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Groups File Suit to Preserve Future Access to Surprise Canyon Road

Washington, DC – On September 7, 2006, groups representing private property owners, as well as other members of the public, filed suit against the Bureau of Land Management (BLM) and National Park Service (NPS) for illegally denying access on Surprise Canyon Road, a public road.

“The BLM and NPS have tried to assert jurisdiction over Surprise Canyon Road since 2001,” says Kris Tholke, an owner of private property near Panamint City. “Surprise Canyon Road is a public road, and has been since its creation in 1874. Therefore, the BLM and NPS have no jurisdiction over this road”.

Access to Surprise Canyon Road was restricted in 2001 as a result of a lawsuit brought against the BLM by the Center for Biological Diversity, Sierra Club and Public Employees for Environmental Responsibility. The resulting settlement agreement required the erecting of a gate across the road to restrict access, although the agreement was supposed to protect private property rights by exempting owners of private property from the closure. To date, however, the BLM and NPS have denied all requests for access to private property via Surprise Canyon Road.

“Surprise Canyon road was created over 130 years ago, and was used consistently to reach private property until it was closed in 2001” says Bryan Lollich, Vice President of Friends of Panamint Valley. “The road is a valid R.S. 2477 right of way and is further protected under the Federal Land Policy and Management Act, the California Desert Protection Act, and current Department of Interior guidelines.”

Congress enacted "Revised Statute 2477" in 1866, granting a “right of way for the construction of highways over public lands.” This grant was repealed by FLPMA in 1976, but all valid R.S. 2477 rights of way at the time of repeal were allowed to continue. Because the Surprise Canyon Road was a valid right-of-way at the time of FLPMA’s enactment in 1976, it remains a valid R.S. 2477 right-of-way.

Surprise Canyon Road is located on the western slope of the Panamint Mountains and is the only access route to the historic site of Panamint City and the surrounding private property. Surprise Canyon Road and Panamint City are in a non-wilderness "cherry stem" created by an act of Congress, surrounded by the Surprise Canyon Wilderness area and Death Valley National Park. A “cherry stem” means that they were specifically excluded from the wilderness because they did not meet the wilderness criteria. The cherry stem of Surprise Canyon Road and Panamint City was created by Congress to insure future public access to this historic town, and private property in the area.

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