

Judge tosses Inyo's road case

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death valley – On Tuesday, a U.S. federal court largely threw out Inyo County's suit that sought claim to roads in Death Valley that the Department of Interior, deemed closed to motorized traffic.

Inyo County had hoped to regain control of three routes, Greenwater Canyon, Greenwater Valley and Last Chance Canyon, that were closed by the National Park Service under the authority of the California Desert Protection Act of 1994.

The court decision denies the county's claim to all routes in Greenwater Canyon, a rugged, narrow area peppered with prehistoric sites, and all routes in Greenwater Valley, an important habitat for Black Mountain bighorn sheep and desert tortoise. However, the county will retain claim to the last northern half-mile of Last Chance Canyon, home to cougar, deer, coyote and badger.

Wilderness Coordinator for Death Valley National Park Charlie Callagan said the new ruling will not change anything on the ground, signs are already in place informing the public of restrictions. He sees it as a reinforcement of measures already in place.

The central dispute in the legal case was a matter of jurisdiction, according to Inyo County Assistant County Counsel Randy Keller. The statute of limitations to file action is 12 years, but whether the clock started in 1979 when the roads were included in a Wilderness Study Area by the Bureau of Land Management, or in 1994 when the Congress declared Death Valley a national park, upgraded from a national monument.

The court sided with environmental groups and the park service that 1979 was the starting time and that the county had run out of time.

The county used the guidelines under the Revised Statute 2477, to support its case. R.S. 2477 is a provision of the Mining Law of 1886 whereby Congress granted rights-of-way across public lands for the construction of "highways" to provide access to mining deposits located under federal laws and promote settlement of the American West during the latter part of the 19th century.

In its entirety, R.S. 2477 provides that, "right-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted," according to the United States Government Accountability Office's Web site.

R.S. 2477 was repealed by Congress in 1976, but expressly preserved the rights-of-way that had already been established under the provision, states the GAO. R.S. 2477 was self-executing and did not require government approval or public recording title, and thus the cause for confusion.

Keller explained that during the wilderness study in the 1970s, a "highway" was defined as a "maintained road," so the areas under dispute in the case were determined a roadless area and included under protection in the Wilderness Study Areas.

Opposing views of the court's decision and the merits of R.S. 2477 vary widely. Off-road

enthusiasts see the ruling as an infringement of their right to enjoy public lands as they see fit.

Greg Weirick, president of the local Advocates for Access to Public Lands, said that by closing the roads, public access to public lands is impeded.

Groups in support of the road closures view the decision as a way of preserving public lands for natural habitat and the enjoyment of future generations.

Environmental groups say R.S. 2477 is, "being resurrected to promote unrestricted development of our public lands," according to statements on The Wilderness Society Web site.

"Inyo County filed suit seeking ...the right to tear down Park Service barriers and the right to build new two-lane highways in roadless desert canyons and valleys," states a press release from Earthjustice, the law firm representing six conservation groups, The Sierra Club, The Wilderness Society, California Wilderness Coalition, National Parks Conservation Association, Center for Biological Diversity and Friends of the Inyo, that intervened to support the park service.

"They're 100 hundred-year-old covered wagon trails and jeep trails," Keller said, adding that the county just wanted to take the barriers down that now block the road, "we didn't want to pave them."

As reported in The Inyo Register in October of 2005 , the county decided to file suit as a matter of principle, sending a message to the federal government and National Park Service that it cannot just take roads belonging to citizens of Inyo County.

After the court's decision to throw out the case, Ted Zukoski of Earthjustice stated, "This is a great day for Death Valley. When congress made Death Valley a national park in 1994, it set aside these areas for all Americans to enjoy as quiet, natural, and free from damaging dirt bikes, ATVs, and other off-road vehicles. The court's ruling will help to ensure that Congress' promise to the American people will be kept."

"I'll bet the horned lizards and chuckwallas are dancing in the desert washes right now," stated Paul McFarland from Friends of the Inyo. "Hopefully, this sound decision will let us move beyond bogus road claims to focus on working together to better sustain one of the most valuable assets here in the Eastern California – our wild desert."

DOI was unavailable for comment at the time of this article as were local wildlife, but assumptions were made none the less.

"I think the chuckwallas liked our roads and will miss the traffic," Keller said.