



Town of Minturn
301 Boulder St #309
Minturn, CO 81645
970-827-5645
council@minturn.org
www.minturn.org

Frequently Asked Questions About the Battle Settlement Agreement

1. How did we get here?

In 2008 the Town of Minturn overwhelmingly voted by referendum to approve an Annexation Agreement, annexing the Battle Mountain Property into Minturn. Under the Annexation Agreement, Battle Mountain obtained “vested rights” to build more than 1,700 residential units and significant commercial development on the Property.

In exchange, Battle Mountain (formerly Bobby Ginn and his companies) agreed to several promises, including: building a water treatment plant, environmental cleanup, building a bike trail, and building a community center.

Due to legal challenges, the Annexation Agreement did not become finalized until 2019—at which time Battle Mountain no longer desired to uphold its promises to Minturn or build the large ski area and resort it once envisioned.

In an attempt to force Battle Mountain to uphold its promises, Minturn filed a lawsuit in March 2022. Battle Mountain filed counterclaims. Both parties filed motions asking the court to dismiss legal claims asserted by the other party.

Early in the litigation, both parties began meeting to discuss whether it would be possible to reach a resolution, or settlement. The Parties requested that the court pause (or “stay”) the litigation in order for the parties to focus their resources on a potential settlement rather than paying attorneys for the litigation.

After a year of settlement discussions between the parties, we have a negotiated Settlement Agreement that Minturn Town Council supports and believes is in the best interest of the Town.

2. If the settlement is approved by Council, can Minturn get out of it?

Yes. Either party can withdraw from the settlement for a six-month period following the date when the Council enters into the Settlement Agreement. During these six months, Minturn will hire professionals to evaluate land that Minturn would receive in the settlement, including appraisals and an environmental analysis.

3. What is the Town of Minturn getting from the settlement?

Minturn will receive three things from the settlement: (1) Land; (2) a small portion of money; and (3) a significantly scaled-down development.

Land: In total, Minturn will receive approximately 250 acres of land that it will own or will be subject to legally binding restrictions for the benefit of and enforceable by the Town. The parcels of land include: the Southern shoreline of Bolts Lake (“Reservoir South”), the Highlands in Tigiwon (“Highlands”), a two-acre parcel near the current recreation center (“Rec Center Parcels”), two small parcels on the East side of Highway 24 (“Highway 24 Parcels”), portions of the “Maloit Wetlands”, the Old Tailings Pile (“OTP”), and the Consolidated Tailings Pile (“CTP”). See attached, the map, which shows these areas in yellow.

Money: Battle Mountain will pay Minturn \$50,000 to help pay for costs of investigating these lands prior to the Settlement Agreement becoming final and binding. Additionally, Battle has agreed to release the final funds from the Escrow Agreement to Minturn, which is approximately \$100,000.

Release from the Annexation Agreement: Minturn is also getting a release by Battle of its “vested right” to build 1700 residential units plus commercial space.

4. What did Minturn give up in exchange for the settlement?

If the settlement is fully implemented, then the lawsuit will be dismissed and the claims between Minturn and Battle Mountain will be resolved. Battle Mountain will be released from its commitments under the Annexation Agreement and related documents from the 2008 approvals. During the 6 month “diligence period” Battle Mountain will have the opportunity to seek approvals from the Town for vested rights to develop between 225 and 250 residential units, a spa and wellness center, 50,000 sq. feet of commercial space, and a water treatment plant built and operated by Eagle River Water & Sanitation District (ERWSD). This development will occur within lands retained by Battle Mountain, largely within and around Maloit Park. Development approvals will be processed under the Town code with hearings in front of the Planning Commission and the Council with robust opportunities for public input.

5. What is the value of the land that Minturn is getting?

The value is uncertain until Minturn receives the appraisals and conducts an environmental analysis. Significantly, based upon currently available information, we believe that significant portions of the land are not contaminated—particularly the Highlands area, Reservoir South, Highway 24 Parcels, and the Rec Center Parcels. One contaminated parcel, the OTP, will have its final remediation by Battle Mountain using the soil obtained during the construction of Bolts Lake.

6. How will Minturn use the land if the Settlement is approved?

A public process will be conducted to determine what Minturn residents want to do with the land. Options include development, leaving the land as open space, park and recreation space or other ideas the public may have.

7. How is there enough water for the Battle Mountain in light of Minturn’s moratorium on new water taps?

Battle has its own water rights and ERWSD is contractually required to provide water service to Battle’s development if Battle builds a water treatment plant. Minturn would not provide any water services to the Battle development.

8. What will happen if Minturn or Battle Mountain decides to withdraw from the settlement before the settlement is final?

The “stay” of the lawsuit between Minturn and Battle Mountain will end, and the case will proceed through litigation, ultimately being decided by a judge or jury.

If Minturn wins the lawsuit, it will likely be awarded damages. In that case, Battle Mountain would likely appeal the decision to the Court of Appeals and may declare bankruptcy—which would complicate Minturn’s collection efforts.

If Battle Mountain wins the lawsuit, the Annexation Agreement would be declared unenforceable, and Battle Mountain would likely be permitted to de-annex from the Town. The Town would receive no compensation if Battle Mountain prevails in the lawsuit.

9. What happens if Battle Mountain is allowed to de-annex from the town?

The land would be subject to Eagle County control and Eagle County would collect any tax revenues from any development. Minturn would not decide how the Battle Mountain property would develop. It is possible that the County would allow for a very dense development with many hundreds and perhaps thousands of residential units. Minturn would lack control over or input into the development if it is in the County.

10. Will this agreement help pay for a new water treatment plant for Minturn?

Not directly. Minturn can sell a portion of the land it receives in the settlement, and the proceeds from the sale could be used towards payment of the water treatment plant.

11. What is the impact of the settlement on Maloit Park?

If Battle Mountain proceeds with a development, then much of that development will occur within Maloit Park. (Note: The Eagle County School District is also planning to

develop 120 units in Maloit Park). Some of Maloit Park, particularly the Maloit Wetlands, will be preserved, and there will be a dedicated wildlife corridor through the CTP and the Maloit Wetlands.

12. How does this Settlement impact public recreation rights to Bolts Lake?

The Reservoir South Parcel, which will be given to Minturn as part of the settlement will abut the Southern shoreline of Bolts Lake. Minturn has an agreement with ERWSD and UERWA that allows recreational development of Bolts Lake. Minturn anticipates that the Reservoir South land would be used as public access for recreational use on and at the Lake.

13. When would Minturn get title to the land?

Minturn would receive title to the uncontaminated parcels immediately after the Settlement Agreement becomes final and no longer subject to legal challenge. We anticipate that Minturn would receive the following parcels at that time: Highlands, Reservoir South, the Rec Center Parcels, and the Highway 24 Parcels.

There is a portion of Reservoir South called the “Processing Area” that Minturn believes is not contaminated. However, that parcel will be used by ERWSD to process soil it digs out from Bolts Lake for remediating the OTP. After the process is finished, Minturn can elect to take title to the Processing Area and/or the OTP.

Another portion of the Reservoir South area is called the “Trestle Area.” This area has been remediated, and it is possible it will be delisted by the Environmental Protection Agency (“EPA”). Minturn will evaluate whether and when it would like to take title to the Trestle Area over the next six months and may take title to that property when the settlement becomes final so long as it is delisted by the EPA at that time.

Other parcels of land include the CTP and Maloit Wetlands. Minturn can take title to these parcels (or any other parcels identified in the Settlement Agreement that it has not yet taken title to) at any point within the next 25 years by paying one dollar (\$1.00) to Battle Mountain, subject to EPA and/or Colorado Department of Public Health and Environment approval.

14. What happens if Minturn learns that the Highlands or the Reservoir South are environmentally contaminated?

If the land that Minturn will obtain is environmentally contaminated, then Minturn will have to determine whether the settlement is still worth it. If Minturn determines that, in light of the appraisals and environmental review that the land is not worth settling, then it will abandon the settlement and proceed with litigation.

15. What will Minturn do with the land that it is getting?

Minturn has not yet determined what it would do with land. Minturn's Town Council and Staff will look to the citizens for input and ideas and will then decide what is in the best interests of Minturn. Under the Settlement Agreement, Minturn can use much of the land for any purpose (other than industrial purposes). Minturn is free to sell or exchange any parcel with a third party.

The Rec Parcels need to be used for community, recreation, artistic, childcare, and/or entertainment purposes.

Contaminated parcels are currently subject to EPA restrictions and can only be used for limited purposes.

16. What happens to Gilman?

Gilman, which is heavily contaminated, will be de-annexed from Minturn and will become part of Eagle County. This will eliminate any potential responsibility or oversight that Minturn had for Gilman.

17. What limitations apply to a potential Battle development?

In the "Residential" zone, lots must be a minimum of 4,000 sq. ft. for single family residences and 5,000 sq. ft for duplexes. Maximum height for Residential units will be 28' and maximum lot coverage will be 50%. The intent is to enable an "eclectic mix of housing types consistent with the housing types and character in other areas of the Town."

In the "Mixed Use" zone (multi-family and low impact neighborhood commercial), minimum lot size permitted is 2,500 sq. ft, except for multifamily structures where the lot minimum size is 5000 sq. ft. The maximum building heights in this zone will be 35' for commercial, vertically mixed use and multifamily with lot coverage up to 80%. The maximum building height for duplex, single-family and ADU's is 28' with lot coverage maximum at 50%. The intent is to enable greater density with units "similar in character" to those in the Residential zone.

Any future PUD will need to be submitted to Minturn for approval and undergo a process in accordance with the Town code that is open to the public.

Note: Battle's development could be spread over approximately 230 acres that would remain under the ownership of the project area.

18. Will Minturn have to pay for any infrastructure for the Battle development?

No. All infrastructure, including new roads, will be initially paid for by the Developer and possibly financed through a Metro District.

19. Will the public be permitted to fish on Cross Creek through the Battle property?

Yes, but the public will not be permitted to walk on the property past the high- water mark.

20. Can Battle sell its rights to another developer?

Yes. It is possible that Battle will sell the property it retains rather than develop it.

21. How will the Council make a decision on the Settlement Agreement?

Council has been involved in negotiating the form of a Settlement Agreement that includes provisions beneficial to Minturn. Council believes that this form of Settlement Agreement warrants public input through open meetings. To that end, Council will be hosting a special informational meeting on August 14 to provide the public an opportunity to ask questions and provide comments. Formal consideration of the Settlement Agreement will occur at a subsequent Council meeting where the Settlement Agreement will either be approved or denied (and the parties return to active litigation). The form of the Settlement Agreement is more or less fixed – either the Council will vote to approve the current form or vote to deny it. It is unlikely that further negotiations on substantive provisions will occur.