



Board of County Commissioners
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Scott Fitzwilliams
Forest Supervisor
c/o Matt Klein
Realty Specialist
White River National Forest
United States Forest Service (USFS)
P.O. Box 190
Minturn, CO 81645

VIA EMAIL: matthewklein@fs.fed.us

RE: Berlaimont Estates' Access Route Draft Environmental Impact Statement

Dear Mr. Fitzwilliams:

Eagle County appreciates the opportunity to make formal comment on the Berlaimont Estates draft Access Route Environmental Impact Statement ("DEIS"). The DEIS was prepared to analyze and disclose the estimated environmental effects of the provision of adequate access to the Berlaimont Estates' private property that is fully surrounded by the White River National Forest ("WRNF"). Berlaimont Estates ("Berlaimont" or the "Applicant") is proposing to improve segments of existing National Forest Service ("NFS") Road 774 and NFS 780, as well as construct a new road segment across additional NFS lands in order to provide year-round access to portions of their property further north (the "Proposed Action"). The NFS will determine whether or not to implement the Proposed Action through one of four (4) alternative routes for accessing the Berlaimont inholding. As part of its decision, the NFS will also require the implementation of site-specific management practices and/or mitigation measures.

In 2011, Berlaimont subdivided the property into nineteen (19) 35-acre lots for the development of single family homes. Such subdivision was exempt from the County's subdivision regulations, as provided for in the Colorado Revised Statutes. Accordingly, Eagle County was not able to analyze the impacts of, nor approve the development of the subdivision (as it would through a typical subdivision process).

In 2014, the County conditionally approved a request from Berlaimont for a variance from the improvement standards contained in the Eagle County Land Use Regulations pertaining to dual access,



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emergency vehicle turnaround areas and certain road improvement standards, including those for turn radii. The standards for approval of this variance are technical in nature; consequently, the County did not have the opportunity to consider the social and environmental impacts of a permanent access road to the Berlaimont property. The County's role was limited to deciding whether to grant a variance to roadway standards. Therefore, the road variance approved by Eagle County should not be interpreted as approval for this type of land use as suggested in the DEIS. The variance simply dictates the standards that a road would need to meet if the proponents of Berlaimont were to develop the parcels as proposed.

During the public open house held by NFS on February 15, 2018, the County confirmed that if infrastructure is proposed to be installed for the purpose of providing domestic water to more than nine homes in the Berlaimont development, Berlaimont will be required to apply for and obtain approval of a 1041 Permit for a new domestic water and wastewater treatment system. Many of the standards for approval of a 1041 Permit involve consideration of impacts to the quality and quantity of recreational opportunities, animal life and their habitats, plant life, and impacts on land use patterns. Because this development may come back to the County for 1041 Permit review, we must maintain our objectivity with regard to the evaluation of these types of impacts. However, we have concerns regarding the potential environmental and social impacts of a permanent road to access the Berlaimont inholding and therefore ask that the NFS consider our concerns as part of the DEIS process. The County asks that the NFS generally consider:

- Impacts to recreational experiences for hikers, bikers and others. Improvements to NFS 774 and 780 could be beneficial to some types of recreational activities, while having a detrimental effect on others.
- Impacts on local wildlife populations and habitat. The NFS lands surrounding the property are identified in the WRNF's Land and Resource Management Plan as deer and elk winter range and an important migration route for deer. Historically, these NFS roads have been closed seasonally due to wildlife. Full time residential occupancy at Berlaimont will necessitate year-round access through sensitive wildlife habitat.
- Impacts on natural resources and the possible impact on the water quality of nearby creeks and streams through runoff and sedimentation.
- Impacts to nearby residential properties from noise, dust, traffic and scenic disturbances.



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Specifically with regard to wildlife, as set forth in the DEIS, the proposed upgrading and new construction of a road under any action alternative would result in loss of elk winter range, elk winter concentration area, and elk severe winter range, which would add to the declining habitat availability, due primarily to winter range lost to development, habitat fragmentation and year-round recreational impacts. Relative to Alternatives 3 & 4 cited within the DEIS, it appears as though the “elk habitat” will be most disturbed in Alternative 3, with impacts to winter concentration and severe winter range, yet this was chosen as the preferred Alternative in the DEIS. Otherwise both are similar Alternatives. We could not find substantial reasoning for this preference, especially given the additional adverse effects of this alternative. We therefore encourage a more thorough analysis and vetting of the impacts of Alternative 3 on the local wildlife populations and habitats.

Please also recognize Eagle County’s commitment to protecting important wildlife habitat, and that each of the action alternatives necessitates amendment of the Forest Plan and elimination of winter closures that currently protect deer and elk in the area. Deer and elk populations in the County are in decline and elimination of winter closures could be detrimental.

In addition, we have a general concern regarding the numerous impacts identified within the DEIS which are anticipated to occur from the construction, maintenance and operation of a permanent, year-round access road. It appears as though the DEIS analysis relies upon a comparison of a number of historic/existing developments in the general area to support a finding that the Berlaimont proposal “*is not a departure from the nature of existing human activities within the I-70 corridor*” (item “a”). We encourage reconsidering this conclusion. The proposed development of this property is different from the development of other inholdings in the County, particularly because the Berlaimont property sits outside the discrete location of the I-70 corridor, thousands of feet above and miles away from the highway and other development. For example, pumping domestic water for a distance of almost 6 miles through an elevation gain of 1800+ vertical feet appears to be unusual to achieve development in this area, where currently no further extensive water supply infrastructure exists to support residential development. This departure from the I-70 corridor area does distinguish the subject area from existing development supported by such infrastructure/delivery system.

Lastly, the County is aware that Alternative 3, the identified *preferred Alternative*, presents significant visual impacts to public lands. The DEIS states that a “*viewshed analysis*” should be conducted. Regarding such an analysis, we would be interested to further understand the methodology, consultant selection process, timing of analysis (which season) and what would be considered an acceptable or unacceptable outcome from such analysis relative to the Proposed Action.



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Finally, in the event the Proposed Action or other alternative is approved by the NFS and the proposed development moves forward, the developer would be required to comply with all applicable permitting necessary to develop proposed lots, including, but not limited to, building permits, grading permits, and waste water system permits.

Again, thank you for this opportunity to provide comments. In closing, we want to make clear that the road variance approved by Eagle County was not an approval for this development or for this type of land use. We hope that any approved action will adequately balance a need for adequate access to private property with the critical need in Eagle County to preserve the quality of public lands and natural resources, including wildlife habitats. We look forward to having the County's concerns adequately addressed in the Final Environmental Impact Statement.

Sincerely,

Kathy Chandler-Henry

Chair

Jeanne McQueeney

Commissioner

Jill H. Ryan

Commissioner