



File Code: 1570
Date: January 13, 2025

Objector to the LANL EPCU Project
Sent via email

Dear Objector:

On behalf of the Santa Fe National Forest (SFNF), I would like to thank you for your involvement in the Los Alamos National Laboratory's (LANL) Electrical Power Capacity Upgrade project (EPCU). This letter is in response to the objections filed on the final Environmental Assessment (EA) and draft Decision Notice (DN). I have read and considered the eligible objections received and reviewed the project record and final EA, including the environmental effects. My review of the eligible objections was conducted in accordance with the administrative procedures found at 36 CFR 218, Subparts A & B, and 36 CFR 219, Subparts A & B.

PROJECT OVERVIEW

The United States (U.S.) Department of Energy (DOE) National Nuclear Security Administration (NNSA) is proposing to upgrade the electrical power supply system for LANL. LANL requires a reliable and redundant electrical power supply to support mission programs and other activities conducted at LANL facilities.

The Proposed Action includes construction of a new transmission line, continued maintenance outside of the LANL property boundary and both transmission and distribution improvements and continued maintenance within the LANL property boundary. The Proposed Action would allow for a three-phase, overhead, 115 kV electric power transmission line approximately 14 miles long, which would originate at the Norton Substation and cross approximately 2.5 miles on BLM-administered land, then cross approximately 8.6 miles on National Forest System lands, and ultimately span White Rock Canyon onto DOE/NNSA-managed lands at LANL for approximately 4 miles. The entire transmission line would require a perpetual ROW of 50 feet from center line (100 feet total width). The project also includes establishment of the S/N Transmission Line Utility Corridor Management Area.

The SFNF is a cooperating agency for the preparation of the final EA for the LANL EPCU project. The SFNF must prepare its own DN and Finding of No Significant Impact (FONSI) related to jurisdictional decisions the Forest Service will make. For this project, the decisions will be to amend the SFNF Land Management Plan to establish a new management corridor and to approve the issuance of a special use permit to LANL for construction and maintenance of an electrical line across National Forest System lands.

ADMINISTRATIVE REVIEW PROCESS

The legal notice for the objection filing period was published on September 11, 2024. Twenty-



one timely objections were received. A list of objection letters from individuals and entities, and the objection number identifiers is available in Appendix A. The regulations at 36 CFR 218 and 36 CFR 219 provide for a pre-decisional administrative review process in which the objector provides sufficient narrative description of the project, specific issues related to the project, and suggested remedies that would resolve the objections. We held an objection resolution meeting on January 7, 2025, and had an opportunity to further discuss your concerns related to the project's NEPA analysis, plan amendments, and heritage resources. This letter, including instructions to the Responsible Official and enclosed summary of responses (Appendix A), is my written response to all eligible objections.

OBJECTIONS SUMMARY

There were multiple issues raised by the objectors. The objections raised concerns around compliance with the National Environmental Policy Act, National Forest Management Act and the Forest Plan, Endangered Species Act, and National Historic Preservation Act (NHPA), and Heritage Resources, among others. Additional concerns included new information that was not considered in the final EA, need for clarification on project activities and their effects, and overall opposition to the project. While each objection was considered and reviewed independently, the responses were grouped by issues and combined into similar objection contentions. These contentions are summarized from multiple objector statements and are intended to address the objectors' concerns but may not be a comprehensive listing of all points raised. Per 36 CFR 218.11(b) and 36 CFR 219.57(b)(1), objection responses do not need to be point-by-point. Each contention identifies objectors by the four-digit portion of the objection numbers. Project record (PR) documents and information are cited throughout responses with their document number and page reference, for example: [PR 1233, pp. 1-1 – 1-3].

CONCLUSION

My review finds that the project provides for mitigations and Best Management Practices that adequately address potential effects. However, based on my review, I am issuing the following instructions to Shaun Sanchez, Forest Supervisor of the Santa Fe National Forest:

1. Ensure the Memorandum of Agreement (MOA), currently under development as part of the NHPA Section 106 process, and the details of actions and mitigations it provides are acknowledged and incorporated appropriately into the final DN/FONSI.
2. State in the final DN that no activities will be allowed within the IRA that are prohibited by the Roadless Rule. The DN should further include a condition that the same statement will be added to the language of the special use permit issued to LANL.

The Forest Supervisor may sign the final DN for this project once these instructions have been addressed and the completion of the Memorandum of Agreement required by Section 106 of the NHPA has been approved. No further review from any other Forest Service or Department of Agriculture official of my written response to your objection is available [36 C.F.R. § 218.11 (b)(2)].

Sincerely,

KRISTIN BAIL  Digitally signed by KRISTIN BAIL
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Enclosure Appendix A – LANL EPCU Objection Response

cc: Shaun Sanchez, Julian Madrid, Roxanne Turley

APPENDIX A

Los Alamos National Laboratory's (LANL) Electrical Power Capacity Upgrade Project (EPCU)

Final Environmental Assessment, Special Use Permit, and Forest Plan Amendment Santa Fe National Forest

Summarized Objection Contentions and Responses

The U.S. Forest Service (USFS) Reviewing Officer reviewed all objection letters and considered any additional statements made during the objection resolution meeting held on January 7, 2025. This document presents a summary of points that were raised in objections along with the Reviewing Officer's written response to those points. The applicable regulation at 36 C.F.R. 218.11 (see also similar language at 219.57(b)(1)) states:

(b) Reviewing officer's response to objections. (1) A written response must set forth the reasons for the response, but need not be a point-by-point response and may contain instructions to the responsible official, if necessary. In cases involving more than one objection to a proposed project or activity, the reviewing officer may consolidate objections and issue one or more responses.

In accordance with this regulation, contentions raised in all objections were consolidated for purposes of this response. Issues are divided below into general subject matter. Under each subject area, a summary of the primary contentions raised are presented, followed by the Reviewing Officer's response.

A. Objector Names, Organizations, and Objection Numbers

#	Name	Organization	Objection Number
1	Roberto Roibal		24-03-00-0039-O218
2	Governor Herrera	Pueblo of Tesuque	24-03-00-0041-O218
3	Howard Korder		24-03-00-0042-O218
4	Commissioner Hansen	Commissioners for Santa Fe County	24-03-00-0043-O218
5	Salley Paez	Caja del Rio Coalition	24-03-00-0045-O218
6	Joey Smallwood		24-03-00-0046-O218
7	Governor Arquero	Pueblo de Cochiti	24-03-00-0047-O218
8	Governor Moquino	Pueblo de San Ildefonso	24-03-00-0048-O218
9	Governor Madalena	Pueblo of Jemez	24-03-00-0049-O218
10	Rich Schrader		24-03-00-0052-O218
11	Gail Seydel		24-03-00-0053-O218

#	Name	Organization	Objection Number
12	Deborah Reade		24-03-00-0055-O218
13	Greg Corning	Veterans for Peace	24-03-00-0056-O218
14	Jean Stevens		24-03-00-0057-O218
15	Laura Ellen Walton		24-03-00-0059-O218
16	Governor Ortiz	Pueblo of San Felipe	24-03-00-0065-O218
17	L. Watchempino		24-03-00-0069-O218
18	Janet Greenwald	Citizens for Alternatives to Radioactive Dumping (CARD)	24-03-00-0070-O218
19	Basia Miller		24-03-00-0071-O218
20	Joni Arends	Concerned Citizens for Nuclear Safety	24-03-00-0072-O218
21	John Wilks III	Veterans for Peace	24-03-00-0074-O218

B. Objection Contentions and Responses

National Environmental Policy Act

Objectors 0039; 0041; 0042; 0043; 0045; 0046; 0048; 0052; 0057; 0072; 0074

Objectors contend analysis in the final EA is insufficient, particularly regarding cultural resources and cumulative effects. Objectors assert that fragmentation already occurs from the Norton and Reeves transmission lines that serve LANL, and this project would cut a new right of way across undeveloped portions of the Caja, including the Caja del Rio Cultural and Wildlife Special Management Area. The designation of this area requires project proponents to “maximize use of existing utility line corridors for additional utility line needs” and expressly prohibits “new utility corridors and communication sites.” Objectors indicate that the project has potential to cause significant cultural and environmental impacts and needs a more comprehensive analysis.

Objectors contend the final EA views this project in isolation and does not take into consideration the overall effects that this project would have on the Caja del Rio as a whole. The project analyses fail to adequately consider existing conditions in the Caja del Rio related to overall effects from: fragmentation, illegal and unmanaged off-highway vehicle use, illegal dumping, firearm shooting activities, and fails to consider the New Mexico Heritage Preservation Alliance listing of the Caja del Rio as one of the “most endangered places” in New Mexico.

Objectors assert that the intensity of effects is significant because the project could permanently destroy an array of unique and irreplaceable cultural, natural, and scenic resources because of the presence of cultural resources, Tribal sacred sites, ecologically critical areas, resources listed and eligible for listing in the National Register of Historic Places, federally listed threatened and

endangered species, communities with environmental justice concerns, and the rights of Tribal Nations.

Objectors contend the final EA should include potential emissions impacts due to wildfire and how increased drought and temperatures could elevate wildfire risks. In addition, the analysis is incomplete because it does not analyze effects to wildlife habitat and does not assess long-term ecological impacts on threatened species like pinon jay.

Response

The federal agencies involved adequately followed the relevant NEPA procedures in preparing the final EA. Furthermore, the EA sufficiently assesses effects to ecological resources, cultural resources, recreational resources, and religious values to inform the decision.

The final EA and project record describe effects to cultural resources and cumulative effects on the Caja del Rio [PR 1233, pp. 3- 26 – 3-29]. The EA's Heritage Resources Environmental Consequences section states that there will be adverse effects to cultural resources through potential direct physical impacts from ground disturbance, removal of vegetation, rehabilitation post-construction, and increased use of area for utilities maintenance, among other project-related activities. The EA also states that the project would avoid direct physical impacts to cultural resources through the measures and BMPs outlined in Appendix C and that transmission structures, new temporary roads, and staging areas would not be sited within identified cultural resource boundaries. Because the agencies were unable to establish a route that avoids all visual, atmospheric, and auditory impacts to cultural resources, they determined that the Proposed Action would constitute an adverse effect under NHPA due to potential visual, atmospheric, and audible effects on some cultural resources within the APE [PR 1233, p. 3-28]. Therefore, the agencies are complying with the Section 106 process under the National Historic Preservation Act and its implementing regulations at 36 C.F.R. Part 800 to evaluate and resolve adverse effects on historic properties, including the Caja del Rio, which is considered culturally and religiously significant to tribal entities. In addition to the evaluation of effects to this area in the final EA, the Section 106 consultation will be complete (with the signing of a Memorandum of Agreement) prior to the USFS responsible official signing a decision for this project. Separate mitigation measures and best management practices in Appendix C of the final EA address direct, indirect, and cumulative impacts to cultural resources.

The final EA does not assess long-term ecological impacts on sensitive species like pinon jay but discloses the project is consistent with applicable plan components (desired conditions and guidelines) that provide the ecological conditions necessary to support viable populations of each Species of Conservation Concern (SCC). The final EA adequately considers wildlife habitat along either side of the Rio Grande River. Wildlife impacts include disturbance from construction noise, temporary displacement, and habitat loss (up to two acres) [PR 1233, p. 3-25]. The proposed action includes mitigation measures and best management practices to negate or lessen impacts to wildlife and water quality and minimize avian electrocution [PR 1233, Appendix C]. The EA discloses impacts to wildlife across the project area from proposed vegetative treatment or maintenance, including where it crosses the Rio Grande [PR 1233, p. 3-19 – 3-26].

The final EA sufficiently discussed fire risk and includes planned mitigation measures in Appendix C to reduce the risk. The final EA also discusses climate change and calculated reasonably foreseeable greenhouse gas emissions from the project. Emissions from a 'massive fire' that may potentially be started by this transmission line project are far too speculative and would be impossible to calculate given numerous conditions and variables of a potential fire.

NEPA Range of Alternatives Objectors 0042; 0043; 0045; 0046; 0053; 0055, 0056 0069; 0071; 0059; 0070; 0072; 0074

Objectors contend that the EA fails to consider and analyze a reasonable range of alternatives, and the analysis of a single action alternative indicates a decision was made before adequate analysis. Objectors mention alternatives including modernizing facilities with onsite solar generation and rooftop solar, updating existing facilities for energy saving and conservation, developing grid-enhancing and microgrid technologies, partnering with neighboring Tribes for renewable energy development, and beginning the process of reconductoring existing lines and contend such alternatives should have been considered in detail in the final EA. Objectors also contend that the analysis fails to consider any alternative or alignment that does not cross the Caja del Rio, and the Foxtail Flats + BESS project.

Response

First, to a large extent, the appropriate range of alternatives is beyond the scope of the USFS decision space for this project. LANL is in the best position to understand what it needs to accomplish its goals at its own facility, including the purpose and need for the project and the reasonable range of alternatives. The USFS authority and oversight over this project is limited to those parts of the project that are proposed to take place on National Forest System (NFS) lands. Specifically, the USFS is deciding whether to issue a special use permit and whether to amend the Santa Fe National Forest Land Management Plan (SFNF LMP) to allow the project to move forward on NFS lands. The USFS properly deferred to LANL, both as project proponent and as lead federal agency for the final EA, to evaluate the reasonableness of the range of alternatives considered outside of those project components directly related to NFS lands.

The final EA includes consideration of both solar voltaic generation and battery storage in 2.4 Alternatives Considered but Eliminated from Detailed Study [PR 1233, pp. 2-19 – 2-21]. The consideration of solar voltaic energy generation and battery storage technology addresses contentions to consider onsite solar generation and rooftop solar as well as grid-enhancing microgrid technologies. Solar voltaic generation is eliminated from detailed study because it would require hundreds of acres of space to produce enough energy, resulting in a greater environmental impact and cost. Also, a solar system alone would not be viable because the power availability would not be compatible with LANL's electricity demand pattern [PR 1233, p. 2-20]. Battery storage is also considered and eliminated from detailed study because it has limited extended application and because of insufficient swing in site power demand to recharge storage batteries overnight [PR 1233, p. 2-20].

Reconductoring was considered and discussed in the final EA under Alternatives Considered but Eliminated from Detailed Study in section 2.4 [PR 1233, pp. 2-19 – 2-21]. This alternative was

eliminated from detailed study because it would, “expose LANL and Los Alamos County to a single point of power failure for up to 3 years during construction activities for reconductoring” [PR 1233, p. 2-19]. The final EA also identifies this alternative as cost prohibitive.

Alternatives involving the updating of existing facilities for energy conservation are not directly analyzed because they were not identified during public comment, however, these potential alternatives are not expected to meet the purpose and need based on information in the final EA. According to the purpose and need, “Dependence on only two transmission lines to supply LANL and Los Alamos County is inconsistent with utility industry best practices for fully redundant power line service to large, critical load areas (NAP 2017)” [PR 1233, p. 1-6].

The final EA considers a number of other alternatives including renewable energy production. Section 2.4 of the final EA includes evaluation of power generation alternatives such as nuclear, wind, solar, gas combustion, and battery storage [PR 1233, pp. 2-19 – 2-21]. None of these alternatives were found to address the purpose and need due to various limitations of these options. Since none of the renewable energy options were considered feasible alternatives that could meet the purpose and need, including partnering with Tribes to develop renewable energy production facilities, they were not considered further. Alternatives wholly focused on increased renewable energy production were not considered in detail because they would not increase power grid redundancy as referred to in the purpose and need: “Dependence on only two transmission lines to supply LANL and Los Alamos County is inconsistent with utility industry best practices for fully redundant power line service to large, critical load areas (NAP 2017).” [PR 1233, p. 1-6].

Alternatives to avoid the Caja del Rio were raised in multiple objections, but not identified as an issue in objectors’ previous public comments. Per 36 C.F.R. § 218.8(c), contentions raised in objection to the draft decision must be based on previous specific written comments related to the proposed project unless based on new information. Comments submitted during designated public comment periods by the objectors identify concerns to further study many, but not all, of the alternatives suggested in objections to the draft Decision Notice. However, a number of route alignments between the Norton substation and the LANL were considered in the final EA in efforts to minimize impacts to forest and cultural resources on the Caja del Rio. According to the final EA, input from Tribal governments eliminated all but one route [PR 1233, p. 2-20]. The final EA also explains that other routing alternatives were not considered in detail because they were found to be excessively longer than the route included in the proposed action, would not improve the reliability or redundancy of electrical power to LANL, would not allow for completion of the project before the required time limit of 2027, or would cause significant environmental impacts [PR 1233, pp. 2-20 and 2-21].

The final EA did not specifically analyze the Foxtail Flats + BESS project but includes review and discussion of both battery storage and solar alternatives (the same power generation and management strategies used in the Foxtail Flats + BESS project). Foxtail Flats + BESS would not meet the purpose and need as the power would be delivered via the existing transmission line, which would not provide a contingency power capability in case of failure. [PR 1233, pp. 1-6, 2.19-2.21].

Reducing Coincidental Peak demand was not considered in detail because it would not increase power grid redundancy as referred to in the purpose and need.

An appropriate range of alternatives was considered in the development of the proposal. The NEPA process was followed adequately, and analysis and consideration of alternatives were not pre-decisional.

NEPA/Environmental Justice Objector 0059

Objectors contend that the project benefits only the Los Alamos Power Pool (Los Alamos County and LANL), a group whose 2022 United States Census Bureau median income is \$135,801.00. The objector asserts the consequences of the project will be felt by communities whose members do not reflect this demographic, which violates the NEPA's environmental justice requirements.

Response

The 1994 Executive Order on Environmental Justice (EO 12898) directs agencies to specifically assess how they impact minority and low-income communities.

Though there is no standard for Environmental Justice in the September 2020 NEPA regulations at 40 C.F.R. 1500, the final EA, Section 1.4.2, Resources and Issues Identified during Scoping and Analyzed in Detail, lists Environmental Justice as an issue to analyze: Implementation of the Proposed Action could cause potentially disproportionate and adverse impacts to minority and low-income populations [PR 1233, p. 1-13]. The final EA, Section 3.13, Environmental Justice, describes effects of the project to minority and low-income communities [PR 1233, p. 3-43]. These impacts would be considered low because construction is temporary, and noise would return to pre-construction levels and because construction would be localized to specific areas. Permanent impacts are considered low as they are an incremental change to other utility corridors currently in existence and all groups will potentially experience any effects of implementation.

NEPA/NFMA Objectors 0041; 0043; 0045; 0059; 0072; 0074

Objectors contend new scoping is needed because the final EA should include the interest in designating the Caja del Rio as a National Monument for preservation and the agencies did not adequately consult all stakeholders. Objectors state that the final EA violates NEPA because it relies on statements of need related to energy needs and actual usage that are historically unfounded and contradicted, stating that inconsistencies in dates and numbers related to energy needs are negated by actual usage.

Objectors also contend the agencies have failed to provide adequate opportunities for public participation under 36 C.F.R. 219.4. Objectors assert that the SFNF LMP contains important administrative protections and special land use designations including the Caja Management Area and that the amendment process failed to provide meaningful opportunities or adequate procedures for public participation. Objectors assert that the SFNF did not conduct any scoping for the proposed SFNF LMP amendment and NNSA's scoping period for the EPCU Project

occurred before the SFNF LMP went into effect. Objectors assert this project should have been part of the SFNF LMP's revision.

Response

Scoping requirements for NEPA are described in 40 C.F.R. 1501.9 and 36 C.F.R. 220.4(e). The project provided scoping and public engagement opportunities to various stakeholders in different venues. The designation of a national monument would not be an alternative that would meet the project's stated purpose and need. Amendment of a land management plan also requires opportunities for public participation and notification, also noting that the responsible official has the discretion to determine the scope, methods, forum, and timing of those (public participation) opportunities (36 C.F.R. 219.4 and 219.16).

The final EA states the United States (U.S.) Department of Energy (DOE) National Nuclear Security Administration (NNSA) is proposing to upgrade the electrical power supply system for Los Alamos National Laboratory (LANL). LANL requires a reliable and redundant electrical power supply to support mission programs and other activities conducted at LANL facilities. Electrical power supply forecasts project that existing transmission lines that serve LANL and Los Alamos County will reach capacity before 2027, and DOE/NNSA will not have the electrical power supply to meet mission requirements. Dependence on only two transmission lines to supply LANL and Los Alamos County is inconsistent with utility industry best practices for fully redundant power line service to large, critical load areas (NAP 2017). Multiple power lines are necessary to provide a contingency supply capability in case of power line failure due to an instance of uncontrollable natural forces or a scheduled shut down for maintenance. In addition to the need for reliable and redundant power, there is also a need to increase fiber-optic capacity, which is currently limited by a single fiber bundle (24-strand cable) provided to both LANL and the Los Alamos townsite for data and voice communication needs. Providing an additional fiber-optic source would increase reliability and prepare for future demand [PR 1233, pp. iii, 1-5, 1-6, 1-8; PR 1294, p. 1]. A special use permit from USDA would be required for the construction and operation of the transmission line. The purpose and need for the project do not pertain to components relevant to designating a national monument. An alternative to designate such a monument is not within the scope of addressing the project's stated need.

Scoping for the project, including outreach audiences, is described in the final EA [PR 1233, pp. 1-10, 1-11, and 4-1 to 4-4 (Tribal consultation), and Appendix D, pp. 1, 29, and 34]. Scoping and engagement included sending notifications to nearby Tribal Nations announcing the NEPA EA scoping period and inviting Tribes to provide comments regarding potential environmental impacts related to the Proposed Action. NNSA provided presentations to the Eight Northern Indian Pueblos Council (ENIPC) and at the Accord Technical Exchange Meeting (ATEM), which includes environmental staff from the DOE Accord Pueblos (Pueblos of San Ildefonso, Santa Clara, Jemez, and Cochiti). A public notice to prepare an EA for the Proposed Action was published to the DOE/NNSA NEPA Reading Room website on April 19, 2021, starting a 30-day scoping period. The public notice provided a summary of the Proposed Action, instructions for providing comments, announcement for a virtual public scoping meeting, and the closure date for the scoping period. The virtual public scoping meeting was held on Thursday, May 6, 2021, using an online platform. The 30-day comment period closed on May 21, 2021. During the initial scoping period, DOE/NNSA received 670 comments on the Proposed Action. On October 7,

2023, the Santa Fe National Forest published a legal notice in the Albuquerque Journal to initiate a SFNF LMP Amendment as a part of the Environmental Assessment for the project. The legal notice initiated the comment period for interested parties to provide comments on the proposed SFNF LMP Amendments for the project. On November 16, 2023, NNSA notified the public of the draft EA for public review and made the draft EA publicly available. On December 18, 2023, NNSA published a legal notice in the Albuquerque Journal requesting comments on the EA and proposed SFNF LMP Amendments. During the comment period, NNSA accepted comments from all interested agencies (federal, state, and local), Native American Tribes, public interest groups, businesses, and members of the public. The cooperating agencies determined a second 30-day comment period was warranted based on multiple factors, including concerns about the timing of the first comment period. Scoping requirements under NEPA, including providing multiple venues for participation and input, were met.

The final EA adequately demonstrates the need to install new electrical line infrastructure. The public meetings, public comment periods, and tribal consultation documented in the record meet the requirements for tribal and public participation under both the NEPA and the NFMA.

National Forest Management Act / Forest Plan Amendments

Objectors 0041; 0045; 0049; 0065

Objectors contend that the SFNF LMP contains important administrative protections and special land use designations for the Caja del Rio, including the Caja Management Area, the Arroyo Montoso Inventoried Roadless Area (IRA), and high scenic integrity standards for the viewshed associated with El Camino Real de Tierra Adentro National Historic Trail (NHT).

Objectors contend that the project would cause significant adverse impacts by bisecting the Caja Management Area because the Caja Management Area was designated to support wildlife diversity and connectivity and to maintain cultural and archeological integrity, and the NNSA and SFNF would significantly weaken the integrity of the Caja Management Area and its ability to support cultural and ecosystem services.

Response

The 2012 Planning Rule provides a process for amending existing forest plans. 36 C.F.R. 219.13(a) states that a “plan may be amended at any time.” Further, plan amendments “may be broad or narrow, depending on the need for change, and should be used to keep plans current and help units adapt to new information or changing conditions.” It appears that all procedural requirements for amending the 2022 SFNF LMP were followed here.

The details and effects of the proposed plan amendments are addressed throughout the final EA and draft DN. In some instances, the plan amendments are called out specifically. For example, section 3.1 of the final EA describes the amendments proposed for the 2022 SFNF LMP that would occur and various potential effects of those amendments. Elsewhere, the effects of amending the plan are simply covered in discussion of the proposed project. For example, section 3.2 of the final EA describes the Caja del Rio Wildlife and Cultural Interpretive

Management Area, as designated in the 2022 SFNP LMP. This section addresses effects on the Management Area that would result from the proposed project, which includes the plan amendments. The final EA also identifies comments received during the comment period that included concerns for the potential adverse impacts to ecological resources, cultural resources, Traditional Cultural Places, and the El Camino Real de Tierra Adentro (“Royal Road of the Interior”) National Historic Trail (El Camino Real NHT)” [PR 1233, p. 1-10].

I find the final EA and draft DN properly acknowledge the importance of the Caja del Rio Wildlife and Cultural Interpretative Management Area and other significant natural and cultural resources found within this area that are covered by the 2022 SFNF LMP. I also find that the effects of amending the LMP, including the effects to these resources, are sufficiently addressed.

Special Use Permit

Objectors 0041; 0045; 0049; 0065

Objectors contend the Forest Service is required to reject any proposal if it finds: (i) the proposed use conflicts with the land’s management objectives or with existing uses, or (ii) the proposed use does not serve the public interest. Objectors further state that approving the Special Use Permit (SUP) would be at odds with the management goals for the Caja del Rio Wildlife and Cultural Interpretive Management Area and the proposed SFNF LMP amendment threatens to undermine conservation efforts outlined in the SFNF LMP and contravenes the NFMA, MUSYA, and the 2012 Planning Rule by introducing arbitrary exceptions to the established standards and guidelines. Objectors contend that the proposed amendment would create precedent if SFNF approves an exception for the project, and there could be future exceptions for project proponents that seek to deviate from existing rules, standards, and guidelines.

Response

The Forest Service uses 36 C.F.R. 251.54 Initial Screening Criteria and FSM 2700, 2703, to review and screen incoming proposals that request to occupy and use National Forest System lands.

Special use regulations at 36 C.F.R. 251.54, Initial Screening Criteria 2, require that any proposal must be “consistent or can be made consistent with standards and guidelines in the Forest Plan”. The proposed project is not consistent with the current SFNF LMP. However, the project would be consistent with the SFNF LMP with implementation of the proposed Forest Plan Amendment. Thus, the screening criteria above is met.

The current SFNF LMP, MA-CAJA-S, states, “New utility corridors and communication sites will not be allowed” and “maximize use of existing utility line corridors for additional utility needs” [PR 1281, p. 201]. When a proposal is submitted to the Forest Service, it will be evaluated to determine if it meets specific requirements, including SFNF LMP consistency. If a proposal does not meet these requirements, a discussion with the proponent to alter the proposed use to make it consistent with the plan will occur, such as its occurrence in a different location. The screening criteria both in the CFRs and FSM is applied when an application is submitted.

The applicant would have to look for other alternatives as in other sources of power and locations. The project proponent did consider other alternatives for sources and locations in the SF-299s submitted, the proposal applications for a SUP to use or occupy National Forest System lands [PR 1305, pp. 5-6]. The final EA also provides information on Alternatives [PR 1233, pp. 2-19 – 2-22] and alternate routes on Figure 2-7. The routes shown on Figure 2-7 all show in the same vicinity, however still proposed crossing the Caja del Rio [PR 1233, p. 2-22].

When a project or activity is not consistent with the plan, the Responsible official may: (1) Modify the proposed project or activity to make it consistent with the applicable plan components; (2) Reject the proposal or terminate the project or activity; (3) Amend the plan so that the project or activity will be consistent with the plan as amended; (4) Amend the plan contemporaneously with the approval of the project or activity so that the project or activity will be consistent with the plan as amended. In this case, the plan is amended contemporaneously with the approval of the project or activity. (§ 219.15)

The proposal does appear to maximize existing utility corridors. The new line would parallel the existing Reeves Line to the extent possible to minimize disturbance in new locations. The transmission line siting was supported by biological and cultural resources surveys [PR 1233, p. 2-3].

Amending the SFNF LMP along with the approval of the project so that the project will be consistent with the plan as amended is allowed by 36 C.F.R. 219.15(c)(3). The SFNF found the application submitted for the project could be made consistent with the plan as amended, thereby meeting 36 C.F.R. 251 and 36 C.F.R. 219.

The DN/FONSI [PR 1294, p. 8] states that the “decision to implement the EPCU project does not establish precedent for future action with significant risks to the environment.” It continues to say that “this project is similar to what has been approved and/or currently exists on NFS lands.” It continues, “The decision to implement the Proposed Action does not establish any future precedent for other actions within or outside of the project area. Future actions that are not covered by the analysis in the EA would be evaluated through the NEPA process, including standalone decisions.”

Heritage Resources

Objectors 0041; 0045; 0046; 0047; 0048; 0049; 0065

Objectors contend the final EA fails to meet the mandatory procedural obligations under 36 CFR 800.8(c), particularly in its incomplete identification of historic properties and sacred sites. The EA lacks the rigorous cultural resource analysis required under Section 106, and proceeding without it, the Forest Service fails to meet Federal legal requirements and trust obligations. Tesuque and other Pueblos need to inspect and assess the proposed Federal agency evaluation of the potential adverse effects of the project Area of Potential Effect (APE) to evaluate the possibility that Pueblo cultural resources, both archaeological and cultural, and traditional cultural practices exist; something the Pueblos possess. The EA is flawed because its inventory of historic properties is incomplete and does not account for the additional non-archaeological

cultural components and understanding of the cultural landscape and fails to incorporate traditional ecological knowledge and as a result, the current EA inadequately analyzes direct and indirect and cumulative impacts. This undertaking is visible and impacts the Ancestral viewshed, a Traditional Cultural Property.

Objectors contend the Caja del Rio is an essential cultural-geographic component of each Pueblo's cultural landscape and provides essential cultural-historical context for evaluating the significance and assessing the impacts including the cumulative effects of the project on their cultural resources, traditional cultural properties, and sacred sites. Federal agencies have focused on identifying historic properties based on their evaluation under one or more National Register of Historic Places (NRHP) Criterion D. To be eligible for inclusion in the NRHP, a property must meet additional criteria beyond just one of the four NRHP criteria. The Pueblos have urged Federal agencies to consider whether the identified historic properties and cultural practices that are deemed significant also exhibit some of the following seven characteristics: integrity of location, design, setting, materials, workmanship, feeling, and association.

Objectors contend the lack of sufficient Tribal consultation on this project threatens the cultural vitality of the Caja del Rio and the survival of Pueblo traditions, undermining Federal legal obligations and the cultural rights of the Pueblo.

Response

See also responses under Tribal Consultation.

In accordance with 36 C.F.R. 800, the federal agencies, through consultation with SHPO/THPO, determined that the project would have adverse effects to cultural resources, taking into account direct, indirect, and cumulative effects of the proposed undertaking.

The agencies were unable to establish a route that avoids all visual, atmospheric, and auditory impacts to cultural resources. Thus, the agencies determined that the undertaking would constitute an adverse effect under the National Historic Preservation Act (NHPA). A Memorandum of Agreement (MOA) detailing actions to mitigate adverse effects is being developed in consultation between Tribes, the SHPO, the Advisory Council on Historic Preservation, and the agencies. In compliance with 36 C.F.R. 800.8(c), the MOA shall be signed and associated guidance included in the final decision, prior to the Decision Notice being signed and implementation related to the Forest Service's decision being initiated on National Forest System lands [PR 1294, pp. 12-13]. In defining the APE, DOE/NNSA, the Forest Service, and the BLM took into account the physical changes (i.e., ground disturbance) and the visual changes that may result from construction of a transmission line. The APE includes the area where direct physical effects may occur (200-foot-wide corridor for the proposed route that parallels the Reeves Line, 400-foot-wide corridor for the proposed route east of the Reeves Line, staging areas and access roads plus a 50-foot buffer) and the area where indirect (visual) effects may occur (3-mile radius around the proposed power line) [PR 1233, p. 3-27]. The APE was defined in consultation with the New Mexico State Historic Preservation Office [PR 1315].

In order to identify historic properties within the APE, Class III cultural resource inventories were conducted in 2020, 2021, 2022, and 2023 [PR 1233, p. 3-27]. An area of 1,735 acres was

subject to cultural resource inventories for the Proposed Action. Tribal monitors participated in the cultural surveys in 2022 and 2023 to identify Traditional Cultural Places (TCPs) and specific locations of tribal concern. Their input was incorporated into the final cultural report, which was sent to the Tribes and Pueblos for their review [PR 1233, p. 4-3]. The All Pueblo Council of Governors (APCG), however, has stated that literature reviews and archaeological field surveys informed by limited Pueblo cultural monitoring are not sufficient to evaluate cultural resources and landscapes, considering the significance of the Caja del Rio as a living traditional cultural landscape for Pueblos [PR 89].

The final EA acknowledges that the Caja del Rio Plateau and the Pajarito Plateau are culturally important regions and contain numerous and diverse cultural resources [PR 1233, p. 3-26]. The EA states that the “All Pueblo Council of Governors (APCG) described the Caja del Rio in 2021 as a traditional cultural landscape that contains Pueblo cultural properties with which they maintain ongoing connections. The Pueblos describe the Caja del Rio as part of a living, multi-layered cultural landscape with resources that should be protected from short-term, long-term, direct, indirect, and cumulative impacts” [PR 1233, p. 3-27]. The final EA also acknowledges that the construction and operation of the new transmission line and upgrades to LANL electrical infrastructure would adversely affect cultural resources, including potential direct or indirect impacts to Traditional Cultural Places and traditional use areas [PR 1233, p. 3-28].

The final EA evaluates the potential cumulative effects of the proposed action on cultural resources, including road use, new temporary roads, and recreational uses [PR 1233, p. 3-29]. This section acknowledges that these uses could lead to increased accessibility and indirect impacts to visual surroundings. Cumulative impacts to cultural resources would be minimized through the implementation of mitigation measures described in Appendix C [PR 1233, Appendix C], including locating structures, staging areas, and roads away from cultural resources; the use of best management practices to reduce soil erosion; proactive measures (such as revegetating disturbed areas) to minimize the use and creation of new routes, including the presence of archaeological and Tribal monitors during construction activities wherever possible; and installing a permanent gate at the BLM-Forest Service boundary. Piñon species, including *Pinus edulis*, are addressed as part of the affected environment in the EA section 3.6.1 [PR 1233, pp. 3-17 to 3-18]. Mitigation measures and best management practices for cultural resources are provided in the final EA [PR 1233, Appendix C, p. 3].

Per 36 C.F.R. 60.4, there are four National Register criteria for evaluation of significance. For a property to qualify for the National Register, it must meet one of the National Register criteria for evaluation and it must retain integrity [PR 1316, p. 3]. Exhibiting integrity alone does not qualify a property for listing on the National Register; properties must also meet one of the four criteria for significance. The cultural resources analysis of properties identified within the APE evaluated the properties under all four National Register criteria and assessed the integrity of each resource under all seven aspects of integrity [PR 798, pp. 31-32].

Per 36 C.F.R. 800.8(a)(1), “a finding of adverse effect on a historic property does not necessarily require an EIS under NEPA.” Measures to avoid, minimize, or mitigate the effects of the proposed action are included in the EA [PR 1233, Appendix C], meeting the requirements of 36 C.F.R. 800.8.

Per 36 C.F.R. 800.5(a), adverse effects under Section 106 may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance, or be cumulative. According to the CEQ Regulations, effects or impacts include ecological and cultural, as well as effects on Tribal resources.

The Forest Service's adverse effects finding under NHPA Section 106 took into account the direct, indirect, and cumulative effects of the proposed undertaking. The agencies invited consultation with Tribes on the adverse effects determination. A Memorandum of Agreement (MOA) detailing actions to mitigate adverse effects to cultural resources is in development and shall be signed, and associated guidance included, prior to the Decision Notice being signed and implementation initiated on National Forest System lands. Thus, the Section 106 review shall be completed before the NEPA decision is issued.

Instruction: Ensure the MOA, currently under development as part of the NHPA Section 106 process, and the details of actions and mitigations it provides are acknowledged and incorporated appropriately into the final DN/FONSI.

Tribal Consultation

Objectors 0041; 0048; 0049; 0065

Tribal Consultation Contentions

Objectors contend the lack of sufficient Tribal consultation on this project threatens the cultural vitality of the Caja del Rio and the survival of Pueblo and other communities' traditions due to the sacredness and traditional uses of the Caja del Rio. This undermines both Federal legal obligations and the cultural rights of Pueblos. The agency has provided no clear indication of how or when Tribal input will be incorporated, other than the Memorandum of Understanding (MOU) to address adverse effects to traditional cultural properties. The details of the memorandum of Agreement (MOA), currently being developed and intended to resolve adverse effects to historic properties, has not been provided. Pueblos have continually raised concerns about the lack of meaningful Tribal consultation, leading to the inability to obtain critical cultural resource information in the Caja del Rio.

Objectors contend the decision to approve an amendment to the SFNF LMP would undermine the existing Consultation MOU (*Memorandum of Understanding Between Pueblo of Tesuque and the USDA, Forest Service Santa Fe National Forest, signed 6-4-2018 by James Melonas, SFNF Supervisor and Fredrick Vigil, Tesuque Governor*), established between the Pueblo of Tesuque and the Forest Service. By allowing an amendment that conflicts with the agreed-upon purpose, terms, and spirit of the MOU, the Forest Service would breach the commitments enshrined therein, and erode trust, cooperation, and compromise. This would also jeopardize the integrity of the partnership in both the management of the Caja del Rio and the relationship between the Pueblo and the Forest Service.

Objectors contend the DOE, NNSA, Forest Service, BLM, and BIA must continue to collaborate with the Pueblo to ensure that cultural resource inventories are accurate, comprehensive, and informed by Pueblo cultural expertise.

Response

As per EO 13007, EO 13175, the Presidential Memorandum on Uniform Standards for Tribal Consultation, and other direction, federal agencies are required to participate in “meaningful consultation” on all decisions that have the potential to impact Tribal interests. Meaningful consultation is defined as “a formal, two-way, government-to-government dialogue between official representatives of Tribes and Federal agencies to discuss Federal proposals before the Federal agency makes decisions on those proposals.” To meet due diligence – the letter and intent of “meaningful consultation” meetings must be held where positive, proactive discussions occur, allowing for (among other things) mutual discussions, development of plans, and how to minimize adverse effects.

The 2018 Consultation MOU discussed by the objector defines the processes and procedures by which all consultation, specifically project based consultation, is conducted. The purpose of the MOU is to assure both the Pueblo Government and the federal agency agree that the consultation and any agreement made within that consultation is substantive, meaningful, and complete. The SFNF conducts consultation in accordance with this MOU.

Heritage Resources Contentions

Objectors contend the Final EA fails to adequately identify cultural resources or sacred sites, and the connection of the Pueblos to this region, thus undermining the cultural review process and FONSI. Objectors contend that most significant cultural resources on the Caja are not archaeological in nature but are equally important for their cultural and spiritual value, including traditional cultural properties and other features that cannot be identified by archaeologists, but only by traditional Indigenous practitioners and cultural resource identification experts from affiliated Pueblos and Tribes. Objectors contend that Federal agencies’ reliance on outdated literature reviews and archaeological surveys without the inclusion of Pueblo cultural specialists is insufficient and unacceptable to the Pueblo of Tesuque and other Pueblos. This omission leaves a critical gap in understanding the true cultural and spiritual significance of the Caja del Rio.

The Pueblos propose a Tribally led ethnographic study, which would take a comprehensive approach to identifying and evaluating the cultural resources, sacred sites, and traditional practices tied to the Caja del Rio landscape. Many of these cultural resources such as sacred sites, shrines, and gathering places, are unknown to archaeologists due to their specialized nature. Their proper identification and culturally appropriate evaluation can only be conducted by traditional practitioners from affiliated Pueblos who possess the unique expertise and lived experience required to recognize and assess these sites when cultural resources inventories are completed in the field.

Objectors contend that the agencies cannot comply with the requirements of the NHPA and the implementing regulations without a Tribally led ethnographic study. Objectors contend this study

is a legal requirement under the NEPA and NHPA Section 106 and must be completed before any further development decisions are made, to ensure that these resources are protected in accordance with Federal law. Without this study, any development decisions are premature and in direct violation of the Federal government's legal obligations under NEPA and NHPA. The consultation process proceeding with the development of an MOU is contrary to the input provided by Pueblos who have repeatedly raised concerns with the agencies about the lack of meaningful Tribal consultation with the Pueblos, resulting in the Federal agencies failure to obtain critical cultural resource information regarding cultural resources in the Caja del Rio for many years.

Objectors state the All Pueblo Council of Governors have urged the federal agencies to approach Tribal consultation that supports a Tribally led ethnographic study to precede development decisions through Resolutions (APCG Resolution 2021-13 and APCG Resolution 2024-01), and that this a legal requirement under NEPA and NHPA Section 106 which must be completed before any development decisions are made.

Response

The final EA evaluated the historical, cultural, and religious significance of the Caja del Rio area [PR 1233, pp. 3-26 - 3-27, 3-43].] Likewise, the SFNF LMP recognized the importance of this area to Pueblos [PR 1233, p. 3-6]. See also Response to National Environmental Policy Act contentions above.

The USFS acknowledges that the EA does not specifically identify or analyze sacred landscapes or sacred sites. While best practices and other informal policy guidance suggests consideration of sacred landscapes, it is not specifically required by law.

The Pueblos recommend the creation of a Pueblo led ethnography to not only include cultural sites but to also identify sacred landscapes/sites within the Caja Del Rio. Ethnographic studies are considered a professional standard for acquiring the information and data currently not available concerning sacred sites. The information gathered from an ethnographic study could be used to formulate measures toward the protection of cultural and religious practices in the future management of the Caja del Rio. While the USFS agrees an ethnographic study would be valuable and should be pursued if possible, the agency does not believe it is legally required by any applicable law; it is not critical for purposes of finding the NEPA analysis and related procedures legally sufficient to approve the LANL project on NFS lands.

Wildlife

Objector 0045

Objectors contend that the EA lacks necessary baseline information related to wildlife and plant communities that would be harmed by the Project, such as endangered, threatened, and sensitive species; avian species that use the Rio Grande corridor for habitat and migration; declining populations of grassland birds; migratory birds protected by the Migratory Bird Act; eagles and

other raptors; plants and animals that depend on riparian and cliff-side habitat; and large mammals and game species that depend on the project area for breeding and movement, thereby ignoring the project's cumulative impacts on the environment.

Objectors assert that the wildlife and vegetation surveys provided little information about the plant and animal communities that would be impacted by the project. The surveys consisted of: (1) vegetation transect surveys in 2020, 2021, and 2022; and (2) an avian point count survey conducted over four days in April and May of 2021. The biologists who conducted the 2020 vegetation survey observed earthen mounds and burrows, and recorded these sightings, which could indicate the presence of Gunnison prairie dogs or burrowing owls.

Objectors identify that the avian survey cannot provide an accurate view of the species that are utilizing the project area over the course of one or several years, and that these species include species protected under the Migratory Bird Act and the Bald and Golden Eagle Protection Act. Additionally, the vegetation surveys covered only a 300-foot strip, including the permanent 100-foot ROW and the additional 200-foot temporary ROW needed for construction, and did not consider impacts to the broader vegetative community.

Objectors also assert that none of the surveys included protocols for evaluating sensitive species such as Gunnison prairie dogs, burrowing owls, or pinyon jays. Also, none of the surveys looked for large mammals, including game species, migratory species, or ungulates, to determine how they are using the Caja for migration corridors, seasonal usage, essential breeding, reproduction, or foraging. None of the surveys considered the array of resident and migratory avian species that use the Rio Grande corridor throughout an annual cycle, or the impacts on these birds of adding a new transmission line over the river.

Response

The final EA analyzed impacts and determined the project would have “no effect” to six federally threatened, endangered and candidate species, including Mexican gray wolf and southwestern willow flycatcher, “because their specific range or baseline habitat requirements do not occur within or adjacent to the project area” [PR 1233, Appendix F, pp. 14-18, 40].

The SFNF no longer has a sensitive species list but has transitioned to Species of Conservation Concern (SCC). The NFMA and 2012 Planning Rule provides requirements to demonstrate Land Management Plan consistency for project activities (36 C.F.R. 219.15) to maintain “the diversity of plant and animal communities and the persistence of native species in the plan area”, and specifically, viable populations of SCC (36 C.F.R. 219.9). The final EA includes the SCC Report for nine species that may occur or have suitable habitat within the project area, including Gunnison's prairie dog, Western burrowing owl, and pinyon jay; the report discloses the project is consistent with applicable plan components (desired conditions and guidelines) that provide the ecological conditions necessary to support viable populations of each SCC [PR 1233, Appendix F, pp. 27-32]. There are no plan components that require SCC protocol surveys. However, during vegetation surveys in 2020, earthen mounds and burrows were detected but concluded that they were likely kangaroo rat in origin and did not detect presence by Gunnison's prairie dog or Western burrowing owl [PR 1233, Appendix F, p. 13].

The legal standard to comply with the Migratory Bird Treaty Act is found in Executive Order 13186, which directs Federal agencies to restore and enhance migratory bird habitats, to evaluate the effects of migratory birds and disclose where unintentional take reasonably attributable to agency action is having a negative effect on migratory bird populations. The evaluation is designed to ensure migratory birds are considered but not a prohibition on negative effects to migratory birds. Bald and golden eagles are protected under the Bald and Golden Eagle Protection Act, prohibiting take and disturbance. The final EA discloses birds identified during avian point count surveys conducted in 2020-2022, mentions one inactive golden eagle nest 1 mile from the proposed action was observed during field surveys, and includes potential impacts of the project [PR 1233, pp. 3-19, 3-24 – 3-26; PR 1233, Appendix F, pp. 12-13, pp. 38-41]. Mitigation measures and best management practices will minimize the potential of an incidental “take” of migratory birds or bald and golden eagles and adverse impacts are not expected. Mitigations were recommended by USFWS and include:

- using biological monitors on site during construction activities
- using biological monitors to conduct nest checks and survey vegetation if construction activities or vegetation removal occur during April-September
- helicopter use will be reviewed by LANL and SFNF biologists
- installing collision-deterrence devices on new aerial lines crossing the Rio Grande Important Bird Area
- coordination with USFWS migratory bird office to develop a collision deterrence plan and discuss additional incidental take avoidance measures
- using transmission structures and conductors designed to minimize risk of injury or electrocution to nesting, roosting, or flying birds following Avian Power Line Interaction Committee standards
- preparation of a nesting bird management plan to avoid and minimize take of MBTA-covered nesting species, including outlining survey protocols, identifying qualifications for biological monitors, establishing seasonal or temporal buffers, and identifying contingencies for discovered active nests [PR 1233, Appendix C, p. 2].

The final EA’s Response to Comments addresses that adequate wildlife and vegetation surveys were conducted in 2020-2022 to determine presence of species that would be impacted by the project, following standard survey protocols including U.S. Geological Survey methodology for breeding birds and pedestrian vegetation surveys for species of concern during flowering season [PR 1233, Appendix D, pp. 41-42]. The SCC report discloses the project is consistent with applicable plan components (desired conditions and guidelines) that provide the ecological conditions necessary to support viable populations of five SCC plant species [PR 1233, Appendix F, pp. 27-32]. The final EA describes potential direct impacts to vegetation that are within the 100-foot ROW and the vegetation surveys that included a 300-foot strip (100-foot ROW and 200-foot temporary ROW needed for construction) [PR 1233, p. 3-18; PR 1233, Appendix F, p. 11]. There are no additional requirements to analyze the broader vegetative community outside the 300-foot strip surveyed.

The final EA’s Response to Comments states that during wildlife and vegetation surveys no deer or elk were seen [PR 1233, Appendix D, p. 42] although could exist in the project area [PR 1233, p. 3-19]. The EA describes that the proposed action would not affect wildlife connectivity for

daily or seasonal wildlife migrations and wildlife would be able to transect the utility ROW [PR 1233, p. 3-25], but does not describe in detail how the project maintains connectivity. However, the analysis indicates there will be less impact to wildlife once the line is in place and mitigation measures are met so that deer, elk and other species will continue to be able to migrate across the Caja del Rio.

The final EA explains how the proposed action includes the plan amendment for implementation of the project, as well as mitigation measures and best management practices to maintain biodiversity, vegetation, and habitat for wildlife within the Caja del Rio [PR 1233, p. 3-8].

The final EA discloses the cumulative effects on the Caja del Rio [PR 1233, pp. 3-8 – 3-9] and to wildlife, wildlife habitat, and vegetation [PR 1233, p. 3-26].

The final EA included adequate baseline information to evaluate wildlife, plant communities and their habitats, and the project's cumulative impacts.

Objector 0045

Objectors contend that the draft DN, FONSI, and final EA are inconsistent with the Endangered Species Act of 1973 (ESA) because the agencies failed to analyze the federally endangered New Mexico meadow jumping mouse (NMMJM), which is likely present in suitable riparian habitat along the Rio Grande within the project area, did not consider the potential impacts resulting from spanning the river canyon and associated construction on either side of the canyon, and dismissed impacts to federally-listed species that “would avoid the project area.”

Objectors indicate that the final EA acknowledges that several listed species, including the endangered Mexican gray wolf (*Canis lupus baileyi*), endangered southwestern willow flycatcher (*Empidonax traillii extimus*), and threatened yellow-billed cuckoo (*Coccyzus americanus*), might be present in the vicinity but would not be impacted because they “would avoid the project area.”

Objectors assert that rather than assume no-effect on federally listed species, at a minimum the agencies should initiate informal consultation on the Project and prepare a comprehensive EIS and biological assessment.

Response

The final EA analyzed impacts and determined the project would have “no effect” to six federally threatened, endangered and candidate species “because their specific range or baseline habitat requirements do not occur within or adjacent to the project area” [PR 1233, Appendix F, pp. 14-18, 40]. Species with “no effect” determinations do not require informal or formal consultation under ESA Section 7(a)(2). However, the effect determinations included “potential impacts” and “mitigation measures” for Mexican gray wolf, Southwestern willow flycatcher, and yellow-billed cuckoo. The mention of impacts and mitigations may appear incongruous with “no effect” determinations that are usually made when there is no presence of species nor their habitats in project areas to be affected. However, the ESA determination of no effect can still be supported even with EA language of “potential effects”. Given the absence of habitat requirements, lack of presence, and mitigations, a determination of “no effect” was found to be

valid. The agencies did not analyze the NMMJM as a requirement for ESA compliance because the USFWS did not include the NMMJM within the list of threatened and endangered species that may occur in the project location or may be affected by the project [PR 1227]. The final EA does include an analysis of NMMJM under NM State-Listed T&E and Species of Greatest Conservation Concern Assessment. That Assessment describes that the project would have no potential impact on the species since [NMMJM] “does not occur in the project area due to lack of suitable habitat. The project does not cross riparian habitat, with the exception of the high crossing at the Rio Grande River. The crossing at the river will span the entire canyon, and utility poles will not be placed in riparian habitat” [PR 1233, p. 3-21; Appendix F, p. 20]. A biological monitor would be present during construction activities to avoid impacts to species [PR 1233, Appendix C, p. 2.]

The final EA describes how transient federally-listed species such as Mexican wolf, southwestern willow flycatcher, and yellow-billed cuckoo would avoid the project area since it does not contain the preferred habitat of each species [PR 1233, Appendix F, pp. 15-17]. The EA also mentions potential impacts to Mexican wolf, southwestern willow flycatcher and yellow-billed cuckoo in response to the project that warrant clarification [PR 1233, Appendix F, pp. 15-17].

Objector 0046

Objector contends that although the final EA acknowledges impacts on piñon-juniper woodlands, specifically noting vegetation disturbance, it does not fully assess the long-term ecological impacts on threatened species like the piñon jay (*Gymnorhinus cyanocephalus*) and other dependent fauna. Objector asserts that the potential loss of 100 acres of piñon trees represents a devastating blow to an already declining population, with impacts cascading to dependent species like the piñon jay and beyond.

Objector contends that the potential for ESA listing of the piñon jays and their likely critical habitat in the project area was not adequately considered in the analyses and needs a more robust evaluation of species-specific impacts.

Response

The SFNF LMP was finalized in 2022 and transitioned to Species of Conservation Concern (SCC). The National Forest Management Act and 2012 Planning Rule requires that Land Management Plan consistency be demonstrated for project activities (36 CFR 219.15) to maintain “the diversity of plant and animal communities and the persistence of native species in the plan area”, and specifically, viable populations of Species of Conservation Concern (36 CFR 219.9). The final EA includes the SCC Report for nine species that may occur or have suitable habitat within the project area, including pinyon jay; the report discloses the project is consistent with applicable plan components (desired conditions and guidelines) that provide the ecological conditions necessary to support viable populations of each SCC [PR 1233, Appendix F, pp. 27-32].

The final EA states that up to two acres of vegetation would be removed for construction on National Forest System lands, not 100 acres of pinyon trees as mentioned by the objector [PR

1233, p. 2-14]. Within the Caja del Rio Plateau, pinyon and juniper trees taller than 25 feet would be removed within 50 feet of centerline [PR 1233, p. 2-14].

Pinyon jay is an SCC for the SFNF, and this project must demonstrate SFNF LMP consistency. There is no requirement for a more robust evaluation of species-specific impacts as the pinyon jay is not a federally-listed species. In the future, if the USFWS determines federal listing or critical habitat within this project area for pinyon jay, this project will be re-evaluated to comply with Endangered Species Act requirements. Pinyon jay was adequately evaluated in the final EA and the project demonstrates SFNF LMP consistency with SCC plan components.

Objector 0048

Objector contends the analysis in the final EA is incomplete for either side of the Rio Grande River. The Rio Grande corridor provides habitat for endangered, protected and special management species including eagles, other raptors and mammal species such as bighorn sheep and elk. Construction of the new line across the Rio Grande has the potential to adversely affect the habitat without significant mitigation. These wildlife resources are an extension of the ecosystem important to the maintenance of Traditional Pueblo lifeways. In addition, if there are any proposed vegetative treatment or maintenance planned this could cause harm to wildlife and adversely affect water quality. Furthermore, there are associated avoidance behaviors exhibited by wildlife due to transmission lines and their impact on changes to natural habitat, avian electrocution, increased unnatural noise, electrical and magnetic fields.

Response

The final EA discloses impacts to wildlife across the project area from proposed vegetative treatment or maintenance, including where it crosses the Rio Grande [PR 1233, pp. 3-19 – 3-26]. Wildlife impacts include disturbance from construction noise, temporary displacement, and habitat loss (up to two acres) [PR 1233, p. 3-25]. The proposed action includes mitigation measures and best management practices to negate or lessen impacts to wildlife and water quality and minimize avian electrocution [PR 1233, Appendix C].

The final EA describes the impacts of electromagnetic fields on humans [PR 1233, p. 3-49] but not wildlife.

A biological monitor would be present during construction activities to avoid impacts to species [PR 1233, Appendix C, p. 2.]

The final EA describes the impacts to water resources [PR 1233, pp. 3-14 – 3-16] and that the project will be consistent with a guideline for construction of new facilities in the SFNF LMP to minimize impacts to water quality [PR 1233, Appendix K, pp. 8-9].

Objector 0059

Objector contends that analyses in the final EA was not adequately rigorous or transparent. The objector asserts that agencies do not have a plan to address project effects to native species habitat and migration corridors resulting from impacts related to construction noise and

pollution, new corridors for invasive species (tumbleweed and cheat grass), illegal dumping, poaching, shooting and campfires.

Response

The final EA discloses effects of construction-related noise. Within the analysis of effects to the IRA, the final EA describes because of limited ground disturbance and the temporary nature of any construction-related noise in the area, the project would not result in any long-term adverse impacts to wildlife or plant communities including within the IRA; effects to wildlife would be short-duration and temporary [PR 1233, p. 3-11]. Within the analysis of effects to wildlife, the final EA states disturbance from construction noise would be minimized by construction activities that occur outside of the breeding season [PR 1233, p. 3-25].

The final EA describes that the proposed action would not affect wildlife connectivity for daily or seasonal wildlife migrations and wildlife would be able to transect the utility ROW [PR 1233, p. 3-25].

The final EA discloses that construction activities in previously undisturbed areas could increase the potential for noxious weed establishment; therefore, all ground-disturbing work on the National Forest System lands would follow the Guide to Noxious Weeds Prevention Practices (USDA 2001) [PR 1233, p. 3-18]. Mitigation measures and best management practices would minimize the introduction of chemical pollutants and invasive weeds, such as washing and cleaning all equipment before entering the project area [PR 1233, Appendix C, p. 1]. The final EA requires an NPDES construction permit and a storm water pollution prevention plan to be developed before construction [PR 1233, p. 3-16]. The SWPPP specifies measures to prevent fuel spills and leaks from fuel storage or refueling activities, erosion and sediment migration controls (e.g., silt fences, hay bales); specify measures to protect drainages, and reseeding or revegetation requirements [PR 1233, p. 3-16].

The final EA's Response to Comments addresses that responsibility for resource protection that could result from prohibited activities, such as illegal dumping, poaching, shooting and campfires, are required to be ongoing regardless of the project [PR 1233, Appendix D, p. 16].

The final EA describes how the project will address project effects to native species habitat resulting from impacts related to construction noise and pollution, new corridors for invasive species (tumbleweed and cheat grass), illegal dumping, poaching, shooting and campfires.

Inventoried Roadless Area

Objector 0045

Objectors contend that the Project implementation within the Arroyo Montoso IRA is likely to have significant adverse impacts on this IRA in violation of the 2001 Roadless Area Conservation Rule (Roadless Rule).

Objectors identify that the draft and final EAs provide inconsistent information about the placement of poles. Objectors assert that with these inconsistent statements, it is unclear whether the agencies have committed to constructing no poles within the IRA or whether they will seek to avoid constructing poles within the IRA to the extent possible.

Objectors further contend that the Roadless Rule prohibits road construction and road reconstruction in IRAs, unless an exception to this prohibition is granted but contend that the Project does not appear to fit within this narrow exception.

Response

The USFS acknowledges that some statements in the EA may appear to be inconsistent with regard to proposed activities within the IRA. To be very clear, an instruction is included below that will require the final Decision Notice to expressly state that no activities will be allowed within the IRA that are prohibited by the Roadless Rule. Furthermore, the same prohibition will be added to the language of the special use permit issued to LANL.

The project will *not* place any poles within the IRA. Though line will be strung across the IRA, transmission line construction within an IRA is not expressly prohibited. The line placement will be conducted by air and there will be no ground disturbing activities (i.e., pole placement) within the IRA.

Road maintenance of *existing system* roads and motorized use are expressly allowed in IRAs. No exception to prohibited road activities was requested nor is there any plan to construct new permanent or temporary roads in the IRA. In the 2001 Roadless Area Conservation Rule (36 C.F.R. Part 294, Subpart B (2001), a.k.a. Roadless Rule or RACR) exception request submitted to the Regional Forester, the proposed action description in *Table 1, Project Snapshot* indicates no staging areas would occur in the IRA, and the exact pole location is unknown outside of the IRA. The description indicates minimal ground-disturbing activities would occur; no poles are proposed within the IRA; no staging areas are proposed within the IRA; and no tensioning sites are proposed within the IRA. A helicopter would be used to string overhead lines across the Rio Grande and Mortandad Canyon and up the escarpment between Bureau of Land Management (BLM) and National Forest System lands and may be used for delivering materials and supplies to sensitive areas (to minimize ground disturbance). The exception request also indicates the IRA begins below the edge of the plateau, and the area is not desirable for the placement of transmission line structures. Neither pole placement nor roads within the IRA were proposed or approved in the Regional Forester exception request.

Instruction: State in the final Decision Notice that no activities will be allowed within the IRA that are prohibited by the Roadless Rule. The DN should further include a condition that the same statement will be added to the language of the special use permit issued to LANL.

Objector 0045

Objectors contend the final EA fails to identify how the Project would be implemented consistent with the Roadless Rule's prohibition on timber cutting. The objectors assert that construction, operation, and maintenance of the new transmission line within the Arroyo Montoso IRA would

require the removal of vegetation to create the ROW, reduce wildfire risk, and meet engineering standards but the Roadless Rule prohibits the cutting or removal of timber from within an IRA, subject to limited exceptions.

Response

The 2001 RACR specifically prohibits the cutting, sale, and removal of timber in inventoried roadless areas (IRAs), with limited exceptions. One such exception is at 36 CFR 294.13(b)(2), which allows the cutting, sale, or removal of timber that is incidental to the implementation of a management activity not otherwise prohibited and when the Responsible Official determines cutting would be infrequent. Transmission line construction is not expressly prohibited.

A request was submitted to the Regional Forester describing how the project could be excepted from the prohibition to cut timber by meeting exception criteria under category §294.13 (b)2 – such that the cutting, sale, or removal of timber is incidental to the implementation of a management activity not otherwise prohibited [PR 1305, pp. 1-15].

The final EA goes on to state that trees (stable or unstable) within or outside of the easement that are deemed to present a safety hazard would be removed consistent with engineering standards. Trees would also be removed if they would pose a safety hazard to construction workers or the public. Within the Caja del Rio Plateau, piñon and juniper trees taller than 25 feet would be removed within 50 feet of the centerline, consistent with engineering standards. All reasonable measures would be taken to minimize the amount of vegetation removed [PR 1233, p. 2-14].

The description of the proposed action in the exception request further states that vegetation maintenance within the permanent 100' corridor (5.27 acres) would occur for the life of the Special Use Permit (SUP) as specified in a future vegetation management plan that clarifies what equipment and activities would be allowed for construction and maintenance [PR 1305, pp. 1-2]. The exception request indicates that juniper woodlands with sagebrush and non-vegetated rock face would require limited treatment, and most of the activity in the IRA would be overhead [PR 1305, p. 1b]. The final EA also indicates construction activities would be subject to restrictions for migratory birds, typically during April through September. If construction is needed during the migratory bird breeding season, biological monitors would ensure that active migratory bird nests are not disturbed [PR 1233, p. 2-15].

Objector 0045

Objectors contend that recreational users who currently enjoy primitive nonmotorized recreation within the IRA will be impacted by implementation of the project, because the recreation opportunity spectrum (ROS) for the Arroyo Montoso IRA will be changed to semi-primitive motorized within the SNTUC, which would allow motorized recreation. Under the SFNF LMP, the ROS for the Arroyo Montoso IRA is semi-primitive nonmotorized, which means the area is closed to motorized recreation and is “characterized by a predominantly natural or natural-appearing environment of moderate-to-large size.”

Response

The area designated for the Proposed Action is located on the Caja del Rio Management Area (MA) on the Santa Fe National Forest and includes a small section of the Arroyo Montoso IRA which is situated between the northern edge of the Caja del Rio Plateau and the Rio Grande [PR 1233, p. 3-10]. The Arroyo Montoso IRA is comprised of approximately 6,267 acres of deep canyons and riparian areas. Approximately 2,290 feet of the proposed SNTUC MA and new transmission line would cross over the Arroyo Montoso IRA at the existing Reeves Line crossing and run perpendicular to the IRA. “The proposed plan components for the SNTUC MA would apply for the portion of the utility corridor that would intersect with the existing IRA” [PR 1233, p. 3-9].

The current desired ROS for the Arroyo Montoso IRA, as stated in the 2022 SFNF LMP, [PR 1281, p. 288] is semi-primitive nonmotorized, and the proposed SNTUC MA would have an ROS of semi-primitive motorized. This proposal would only affect the area directly within the proposed MA and not the majority of the Arroyo Montoso IRA. The final EA states, “The Proposed Action would not create additional access to the semi-primitive, nonmotorized areas of the IRA because minimal ground-disturbing activities would occur in the IRA, and the proposed transmission line would be sited near the existing Reeves Line utility corridor” [PR 1233, Appendix I, p. 7]. In its guidelines for IRAs, the SFNF LMP states that IRAs should be managed for primitive, semi-primitive non-motorized, and semi-primitive motorized recreation opportunity settings (ROS) [PR 1281, p. 171]. A change in the ROS from semi-primitive non-motorized to semi-primitive motorized within the project corridor would still be compliant with this guideline for the ROS in IRAs. In addition, this change of ROS within the SNTUC corridor would not create new access routes for designated motorized recreation within the area. Additional designated public access via motorized routes- roads and trails- can only occur through the Travel Management process, which is not part of the proposed action.

The analysis discloses some effects to “recreational user’s visual and scenic experience” from occasional maintenance activities [PR 1233, p. 3-5]. Scenic character is a metric used in the USFS Scenery Management System (SMS) to understand a project’s effects to scenery resources [PR 1318]. Scenic character is “A combination of the physical, biological, and cultural images that gives an area its scenic identity and contributes to its sense of place. Scenic character provides a frame of reference from which to determine scenic attractiveness and to measure scenic integrity.” (36 C.F.R. 219.19)

The final EA states that because the IRA is not identified within the SFNF LMP as a reference landscape, the Proposed Action would have no effect on the characteristics of the IRA [PR 1233, Appendix I, p. 7]. Within the Scenic Character Description for the SFNF, existing transmission lines within the Caja del Rio Management Area are discussed, which is compatible with the roadless characteristics of the IRA [PR 1317, pp. 18-24, and 27]. The final EA states that the Project would not reduce or detract from the desired conditions and because the proposed transmission line will be collocated, and will not contrast significantly with the existing transmission line, the existing visual composition of the IRA will be maintained [PR 1233, Appendix I, p. 7]. However, the analysis does reflect that there will be an impact to the scenery’s desired conditions in the area, that the project activities will not meet a High Scenic Integrity

Objective, and therefore the analysis proposes a plan amendment to change the SNTUC MA to a Low Scenic Integrity Objective [PR 1233, Appendix I, p. 7].

The final EA states that a SFNF LMP Amendment will be used solely for the Proposed SNTUC MA within the Arroyo Montoso IRA, and that the guideline for ROS would be semi-primitive motorized, which is consistent with the desired ROS outside of the SNTUC MA throughout the project area, except for the small portion of the project area within the IRA. The final EA states, “Within the IRA, the implementation of the proposed plan amendment would allow for one consistent ROS setting within the SNTUC MA. This change would include approximately 0.4 miles within the SNTUC MA (approximately 100 feet wide). This area is within rough topography and not easily accessible; therefore, the change in ROS is not expected to have impacts” [PR 1233, p. 3-4].

In the analysis of recreation impacts to the proposed utility corridor, it was determined that to minimize potential effects to scenic value and heritage resources, the transmission line would be constructed in accordance with “new management guidelines that require the aboveground facilities to blend with the general landscape to minimize visual impacts” [PR 1233, Appendix A and Appendix C]. In addition to monitoring disturbance during construction activities and flagging of sensitive species for avoidance, post-construction site-restoration monitoring will also be conducted [PR 1233, p. 3-4, and Appendix I, p. 6].

The SFNF LMP, includes the nine characteristic values or features of IRAs that were identified in the Special Areas; Roadless Area Conservation; Final Rule, 66 Fed. Reg. 3243 (January 12, 2001)) [PR 1281, p. 170]. The semi-primitive motorized classes of dispersed recreation are compatible with the Roadless Rule and the Arroyo Montoso IRA. According to the final EA, mitigations will be in place to reduce potential impacts to the IRA. Guidelines for the proposed SNTUC MA will also require aboveground constructed facilities to blend in with the landscape and use measures “such as non-glare tint on wires, use of wood poles, and alignment of infrastructure with topography to reduce visual impacts” [PR 1233, p. 3-5 and Appendix A and Appendix C]. Additional best management practices for mitigating impacts to the recreation experience can be found in the final EA’s Mitigation Measures and Best Management Practices section [PR 1233, Appendix C, p. 3].

The SFNF LMP states that all proposed activities located within an IRA must comply with the 2001 Roadless Area Conservation Rule, including additional review processes at the regional or national levels [PR 1281, p. 170]; that IRAs should be managed for primitive, semi-primitive non-motorized, and semi-primitive motorized recreation opportunity settings [PR 1281, p. 171]; and includes Standards for Dispersed Recreation (FW-DISREC-S), that requires mitigation of impacts to recreation opportunities [PR 1281, p. 132]. While recreational users will be able to see the additional powerline in the proposed SNTUC MA, and continued operation of maintenance of this transmission line could impact the scenic value, best management practices and mitigations for impacts to scenery and the recreation experience have been explored and proposed. The plan amendment changing the desired condition for recreation from semi-primitive nonmotorized to semi-primitive motorized is compliant with law, regulation, and policy for managing recreation in an IRA.

Objector 0045

Objector contends that the proposed SFNF LMP amendment would arbitrarily change the scenic integrity objective (SIO) from high to low within the new transmission line corridor, contrary to the Roadless Rule. Objector asserts that SFNF currently manages the IRA for an SIO of “high,” consistent with the Roadless Rule. Objector states that the Roadless Rule provides for “[n]atural appearing landscapes with high scenic quality”, which are an important value of IRAs and explains that “[h]igh quality scenery, especially scenery with natural-appearing landscapes, is a primary reason that people choose to recreate. In addition, quality scenery contributes directly to real estate values in nearby communities and residential areas[.]”

Response

The US Forest Service uses the Scenery Management System (SMS) [PR 1318] to manage scenery resources. In the SMS, scenic character is a metric used to understand a project’s effects to scenery resources [PR 1318]. Scenic character is “A combination of the physical, biological, and cultural images that gives an area its scenic identity and contributes to its sense of place. Scenic character provides a frame of reference from which to determine scenic attractiveness and to measure scenic integrity” (36 CFR 219.19). Scenic integrity objectives are mapped desired conditions for scenery that “[...]convey the degree to which desired attributes of the scenic character are to remain intact. Scenic integrity objectives define the maximum allowable deviation from attributes described in the desired scenic character” (FSM 1921.03, 2c; FSH 1909.23.23f; and PR 1318, pp. 20 and 5-9 (FSM 2311 2.b.).

In the SFNF Plan, the desired scenic integrity for the Arroyo Montoso IRA is shown to be high, [PR 1281, p. 287] however the existing scenic integrity (current condition on the ground) along the Reeves Line corridor is low. This means that during the life of the plan, projects and management actions should maintain or enhance the desired scenic integrity objective of high for this area. This is disclosed in the final EA; in the analysis of the visual impacts to the Arroyo Montoso IRA, the final EA determined that the existing scenic integrity of the area proposed for the SNTUC MA is currently low, with a desired scenic integrity objective of high. [PR 1233, Appendix G, p. 7] The SMS handbook states, “LOW scenic integrity refers to landscapes where the valued landscape character ‘appears moderately altered.’” [PR 1317, pp. 2-4] “HIGH” refers to landscapes where management activities are unnoticed, and the landscape appears unaltered. Deviations are present but mimic the scenic character so completely that they are not evident. Deviations borrow elements from the landscape [PR 1317, pp. 2-4].

Due to the existing utility corridors and the proposed additional infrastructure within the proposed action, the analysis concluded that a desired SIO of high is unattainable [PR 1233, Appendix G, p. 7]. The SFNF LMP guideline for management activities within a designated IRA “should” be consistent with a High SIO [PR 1281, p. 171]. “As a part of the Proposed Action, the Proposed Forest Plan Amendment would amend the current scenic integrity objective from high to low within the new SNTUC MA” [PR 1233, Appendix G, p. 7]. The portion of the proposed SNTUC MA is approximately .4 miles long, running perpendicular to the existing IRA. When planned projects or activities will not meet the desired SIO (or any other relevant plan component(s)), options are outlined in 36 C.F.R. 219.15(c): modify the project so it is consistent with the plan components, reject the project, or amend the plan. With the amendment of the plan,

the project would meet policy compliance for scenery management, per 36 C.F.R. 219.15. An amendment of the Plan to change the desired SIO in the project area to a low from a high would bring the project into compliance with the Plan, and into compliance with policy for managing scenic resources.

The continued operation and maintenance of the SNTUC MA could potentially affect recreational users' visual and scenic experience [PR 1233, p. 3.5]. The final EA states, "Continued operation and maintenance of the SNTUC MA throughout the life of the Forest Plan would mean that occasional maintenance activities, service, and repairs could affect a recreational user's visual and scenic experience as these operations occur" [PR 1233, p. 3.5]. LANL proposes that to minimize effects to the IRA and the scenic value and heritage resources the transmission line would be constructed in accordance with management guidelines described in Appendix A and additional best management practices for Visual Resources can be found in the final EA [PR 1233, Appendix A, p. 2, and Appendix C, p. 3].

These mitigation measures and design features are included to assist the project activities in meeting the proposed desired scenic integrity objective of Low, in which the landscape appears altered. Management activities are evident and sometimes dominate, but they are designed to blend with surroundings by repeating form, line, color, and texture of attributes described in the scenic character [PR 1318, p. 2-4].

The final EA proposes a plan amendment so that the project is consistent with the plan as amended, e.g. the plan amendment proposes a desired Low Scenic Integrity Objective. With this proposed plan amendment, the project would be compliant for policy for managing scenery resources (36 C.F.R. 219.15). The analysis determined that the impacts to the scenery within the IRA require a plan amendment to amend scenery desired conditions within the area. The desired condition for scenery within the project area under the 2022 Plan was a high scenic integrity objective, and the project activities will not meet or move the area towards a high scenic integrity objective. The analysis determined that the project activities will be compliant with a low scenic integrity objective and proposes a plan amendment.

Objector 0045

Objector asserts the project violates the Roadless Area Conservation Rule (RACR) because it will have significant impacts to roadless characteristics, including those related to the diversity of plant and animal communities, and those related to habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land.

Response

Per the RACR, § 294.10 states the Rule's purpose is to provide, lasting protection for inventoried roadless areas within the National Forest System. Definitions under § 294.11 describe Roadless area characteristics: Resources or features that are often present in and characterize inventoried roadless areas, including: (3) Diversity of plant and animal communities; (4) Habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land (36 C.F.R. 294.11). The preamble further indicates

roadless areas are more likely than roaded to support greater ecosystem health, including the diversity of native and desired nonnative plant and animal communities due to the absence of disturbances caused by roads and accompanying activities.

The final EA describes that the project does not include placing poles nor constructing roads within the IRA [PR 1233, p. 3-11]. According to the exception request and final EA, a helicopter would be used for construction of the line through the IRA and ground disturbance in the IRA would be minimal and temporary; therefore, there would be no habitat loss and noise impacts to species would be short-duration and temporary. The project would not result in any long-term adverse impacts to wildlife or plant communities in the IRA [PR 1305, pp. 3-4; PR 1233, p. 3-11].

According to the IRA exception request, proposed mitigation components include: conduct post-construction site-restoration monitoring; identify noxious weed infestation areas before construction for avoidance (as practicable) and implement measures to minimize noxious weeds; install the portion of the transmission line that crosses the Rio Grande outside the timeframe of November through December and February through March to avoid the highest migration periods of sandhill cranes (*Grus canadensis*) and other migratory waterfowl along the Rio Grande; ensure that biological monitors are onsite during construction activities to flag sensitive species for avoidance [PR 1305, pp 3-4].

Objector 0045

Objector contends that ground disturbance, road construction, or vegetation removal associated with the construction and maintenance of the project could have adverse impacts on soil and water quality because the IRA consists of deep canyons that feed directly into the Rio Grande, and the undisturbed soils within the IRA “are rated as severe for potential erosion (cites final EA, Appendix I, p. 3). Objector asserts that construction and ongoing maintenance of towers within the IRA will cause soil erosion that will flow directly into the river, impacting water quality, which would hinder the watershed’s ability to meet water quality standards.

Response

The erosion potential rating is intended to make land managers aware of the potential hazard so that avoidance, mitigation measures, or best management practices can be implemented as appropriate. The final EA admits some project activities may have disturbing effects on the landscape [PR 1233, p. 2-3]. However, the final EA includes an extensive list of proposed mitigation measures and best management practices that are effective and appropriate and when implemented, can minimize and/or eliminate negative impacts of project activities (erosion, runoff, increased water quality impairment) [PR 1233, Appendix C, pp. 1-4]. Further, as written and designed, the intent of this project is to practice avoidance and have no ground disturbance in the Arroyo Montoso IRA [PR 1313 and 1314]. Per the Roadless Area Conservation Rule (36 C.F.R. Part 294, Subpart B (2001), a.k.a. Roadless Rule or (RACR), § 294.10 states the Rule’s purpose is to provide lasting protection for inventoried roadless areas within the National Forest System. Definitions under § 294.11 describe Roadless area characteristics: Resources or features that are often present in and characterize inventoried roadless areas, including: (1) High quality or undisturbed soil, water, and air. These three key resources are the foundation upon which

other resource values and outputs depend (66 FR 3245, 2001). Due to the findings indicated here related to the protection of water quality and soils, the project appears protective of roadless characteristic concerns in the IRA. The protection of water and soil is consistent with RACR.

National Historic Trail

Objector 0045

Objector contends that the project will have significant adverse impacts on El Camino Real de Tierra Adentro National Historic Trail (NHT). Objector asserts that this proposed amendment to the SFNF LMP would create an arbitrary exception to the NHT guideline intended to protect the viewshed and scenic integrity and that adopting this amendment would undermine years of management work intended to protect this irreplaceable cultural resource.

Response

The National Trail System Act (NTSA) of 1968 (amended in 2019) establishes the El Camino Real de Tierra Adentro as a National Historic Trail to be administered by the Department of the Interior. The NTSA directs the Secretary of Interior to “coordinate with U.S. public organizations”, which includes government agencies including the USDA Forest Service, in providing technical assistance for preservation. The SFNF LMP [PR 1281, pp. 191-192] contains desired conditions, standards, guidelines and management approaches for management of NHT’s Comprehensive Management Plan (CMP).

The El Camino Real de Tierra Adentro NHT CMP does not establish the segment at the proposed crossing as a “High Potential Segments”, and the CMP does not provide specific guidance or mitigation strategies for powerlines or impacts to viewshed or scenery.

The BLM Taos Resource Management Plan [PR 1283, pp. 24-26] provides comprehensive Visual Resource Management (VRM) allocations across the unit, and at the crossing location, provides the allocation of VRM III, “partially retain the existing character of the landscape. The level of change should be moderate. Management activities may attract attention but should not dominate the view of the casual observer.”

As outlined in the mitigation measures for Visual Resources within the final EA [PR 1233, Appendix C] and provided during response to comments [PR 1233, Appendix D, p. 40 (PUB-19)] location of transmission line/line structures close to existing development, including roadways is used to minimize visual impacts to undeveloped areas. A cumulative visual impact analysis was completed as part of the final EA [PR 1233, Appendix G]. The National Park Service provided a response [PR 62] following review of the draft EA with no comments.

As directed in the SFNF LMP, a thorough analysis of visual impacts was completed by a qualified individual/organization to determine significance on impacts to scenic integrity. In addition to the impact results, lack of status as a “high priority segment” and VRM allocation on

lands immediately adjacent to the location of the proposed crossing provides strong support for a finding of no significance in the effect or need for change to the present classifications for scenery. This finding is further supported by the concurrence provided by the administering agency.

The final EA and supporting documentation adequately address the SFNF LMP as well as requirements of the NTSA for consultation with the administering agency responsible for the El Camino Real de Tierra Adentro National Historic Trail.

Roads

Objector 0045

Objectors contend that the final EA fails to consider that the public will gain access to currently undeveloped areas of the Caja via the new roads needed for construction, operation, and maintenance, which would result in a proliferation of unauthorized and unmanaged motorized use, recreational shooting, and illegal dumping.

Objectors assert is not clear from the final EA whether the gates are a mandatory part of the project design and indicate that gates and locks will be vandalized and removed, as has happened with grazing and other infrastructure on the Caja.

Response

Alternatives in final EA Chapter 2 describe how new temporary and existing roads will be used to access transmission structures. A total of 15.8 miles of existing roads on the SFNF will be utilized for the project and 4.44 miles of new temporary roads (1.44 miles) and short spur roads (3.0 miles) will be constructed to facilitate the construction of the utility line [PR 1233, Table 2-1, p. 2-5]. The 1.44 miles of “temporary native surface roads would be decommissioned and returned to a preconstruction state within 1 year of the line construction in that area” [PR 1233, p. 2-5]. They would not remain on the landscape for operations and maintenance of the transmission line. The final EA states, “All access roads and staging areas would be rehabilitated based on defined mitigations (Appendix C)” [PR 1233, p. 2-3]. The mitigation measures for decommissioning temporary roads in Appendix C include a variety of treatments to stabilize and restore temporary roads to a more natural state that range from blocking road entrances to full restoration and seeding of road surfaces and slopes [PR 1233, Appendix C, p. 3].

Long term, the public will not have access to areas of concern from the newly constructed temporary roads since temporary roads will only be used for construction and then “decommissioned and returned to a natural state once construction of the Proposed Action is complete” [PR 1233, p. 2-13].

Before temporary roads can be decommissioned the proposed action incorporates access control measures to address the risk of unauthorized access. Gates on the new 1.44 mile long temporary, native-surface road segments on National Forest System lands will be installed [PR 1233, p. 2-

5]. The final EA states, “Two additional locking gates could be placed along the existing Reeves lines to control access to both the Reeves Line and the Proposed S/N line. Additional access control measures (e.g., locking gates, berms, boulders) could be put into place to control unauthorized access along the transmission line routes (Figure 2-2). Although the roads are temporary, the gates could remain on the landscape permanently” [PR 1233, p. 2-5]. Additional mitigation measures and Best Management Practices such as revegetating disturbed areas, placement of berms and boulders, and installation of additional gates to minimize potential increases in user related impacts and unauthorized use of access roads on natural and cultural resources and Roadless Areas [PR 1233, Appendix C, pp. 1-4] also serve to mitigate unmanaged unauthorized motorized use, recreational shooting, and illegal dumping.

The impacts of public access to undeveloped areas of the Caja Management Area (MA) are evaluated in the Cumulative Effects Analysis of the Caja MA. The EA states, “Evaluation of the cumulative effects on the Caja MA includes assessing all past, present, and reasonably foreseeable future actions that would affect the Caja MA within and adjacent to the analysis area. Motorized and nonmotorized recreation, livestock grazing, road maintenance on existing authorized National Forest System roads, and continued operation of the Reeves Line in and near the project area have been identified as relevant from a cumulative effects context. Implementation of the Proposed Action could contribute to short-term impacts by increasing motorized use within the area, disrupting planned livestock grazing operations, and increasing use of existing roads and temporary roads necessary for construction access. These activities could have short-term impacts to soil, vegetation, wildlife, recreational uses, and visual and scenic resources. Mitigation measures and BMPs (Appendix C) would be used to mitigate long-term cumulative impact” [PR 1233, p. 3-8]. These mitigation measures and BMPs will be a part of the Final Decision Notice and enforced as a part of the Special Use Permit associated with this project.

The Description of Alternatives in the EA explains how gates will be used to control access. The EA states, “A locking gate would be placed on the boundary between National Forest System lands and BLM-administered lands where the transmission line crosses the boundary and goes up the escarpment.” It also states, “The new, temporary, native-surface road segment on National Forest System lands would be approximately 1.44 miles long and have two gates installed to control access. Two additional locking gates could be placed along the existing Reeves lines to control access to both the Reeves Line and the Proposed S/N line. Additional access control measures (e.g., locking gates, berms, boulders) could be put into place to control unauthorized access along the transmission line routes (Figure 2-2). Although the roads are temporary, the gates could remain on the landscape permanently” [PR 1233, p. 2-5]. From this description it can be determined that the gates at the FS/BLM boundary and on the new 1.44 mile-long temporary road are mandatory and that the gates along the Reeves line are not and will be installed if needed.

Vegetation

Objector 0046

Objector asserts the final EA fails to adequately consider project impacts to piñon-juniper woodlands, including the following baseline conditions: extensive removal of old-growth piñon forests; severe drought and the driest decades. The objector contends the potential loss of 100 acres of piñon trees represents a devastating blow to an already declining population, with impacts cascading to dependent species like the piñon jay and beyond.

Response

The project's proposed right of way project passes through both piñon-juniper savanna and piñon-juniper woodlands vegetation types. The proposed right of way is 100' in width. The final EA states: "All vegetation up to 25 feet tall would remain on the landscape underneath the powerline unless it would interfere with the energized conductor or if deemed a safety hazard would be removed from the 100-foot-wide utility ROW at the time of construction, consistent with engineering standards. At each transmission structure sites, a maximum of a 400-foot by 400-foot temporary workspace would be required for pole placement. Typically, only a 50-foot by 50-foot area within this temporary workspace would be cleared of vegetation and stumps. Removed vegetation would be hauled off-site to avoid fire hazards within the ROW. All work areas would be restored to pre-construction state" [PR 1233, Appendix F, p. 39]. The objection lists contention issues that are landscape-scale in nature and not relevant to the narrow scope and scale of the project proposal. Only piñon and juniper trees that exceed 25 foot in height under the powerline, within 50 feet of tower structures, or pose a safety hazard are proposed for removal. This implies that only limited numbers of trees would be removed since most woodland trees are less than 25 feet in stature, and openings created would be consistent with historic stand conditions.

The project has adequately disclosed the proposed actions and effects to piñon-juniper vegetation. These minor effects to piñon-juniper vegetation do not warrant the analysis and development of an EIS.

Objector 0059

Objector contends that the final EA does not cover with rigor or detail the issue of heat islands and ground heating created by vegetation removal, which they assert are proven to affect surrounding environments, particularly the high desert and arid mountain regions. The final EA does not mention the accelerated warming of the area already taking place. The objector indicates that due to tree loss and Google Earth the public can now see activities on DOE property at LANL, because LANL has a propensity to remove vegetation completely with drastic means when constructing or maintaining any project.

Response

While the final EA does not cover the topic of heat islands or ground heating from vegetation removal, it does cover climate change [PR 1233, pp. 3-46 to 3-50; Appendix J, pp. 1-6]. The

final EA calculates reasonably foreseeable Greenhouse Gas emissions from the project. It also addresses the increases in temperature in New Mexico and acknowledges that temperatures are expected to increase, and droughts are expected to intensify even more in the future. Heat islands are typically discussed in terms of urban areas or areas with manmade surfaces (concrete, asphalt, etc.). This would not apply in this case. While temperatures may in fact be higher in a transmission line right-of-way than under a dense forest canopy generally speaking, the vegetation this line will be going through is sparse piñon-juniper with lots of openings and bare ground or small shrubs [PR 1233, p. 3-17]. This would mean temperatures would be minimally higher if at all at the transmission line.

The concerns regarding climatic temperature and vegetation removal described in the objection are landscape scale in nature and not relevant to the scope and scale of this project proposal. The final EA sufficiently discusses climate change and does not need to consider a heat island effect.