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Press Release—September 20, 2007—San Luis Valley Ecosystem Council

Colorado Court of Appeals rejects appeal by Wolf Creek developers.

In a decision released today, the Colorado Court of Appeals upheld the decision by District Court Judge O. John Kuenhold, overturning the plat approval by the Mineral County Commissioners for the proposed Village at Wolf Creek. Colorado Wild and the San Luis Valley Ecosystem Council, along with the privately-owned Wolf Creek Ski Area, had originally brought the lawsuit over the development approval in late 2004.

In rejecting the developer's appeal of that lower-court decision, the Court called the developer's legal argument that it need not demonstrate proper vehicle access to its land "absurd and unreasonable". The Court further stated that the Mineral County Board of Commissioners "abused its discretion in granting final approval, because the record contains no evidence of year-around access to the state highway system at the time of final approval".

"The record includes no evidence that the developer has resolved with CDOT (Colorado Department of Transportation) an access point on to State Highway 160. Indeed, until the capacity and location of an access road across Forest Service land has been determined, the developer could neither address a specific access point nor undertake the Traffic Impact Analysis sought by CDOT."

Jeff Parsons, attorney for Colorado Wild and San Luis Valley Ecosystem Council, who filed the original appeal to the Mineral County plat approval and has represented the groups throughout the state court litigation, responded. "The Court applied a solid legal analysis in affirming the lower court. You simply cannot approve such a massive

development without having done your homework. In this case, that means having a viable access route up front.”

Christine Canaly, Director of SLVEC, stated: “We are so relieved. Watching this massive development get rushed through the planning commission in Mineral County back in 2004, and giving very little time for the public or decision makers to actually absorb the magnitude of this proposal, was heartbreaking to watch. I am so glad that the Court sees the lack of vision and clarity associated with this proposal. The developers have been playing a shell game with all the federal and state agencies, and not quite adhering to any official permitting process.”

Colorado Wild and the San Luis Valley Ecosystem Council brought the case in December of 2004. In October of 2005, Judge Kuenhold ruled Mineral County’s approval of the Village of Wolf Creek illegal. The developers will have the option of seeking Colorado Supreme Court review of the case, but the State’s high court accepts less than 10% of all cases in which it is asked to take jurisdiction.