

ROCC Business Meeting January 27, 2022

County Road 5 Litigation Report

ROCC's County Road 5 litigation committee is pleased to report that our Friend of the Court ("Amicus") Brief in the pending appeal has just been accepted by the Court of Appeal. Six other nonprofit organizations joined ROCC in support of protecting public access to public lands: Colorado Mountain Club, Ouray Backcountry Alliance, Western Colorado Alliance for Community Action, San Juan Citizens Alliance, Winter Wildlands Alliance, and Sheep Mountain Alliance.

The litigation concerns whether Ouray County can legally exclude members of the public from vehicular access on a public road while allowing access to private property owners and, if so, under what circumstances. This is particularly important in the case of County Road 5 because it is the sole public access to a large area of National Forest.

The appeal case will take some time to make its way through the court. San Juan Huts, the appellant, filed its opening brief in early January making a strong case that the County has no legal authority to close the road to the public while allowing private owners access. Ouray County has until March 9th to file its responding brief and will presumably contend it has wide discretion to do so. Our joint Amicus brief encourages the court to set a very high bar if it decides that the County has any legal authority to close the road to the public.

Other Colorado counties are planning to file their own Amicus briefs, presumably in support of Ouray County. The private property owners have requested that they be added as parties to the appeal, but that request is still pending. There is no set timetable for when the case will ultimately be decided.

Many thanks to attorney Steve Harris who prepared the brief under extreme time pressures and to Kelly Ryan and the litigation committee members (especially Al Lowande, Diane Thompson, and Kate Kellogg) who stepped in at the last minute to contact the other organizations).

ROCC County Road 5 Litigation Committee,

Scott Williams, Al Lowande, Diane Thompson, and Kate Kellogg