

NEWS RELEASE, 9/18/07

Judge Denies Off-road Vehicle Access to Surprise Canyon, A Unique Oasis in Death Valley National Park

SAN FRANCISCO – Judge William H. Alsup denied a motion brought by off-road interests (the Little Chief Millsite Partnership and the Owners of Independence Millsite) seeking to gain access to Surprise Canyon, a rare and fragile desert stream. This is the second failed attempt in the past year by the same individuals to gain motorized access to the creek, which begins in Death Valley National Park and flows through an area of critical environmental concern and wilderness managed by the Bureau of Land Management.

In 2000, Public Employees for Environmental Responsibility, the Center for Biological Diversity and Sierra Club sued the Bureau of Land Management for violations of the Endangered Species Act because the agency had failed to evaluate the impact of off-road vehicle use and other management policies on endangered wildlife. As a result of a 2001 settlement and consent decree, the agency closed several sensitive areas including Surprise Canyon in order to protect the spring-fed creek flowing through the canyon and the habitat and wildlife it supports. The National Park Service closed the upper portion of the canyon to vehicles in 2002. Since these closures, Surprise Canyon has experienced a remarkable recovery, evidenced by thriving vegetation and the return of such endangered species as the Inyo California Towhee after decades of absence.

"This is a great day for Surprise Canyon. The creek is a haven for people and wildlife, with its cascading waterfalls, towering cottonwoods and lush willows that are home to desert bighorn sheep, endangered birds, and rare species found nowhere else in the world," said Chris Kassar, a wildlife biologist with the Center for Biological Diversity.

The off-road interests had purchased inholdings on old mining claims in Death Valley National Park with the intention of using their ownership of those lands to seek motorized access to the canyon, and brought this motion for contempt against the Bureau of Land Management when it attempted to enforce the consent decree entered in 2001. The groups argued that the consent decree gave them a right to motorized access, but the court disagreed. And to the off-road groups' argument that the Bureau is taking too long to process their access applications, the court replied that the issue must be raised in a new lawsuit "rather than seeking to enforce an old decree in someone else's case concluded years before any agency action was requested."

Karen Schambach, California director for Public Employees for Environmental Responsibility, says her members — employees of federal and state resource agencies — welcome the decision, but are still concerned about the future of Surprise Canyon. "We have our finger in the dike, and so far it is holding. But the longer challenge is somehow getting the off-road community to adopt informed land ethics. Unfortunately, this newest generation of extreme off-roading is doing more and more damage every year to these special areas that were formerly safe by virtue of their inaccessibility. We need more than lip service to environmental responsibility from groups like Blue Ribbon Coalition, who think it is all right to destroy sensitive habitat as long as they pick up their trash."

Previous off-road vehicle use caused serious damage to the canyon. In the 1990s, highly modified four-wheel-drive vehicles began to scale the canyon. The drivers cut down plants and trees, filled in portions of the streambed with rocks, and used winches to pull vehicles up near-vertical waterfalls. A number of vehicles overturned when trying to negotiate the waterfalls and other steep terrain, dumping oil and other pollution into the stream.

Because Surprise Canyon is narrow and constrained through much of its length, it is not possible to resume off-road vehicle use without causing substantial adverse impacts to the creek, the wilderness character of the area, important water resources and other natural values.

"Surprise Canyon is on a path to natural restoration. It was torn up and damaged, but now is thriving with native plants and wildlife," concluded Kassir. "Allowing damaging off-road vehicle activity to return to the canyon would set recovery back by decades, and this decision is at least one more step toward ensuring that doesn't happen."