

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

COUNTY OF INYO,)
)
Plaintiff,)
)
vs.) Case No.)
) 1:06-CV-01502-AWI-DLB
DEPARTMENT OF THE INTERIOR,)
DIRK KEMPTHORNE, in his)
as Secretary of the United)
States Department of the)
Interior, NATIONAL PARK SERVICE,)
MARY A. BOMAR, in her capacity)
as Director, National Park)
Service, JAMES T. REYNOLDS, in)
his capacity as Superintendent,)
Death Valley National Park,)
)
Defendants, and)
)
SIERRA CLUB, et al.,)
)
Defendant-Intervenors.)
_____)

DEPOSITION OF RON CHEGWIDDEN

Independence, California

March 5, 2008

NICCOLE M. ROSSY
Certified Shorthand Reporter #10698
Post Office Box 1675
Bishop, California 93515
(760) 872-4718

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_____)

Deposition of RON CHEGWIDDEN, taken on behalf
of Defendant, at the Inyo County Administration offices,
224 North Edwards Street, Independence, California,
commencing at 1:43 p.m., Wednesday, March 5, 2008,
before Niccole M. Rossy, CSR #10698, pursuant to notice.

A P P E A R A N C E S

FOR PLAINTIFF:

COUNTY OF INYO

OFFICE OF THE COUNTY COUNSEL

BY: RANDY KELLER, ASSISTANT COUNTY COUNSEL

P.O. Box M

Independence, California 93526

(760) 878-0229

FOR DEFENDANTS:

UNITED STATES DEPARTMENT OF JUSTICE

BY: BRUCE D. BERNARD, TRIAL ATTORNEY

1961 Stout Street, 8th Floor

Denver, Colorado 80294

(303) 844-1361

FOR DEFENDANT-INTERVENORS:

EARTHJUSTICE

BY: EDWARD B. ZUKOSKI, STAFF ATTORNEY

1631 Glenarm Place, Suite 300

Denver, Colorado 80202-4303

(303) 623-9466

ALSO PRESENT:

AINSLEY HOLESO, NATIONAL PARK SERVICE

1 because they were secondary to the state highway system,
2 if you will, but that's been since abolished, and at
3 that time I don't know what the difference between the
4 primary and the secondary was.

5 Q. Okay. In the same disclosures there's also a
6 resolution under 48-9 which states that, "The Board of
7 Supervisors of Inyo County did heretofore cause a map to
8 be prepared showing each road proposed to be included in
9 the primary system of county roads," and it indicates
10 it's attached as Exhibit A.

11 Do you have any idea if that map still exists?

12 A. No, I do not. We've tried to find it, and I'm
13 not aware of it existing in any of the records that
14 we've looked for -- looked through.

15 Q. The same resolution references that there's a
16 set of route descriptions marked Exhibit B that are
17 attached to the resolution and which are adopted as the
18 official route descriptions for the roads included in
19 the system of primary county roads. Do you know if
20 that -- if those route descriptions exist?

21 A. No, I don't.

22 Q. So is it your understanding that it's at
23 least -- well, let me back up.

24 The way in which a road becomes a county road
25 is for the county to adopt the road into its system of

1 Q. Okay. And the county has been unable to find
2 the 1948 map. Is there a more current map that the
3 county does have?

4 A. We have more current maps, yes.

5 Q. There are portions of maps attached to this
6 initial disclosure again. Can you tell if these are
7 copies that are taken from portions of the state map of
8 county maintained mileage?

9 A. Yes. That would appear to be an excerpt, if
10 you will, from a maintained mileage map prepared by the
11 state.

12 MR. BERNARD: Let's go off for one second.

13 (A discussion was held off the record.)

14 Q. BY MR. BERNARD: All right. We're looking at
15 four map sheets that Mr. Keller has provided us, which
16 are labeled "State of California Department of
17 Transportation," and they're dated 1993, and they are
18 sheets 2, 10, 12, and 18 of 23. Do those appear to be
19 the state maps you were referring to?

20 A. That's a part of the set, yes.

21 Q. Is there any way of knowing whether these maps
22 correspond to the maps that were attached to the 1948
23 resolution?

24 A. No.

25 Q. So there's really no way of knowing what was

1 intended to be included in the 1948 resolution at this
2 point?

3 A. Not without having those attachments, no.

4 Q. Looking at sheet 2 of 23, which seems to show
5 part of Last Chance Road, it shows a little piece,
6 perhaps a half mile, on the north end coming south of
7 Willow Creek Road. Do you see that?

8 A. Yes.

9 Q. And then beyond that it says, "County
10 right-of-way only, no road." This is a map dated 1993.
11 So would that indicate that's not part of the county
12 maintained road system?

13 A. I don't know what that's intended to represent
14 quite honestly.

15 Q. Do you have any idea of what right-of-way would
16 be referred to there or how that right-of-way might have
17 been obtained?

18 A. I would presume that would be the right-of-way
19 that was claimed under the adoption of the roadway in
20 1948.

21 Q. So that would tell us then that adoption of a
22 resolution like the one done in 1948 doesn't necessarily
23 confirm that there is a road on the ground for any of
24 the described roads; is that right?

25 A. I don't know if I could say that is indicative

1 Q. BY MR. BERNARD: Mr. Chegwidden, what is the,
2 if you know, what is the factual basis for the county's
3 claim that it owns each of these four roads?

4 A. That they were adopted by the Board of
5 Supervisors.

6 Q. That they were adopted into the county
7 maintained system?

8 A. Yes.

9 Q. By the 1948 resolution, I believe in the case
10 of three of them and then a 19 -- I think it's 57
11 resolution for Padre Point; is that right?

12 A. I believe so, yes.

13 Q. But you've indicated earlier we don't have
14 either Exhibit A or B to that 1948 resolution, either
15 the map or the listing of roads; is that correct?

16 A. Not to my knowledge.

17 Q. So there's really no basis for knowing what
18 roads were being adopted into the system at that point;
19 is that not correct?

20 A. I guess there's no clear-cut definition of what
21 the roads that were adopted look like, I guess.

22 Q. And you've confirmed that the '93 state map we
23 were looking at, that those descriptions don't --
24 there's no way of knowing if those correspond to what
25 might have been attached to the '48 resolution or not,

1 Q. Okay. And you don't know if the roads that are
2 included in this register conform to those shown on
3 Exhibits A and B to the 1948 resolution; is that
4 correct?

5 A. No, I can't confirm that.

6 Q. All right. This form goes on to say that, "At
7 the time of this writing," and this is 2006, "there is
8 no evidence that a road was ever constructed on Last
9 Chance Road Easement. If no road was actually
10 constructed, even through use, it would be difficult to
11 make a positive finding for finding one, under federal
12 or California law."

13 Do you know if something changed after 2006
14 that affected that conclusion?

15 A. It changed in terms of --

16 Q. Well, it says that there's no evidence a road
17 was ever constructed, even through use, and without that
18 it would be difficult to sustain a claim. Do you know
19 if the county eventually turned up something that
20 reflected construction or something that encouraged it
21 to make the claim?

22 A. I believe there are maps that showed that the
23 road existed. I don't know what the basis of the
24 statement that no road was actually constructed was
25 based upon.

1 maintain a road and in general when.

2 MR. KELLER: That's all I have.

3 MR. BERNARD: I'm afraid I'm confused now.

4

5 EXAMINATION

6 BY MR. BERNARD:

7 Q. For a road to become a county road it takes an
8 action by the county supervisors; is that right?

9 A. I believe so, yes.

10 Q. Accepting the road into the county system?

11 A. Uh-huh.

12 Q. Okay. And with respect to these four roads
13 subject to this lawsuit, the resolution that the county
14 points to as the basis for that would be the 1948
15 resolution number 48-9, is that correct, with respect to
16 at least three of the roads?

17 A. I don't recall the exact number, but, yeah, I
18 believe that's it.

19 Q. Okay. And the 1957 resolution with respect to
20 Padre Point Road?

21 A. Yes.

22 Q. Okay. But you've earlier testified that the
23 county can't find Exhibits A and B to resolution 48-9,
24 so we really don't know for sure what was included in
25 that, right?

1 CASE: COUNTY OF INYO V. DEPT. OF INTERIOR
2 DEPOSITION OF: RON CHEGWIDDEN
3 DATE OF DEPOSITION: MARCH 5, 2008

4 **REPORTER'S CERTIFICATE**

5 I, NICCOLE M. ROSSY, CSR No. 10698, Certified
6 Shorthand Reporter, certify:

7 That the foregoing proceedings were taken
8 before me at the time and place therein set forth, at
9 which time the witness was put under oath by me;

10 That the testimony of the witness and all
11 objections made at the time of the examination were
12 recorded stenographically by me and were thereafter
13 transcribed;

14 That the foregoing is a true and correct
15 transcript of my shorthand notes so taken.

16 I further certify that I am not a relative or
17 employee of any attorney or of any of the parties, nor
18 financially interested in the action.

19 I declare under penalty of perjury under the
20 laws of the state of California that the foregoing is
21 true and correct.

22 Dated this 17th day of March, 2008.

23
24 _____
25 NICCOLE M. ROSSY, CSR #10698