IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

PUEBLO OF SANTA CLARA,
a federally recognized Indian tribe,
and PUEBLO OF ZIA, a federally
recognized Indian tribe,

Plaintiffs,

v. **Civil Action No.: 26-3593**

NATIONAL PARK SERVICE;
JESSICA BOWRON, Acting Director of the
National Park Service;
MARTIN TRAYLOR, Acting Regional Director of the
National Park Service Intermountain Region; and
JORGE SILVA-BAÑUELOS, Superintendent of the
Valles Caldera National Preserve, all of whom are sued
in their official capacities,

Defendants.

VERIFIED COMPLAINT

Plaintiffs PUEBLO OF SANTA CLARA ("Santa Clara") and PUEBLO OF ZIA ("Zia"), both federally recognized Indian tribes (collectively, the "Pueblos"), by and through their undersigned counsel, for their Complaint against the Defendants, allege as follows:

INTRODUCTION

This is an action for injunctive relief, by which the Pueblos seek to enjoin Defendants from issuing a Special Use Permit ("SUP") to Jemez Pueblo ("Jemez") to conduct eagle take activities within the Valles Caldera National Preserve ("Preserve"), on the grounds that the Finding of No Significant Impact based on the 2026 Environmental Assessment, "Pueblo of

Jemez Special Use Permit for Traditional Religious Cultural Activities at Valles Caldera National Preserve" (hereinafter EA), executed on Monday, October 26, 2026, violates the National Environmental Policy Act, 42 U.S.C. §§ 4321 *et seq*. ("NEPA"), and issuance of the SUP would violate the terms of the Act that created the Preserve as a unit of the National Park System, 16 U.S.C. § 698v-11, and such action would thus be subject to challenge under the terms of the Administrative Procedure Act, 5 U.S.C. §§ 701 *et seq*. ("APA"), and that the issuance of the SUP would also violate the Pueblos' rights under the Religious Freedom Restoration Act, 42 U.S.C. §§ 2000bb *et seq*. ("RFRA"). The Pueblos allege that the grounds on which Congress created the Preserve within the National Park System, in order to "protect, preserve, and restore the fish, wildlife, ... cultural, archeological and recreational values of the area," 16 U.S.C. § 698v-11(b)(1), as well as the requirements of RFRA and NEPA, have been summarily disregarded and violated in a rush to issue the SUP. Both Pueblos have deep and meaningful connections to the Preserve and its wildlife, and the eagle populations of the Preserve are considered by the Pueblos to be integral parts of their cultural and religious practices within the Preserve, and essential to those practices, and should not be destroyed.

JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 (federal question), in that the action is brought pursuant to RFRA and to enforce NEPA and 16 U.S.C. § 698v-11, and regulations of the National Park Service, pursuant to the APA, and under 28 U.S.C. § 1362 (action brought by Indian tribe).

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), inasmuch as all of the actions from which the claims arise occurred within the District of New Mexico.

PARTIES

3. The Pueblo of Santa Clara is a sovereign Indian tribe, recognized as such by the United States, that has existed in its present location since time immemorial, and throughout that time has utilized culturally and religiously significant locations and resources within what is now the Valles Caldera National Preserve, a place of enormous religious and cultural importance to the Pueblo and its members. The Pueblo's lands abut the Preserve, and the Pueblo has entered into a multi-year agreement with the National Park Service to perform a variety of services and functions to protect and improve the Preserve's natural environment.

4. The Pueblo of Zia is a sovereign Indian tribe, recognized as such by the United States, that has existed at its present location since time immemorial. Zia's lands are directly south of the Preserve, and Zia has and regularly visits and utilizes numerous major culturally and religiously significant shrines within the Caldera. Members of the Pueblo often refer to the Caldera as their "cathedral." It is moreover the place where Zia's religious societies obtain plants with medicinal qualities for traditional healing purposes, and minerals for ceremonial purposes.

5. The National Park Service ("NPS") is an agency of the United States government, situated within the Department of the Interior.

6. Jessica Bowron is the Acting Director of the National Park Service. On information and belief, Bowron approved the actions of the other Defendants in this matter. She is sued in her official capacity.

7. Martin Traylor is the National Park Service Regional Director of the Intermountain Region, which includes New Mexico. He executed the Finding of No Significant Impact for the Jemez SUP. He is sued in his official capacity.

8. Jorge Silva-Bañuelos is the Superintendent of the Valles Caldera National Preserve, and is the official who would actually issue the SUP to Jemez. He is sued in his official capacity.

GENERAL ALLEGATIONS

9. The Valles Caldera National Preserve, established by Congress pursuant to the Valles Caldera Preservation Act,[1] consists primarily of the crater of a collapsed volcano, approximately fourteen miles in diameter, at an elevation of from 8000 feet to 11,250 feet, and includes four high-mountain valleys and at least ten resurgent volcanic domes.

10. The Preserve is the centerpiece of the Jemez Mountains of north-central New Mexico, approximately 77 miles northwest of Albuquerque, New Mexico, and 5 miles west of Los Alamos, New Mexico. It encompasses approximately 88,900 acres, 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.

11. Long prior to becoming a unit of the National Park System, the Preserve was an important and extensively utilized landscape, used by many Pueblos, including the Pueblo of Santa Clara and the Pueblo of Zia, for numerous traditional religious and cultural purposes,[2] and it continues to be utilized by Santa Clara, Zia and other Pueblos for such purposes.

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[1] 114 Stat. 598. *See* Valles Caldera Preservation Act of 2000, 16 U.S.C. §§ 698v-698v-10 (repealed 2014). Congress repealed and replaced the Preservation Act in the National Defense Authorization Act of 2015, Pub. L. No. 113-291, § 3043, 128 Stat. 3292, 3798, now codified at 16 U.S.C. § 698v-11, which placed the preserve under the jurisdiction of Defendant National Park Service.

[2] *See generally, Pueblo of Jemez v. United States*, 430 F. Supp. 3d 943, 958 (D.N.M. 2019),

12. In 2000, pursuant to the Valles Caldera Preservation Act (repealed in 2014), the United States acquired the tract that was then in private ownership and was known as Baca Location No. 1, and established the Valles Caldera National Preserve. The Act also enabled Santa Clara to acquire the portion of the tract containing the headwaters of Santa Clara Creek in the northeastern corner of Baca Location No. 1, consisting of approximately 5045 acres.

13. The Preservation Act stated that its purpose was "to protect and preserve scientific, scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values . . . and to provide for multiple use and sustained yield" of its renewable resources.[3]

14. Valles Caldera National Preserve was first established as a unit of the National Forest System and managed by the Valles Caldera Trust, a wholly owned government corporation overseen by a board of trustees appointed by the President. On December 19, 2014, following enactment of what is now 16 U.S.C. § 698v-11, the Preserve was redesignated as a unit of the National Park System. After a brief transition period, the NPS assumed management of the Preserve on October 1, 2015.

15. The enabling legislation that placed the Preserve under the National Park Service states its purpose as being "[t]o protect, preserve, and restore the fish, wildlife, watershed, natural, scientific, scenic, geologic, historic, cultural, archaeological, and recreational values of the . . . Valles Caldera National Preserve." 16 U.S.C. § 698v-11(b)(1).

16. By law, Santa Clara is a consulting party to land management plans affecting the Preserve (along with other Pueblos).[4]

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amended on reconsideration, 483 F. Supp. 3d 1024 (D.N.M. 2020), *aff'd in part, vacated in part, rev'd in part*, 63 F.4th 881 (10th Cir. 2023).

[3] 16 U.S.C. §§ 698v(b)(2) (repealed).

[4] 16 U.S.C. §§ 698v-11(b)(3)(C)(iii).

17. In November of 2022, Jemez obtained a permit from the U.S. Fish and Wildlife Service ("USFWS") to take multiple bald and golden eagles in an area encompassing Santa Fe, Sandoval, Rio Arriba, and San Miguel counties, New Mexico. The USFWS permit stipulated that the "permit does not authorize [the permittee] to conduct activities on lands outside the Pueblo of Jemez Reservation, including on Federal, State or other public or private property without additional prior written permits or permission from the landowner."

18. Sometime in 2023, NPS issued a special use permit to the Pueblo of Jemez for the purpose of conducting ceremonial activities within the Preserve. The permit allowed for exclusive ceremonial use of the permitted area in accordance with 36 C.F.R. § 1.5 and 16 U.S.C. § 698v-11(b)(11)(B)(ii) from October 13, 2023 through November 12, 2023. Prior to issuing that permit, NPS did not undertake consultation with any other tribes, contrary to its obligations under the National Historic Preservation Act.

19. In October, 2023, NPS issued an Environmental Assessment, "Eagle Take Within Valles Caldera National Preserve," which concluded that the "beneficial" impacts of allowing ceremonial practice" of taking eagles within the Preserve outweighed the "adverse impacts" to the cultural values of other Pueblos that did not support taking eagles. The Environmental Assessment was not circulated for public comment. NPS issued a FONSI based on that EA.

20. On information and belief, Jemez was issued a Special Use Permit by NPS allowing it to take one bald or golden eagle in the Preserve. Jemez thereafter conducted eagle take activities in the Preserve in October of 2023.

21. On information and belief, in 2023 Jemez committed numerous violations of both the USFWS eagle take permit and the NPS SUP by taking numerous eagles within the Preserve, not just the one that was permitted; taking eagles prior to permitted dates of take; using motor

vehicles within prohibited park areas; and digging trenches for water and for latrines, building structures, and damaging sensitive landscapes and habitat.

22. On information and belief, NPS conducted an investigation into these permit violations, including sending biological samples of bird remains to the National Fish & Wildlife Forensic Laboratory in Ashland, Oregon and requesting criminal charges be filed. No charges were filed, and the matter was apparently dropped.

23. On or before July 17, 2026, Jemez applied to NPS for a Special Use Permit in order to conduct eagle take activities in the Preserve for a month-long period in October and November of 2026.

24. NPS contacted Santa Clara and Zia, among other tribes, for government-to-government consultation under Section 106 of the National Historic Preservation Act ("NHPA") (54 U.S.C. § 306108) and its implementing regulations (36 C.F.R. Part 800) regarding the issuance of this permit, by letter from Defendant Silva-Bañuelos dated July 17, 2026.

25. In the request for consultation letter, NPS stated that Jemez was seeking to conduct eagle take activities within the Preserve as part of traditional cultural and religious practices.

26. NPS further stated that it had developed a proposed finding of "no adverse effect" on historic properties within the area of potential effects, "provided all permit stipulations are adhered to." It failed to note that Jemez had committed multiple violations of the permit issued in 2023.

27. NPS "emphasize[d] that this finding [was] proposed, not final," and if the Pueblo did not concur with this finding, then the matter would be referred to the Advisory Council on Historic Preservation ("ACHP") under 36 C.F.R. § 800.5(c)(2) for further procedural consideration under the applicable regulations.

28. On or about August 14, 2026, Governor James Naranjo of the Pueblo of Santa Clara sent Defendant Silva-Bañuelos the Pueblo's objections to the finding of "no adverse effect" to cultural properties in the Preserve due to activities allowed under the SUP. The Pueblo included a discussion of a number of potential harmful effects that would result from issuance of the SUP, stated that NPS was failing to follow the requirements of Section 106 of the NHPA, and stated its longstanding intimate relationship with the Preserve.

29. In August, 2026, Governor Boyd Toribio of the Pueblo of Zia sent Defendant Silva-Bañuelos a letter setting out Zia's objections to the proposed SUP.

30. Defendant Silva-Bañuelos subsequently met with the Santa Clara Tribal Council and with Zia elders and officials to discuss their objections to the SUP. Both Pueblos' representatives expressed their profound religious connections to the landscape of the Caldera and the plants and wildlife it contains, and stated that the Valles Caldera should remain a sanctuary for eagles and other non-game wildlife, and maintained their objections to the proposed issuance of the SUP.

31. NPS made no further effort to consult with either Pueblo to attempt to resolve their objections.

32. On or about October 1, 2026, NPS notified the Pueblos that it was requesting the opinion of the Advisory Council on Historic Preservation ("ACHP") on whether the criteria of adverse effect had been correctly applied to the federal undertaking, given that during tribal consultation NPS "received objections concerning potential effects on historic properties and their religious and cultural significance. Subsequent consultation has not resolved the disagreement regarding the proposed finding."

33. The October 1, 2026 notice that NPS sent to the Pueblos also notified the Pueblos that the Environmental Assessment ("EA") for the proposed undertaking of issuing the SUP to allow

eagle take activities in the Preserve, prepared according to NEPA, was now available for review and comment and that the comment period would close on October 16, 2026.

34. Santa Clara reviewed the EA and provided a public comment on or about October 16, 2026, disagreeing strongly with the NPS's proposed Finding of No Significant Impact ("FONSI") due to a number of deficiencies in the EA, including misleading or absent factual information, and flawed, incomplete and erroneous reasoning.

35. On or about October 26, 2026, NPS marked the end of the environmental review process for issuing the SUP by publishing a FONSI for the federal undertaking, signed by Defendant Traylor, which paves the way for NPS to issue the SUP to Jemez to conduct eagle take activities within the Preserve.

36. The FONSI, pertinent parts of which are attached hereto as Exhibit 1, rests its claim of legal authority for NPS to issue the SUP on the American Indian Religious Freedom Act, 2 U.S.C. § 1996 ("AIRFA"), and its mention in the enabling legislation for the Preserve, 16 U.S.C. § 698v-11(b)(11)(B)(i), but AIRFA only assures tribes rights of access to cultural sites, and that is all that the enabling legislation addresses, it does not provide authority for taking of eagles. *See* Exhibit 1 at 14, App. B at 16-18.

37. Both Pueblos continue to utilize many areas of the Preserve in the form of individual members and religious leaders gathering plants and minerals for traditional purposes, engaging in traditional ceremonial activities, and for other cultural and religious purposes. The gathering places and the traditional ceremonial activities are at various shrines and other sites and personal pilgrimages are to particular locations.

38. The Pueblos do not disclose where these sites of gathering, traditional activity, religious observance, or pilgrimage are located within the Preserve, because their religious leaders require this information to be kept confidential.

39. As noted in the EA, the SUP to be issued by NPS will close a significant portion of the Preserve to anyone but Jemez as the permittee, which infringes on members of the Pueblos' ability to engage in religious ceremonies and traditional activities in the Preserve.

40. Allowing harm to come to eagles in the Preserve is strongly against the Pueblos' cultural and religious values. The Pueblos believe that the taking of eagles within the Preserve would profoundly and adversely affect their cultural and religious relationship to the Preserve.

41. NPS has cited to no recent population studies, demographic statistics, or research into resident and migrant trends of eagles in New Mexico or in the Valles Caldera National Preserve that would show that this take would not adversely affect eagle populations in the Preserve.

42. The Cultural Report prepared for the Section 106 process and the EA both indirectly disclose information that indicates that the integrity of cultural and historic sites in the Preserve cannot be safeguarded by permit restrictions.

FIRST CLAIM: VIOLATION OF RELIGIOUS FREEDOM RESTORATION ACT

43. The Pueblos hereby incorporate the allegations of paragraphs 1 through 42, the same as if they had been set forth herein.

44. RFRA "prohibits the federal government from substantially burdening the religious freedom of individuals, unless it does so to forward a compelling governmental interest via the least restrictive means." *United States v. Wilgus*, 638 F.3d 1274, 1277 (10th Cir. 2011).

45. Santa Clara has a strongly held religious belief that eagles are sacred creatures, that the eagles that inhabit the Valles Caldera also include Santa Clara's adjacent lands within their range of occupancy, so that the eagles of the Caldera are seen as Santa Clara's eagles, and that those

eagles must be preserved and protected. Taking of these eagles constitutes a major breach of Santa Clara's religious beliefs.

46. Similarly, Zia, whose religion also considers eagles to be highly revered, views the Preserve as a sanctuary for non-game wildlife, especially eagles, and thus views taking of eagles in the Preserve to be a severe affront to their religious beliefs.

47. To allow Jemez members to take eagles from within the Preserve—even a single eagle--thus, would substantially burden both Santa Clara's and Zia's religious and cultural practices, by causing the destruction of eagles whose safety and protection in the landscape of the Caldera are major tenets of both Pueblos' religious beliefs. Both Pueblos view eagles as integral and irreplaceable aspects of their respective cultural and religious practices within the Preserve.

48. There is no "compelling governmental interest" in allowing Jemez members to take eagles from the Preserve, or, if there were, issuance of the SUP is far from the "least restrictive means" to further that interest. Jemez members still have a USFWS permit to take eagles on their own land or on other federal lands, and thus to deny the SUP does not leave Jemez without a means to obtain eagles for their religious purposes, but doing so would avoid the considerable burden on the sincere religious beliefs of Santa Clara and Zia that would result from issuance of the SUP.

49. Santa Clara and Zia are thus entitled to preliminary and permanent injunctive relief barring Defendants from issuing the SUP, or in any other way allowing the taking of eagles on the Preserve.

SECOND CLAIM: VIOLATION OF 16 U.S.C. § 698v-11 and NPS REGULATIONS

50. The Pueblos incorporate by reference the allegations of the preceding paragraphs 1 through 49 as if fully set forth herein.

51. The Preserve was designated as a unit of the National Park System in order to "protect, preserve, and restore the fish, wildlife, watershed, natural, scientific, scenic, geologic, historic, cultural, archaeological, and recreational values of the area." 16 U.S.C. § 698v-11(b)(1).

52. The Preserve's enabling legislation mandates that NPS "shall allow hunting, fishing, and trapping on land and water within the Preserve in accordance with applicable Federal and State law." 16 U.S.C. § 698v-11(b)(7)(A).

53. The Secretary "shall ensure the protection of traditional cultural and religious sites in the Preserve;" and provide "access" by Tribal or Pueblo members to sites for "traditional cultural and customary uses," in accordance with the 1978 American Indian Religious Freedom Act, 42 U.S.C. § 1996 ("AIRFA"). 16 U.S.C. § 698v-11(b)(11).

54. The Preserve's enabling legislation mandates that NPS protect traditional cultural and religious sites within the Preserve; it does not authorize any activity beyond providing access to traditional sites for customary uses.

55. NPS has promulgated regulations at 36 C.F.R. § 2.1 for the preservation of natural, cultural and archeological resources within the National Park System. 36 C.F.R. § 2.1(d) states that this "section shall not be construed as authorizing the taking, use, or possession of fish, wildlife, or plants for ceremonial or religious purposes, except for the gathering and removal of plants or plant parts by enrolled members of an Indian tribe [. . .], or where specifically authorized by federal statutory law [or] treaty."

56. NPS, in promulgating this regulation, specifically considered Native American ceremonial and religious use of wildlife, stating: "The Service recognizes that the American Indian Religious Freedom Act directs the exercise of discretion to accommodate Native religious practice consistent with statutory management obligations," yet "the National Park Service is

limited by law and regulations from authorizing the consumptive use of park resources." *See* General Regulations for Areas Administered by the National Park Service, 48 Fed. Reg. 30252, 30255 (June 30, 1983).

57. 36 C.F.R. § 2.1 does not authorize ceremonial or religious take of wildlife except where "specifically authorized by Federal statutory law, treaty rights, or in accordance with § 2.2 [prohibiting the taking of wildlife but authorizing hunting where designated by federal law] or § 2.3 [authorizing fishing]." No federal statute authorizes "religious take" of eagles in a unit of the National Park System.

58. 36 C.F.R. § 2.4 specifically prohibits the use of traps or nets in the units of the National Park System, but Jemez members have acknowledged that they intend to use traps and/or nets to take eagles in the Preserve if the SUP is issued.

59. The issuance of the FONSI constitutes a final agency action embodying the NPS determination that it is free to issue the proposed SUP to Jemez.

60. The issuance of the SUP, however, would clearly violate the Act creating the Preserve as a unit of the National Park System, and NPS's own regulations governing preservation of natural, cultural and archaeological resources within park units, as set forth above.

61. The proposed issuance of the SUP, therefore, would constitute action that is "arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law," and such action should thus be held unlawful and enjoined, pursuant to the Administrative Procedure Act, especially 5 U.S.C. §§ 702, 706.

62. The Pueblos are thus entitled to a preliminary and permanent injunction, pursuant to 5 U.S.C. § 705, enjoying Defendant from issuing the SUP to Jemez, or in any other manner allowing the taking of eagles within the Preserve.

THIRD CLAIM: VIOLATION OF NEPA

63. The Pueblos incorporate by reference the allegations of the preceding paragraphs 1 through 62 as if fully set forth herein.

64. NEPA requires federal agencies to provide a detailed statement on proposals for major federal actions significantly affecting the quality of the human environment. 42 U.S.C. §§ 4321 *et. seq*.

65. NEPA does not require agencies to reach particular substantive environmental results; rather, it requires only that the agency take a hard look at the environmental consequences before taking a major action. *See In Cure Land, LLC v. U.S. Department of Agriculture*, 833 F.3d 1223, 1229-30 (10th Cir. 2016).

66. Under NEPA, where it is unclear whether a proposed action's environmental effects will be significant, the agency may first prepare a less detailed environmental assessment (EA) rather than an environmental impact statement (EIS). 42 U.S.C.A. § 4332(C); 40 C.F.R. § 1501.4(b).

67. Under NEPA, if the EA leads the agency to conclude that the proposed action will not significantly affect the environment, the agency may issue a finding of no significant impact (FONSI) and proceed with the federal action. 42 U.S.C.A. § 4332(C); 40 C.F.R. § 1501.4(e).

68. A FONSI after an agency has prepared an EA under NEPA is considered final agency action and is therefore reviewable by a court under the Administrative Procedure Act, 5 U.S. Code § 706.

69. A NEPA purpose-and-need statement may not be drawn so narrowly that the agency's chosen alternative is the only conceivable result. *See Davis v. Mineta*, 302 F.3d 1104 (10th Cir. 2002); *Simmons v. U.S. Army Corps of Eng'rs*, 120 F.3d 664, 666 (7th Cir. 1997).

70. The "purpose-and-need" statement in the EA created by NPS with respect to the proposed issuance of the SUP to Jemez treats Jemez's application for the SUP to conduct eagle take activities in the Preserve as an automatic issuance because Jemez was already in possession of a permit from the USFWS, even though that permit does not allow eagle take activities to be conducted in the Preserve.

71. There is no relevant data upon which NPS can base the FONSI, because NPS has neither conducted any independent investigation or research or caused Jemez to present such data or research on which to base a FONSI, and instead NPS relies on environmental action statements prepared by USFWS in reissuing the 2025 and 2026 permits from USFWS to Jemez.

72. USFWS relies on eagle population statistics from various regional and national studies conducted from 2000-2022, with a most recent estimate in 2020, but none of which focus specifically on the Preserve or the Jemez Mountains.

73. NPS's EA relies on the environmental impact statement for eagle take from a USFWS programmatic agreement from 2016. This programmatic agreement is for the revision to the eagle rule which would allow ceremonial take by Indian Tribes; it contains no population statistics for the Preserve, nor any analysis of impacts of the SUP on other Pueblos concerned with the Preserve.

74. There is no reasoned explanation in the 2026 EA for how regional trends in eagle populations determined by USFWS stand in for the specific population dynamics of the Preserve, which is under NPS authority, or how removing any eagles affects the overall biological integrity of the Preserve.

75. Neither USFWS in reissuing its eagle take permit to Jemez, or NPS in the EA, even mention the permit violations committed by Jemez that occurred in 2023 when Jemez was last

authorized to conduct eagle take activities in the Preserve, or their environmental impact. There have been no studies of bald or golden eagles within the Preserve after the alleged 2023 violations, which may have included the take of 6 eagles, when only one was permitted by NPS.

76. NPS provides no data to support its reasoning that because USFWS has found that up to eight eagles may be taken within the USFWS permit area (which includes five New Mexico counties: Los Alamos, Rio Arriba, San Miguel, and Santa Fe), the taking of one eagle in the Preserve will have no significant impact.

77. There are no studies from which NPS can determine how eagle take activities affect the local populations of bald and golden eagles in the Preserve, and NPS has already determined that golden eagle numbers are already "low" and New Mexico has listed bald eagles as "threatened."

78. The FONSI issued by NPS assumes that all restrictions in the proposed SUP would be followed by Jemez, without mentioning or giving any consideration to the fact that in its last eagle take in the Preserve, Jemez committed numerous permit violations, nor does it suggest how such restrictions would be enforced..

79. The EA thus fails to constitute a good faith assessment of the potential impacts of the issuance of the SUP on the human or natural environment.

80. For NPS to issue the SUP on the basis of this EA, and the resulting FONSI, would thus constitute action that is "arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law," and such action should thus be held unlawful and enjoined, pursuant to the Administrative Procedure Act, especially 5 U.S.C. §§ 702, 706.

81. The Pueblos are thus entitled to preliminary and permanent injunctive relief, barring NPS from issuing the proposed SUP to Jemez.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court issue an order:

A. Declaring the FONSI issued by NPS, which paves the way for issuance of the SUP to allow Jemez to conduct eagle take activities within the Valles Caldera National Preserve, and the proposed issuance of the SUP, to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

B. Enjoining NPS, and all of its officials and employees from issuing the SUP to Jemez.

C. Granting such other and further relief as the Court deems just and appropriate in the circumstances.

Respectfully submitted,

ROTHSTEIN DONATELLI LLP

By: */s/ Richard W. Hughes*

Richard W. Hughes
Allison Athens
Matt VanWormer
Rothstein Donatelli LLP
1215 Paseo de Peralta
Santa Fe, NM 87501
Tel: 505-988-8004
rwhughes@rothsteinlaw.com
aathens@rothsteinlaw.com
mvanwormer@rothsteinlaw.com
Attorneys for the Pueblo of Santa Clara

Robert F. Medina, Esq.
Law Office of Robert F. Medina
989 Zia Blvd.
Zia Pueblo, New Mexico 87053-6025
Tel: 505-269-1147
1zialaw@gmail.com
Attorney for Pueblo of Zia