

Judge rules U.S. government not liable for migrant deaths

Michael Kiefer
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A federal judge in Tucson refused Wednesday to hold the U.S. government responsible for the 2001 dehydration deaths of 11 undocumented immigrants just because two of its agencies refused to allow a humanitarian group to leave water drums on a national wildlife refuge bordering Mexico.

U.S. District Judge John M. Roll ruled that he had no jurisdiction in the wrongful death lawsuit because the U.S. Fish and Wildlife Service and the administrators of the Cabeza Prieta National Wildlife Refuge acted within their discretion when they denied an application by the group Humane Borders to install "water stations" for border-crossing migrants.

Furthermore, Roll wrote, the government "owed no duty to affirmatively assist trespassers illegally crossing Cabeza Prieta in avoiding the obvious dangers of a hostile desert."

Dan Knauss, chief assistant U.S. Attorney for Arizona, said that the judge rendered summary judgment in the case because the claim had no legal basis.

"The connection between not being able to put those water stations out there and the deaths is just too attenuated," he said.

According to court documents, in the early months of 2001, the Tucson-based Humane Borders applied for permits to place 65-gallon water drums marked by flags in the desert on the Cabeza Prieta and Buenos Aires National Wildlife Refuges as well as in Organ Pipe Cactus National Monument and Wilderness, all of which sit on the Mexican border between Yuma and Nogales.

Two of the federal properties granted permission. But the manager of Cabeza Prieta, after consulting with the U.S. Fish and Wildlife Service, decided that it would not be in the refuge's best interests to do so. The water stations, he reasoned, would encourage traffic through the refuge, potentially threatening the animals and even the immigrants, among other reasons. The request was denied in April 2001.

A little more than a month later, 14 border crossers died of dehydration in Cabeza Prieta. They had passed within one mile of one of the proposed water stations and died within 14 miles of another.

In April 2003, Yuma attorney A. James Clark filed suit in District Court on behalf of the families of 11 of the men, claiming the government was responsible for their deaths and requesting a reported \$41 million in damages.

Clark could not be reached for comment.

Humane Borders was not party to the suit, but its president, Rev. Robin Hoover, said that he thought the judge erred in his decision.

"I feel that the government needs to be a whole lot more responsible for what's happening on their property," Hoover said.

"We wish that we would have been able to put water stations out there. We still would like to put out water stations," he said.