



United States Department of the Interior

FISH AND WILDLIFE SERVICE

P.O. Box 1306
Albuquerque, New Mexico 87103

In Reply Refer To:
FWS/R2/NWRS-SUPV/041063

MAY 29 2009

Mr. Robert W. Gilbert
Chief Patrol Agent
U.S. Customs and Border Protection
2430 South Swan Road
Tucson, Arizona 85711

Dear Chief Gilbert:

The issue of emergency vehicle access by the U.S. Customs and Border Protection (CBP) on San Bernardino National Wildlife Refuge (Refuge), Cochise County, Arizona, has been in dispute over the past few months. The recent exchange of letters from our respective offices failed to clearly identify the needs of our two agencies and reach agreement on how best to proceed. I am proposing the following structured emergency vehicle access onto the Refuge as a means by which we can get beyond our current impasse and proceed with the important work of border security and the conservation and protection of our natural resources.

By way of this letter, we are documenting our expectations of the circumstances under which the CBP will utilize emergency vehicular access on San Bernardino National Wildlife Refuge. For the purpose of this access, we understand that emergency circumstances exist only when human life, health, and safety of persons within the area must be immediately addressed. Access to the Refuge by CBP for emergency purposes will be limited to use of established administrative roads (see enclosed map). CBP may continue to access any part of the Refuge on foot or on horseback at any time to patrol, pursue or apprehend suspected cross-border violators.

In the instance where emergency vehicular access to the Refuge is required, the CBP will report directly in writing or electronically to Refuge Manager William R. Radke within 3 days following the incident. These reports will include detailed information on the nature of the specific emergency response, from initiation through final outcome. When emergency circumstances require off-road vehicle use within the Refuge, CBP will provide the Refuge Manager with a written or electronic report regarding this activity within 24 hours of the incident. To facilitate the emergency CBP vehicle access onto the Refuge, we will permit the placement of a CBP lock (Master Lock Pro Series 6327 or comparable) on the green Refuge entrance gate located near Geronimo Trail Road.

On a 6-month cycle, the U.S. Fish and Wildlife Service (Service) will conduct an overall assessment of the instances in which CBP conducted emergency vehicular access on the Refuge.

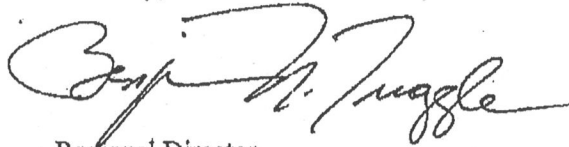
Mr. Robert W. Gilbert

2

Should the predominance of these instances of vehicular access to the Refuge not constitute true emergency incidents, the Service will suspend CBP access. The CBP will then be required to submit a request for any future access to the Refuge Manager for evaluation under the Special Use Permit process.

If you concur with these conditions of access, please sign the enclosed duplicate copy of this letter and return it to the attention of Mr. Chris Pease, Assistant Regional Director of Refuges, at the above address. If you have additional questions, please contact Mr. Pease at 505-248-7419.

Sincerely,



Regional Director

Enclosures

Concurrence: _____

Sector Chief Robert W. Gilbert

Date: _____