tom E. Colvin
Regional Director
Southwest Region, NPS

1/2/92
Date

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INTRODUCTION

INTRODUCTION

PLAN SUMMARY (as of 11/15/91)

Total acreage within authorized park boundary-----86,415.93

Current surface ownership

Federal-----	76,293.01
Private-----	10,122.92

Number of tracts remaining to be protected: 7 surface;
9 subsurface

Methods of protection proposed: Fee simple acquisition.

Statutory acreage ceiling: None

Funding status:

Prior to October 28, 1988

Authorized acquisition ceiling (Public Law 100-541)-----	\$1,800,000.00
Appropriated to date-----	1,683,158.00
Unobligated to date-----	0.00

Following October 28, 1988

Authorized acquisition ceiling (Public Law 100-541)-----	0.00
Appropriated to date-----	1,938,000.00
Obligated to date-----	2,306.23
Unobligated to date-----	1,935,693.77

ISSUES SUMMARY

1. The white and red sand dunes included within the park's western boundary by Public Law 100-541 on October 28, 1988, have long been recognized as having outstanding scenic, cultural, and scientific values. Although the present landowners are protecting these resources, long-term protection cannot be assured by private owners.

2. The public does not have access to these lands. To provide for public enjoyment of these superb resources while protecting them will require a management presence and facility development.

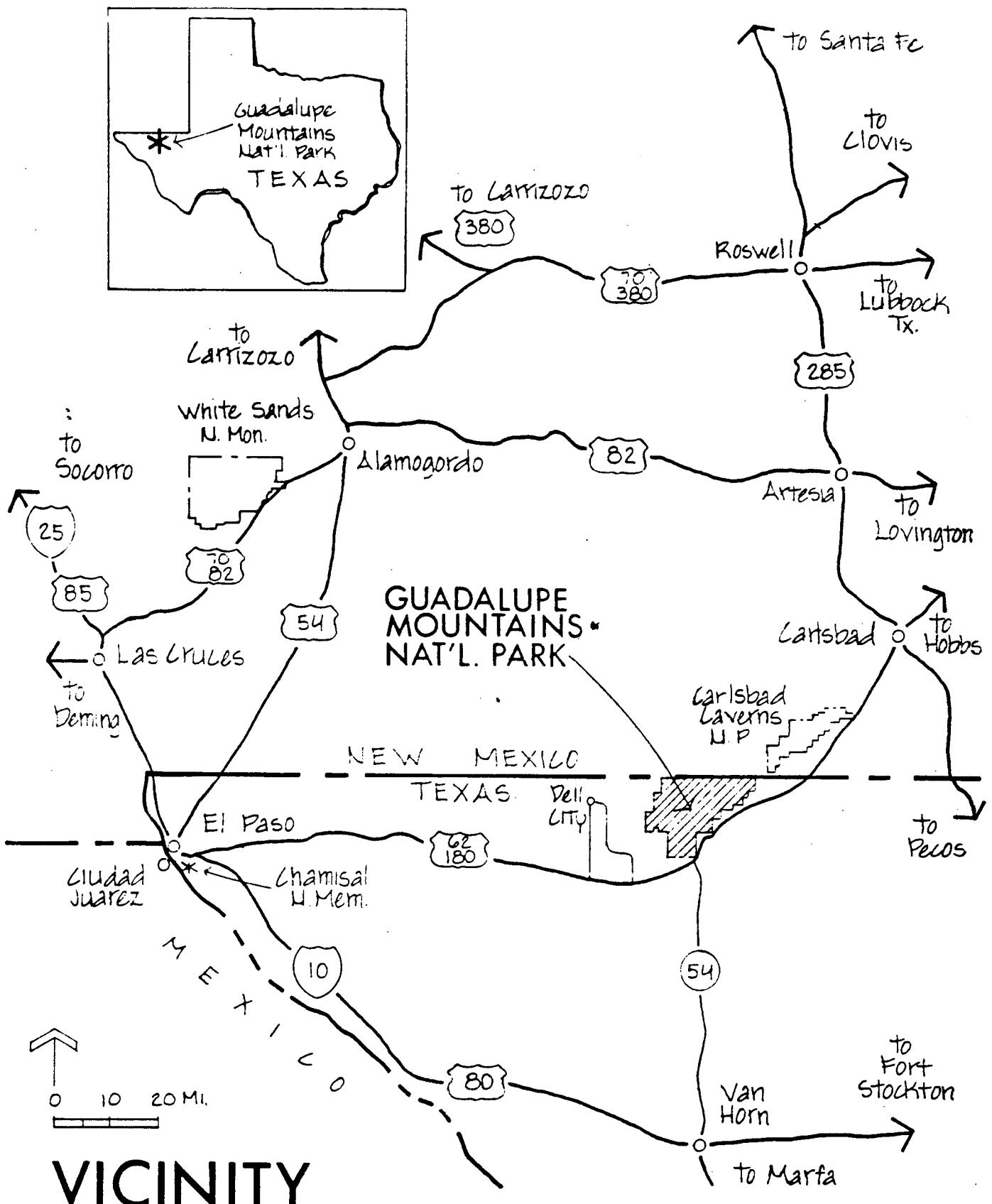
LAND PROTECTION PLANNING

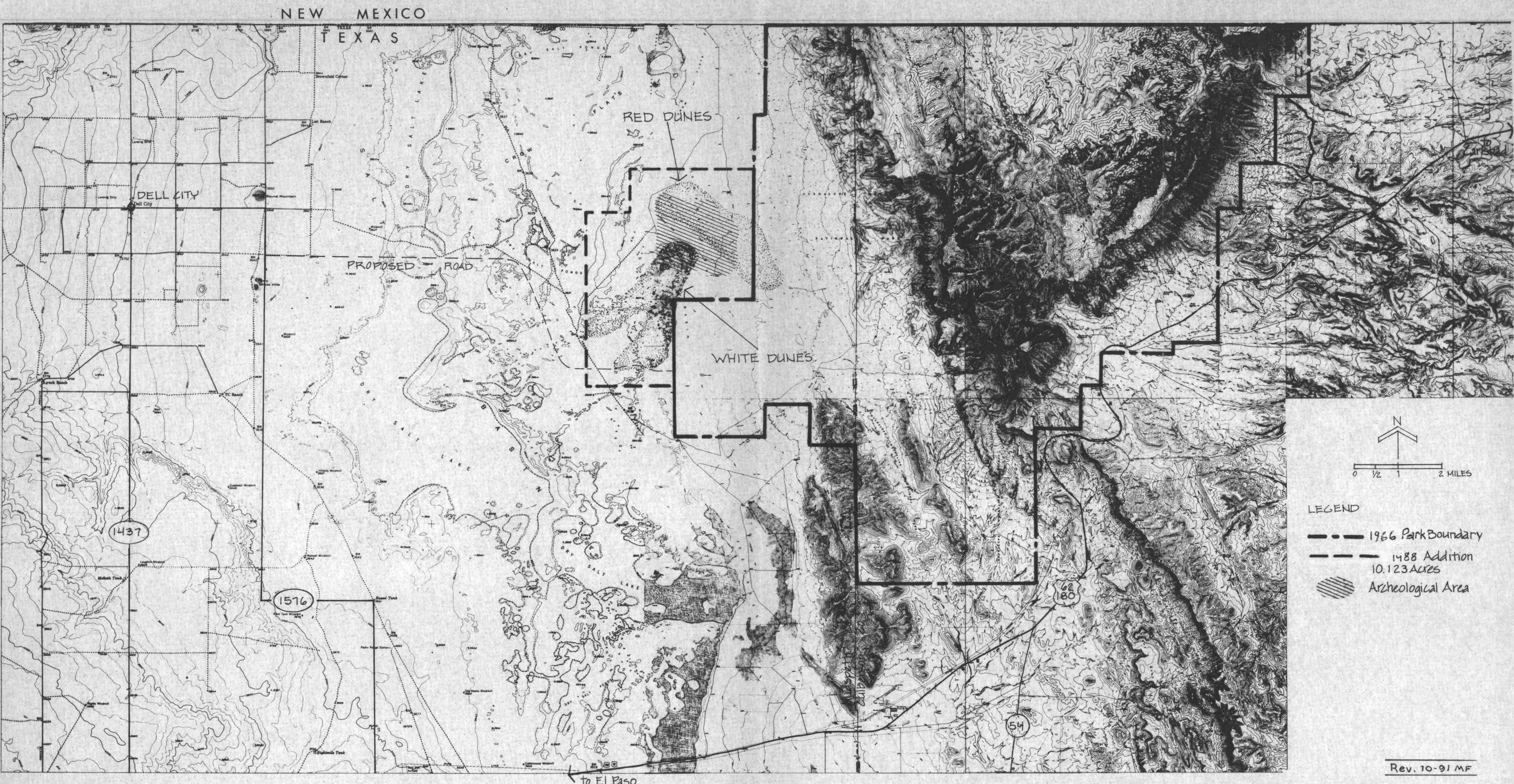
In May 1982, the Department of the Interior issued a policy statement for use of the federal portion of the Land and Water Conservation Fund, which requires that, in carrying out its responsibilities for land protection in federally administered areas, each agency using the fund will:

1. Identify what land or interests in land need to be in federal ownership to achieve management unit purposes consistent with public objectives in the unit;
2. Use, to the maximum extent practical, cost-effective alternatives to direct federal purchase of private lands, and when acquisition is necessary, acquire or retain only the minimum interests necessary to meet management objectives;
3. Cooperate with landowners, other federal agencies, state and local governments, and the private sector to manage land for public use or to protect it for resource conservation; and
4. Formulate, or revise as necessary, plans for land protection and resource use or protection to ensure that socio-cultural impacts are considered, and that the most outstanding areas are adequately managed.

In response to this policy, the National Park Service prepares a land protection plan for each unit of the National Park System that contains nonfederal lands. Land protection plans determine what lands or interests in lands need to be in public ownership to ensure protection of significant resources and to provide for adequate visitor use. They also determine priorities for land acquisition. Property owners and other interested parties are provided with notice that land protection planning is under way, and are given an opportunity to comment on a draft of the plan. Once plans have been approved, revisions or updates will be made as necessary to reflect changing conditions.

This land protection plan does not constitute an offer to purchase land or any interests in land. It will generally guide subsequent land protection activities, subject to the availability of funds and other constraints. The plan does not diminish the rights of nonfederal landowners.





BOUNDARY
GUADALUPE MOUNTAINS
NATIONAL PARK
U.S. DEPT. OF THE INTERIOR • NPS

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THE PARK

THE PARK

PURPOSE

Guadalupe Mountains National Park was established in 1966 by Public Law 89-667, in order to ". . . preserve in public ownership an area in the State of Texas possessing outstanding geological values together with scenic and other natural values of great significance" This act was amended in 1988 by Public Law 100-541 (appended) to include the red and white sand dunes on the west side of the park, encompassing approximately 10,123 acres.

REGIONAL CONTEXT

Guadalupe Mountains National Park is located in a remote, sparsely populated area of the Southwest. The park is in Culberson and Hudspeth Counties in West Texas, adjacent to the New Mexico State line, about 115 miles east of El Paso, Texas, and about 60 miles southwest of Carlsbad, New Mexico. The nearest towns are Dell City--a small community of about 400 persons serving an irrigated agricultural area about 20 miles west of the park; and Van Horn--a ranching/tourist service community along I-10, about 60 miles south of the park.

The park contains approximately 86,416 acres. It is bordered on the north by Lincoln National Forest, State, and private lands and on its other sides by private property almost entirely devoted to grazing. Due to the arid environment, extensive land areas are needed for grazing; as a result, ranches are large and ranch houses are widely spaced.

Primary access to the park is via U.S. Highway 62-180, which runs between El Paso and Carlsbad, with Texas Highway 54 intersecting and connecting to Van Horn at I-10.

RESOURCES

Federal Lands

Natural: The park preserves a significant portion of the Guadalupe Escarpment--an uplifted Permian limestone reef forming a huge V-shaped plateau. On both the east and west sides of the plateau, rolling foothills and portions of the desert floor (Chihuahuan Desert sand dunes) are included in the 86,416-acre park. El Capitan, on the southern end of the escarpment, is a prominent landmark. Guadalupe Peak, located immediately to the north, is the highest point in Texas (8,751 feet). The escarpment rises above the western desert some 5,000 feet. The extensive exposures of the Permian reef are considered by geologists and paleontologists throughout the world as an outdoor laboratory of unique importance for tracing the history of the earth, and for understanding the origins of certain valuable mineral resources, such as petroleum, potash, dolomite, and limestone.

Zoogeographically, the Guadalupe Mountains are an island in the Chihuahuan Desert, inhabited by plants and animals, many of which have affinities with the flora and fauna of the Rocky Mountains. In a sense, the Guadalupe range is a connecting link between the Rocky Mountains, the Chihuahuan Desert of Mexico, the grasslands of the Great Plains, and the deciduous woodlands of the east. Dozens of plants and animals from all of these diverse habitats mingle here, many at the geographic limits of their range, isolated from like populations by an expanse of desert.

The rare sequence of geologic events that resulted in reef formation, burial, and uplift has created a treasured setting for plant and animal communities. The long-buried home of ancient snails, sponges, and clams is now an oasis of vast ecological dimensions. Numerous distinct climate zones and ecological communities may be found extending from the basin floor to the mountain tops. Climates range from those of northern Mexico to southern Canada: the highest points contain spots showing decidedly alpine characteristics; the lowlands are populated with cactuses and drought-resistant shrubs. This wide divergence of environments has resulted in a profusion of animal life: observed within park boundaries have been innumerable terrestrial and aquatic invertebrates; sunfish and trout; numerous species of reptiles and amphibians (often nocturnal); and over 60 species of mammals, including rodents, bats, skunks, ringtail cats, jackrabbits, cottontail rabbits, antelope, deer, elk, bears, mountain lions, foxes, coyotes, badgers, bobcats, raccoons, and porcupines. There are 280 bird species.

Cultural: The first references to "Man and the Guadalupes" were written by the Spanish Conquistadors in the course of their journeys north from Mexico. There is little evidence of Spanish presence in the Guadalupes, and it is clear that no large-scale settlement was ever attempted. The Spanish were aware that Mescalero Apache (named for mescal--the plant comprising their major sustenance) lived in the area. The Apache played a major role in the history of the Guadalupes, and successfully developed a culture while wrestling a living from the desert. There were several bands, and each had a favorite place to frequent. The groups that favored the Guadalupes camped near the springs along the base of the mountains, and ranged into the highlands to hunt and forage. For centuries, the yucca (century plant, or mescal) was their staff of life. No part went to waste, and the plant supplied the desert-dwellers with food, drink, fibers, and soap. Hundreds of old mescal roasting pits, marked by circular mounds of fire-broken rock, can be found throughout the park.

The Guadalupes lay largely unexplored and unknown until the 1850s, when John Bartlett, commissioner of the Mexican boundary survey, provided a description that drew public attention. In 1857, faced with the urgent need for rapid and reliable mail service to the burgeoning West Coast, the United States Congress gave a profitable contract to John Butterfield. Overnight, the famous Butterfield Overland Mail Line was born. The route stretched from St. Louis to San Francisco, and under the terms of the contract the company was granted 320 acres of land for each fort-like way station. One station was built in the Guadalupes: its stone walls are still visible near the park's headquarters. The station was confronted by constant Indian raids and an isolated water supply; thus, the route through Guadalupe Pass was soon abandoned in favor of a better-protected route passing through Fort Stockton and Fort Davis.

After the Civil War, more and more Americans began to arrive, slowly forcing the Mescalero Apaches northward and out of the Guadalupes. Settlement and ranching came slowly to the desert area, and times were hard. The Rader brothers built the first permanent ranch house in 1876 near Frijole Spring. Robert Belcher built the house now called Williams near the base of the western side of the escarpment in 1908. Walter Glover settled in Pine Springs before 1907. Early settlers ranched with a variety of stock, including sheep, cattle, and goats. Efforts made at farming and mining were unsuccessful, and the 1920s and 1930s saw the failure of most small ranching operations due to overgrazing and drought. Cabins, livestock enclosures, and other structures representing these settlers can be found scattered throughout the park. During this period, Judge J. C. Hunter purchased and consolidated most of the small ranches in the area into a large-scale ranching operation, building an

elaborate high-country watering system for his stock. Even after the death of the Judge in 1945, his son continued to expand and care for the Hunter Ranch in the Guadalupe Mountains.

With the exploration and development of the Permian Basin oil fields, the Guadalupes became crucial to understanding the geologic history of the oil-bearing strata. As a consequence, many people involved in the new industry, including geologists, began working in the Guadalupe region. One geologist who came to love the area was Wallace Pratt. During his immensely successful career in oil exploration, he bought large tracts of land in the Guadalupes, including a major portion of exquisite McKittrick Canyon. There he built a house, which can still be seen by hikers in the park. In 1959, Pratt found he could no longer care for his ranch, and in order to protect it, gave the 5,632 acres to the National Park Service. A few years later, J. C. Hunter, Jr.--following the wishes of his father, J. C. Hunter, Sr.--offered 72,000 acres of his holdings surrounding McKittrick Canyon to the National Park Service for \$1.5 million. When Congress authorized establishment of the park in 1966, it picked up one of the greatest land bargains in history: a national park for \$21 per acre.

Following this tradition of local citizen concern for the protection of important resource values, The Texas Nature Conservancy, several landowners, and the community of Dell City approached the National Park Service in the early 1980s about expansion of the boundary to include the red and white Chihuahuan desert dunes on the west side of the park. In response, the National Park Service prepared West Side Boundary Study, Guadalupe Mountains National Park. Following hearings before the Subcommittee on National Parks and Public Lands on July 14, 1988, a bill sponsored by El Paso Congressman Ronald Coleman was enacted into law on October 18, 1988.

Nonfederal Lands

On the west side of the park, within the recent boundary expansion, are two privately-owned dune fields: a white gypsum dune field, and a red quartzose dune field. The white gypsum field covers about 2,000 acres, and is the second best (White Sands National Monument is best) example of a gypsum dune field in the Chihuahuan Desert. These dunes are composed largely of granular gypsum. Its parent source is the alkali lake bed or salt flats to the west, although they probably no longer contribute a significant amount of sediment. The dunes exist as an isolated entity, and existing gypsum outcrops are reworked by the wind. Individual dunes within the dune field range from 3-foot-high, heavily vegetated dunes in the southern portion of

the area, to 60-foot-high, largely non-vegetated dune ridges in the north.

A 2,500-acre field of more common red quartzose dunes is located northeast of the white dunes. These dunes are smaller and visually less impressive, but provide an interesting contrast to the white dunes. Within the park's four major soil types--which are saline soils, gypsum ridges, quartzose soils, and the Bajada sequence--are four major vegetative associations. The plant species common to these areas are not found elsewhere in the park. At least four floral species found on the west side have been listed as candidates for the endangered species list by the U.S. Fish and Wildlife Service: One other species is known only from the gypsum dune area, and is probably also eligible for the endangered species list. In addition, of the approximately 40 species found in the gypsum sand dune area, at least 10 are botanically important, due to their rarity or occurrence near the limit of their known distribution.

Plant species found on the west side of Guadalupe Mountains National Park that are eligible for endangered species consideration include: twist flower (Streptanthus carinatus)--listed by the U.S. Fish and Wildlife Service as a candidate species for the endangered species list (Federal Register 40:137, July 1, 1975); wild onion (Allium per dolce)--listed by the U.S. Fish and Wildlife Service as a candidate species for the endangered species list (Federal Register 40:137, July 1, 1975); cliff nama (Nama xylopodium)--listed by the U.S. Fish and Wildlife Service as a candidate species for the endangered species list (Federal Register 40:137, July 1, 1975); Warnock's gransel (Senecio warnoekii)--listed by the U.S. Fish and Wildlife Service as a candidate species for the endangered species list (Federal Register 40:137, July 1, 1975), and also habitat restricted to gypsum dune area, outside park boundary; and Warnock's gransel (Lepidospartum burgessii), habitat restricted to gypsum dune area, outside park boundary, and probably eligible for endangered species status.

At least 23 reptile species inhabit the west side addition, including 15 lizards and three poisonous snakes. Of special interest is an extremely pale form of the lesser earless lizard (Holbrookia maculata), which parallels the evolution of similarly-colored individuals found in White Sands, New Mexico.

The only animal known to occur in the vicinity that is listed on the Federal List of Endangered Species is the peregrine falcon. A study has identified 40 species of birds in summer residence; however, species diversity is known to increase dramatically during the spring and fall migration periods. Small nocturnal rodents are the most common of the 22 mammal species known to

inhabit the west side addition. Common large mammals include jackrabbits, coyotes, badgers, and mule deer.

An archeological survey conducted for the Texas Natural Areas Survey identified 52 prehistoric archeological sites, and many more are likely. The only development on these lands is two wells and several miles of fencing.

APPLICABLE LAWS/AUTHORITIES

The basic land protection authorities for federal lands within Guadalupe Mountains National park are the National Park Service Organic Act of 1916, the Historic Preservation Act of 1966, the Wilderness Act of 1964, and the authorizing legislation for the park (Public Law 89-667). Numerous other laws and executive orders protect resources on federal properties; however, these do not usually apply to privately-owned land.

Guadalupe Mountains National park is under the concurrent jurisdiction of the United States, which means that law enforcement staff within the park can enforce both federal and state regulations on federal land. State and county law enforcement officials can also exercise jurisdiction within the park.

MANAGEMENT ZONING

Guadalupe Mountains National Park is predominately a natural zone (congressionally-designated wilderness), where the management emphasis is on conservation of natural resources and processes, and accommodation of uses that do not adversely affect these resources and processes.

There are four comparatively small historic zones within the park where management emphasis is on preservation, protection, and interpretation of cultural resources and their settings. These areas are at The Pinery, Frijole Ranch, Pratt Cabin, and Williams Ranch.

Development zones exist at the upper Dog Canyon, the mouth of McKittrick Canyon, the NPS housing/maintenance Area, Pine Springs Canyon campground/trailhead, and the new visitor center/headquarters area. These zones are locations where park development and intensive use have substantially altered the natural environment.

PLANNING STATUS/ISSUES

The Master Plan, Guadalupe Mountains National Park, dates from 1973, and should be replaced by a general management plan to incorporate management experience since the park was formally established in 1972, changes to NPS policy, funding constraints, and boundary modifications. The general management plan could also contain an updated development concept plan for Pine Springs and complete a development concept plan for the lands added to the West Side of the park in 1988. A draft of a west side development concept plan was developed in 1980 but was not finalized. Further planning is also needed for Dog Canyon, McKittrick Canyon, and Frijole Ranch.

LAND STATUS/USE

LAND STATUS/USE

FEDERAL LANDS

The 76,293.01 acres of federally owned lands within the Guadalupe Mountains National Park is currently administered by the NPS in accordance with the provisions of the establishing legislation. A total of 46,850 acres, mostly high country, were designated by Congress as wilderness in 1978. Trails within this wilderness are an important visitor attraction. Acreage amounting to 110 was left out of the original wilderness proposal at Pine Springs Canyon to provide for a development site. (A new visitor center/headquarters building has been built at this site as a part of the existing front-country campground development.) In addition, 60 acres were left out of the wilderness proposal at Dog Canyon to provide administrative access and a campground, visitor contact station, and staff residences now serving the public at that location. A similar withdrawal occurred at McKittrick Canyon to allow for administrative access to Pratt Lodge.

The park contains properties listed on, or eligible for, the National Register of Historic Places, which are of interest to the visiting public: The Wallace Pratt Cabin in McKittrick Canyon; the Smith Ranch facilities at Frijole Spring; the remains of the Emigrant Trail to California (Butterfield Stage Route) and the Butterfield Stage Station (Pinery); the Williams Ranch; and the Pine Springs Store/Cafe. The "Ship-on-the-Desert" (former Pratt residence in McKittrick) is currently used as a research support facility and not open to the public.

A total of 2,945.55 acres of federally owned lands are nearby, outside the boundary of Guadalupe Mountains National Park. When the park was authorized, the legislation provided for, among other things, the acquisition of acreage outside the park boundary to utilize for exchange purposes in the acquisition of privately owned lands within the park boundary. Acquisition of lands outside of the boundary was also considered necessary to avoid severance damages to lands lying primarily within and outside of the park boundary. The language specifically limits the use of these lands to exchanges for privately owned lands within the boundaries of the park. No additional exchanges under the act are contemplated. To date there has been no disposition of these lands, and they are currently administered

by Guadalupe Mountains National Park as the nearest public land-managing agency.

PRIVATE LANDS

The Act of October 28, 1988 (P. L. 100-541, 102 Stat. 2720), expanded the western boundary of the park to include 10,123 acres of white and red sand dunes. These dunes have long been recognized as having outstanding scenic, cultural, and scientific values. The State of Texas has identified them as a Texas "natural landmark." They are considered the second best example, next to White Sands National Monument, of a gypsum dune field in the United States portion of the Chihuahuan Desert. Unusual plant associations and rare species (including at least one species eligible for federal endangered species status--the gypsum scalebroom) exist on these lands. The red dunes contain numerous archeological sites dating from 2500 B.C. to about A.D. 1500, as well as a section of the historic Butterfield Stage Route.

Although subject to some oil and gas exploration and ranch development and grazing in the past, the west side of the park remains relatively undisturbed. There is a network of primitive two-wheel- and four-wheel-drive roads in the area. Some of these roads are in very poor shape, especially in arroyos, where they may have been washed out by floods. Two wells are used to water stock, and there are several miles of fencing.

The area is not currently open to public access. A rough, bulldozed road has been constructed as a public right-of-way to the edge of the property, anticipating future public use. A series of locked gates is maintained by the ranchers in the area. A few cattle are grazed in the area, but no other known private use takes place (except, perhaps, some deer hunting during hunting season). However, in the past there has been serious damage from unauthorized use of the dunes by off-road-vehicle recreationists and collectors of archeological material.

SUBSURFACE INTERESTS

Federal Lands

The authorizing legislation for the park stipulates that if an Act of Congress provides that the national welfare or an

emergency requires the development and production of subsurface minerals within the park, the Secretary of the Interior may lease park lands for mineral exploration and development. Landowners who donated subsurface interests to the federal government for the park will have preferential right to lease. The legislation further contains a provision for communization agreements in the event that oil and gas or other minerals are produced in commercial quantities outside the park, causing drainage from lands within the park boundaries.

Private Lands

Most of the subsurface interest is owned by the State of Texas.

*

WATER RIGHTS

Available water rights on private lands will be acquired. One of the landowners within the 10,123-acre expansion has verbally offered to make other water outside the boundary available to any landowners who would have to give up existing water within the boundary.

RELATIONSHIPS OF LANDOWNERS TO THEIR LANDS

Most of the landowners are ranchers. Those contacted have expressed concern about preservation of the beauty and resources of the West Side, and are willing to sell their lands to the federal government.

**LAND PROTECTION
ALTERNATIVES**

LAND PROTECTION ALTERNATIVES

INTRODUCTION

Direct National Park Service acquisition and management of land may not be the only effective or desirable method of protecting unit resources. To determine the most appropriate means of land protection, in accordance with the policies stated elsewhere in this plan, this section will examine alternate methods of protecting park resources and achieving the purposes for which Guadalupe Mountains National park was established.

COMPATIBLE/INCOMPATIBLE PRIVATE USES

Guadalupe Mountains National Park was established "to preserve in public ownership an area in the State of Texas possessing outstanding geological values together with scenic and other natural values of great significance . . ." (P.L. 89-667). To preserve the sensitive archeological and natural values of the West Side and to accommodate public use, there are no private uses, other than low-impact recreational activities such as hiking and nature study, that would be compatible with future preservation and management of the West Side.

ALTERNATIVES

Five alternatives for protection of lands will be assessed:

1. Memorandums of understanding
2. Zoning
3. Regulation
4. Acquisition of easements
5. Fee acquisition

Memorandums of Understanding

Memorandums of understanding establish policies or procedures of mutual concern, and can serve as a basis for cooperation among two or more parties. They are most likely to be useful for land owned by state or local governments, private non-profit organizations, and other federal agencies, and by individuals or corporations who are supportive of unit purposes. They may be terminated at the wish of any of the parties to the agreement with proper notice.

Within park boundaries, memorandums of understanding would not be effective in protecting resources. The large size of the dunes, the density of the archeological sites, and the widely scattered locations of plants eligible for endangered species consideration, along with the open nature of the viewshed, are important considerations necessitating long-term protection. Because these resources are unique and irreplaceable, protection requirements must be very restrictive, and generally exceed those usually associated with memorandums of understanding, especially with private landowners. Although the landowners are supportive of the purposes of the park, use of the area by the public for hiking, picnicking, and environmental study is not compatible with a ranching operation.

Memorandums of understanding could be effectively used with the county on road access.

Zoning/Regulations

Through zoning, state and local governments can regulate the density, type, and location of private development. Also, federal agencies and local governments may administer a variety of other laws that can protect unit resources by controlling such factors as air and water pollution, hunting, resource extraction and excavation, and subdivision of land. Both of these methods are most useful when private land use needs to be controlled and managed rather than prohibited. There are no State or local zoning regulations that apply.

Acquisition of Easements

Property ownership can be envisioned as a bundle of rights--for example, the right to graze cattle, build houses, cut trees, extract resources, and exclude others. Easements convey only some rights in property from one party to another. Easements may be positive, as in the case of giving a right of access for interpretation and resource management, or they may be negative,

as in the case of restricting specific activities on the land to ensure that private uses will remain compatible with the preservation and public use of the land.

Easements can be purchased or donated. They constitute an interest in land in the form of a property right, and are binding on subsequent owners. One advantage to local governments of the acquisition by the federal government of an easement on private property is that the property remains on the tax rolls. Easements are also extremely flexible, and can be drafted to fit the specific characteristics of the land as well as the concerns of the landowner. The cost of an easement depends on the interest to be acquired, and can approach the full fee value of the property. Monitoring and enforcement of easement conditions is necessary.

Easement acquisition would not be an effective resource protection method at Guadalupe Mountains National Park for the following reasons:

1. No reasonable amount of private use can be maintained without directly affecting the dunes, the archeological resources, and the plants eligible for endangered species consideration;
2. Much of the area will receive regular use by the public, with associated safety and liability concerns; and
3. The archeological and natural resources require intensive management and protection.

Fee Acquisition

When all of the rights (or interests) in a tract of land are acquired by purchase or donation, it is owned in fee simple. According to Department of Interior policies, fee acquisition is recommended only when other methods of protection are not adequate, efficient, or effective in meeting management needs.

Fee acquisition is necessary for lands within the park boundary because of the density of the archeological sites, and the widely scattered locations of plants eligible for endangered species consideration, together with the open nature of the viewshed. Intensive National Park Service management is needed to preserve and protect the resources and the landscape. Public use must be carefully managed to protect the resources and land is needed for minimal development to serve the public.

SOCIAL/CULTURAL IMPACTS

There are no residents on any of the private lands within the boundary of the park, so no people would be displaced because of acquisition through exchange, donation, or purchase. Impacts on the local community should be positive, since the dunes and the important resource and scenic values would be preserved. Access to the area as part of the park should increase tourist travel to the west side community of Dell City. Several landowners have additional land outside of the park boundary and intend to subdivide for vacation/retirement-type residences. Having park lands immediately nearby should be an attraction to prospective neighbors. With the purchase and onsite management of the area, the landowners can assure preservation of some of their local heritage.

**LAND PROTECTION
RECOMMENDATIONS**

LAND PROTECTION RECOMMENDATIONS

INTERESTS TO BE ACQUIRED/PRIORITIES

Private lands within the boundary of Guadalupe Mountains National Park contain important archeological and natural resources. Potential land uses on privately owned lands within the boundary could be destructive to these resources, and to the landscape. The dunes are currently protected from off-road-vehicle use only through the good graces of the affected landowners and their neighbors. The landowners with lands within the expanded boundary would like to have them purchased as soon as possible, removing themselves from the ongoing burden of caretaking. Service facilities for visitors do not exist on the west side of the park. For these reasons, all of the tracts located within the boundary on the west side require protection in the immediate future. Due to the small size of this acquisition area, the tracts are of equal importance and should be acquired in total as soon as appropriations are available.

It is recommended that these lands be purchased or donated in fee simple interest. Subsurface rights should be obtained when possible when the surface is acquired; however, subsurface rights owned by the State of Texas can only be acquired by donation or exchange.

ACQUISITION METHODS

The following methods can be used for acquisition of fee interests:

Purchase with Donated/Appropriated Funds

Donated funds are not presently available, and none are expected, but appropriated funds are available.

Exchange

Acquisition by exchange requires that federal properties identified for exchange be in the same state as the park--in this case, the State of Texas. In addition, the properties must

be of equal value, or provisions must be made for a cash payment to equalize the exchange.

Donation of Land/Interests in Land

The donation of land or interests in land to the National Park Service for approved conservation purposes is allowed by the Internal Revenue Code for certain tax deductions. A bargain sale (partial donation and partial sale) is also allowed for certain tax deductions. This statement is meant to inform landowners of this provision in the Internal Revenue Code; it is not meant to offer tax advice.

Condemnation

Every effort will be made to reach an agreement with each landowner on the purchase price. However, if an agreement cannot be reached, a complaint in condemnation may be filed in federal court to establish the estimated just compensation for the interest to be acquired in the property. Condemnation action may also be used to solve title problems.

If significant damage is being done to resources on private land within the boundary or may occur on such lands, then emergency acquisition actions would be taken. In these instances, the National Park Service would immediately attempt to acquire and pay just compensation for such land. If this fails, authority would be vested immediately in the United States Government to prevent resource damage. Federal Court would then resolve the issues related to price and payment.

APPENDIXES

APPENDIXES

- A: ESTABLISHING LEGISLATION**
- B: TRACT LISTING**
- C: ACQUISITION PROCEDURES**
- D: LANDOWNERSHIP MAPS**
- E: PREPARERS**

A: ESTABLISHING LEGISLATION

9. Guadalupe Mountains

An Act to provide for the establishment of the Guadalupe Mountains National Park in the State of Texas, and for other purposes. (80 Stat. 920)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to preserve in public ownership an area in the State of Texas possessing outstanding geological values together with scenic and other natural values of great significance, the Secretary of the Interior shall establish the Guadalupe Mountains National Park, consisting of the land and interests in land within the area shown on the drawing entitled "Proposed Guadalupe Mountains National Park, Texas", numbered SA-GM-7100C and dated February 1965, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Notwithstanding the foregoing, however, the Secretary shall omit from the park sections 7 and 17, P.S.L. Block 121, in Hudspeth County, and revise the boundaries of the park accordingly if the owner of said sections agrees, on behalf of himself, his heirs and assigns that there will not be erected thereon any structure which, in the judgment of the Secretary, adversely affects the public use and enjoyment of the park.

SEC. 2. (a) Within the boundaries of the Guadalupe Mountains National Park, the Secretary of the Interior may acquire land or interests therein by donation, purchase with donated or appropriated funds, exchange, or in such other manner as he deems to be in the public interest. Any property, or interest therein, owned by the State of Texas, or any political subdivision thereof, may be acquired only with the concurrence of such owner.

(b) In order to facilitate the acquisition of privately owned lands in the park by exchange and avoid the payment of severance costs, the Secretary of the Interior may acquire approximately 4,667 acres of land or interests in land which lie adjacent to or in the vicinity of the park. Land so acquired outside the park boundary may be exchanged by the Secretary on an equal-value basis, subject to such terms, conditions, and reservations as he may deem necessary, for privately owned land located within the park. The Secretary may accept cash from or pay cash to the grantor in such exchange in order to equalize the values of the properties exchanged.

SEC. 3. (a) When title to all privately owned land within the boundary of the park, subject to such outstanding interests, rights, and easements as the Secretary determines are not objectionable, with the exception of approximately 4,574 acres which are planned to be ac-

quired by exchange, is vested in the United States and after the State of Texas has donated or agreed to donate to the United States whatever rights and interests in minerals underlying the lands within the boundaries of the park it may have and other owners of such rights and interests have donated or agreed to donate the same to the United States, notice thereof and notice of the establishment of the Guadalupe Mountains National Park shall be published in the Federal Register. Thereafter, the Secretary may continue to acquire the remaining land and interests in land within the boundaries of the park. The Secretary is authorized, pending establishment of the park, to negotiate and acquire options for the purchase of lands and interests in land within the boundaries of the park. He is further authorized to execute contracts for the purchase of such lands and interests, but the liability of the United States under any such contract shall be contingent on the availability of appropriated or donated funds to fulfill same.

(b) In the event said lands or any part thereof cease to be used for national park purposes, the persons (including the State of Texas) who donated to the United States rights and interests in minerals in the lands within the park shall be given notice, in accordance with regulations to be prescribed by the Secretary, of their preferential right to a reconveyance, without consideration, of the respective rights and interests in minerals which they donated to the United States. Such notice shall be in a form reasonably calculated to give actual notice to those entitled to such preferential right, and shall provide for a period of not less than one hundred and eighty days within which to exercise such preferential right. The preferential right to such reconveyance shall inure to the benefit of the successors, heirs, devisees, or assigns of such persons having such preferential right to a reconveyance, and such successors, heirs, devisees, or assigns shall be given the notice provided for in this subsection.

(c) Such rights and interests in minerals, including all minerals of whatever nature, in and underlying the lands within the boundaries of the park and which are acquired by the United States under the provisions of this Act are hereby withdrawn from leasing and are hereby excluded from the application of the present or future provisions of the Mineral Leasing Act for Acquired Lands (Aug. 7, 1947, c. 513, 61 Stat. 913) or other Act in lieu thereof having the same purpose, and the same are hereby also excluded from the provisions of all present and future laws affecting the sale of surplus property or of said mineral interests acquired pursuant to this Act by the United States or any department or agency thereof, except that, if such person having such preferential right to a conveyance fails or refuses to exercise such

preferential right to a reconveyance as provided in subparagraph (b) next above, then this subsection (c) shall not be applicable to the rights and interests in such minerals in the identical lands of such person so failing or refusing to exercise such preferential right to a reconveyance from and after the one hundred and eighty-day period referred to in subparagraph (b) next above.

(d) If at any time in the future an Act of Congress provides that the national welfare or an emergency requires the development and production of the minerals underlying the lands within the boundaries of the national park, or any portion thereof, and such Act of Congress, notwithstanding the provisions of subsection (c) of this section or any other Act, authorizes the Secretary to lease said land for the purpose of drilling, mining, developing, and producing said minerals, the Secretary shall give the persons (including the State of Texas) who donated such minerals to the United States notice of their preferential right to lease, without consideration, all or any part of the respective rights and interests in minerals which they donated to the United States, subject to such terms and conditions as the Secretary may prescribe. Such preferential right shall inure to the benefit of the successors or assigns, and of the heirs or devisees of such persons having such preferential right in the premises. The persons entitled to a preferential right under this subsection shall be given the same notice thereof as persons entitled to preferential rights under subsection (b) of this section. If such person having such preferential right fails or refuses to exercise such right within the time specified in the above notice, the Secretary may thereafter lease the minerals involved to any other persons under such terms and conditions as he may prescribe.

(e) If at any time oil, gas, or other minerals should be discovered and produced in commercial quantities from lands outside of the boundaries of the park, thereby causing drainage of oil, gas, or other minerals from lands within the boundaries of the park, and if the Secretary participates in a communitization agreement or takes other action to protect the rights of the United States, the proceeds, if any, derived from such agreement or action shall inure to the benefit of the donors of the oil, gas, or other minerals, or their successors, heirs, devisees, or assigns.

SEC. 4. The Guadalupe Mountains National Park shall be administered by the Secretary of the Interior in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), as amended and supplemented.

SEC. 5. Any funds available for the purpose of administering the five thousand six hundred and thirty-two acres of lands previously donated to the United States in Culberson County, Texas, shall upon establishment of the Guadalupe Mountains National Park pursuant to this Act be available to the Secretary for purposes of such park.

SEC. 6. There are hereby authorized to be appropriated such sums, but not more than \$1,800,000 in all, as may be necessary for the acquisition of lands and interest in lands, and not more than \$10,362,000, as may be necessary for the development of the Guadalupe Mountains National Park.

Approved October 15, 1966.

Legislative History

House Report No. 1566 (Committee on Interior and Insular Affairs).
Senate Report No. 1682 (Committee on Interior and Insular Affairs).

Congressional Record, Vol. 112 (1966):

June 20: Considered and passed House.

Oct. 7: Considered and passed Senate, amended.

Oct. 10: House concurred in Senate amendments.

Public Law 100-541
100th Congress

An Act

Oct. 28, 1988
[H.R. 4777]

To modify the boundary of the Guadalupe Mountains National Park, and for other purposes.

Texas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY MODIFICATION.

The first section of the Act entitled "An Act to provide for the establishment of the Guadalupe Mountains National Park in the State of Texas, and for other purposes" (16 U.S.C. 283) is amended—

- (1) by changing "in" after "That" to "(a) In"; and
- (2) by adding at the end thereof the following:

Public information.
16 USC 283e.

"(b) The boundary of Guadalupe Mountains National Park is hereby modified to include the area which comprises approximately 10,123 acres as generally depicted on the map entitled 'Boundary Proposal' and dated August 1986, which shall be on file and available for public inspection in the office of the Director of the National Park Service and in the office of the Superintendent of the Guadalupe Mountains National Park."

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) **PROTECTION OF AREA.**—Section 6 of the Act entitled "An Act to provide for the establishment of the Guadalupe Mountains National Park in the State of Texas, and for other purposes" (16 U.S.C. 283) is amended—

- (1) by inserting "(a)" after "SEC. 6"; and
- (2) by inserting at the end thereof the following:

"(b) In addition to amounts authorized to be appropriated under subsection (a), there is authorized to be appropriated such sums as may be necessary for the construction of a fence to protect the natural and cultural resources of the area added to Guadalupe Mountains National Park by section 2(b)."

(b) **LAND ACQUISITION.**—Subsection (a) of section 6 of such Act (as redesignated by subsection (a) of this section) is amended by striking out "sums," and all that follows through "all," and inserting in lieu thereof "sums".

Approved October 28, 1988.

LEGISLATIVE HISTORY - H.R. 4777:

HOUSE REPORTS: No. 100-37 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988).

Aug. 5, considered and passed House.
Oct. 14, considered and passed Senate.

O

APPENDIX B: Tract Listing

GUADALUPE MOUNTAINS NATIONAL PARK

<u>TRACT NO.</u>	<u>OWNER</u>	<u>ACREAGE</u>	<u>INTEREST TO BE ACQUIRED</u>	<u>PRIORITY</u>	<u>SUMMARY OF REASON FOR ACTION</u>
01-127	C L Ranch	4959.50	Fee	1	Protect park resources, provide for visitor use.
01-128	The Hondo Company	177.10	Fee	1	Protect park resources, provide for visitor use.
01-129	Anderson, Ruthelen L.	1412.00	Fee	1	Protect park resources, provide for visitor use.
01-130	Lincoln County Land and Cattle Co.	177.12	Fee	1	Protect park resources, provide for visitor use.
01-131	Nature Conservancy	226.00	Fee	1	Protect park resources, provide for visitor use.
01-132	Townsend, James W.	160.00	Fee	1	Protect park resources, provide for visitor use.
01-133	American Water Development, Inc.	3011.20	Fee	1	Protect park resources, provide for visitor use.

GUADALUPE MOUNTAINS NATIONAL PARK

<u>TRACT NO.</u>	<u>OWNER</u>	<u>ACREAGE</u>	<u>INTEREST TO BE ACQUIRED</u>	<u>PRIORITY</u>	<u>SUMMARY OF REASON FOR ACTION</u>
02-126	State of Texas	(2,834.00)	MIN	1	Protect park resources, provide for visitor use.
02-127	Lewis, Demmon F. Jr., et. al.	(708.50)	MIN	1	Protect park resources, provide for visitor use.
02-128	DELETED				
02-129	State of Texas	(3,011.16)	MIN	1	Protect park resources, provide for visitor use.
02-130	Anderson, Ruthelen L., et. al.	(1,412.00)	MIN	1	Protect park resources, provide for visitor use.
02-131	Croom, Dorothy, et.vir.	(226.00)	MIN	1	Protect park resources, provide for visitor use.
02-132	State of Texas, et. al.	(1,798.00)	MIN	1	Protect park resources, provide for visitor use.
02-133	Townsend, James W., et. al.	(160.00)	MIN	1	Protect park resources, provide for visitor use.
02-134	Lewis, Demmon F. Jr., et. al.	(354.26)	MIN	1	Protect park resources, provide for visitor use.
02-135	Merrill, R. L., et. al.	(1,417.00)	MIN	1	Protect park resources, provide for visitor use.

C: ACQUISITION PROCEDURES

The Division of Land Resources of the National Park Service's Southwest Regional Office in Santa Fe, New Mexico, is responsible for carrying out the land acquisition program in accordance with the land protection plan. The procedure for acquiring less than fee interests is the same as that for acquisition of fee interests except for the fact that the owner does not relinquish title and possession of the property.

The National Park Service will obtain, at its expense, a preliminary policy of title insurance for each property, which will identify the owner or owners of record and all encumbrances, such as mortgages, liens, judgments, and rights of way or other easements affecting the property's title.

Each property will be appraised by an independent contract appraiser. The landowner and/or his/her representative will be offered an opportunity to accompany the appraiser on the inspection of the property in order to afford the owner an opportunity to point out significant features of the property.

To ensure the quality of appraisals, a National Park Service staff appraiser will review all reports for compliance with proper appraisal procedures and check such elements as the thoroughness of the research performed, compliance with the land protection plan, and whether or not the appraiser has afforded the landowner the opportunity to accompany the appraiser.

Appraisers will be required to furnish an objective estimate of the fair market value of the lands or interests in lands being appraised. The "Uniform Appraisal Standards for Federal Land Acquisitions" defines fair market value as "the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy."

As soon as possible after the appraisal of a national park property has been received, reviewed, and approved, the Service will solicit from the owner, subject to the availability of funds, a written offer which will not be less than the Service's approved appraisal of the fair market value of the property. The owner will be provided with a copy of the Service's appraisal upon request. Assuming that a mutually acceptable purchase price is agreed upon, closing will normally be completed by a local title company acting as escrow and closing agent within six to eight weeks after acceptance of the offer by the United States.

It is the responsibility of the seller to convey clear title to the property being acquired. Under Public Law 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the federal government may reimburse sellers for expenses incurred, such as:

1. Recording fees, transfer taxes, and similar expenses incidental to conveying the real property or interests therein.
2. Penalty cost for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering the real property.
3. The pro rata portion of real property taxes the owner paid to cover the period after title was vested in the United States.

The federal government may pay other similar expenses to the extent they are fair and reasonable, but will not pay for costs necessary to clear defects in title to the property.

The National Park Service will make every effort to seek negotiated settlement wherever possible; however, if this is not possible, eminent domain proceedings will be initiated.

Eminent domain proceedings are initiated by the filing of a complaint in condemnation in federal court. In this type of action, title to the land does not pass to the Government until court or jury has determined the amount of just compensation and this amount has been paid to the owner. Eminent domain proceedings may be employed to resolve title issues or when negotiations are unsuccessful, and fair market value is to be determined by the court.

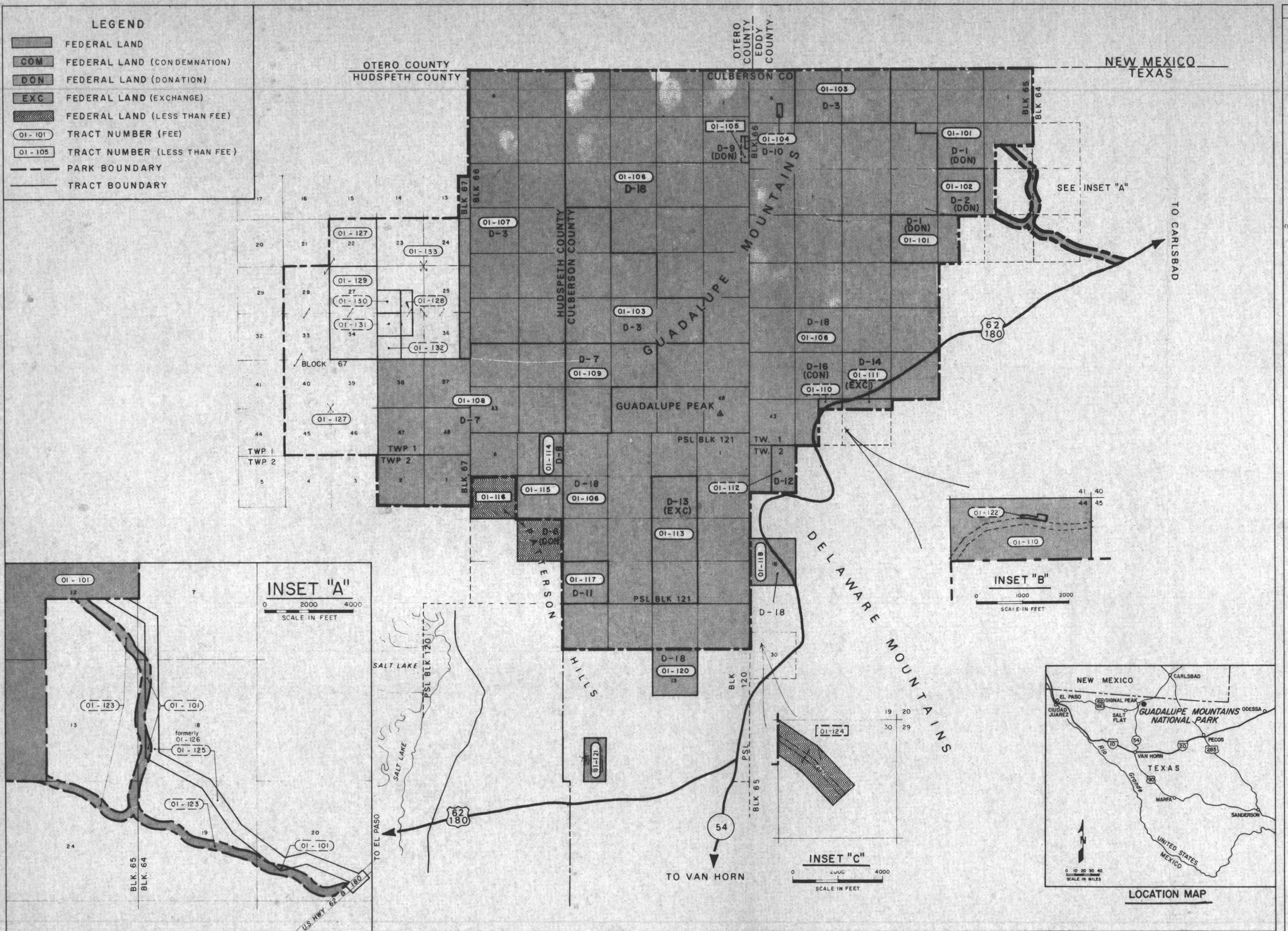
In addition to the complaint in condemnation, declarations of taking are used where title to the land must be vested in the United States immediately in order to prevent resource damage or to resolve title issues.

A declaration of taking vests title to property in the United States immediately upon filing papers in the court and the deposit of an amount estimated as just compensation. All or a portion of this deposit may be withdrawn by the owner as approved by the court.

D: LANDOWNERSHIP MAPS

LEGEND

FEDERAL LAND
COM FEDERAL LAND (CONDEMNATION)
DON FEDERAL LAND (DONATION)
EXC FEDERAL LAND (EXCHANGE)
LESS THAN FEE FEDERAL LAND (LESS THAN FEE)
TRACT NUMBER (FEE) 01-101
TRACT NUMBER (LESS THAN FEE) 01-105
PARK BOUNDARY
TRACT BOUNDARY



DEED	TRACT	OWNER	ACRES	INT.
USA D-1	01-101	PRATT	4,740.00	FEE
USA D-2	01-102	PRATT	884.00	FEE
USA D-3	01-103	HUNTER	5,443.00	FEE
USA D-10	01-104	SHIVERS	.41 .32	FEE
USA D-9	01-105	SHIVERS	(61.98)	MIN
USA D-18	01-106	HUNTER	43,020.25	FEE
USA D-3	01-107	HUNTER	8,564.60	FEE
USA D-7	01-108	HUNTER	7,810.95	FEE
USA D-7	01-109	HUNTER	1,982.30	FEE
USA D-16	01-110	GLOVER	.85 .80	FEE
USA D-14	01-111	MEYER	171.90	FEE
USA D-12	01-112	BARRETT	340.20	FEE
USA D-13	01-113	SIX BAR RANCH, INC.	1,803.00	FEE
USA D-8	01-114	COLE	320.00	FEE
USA D-6	01-115	HUNTER	601.00	FEE
USA D-11	01-116	HAMMACK	1,202.00	SCENIC
USA D-18	01-117	SOUTHWEST NATIONAL BANK	601.00	FEE
USA D-18	01-118	HUNTER	680.40	FEE
USA D-18	01-119	DELETED		
USA D-18	01-120	HUNTER	640.00	FEE
USA D-18	01-121	HUNTER	314.30	FEE
EXC D-23	01-122	STATE OF TEXAS	0.94	FEE
EXC D-29	01-123	EDWARDS & PRATT	132.75	FEE
EXC D-18	01-124	HUNTER	108.85	EAS
DISP/EXC-20	01-125	TO EDWARDS	-208.00	FEE
DISP/EXC-20	01-126	PRATT	208.00	FEE
C. L. RANCH	01-127	THE HONDO COMPANY	4959.50	FEE
ANDERSON, RUTHELEN L.	01-128	LINCOLN COUNTY LAND	1412.00	FEE
AND CATTLE CO.	01-129	AND CATTLE CO.	177.12	FEE
NATURE CONSERVANCY	01-130	NATURE CONSERVANCY	226.00	FEE
TOWNSEND, JAMES W.	01-131	TOWNSEND, JAMES W.	160.00	FEE
AMER. NAT. DEVEL., INC.	01-132	AMER. NAT. DEVEL., INC.	3011.20	FEE

UPDATE STATUS
3/29/91 C.O. NO. 166-1B2-91
1/30/89 C.O. 166-1B9
11/8/88 WASD PB-10
9/30/80 WASD BO-26
7/16/77 C.O. NO. 77
12/22/76 C.O. No. 76-386
9/4/74 ADD - 0-22

ESTABLISHED: OCTOBER 15, 1966

BOUNDARY CHANGE: DECEMBER 23, 1975
AUGUST 3, 1988; PUBLIC LAW HR. 4777

DATE: JANUARY 1974

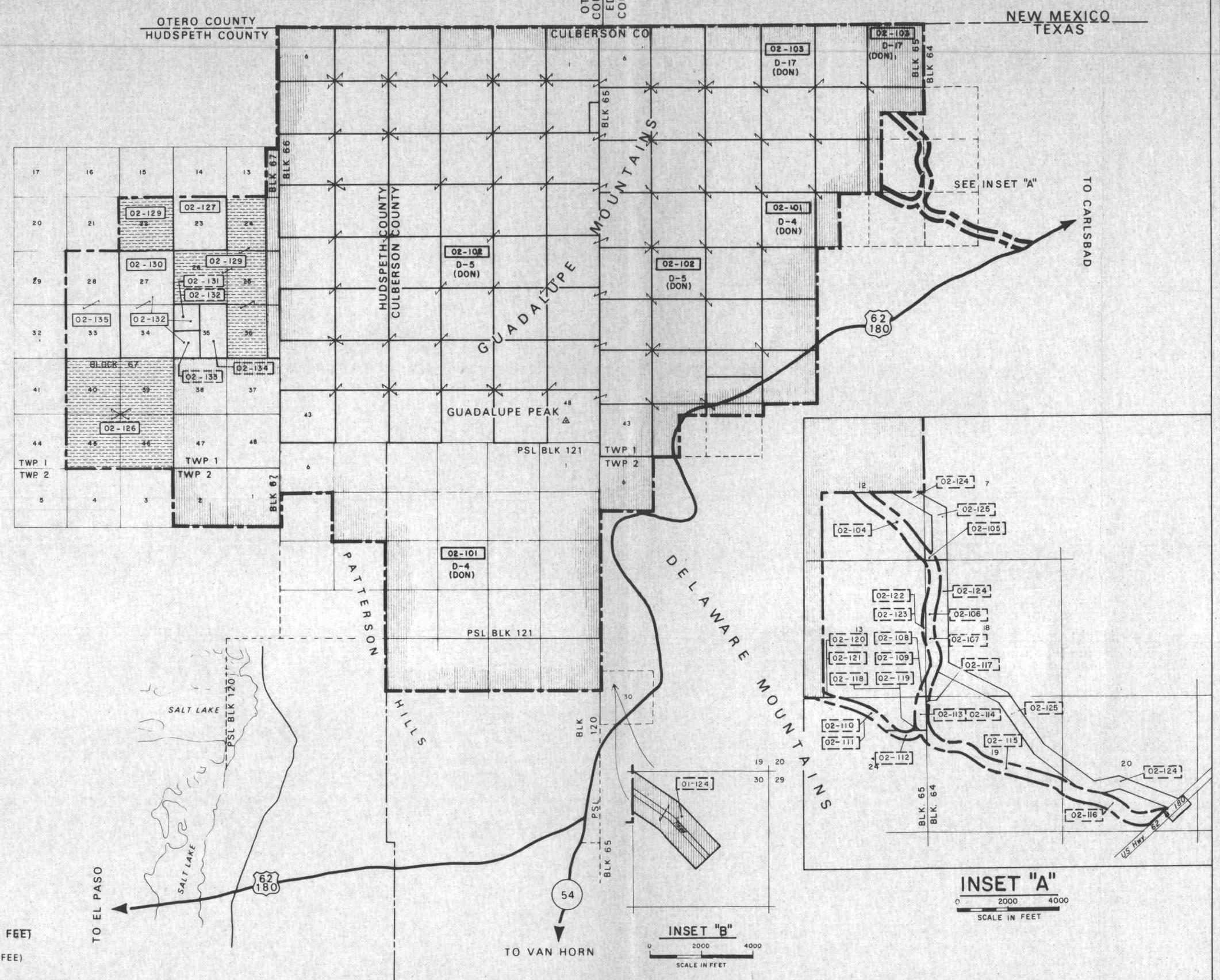
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Scale in Feet

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
DIVISION OF LAND ACQUISITION
TITLE LAND STATUS MAP 01
SHEET 1 OF 2

GUADALUPE MOUNTAINS
NATIONAL PARK
CULBERSON & HUDSPETH COUNTIES
TEXAS



ON MICROFILM



UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
DIVISION OF LAND ACQUISITION
TITLE
LAND STATUS MAP 02

GUADALUPE MOUNTAINS
NATIONAL PARK
CULBERSON & HUDSPETH COUNTIES
TEXAS

DEED	TRACT	OWNER	ACRES	INT	
USA D-4	02-101	STATE OF TEXAS	(47 839.89)	MIN	
USA D-5	02-102	TEXACO CO.	(25 825.49)	MIN	
USA D-17	02-103	PRATT	(5 564.55)	MIN	
EXC D-22	02-104	STATE OF TEXAS	(14.75)	MIN	
EXC D-20	02-105	TEXACO INC.	(1.10)	MIN	
EXC D-20	02-106	EDWARDS & PRATT	(21.57)	MIN	
EXC D-20	02-107	TUCKER	2 9 int	(21.57)	MIN
EXC D-20	02-108	EDWARDS & PRATT	1 2 int	(1.50)	MIN
EXC D-20	02-109	TEXACO, INC	1 2 int	(1.50)	MIN
EXC D-20	02-110	EDWARDS & PRATT	7 9 int	(6.41)	MIN
EXC D-20	02-111	TUCKER	2 9 int	(5.70)	MIN
EXC D-20	02-112	EDWARDS & PRATT	1 2 int	(6.26)	MIN
EXC D-20	02-113	EDWARDS & PRATT	7 9 int	(6.26)	MIN
EXC D-22	02-114	TUCKER	2 9 int	(1.37)	MIN
EXC D-22	02-115	TEXACO, INC.	(25.14)	MIN	
EXC D-22	02-116	STATE OF TEXAS	(18.21)	MIN	
EXC D-22	02-117	TEXACO, INC.	(0.07)	MIN	
EXC D-20	02-118	TUCKER	2 9 int	(0.08)	MIN
EXC D-22	02-119	EDWARDS & PRATT	7 9 int	(0.08)	MIN
EXC D-20	02-120	TEXACO, INC.	1 2 int	(0.59)	MIN
EXC D-22	02-121	EDWARDS & PRATT	1 2 int	(0.59)	MIN
EXC D-22	02-122	TEXACO, INC.	1 2 int	(1.37)	MIN
EXC D-20	02-123	EDWARDS & PRATT	1 2 int	(1.37)	MIN
DISP/EXC-20	02-124	TO EDWARDS	(138.45)	MIN	
DISP/EXC-22	02-125	TO TEXACO, INC.	(69.55)	MIN	
	02-126	STATE OF TEXAS	2,834.00	MIN	
	02-127	LEWIS, DEMMON F. JR., et al.	(708.50)	MIN	
	02-128	DELETED			
	02-129	STATE OF TEXAS	(3,011.16)	MIN	
	02-130	ANDERSON, RUTHELLEN L., et al	(1,412.00)	MIN	
	02-131	CROOM, DOROTHY, et.al.	(226.00)	MIN	
	02-132	STATE OF TEXAS, et al	(1,798.00)	MIN	
	02-133	TOWNSEND, JAMES W., et al	(160.00)	MIN	
	02-134	LEWIS, DEMMON F. JR., et al.	(354.26)	MIN	
	02-135	MERRILL, R.L., et al	(1,417.00)	MIN	

ON MICROFILM

E: PREPARERS

Guadalupe Mountains National Park

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Karen Wade, Former Superintendent**

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As the Nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally-owned public lands and natural and cultural resources. This includes fostering the wise use of our land and water resources, protecting our fish and wildlife, preserving the environmental and cultural values of our national parks and historical places, and providing for the enjoyment of life through outdoor recreation. The Department assesses our energy and mineral resources, and works to ensure that their development is in the best interests of all of our people. The Department also promotes the goals of the Take Pride in America campaign by encouraging stewardship and citizen responsibility for the public lands, and by promoting citizen participation in their care. The Department also has a major responsibility for American Indian reservation communities and for people who live in Island Territories under U.S. Administration.