

**ADDITIONAL INFORMATION FOR AGENDA REQUEST ITEM 21
TO CONSIDER DOCUMENTARY EVIDENCE AND PUBLIC COMMENTS
AND MAKE FINDINGS, IF APPROPRIATE, UNDER
COUNTY OF INYO RESOLUTION NO. 2002-36**

On May 14, 2002, your Board passed resolution 2002-36 to reaffirm and establish standards for the recognition of rights-of-way in accordance with R.S. 2477. This resolution establishes certain findings to be made by your Board, upon substantial and reliable evidence, prior to pursuing R.S. 2477 rights-of-way with respect to particular roads. There are three findings that must be made. They are:

Finding 1. The road under consideration constitutes a highway, construction of which occurred upon public lands not reserved for public uses and was completed before the earlier of the date when those public lands were reserved for public uses; or October 21, 1976.

Finding 2. The road, or the use thereof, is threatened with closure, elimination, or significant restriction by the United States, or any other person or entity, public or private.

Finding 3. There is a compelling reason to preserve the road, or the use thereof.

DISCUSSION OF PARTICULAR ROADS

Road Confirmed Not to Be Included in Wilderness

Subsequent to preparing the Agenda Request Form for this item, staff reviewed County roads on all of the maps delineating wilderness areas that were before Congress when the California Desert Protection Act of 1994 was passed. Staff checked all County roads that are adjacent to both BLM and Death Valley National Park wilderness areas or that might be included within those areas. No County roads were included in BLM wilderness areas. Four County roads were included in the Death Valley National Park wilderness area.

Two roads that were listed in the previous Agenda Request Form as possibly contained within wilderness areas were confirmed not to be in wilderness (from the Congressional maps). They are Old Toll Road and Santa Rosa Road. The following roads, as well, are confirmed not to be included in the Congressionally designated wilderness areas: Coyote Canyon Road; both sections of the Death Valley Road; Eureka Valley Road; S. Eureka Valley Road; Furnace Creek Wash Road; Last Chance Road; Lost Section Road; Nadeau Road; Saline Valley Road; Surprise Canyon Road; Ubehebe Road; and Waucoba Saline Road.

Because these roads are not listed in a wilderness area and because there is no other information that these roads are threatened with closure at this time, there appears to be no evidence to support Finding 2 that “the road, or the use thereof, is threatened with closure,

elimination, or significant restriction by the United States, or any other person or entity, public or private.

Roads Confirmed to be Included in Wilderness

Last Chance Road Easement & Last Chance Road

Last Chance Road is a short (.6 mile) section of road that heads south from Willow Creek Road near Willow Spring. It is listed as a road in the County maintained mileage maps. Last Chance Road Easement continues from Last Chance Road and continues for approximately twenty miles to Death Valley Road to the south. Both are considered together here as Last Chance Road. It is listed and described in the County of Inyo Road Register, dated March 1, 1948, page 84 & 214.

Finding 1: In order to obtain rights under RS 2477, a highway must have been constructed prior to October 21, 1976. There is evidence that a road has been established where Last Chance Road is shown in the County maintained mileage map. The 1948 County of Inyo Road Register lists both segments of Last Chance Road as County roads. The 1957 USGS 15 minute quadrangle maps show this road going through Last Chance canyon. It is shown as a Jeep road for a large portion of the mileage. The 1986-87 USGS map shows Last Chance Road from its intersection with Copper Canyon Road continuing to the south, but does not show a road on the northern portion of the easement. (This is a change from the 1957 USGS map.) Current satellite photos show an established road on all portions except the northerly portion. If a road was established in 1957 it would support a claim under R.S. 2477, even though the use was discontinued recently.

Finding 2: This Road was included in the wilderness areas established by Congress in the California Desert Protection Act of 1994. Inclusion in the wilderness area may be considered as a threat of closure of the road (or easement).

Finding 3: Your Board would need to find there is a compelling reason to preserve this road or the use of it. This road provides access to Last Chance Canyon and portions of Copper Canyon. It provides a four-wheel drive route from Willow Creek Road to Death Valley Road. These may be compelling reasons to preserve this road.

Lost Section Road – South (Road No. 5010A)

Lost Section Road - South is a 3.1 mile section of Lost Section Road in Death Valley that connects in a north/south direction with Furnace Creek Wash Road. Another portion of Lost Section Road connects with Furnace Creek Wash Road approximately four miles south of the northerly intersection and is not included in the wilderness area. Lost Section Road – South was physically closed and rehabilitated by the Park Service. It was a dirt road. It is listed in County maintained mileage maps. It is listed and described in the County of Inyo Road Register, dated March 1, 1948, page 178.

Finding 1: Inclusion in the Road Register in 1948 may be considered as persuasive evidence that the road was constructed and jurisdiction of it was assumed by the County by that date. The road is also shown on the 1951 USGS 15 minute quadrangle map, which is substantial evidence that the road existed at that time.

Finding 2: This Road was included in the wilderness areas established by Congress in the California Desert Protection Act of 1994. Inclusion in the wilderness area may be considered as a threat of closure of the road. This road has also been physically closed by the Park Service and rehabilitated.

Finding 3: This is a short section of road that is essentially a cut-off between Lost Section Road and Furnace Creek Wash Road. Your Board could consider the convenience of this section to travelers on either of these roads in determining if there is a compelling reason to preserve the road.

Padre Point Road (Road No. 5030)

Padre Point Road is depicted on the maps of County maintained mileage to be a .6 of a mile road that spurs off of Highway 190. It is not listed on the 1948 County of Inyo Road Register. The road depicted in County maintained mileage maps does not exist. It appears that the road that is currently used to access the Father Crowley overlook is not the same road as depicted in the maintained mileage maps. However, the fact that the County has periodically maintained the actual Father Crowley overlook road would indicate County control over the road.

Finding 1: It may be that the road identified on the road register was never constructed and would therefore not be protected by R.S. 2477. However, if the actual Father Crowley overlook road was constructed prior to October 21, 1976 and used by the public, it may qualify as a R.S. 2477 right-of-way. The actual road is shown on the 1950 USGS 15 minute quadrangle map. It is also shown on 1972 revision of the County Assessors Parcel Maps. This is evidence that the road was constructed prior to 1976.

Finding 2: This Road was included in the wilderness areas established by Congress in the California Desert Protection Act of 1994. Inclusion in the wilderness area may be considered as a threat of closure of the road.

Finding 3: The fact that the actual overlook road is a popular overlook for the traveling public could present a compelling reason to preserve the road and the use of it. There are no other roads, or other features accessed from this Road.

Petro Road (Road No. 5003)

Petro Road is a 16.8 mile dirt road that connects Furnace Creek Road to Highway 127, passing through the Greenwater Range. The 6 mile portion of the road that passes through Death Valley wilderness has been closed by the National Park. This portion of the Road travels through Greenwater Canyon (also known as Petroglyph Canyon). There are petroglyphs located

close to the road. It is listed and described in the County of Inyo Road Register, dated March 1, 1948, page 170.

Finding 1: Inclusion in the Road Register in 1948 may be considered as persuasive evidence that the road was constructed and jurisdiction of it was assumed by the County by that date. The road is also shown as a Jeep route on the 1951 USGS 15 minute quadrangle map, which is also persuasive evidence of the road's existence at that time.

Finding 2: This Road was included in the wilderness areas established by Congress in the California Desert Protection Act of 1994. Inclusion in the wilderness area may be considered as a threat of closure of the road.

Finding 3: Your Board would need to find there is a compelling reason to preserve this road or the use of it. The fact that this road would provide access to sensitive historical resources should be weighed in your Board's considerations of whether there is a compelling reason to preserve the road. It would provide a four-wheel-drive route through, and access to, the wilderness area covering the Greenwater mountains.