U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

OCT 16 2009

Mr. Robert P. Silverberg
Georgetown Place, Suite 120
1101 30th Street, NW
Washington, D.C. 20007

Re: Compassionate flights

Dear Mr. Silverberg,

This is in response to your June 17, 2009, request for a legal interpretation of the Federal Aviation Administration's policy relating to charitable flights. You specifically seek clarification of the FAA compassionate flight policy as it relates to the deductibility of flight related expenses incurred by uncompensated volunteer pilots who transport rescue animals by aircraft. The facts as outlined in your letter are as follows:

Pilots-n-Paws is a 501(c)(3) designated organization dedicated to saving the lives of innocent animals that operates a website to serve as an electronic meeting place for those seeking transportation of rescue animals and volunteer pilots who are willing to transport the animals from overcrowded shelters to those that can better accommodate them. Individuals seeking transportation for rescue animals and volunteer pilots can meet on the website and make necessary bilateral agreements to do so. Pilots-n-Paws is not a party to such agreements, and does not provide any flight services. Pilots-n-Paws acts only as a facilitator via its website, where it makes clear that pilots who wish to volunteer their time and aircraft must do so without any expectation of compensation and in compliance with the requirements of section 61.113.

We believe that this issue was addressed in the letter of Rebecca B. Macpherson, Assistant Chief Counsel, Regulations Division, to Joseph A. Kirwan, dated May 27, 2005, (the "Kirwan letter"). In the Kirwan letter, we addressed whether a pilot could take a tax deduction for expenses related to charitable flights among other issues. We know that historically the FAA has considered the taking of a tax deduction for these types of flights to constitute a form of compensation not permitted under section 61.113. However, we stated in Kirwan that our enforcement policy now provides as follows:

> Since Congress has specifically provided for the tax deductibility of some costs of charitable acts, the FAA will not treat charitable deductions of such costs, standing alone, as constituting "compensation or hire" for the purpose of enforcing [the Federal Aviation Regulations]." If taking a charitable tax deduction for transporting persons or property is coupled with any

reimbursement of expenses, or other compensation of any kind, then this policy does not apply. *See* FAA Order 8900.1, Vol. 4, Chap. 5, § 1, ¶ 4-922).

Our policy on this issue remains unchanged, and it is not altered by the fact that the flights are conducted to rescue animals.

We trust that the foregoing interpretation is responsive to your inquiry. This interpretation was prepared by the Operations Law Branch of the Office of the Chief Counsel, and coordinated with the Air Transportation and General Aviation Divisions of the Flight Standards Service. Please contact us at (202) 267-3073 if we can be of further assistance.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for Regulations, AGC-200