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August 23, 2018

Scott Fitzwilliams, Forest Supervisor
C/o Matt Klein, Realty Specialist
White River National Forest
PO Box 190
Minturn, CO 81645
Via email: matthewklein@fs.fed.us

Re: Berlaimont Estates Road Improvement Project

Dear Mr. Fitzwilliams:

Please accept these comments related to the Berlaimont Estates Road Improvement Project from Wilderness Workshop. These comments supplement those submitted by Wilderness Workshop et al. during the public comment period for the Draft Environmental Impact Statement (EIS) that was released nearly eight months ago. The Forest Service is now considering new information related to this project and we request that the agency prepare a supplemental Draft EIS to analyze this new information and provide meaningful opportunity for public comment.

On August 15, 2018 the Forest Service held an open house meeting in Minturn, Colorado to disclose proposed changes to the broadly unpopular Berlaimont Estates Road Improvement Project.¹ The changes included adding more recreational trail mileage and moving the proposed snowmobile trailhead from Berry Creek to Wildridge.

Interestingly, the Forest Service open house was scheduled for the same day and time as a widely popular mountain bike race called the Berry Creek Bash, that takes place on the same trails that would be impacted by this proposal. And while that coincidence undoubtedly kept many interested parties from attending the meeting, there were still plenty of people in the room voicing their opposition to this project.²

The Forest Service is purportedly considering changes to the project that are supposed to mitigate

¹ Pam Boyd, *Dozens react to latest proposed Berlaimont plan changes*, Vail Daily (August 16, 2018), available at <https://www.vaildaily.com/news/dozens-react-mostly-negatively-to-latest-proposed-berlaimont-plan-changes/> (note the Vail Daily web address: “dozens-react-mostly-negatively-to-the-latest-proposed-berlaimont-plan-changes” which more accurately reflects the negative public sentiment expressed at the meeting than the shortened title of the online piece).

² *Id.*

wildlife and recreational impacts.³ However, it is not clear at all that the proposed mitigation measures will actually reduce impacts, specifically on wildlife. Wildlife experts openly dispute the professed benefits of these mitigation measures.⁴

The proposed measures were not considered in the Draft EIS, and the public has never had a meaningful opportunity to comment on them, nor has the Forest Service ever analyzed or disclosed to the public the potential impacts of these proposed mitigation measures. The Forest Service has an obligation to consider and disclose the potential impacts of these new project components, especially in light of other reasonable alternatives. And NEPA requires that the public be given a meaningful opportunity to comment.

We are concerned that, based on where this project is in process—approaching release of a Final EIS with a proposed decision, the public will not have adequate opportunity to comment on any analysis that actually considers the potential effects of these new project components. Additionally, it is imperative that the Forest Service give experts from other agencies, like Colorado Parks and Wildlife, time to comment on these important new plan components.

Forest Service officials openly admit that releasing significant new information now, eight months after a Draft EIS was released and just months before a Final EIS and Draft Decision are expected, is an unusual step.⁵ We are concerned that the proposed changes have not been adequately considered in the DEIS and that the public has not had adequate opportunity to comment on an analysis that includes the proposed changes. That is a big problem for a project like this one, which promises a significant impact on the public for the benefit of a private land speculator.

For these reasons, we urge the agency to supplement the Draft EIS with meaningful analysis of these new components and release that revised analysis, as a new Draft EIS, for public comment rather than proceeding to release a Final EIS and a proposed decision.

Thank you,

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³ Pam Boyd, *New Berlaimont Estates recreation proposals will be vetted at meeting Wednesday, Aug. 15*, Vail Daily (August 14, 2018), available at <https://www.vaildaily.com/news/new-berlaimont-estates-recreation-proposals-will-be-vetted-at-meeting-wednesday-aug-15/> (last accessed 8/22/18) (“changes are a result of the most recent public comment period and focus on mitigation of wildlife and recreation impacts.”).

⁴ See N.1 *supra* (“The Forest Service claims the snowmobile access change would reduce wildlife impacts because it reduces the distances riders will travel to access the June Creek trail. Bill Andree, a retired wildlife manager with Colorado Parks and Wildlife, disputed that claim.”).

⁵ *Id.* (“‘We don’t normally have informational meetings at this stage of the game,’ Mayville said.”).