

From: [Mayville, Aaron W -FS](#)
To: ["Andy Hensler"](#)
Cc: [Fitzwilliams, Scott -FS](#); [Klein, Matthew - FS](#); [Vochoska Václav](#)
Subject: RE: Berlaimont Estates
Date: Thursday, May 31, 2018 12:57:00 PM
Attachments: [image001.png](#)

Andy,

Thank you for the courtesy copy of the letter, and for your thoughtful comments. My team and I will be working through all of this, and will be in touch on progress.

With respect to meetings with CPW, Town of Avon, etc., we're fully supportive of you making that initial contact to set something up to discuss further details, and we'll make ourselves available to participate when appropriate.

Thanks again for the comments, and I'll talk to you soon.

All the best,
Aaron

Aaron Mayville
District Ranger

Eagle-Holy Cross Ranger District, White River National Forest

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From: Andy Hensler [mailto:andy@huperetesadvisors.com]
Sent: Wednesday, May 30, 2018 9:27 AM
To: Mayville, Aaron W -FS <awmayville@fs.fed.us>
Cc: Fitzwilliams, Scott -FS <sfitzwilliams@fs.fed.us>; Klein, Matthew - FS <matthewklein@fs.fed.us>; Vochoska Václav <vaclav.vochoska@cimex.cz>
Subject: Berlaimont Estates

Dear Aaron,

Berlaimont Estates thanks you and your team at the Forest Service for all of your hard work and what we see as a successful comment period. Now that we have reviewed all of the comments available in the online reading room, we wanted to follow up.

Attached is a courtesy copy of a letter from Wilmer Hale, sent on our behalf, that Ken Capps and Matt Klein should receive by mail shortly. In addition to the specific items raised in the attachment, this email touches on a few things that stood out in our review of the comments.

With such a good volume of public comment, we are somewhat disappointed that there were so few

substantive comments. In fact, many of the commenters appeared not to have even reviewed the DEIS but rather were commenting on media reports or advocacy by special interest groups. This comes across in the majority of the comment letters, which reveal serious project misconceptions.

The Forest Service has done a good job in the DEIS of looking at similarly situated parcels to determine contemporaneous use under its ANILCA determination. Commenters point to a range of factors and considerations that attempt to substitute their judgment for the reasoned and deliberate judgment of the Forest Service. Factors such as proximity to major interstate freeways and the resort community (by comparison, Muddy Pass is 29 miles from Steamboat) highlight the importance of considering high density neighboring developments such as Singletree, Wildridge and Mountain Star. Despite being edge-holdings, these developments have major impacts on neighboring public lands and the Forest Service was correct in including them in its ANILCA analysis.

One of the principal misconceptions regarding both the ANILCA determination and NEPA analysis is regarding paving the proposed access road. Almost none of the letters that raise paving as an issue acknowledge the DEIS findings that paving is necessary to protect water quality and soil stability. Many comments ignore this environmental reality and ask the Forest Service to leave the road unpaved.

Some commenters also point to other developments served by dirt roads in support of their requests that the access road remain unpaved. It's important to point out that many of the referenced developments are not even remotely similarly situated to the Berlaimont Estates parcel. One of the examples is Muddy Pass. None of the commenters acknowledge that Grand County's paving requirements are different from those of Eagle County. In Grand County, paving is required for roads accessing developments with density greater than 3 units/acre (Road and Bridge Standards sec. 3.5.1), where under Eagle County Land Use Regulations, a road accessing property entitled for more than 3 homes (regardless of density) must be paved.

Ultimately, we find the opposition to paving the access road somewhat comical. In most cases, developers are trying to avoid paving requirements to control costs. Here, Berlaimont Estates ("BE") is happy to pave the road to avoid environmental impacts and increase safety and some in the community are demanding that the road remain unpaved. Go figure!

To point out all of the factual errors and misconceptions would take far too long of an email but the following are a few that stood out:

- BE is not a typical developer that will merely profit from this proposal but is also a prospective resident of the proposed neighborhood.
- BE was aware of the current access when it purchased the property and was also aware of ANILCA and its requirements to grant adequate access for use.
- The Berlaimont Estate parcel is not in the backcountry. The property is located similarly (distance from I-70 and elevation) to other nearby, high density developments such as Mountain Star and Wildridge. These are "relevant contemporaneous uses in the area" that the agency is correctly accounting for in reviewing "similarly situated" properties.
- Similarly, access is not through pristine backcountry but is through property that is already

heavily disturbed, adjacent to an interstate freeway and high-density housing developments. BE is requesting access through property that currently incorporates significant recreational sprawl; it is a network of social trails and unauthorized uses (e.g. bonfires accessed by motor vehicles in locations without existing/authorized roads).

- The Berlaimont Estate property is currently entitled for 19 homes. The Forest Service is not required to substitute its judgement for local action that granted this entitlement, as suggested by many letters.
- As the Forest Service is well aware, the possibility of a land exchange has been extensively and exhaustively explored. There are no viable land exchange options with equally valued/similarly situated parcels.

Notwithstanding the volume of misguided or uninformed comments, some comments raised thoughtful issues that we may be able to address through mitigation or other changes in the project.

We recognize the many comments raising concerns about wildlife. BE renews its offer to sit down with wildlife biologists from the Forest Service and CPW to have a detailed conversation regarding concrete mitigation measures, both on and off site, that will result in meaningful decreases in impact or improvements to valuable habitat to offset unavoidable project impacts.

In addition, we understand that many are concerned about recreational impacts. After reviewing the various comment letters and the support for the VVMBA proposal, we agree that additional recreational trails are necessary. BE supports the VVMBA proposal and requests the Forest Service seriously consider incorporating the additional suggested trails. We are willing to discuss a cost sharing arrangement with VVMBA in support of its proposal.

Finally, we understand that there may be an opportunity to look at changes to winter motorized access routes below the Berlaimont Property – specifically relocation of the proposed north parking lot (identified in the DEIS) to Wildridge and winter closure of a portion of FSR 774. Our understanding is that Town of Avon is interested in exploring this option, which we would welcome. If this option allows increased recreation opportunities while preserving wildlife habitat, BE would be interested in exploring further.

BE understands that there is tension between preserving the wildlife values in this area and increasing recreation. Unfortunately, many of the commenters seemed blind to this tension. However, we believe that it is possible to strike a balance between these two important values.

Thank you again for your hard work and detailed analysis of this project. We look forward to the release of the FEIS.

Best regards,
Andy



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