

Garrett Anderson



November 9, 2020

USDA Forest Service Rocky Mountain Region
Attn: Objection Reviewing Officer
P.O. Box 18980 Golden, CO 80402
Submitted online via email: SM.FS.r02admin-rev@usda.gov
RE: Berlaimont Estates Access Route FEIS and ROD

Dear Reviewing Officer:

I am writing opposed to the White River National Forest (WRNF) draft decision to pave 5 miles of public/private land through the heart of deer and elk migration and critical winter habitat for the Berlaimont Estates access road in my backyard, Edwards, CO. The FEIS and draft ROD were recently released by the WRNF's Eagle/Holy Cross Ranger District with Scott Fitzwilliams listed as the responsible official. While I did not previously submit comments on this project, I understand that I can offer my objection base on new information and circumstances that have come to light since the last public comment period. I will confine my comments to this new information.

Overall Wildlife Impacts

As an 18-year-old living adjacent to Berry Creek Rd., I grew up watching a great abundance of Mule Deer and mature Mule Deer bucks out my back window and throughout the drainage through my binoculars. Each year, I witnessed dozens of healthy and mature Mule Deer bucks and hundreds of does cross through the sage covered hills above my home. I learned to track their movements and habits; saw their babies grow; observed many generations thrive...until they didn't. Then I saw fewer and fewer. As a diehard hunter and outdoorsman, my hunts became more about simply trying to locate the dwindling numbers of mature animals to ensure the next generation was able to grow to reach maturity. As an avid outdoorsman, I spend large chunks of my free time year-round hiking into regions away from roads where wildlife is able to catch a break from the constant pressure they receive. I see the landscape in ways very few others see it, as I often will spend entire days perched up on a point scanning the hillsides with a tripod, seeing things the average person would never even notice.

When I read WRNF Supervisor Fitzwilliams' statement in the Record of Decision summary, I was shocked to see this: "As the EIS and supporting documentation clearly show, all three of the

[new] road alignments will have an adverse impact on wildlife in the area. This is unavoidable given the high-quality winter habitat in the project area.”

It occurs to me that the FS did not really consider the No Action alternative but seemed to have an Action Alternative it was aiming for from the start. In the ROD, Fitzwilliams says that he is bound by ANILCA to authorize a paved road even though this stance is in direct conflict with the ANILCA mandate to choose alternatives that have the “least impact on natural resources.” It is the latest information on the state of these natural resources that I focus on in my comments.

I have extensively researched what has happened to my four-legged friends that no longer roam the hillsides above me. According to Colorado Parks and Wildlife (CPW), deer and elk populations have plummeted 65% over the past decade. The numbers used in the FS analysis did not include the past two years. Please see the attached most recent information and graphs taken provided by CPW¹. **These show a continuing decline, and this is important information to use when evaluating such dramatically impactful project like Berlaimont.**

The Forest Service and CPW made an effort a few years ago to enhance deer and elk habitat on a couple hundred acres in GMU 36, the Berry Creek area directly in the path of the new proposed road and recreation trail. The “new circumstances” since the last public comment period are that the wildlife numbers still are falling in this area. Development, recreation, and human incursion into habitat are the leading issues responsible for this dramatic decline. So why is the FS continuing down a road of destruction?

The only action that will reverse the steady decline in wildlife in deer and elk populations is the NO ACTION alternative, but the Forest Service says it included that option only as a baseline for analysis, admitting that it never considered approving it. Yet, the Forest Service has a duty to minimize impacts on federal resources. The FS neglected its duty in this process.

I submit that the Berlaimont project be re-evaluated using current wildlife data, with a serious consideration of the NO ACTION alternative that would adequately protect wildlife and sensitive habitat on our public lands.

Cumulative Wildlife Impacts – new circumstances: I’ve seen massive growth in my XX years in Edwards and I understand that people are part of the reason the animals are failing. I’d like to address the cumulative effects of two recent major projects in the area that are moving forward, but that the Forest Service analysis failed to consider.

The McCoy Park chairlifts on Beaver Creek Ski Mountain will destroy the last calving grounds in the Beaver Creek area, GMU 45, one of the most highlighted regions in recent years in which CPW was forced to cut cow elk licenses, remove it from the list of over-the-counter archery licenses, and restrict hunting pressures due to challenges with calf recruitment and population stability. The Forest Service has actively worked to restrict trail access in many of the calving areas in GMU 45, but much more work is necessary in order to maintain our elk herds that all Eagle County residents love. Not only will this project work on thinning trees and removing

needed cover and structure to the hillside that allows these animals to survive, but will lead to an increase in human traffic levels through the region and lead to snow compaction, which often stays on the ground much later in spring, further reducing the elk numbers on GMU 45. Sadly, this did not appear to be fully recognized by the FS decision to allow change of use in McCoy Park from cross country skiing to lift-served ski runs, yet it definitely impacts overall Elk numbers on WRNF.

Edwards River Park, a high-density development at the mouth of Lake Creek along the Eagle River is right across the valley from Berlaimont. It is planned for 594 private condominiums and 10,000 square feet of commercial space on 22 acres and would present an insurmountable barrier for wildlife to reach the river, severely impacting the deer and elk in yet another part of WRNF adjacent to Berlaimont. The Final EIS for Berlaimont says "...the [Edwards River Park] development does not meet the standard of "reasonably foreseeable." However, the Eagle County planning commission last month recommended approval of this project and it is now being considered by the Eagle County Commissioners. It's definitely progressing now.

If you add Berlaimont into this mix, Edwards is in great danger of outbuilding its resources – clean air, water and land, including wildlife habitat surrounding the area.

Within Colorado Parks and Wildlife's Data Analysis Plan for the elk herds in GMU's 35, 36, and 361, CPW lists the biggest factors in the declining elk herds. These factors include the increase in human disturbances, habitat loss and fragmentations due to development in critical wintering grounds, and several other factors (Mao 2). Large expansions and encroachment into the small amounts of remaining calving and winter habitat are listed as one of the largest impacts in the declining elk herds, and these three developments are no short of disastrous for Eagle County residents, our public lands, and the wildlife that calls these forests home. This documentation brings up another important point; due to the old growth and buildup of dead woods in the bottoms of many of our forests, wildfires are inevitable and prone to rapid growth. This may benefit the elk, as fires provide nutrient rich soils that allow for tremendous growth and an excellent food source for grazers. However, this inevitability of a fire raises suspicion. Due to the remoteness of this development and the old growth in which it is surrounded by, this presents a tremendous risk for forest fires. Scott Miller of the Vail Daily recently wrote about the recent dry spells and the build up of fire prone timber in the mountains surrounding our valley. We are largely due for one of these so called "megafires" and Berlaimont is in prime real estate to experience it firsthand. Miller expresses with the abundance of people in the mountains, this increases the risks of fires erupting leading to potentially catastrophic damage (Miller 1). Berry Creek is largely southern exposure, and experiences large amounts of the dry heat we receive in the summer months. With large equipment, diesel engines, and much of this construction being done during these months, this could lead to catastrophic results if one single spark erupts. As someone with experience working with diesel engines and machinery in the dry heat of the summer in the tree removal

business, this type of machinery produces large amounts of heat and can, and has, lead to the breakout of fires.

The Forest Service must restart or supplement its analysis of Berlaimont's road. Impacts of these three massive developments on deer and elk herds need to be re-examined considering their cumulative effect on wildlife.

Further, the draft ROD includes paving a parking area for snowmobiles at the head of FSR 780, Berry Creek. The public did not have an opportunity to comment on this part of the proposal, so I'd like to do so now. I've seen the traffic increasing on Berry Creek Road throughout my entire life. Paving this road from the south parking lot all the way along Berry Creek to the proposed snowmobile lot will only increase traffic and encourage people to drive up and then try to turn around. I don't see adequate turnaround space in the plan, and even if there was, this is a dead end and people should not be encouraged to drive to nowhere. The fact that people must park at the bottom in the South parking lot protects this area from further overuse. It is unconscionable to open the door for even more motorized penetration into critical winter habitat! A snowmobile trailhead and whining machines crisscrossing critical winter habitat would add yet more risks and barriers to wintering deer and elk. At this time, food is scarce, and many animals rely on their fat supply to ensure their survival into the spring. The constant disturbances would be catastrophic, and lead to elk and deer herds that are not only more vulnerable, but much more susceptible to large scale winter kill off. Although elk herds are small during the summer months within the Berry and Beard Creek drainages, many elk coming down from Muddy Pass choose to winter within this ideal winter habitat, with abundant aspen groves and south facing slopes.

The cumulative effects of McCoy Park, the Edwards River Park, a snowmobile trailhead; paving the road and the construction of 19 homes in Berlaimont will be end of the deer and elk herds. Period. Berlaimont should be re-evaluated considering this.

Mitigation Efforts: I have directly experienced that mitigation does not work in this area. Living next to the south parking lot on Berry Creek Road, I witness people ignoring closures throughout the year. They hike with their dogs off leash, ride their dirt bikes and bicycles, run in groups, make new social trails and disturb wildlife 365 days/year. I know because I see them do it every single day.

Considering **Table ROD-2. Mitigation Measures, BMPs, and PDCs:** The mitigation proposed for this project is an impressive list of things to do, but it is worthless. It includes no analysis of if or how effective it will be. And it has no teeth; no enforceability. Who is going to be accountable – the developer? It is irresponsible of the FS to believe that will work. Who will monitor any mitigation? Who will pay for the mitigation management and oversight year after year? How long will the mitigation measures be in place? The plan calls for occasional check-in meetings between the FS and the developer – no transparency there. There is no oversight, no penalties for failure to mitigate. What part does the CPW play in this plan when it is not an enforcing

agency? This plan is sloppy and does not meet the mandate the FS has to take a hard look at mitigation efforts. Delaying a viable mitigation plan until after the Final ROD kicks the can down the road, releasing responsibility of the FS to come up with a truly workable plan, and this is irresponsible and a dereliction of duty by the Forest Service.

The mitigation plan needs to be reworked with more details, analysis and enforceability if there is to be any hope of it working. The Forest Service should reanalyze mitigation alternatives and include analysis of mitigation applied and not applied. It should provide examples of where similar mitigation has worked in other places. Or not worked. And it should include a clear timeline, enforceability measures and a steep penalty structure for the developer should they not comply with their mitigation obligations.

New circumstances emerge daily with respect to the Berlaimont proposal. Sadly, when I look out my back window today, I no longer see deer. I now prefer to stay home in order to ensure the deer receive as little pressure as possible and opt to find new regions to hike up and glass through my binoculars. I see an area that has incrementally become a wildlife sacrifice zone. This paved road, a massive barrier to wildlife in a migration corridor, will allow deeper human penetration into this area and spread the zone deep into the Forest. It would affect the entire WRNF in terms of elk and deer numbers and set a dangerous precedent for WRNF and National Forests across our country.

If the Forest Service takes any action based on the FEIS and DROD, it should be to adopt the NO ACTION alternative at this time. Any other decision sets a terrible precedent and fails to minimize impacts to federal resources. The purposed use by these developers is completely unreasonable at this time. NO ACTION is the only sane action.

Thank you for the opportunity to offer my concerns about the Berlaimont development and point out new, changing circumstances that should be included in your evaluation.

Garrett Anderson

¹ Source: "Elk Hunting Statistics." Colorado Parks and Wildlife, cpw.state.co.us/thingstodo/Pages/Statistics-Elk.aspx.

"Deer Hunting Statistics." Colorado Parks and Wildlife, cpw.state.co.us/thingstodo/Pages/Statistics-Deer.aspx.

Mao, Julie, et al. "Piney River Elk Herd E-12 Data Analysis Unit Plan." Colorado Parks and Wildlife, 12 July 2013, cpw.state.co.us/Documents/Hunting/BigGame/DAU/Elk/E12_PineyRiver.pdf.

Miller, Scott. "Eagle County Isn't Immune from the Trend of Mega-Fires." *VailDaily.com*, VailDaily.com, 29 Oct. 2020, www.vaildaily.com/news/eagle-county-isnt-immune-from-the-trend-of-mega-fires/.

