National Park Service
U.S. Department of the Interior

Valles Caldera National Preserve

Finding of No Significant Impact and Decision Record

Special Use Permit for the Taking of Eagles from Valles Caldera National Preserve

New Mexico

DOI-NPS-133763

October 2026

Recommended:

JORGE SILVA-BANUELOS
2026.10.23 11:19:56 -06'00'

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Approved:

24 OCT 2026

Martin Traylor
Regional Director, Intermountain Region

EXHIBIT 1

Introduction

The National Park Service (NPS) prepared an environmental assessment (EA) consistent with the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.), the Department of the Interior (DOI) NEPA regulations, 43 C.F.R. part 46, and the DOI Handbook of NEPA Implementing Procedures (516 DM 1). This Finding of No Significant Impact (FONSI) documents the final determinations and approvals for NPS actions related to a Special Use Permit (SUP) application to the NPS to conduct ceremonial take of an adult bald or golden eagle within Valles Caldera National Preserve (Preserve or the park) by the Pueblo of Jemez (the Pueblo or Jemez).

Purpose and Need for Action

The purpose of the action is to evaluate Jemez's request to conduct limited, site-specific ceremonial eagle take activities within the park as part of traditional cultural and religious practices, under appropriate terms and conditions for resource protection, timing, location, and measures to avoid or minimize impacts to park resources, wildlife populations, visitor use, and park operations. Implementation of the proposed action depends on Jemez obtaining the required Native American Eagle Take for Religious Purposes permit from the U.S. Fish and Wildlife Service (USFWS) under the Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. §§ 668–668d); Jemez received this permit on July 20, 2026.

Action is needed to respond to Jemez's SUP application and to ensure that such activities are conducted in a manner consistent with federal and state law, NPS policies, and park resource protection obligations. Additionally, because requests from Jemez to conduct ceremonial eagle take activities within the park are anticipated to occur on an ongoing and recurring basis, potentially as frequently as annually, a programmatic approach is needed to guide long-term management and to simplify subsequent compliance responsibilities. This approach would allow future, site-specific SUP decisions to tier from this analysis, supporting consistent decision-making, streamlining future environmental reviews, coordination with the State of New Mexico and other federal permitting authorities, and the application of standardized resource protection measures, while retaining flexibility to address conditions on a case-by-case basis and incorporating any additional environmental review necessary to address site-specific circumstances, new information, or changed conditions.

Selected Action

Based on the analysis presented in the EA, the NPS selected alternative B (proposed action) for implementation. Under the selected alternative (selected alternative), the NPS will issue a SUP to Jemez to access the Preserve and conduct ceremonial eagle take activities within the park, supported by a USFWS Native American Eagle Take for Religious Purposes permit issued under the BGEPA. The SUP will provide for the temporary closure of a designated area in the

northwest portion of the park (Figure 1 in the EA) to general public use for approximately 30 days, as authorized under 36 C.F.R. § 1.5 and 16 U.S.C. § 698v-11(b)(11)(B)(ii).

Because SUP applications for this ceremonial use are anticipated to be recurring at uncertain intervals[1], this analysis is designed to support future, tiered site-specific SUP decisions. Tiering will promote consistent decision-making, coordination with other federal permitting authorities, and the application of standardized resource protection measures, while retaining flexibility to address specific conditions. Accordingly, subsequent SUP applications will be evaluated on a case-by-case basis, considering site-specific monitoring and compliance information, USFWS and NPS permit conditions, and meeting the park enabling legislation mandate to protect park resources and provide access to cultural and religious sites for traditional cultural and customary uses with those permit conditions.

Eagle Take

For the 2026/2027 USFWS Native American Eagle Take for Religious Purposes permit, the NPS SUP will authorize the ceremonial take of one (1) adult eagle (bald or golden) within the park beginning October 28, 2026, through November 27, 2026. Take of a bald eagle is prohibited prior to November 1 in accordance with the terms of Jemez's Native American Eagle Take for Religious Purposes permit from the USFWS.

Ceremonial Site and Camping

The SUP will balance protection of ceremonial and general park purposes, ensuring Jemez access to the park to conduct traditional cultural and religious activities within designated areas of the park. Jemez will use a designated temporary campsite located within a previously used site in the northwestern portion of the park. This site is recognized as having cultural significance to Jemez, based on consultation with Jemez. The SUP will allow for the temporary public closure of 5,751 acres within the northwestern corner of the park identified in Figure 1 of the EA.

The SUP will also authorize limited excavation activities within a nearby documented archeological site characterized by a Late Archaic-period lithic scatter (approximately 1100 B.C. to 400 A.D.). Excavation will be restricted to previously disturbed areas associated with past traditional use to avoid or minimize adverse effects on intact archeological deposits.

Access and Transportation

Motorized access to the ceremonial area will be limited to designated public/administrative roads and trails. Vehicle use will be prohibited beyond the San Antonio Creek Trail and Northwest Rim Trail intersection; all travel past this point will be restricted to bicycle, electric bicycle, or pack animals.

[1] Activities may occur annually or may not arise for more than a decade depending on religious circumstances.

Bicycle and electric bicycle use, including bicycles with gear trailers, will be allowed for travel between the designated parking area and campsite.

The use of pack animals, including horses, mules, burros, alpacas, and llamas, will be permitted on designated trails, with a maximum of twelve (12) animals allowed. Animals must be kept at least 100 feet from structures and campsites, and at least 300 feet from water sources when tethered. Only U.S. Department of Agriculture (USDA)-certified weed-free feed will be permitted, beginning 48 hours prior to park entry. Pack animals will not be allowed to stay in the park overnight.

Other Resource Protection Measures

All activities conducted under the proposed action will be required to avoid or minimize impacts to park resources, wildlife, and visitor use. The SUP will include, but is not limited to, the following conditions:

- All materials brought into the park will be packed out; burying, burning, or leaving materials on site is prohibited. The permitted area will be maintained in the same or better condition following use. No permanent structures are allowed and any temporary structures must be removed at the end of the permitted activity.
- All food, trash, and scented items must be secured in animal-resistant canisters located 50 to 100 feet from campsites, or suspended from a tree where appropriate. Human waste must be collected using waste alleviation and gelling (WAG) bags or other NPS-approved devices and packed out of the park, and temporary establishment and use of a portable toilet at the intersection of the maintained road is permitted.
- The collection or disturbance of minerals, antlers, or cultural artifacts is prohibited. Wildlife, with the exception of the permitted eagle, must not be harassed, harmed, or fed. Natural and cultural features must not be disturbed, damaged, or removed.
- Fishing is allowed in accordance with the terms and conditions within the SUP, which follow recreational fishing requirements in the park.
- To protect habitat for the Jemez Mountains salamander, new ground disturbance and the movement of rocks or logs is prohibited. This limitation includes rocks greater than 12 inches in diameter that are partially embedded or grouped and logs greater than 6 inches in diameter. Any ground disturbance associated with authorized religious activities is limited to previously used areas.
- The use of fire is limited to firewood transported to the campsite and an existing fire ring. Cutting or collecting wood within the park is prohibited.

In addition, the SUP will include enforceable conditions addressing the authorized scope and timing of activities; designated access, travel, camping, and activity areas; limits on ground disturbance and wildlife take; reporting of authorized and potentially unauthorized wildlife take, resource damage, unauthorized motorized travel, and other material compliance issues; responsibilities of designated permittee representatives; protection of archeological and natural resources; removal of temporary materials and restoration of affected areas; and NPS review of

site conditions and permit compliance following the activity. The SUP will also preserve NPS authority to access the permitted area when reasonably necessary to address safety concerns, apparent material permit violations, wildlife injury, or actual or imminent resource injury, and to take appropriate corrective, suspension, revocation, restoration, or other enforcement action under the permit and applicable law. These conditions and authorities are intended to reduce the likelihood and extent of resource impacts and provide mechanisms for the NPS to identify and respond to potential compliance issues during and following the permitted activity.

Finding of No Significant Impact

A description of all potential environmental effects associated with the selected action and no action alternative is included in the EA, incorporated by reference herein. Consistent with the DOI NEPA Handbook, Section 1.2(b), the NPS evaluated the significance of the selected action, identified as the proposed action in the EA, by analyzing the potential affected environment and the degree of the effects of the selected action. Significance is determined solely in relation to reasonably foreseeable adverse effects. The degree of effect is considered by evaluating both short- and long-term effects, both beneficial and adverse effects, effects on public health and safety, economic effects and effects on the quality of the life of the American People. The NPS only completes a significance determination for the selected action and does not determine the significance of unselected alternatives.

The EA discloses the reasonably foreseeable effects of the selected action, including the combined effects of the selected action with those of past, ongoing, and anticipated future actions on the park's eagle population, archeological and ethnographic resources, special status species, and state-licensed hunting access. While other park resources may experience some effects, those effects are minimal and were determined not to warrant detailed analysis in the EA. Accordingly, these resources are not discussed further here, as the anticipated effects are so minor that they have no potential to reach a level of significance. For a detailed description of impact topics considered but dismissed, see appendix B of the EA.

Potentially Affected Environment

A more detailed description of the potentially affected environment is included in the EA under the subheadings "Affected Environment."

The park is located in the Jemez Mountains of north-central New Mexico, approximately 124 km (77 mi) northwest of Albuquerque, New Mexico, and 48 km (30 mi) west of Los Alamos, New Mexico. The park encompasses approximately 88,900 acres (35,977 ha) and is surrounded by the Santa Fe National Forest along its northern, western, southern, and eastern boundaries and adjoins the Santa Clara Indian Reservation along its northeastern boundary and Bandelier National Monument along its southeastern boundary. With elevations ranging from 2,438 m (8,000 ft) to 3,430 m (11,254 ft), the park in its entirety is a high elevation ecosystem that includes wetlands and wet meadows, montane grasslands, woodlands, and coniferous forests, all

of which contrast with the lower elevations and more arid regions of New Mexico (NPS NRCA 2022). The current and programmatic project area is the 5,751-acre area within the northwestern corner of the park identified in figure 1 of the EA. In addition, the park is located within the State of New Mexico Game Management Unit (GMU) 6B.

The affected environment also reflects conditions documented by the NPS in November 2023. As described in Chapter 3 of the EA, subsequent NPS site inspections documented ground disturbance at the campsite and ceremonial sites, changes to campsite features, and motorized travel and associated vegetation disturbance. These existing conditions are part of the environmental baseline against which the effects of the selected action are evaluated. The NPS also considered information documented through its November 2023 site assessment where relevant to evaluating the reasonably foreseeable effects of the selected action and the resource protection measures included in the 2026 SUP.

As discussed in chapter 3 of the EA, bald and golden eagles cross jurisdictional boundaries, including the park's boundary. Eagles use the park and surrounding lands. Eagles that use the park one year may not return to the park the next year. Because of these factors, a broader regional evaluation of the impact of the take is necessary to understand whether the take of bald and golden eagles would result in a significant impact.

Short and Long-Term Beneficial and Adverse Effects

Eagle Populations

Under the selected action, there is a possibility that one (1) adult eagle (bald or golden) could be taken in the park. Because Jemez will utilize traditional methods to capture the eagle and their success would be influenced by numerous environmental factors beyond their control, their rate of success is uncertain and there could be the potential no eagle is taken.

Information developed following the November 2023 site assessment also informed the NPS's evaluation of reasonably foreseeable effects and the resource protection measures included in the 2026 SUP. Following the 2023 ceremonial period, Jemez legal counsel informed the Department that four eagles had been taken, one within Valles Caldera and three on adjacent National Forest System lands. Wildlife material collected by NPS investigators within the permitted area was subsequently submitted to the USFWS forensic laboratory. The final forensic analysis identified material representing at least four golden eagles and one bald eagle, as well as a red-tailed hawk and other wildlife. Investigators also documented recent motorized travel connecting the campsite and eagle capture pit areas and did not identify recent tracks leading from those areas outside the park.

Based on the combined evidence, the investigative report concluded that the evidence suggested wildlife take within the park may have exceeded the scope authorized by the 2023 NPS permit. Those investigative conclusions were not adjudicated, the investigation did not identify the responsible individual or individuals, and the available evidence does not conclusively establish

the location or circumstances of each wildlife take. The NPS has considered this information, not as a final determination that a permit violation occurred, but as information relevant to evaluating reasonably foreseeable effects and to developing conditions for the 2026 SUP addressing the number of eagles authorized for take, reporting of authorized and unauthorized wildlife take, motorized travel, ground disturbance, and NPS review of potential permit violations.

The take of eagles by Native Americans for religious purposes is considered part of the biological baseline level of take and mortality and is therefore not subject to local area population take limits (USFWS 2025). Nevertheless, the USFWS analyzed and considered the effects of Jemez take on local area populations and has determined that take of up to 8 bald or golden eagles within bird conservation region (BCR) 16 (which includes Northwestern New Mexico) would result in negligible effects on eagle populations (USFWS 2025). Two environmental assessments (USFWS 2009, 2013b) have been presented to the public that conclude with associated FONSIs, finding that ongoing take of eagles by Native Americans for religious purposes has no discernible effect on the stability of the eagle populations in question (USFWS 2025).

All bald eagles seen within the park are migratory. Autumn/winter surveys for bald eagles within the park have observed numbers in the range of 1 to 20 individuals present in a single day with the peak number recorded in 2002 (NPS 2017). Under the selected action, if one bald eagle was captured and killed within the park, the potential for short-term and long-term impacts to ecosystem function are too insignificant to measure. While there could be potential for changes to the seasonal trophic structure and functioning of the predator-prey community within the park, it is not likely given the presence of other migratory eagles and other birds of prey (hawks and falcons). The habitat and potential food sources for other migratory bald eagles will remain intact. It is likely migratory bald eagles will continue to occupy the park during migration season and overall effects on the local-area population will be negligible. The taking of one bald eagle is well below the threshold identified by the USFWS to prevent population-level impacts to the current local area population. Bald eagle populations are reported to be increasing by approximately 8% annually nationwide and possibly faster in BCR 16 (USFWS 2025). Overall, long-term impacts on future migratory populations in the park are unlikely.

If Jemez is successful in their take of a golden eagle, the magnitude of impacts would differ depending on whether the golden eagle taken in fall is migratory or is a resident golden eagle observed in the vicinity of the park during spring and summer. Take of a migratory golden eagle would result in similar impacts to take of bald eagles described above.

The take of a resident golden eagle in the vicinity of the park could reduce a resident population of golden eagles around the park, at least temporarily. Within a stable regional population, USFWS documentation has noted that there may be enough “floaters” in a local area population to fill the role of the missing eagle and compensate for the loss (USFWS 2016a). Given the

documented breeding in the area and the mapped available nesting habitat in areas surrounding the park, it is likely that other golden eagles would take up residence in/around the park.

It should be noted that in issuing its Native American Eagle Take for Religious Purposes permit, the USFWS utilized a biological basis for defining a local area population of golden eagles to account for the resiliency of the local population. The population-impact threshold for take of golden eagles from the local area population encompassing the collection area for the Native American Eagle Take for Religious Purposes permit (which includes the park) is 87 golden eagles (USFWS 2025). Take of one golden eagle would be well below the identified threshold for the local area (USFWS 2025). The threshold for take of bald eagles from the local area population encompassing the collection area for the Native American Eagle Take for Religious Purposes permit (which includes the park) is 94.9 bald eagles. Take of one eagle within the park is well below the identified threshold for the local area (USFWS 2025). This is particularly true for bald eagles given that much of the take is likely to be of northern migrant eagles from populations other than the local area population.

BCR 16 encompasses a large geographic area over which golden and bald eagle populations are assessed for long-term viability and resilience. As noted by USFWS in the application review to reinstate the Jemez 2025 take permit (USFWS 2025), bald eagle populations in BCR 16, which encompasses the park, have been increasing substantially since 2000. This BCR exhibited an 11.0% annual increase in total bald eagle numbers during 2000-2022 (95% credible interval = 5.9-16.7). In the USFWS's most recent estimate in 2020, the bald eagle population in the coterminous U.S. totaled 316,700 individuals, and breeding pairs occupied 71,467 nesting territories (USFWS 2025). Across the U.S., bald eagles exhibited an 8.4% annual increase in total population numbers during 2000-2022 (95% credible interval = 7.4-9.3) (USFWS 2025). Some bald eagles that migrate through or overwinter within the authorized area of collection may come from Canada and Alaska. Breeding Bird Survey (BBS) data indicate significant population growth in these regions with annual increases in Alaska (1.0%) and Canada-wide (2.4%) between 2000-2019 (USFWS 2013b, USFWS 2025).

For golden eagles, the USFWS estimated the total population size in the conterminous western U.S. in 2016 was 32,256 (median estimate) (USFWS 2025). Population size and trend of the late summer population of golden eagles in BCR 16, which encompasses Jemez's collection area, were estimated via aerial surveys conducted in 2003 and annually during 2006-2016. Results of these surveys indicated a stable population (all age classes combined). In general, golden eagle populations across the western U.S. appear stable (USFWS 2016b), though recent demographic modeling suggests a slow decline may be occurring (USFWS 2016b). BBS data indicate golden eagles in BCR 16 exhibited a 0.5% annual decrease in total population size during 1993-2022 (95% credible interval = -1.4-0.5) (USFWS 2025).

The annual take of the maximum allowable amount permitted by the USFWS for eagles represents a small fraction of the broader regional eagle population. This take level remains

within the bounds that the USFWS has already determined would have negligible population impacts at the regional scale, and an annual cycle of minimal take does not alter that determination. In general, if Jemez were successful in taking one bald or golden eagle under the proposed action, the effect on the overall local area eagle populations (bald and golden) would be minimal and acceptable within the identified thresholds established by the USFWS.

Given the uncertain probability of successful take, the fact that the authorized level of take remains well below established population thresholds, consistency with prior USFWS findings on tribal religious take, negligible ecosystem-level effects, and the resilience of resident golden eagle populations through floater replacement, the selected action would not result in a significant adverse impact to bald or golden eagle populations in the local area or broader region.

Archeological and Ethnographic Resources

Under the selected action, SUP stipulations restricting ground disturbance, fire use, waste disposal, and means of travel will minimize potential impacts to the archeological sites within the project area: no permanent structures may be built and all temporary materials, gear, and waste must be packed out; human waste must be managed with WAG bags, or other NPS approved methods, rather than excavated latrines or catholes; campsite leveling and other ground-disturbing activities are prohibited; campfires are restricted to the existing fire ring; foot travel is limited to designated routes; and the movement of rocks and logs for religious purposes is limited by size to avoid impacts to salamander habitat. Together, these stipulations are designed to protect the physical integrity of the sites' documented features and deposits.

The SHPO concurred with the NPS's finding of no adverse effect on historic properties assuming permit conditions were adhered to; however, consulting Tribes raised objections to that finding. Consistent with 36 C.F.R. § 800.5(c)(2)(i), upon receiving objections that could not be resolved through additional consultation, the NPS requested ACHP's opinion on whether the criteria of adverse effect were correctly applied to this undertaking. Other Tribal Nations who did not directly respond may also perceive the ceremonial activities associated with the selected action as adverse to the archeological and ethnographic resources within the area. Such perceptions stem from differing tribal views regarding the appropriate treatment of eagles, the manner in which ceremonial activities are conducted, or the potential for these activities to disturb, diminish, or otherwise affect the integrity of resources that hold cultural, historical, or religious significance to those Tribal Nations. While perspectives on these effects may differ among Tribal Nations, the selected action would not result in significant impacts to eagle population stability or to the archeological and ethnographic resources within the area, for any Tribal Nation.

Ceremonial Site – The selected action authorizes the re-excavation of three existing ceremonial pit features within the archaic archeological site. Because the pits were previously excavated for ceremonial purposes, the soils within and immediately surrounding them have already been disturbed, and re-excavation would be limited to previously disturbed contexts. The discrete, small-scale nature of the pit features, each measuring approximately one meter by one meter,

further limits the potential for impacts to extend into undisturbed archeological deposits. While the site contains confirmed subsurface archeological deposits, the reuse of existing locations rather than the excavation of new ones substantially reduces the likelihood of encountering intact stratigraphic contexts or displacing *in situ* artifacts. As such, the re-excavation of these features is not anticipated to result in adverse effects to the site's information potential or its eligibility for listing on the National Register of Historic Places (NRHP) under Criterion D.

Surface artifact densities at this site are high, with over 1,000 artifacts estimated across the site; however, the majority appear to be lithic debitage that, while contributing to assemblage-level analyses, is generally less sensitive to incidental surface disturbance than formal tools or *in situ* features.

This site already has experienced a moderate degree of disturbance from previous land uses and ongoing natural processes. Livestock grazing and trampling, fence-line erosion, and wind deflation have disturbed the topsoil. Burrowing by rodents and possibly other wildlife has brought artifacts from the subsurface cultural layer to the ground surface. In some cases, archeologists have found it difficult to distinguish coyote burrows from ceremonial pits.

The permit condition requiring that the permittees use only previously excavated pits will minimize disturbance to the site. But it remains possible that soil removed from pits might obscure, displace, or bury artifacts where deposited on the surface. Excavation of pits may temporarily expose subsurface deposits to wind and water erosion given the area's silty and deflation-prone sediments, although the requirement that pits be backfilled with the same excavated soil will mitigate these potential impacts.

TCP Site – The selected action will permit Jemez to access the Traditional Cultural Property (TCP) site, re-establish a temporary campsite within or adjacent to the site boundary, and conduct ceremonial activities consistent with the site's documented traditional cultural use. The site previously served as a base camp for such activities throughout the western Valle San Antonio, and this traditional use is directly tied to its significance under NRHP Criterion A. Ceremonial use consistent with that documented function will not diminish the qualities that make the site eligible. SUP stipulations governing ground disturbance, fire use, sanitation, and means of travel are designed to protect the physical integrity of the site's features and deposits, and the qualities that make the site NRHP-eligible are therefore not expected to be affected by the proposed action.

The TCP site has experienced ongoing deterioration from water erosion, structural deterioration, and accumulation of modern refuse since at least 2005 and is currently in poor to fair condition. The proposed ceremonial use does not include any vegetation removal, grading, or hydrological modification that would exacerbate these existing conditions.

Rock Shelter and other sites – SUP conditions would specify that pack animals, mountain bikes, and e-bikes must stay on the established trail, preventing damage to the off-trail rock shelter feature. Since the superintendent’s compendium already allows visitors to hike off trail in the

park, including alongside the frequently used Northwest Rim Trail, there is little additional risk to the rock shelter from activities authorized under the SUP. Moreover, given the purpose of the SUP, the permittee's activities will not involve traveling off-trail to undisclosed historic sites such as the shelter, which is located well before the campsite and ceremonial area.

Jemez will travel on a legacy logging road that bisects the sites. This road has been subjected to repeated disturbance and compaction by logging trucks far exceeding the load associated with pack animals, e-bikes, mountain bikes, and administrative utility task vehicle (UTV) use. The proposed activities are not expected to create ground disturbance beyond the depth and extent already present within the road footprint.

In summary, the selected action would not result in significant adverse effects to archeological and ethnographic resources because SUP stipulations restricting ground disturbance, fire use, waste disposal, and means of travel are specifically designed to protect site integrity. Re-excavation at the ceremonial area would occur only within previously disturbed pit features, limiting the potential to affect intact deposits or the site's NRHP Criterion D eligibility, and would add minimally to the site's existing baseline disturbance from burrowing, grazing, and erosion. Activities at the TCP site are consistent with its documented traditional use and would not affect the qualities underlying its NRHP Criterion A eligibility, while route restrictions and reliance on an already-disturbed legacy road protect the rock shelter and other nearby sites from additional impact.

Other Tribal Nations, including the two tribes that objected during consultation, have identified adverse cultural and religious effects associated with the selected action, stemming from tribal views regarding the appropriate treatment of eagles and the conduct of ceremonial activities. NPS recognizes that ethnographic and cultural effects of this nature are often intangible and do not require a measurable physical or informational change to the resources themselves to constitute a real effect. NPS concludes that these effects, while real, are not significant under NEPA because they do not prevent Tribal Nations from continuing their religious and ceremonial practices or diminish the resources that support them: the regional eagle population will remain stable under the selected action, and Tribal Nations will continue to have access to the Preserve to conduct their religious and ceremonial uses, including those associated with eagles and other resources of cultural and religious significance. Because the core practices and the resources that support them remain intact and accessible, the adverse cultural and religious effects identified through consultation, while acknowledged, do not rise to the level of a significant effect under NEPA.

Special Status Species

Under the selected action, effects to the Jemez Mountains salamander and its designated critical habitat will be limited in scope, duration, and intensity. Ceremonial activities, including camping and access, will occur for a short, defined period (approximately 30 days during the salamander's inactive period) and will be confined to areas near existing administrative and public-use roads,

avoiding off-road travel and minimizing ground disturbance within forested habitats. No new roads, trails, or permanent facilities will be constructed, and disturbances of soil and critical habitat features (cover objects) such as rocks and decaying logs will be restricted through SUP conditions, including restrictions on vehicle use and camping location.

The salamander is most surface-active during warm, wet periods, particularly during the summer monsoon season. The selected action will occur in late fall, when salamanders are typically underground and inactive, further reducing the likelihood of direct interaction with individuals. The use of WAG bags and restrictions on soil disturbance within archeological and ceremonial areas will further minimize impacts to subsurface habitats and soil moisture conditions that support salamander occupancy.

Potential indirect effects could include minor, localized soil compaction or vegetation disturbance associated with foot traffic and camping; however, these effects will be temporary and reversible and will not measurably alter forest structure, microclimate conditions, or habitat connectivity at a scale relevant to salamander conservation. Vehicle use will be restricted to existing roads, and off-road driving would be prohibited, preventing impacts to undisturbed forest floor and subterranean refugia.

Given the limited spatial extent of activities, the short duration of use, seasonal timing, and the application of SUP conditions designed to protect soils, vegetation and the Jemez Mountain Salamanders, the selected action is not expected to adversely modify designated critical habitat or contribute to population-level effects on this species. The action will therefore result in localized, short-term effects and would not meaningfully contribute to the decline of the species. Therefore, the potential impacts to Jemez Mountain salamander are not considered to be significantly adverse.

Furthermore, in accordance with Section 7 of the Endangered Species Act, the NPS prepared a Biological Assessment (BA) to evaluate the potential effects of the proposed action on federally listed species and designated critical habitat. The BA was submitted to the USFWS to initiate informal consultation. The BA evaluated potential effects to federally listed species with the potential to occur within the project area, including species for which designated critical habitat is present within or adjacent to the park. USFWS concurred with the NPS finding of "may affect, not likely to adversely affect" Jemez Mountain salamander on August 28, 2026.

State-Licensed Hunting Access

The selected action will establish a temporary 5,751-acre closure area within the northwest corner of the park during authorized elk hunting season. Hunters will be restricted from accessing the closure area during the periods when ceremonial activities occur. Given the limited number of tags issued for elk hunting in Unit 6B and the highly competitive nature of the draw, any restriction on access to huntable areas within the park has the potential to affect the quality of the hunt experience for affected license holders.

The extent of this effect is tempered by several factors. The closure area (5,751 acres) represents approximately 7.9 percent of the total huntable area (73,128 acres) within the park, and hunters will retain access to other areas of the unit outside the closure boundary. Elk hunting within the park is already subject to designated hunt dates, permit requirements, and orientation attendance, and hunters are therefore accustomed to operating within a structured set of conditions. The temporary and spatially limited nature of the closure reduces the likelihood that the proposed action would meaningfully affect overall hunter success rates or the long-term desirability of Unit 6B as a trophy elk hunting area.

Given the limited geographic scope of the closure area relative to the total huntable acreage within the park, the continued availability of alternative hunting areas within Unit 6B, and hunters' existing familiarity with structured access conditions, the temporary closure would not be expected to meaningfully affect overall hunter success rates or the long-term desirability of Unit 6B, and therefore, will not result in a significant adverse impact on hunting access within the park.

Effects on Public Health and Safety

The selected alternative has no adverse effects on public health and safety. The proposed take of the eagle does not involve firearms and will occur in an area closed to the public.

Economic Effects

The selected action will not have any measurable impact on the economy at a local, regional, or national level. No goods, services, concessions, or contracts will result from the selected action.

Effects on the Quality of Life of the American People

The selected action will not restrict the public’s ability to consume, purchase, or use products from public lands. It will have no impact on public services. Additionally, the selected alternative will not affect passive recreational use of ecosystems.

Other Tribal Nations may perceive the ceremonial activities associated with the selected action as adverse to the archeological and ethnographic resources within the area. Such perceptions may stem from differing tribal views regarding the appropriate treatment of eagles, the manner in which ceremonial activities are conducted, or the potential for these activities to disturb, diminish, or otherwise affect the integrity of resources that hold cultural, historical, or religious significance to those Tribal Nations.

Indirect emotional or cultural concerns are not exclusive to Native American communities. Some individuals, regardless of tribal affiliation, find the idea of authorizing any eagle take deeply troubling, viewing it as incompatible with their personal beliefs about patriotism or wildlife conservation (see USFWS 2016a).

Visitor use and experience could be adversely impacted by the selected action, which could reduce opportunities for visitor enjoyment. Although viewing eagles positively contributes to an

aspect of visitor experience, it constitutes just one of the ways in which visitors interpret and experience the park itself. The park offers opportunities to explore the unique geology, view wildlife, and learn about park ecosystems and the rich human history of the site. Visitor experience at the park is derived from this wide array of available activities, with viewing of eagles representing a small portion of the overall visitor experience. It can be presumed that visitors' anticipation of seeing an eagle is an aspect of the visitor experience within the existing landscape aesthetic. However, a slight, temporary decline in the frequency of such experiences would not noticeably detract from the wider array of possible visitor experiences at the park.

Visitor use within the western Valle San Antonio, where the proposed ceremonial activities and eagle capture activities would occur, is low relative to other areas of the park. This portion of the park is accessible only via an unpaved backcountry vehicle route and does not contain developed visitor infrastructure. Visitation to this area is further reduced during the fall and winter months, coinciding with the authorized elk hunt dates and the timing of ceremonial activities, as seasonal road closures and weather conditions limit access. As a result, the number of visitors likely to encounter or be affected by temporary closures or restricted access in this area during the proposed action is expected to be small. Given the already limited visitor use in this area and during this time of year, the selected action would not meaningfully impact the overall quality or quantity of visitor experience opportunities within the park.

Rationale for the Decision

The proposed action, presented in the EA, to issue a SUP to Jemez to access the Preserve and conduct ceremonial take of one (1) adult eagle (bald or golden) within the park beginning October 28, 2026, through November 27, 2026, subject to the terms of the SUP and a valid USFWS Native American Eagle Take for Religious Purposes permit issued under the BGEPA and will provide for the temporary closure of a designated area in the northwest portion of the park (Figure 1 in the EA) to general public use, as authorized under 36 C.F.R. § 1.5 and 1.6 and 16 § U.S.C. 698v-11(b)(11)(B)(ii), is the selected action.

The EA evaluated two alternatives: a no action alternative and proposed action, which is the selected action. In addition, the NPS considered one additional alternative that would allow for permittee access to the park, but not allow for the take of eagles. This alternative was dismissed from detailed analysis because it would not meaningfully reduce impacts on local eagle populations, archeological and ethnographic resources, special status species, or hunting access, nor would it meet purpose and need for taking action. The no action alternative was not selected because it does not meet the purpose and need because it fails to fulfills the park's statutory mandate to protect tribal cultural practices and provide access for traditional and customary uses, consistent with the park's enabling legislation.

As described in the EA, Valles Caldera National Preserve is spiritually and ceremonially important to numerous Tribal Nations. These cultural connections are both contemporary and of

great antiquity, and the NPS seeks to recognize the values and respect the voices of the Tribal Nations for whom this special place continues to be part of their practices, beliefs, identity, and history.

Since time immemorial, Native peoples have used the caldera for hunting all sizes of game, small mammals, and waterfowl; fishing; collecting an abundance of seeds, nuts, and berries; and gathering various plants and minerals for food, medicine, tools, manufacture, economic, and ceremonial use. Throughout prehistory and continuing today, this landscape has supported hunting and gathering to supplement agricultural subsistence. Numerous Tribal Nations in the region have deep historic and cultural connections to the caldera that are expressed today through ceremonial activities, rich oral histories, and sacred traditions.

The park's enabling legislation includes a provision to protect and provide access to traditional cultural and religious sites (Public Law 113-291, § 3043(b)(11)). This park-specific mandate requires the NPS to ensure the protection of these sites, and in accordance with Public Law 95-341, commonly known as the "American Indian Religious Freedom Act" (AIRFA) (42 U.S.C § 1996) provide access to members of Tribes or Pueblos for traditional cultural and customary uses, and temporarily close specific areas of the park to the general public when necessary to safeguard these uses.

In 2016, the USFWS prepared a Programmatic Environmental Impact Statement (EIS) for the Eagle Rule Revision (USFWS 2016a). It stated that "Bald eagles and golden eagles remain sacred to many American Indian tribes and tribal members and are central to the religious practices of some tribal cultures in North America and other localities throughout the species' range." Native American interests are unique and unlike any other interests due to the status of federally recognized tribes as governmental sovereigns, as well as the unique relationship between the U.S. government and each tribe. There exists a separate federal trust responsibility to tribes, which among many other things, safeguards indigenous religious practices, cultural practices, places, sites, and objects. Moreover, the Eagle Act specifically carves out an exception allowing the USFWS to authorize possession and take of bald and golden eagles for the "religious purposes of Indian Tribes" (16 U.S.C. § 668a). This exception, added in a 1962 amendment to the Eagle Act, was requested by the Secretary of the Interior, who was concerned about the effect prohibiting all take of golden eagles would have on Indian religious and cultural use (USFWS 2016a).

In summary, the selected action, issuing a SUP to Jemez for access to the park and ceremonial eagle take within the Preserve, best meets the project's purpose and need because it fulfills the park's statutory mandate to protect tribal cultural practices and provide access for traditional and customary uses, consistent with the park's enabling legislation. This action is further supported by the Preserve's long and continuing history as a place of deep spiritual and ceremonial significance to numerous Tribal Nations, whose connections to the land span thousands of years and continue to be expressed through hunting, gathering, and ceremonial practices today. The

action is also backed by a corresponding USFWS Native American Eagle Take for Religious Purposes permit. As documented in the EA and the Non-Impairment Determination attached, the selected action will not result in significant environmental impacts or impair the park's resources.

Other Compliance and Consultation

Endangered Species Act Section 7

In accordance with Section 7 of the Endangered Species Act, the NPS prepared a BA to evaluate the potential effects of the proposed action on federally listed species and designated critical habitat. The BA was submitted to the USFWS to initiate informal consultation.

The BA evaluated potential effects to federally listed species with the potential to occur within the project area, including species for which designated critical habitat is present within or adjacent to the park. USFWS concurred with the BA that the action would not likely adversely affect Jemez Mountain salamander on August 28, 2026.

National Historic Preservation Act Section 106/Tribal Consultation

In accordance with Section 106 of the National Historic Preservation Act, the NPS consulted with the New Mexico State Historic Preservation Officer (SHPO) and federally recognized tribes traditionally associated with the park concerning the impact on historic properties within the project area. This consultation occurred separately, but concurrently, with the NEPA document.

Historic properties listed on, or eligible for listing on, the NRHP have been identified within the project area that may be affected by the issuance of the SUP. These properties are described in Chapter 3, Affected Environment and Environmental Consequences. The New Mexico SHPO concurred with the NPS's finding of "No Adverse Effect" on August 14, 2026, provided all SUP stipulations are followed.

In consultations held in August and September 2026, consulting Tribes raised concerns about the effects of any eagle takes. Tribes also indicated there may be effects on other places within the park which may have traditional Tribal cultural associations. Additionally, Tribes noted that there may be recurring and cumulative effects on historic properties within and beyond the Area of Potential Effect (APE), as NPS expects that SUP applications from the Jemez for this ceremonial use are anticipated on a recurring basis. Finally, Tribes noted that the SUP conditions needed to be carefully enforced by the NPS and inquired about penalties for lack of compliance with the conditions. Consulting Tribes specifically objected for the reasons previously outlined as well as concerns regarding the effectiveness of the numerous SUP conditions. As a result of these timely objections, the NPS requested that the Advisory Council on Historic Preservation (ACHP) provide its advisory opinion regarding the dispute.

On October 16, 2026, ACHP provided its advisory opinion, concluding that the NPS correctly applied the criteria of adverse effect to the undertaking and stated that, given the modifications to

the undertaking and the SUP conditions developed to avoid adverse effects, the NPS's finding of No Adverse Effect is consistent with the Section 106 regulations. The Section 106 process was concluded on October 22, 2026 with a final letter to the ACHP, SHPO, and consulting parties notifying them of the agency's final decision.

New Mexico Department of Wildlife

In accordance with the park's enabling legislation, on August 12, 2026, the NPS consulted with the New Mexico Department of Wildlife regarding the temporary closure of the northwest portion of the park to hunting for the duration of the SUP. The NPS agreed to its request that the area closure be lifted as soon as the ceremonial activities conclude in order to keep the closure period as short as possible.

Tribal Consultation

In addition to on-going consultation and engagement throughout this process with the applicant, the NPS also consulted with the following tribes:

- Apache Tribe of Oklahoma
- Cheyenne and Arapaho Tribes, Oklahoma
- Comanche Nation, Oklahoma
- Fort Sill Apache Tribe of Oklahoma
- Hopi Tribe of Arizona
- Jicarilla Apache Nation, New Mexico
- Kewa Pueblo, New Mexico
- Kiowa Indian Tribe of Oklahoma
- Mescalero Apache Tribe of the Mescalero Reservation, New Mexico
- Navajo Nation, Arizona, New Mexico and Utah
- Ohkay Owingeh, New Mexico
- Pawnee Nation of Oklahoma
- Pueblo of Acoma, New Mexico
- Pueblo de Cochiti, New Mexico
- Pueblo of Isleta, New Mexico
- Pueblo of Laguna, New Mexico
- Pueblo of Nambe, New Mexico
- Pueblo of Picuris, New Mexico
- Pueblo of Pojoaque, New Mexico
- Pueblo of San Felipe, New Mexico
- Pueblo of San Ildefonso, New Mexico
- Pueblo of Sandia, New Mexico
- Pueblo of Santa Ana, New Mexico
- Pueblo of Santa Clara, New Mexico
- Pueblo of Taos, New Mexico
- Pueblo of Tesuque, New Mexico
- Pueblo of Zia, New Mexico
- San Carlos Apache Tribe of the San Carlos Reservation, Arizona
- Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado
- Standing Rock Sioux Tribe of North and South Dakota
- Tonto Apache Tribe of Arizona
- Ute Indian Tribe of the Uintah and Ouray Reservation, Utah

- Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico, and Utah
- White Mountain Apache Tribe of the Fort Apache Reservation, Arizona
- Wichita and Affiliated Tribes
- Ysleta Del Sur Pueblo of Texas
- Zuni Tribe of the Zuni Reservation, New Mexico

Decision

Based on the information contained in the EA and described above, the NPS has determined that the selected action does not constitute a major federal action meeting the criteria that normally require the preparation of an EIS. Therefore, an EIS will not be required. Lastly, the NPS certifies that it has considered all relevant information raised during the NEPA process and that the NEPA process is closed (516 DM 1 Handbook § 4.1).

Appendix B – Response to Public Comments

The Pueblo of Jemez Special Use Permit (SUP) for Traditional Religious Cultural Activities Environmental Assessment (EA) was available for public review and comment between October 1 and October 16, 2026. The National Park Service (NPS) received 66 pieces of correspondence during the public review period. All comments were read and analyzed to identify substantive comments. Appendix 1 of the Department of the Interior (DOI) Handbook of National Environmental Policy Act (NEPA) Procedures (516 DM 1) defines a substantive comment as a comment that does one or more of the following:

- Question, with a reasoned basis related to the analysis, the accuracy of information in the Environmental Impact Statement (EIS) or EA.
- Question, with a reasoned basis related to the analysis, the adequacy of, methodology for, or assumptions used for the analysis.
- Present new information relevant to the analysis.
- Present reasonable alternatives or issues outside those analyzed in the EIS or EA, or those mentioned in the Notice of Intent.
- Present relevant additional issues for analysis in the EIS or EA.
- Prompt potential changes or revisions to one or more of the alternatives.

In other words, substantive comments raise, debate, or question a point of fact of analysis. Comments that merely support or oppose a proposal or that merely agree or disagree with NPS policy are not considered substantive and do not require a formal response.

The following text summarizes the substantive comments received during the comment period and is organized into concern statements and responses. All page numbers contained herein refer to the EA that was released for public review.

1. **NEPA Process**: Several commenters raised concerns that the 15-day review period provided for the EA was insufficient, and some characterized the short timeframe as disingenuous given the complexity of the issues involved, including environmental, wildlife-management, legal, and public-interest considerations. Commenters further asserted that NPS has not provided sufficient transparency regarding the proposal generally, including with respect to the permit holder's prior compliance history, the resource impacts of the proposed action, and the justification for authorizing the activity. Commenters contend that the public deserves a meaningful opportunity to review and comment on the proposal before any authorization proceeds. Commenters stated that an EIS should be prepared instead of an EA. A commenter asked whether, before relying on materials incorporated from U.S. Fish and Wildlife Service (USFWS) analyses in a Finding of No Significant Impact (FONSI), the NPS will make those incorporated USFWS analyses reasonably available to the public, and will extend or reopen the public comment period sufficiently to allow interested parties the opportunity to evaluate and comment on them.

available evidence does not conclusively establish the location or circumstances of each wildlife take.

The NPS has nevertheless considered the information developed following the 2023 activity in evaluating the current SUP request. The 2026 SUP includes additional conditions addressing the amount of authorized eagle take, reporting of authorized and unauthorized wildlife take, motorized travel, ground disturbance, and NPS review of potential permit violations. These conditions are intended to improve accountability and reduce the likelihood of resource impacts or activities outside the scope of the SUP.

14. **Reasonably Foreseeable Non-Compliance with SUP Terms**: Concerns were raised that NPS is required to evaluate the reasonably foreseeable effects of the proposed action, which in this case should include the potential for future reoccurrence of non-compliance with the take limits established under a prior SUP. The commenters contend that, given the programmatic nature of the proposed action, the permit holder's prior non-compliance with the terms and conditions of its previous SUP is directly relevant to NPS's analysis of potential impacts. The commenters assert that the EA fails both to acknowledge this past non-compliance and to address the potential impacts that could result from non-compliance with take limits under future permits.

Agency Response: The NPS does not assume that activities outside the scope and terms of the SUP will occur. However, information developed following the 2023 permitted activity is relevant to evaluating the potential for such activities and the measures needed to reduce that risk. As described above, the NPS documented resource impacts and developed investigative evidence suggesting that wildlife take within the park may have exceeded the scope authorized by the 2023 SUP. Those investigative conclusions were not adjudicated and do not conclusively establish the location or circumstances of each wildlife take.

The NPS considered this information in evaluating reasonably foreseeable effects of the current action and in developing the conditions of the 2026 SUP. The SUP includes additional reporting, accountability, travel, ground disturbance, and wildlife take conditions intended to allow the NPS to promptly identify potential compliance issues and reduce the likelihood and environmental consequences of activities outside the scope of the authorization. Future SUP decisions under the programmatic analysis will also consider relevant information regarding implementation of prior authorizations, including documented resource impacts and compliance information.

15. **State of New Mexico Permit Requirements and GMU-6B**: Concerns were raised that the Valles Caldera National Preserve enabling legislation requires hunting and trapping within the Preserve to be conducted in accordance with the hunting laws and policies of the State of New Mexico, and that this is the specific authorization Congress provided. Commenters contend that the State of New Mexico does not authorize the take or killing of raptors, and that applicable State law governing hunters and trappers in the Preserve, which falls entirely

within State Game Unit No. 6B, currently closes general hunting and trapping except for specific special-permit elk and Merriam's turkey draw hunts, with trapping prohibited entirely in that unit. Commenters assert that anyone hunting in the Preserve must possess a State hunting license and/or tag as applicable, and that the EA fails to examine whether Jemez Pueblo possesses any State authorization to trap or kill eagles in the Preserve. The commenter concludes that the EA therefore disregards the enabling legislation requirement that statutorily authorized hunting and trapping occur in accordance with State law.

Agency Response: The action at issue here is being authorized under the provision of the enabling legislation that authorizes access to traditional religious and cultural sites. For hunting and trapping activities, a different provision requires that hunters and trappers follow the hunting laws and policies of New Mexico, and the State's rules on Game Unit 6B, including the closure to general hunting and trapping outside specific elk and turkey draws, applied within the park accordingly.

Eagles are protected under the federal BGEPA, 16 U.S.C. § 668 et seq., and the USFWS administers BGEPA and issues Native American Eagle Take for Religious Purposes permits under 50 C.F.R. § 22.60. This action is consistent with USFWS's existing management of eagle take, including the EIS and EAs it has prepared addressing eagle take permits, and with the permits USFWS issued to Jemez Pueblo in 2025 and 2026, to which the State did not object. The EA is not deficient and it is the responsibility of the permittee to ensure compliance with/and to obtain any required permits beyond the jurisdictional control of the NPS.

On August 12, 2026, the NPS consulted with the New Mexico Department of Wildlife regarding the temporary closure of the northwest portion of the park to hunting for the duration of the SUP. The NPS agreed to the Department’s request that the area closure be lifted as soon as the ceremonial activities conclude in order to keep the closure period as short as possible.

16. **NPS Authority Under 36 C.F.R. 2.1 and 2.2**: Commenters assert that NPS regulations at 36 C.F.R. § 2.1(a) expressly prohibit possessing, destroying, injuring, removing, or disturbing wildlife, living or dead, from its natural state, and that 36 C.F.R. § 2.2(a) similarly prohibits the taking of wildlife except by authorized hunting or trapping conducted in accordance with paragraph (b) of that section. Commenters note that paragraph (b) permits hunting and trapping only "where such activity is specifically mandated by Federal statutory law." Commenters further point to the Preamble to the Final Rule, which states that while the Park Service intends to provide reasonable access to and use of park lands and resources by Native Americans for religious and traditional activities, "the National Park Service is limited by law and regulations from authorizing the consumptive use of park resources." 48 Fed. Reg. 30252, 30263-64 (July 1, 1983). Based on this regulatory framework, the commenters contend that NPS lacks authority to grant the take of eagles within the Preserve absent a specific federal statutory mandate, and that the EA fails to identify such a mandate or otherwise reconcile the proposed action with these regulatory constraints. The commenters

state that "[p]ursuant to this statutory mandate, activities and uses in derogation of park values can be allowed only under a park area's enabling legislation or other express statutory authorization." 48 FR 30253.

Agency Response: The commenter correctly states the regulatory framework. 36 C.F.R. § 2.1(a) prohibits disturbing or removing wildlife from its natural state, and 36 C.F.R. § 2.2(a) prohibits the taking of wildlife except where authorized hunting or trapping is "specifically mandated by Federal statutory law" under paragraph (b) or authorized after the Superintendent finds it aligns with public safety, enjoyment, and resource management. The Preamble to the Final Rule likewise confirms that NPS cannot authorize consumptive use of park resources absent such a mandate. The Preserve's enabling legislation supplies that mandate and authorization.

The enabling legislation requires the Preserve to allow access for tribal cultural and religious use. At 16 U.S.C. § 698v–11(b)(11)(A)-(B), it directs the Secretary to ensure the protection of traditional cultural and religious sites within the Preserve, and requires the Secretary, consistent with the American Indian Religious Freedom Act (AIRFA), 42 U.S.C. § 1996, to provide access to those sites for traditional cultural and customary uses by tribal members. It further authorizes the Secretary, at a tribe's request, to temporarily close specific areas of the Preserve to general public use in order to protect traditional cultural and customary uses. This provision reinforces that Congress specifically contemplated and authorized tribal traditional and religious activity within the Preserve as part of the enabling legislation itself.

17. **36 C.F.R. 2.1(d) Exceptions**: A commenter asserts that 36 C.F.R. § 2.1(d) establishes only two narrow exceptions to the general prohibition on the ceremonial or religious taking of park wildlife or other natural resources, and that a ceremonial or religious take may be authorized only if it satisfies one of those two specific exceptions. The commenter contends that Jemez Pueblo's proposed take of eagles within Valles Caldera National Preserve does not meet either exception under section 2.1(d), and that NPS therefore has no regulatory basis to authorize the activity. The commenter concludes that, absent qualification under one of these two exceptions, NPS would violate its own regulations by authorizing Jemez Pueblo to take eagles within the Preserve.

Agency Response: The commenter correctly identifies that 36 C.F.R. § 2.1(d) provides that § 2.1 does not itself authorize the taking, use, or possession of fish, wildlife, or plants for ceremonial or religious purposes, except for tribal plant gathering under § 2.6, where specifically authorized by Federal statutory law or treaty, or in accordance with § 2.2 or § 2.3. The commenter is also correct that Jemez Pueblo does not possess a treaty establishing hunting or taking rights within Valles Caldera National Preserve. Section 2.1(d) also permits ceremonial or religious taking where that conduct is specifically authorized by Federal statutory law, apart from any treaty basis. The Preserve's enabling legislation supplies that authorization, as discussed in the prior response.

18. **Redwood National Park Expansion Act**: A commenter notes that in 1978, Congress enacted the Redwood National Park Expansion Act, Pub. L. No. 95-250, which amended the General Authorities Act of 1970, 84 Stat. 825, to provide that "the authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress." The commenter contends that the killing of a single eagle within the Preserve, analogous to the ritual killing of a single bison in Yellowstone, would derogate from the values and purposes for which the National Park System and the Preserve were established, and therefore would violate the 1978 Redwood Amendment to the General Authorities Act.

Agency Response: The Redwood Act, codified at 54 U.S.C. § 100101(b)(2), does not preclude a park from taking an action that is allowable under the park's enabling legislation.

19. **Valles Caldera National Preserve Enabling Legislation**: Commenters stated that the enabling legislation for Valles Caldera National Preserve contains no direct and specific authorization for the religious and ritual killing of eagles, or any other park wildlife. The enabling legislation instead provides only that the NPS, in accordance with AIRFA at 42 USC 1996, "shall provide access to the sites described in subparagraph (A) by members of Indian Tribes or Pueblos for traditional cultural and customary uses:" Sec. 3043(b)(10) (A) describes, and (B) lists, the upper elevations of 15 volcanic domes in the Preserve that are to be safeguarded. 128 STAT. 3795. Congress has authorized the Secretary of the Interior to issue permits to take eagles for Native American religious purposes under the BGEPA, as amended in 1962. But Congress has never directly or specifically authorized the killing of eagles in the National Park System by Native Americans under that act, whether in Valles Caldera National Preserve, or any other area.

    Commenters stated that Congress has never mandated such killing, as required by 36 CFR 2.2(b). Congress mandates that the Secretary of the Interior "shall permit hunting, fishing, and trapping on land and water within the Preserve in accordance with applicable Federal and State law." Valles Caldera National Preserve is one of approximately 70 National Park System areas where recreational sport hunting "shall" be allowed, and one of 40 in the subset of such units where trapping is mandated. The ritual capture and killing of eagles is not hunting or trapping in the common meaning of those words. The NPS has never approved eagle capture or killing, religious or otherwise, in any of the 70 parks other than Valles Caldera National Preserve, though all 70 "hunting" parks contain almost identical language found in the Preserve's enabling legislation.

Agency Response: As discussed in prior responses, the action at issue is authorized by the provision of the Preserve enabling legislation that mandates access for traditional cultural and customary uses of cultural and religious sites.

In addition, the commenter's citation requires correction. 16 U.S.C. § 698v-11(b)(10)(A)-(B) describes and lists the 15 volcanic domes within the Preserve that are to be safeguarded under that provision; it does not address tribal cultural or religious site access. The "sites described in subparagraph (A)" referenced in the access provision at 16 U.S.C. § 698v–11(b)(11)(B) refer instead to subparagraph (b)(11)(A), which directs that "[t]he Secretary, in consultation with Indian tribes and pueblos, shall ensure the protection of traditional cultural and religious sites in the Preserve." It is this subparagraph, not (b)(10)(A), that establishes the traditional cultural and religious sites to which (b)(11)(B) provides tribal access.

20. **American Indian Religious Freedom Act**: A commenter asserts that the EA misapplies the AIRFA reference contained in the Traditional, Cultural, and Religious Sites provision of Valles Caldera National Preserve's enabling legislation, Section 3043(b)(11), by construing its "access" language to authorize the killing of eagles by Jemez Pueblo members as a "customary use." The commenter raises several objections to this interpretation. First, the commenter contends that the enabling legislation reference to access for "customary uses" applies only to the specific sites, the volcanic domes, described in subparagraph (A) and listed in subparagraph (B), and not to the Preserve generally or to wildlife taking as a customary use independent of those sites. Second, the commenter argues that both the enabling legislation and AIRFA itself use "access" in its common sense, meaning ingress and egress to a site, not the killing of park wildlife, and that NPS's interpretation improperly conflates the two. Third, the commenter warns that if AIRFA's "access" language is read broadly enough to encompass the customary use of killing wildlife within Valles Caldera National Preserve, there would be nothing to distinguish the Preserve from any other unit of the National Park System, since AIRFA applies system-wide. The commenter contends that such an expansive reading would effectively authorize similar customary-use claims involving the taking of eagles, wildlife, or other natural resources by any Tribe or Pueblo associated with any park, which cannot be the correct meaning of AIRFA. Finally, the commenter asserts that it is insufficient for NPS to offer, for the first time in this EA, a new interpretation of AIRFA as authorizing access for the customary use of killing wildlife in parks, when NPS has never previously advanced or applied that interpretation elsewhere in the National Park System.

Agency Response: As discussed in the prior response, the commenter cites the wrong subparagraph for the sites at issue. The AIRFA reference in the Traditional, Cultural, and Religious Sites provision of Valles Caldera National Preserve enabling legislation guides the NPS's understanding of Congress's intent. In this context, the phrase "traditional cultural and customary uses" operates as an affirmative authorization for Indigenous practices that are integral to longstanding religious and cultural traditions, including those involving eagles for the Pueblo of Jemez. The NPS interprets "traditional cultural and customary uses" to include practices that Pueblo communities, including Jemez, have long associated with eagles for religious and ceremonial purposes. Congress directed the Secretary to accommodate, and the

NPS's interpretation reasonably gives effect to Congress's explicit accommodation mandate, rather than narrowing it to exclude practices not expressly listed.

The commenter's concern that this reading would apply system-wide to every unit of the National Park System misunderstands the basis for the action under consideration. The authorization at issue here does not rest on AIRFA standing alone, nor on a general NPS policy applicable across the National Park System. It rests on the specific statutory authority Congress provided in the Valles Caldera National Preserve enabling legislation itself, 16 U.S.C. § 698v–11(b)(11)(A)-(B), which directs the Secretary to protect traditional cultural and religious sites in this Preserve and to provide access to those sites for traditional cultural and customary uses by Tribes and Pueblos associated with Valles Caldera National Preserve specifically. This is a site-specific statutory mandate, not a freestanding interpretation of AIRFA intended to govern other parks. Because the authority derives from the particular enabling legislation applicable to the Preserve, the outcome here does not extend by implication to parks whose enabling legislation contains no comparable provision, and the commenter's concern about an unbounded, system-wide precedent is unfounded.

21. **Religious Freedom Restoration Act**: A commenter asked whether the NPS has determined, under the Religious Freedom Restoration Act (RFRA), that prohibiting take within the Preserve would substantially burden Jemez's religious exercise, and if so, what evidence establishes the religious necessity of this particular federal location as opposed to the necessity of capturing a live wild eagle elsewhere within the larger USFWS-authorized collection area.

Agency Response: The NPS's role is to consider the information provided by the Tribal Nation regarding the religious or ceremonial importance of the requested activity, and to evaluate the governmental interests at stake, including preservation of park wildlife, protection of cultural and archeological resources, and competing Tribal interests, in determining how to respond to a SUP request.

This EA does not adjudicate whether denial of access would constitute a substantial burden under RFRA. Rather, it utilizes information provided through Tribal consultation regarding the significance of this ceremonial use, and it analyzes the environmental effects of permitting the action, including the governmental interests and the resource protection measures developed to address them. It is the responsibility of the permit applicant to identify and articulate the religious or ceremonial significance of the requested activity, including why a particular location or method may be necessary to the exercise of that practice.

22. **Bald and Golden Eagle Act**: A concern was raised regarding the validity and legal sufficiency of the underlying BGEPA permit on which any USFWS authorization would depend. This concern includes an assertion that USFWS may possess evidence of an inaccurate or false report submitted for a prior reporting period, along with a take that may have occurred outside permitted dates, which would render the permit holder ineligible under

BGEPA. It also includes an assertion that a BGEPA permit, because it is discretionary rather than mandated by statute, cannot satisfy the "mandated, directly and specifically" standard required by 36 CFR 2.2(b)(3) for any act in derogation of park values and purposes. Finally, it includes an assertion that a BGEPA permit exempts a holder only from penalties under BGEPA itself, and does not provide exemption from other applicable laws or regulations, including 36 CFR 2.1 governing the taking of wildlife within units of the National Park System.

Agency Response: Determinations regarding an applicant's eligibility for a BGEPA permit, including the accuracy of reports submitted in connection with that Native American Eagle Take for Religious Purposes permit, compliance with permit terms and conditions, and any resulting eligibility determinations, are matters within USFWS's statutory authority and regulatory processes under 50 CFR Part 22. USFWS is responsible for determining eligibility for, and for administering, suspending, or revoking permits issued under 50 C.F.R. part 22. NPS does not determine the validity of Jemez's BGEPA permit, although NPS may investigate or act upon conduct that independently implicates NPS laws, regulations, resources, or NPS permit conditions.

The USFWS Native American Eagle Take for Religious Purposes permit provides the BGEPA authorization required for eagle take, but it does not itself authorize activity on NPS lands. Any NPS authorization must rest on separate NPS authority and remains subject to other applicable Federal and State laws.

The NPS's authority to allow this activity within the Preserve derives from the Preserve's enabling legislation, as discussed in prior responses, and Director's Order #53, which allows the Superintendent to permit special uses via Special Park Use Permits, as long as such use is not prohibited by law.

23. **NPS Issuance of an Eagle Take Permit**: A concern was raised regarding the legal sufficiency of a proposed approach in which the NPS would issue its own take permit in addition to, and alongside, an underlying permit issued under the BGEPA. The commenter asserts that an NPS permit cannot independently authorize conduct that is otherwise prohibited under NPS regulations absent a direct and specific statutory mandate, and that BGEPA does not amend the NPS Organic Act or other authorities governing the administration of the National Park System. The commenter further questions whether a general reference to AIRFA within the Preserve's enabling legislation provides a sufficient and specific statutory basis to satisfy the standard required under 36 C.F.R. § 2.2(b)(3).

Agency Response: As explained in response to related comments above, the authority for the proposed permit is grounded directly in the Preserve's enabling legislation. It is not based on a generalized invocation of AIRFA standing alone.

24. **Alternatives**: A commenter states that Tribes of the Four Corners region have funded and developed a raptor breeding program to provide feathers and birds to many Tribes for

traditional rituals without killing free-roaming eagles, which the commenter characterizes as belonging to all Americans. The commenter notes this program exists in addition to the USFWS National Eagle Repository, which provides eagle feathers and parts for religious and cultural purposes at no cost. The commenter suggests these existing alternatives make the proposed take of live eagles in the Preserve unnecessary.

Commenters questioned why the EA dismisses an access-without-in-park-take alternative as largely duplicative and not meaningfully different from the alternatives carried forward, given that such an alternative would permit Jemez's ceremonial access and camping, avoid intentional eagle mortality within the Preserve, eliminate the possibility of taking a resident park-associated golden eagle, avoid cultural effects specifically attributable to killing an eagle within Valles Caldera National Preserve, and avoid unresolved legal questions specific to NPS authorization of wildlife take.

Agency Response: The NPS acknowledged in Chapter 3 of the EA that other Tribal Nations may perceive the ceremonial activities associated with the proposed action as adverse to the archeological and ethnographic resources within the area. Such perceptions may stem from differing Tribal views regarding the appropriate treatment of eagles, the manner in which ceremonial activities are conducted, or the potential for these activities to disturb, diminish, or otherwise affect the integrity of resources that hold cultural, historical, or religious significance to those Tribal Nations.

The DOI NEPA Handbook (516 DM 1) provides that alternatives for an externally generated actions should be informed by the applicant's or external proponent's goals. The take of an eagle within the park was specifically cited within Jemez's permit application and is the stated goal and objective of their request. Therefore, because the purpose and need for this action is defined by Jemez's stated goal of taking an eagle within the park, the NPS considered alternatives within the agency's own authority and control.

While the actions within the permit application may be separable, Jemez did not request that they be separated, and the NPS is not in a position to determine the religious requirements of a Tribe's traditional practice or ceremony. It is not the NPS's role to decide which elements of a requested ceremonial activity are religiously necessary and which are not, or to unilaterally restructure a Tribe's request into a different proposal than the one submitted. The NPS evaluates the proposed action as requested by the applicant, informed by the information Jemez has provided regarding the religious and ceremonial significance of the activity as a whole.

NPS considered an alternative location for the take to occur, which was evaluated and dismissed from detailed analysis in Appendix B of the EA. Under this alternative, NPS would issue a SUP providing Jemez Pueblo access to the park for traditional cultural and religious activities associated with ceremonial practices, but would not authorize the take of bald or golden eagles within park boundaries. Access, campsite establishment, and other ceremonial activities would

follow procedures similar to those under the proposed action, including travel on foot from authorized parking areas and adherence to resource protection measures. Although eagle take would not be authorized within the park under this alternative, Jemez Pueblo would retain the ability to conduct authorized eagle take activities elsewhere within its USFWS-permitted collection area. Please refer to the EA for the rationale for why that alternative was considered but ultimately dismissed.

25. **Comments about the 2023 EA/Action**: Commenters compared the current EA's treatment of key issues to the NPS's 2023 EA for the same general activity. Commenters noted that in 2023, the NPS first issued an SUP authorizing ceremonial access, camping, exclusive use, and related activities without authorizing eagle take, and only amended that permit to authorize take after the FONSI was signed, demonstrating, in commenters' view, that the 2023 EA treated ceremonial access and eagle take as separable federal decisions.

    Commenters also asked why the 2026 EA characterizes effects on other Tribes more cautiously than the 2023 EA, despite the current Section 106 process having produced unresolved objections. Commenters noted that the 2023 EA expressly concluded that take of even one eagle could adversely affect the cultural values of Tribes and Pueblos opposed to ceremonial eagle take, whereas the 2026 EA states only that other Tribal Nations "may perceive" ceremonial activities as adverse to archaeological and ethnographic resources even as Appendix A discloses that Tribal consultation remains ongoing and that objections to the NPS's proposed No Adverse Effect finding were sufficient to prompt ACHP review. Commenters asked what new information or analytical basis supports this more qualified characterization in 2026, how the NPS incorporated the objections acknowledged in Appendix A into the EA's ethnographic resource analysis, and, if the NPS does not consider those objections to demonstrate a NEPA-cognizable environmental effect, what analytical distinction supports that conclusion given the agency's different treatment of comparable Tribal cultural effects in 2023.

Agency Response: This action is independent of the 2023 authorization and has independent utility. Each SUP request is evaluated on its own administrative record, consultation history, and environmental analysis at the time it is considered, rather than being bound by the structure or conclusions, from a past authorization. The fact that the 2023 process authorized ceremonial access and camping separately from eagle take does not require the NPS to structure or sequence its analysis the same way in this EA; the NPS retains discretion to evaluate the current proposed action, including the requested in-park take, as presented by the applicant and informed by the consultation record developed for this specific request.

The analysis in this EA is based on the NPS's current understanding of the affected environment, including current baseline conditions, and current consultation with Tribal Nations, which reflects information, perspectives, and input gathered specifically for this 2026 proposal. Where the EA's characterization of effects differs from the 2023 EA, that reflects the independent

analysis conducted for this action, informed by the consultation record and environmental information available and current as of this review, rather than a departure from or reversal of the 2023 findings. The NPS's conclusions in this EA stand on their own basis and are not required to replicate the analytical framework or conclusions reached in connection with a separate, prior authorization.

26. **National Historic Preservation Act/Tribal Consultation**: Commenters asked whether the NPS has analyzed all potentially relevant characteristics of the historic property affected by re-excavation of the ceremonial pits, noting that the EA's effects analysis focuses on previously disturbed soil to conclude the undertaking will not diminish archeological information potential under Criterion D, while Appendix A discloses that objections to the No Adverse Effect finding remain unresolved and have been referred to ACHP. Commenters asked whether the NPS evaluated whether the property's qualifying characteristics also include historic association, setting, feeling, or other cultural attributes, and if so, how limiting excavation to previously disturbed soil establishes no adverse effect on those characteristics. Commenters further asked how the NPS determined the EA's analysis is sufficient to support its proposed finding given the unresolved objections, particularly where SHPO's concurrence is conditioned on compliance with SUP stipulations that the NPS's own 2023 investigation calls into question.

    Commenters also asked whether public review, ACHP review, and ongoing Tribal consultation can meaningfully affect the decision before authorization begins on October 28, 2026. With Tribal consultation unresolved and ACHP review pending, commenters asked what practical opportunity remains to alter the proposed action, alternatives, conditions, or decision before activities commence, whether the NPS will delay authorization if ACHP recommends a different finding or further consultation, and whether the NPS will postpone the decision if public comments identify significant deficiencies, rather than proceeding on the existing schedule.

    Commenters stated that government-to-government consultation, initiated July 17, 2026, occurred after the NPS had already reached a No Adverse Effect finding, and that the objections prompted the NPS to request ACHP's opinion on October 1, 2026 regarding whether the adverse effect criteria were correctly applied, in light of consultation input. Commenters noted that the NPS must consider and conclude that ACHP process before issuing the SUP.

Agency Response: Impacts to archeological, ethnographic, and historic properties were analyzed and disclosed in Chapter 3 of the EA, as well as in the materials provided to all consulting parties, including the SHPO, ACHP, and Tribal Nations. This analysis documented the affected environment for these resources and evaluated the potential effects of the proposed action,