

# Conserving Castner Range: The Long Campaign Continues

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Castner Range (El Paso, Texas) is a 7,081-acre mountainous and alluvial-fan Army property which has been closed to artillery and munitions training since 1966, forty years after it first opened. The Range is a part of El Paso's more-than-2.1-million-acre Fort Bliss Army post, but is separated from it by residential and commercial development. Twenty-five percent of the 17-mile north-south Franklin Mountains (which divide El Paso into "West Side" and "East Side" and whose highest of six peaks rises 3,500 feet above downtown) lies within Castner Range's boundaries. (An additional 72% of the mountains are part of the Franklin Mountains State Park, established in 1979.) Castner is conserved and kept off-limits to visitors due to the presence of scattered residual military ordnance and explosives beneath its surface. Since at least 1971, El Pasoans have been working to conserve—in perpetuity—what is left of Castner Range.

## Widespread Support for a Castner Range National Monument

By the early morning hours of Friday, January 20<sup>th</sup>, 2017, the campaign to make El Paso's Castner Range a national monument had accomplished the following 22 things:

- In just 14 months, over 35,200 letters of support from individuals were signed and delivered to the Castner Conservation Committee's headquarters, then shown to the Bureau of Land Management (BLM) and other branches of the Obama Administration
- Proclamations were unanimously approved and signed (with all officials present and voting) by these six elected entities: the El Paso City Council and Mayor; the El Paso County Commissioners' Court and County Judge ('Executive'); the Public Service Board of the El Paso Water Utilities; all five Texas State Representatives from El Paso; El Paso's State Senator; the Neighborhood Coalition and its Council (a City-affiliated organization representing 80 neighborhood associations).
- Volunteers received 157 organizational letters of support, including 102 from businesses, 25 from civic groups and neighborhood associations, 18 from voluntary partners and 12 from local, regional and national conservation groups.
- Collected \$105,000 in funds disbursed to the Campaign and expended or still on deposit.
- Garnered an endowment of ca. \$1.5 million made available through a land-conservation fund established at the El Paso Community Foundation, the city's oldest and largest.
- Wrote or were consulted for 78 editorials, op-eds and news articles appearing in the *El Paso Times* and other publications throughout Texas and across the nation.
- Attended and gathered letters of support at over 150 events ranging from town halls to ceremonies, club meetings, picnics, parties, dedications, "nights out" and miscellaneous celebrations. At many of these we staffed a booth or a table and gave short presentations.
- On Nov. 12, 2015, El Paso's Congressman Beto O'Rourke (TX-16) convened a meeting of the Castner Conservation Committee to announce that henceforth he and his staff would be supporting its grassroots effort, now renamed "the Castner Range National Monument Initiative" to reflect the goal of obtaining monument status for the Range.

- Produced a ten-minute English-language video on Castner Range along with its Spanish-language equivalent. Both were presented and discussed at a large Jan. 28, 2015 event in the Chamizal National Memorial (El Paso) which featured the Memorial’s director (Gus Sánchez) and Congressman O’Rourke.
- Erected, decorated, rode on and waved banners from a float in the annual “Northeast Parade” (March 2016) on the Northeast Side, the part of El Paso that’s closest to the Range. We distributed, on foot, thousands of flyers to the parade’s more than four thousand spectators, describing our campaign and announcing the following bullet:
- In late March 2016 and at the Poppies Fest—held each year on Museum of Archaeology land surrounded by Castner Range—special attention was paid to the Castner campaign in speeches by Congressman Beto O’Rourke (TX-16) and many local dignitaries. This “Fest” is in honor of the native Mexican poppies and the introduced California poppies that cover the slopes of the Range in the spring. Over fifty vendors and organizations host colorful booths, and thousands of people attend.
- Collected individual testimonials in the form of 19 short “thank-you” videos and nine longer videos including one from community leader Pablo López and a group video by local historian John Núñez.
- Maintained continuous social media outreach through website, Facebook and Twitter.
- Wrote and widely distributed a dozen newsletters devoted to the Castner campaign.
- Sponsored videos featuring students from two El Paso elementary schools—Mesita and Mitzi Bond.
- Obtained nearly three thousand pieces of Castner-themed artwork from hundreds of students at 15 local schools.
- Produced dozens of materials (such as banners, posters and flyers) in both English and Spanish.
- Compiled a historical timeline listing and briefly commenting on 55 Castner-related dates and items from 1926 onward.
- In December 2015, Congressman O’Rourke (TX-16) filed HR 4268, which advocated the creation of a Castner Range National Monument. He, his staff and the Castner Conservation Committee (CCC) lobbied Congress intensively on its behalf.
- The publication of the first-ever widely-available book on the *Archaeological and Historical Background Study of Castner Range* (by famed El Paso archaeologist Elia Pérez) was celebrated in October 2016 at a media ceremony held near the Range and witnessed by many elected officials and other dignitaries.
- In support of a Castner Range National Monument, on Saturday, November 19<sup>th</sup>, 2016 nearly 1,500 people attended a more-than-two-hour-long event at the Transmountain Campus of the El Paso Community College, just across the freeway from Castner Range. Speakers included Fort Bliss Garrison Commander Michael Hester, Deputy Director of the Department of the Interior’s BLM Steve Ellis, and Congressman Beto O’Rourke along with 100 local advocates.
- On Thurs., Jan. 19, 2017 and in lieu of a presidentially-declared national monument, Congressman O’Rourke was hand-delivered a two-page letter co-signed by Neil Kornze (then-Director, Bureau of Land Management) and Maureen Sullivan (Deputy Assistant Secretary of Defense, Department of Defense [DoD]) containing the following (*inter alia*): “[B]oth the Army and BLM stand ready to work with you to reach your goal of ensuring Castner Range is conserved with compatible public access where feasible.”

## Prehistory and Early History of Castner Range

The earliest prehistoric period identified for Castner Range and the El Paso region is the Paleoindian, running approximately from 9500-6000 B.C. Native American populations' artifacts consisting of lanceolate projectile points and lithic tools for the processing of megafauna etc. have been recovered from the area. There followed the Archaic Period (6000 B.C.-250 A.D.), characterized by a significant decrease in mobility and an increase in the use of mountainous terrains such as Castner Range and the Franklins. Rock shelters—also found on Castner—were apparently occupied during the winter. Later Archaic stages are characterized by an increasingly mixed economy including large numbers of short-term base camps found in and near the Range. The subsequent “Formative Period” (250-1550 A.D.) is marked by the presence of ceramics, whose adoption played a major role in an ever-less-nomadic lifestyle and the formation of villages. Changing settlement and technological organization characterized this period's later stages, as did expanded extra-regional interaction. Inhabiting the El Paso Valley (and periodically occupying areas of Castner Range and the Franklins) during the end of the Formative Period into the beginning of the Spanish Contact Period were four aboriginal nations—the Manso, the Suma, the Piro and the Jcome. These populations were primarily nomadic, with limited horticultural activities supplementing their dietary needs.

According to the Texas Historical Commission's on-line database (ATLAS), a total of 41 prehistoric and historic archaeological sites are located on or adjacent to Castner Range. Many of these lie near or at the four permanent sources of water on and adjoining the Range: Cottonwood Springs, Indian Springs, Mundy Springs and Whispering Springs. Several areas on Castner are now federally protected: the Fusselman Canyon Rock Art District, the Castner Range Petroglyph Site and the Castner Range Archaeological District, encompassing five prehistoric sites. Specific information on these sites and others (including the Castner Annex Range Dam Site and EPCM 31:106:3:74/76) can be found in Elia Pérez et al., *Archaeological Investigations of Seven Historical Sites within Fort Bliss, Texas* (El Paso, TX: TRC Environmental, 2003).

In early August, 1581 the Rodríguez-Chamuscado Expedition reached the “Pass of the North” (modern-day El Paso and Ciudad Juárez), and so began the Spanish Period of the history of Castner Range. On April 30, 1598 and 22 miles to the southeast of Castner there occurred La Toma (‘Official Taking of Possession’) whereby explorer Don Juan de Oñate claimed the entire Upper Rio Grande region for the King of Spain. The El Paso area remained part of the Spanish Empire until Mexican independence was declared in 1821, and was a part of Mexico until 1836, when the Congress of the newly-founded Republic of Texas declared that the Rio Grande formed its western as well as its southern boundary. Texan annexation into the United States and the 1846-1848 war with Mexico confirmed this boundary. El Paso and Castner Range were now incorporated into Texas, a status confirmed in the fall of 1850 by the U.S. Senate and then the voters of the state. But many issues remained unsettled, as the following paragraph shows.

Lying at the eastern boundary of Castner Range, the San Andrés Salt Trail (SAST) had long been used by El Paso Valley inhabitants as the path to the San Andrés Salines (‘salt flats’). By Spanish law, all mines and minerals belonged to the king, who granted the inhabitants of Mexico the right to gather salt for free. When Texas—which first included the eastern half of what is now New Mexico—became part of the United States in 1848, salt extraction was governed by British-

American common law whereby all mineral titles belonged to the owners of the land on which they sat. Prominent El Pasoan James Magoffin subleased the Salines and charged a fee. In 1854 a large group of Hispanics went to the Salines for salt. Magoffin got the local sheriff and his posse to confront them. A gun battle ensued; three Hispanics died. The Territory of New Mexico had Magoffin extradited and made him pay damages. Its Legislature nullified the land claim and guaranteed free salt. The SAST remained an important conduit for many years to come.

Though El Paso was incorporated as a city in 1877, the region remained threatened by occasional raids from Apaches living in New Mexico who used Castner and the Franklins as their base for attacking settlements. Outlaws also used the mountains as havens. Southern New Mexico's Apaches were confined to a reservation by 1883 and their raids on El Paso ceased, but outlaws continued to populate the Range and the Mountains. In 1890, Deputy U.S. Marshall and Texas Ranger Charles Fusselman was killed in a shootout with cattle rustlers in a Castner pass that has borne his name ever since: Fusselman Canyon.

In 1909, a prospector looking for gold found tin instead and thus began the El Paso Tin Mining and Smelting Company near what's now Castner Range. Less tin was found than had been hoped, and the mine shut down in 1915 after the project yielded just 160 hundred-pound pigs. (It briefly reopened in 1942 because of wartime need for tin, but closed again within the year.) Other excavations including the Indian Spring Mine, the Indian Peak Mine and the Indian Spring Well lie just alongside Castner. The El Paso Tin Mine has been declared eligible for placement on the National Register of Historic Places. The legendary Lost Padre Mine is said to be hidden somewhere on the Range or in the park. According to legend, some 300 burro-loads of silver were left behind by fleeing Jesuits, who filled in the mineshaft before leaving the land forever.

## The Creation of Fort Bliss's Castner Range

In January 1854 a Federal Army post was established near what is now downtown El Paso. The post was named "Fort Bliss" in honor of Maj. William W.S. Bliss, chief of staff for Zachary Taylor during the Mexican-American War. In 1893, Fort Bliss was relocated to a small portion of its present site, two miles to the south and east of present-day Castner Range. By 1916 Fort Bliss had become the nation's largest military post, mainly in response to the on-going Mexican Revolution. In 1926, the U.S. Army acquired 3,500 acres of the land that presently forms part of the Range, which bears the name of Brigadier General Joseph Compton Castner, Commanding General of Fort Bliss at the time. An additional 4,828 acres were purchased and added in 1939, bringing the total acreage to 8,328. Included in this were the 160 acres of land that was bought from rancher W.W. Threadgill. (A street near the Range bears his name to this day.)

From the time of its creation the Range was used as an impact area, testing a variety of ordnance. Test-practiced on the Range between 1939 and 1966 were 4.2-inch and 81 mm mortars, large caliber artillery and high explosives, 3.5-inch rockets, and rifle grenades. From Pérez 2016:16-17 (*q.v. supra*) we learn that "of particular interest" was Castner Range's Site 41EP5473. "The site is significant due to its type: [a] staging area for an Anti-Mechanized Target Firing Range built in 1940" alongside a prehistoric location which "included the remains of a hearth, one brown ceramic fragment, one Three Rivers Red-on-Terracotta piece, two chert flakes, two basalt flakes, and two quartzite flakes." (Thus does the twentieth century encounter prehistory.) This target

area entailed a high-speed course for firing antitank weapons. A target railroad car, placed on a narrow gauge track that extended down the Range's alluvial fans for 1.1 miles, was repeatedly shot at, eventually damaged beyond repair, and finally replaced. Range maps from 1943 identify 17 ranges, mostly used for small arms with the exceptions of a 37mm sub-caliber range, a mortar range, field-firing courses, and the moving target mentioned just above. Maps from the 1950s add a firing range and a demolition area in northeast Castner, along with firing points located along the Range's eastern edge using the Franklins as a backstop. By 1955, 27 ranges existed on Castner. They included a 3.5-inch rocket range, a live hand-grenade range and a demolition range along with 24 small-arms ranges. From a later report we know that pyrotechnics and illumination flares were also fired on Castner. The Range was also used for firing demonstrations which involved extensive discharge of conventional weapons in addition to white phosphorus and smoke munitions. In addition, a large area was used for open burning/open detonation.

A high point in the history of Castner was the filming of the MGM production "Take the High Ground!" Released on October 30, 1953, the film starred Richard Widmark and Karl Malden as drill sergeants at Fort Bliss, a location specifically identified throughout the movie. The time was May, 1953 and the Korean War was entering its third year. (The Armistice was not signed until July 27. There has never been a peace treaty.) At Fort Bliss, two drill sergeants (Widmark and Malden) vow to basic-train an unlikely bunch of recruits into combat-ready soldiers. In its day, the film was a pioneer in ethnic inclusiveness: Black actor William Hairston played "inner-city" recruit Daniel Hazard, and the Hispanic actor Maurice Jara portrayed "Franklin D. No Bear," a Native American role. Much of the film took place on the era's 8,328-acre Castner Range. In "Take the High Ground!" many scenes are shot to the west on the Range with the camera facing the northern half of the Franklin Mountains, taking full advantage of the Range's spectacular scenery. (This endeavor shows that the public could access the Range even when it was active.)

In 1966 all firing ceased, as El Paso neighborhoods were being built to the south and the east of the Range in the part of the city now known as "the Northeast." After the Range was officially closed, only the most limited use of Castner was allowed. Very few Army-built structures remain on the Range today, among them an abandoned well, cement building pads, and a disintegrating replica of a Vietnamese village, located in the northeast quadrant and used for training 'til 1969. Once the Range was closed, work began on two highways—the Woodrow Bean Transmountain Road (Loop 375) and the US 54 North-South Patriot Freeway—which cut through the Range's land at that time. On August 5, 1969 Transmountain Road (which runs eastward from I-10) was dedicated and opened up to traffic. It bifurcates the Range, dividing it into north and south.

### Closed Castner Range, Clean-ups, and Plans to Put Buildings upon It

In 1971 the Department of the Army (DOA) reported—to the General Services Administration (GSA)—all 8,328 acres of Castner Range as "excess," thereby transferring ownership of the Range to the GSA. The Army then conducted a surface sweep of the 1,230-acre part of the Range that lay to the east of the newly-constructed US 54 Freeway (*q.v. supra*) as well as a 17-acre parcel fronting on Transmountain Road and otherwise entirely surrounded by the 7,081-acre part of Castner that lay to the west of US 54. The GSA conditionally accepted this "Report of Excess" and agreed to proceed with disposal actions (i.e., sell the land or transfer it) once it was notified that surface decontamination of the 1,247 acres had been completed and certified. (In

1983, a full twelve years later, the GSA voided the Declaration of Excess for the 7,081-acre Castner Range because it contained OE [ordnance and explosives]; GSA then returned the 7,081 acres' title to the DOA.) Meanwhile, in 1971, the 1,230 acres lying east of the freeway were conveyed by the GSA to the City of El Paso. (A "Certificate of [Surface] Clearance [of OE]" was not issued by the GSA until June 18, 1974.) Throughout the 'seventies the City sold portions of those 1,230 acres to developers for housing and commerce; other portions were sold to the El Paso Independent School District, the El Paso Community College and the University of Texas at El Paso. The City retained some of the land for parks and what would become the site of a stadium. The 1,230 acres' status is that of FUDS ('Formerly Used Defense Site'). The west-of-US-54 7,081 acres known since the 1970s as "Castner Range" remain DOA property to this day.

The City of El Paso's "Castner Range Master Plan" was published in 1971. It was followed in 1972 by an ad hoc committee's "Castner Range Development Plan." Both recommended that parts of the Range be developed but that most of the Range be conserved. In 1975 and after having been surface-swept of OE, the 17-acre "museum lands" (now home to the City of El Paso's Museum of Archaeology and the private National Border Patrol Museum) were conveyed from the Department of the Interior to the City of El Paso under the Lands-to-Parks program. (Though records are unavailable, it appears that these acres were transferred in 1971 to "Interior" by the GSA, which had received them from the DOA that same year.) The Archaeology Museum was opened to the public in 1977, and the Border Patrol Museum in 1994. Variouslly called "the Wilderness Park" or "the Archaeology Museum Park," these 17 acres are the only parts of the west-of-the-freeway land that the public is allowed to access. The continuing presence of OE puts the 7,081 acres—the rest of the Range—off limits, as signage throughout makes quite clear.

Early in 1978, the private-property owner of most of the Franklin Mountains was discovered bulldozing the top of North Franklin to prep the land for yet another communications tower. (A dozen such towers were already built on summits further south.) A mass meeting was quickly organized by El Pasoans Gerald Fitzgerald, LeBron Hardie, Joan Duncan, Mervin Moore et al. 15,000 people signed a petition asking the El Paso City Council to obtain state-park status for the Franklins. The land that's now in the park was annexed into the City of El Paso. Lengthy and complicated disputations and negotiations ensued for the rest of that year and into the next. But in June of 1979, and thanks to the impressive efforts of then-Texas State Representative Ron Coleman, House Bill 867 was signed and \$25 million in land-purchase funds were appropriated, thereby creating the Franklin Mountains State Park. Two years later—and led by then-State Senator Tati Santiesteban—Senate Bill 1273 was signed, adjusting the FMSP's boundaries. The FMSP itself was officially opened to visitors in 1987. Out of the campaign to create a state park there arose an organization, the Wilderness Park Coalition (since 1985 "the Franklin Mountains Wilderness Coalition" [FMWC]), which remains active to this day in the defense and promotion of the FMSP and the lands that lie alongside it, including Castner Range.

Throughout the 1980s, attempts were made to erect buildings on the Range. In 1986 for example, the Texas Department of Transportation (TxDOT) proposed to locate a twelve-acre maintenance yard in the middle of Castner Range, abutting Transmountain Road. Thanks to the efforts of the FMWC, TxDOT built the yard in the far southeast corner of the Range facing Hondo Pass Drive. (Twenty years later a 14-acre US Customs and Border Protection station was built right next door to the TxDOT property.) In that same year the City of El Paso proposed that a new baseball

park (named “Cohen Stadium”) be located in the middle of Castner on Transmountain Road. The FMWC once again intervened, and in 1987 construction began to the east of the US 54 freeway on some of the 1,230 acres transferred to the City in 1971. (The stadium opened up in 1990.)

In 1994, former State Rep. Ron Coleman—El Paso’s U.S. Representative from 1983-1997—authored a \$1.15-million provision in the 1994 National Defense Authorization Act (NDAA) to begin surface clearance of OE from Castner Range. From the *Conservation Conveyance Report for Castner Range, Fort Bliss, Texas* (2011) we learn that “[t]he first ordnance surface removal was conducted in 1994 on the 480 acres of land that appear to pose the greatest risk to the public, as determined by the Archive Search Report and site reconnaissance work [and including] known impact areas and ordnance disposal sites.” (p.4) Technical studies by Fort Bliss and the Corps of Engineers ensued, and actual clearance activities began forthwith. The following year, further field investigations for UXO (‘unexploded ordnance’) characterization took place on 569 acres of the 7,081-acre Range, and in 1997 additional UXO investigations on 467 more acres were carried out, bringing to 1,036 the total acreage combed. In 2003 a preliminary assessment of Castner as a potential site for a Military Munitions Response Program (MMRP) investigation started up. A *Final Site Inspection Report, Fort Bliss, TX* was issued in 2007, and five years later there appeared the *WAA Field Demonstration Report for the Closed Castner Range Fort Bliss, Texas* (prepared by the URS Group for the U.S. Army Corps of Engineers [USACE]). (A WAA “is the specialized application of site characterization technologies to gather large amounts of data rapidly, thereby improving the understanding of a site and supporting site management decisions,” to quote from the report’s Executive Summary, p. iii.) This 136-page WAA is one of dozens of reports that the Department of Defense has issued on the many Castner-related studies and projects it has undertaken over the decades. (From the 2011 *Conservation Conveyance Report* [q.v. supra] we know that studies and samplings were conducted in 1994, 1995, 1996, 1998, 1999, 2001, 2002, 2003, 2006 ... And surface sweeps of small parts of the Range go back to the 1960s and the construction of Transmountain Road.) In 2007 a Military Munitions Response Program (MMRP) Site Inspection plan was submitted to the USACE. Since 2009 the U.S. Army and its various contractors have conducted demonstrations of WAA technologies at frequently-held meetings open to stakeholders. We know from Keith Landreth (correspondence Oct. 7, 2009), then-Chief, Environmental Division, Directorate of Public Works, Fort Bliss, that “Castner Range underwent a preliminary assessment in 2003 and a site inspection in 2007, which recommended further characterization of the site through a Remedial Investigation/Feasibility Study (RI/FS).” As of summer 2017, the RI is reportedly being finished. The FS has yet to start.

Meanwhile, and back in 1996, then-El Paso Mayor Larry Francis proposed that a sports-concert arena be located in the middle of the Range where earlier proposals would have put a baseball stadium and a TxDOT maintenance yard. The FMWC vigorously opposed the suggestion and it was abandoned. In part in reaction to these many Build-On-Castner plans, the “Parsons Report” (aka *Ordnance and Explosive Characterization and Cost Analysis Report for Fort Bliss: Castner Range*. U.S. Army Engineering and Support Center, May 1998. Parsons Engineering Science, Inc.) concluded thus: “Recommended: That the entire [Castner] site be transferred to the State of Texas Parks and Wildlife Department for an annex to the Franklin Mountains State Park.” But the arena proposal was peanuts compared to what came next.

On Nov. 23, 2005 the Regional Economic Development Corporation or “REDCO,” a joint City of El Paso-private corporate venture, publicly proposed to build a 2,000-acre “high tech” office complex on the eastern or flatter 28 percent of Castner Range’s 7,081 acres, fronting on the US 54 freeway. This out-of-nowhere proposal initially caught the Range’s defenders off guard, but by January of 2006 the FMWC began holding a series of public meetings to discuss REDCO’s plans, and an FMWC petition opposing them drew 5,000 signatures within two months. On March 14, 2006 the El Paso City Council unanimously approved a Resolution that all of Castner be conserved “in its entirety in its current state, and that it be preserved for future generations and that it not be developed in whole or in part.” Building on this momentum, the FMWC petition drive continued. In March 2007 the first-ever “Poppies Festival” was held at the 17-acre Wilderness Park (whose land is surrounded by Castner Range) to celebrate the annual blooming of Castner’s poppies and to present then-El Paso Congressman Silvestre Reyes with a 10,000-signature petition seeking his support to conserve Castner Range at the federal level. Mr. Reyes responded by securing—in the 2011 National Defense Authorization Act (NDAA, effective calendar year 2010)—a \$300,000 grant from the DoD’s Office of Economic Adjustment (OEA) to study the hoped-for application of a Public Benefit Conveyance for Conservation Purposes of Castner Range, enabling the land to be preserved and not developed.

### The OEA Grant, Conservation Conveyance and Expanded Recognition

Early in 2010, the Castner Conservation Conveyance Committee (“4C’s”) was formed to undertake tasks that were mandated by the \$300,000 OEA grant referred to just above. The 4C’s initially consisted of eight people from the board of directors of the FMWC and the Frontera Land Alliance, the El Paso area’s only 501(c)3 land-trust organization founded in 2004 to create an entity that was legally entitled to apply and enforce conservation easements on land whose titles it held, and specifically to accept any conservation conveyance of Castner Range by the DoD. After the death of one member, the remaining seven completed many projects related to the Range through the end of the grant period in September, 2015 and in the years beyond.

The first of these projects was the publication, in late 2011, of the *Conservation Conveyance Report for Castner Range, Fort Bliss, Texas*. Authored by Stephen Bonner of CALIBRE Systems, Inc./SONRI Corp., with substantial input from the 4C’s and various officials, the Report itself ran to 15 pages and was supplemented by a 96-page “Appendix” containing 13 separate appendices, A through M. Their topics are varied, ranging from documents about the status of Castner to previous applications of conservation conveyances to the different types of conveyance that are available (including Conveyance of Surplus Real Property for Natural Resource Conservation, Conveyance of Property at Military Installations to Limit Encroachment, and Cooperative Research and Development Agreements). The Report is a treasure trove of information about Castner Range’s natural resources (topography, soils, hydrology, floodplain data, biological information, wildlife, vegetation, ecosystem management units), cultural resources and the presence on the Range of different types of OE (Munitions and Explosives of Concern, Unexploded Ordnance, etc.). Appendix H (p. 51) sets forth an “example of the sort of contract or agreement that [The Frontera Land Alliance] would enter into [with the DOA] to bring about the Conservation Conveyance of Castner Range.” We learn, for example, that “[u]nder the Comprehensive Environmental Response, Compensation and Liability Act

(‘CERCLA’) ... federal property may be transferred prior to the completion of all remedial action necessary to protect human health and the environment.” (*idem.*)

The two years that followed the awarding of the OEA grant witnessed a growing awareness on the part of El Paso’s elected officials that the 4C’s work was serious. In 2010, for example, the El Paso County Commissioners’ Court unanimously passed a resolution in favor of permanently preserving Castner Range. The following year, a “Sense of the [Texas] Senate Resolution” that supported Castner conservation passed unanimously as did a “Sense of the [Texas] House [of Representatives].” Early in 2012, El Paso’s then-Congressman Silvestre Reyes succeeded in including “Land Conveyance, Castner Range” language in the 2013 NDAA (Section II, Log ID 12115) to the effect that the Range “may” be incorporated into the FMSP, the first time an NDAA had spoken of that possibility. (The text reads thus: “The Secretary of the Army may convey, without consideration, to the Parks and Wildlife Department of the State of Texas ... all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 7,081 acres at Fort Bliss, Texas for the purpose of permitting the Department to establish and operate a park as an element of the Franklin Mountains State Park.”) Change, however, was looming on El Paso’s political scene.

At the end of 2011, former El Paso City Council member Beto O’Rourke began his campaign to unseat incumbent U.S. Representative Silvestre Reyes, a fellow Democrat. He succeeded in doing so in the late May 2012 primary election. During his six years on Council (June 2005-June 2011), O’Rourke was a consistent friend of land conservation and proved instrumental in the final seven months of the 2 ½-year campaign—Aug. 2003-Dec. 2005—to conserve the 91-acre Resler Canyon property on El Paso’s West Side, in whose two arroyos 198 single-family homes were scheduled to be built. (A member of the 4C’s ended up donating the canyon’s \$1,868,500 purchase price to the Frontera Land Alliance, which owns and preserves the land in perpetuity.)

## The Drive to Make the Range a National Monument

“But I thought you wanted Castner to become a part of the Franklin Mountains State Park! So why did you guys change your plans?”, a faithful reader might well ask. Here’s what happened:

At the time (June 1979) that the Texas State Legislature created the Franklin Mountains State Park, its authorizing document clearly stated that “[t]he boundaries of the park were established in the legislation and no discretionary power was given to the Department or the Commission to include other property outside those boundaries except for two tracts, the Castner Range and the tract commonly known as the McMath Survey [just to the west of the park]” (Holliday, Ron et al., *Franklin Mountains State Park Management Plan*, Austin, TX: Texas Parks and Wildlife Department, May 1994, Vol. I, p. 32). “The Texas Parks and Wildlife Department will pursue the option of transferring the Castner Range to the State of Texas as a part of Franklin Mountains State Park.” (Holliday, *ibid.*) The TPWD’s position was reaffirmed in September of 2010 by a Memorandum which “serves as an attachment to the [FMSP] Management Plan (Plan) dated May, 1994, and updates certain items contained therein. The updates include the following points: 1. The Plan ... does not contain—nor can it be interpreted to contain—any provision for the Plan to be suspended or ‘sunset’. 2. As originally stated in the Plan, TPWD will continue to pursue options for the transfer of the Castner Range from the Department of the Army to the

State of Texas as a part of FMSP. The park-enabling legislation allows FMSP to include Castner Range (or portions which might be conveyed) without further legislative approval.” The Memorandum (unnumbered p. i, Vol. I of the 2010 re-issue of Holliday et al., 1994), was authored and co-signed by Brent Leisure (State Parks Division Director, TPWD) and the late Mike Hill (Director, Region 1, State Parks Division). Thus the 4C’s remained hopeful that the long-desired goal of annexing Castner to the FMSP could be realized, and in part to achieve that goal the 4C’s issued—Nov. 21, 2013—the 99-page *Castner Range Land Use Plan* (El Paso, TX: The Frontera Land Alliance) which the 4C’s had been compiling and writing since early 2012. (The *Plan* used TPWD guidelines as its organizing principle, producing chapters/sections on “Site Description and Location,” “Germane Laws, Regulations and Policies,” “Landscape Analysis” (physical, biological and cultural), “Public Access and Use (By DoD [Department of Defense]),” “Facilities and Operation,” “Facility Development,” “Trail System Program,” “Environmental Assessment,” “[23] Map Appendices” and the like.) All members of the 4C’s contributed to the volume, which was financed by part of the \$300,000 OEA grant. This Plan is the most extensive publication yet to appear on Castner Range—its past, its present and the future we’re still working to achieve.

Late in 2012, the 4C’s learned that 90% of the Fort Ord U.S. Army post (entirely closed in 1993 by the second BRAC [‘Base Realignment and Closure’] and located near Monterey, CA) had been declared a national monument by President Obama. This was the first-ever ordnance-bearing military property to be made into a monument. (The ordnance-laden Navy lands on the Puerto Rican island of Vieques became a national **wildlife refuge** in 2007.) The “Ord” action opened up an alternative route to Castner conservation and one which the 4C’s began to explore, especially in light of the single statement in Holliday et al. 1994/2010 (p. 32) that could give TPWD an out: “The issue of unexploded ordnance must be addressed before any portion of Castner Range can be transferred to the State for use as a state park.” Keeping that in mind, the 4C’s wrote TPWD in 2013 with this request: Could you once again affirm that “TPWD would be happy to accept Castner Range into its state park system when the opportunity arose?” Brent Leisure answered thus (Dec. 10, 2013 in part): “[You’re aware] that there are concerns regarding the possibility of unexploded and potentially dangerous ordnance on the site. We think that some or all of this land would be an appropriate addition to the state park if and when this ordnance and any other hazards have been completely cleared and removed from the site. We remain hopeful that this will be the case at some point in the future.” These developments led the 4C’s to explore a National Monument designation as an option for conserving all of Castner Range.

Fast-forward to April 24, 2017, two months after President Obama left office without declaring Castner Range a national monument despite the impressive campaign mounted by the expanded 4C’s. (See the present Report’s first section—“Widespread Support ...”) Not surprisingly, the 4C’s had once again begun to think of getting Castner annexed to the state park. So we e-mailed TPWD’s Parks Director Brent Leisure, in part with this request: “Can you yourself revisit what you wrote [Dec. 10, 2013], expanding on these comments: ‘... if and when this ordnance and any other hazards have been completely cleared and removed from the site?’” On May 16, 2017 he responded thus in part: “... the state of Texas cannot assume liability for unexploded ordnance that we know exists on the land. ... The DoD process to survey and remove ordnance is obviously a long and tedious one. Technology advances all the time. I hope that someday ordnance might be detected and mitigated in a way that is not damaging to the land and the

habitat it provides. Perhaps there is a possibility to clear corridors or areas for potential and future access but until that time, I'm afraid TPWD and the state of Texas just cannot assume responsibility for the risks that the ordnance poses to the public if they were to access the area." So it appears that annexing the Range to the FMSP is less of an option than it had seemed.

At this point it is helpful to enumerate the many DoD-sponsored public meetings we've attended in El Paso over the past nine years. They report on the substantive number of DoD-sponsored studies of Castner Range's OE and the activities undertaken that examine ways to clean it up or projects that actually do so. By our count, 19 meetings took place. Not all of them are easy to categorize; v. the invitation to a Feb. 27, 2015 meeting: "The U.S. Army is conducting a Military Munitions Response Program Remedial Investigation on ... Castner Range ... The Army invites you to participate in [this] Technical Project Planning meeting." Here is an attempt to distinguish just two of those components ([www.epa.gov/superfund/policy/remedy/sfremedy/rifs.htm](http://www.epa.gov/superfund/policy/remedy/sfremedy/rifs.htm)): "The Remedial Investigation/Feasibility Study (RI/FS) represents the methodology that the Superfund CERCLA program has established for characterizing the nature and extent of risks posed by uncontrolled hazardous waste sites and for evaluating potential remedial options. The RI serves as the mechanism for collecting data ... [T]he FS is the mechanism for the development, screening and detailed evaluation of alternative remedial actions." As noted before, the Castner Range WAA MMRP TPP is still in the RI phase as of summer 2017. Its FS has yet to start.

To the best of our recollection, here are the public meetings we've attended. The RAB itself ('Restoration Advisory Board') met Nov. 10, 2010; April 6, 2011; July 13, 2011; Oct. 19, 2011; Feb. 27, 2013; March 19, 2014; March 9, 2016; and March 28, 2017. A meeting focusing on the RI ('Remedial Investigation') was held May 13, 2015. The TPP ('Technical Planning Project') held nine meetings: June 16, 2010; Oct. 20, 2010; Feb. 10, 2011 (on separate occasions that day); April 25, 2012; Feb. 27, 2013; April 3, 2013; Feb. 27, 2014; Feb. 11, 2015; and Jan. 19, 2017. Only one meeting specifically labeled "WAA" ('Wide Area Assessment') was held, back on Oct. 16, 2009. Yet at least three separate reports—each bearing "WAA" as its primary designator—were issued bearing these chronologies: June, 2010; July, 2012; Nov. 2010. (The last of these WAA reports also covered the Oct. 20, 2010 meeting of the TPP.) Two full-length reports labeled "Military Munitions Response Program" (MMRP) were issued and can be consulted on-line: (1) *Final Site Inspection Report. Fort Bliss, Texas. [MMRP] Site Inspection Munitions Response Sites. Jan. 2007 (initial)/April 2007 (revision). 98 pp.*, and (2) *Final Engineering Evaluation/Cost Analysis (EE/CA) Land Use Controls. Fort Bliss, TX. [MMRP]. January 2013. Germantown, MD: URS Group Inc./Baltimore, MD: Arcadis/Malcolm Pirnie. 55 pp.* These corporations often change their names; thus the first one we listed is now "URS Corporation, An AECOM Company" while the second changed to "PIKA-Malcolm Pirnie Joint Venture, LLC" and is now "Pika-Arcadis JV." Either way, for many years these firms have played a prominent role in Castner Range investigations and clearly continue to do so.

So how much has all of this cost? "Many millions," according to all the sources with whom we've been in touch. (The cost involves on-site investigation procedures, resultant studies, public presentations, written reports and occasional cleanup activities in aggregate.)

**Castner Range: Permanent Protection of ALL the Franklin Mountains**

As of this writing (July 17, 2017), Castner Range has been the object of occasional clean-ups for 23 years and the object of studies and tests since 1971 and especially since 2003. Through the very end of President Barack Obama's eight years in office we remained optimistic that he would declare the Range a national monument, just as he did with 34 other American properties before the end of his term the morning of Jan. 20, 2017. That did not happen, nor is there a guarantee his successor will make the desired decision. So where does that leave us right now?

In the letter we cited before (dated Jan. 19, 2017, addressed to Congressman O'Rourke and co-signed by Neil Kornze, then-Director, BLM and Maureen Sullivan, Deputy Assistant Secretary of Defense [for] Environment, Safety and Occupational Health, DoD), the usual themes appear. Thus "the Army will continue to work with the State of Texas Commission on Environmental Quality [TCEQ] to determine the cleanup required for military munitions to allow the land to be used for its intended purpose." "These conversations are ongoing, and we will ensure that the required cleanup ... is a priority." "The Army has already completed a preliminary assessment and site inspection [begun in 2003] and expects to finalize the remedial investigation [RI] later this year." "[T]he Army will develop a feasibility study [FS] to evaluate cleanup alternatives. ... [The FS] can help inform future decisions about potential phasing of parcel conveyances and the degrees of public access feasible for each parcel. Once the cleanup alternatives are evaluated in the [FS], the Army, in coordination with the State of Texas, will recommend what cleanup should be performed. ... Based on the current schedule, the Army anticipates completion of the selected remedial action (cleanup) at Castner Range in 2023." That's six years from now, and 57 years since Castner was closed. While we are pleased by the inclusion of the word "conserved" ("Additionally, both the Army and BLM stand ready to work with you to reach your goal of ensuring Cast[n]er Range is conserved with compatible public access where feasible"), we are less than pleased by the time that this took and clearly still will take.

However, a new and very recent ray of hope is the language—NDAA, Sec. 2825, "Imposition of Additional Conditions on Land Conveyance ..."—now making its way through Congress (July 17, 2017) that will strengthen our ability to protect Castner Range. NDAA Sec. 2825 prevents future development and recognizes that the Range may not be conveyed to any governmental, public or private entity. The bill seeks "to conserve and protect the ecological, scenic, wildlife, recreational, cultural, historical, natural, educational and scientific resources" of Castner Range.

In the meantime, and despite the overwhelming support for Castner's conservation that El Pasoans have shown for decades, talk of "development" is sometimes still heard. "Why are you so opposed to developing Castner when the Range itself is so large?" One of the ways that we answer the question is this: "We already gave at the office." In the early 1970s, 1,230 acres of Castner were bought by the City for development, which promptly took place. In the 1980s, 12 acres of southeast Castner became a TxDOT maintenance yard. In 2005 the government simply appropriated an adjoining 14-acre piece of land for a Border Patrol station. Development plans won't go away until Castner is fully conserved and never zoned residential or commercial, never the site of apartments and homes, never dug up as a quarry for rocks and never the locus of communications towers, fates that befell the rest of the land that lies adjoining the park. The main thing that sets El Paso apart from, say, Midland-Odessa or Lubbock is the Franklin Mountains Range. This giant of the desert adds breath-taking beauty and drama to our land. Castner contains twenty-five percent of the Franklins. And so our campaign marches on.