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County Manager

October 8, 2024

Via Email to objections-southwestern-regional-office@usda.gov and
theodore.wyka@nnsa.doe.gov

Reviewing Official Michiko Martin
Regional Forester
U.S. Department of Agriculture
333 Broadway Blvd SE
Albuquerque, NM 87102

Mr. Ted Wyka
Manager, Los Alamos Field Office
U.S. Department of Energy
National Nuclear Security Administration
3747 West Jemez Road
Los Alamos, NM 87544

**Subject: Objections to Los Alamos National Laboratory Electrical Power Capacity
Upgrade Project Final EA and Draft DN/FONSI and Associated Plan
Amendment to the Santa Fe National Forest's Land Management Plan
Assessment (DOE/EA-2199, August 2024)**

Dear Reviewing Official Martin and Mr. Wyka:

The Santa Fe County Board of County Commissioners (Board) hereby submits its objections to the Final Environmental Assessment (EA) and Draft Decision Notice (DN) and Finding of No Significant Impact (FONSI) for the Los Alamos National Laboratory (LANL) Electrical Power Capacity Upgrade Project and Associated Plan Amendment to the Santa Fe National Forest's Land Management Plan.

The proposed project (Project) involves the construction of an electrical power transmission line on public lands within the Caja del Rio area of Santa Fe County (County). The Final EA drafted by the Department of Energy (DOE) National Nuclear Security Administration (NNSA) in coordination with the U.S. Department of Agriculture, Forest Service (Forest Service), as a cooperating agency, and the U.S. Department of the Interior, Bureau of Land Management (BLM), analyzes only one action alternative, the Proposed Action, which involves the construction and maintenance of a new 115 kV electric power transmission line approximately 14 miles long, crossing through portions of Santa Fe County. The transmission line would require a perpetual right-of-way (ROW) of 50 feet from center line (100 feet total width). The Project would have continued operation and maintenance activities within that ROW, such as structure maintenance. Construction activities would have a temporary construction ROW of 200 feet.

This Project is subject to the objection process pursuant to 36 CFR 218, Subparts A and B and the proposed Forest Plan Amendment is subject to the objection process pursuant to 36 CFR 219 Subparts

A and B. The Board previously submitted timely and specific written comments regarding the project on or about January 8, 2024. The Board's objections below largely track with the previous comments submitted on January 8th.

1. New Scoping Is Needed.

The Santa Fe County Board of County Commissioners recommends that the Final EA be withdrawn and new scoping be conducted to ensure the scope of the Final EA includes the growing interest in the protection, conservation and the growing movement to designate the Caja del Rio as a National Monument in order to protect and preserve it as further explained below.

2. Inadequate Consultation with Stakeholders

NNSA and the Forest Service have not genuinely consulted appropriate stakeholders during the process. Federal agencies have independent statutory obligations under the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA). Federal courts have characterized both laws as requiring the Federal Government to "stop, look, and listen" before making decisions that might affect historic properties as one component of the human environment. *See, e.g., Muckleshoot Indian Tribe v. United States Forest Serv.*, 177 F.3d 800 (9th Cir. 1999).

Section 106 of the NHPA requires that federal agencies consider the effects of a federal undertaking on cultural resources that are included in or eligible for inclusion in the National Register of Historic Places (NRHP). The regulations implementing Section 106 of the NHPA, "Protection of Historic Properties" (36 C.F.R. Part 800), require Federal agencies to consult with the following stakeholders:

- State and Tribal Historic Preservation Officers (SHPOs/ THPOs);
- Federally recognized Indian tribes, including Native villages, Regional Corporations or Village Corporations, as those terms are defined in Section 3 of the Alaska Native Claims Settlement Act, and Native Hawaiian organizations (NHOs);
- Local governments;
- Applicants for Federal permits, licenses, or assistance;
- The National Park Service, if a National Historic Landmark may be affected by the undertaking; and,
- The Advisory Council on Historic Preservation (ACHP), if historic properties may be adversely affected or other circumstances warrant its participation, and where appropriate, during NEPA scoping, environmental analysis, and the preparation of NEPA documents

Consultation means the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the Section 106 process.

Neither NNSA nor the Forest Service has discussed or consulted with the Santa Fe County Board of County Commissioners regarding this Project. The consultation process with Pueblos also appears to have been minimized. Tribal governments impacted by this Project have objected to the construction, yet rather than listen to these concerns, the NNSA and the Forest Service have said that they will resolve any adverse effects to historic properties related to this Project through a Memorandum of Agreement (MOA). However, no tribes apparently have agreed to a MOA with the NNSA or the

Forest Service regarding this Project to date, and the details of such MOAs have not been provided, putting the proverbial cart before the horse.

In fact, we understand that the Pueblo of Tesuque has unequivocally rejected the draft decision and calls upon the Forest Service to immediately rescind its notice, as the preservation of the entire Caja del Rio Cultural landscape is necessary for the Pueblo of Tesuque's cultural survival. The All Pueblo Council of Governors through Resolutions (APCG Resolution 2021-13 and APCG Resolution 2024-01) also has urged the federal agencies to approach Tribal consultation that supports a Tribally-led ethnographic study to precede development decisions.

We support the Pueblo of Tesuque's request for a Tribally-led ethnographic study to comply with NEPA and NHPA Section 106. Without the completion of this study, any further development decisions are not only premature but also in direct violation of the federal government's legal obligations under NEPA and NHPA. The Tribally-led ethnographic study would take a comprehensive approach to identifying and evaluating the cultural resources, sacred sites, and traditional practices tied to the Caja del Rio landscape. In collaboration with Pueblos, the study would: (1) identify cultural and sacred site resources; (2) recommend sites potentially eligible for addition to the National Register of Historic Places within the context of the cultural landscape in which they occur; and (3) provide information on these cultural landscapes, cultural resources, sacred sites and traditional cultural practices to assist NNSA, Forest Service, and BLM in its preparation of any NEPA-required analyses and assessments, and other federal undertakings, on significant properties and important traditional practices under Section 106 of the NHPA.

3. Environmental Impact Statement (EIS) Needed.

The Caja del Rio has already suffered fragmentation from the Norton and Reeves transmission lines, which currently serve LANL. The ROWs associated with these lines have caused a proliferation of illegal and unmanaged off-highway vehicle use, illegal dumping, and "wildcat" firearm shooting activities. The Project would cut a new right of way across undeveloped portions of the Caja, including the Caja del Rio Cultural and Wildlife Special Management Area. The Final EA views this Project in isolation and does not take into consideration the overall effects that this Project would have on the Caja del Rio as a whole. Therefore, NNSA and the Forest Service have not undertaken a proper analysis of how its strategy would impact the total environment surrounding the Project and should be informed by the Tribally-led ethnographic study identified herein.

The Santa Fe National Forest designated the Caja del Rio as a Special Management Area in its 2022 Santa Fe National Forest Land Management Plan (Forest Plan). The designation followed many years of dedicated advocacy by thousands of community members and elected officials. The Forest Plan requires project proponents to "maximize use of existing utility line corridors for additional utility line needs" and expressly prohibits "new utility corridors and communication sites."

NEPA clearly requires a comprehensive EIS analysis before moving forward with a federal project like this one, as well as the critical analysis of impacts to sacred sites and cultural resources, which has the potential to cause significant cultural and environmental impacts. The Santa Fe National Forest Supervisor has the authority and obligation to apply the laws and regulations that apply to the Forest Service and to either deny NNSA's requests or require a more comprehensive analysis,

including, but not limited to, a Tribally-led ethnographic study, that would be in alignment with sovereign tribal nations traditional and political goals for the region.

4. Caja Del Rio Is Sacred to Many Pueblos and Traditional Communities.

The Board of County Commissioners has steadfastly supported the long-term protection, preservation, and responsible stewardship of the Caja del Rio landscape and has opposed any new development and construction of highways, power transmission lines, or other infrastructure encroachments on the landscape of the Caja del Rio. [Santa Fe County Resolution No. 2022-30.]

- The Caja del Rio acts as a lynchpin of wildlife connectivity and is essential for maintaining wildlife movement throughout the Upper Rio Grande; and preserving the Caja del Rio's historic and cultural context is critical for sustaining Santa Fe County's rich and diverse cultures, traditions, heritage, and the vibrant community we are blessed to collectively share.
- The Caja del Rio plateau has been inhabited by Native and Indigenous communities since time immemorial and is recognized by various Pueblos' traditional leadership as a significant region of cultural properties where Pueblo ancestors built housing structures, ceremonial kivas, roads, irrigation infrastructure, petroglyphs, and other cultural resources Santa Fe County's Caja del Rio Hispano communities, including Jacona, Agua Fria, La Cieneguilla, La Cienega, and La Bajada, remain deeply connected to the Caja del Rio and act as living repositories of traditional ecological and cultural knowledge of the area.
- The New Mexico Heritage Preservation Alliance has listed the Caja del Rio as one of the "most endangered places" in New Mexico.

Pueblos and traditional communities have opposed the EPCU Project due to the sacredness and traditional uses of the Caja del Rio. As mentioned above, the All Pueblo Council of Governors (APCG) passed APCG Resolution 2024-01 on June 27, 2024, which called on NNSA to pause the planning of the proposed project in order for a Pueblo-led study to be conducted, identifying important cultural resource information. Ancestral Pueblo people lived and stewarded this region since time immemorial. For many, it was an important place along their ancestral journey before migrating into their present-day homelands of today's Pueblos. The descendants of those who lived in the Caja del Rio still maintain deep connections to this sacred place through story, song, pilgrimage, prayer, and traditional use.

These considerations do not appear to have been addressed in the Final EA. The Final EA fails to meet the mandatory procedural obligations of both NEPA and NHPA in its incomplete identification of historic properties and sacred sites and lacks the rigorous cultural resource analysis required under Section 106.

5. Explain and Consider Additional Alternatives and Conversation Measures.

The Executive Summary states, "Electric power supply forecasts project that existing transmission lines that serve LANL and Los Alamos County will reach capacity before 2027, and DOE/NNSA will not have the electrical power supply to meet mission requirements." p. iii. Given that DOE is the federal agency in charge of energy conservation, the question remains as to what steps has LANL taken to implement conservation measures as an alternative to the EPCU Project? If reasonable

alternatives exist, NEPA and NHPA requires agencies to rigorously explore and objectively evaluate them.

In addition, while reconductoring existing lines was considered, other alternatives should be more fully considered. For example, attempts should be made to use existing right-of-way for the new transmission lines. Based on Table 1 below, it would appear that power lines can be routed along the existing Norton power line right-of-way, with less impact on the Caja del Rio. This would also be in accordance with the existing Forest Plan, Standard for Caja del Rio Wildlife and Cultural Interpretive Area (MA-CAJA-S, pg. 201), to wit: “Maximize use of existing utility line corridors for additional utility line needs. New utility corridors and communication sites will not be allowed.”

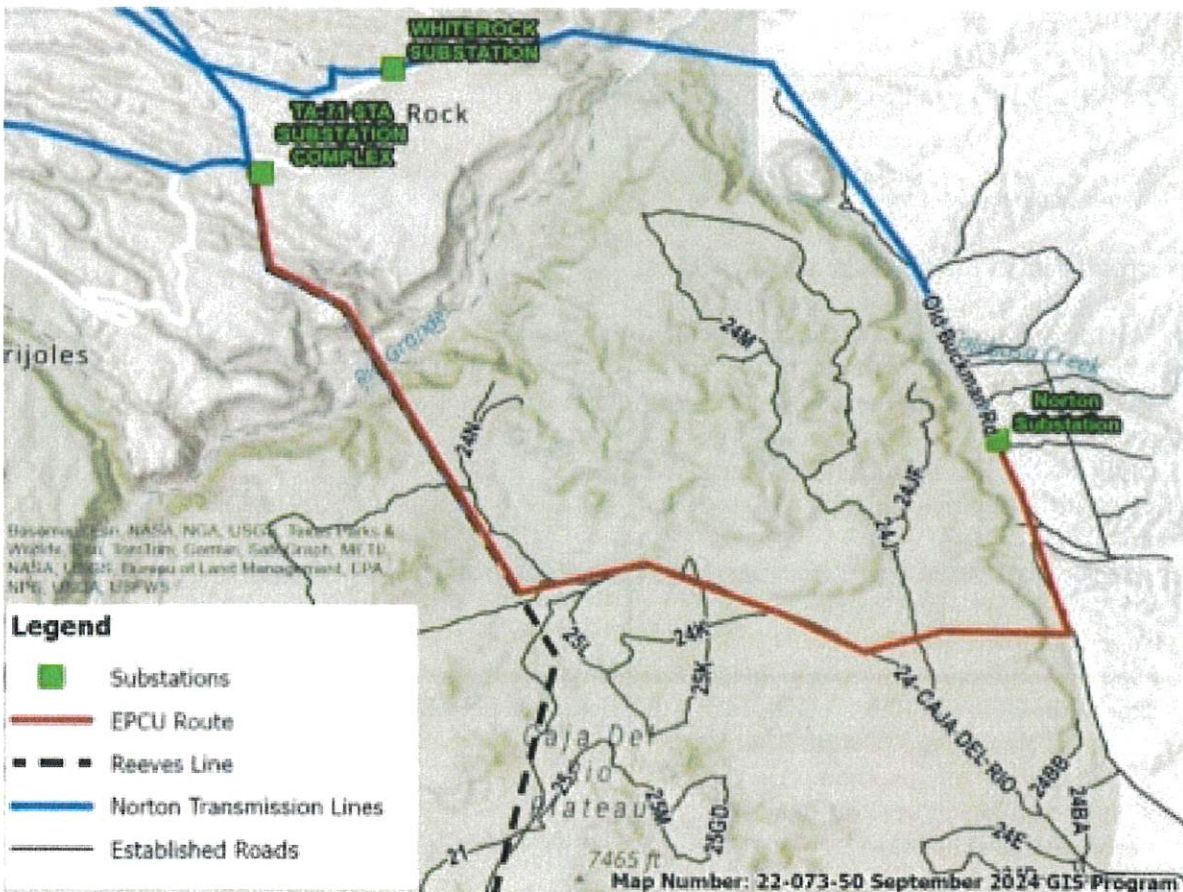


Table 1. DOE Fact Sheet: Powering Los Alamos National Laboratory

6. Conclusion

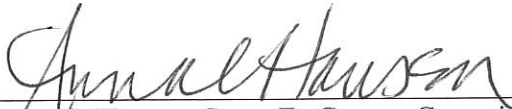
In summary, the importance of the Caja del Rio to Santa Fe County and the Pueblos cannot be overstated. We have called upon the President of the United States and U.S. Congress to protect the Caja del Rio, and now call upon NNSA and the Forest Service to do the same. NNSA and the Forest Service should conduct further analysis through an Environmental Impact Statement as required by NEPA and genuinely collaborate with affected stakeholders, including Santa Fe County and Pueblo governments, to conduct a comprehensive Tribally-led ethnographic study and explore alternative solutions.

Thank you in advance for considering our comments.

Respectfully,



Hank Hughes, Chair
Board of County Commissioners for Santa Fe County



Anna C. Hansen, Santa Fe County Commissioner, District 2

This letter has been sent to:

US Department of Energy Secretary Granholm
US Department of Agriculture Secretary Vilsack
US Department of Agriculture Deputy Xochitl Torres Small
US DOE, NNSA Under Secretary Hruby
US DOE, Environmental Management, Senior Advisor Candice Robertson
US DOE, NNSA LANL Manager Wyka
US DOE, NNSA NEPA Document Manager Maxted
Senator Martin Heinrich
Senator Ben Ray Lujan
Representatives Teresa Leger Fernandez, Melanie Stansbury, and Gabriel Vasquez
Governor Michele Lujan Grisham
Lt. Governor Howie Morales
New Mexico Environment Department Secretary James Kenney
Speaker of the House of Representatives of New Mexico Javier Martinez
Leader of the New Mexico Senate Peter Wirth
All Pueblo Council of Governors
Eight Northern Indian Pueblos Council
Governor of Acoma Pueblo
Governor of Cochiti Pueblo
Governor of Isleta Pueblo
Governor of Jemez Pueblo
Governor of Kewa Pueblo
Governor of Laguna Pueblo
Governor of Nambé Pueblo
Governor of Ohkay Owingeh
Governor of Picuris Pueblo
Governor of Pojoaque Pueblo
Governor of San Felipe Pueblo
Governor of San Ildefonso Pueblo
Governor of Sandia Pueblo

Governor of Santa Ana Pueblo
Governor of Santa Clara Pueblo
Governor of Taos Pueblo
Governor of Tesuque Pueblo
Governor of Ysleta del Sur Pueblo
Governor of Zia Pueblo
Governor of Zuni Pueblo

