

**APPENDIX C--MEMORANDUM OF UNDERSTANDING**  
**between the**  
**U.S. BORDER PATROL**  
**and the**  
**BUREAU OF LAND MANAGEMENT, NATIONAL PARK SERVICE, U.S. FISH AND**  
**WILDLIFE SERVICE, BUREAU OF INDIAN AFFAIRS, BUREAU OF INDIAN**  
**AFFAIRS OFFICE OF LAW ENFORCEMENT SERVICES, U.S. FOREST SERVICE,**  
**NATURAL RESOURCES CONSERVATION SERVICE, AND U.S. ENVIRONMENTAL**  
**PROTECTION AGENCY**

I. INTRODUCTION

This Memorandum of Understanding (MOU) is made and entered into by the U.S. Border Patrol (USBP) and the Bureau of Land Management (BLM), National Park Service (NPS), U.S. Fish and Wildlife Service (FWS), Bureau of Indian Affairs (BIA), Bureau of Indian Affairs Office of Law Enforcement Services (OLES), U.S. Forest Service (USFS), Natural Resources Conservation Service (NRCS), and U.S. Environmental Protection Agency (EPA), hereinafter referred to as the Parties to this MOU.

II. BACKGROUND

The geographic scope of this MOU is public land in the states of Arizona and New Mexico.

Title 8 United States Code Section 1357(a)(3) entitles the United States Border Patrol to board and search conveyances within a reasonable distance of the border and to arrest smugglers and undocumented aliens (UDAs) illegally present in the United States.

BLM administers more than 27 million acres in Arizona and New Mexico, of which more than 4 million acres (2.4 million acres in Arizona and 1.8 million acres in New Mexico) are within 100 km (62 miles) of the United States-Mexico border. These border lands are administered by the Yuma, Phoenix, Tucson and Safford, Arizona Field Offices; and Las Cruces, New Mexico Field Office.

NPS administers 35 units in Arizona and New Mexico. Organ Pipe Cactus National Monument and Coronado National Memorial are adjacent to the international border. Tumáacacori National Historic Park, Chiricahua National Monument and Ft. Bowie National Historic Site are within 100 km of the international border. These five units total more than 348,000 acres.

USFWS administers 15 wildlife refuges in Arizona and New Mexico. Cabeza Prieta, Buenos Aires and San Bernardino National Wildlife Refuges are adjacent to the international border and Imperial, Leslie Canyon, and San Andres National Wildlife Refuges are within 100 km of the international border.

BIA is responsible for carrying out the federal trust responsibility for lands reserved for four Indian tribes in Arizona and New Mexico whose lands fall within 100 km of the United States-Mexico border. The four tribes are the Cocopah, Quechan, Tohono O'odham, and Pascua Yaqui Tribes.

USFS administers six national forests in Arizona and five national forests and a national grassland in New Mexico. The 1.8 million acre Coronado National Forest shares 60 miles of its border with Mexico and also has a significant portion of its non-contiguous units within 100 km of the international border.

NRCS provides technical assistance to land users who are cooperators of Natural Resource or Soil and Water Conservation Districts (NRCDs or SWCDs) along the United States-Mexico border region of Arizona and New Mexico. The NRCS also provides technical assistance and in-kind services to other land users to facilitate compliance with Farm Bill participation in US Department of Agriculture programs for which the individuals or groups are eligible.

EPA's Regional Offices along with delegated state, local, and tribal agencies execute the Agency's programs within selected states, considering regional needs and the implementation of federal environmental laws. Programs to protect human health and to safeguard the natural environment in Arizona and New Mexico are overseen by EPA's Region IX and Region VI Offices, respectively. Through the Border XXI program, EPA aims to achieve a clean environment, protect public health and natural resources, and encourage sustainable development in the area 100 km north and south of the US-Mexico border.

All Parties are committed to preventing degradation of the physical environment while ensuring their respective missions are met.

### III. PURPOSE

The purpose of this MOU is to 1) provide general procedures for the USBP's use of public land to conduct its routine operations of search and rescue, training, and apprehension of UDAs, while protecting the public's right to use public land without undue disruption, 2) develop and implement a plan to mitigate environmental degradation caused by UDAs crossing federal lands in Arizona and New Mexico, and 3) provide and encourage opportunities for all Parties to operate more effectively and achieve their missions.

### IV. AUTHORITY

This MOU is entered into under the joint interdepartmental policies as well as under the individual department authorities of the U.S. Department of Agriculture, the U.S. Department of the Interior, the U.S. Department of Justice, and the U.S. Environmental Protection Agency. The federal agencies have general authority to cooperate and reach interagency understanding on matters within the scope of this document.

Appropriations Acts for FY2001:

House Report 106-646, dated June 1, 2000, at page 88 states "The Committee encourages the Forest Service and the Secretary of the Interior to work more closely with the Immigration and Naturalization Service and the EPA in southeastern Arizona to develop a plan to coordinate activities addressing illegal immigration crossing through Federal lands, and additionally, to

provide the Committee by October 1, 2001, a plan coordinated with the EPA to mitigate environmental damage caused by illegal immigrant crossings through these Federal lands.”

House Report 106-674, dated June 12, 2000, at page 54 states “The Committee encourages the Administrator of the Environmental Protection Agency to work more closely with the Immigration and Naturalization Service, the Department of the Interior, and the Forest Service to develop a plan to mitigate environment degradation caused by illegal immigrants crossing into southeastern Arizona. This mitigation plan must be provided to the Committee by October 1, 2001.”

## V. DEFINITIONS

For purposes of this MOU:

- A. “Public land” is land administered by the Bureau of Land Management, US Fish and Wildlife Service, US Forest Service and National Park Service in the states of Arizona and New Mexico.
- B. “Public use” is defined as use by visitors, employees or residents of public land.

## VI. AGREEMENT

- A. BLM, NPS, FWS, BIA, OLES, USFS, NRCS, and EPA AGREE TO:
  - 1. Contribute information and suggestions to USBP in its preparation of the necessary environmental documentation and clearances for USBP projects requiring new surface disturbing activities in a timely manner.
  - 2. Assist USBP in identifying preferred locations for training and special operations as well as legally restricted areas, including but not limited to designated wilderness areas and endangered species critical habitat, in order to minimize impacts.
  - 3. Observe, take part in, and instruct at, as desired or requested, USBP training.
  - 4. Work with USBP on an individual basis when USBP operations may potentially cause degradation of natural resources and/or air quality to seek solutions that both mitigate the potential damage and allow for the attainment of mission goals.
  - 5. Take responsibility for the removal, storage and disposal of all abandoned vehicles located on lands under their respective administration not seized by USBP as part of an enforcement action under its jurisdiction for a violation involving a motor vehicle.
  - 6. Work with USBP, as practicable, in the development and production of maps, brochures, and booklets for use as reference by USBP agents. These documents

may range from speciality full-size land-use maps to individual site-specific or resource specific pocket size field reference sheets.

7. Assist USBP, as practicable and as allowed by agency policy, in search and rescue operations of UDAs within lands under their agency's administration, and as requested by the USBP in search and rescue operations adjacent to such lands.

B. THE US BORDER PATROL AGREES TO:

1. Provide the respective Parties with an inventory of vehicle routes needed by their staff to conduct operations. USBP will strive to prevent resource damage by limiting off-road vehicle traffic to those existing routes unless immediate enforcement actions or emergency response activities are required.
2. Coordinate with the respective Parties on a monthly basis to discuss the overall status of projects and any other items pertinent to the execution of this MOU.
3. Cooperate with the law enforcement branches of Parties to this MOU by reporting observed violators of laws and regulations to respective Parties in a timely manner.
4. Request assistance in identifying preferred locations for training and special operations as well as legally restricted areas, including but not limited to designated wilderness areas and endangered species critical habitat, in order to minimize impacts.
5. Observe, take part in, and instruct at, as desired or requested, training by other Parties to this MOU.
6. Assist, when requested, any Party to this MOU in search and rescue operations within lands administered by that Party involving public visitors and/or employees.
7. Work with other Parties to this MOU on an individual basis when USBP operations may potentially cause degradation of natural resources and/or air quality to seek solutions that both mitigate the potential damage and allow for the attainment of mission goals.
8. Either seize or store motor vehicles found on public land involved in a violation being enforced by the USBP, depending on the elements of each individual case.
9. Pick up UDAs detained by BLM, NPS, FWS, BIA or USFS law enforcement officers to transport them off public land.

C. ALL PARTIES MUTUALLY AGREE TO:

1. Create a work committee consisting of two members each from USBP, BLM, EPA, USFWS, NPS and USFS whose responsibility is to coordinate and develop a coordinated plan to mitigate environmental damage caused by UDA crossings through federal lands in southeastern Arizona, as encouraged in House Reports 106-646 and 106-674 for Fiscal Year 2001 Appropriations Act. The committee members will present a plan, as required by Congress, to their own agencies by July 31, 2001, for transmittal to the House Appropriations Committee by October 1, 2001.
2. Actively work under this MOU within the budgetary constraints of the Parties.
3. Make staff available to conduct periodic "ride-alongs" to promote better coordination between agency personnel at the staff level.
4. Conduct quarterly coordination meetings at the sector chief/field office manager level to jointly develop projects and schedule tasks.
5. Work together to identify or develop staging areas for joint operations, USBP operations and joint training.
6. Cooperate and participate in training and use of agency equipment such as heavy earth-moving equipment, ATVs, horses, mountain bikes, four-wheel drive vehicles, and technical equipment such as geographical information systems and global positioning systems.
7. Render backup and assistance to each other Party to this MOU in law enforcement operations, provided that such assistance is within its capabilities and jurisdiction; and that such action will not impair such Parties from fulfilling their own objectives; and all requests for assistance made by the Parties will be reasonable and will not compromise the integrity and mission of any of the involved Parties.
8. Strive to resolve issues at the appropriate individual USBP Sector Chief and Field Office level if conflicts develop between USBP operations and public use of public land.
9. Cooperate in the development and dissemination of public education and information materials.

D. ADMINISTRATIVE PROVISIONS:

1. Other federal, tribal, state and local government agencies may become a Party to this MOU.

2. This MOU shall become effective to each Party upon the date of their signature and shall have an indefinite duration.
3. Any Party that wants to terminate this MOU shall notify the other Parties by giving 30 days written notice.
4. This MOU shall be interpreted in accordance with federal law.
5. No representations or promises are binding on the Parties, except those representations and promises contained in this MOU or in some future written representations or promises signed by the Parties.
6. This MOU shall not be construed to obligate the federal government to expend any money in the completion of any work under this MOU.
7. Nothing in this MOU will be construed as affecting the authority of the parties in carrying out their responsibilities under the provisions of applicable law.
8. Disagreements concerning administration of the MOU or its terms will be resolved by the signatories identified below.
9. Amendments or modifications to this MOU shall be in writing and shall be signed by the Parties. Modifications shall become effective to each Party on the date of their signature.
10. Parties shall retain all applicable legal responsibility for their respective employees working pursuant to this MOU with respect to pay, personnel benefits, injuries, accidents, losses, damages, civil liability, etc. This MOU is not intended to change in any way the individual employee status, or the liability or responsibility of each Party under applicable federal law.
11. Liability of the United States resulting from the negligence of its employees shall be governed by the Federal Tort Claims Act (28 U.S.C. 2671, et seq.) and applicable federal laws.
12. Nothing in this MOU shall affect the rights and duties derived from other agreements that already exist between the Parties, including, but not limited to:
  - a. Interagency Agreement Between NPS, Organ Pipe Cactus National Monument and Immigration and Naturalization Service, U.S. Border Patrol, Tucson Sector, Arizona; and
  - b. Interagency Agreement Between USFWS, Cabeza Prieta NWR and Immigration and Naturalization Service, U.S. Border Patrol, Tucson and Yuma Sectors, Arizona.

13. Supplemental agreements or MOUs may be entered into by two or more Parties to this MOU by mutual agreement at any time.

Signature  /s/ David V. Aguilar Date  3/20/01  
US Border Patrol, Chief Patrol Agent, Tucson Sector, David V. Aguilar

Signature  /s/ Luis E. Barker Date  3/20/01  
US Border Patrol, Chief Patrol Agent, El Paso Sector, Luis E. Barker

Signature  /s/ Maurice Moore Date  3/20/01  
US Border Patrol, Acting Chief Patrol Agent, Yuma Sector, Maurice Moore

Signature  — Date  —  
US Border Patrol, Headquarters, Washington, D.C.

Signature  /s/ Ellie Towns Date  3/20/01  
US Forest Service, Southwestern Regional Forester, Ellie Towns

Signature  /s/ Nancy Kaufman Date  3/20/01  
US Fish and Wildlife Service, Southwest Regional Director, Nancy Kaufman

Signature  /s/ Denise P. Meridith Date  3/20/01  
Bureau of Land Management, Arizona State Director, Denise P. Meridith

Signature  /s/ Michelle Chávez Date  3/20/01  
Bureau of Land Management, New Mexico State Director, Michelle Chávez

Signature  /s/ Skip Ladd for Date  3/20/01  
National Park Service, Intermountain Regional Director, Karen Wade

Signature  /s/ Wayne Nordwall Date  4/11/01  
Bureau of Indian Affairs, Western Regional Director, Wayne Nordwall

Signature  /s/ Richard Armstrong Date  5/17/01  
Bureau of Indian Affairs Office of Law Enforcement Services

Signature       /s/ Rob Baracker       Date   7/17/01    
Bureau of Indian Affairs, Southwestern Regional Director, Rob Baracker

Signature       /s/ Mike Somerville       Date   3/20/01    
Natural Resources Conservation Service, Arizona State Conservationist, Mike Somerville

Signature       /s/ Rosendo Trevino III       Date   3/20/01    
Natural Resources Conservation Service, New Mexico State Conservationist, Rosendo Trevino III

Signature       /s/ Laura Yoshii       Date   7/24/01    
US Environmental Protection Agency, Acting Region 9 Administrator, Laura Yoshii

Signature       /s/ Gregg Cooke       Date   7/25/01    
US Environmental Protection Agency, Region 6 Administrator, Gregg Cooke

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