

February 22, 2022

USDA Forest Service, Southwestern Region
Santa Fe National Forest

Via email to: Debbie Cress, Forest Supervisor; debbie.cress@usda.gov

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Via certified mail to: Forest Supervisor; Santa Fe National Forest; 11 Forest Lane; Santa Fe,
NM 87508

Re: Serious concerns and requests regarding the Encino Vista Project, presented to Santa Fe National Forest in meeting of February 10, 2022, 10:30 a.m.

Dear Supervisor Cress,

Thank you very much again for taking the time to meet to hear and consider our serious concerns and requests regarding the Encino Vista Project. **This letter memorializes our concerns presented and requests made in the hope that the Santa Fe National Forest will review and take them into account before making further decisions about the Project.**

Ten persons attended the meeting: the six officers of Santa Fe National Forest addressed above, and the following four undersigned presenters:

Melissa-Roxanne Velasquez, representative of the Juan Bautista Valdez Land Grant Advisory Group and member of the Cañones community

Jonathan Glass, writer for The Forest Advocate

Sam Hitt of the Santa Fe Forest Coalition and Wild Watershed

John Britt, member of the Cañones community

The four presentations involved concerns about the Encino Vista Project and requests of the Forest Service as follows:

1) Presentation by Melissa-Roxanne Velasquez

Federal Guidelines: In 1994, President Clinton issued [Executive Order 12898](#) entitled “Federal Actions To Address Environmental Justice in Minority Populations and Low-Income

Populations” in order to address environmental injustice, of which New Mexico, for one, has a long history. Key parts of President Clinton’s order direct federal agencies to ensure greater public participation in minority communities and to improve research relating to the health and environment of minority populations. The order also directs agencies to

ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

[§ 5-5(c)]

The [USDA’s Environmental Justice Strategy](#) implementing this executive order sets out for its agencies two important “Agency Performance Measures”:

Identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations. [Goal 4, table on p. 20]

and

Incorporate environmental justice evaluations into Environmental Assessments and Environmental Impact Statements, as appropriate, along with potential avoidance, minimization and mitigation options, and agencies will provide any necessary outreach. [Goal 4, table on p. 20]

It is helpful to keep these directives in mind while considering the following. This meeting was put together to discuss our perspective on the Forest Service’s process regarding the Encino Vista Project and to highlight significant impacts of the Project on surrounding communities.

Cañones Community: Cañones is a small rural community below the project area with about a hundred residents, predominantly Spanish speaking. Cañones’ residents are ancestral and generational with small economies mostly sustained by living off the land: ranching, farming, wood gathering. Most students who attend college are among the first in their families to do so. The community in general is considered a low income, minority population.

Primary Concerns: When the community first learned of the Encino Vista Project, it held a series of community meetings to which the Forest Service was invited. The Forest Service never attended any of these meetings. During the meetings, the community developed comments responsive to the Encino Vista Scoping Document. As the Forest Service can see from the community’s scoping comments, 13 specific items of concern were raised. Primary concerns, which fall under three categories, include:

FIRST Communication and NEPA process: The community was largely overlooked during the scoping phase of the NEPA process. No community organization received a scoping letter. Prior to the scoping phase, no Forest Service official ever attempted to make contact with any representatives of the community regarding the Project or implications of the Project. This is a primary concern because Cañones is the community most directly affected by the Project, as it lies right below the Project area. The community has since gotten on the mailing list for the Project and hopes to strengthen its

relationship with the Forest Service. However, the community feels disrespected by the Forest Service's [response to the scoping comments](#) which states:

As the Responsible Official, I have determined that no significant issues were raised during scoping. [p. 52]

The person making this declaration (signed on September 1, 2021) was neither present at the scoping meetings nor made any attempt to introduce himself or herself to the Cañones community as the leader of the Encino Vista Project.

SECOND Scope, magnitude, acreage, and timeline of treatment: The acreage is expansive compared with past Santa Fe National Forest projects, and specific treatment areas have not been disclosed. Since the time this point was raised at the December 2019 scoping meeting, **the Forest Service has provided no further detail about which types of treatments will occur in which sections of the Project Area.**

THIRD Potential impacts and implications of the Project, including floods and escaped fires: **Treatments may cause massive flood events, and escaped fires could lead to catastrophic fire through the canyon. Other impacts of concern include the health of nearby residents as a result of smoke, other disturbances to the environment, the well-being of threatened and endangered species, and the effect of the Project on cultural resources.**

The Cañones community currently experiences massive flood flows from just regular rainfall events. Reducing stands by thinning in the upper mesas would further increase these flows, which could be catastrophic. **The community has requested contingency plans, but the Forest Service has provided none.**

Santa Fe National Forest's scoping process for the Encino Vista Project was drastically different from those implemented for comparably important projects in the past. The differences in scoping include the extent of public meetings, news releases, and opportunities for project-specific element discussions.

It is requested that a comprehensive scoping phase be executed for the Project and that a more detailed analysis of cumulative effects be provided to the public for its review.

2) Presentation by Jonathan Glass

Overview of Two Santa Fe National Forest Projects: The Encino Vista Project and the Southwest Jemez Mountains Projects are believed to be *the largest projects ever scoped by Santa Fe National Forest*. Both projects are in the Jemez Mountains, and the Project Area of each project when scoped was over 100,000 acres. Similarly, the Proposed Actions for each project at the time of scoping suggested cutting and burning approximately 100,000 acres. These Proposed Actions also each involved generating commercial wood products from the forest. General facts about the projects at the time of scoping are shown in Table A:

Table A

	<u>Encino Vista Project</u>	<u>SW Jemez Mountains Project</u>
Total Project Area	128,000 ac	110,000 ac
Elevation range	6,450-10,600 ft	5,500-10,109 ft
Total area to be cut and/or burned in the Proposed Action presented at Scoping	110,213 ac	up to 103,400 ac
Commercial wood products anticipated to be generated from Proposed Action	Yes	Yes

Public Outreach: In the December 2019 scoping meeting for Encino Vista, the Forest Service indicated a strong desire to include the public in project planning. To help assess the degree to which that happened, elements of the Encino Vista scoping process may be compared to corresponding elements of Santa Fe National Forest’s Southwest Jemez Mountains Project; see Table B:

Table B

	<u>Encino Vista Project</u>	<u>SW Jemez Mountains Project</u> ¹
Number of Pre-Scoping public meetings about Project	1	6
Number of media outlets sent publicity about Proposed Action, public meetings, and field trips before and during Scoping Period	0	5
Santa Fe National Forest issued news release with notification of public Scoping meetings	No	<u>Yes</u>
Number of public Scoping meetings about Project	1	4
Number of public field trips before and during Scoping Period	0	3
Number of field trips for conservation organizations and wildlife agencies	0	1
Number of Scoping Comments received from members of public about Project	14	90

For the Encino Vista Project, there was one pre-scoping meeting in Gallina in October 2019, about 2 months before scoping. For the Southwest Jemez Project, the Forest Service publicized

¹ Data on SW Jemez Mountains Project public involvement from [Draft Scoping Report for Southwest Jemez Mountains Restoration](#), Summary of Public Involvement Efforts, p. 1

and staged 6 different pre-scoping meetings, 3 in Jemez Springs, and 3 in Santa Fe. These meetings were all 3-4 months before scoping, and they attracted 98 attendees.

For the Southwest Jemez Project, the Forest Service publicized the Proposed Action, meetings, and field trips by notifying the Los Alamos Monitor, the Jemez Thunder, the Santa Fe New Mexican, the Albuquerque Journal, and also public radio - KUNM Albuquerque. **No such publicity was done for the Encino Vista Project.**

Santa Fe National Forest has a long history of keeping the public informed with news releases which are issued when things happen that people may want to know about – this includes forest things both large and small. The scoping for the Southwest Jemez Project was, naturally, announced in a news release.

In 2019, the year of the Encino Vista Project scoping, Santa Fe National Forest issued 138 news releases. One of these was the scoping announcement for the Santa Fe Mountains Project, which at about 50,000 acres is the largest project ever scoped for the east side of the Forest, by Santa Fe.

Another 2019 news release, for example, announced a resumption of firewood permit sales at Jemez Pueblo.

In October 2019, the same month as the pre-scoping meeting for Encino Vista, Santa Fe National Forest issued a news release stating that they were planning a prescribed burn to clean up some woody debris on the Coyote Ranger District. **This prescribed burn was not the only prescribed burn, of course, being planned on the Coyote District, but Santa Fe National Forest chose not to issue a news release about the upcoming scoping of the Encino Vista Project. There has still never been a news release issued about the Project by the Forest Service.**

During the scoping period for the Southwest Jemez Project, the Forest Service held one scoping meeting in Jemez Springs, one in Santa Fe, and two in Albuquerque. These meetings drew 81 attendees. For the Southwest Jemez Project, the Forest Service also invited the public on three separate field trips so that people could see examples of the types of work proposed for the forest, and so that they could ask questions and discuss the risks and benefits of the project with Forest Service staff. For the Southwest Jemez Project, there was also a field trip taken for conservation organizations and wildlife agencies.

The Forest Service invited the public to no field trips regarding the Encino Vista Project.

The number of scoping comments received by the Forest Service about the different projects are as different as their scoping efforts for each project: 14 for Encino Vista, and 90 for Southwest Jemez.

Environmental Justice: The Encino Vista Project Area is located in Rio Arriba County, and the Southwest Jemez Project Area is located in Sandoval County. Basic demographic information for each county is listed in Table C, below. Note that Sandoval County's demographic characteristics are fairly comparable to those of the United States as a whole.

Table C

	<u>Encino Vista Project</u>	<u>SW Jemez Mountains Project</u>
County ²	<u>Rio Arriba</u>	<u>Sandoval</u>
Poverty rate (county)	24.1%	9.4%
Per capita income (county)	\$22,911	\$32,560
Language of adults at home is English only (county)	36%	71%
Bachelor's degree (county)	19.3%	33%
Geographical mobility ³ (county)	6%	11.9%

Rio Arriba County has more than twice the poverty rate as Sandoval County, and only 36 percent of adults in Rio Arriba County speak only English at home. The predominant language of Rio Arriba County is Spanish, and fewer than 20 percent of persons over 25 in Rio Arriba County have a Bachelor's degree.

The geographical mobility in Rio Arriba County – the rate at which people move to a new home each year – is about half the corresponding rate in Sandoval County. This is indicative of Rio Arriba County's population being particularly land-based; some in the community of Cañones, for example, have not moved for generations.

Given the economic, linguistic, and educational characteristics of the communities around the Encino Vista Project Area, and judging from the tenets of the [USDA's Environmental Justice Strategy](#), **the amount of public outreach for the Encino Vista Project, including pre-scoping meetings, scoping meetings, field trips, media exposure, and news releases, would all be expected to be much more for the Encino Vista Project than for the Southwest Jemez Project, not much less, as has been the case.**

Public Disclosure: After receiving the 14 scoping comments about the Encino Vista Project, the Forest Service decided not to upload them to an online reading room. As a result, the public could not see the public's comments.

The [USDA FOIA regulations](#) indicate that uploading items of public interest to an online reading room is not merely a courtesy to the public. Instead, the regulations state that the Forest Service is responsible for identifying, indexing and posting in an online reading room, records of public interest which the agency deems "appropriate for public disclosure." [[7 CFR § 1.2\(a\)](#)]

As a result, after the Encino Vista scoping, the agency needed to ask itself whether there would be public interest in the scoping comments, and also to ask itself whether the public comments

² County data from US Census Bureau's American Community Survey (ACS), 2019, via [Census Reporter](#)

³ Percent of people who moved since the previous year

were appropriate for public disclosure. **For the Encino Vista scoping, the agency's answer to these two questions was clearly "No."** The agency has furthermore declared that no significant issues were raised during scoping. The three undersigned authors of Encino Vista scoping comments (Melissa-Roxanne Velasquez, myself, and Sam Hitt) vigorously disagree with that statement and urge the agency to search deeply and impartially for the significance of the extensive concerns about impacts of the Encino Vista Project which they have clearly brought to the agency's attention.

3) Presentation by Sam Hitt

NEPA Requirements: NEPA is our national charter for the environment. It is the federal government's response to a broad citizen movement that demanded protection of the biosphere back in the late 60s and 70s. NEPA enables the owners – that is us, the citizens – of public lands to hold its managers – that is the US Forest Service – accountable for its impacts to our shared environment. The key to this accountability is a requirement in law to prepare an Environmental Impact Statement in those cases where a major federal action has the potential – not the certainty – the potential to result in significant impacts. **If only an environmental assessment is prepared, as apparently the Forest Service is planning for the Encino Vista Project, the agency is still required to take the "hard look" and prepare a convincing statement of reasons showing that the impacts will be in fact insignificant.**

In the case of the Encino Vista Project, a finding of insignificant impacts appears impossible because of the area's long history of commercial logging to supply raw material to the timber mills in Espanola and Cuba through the 1950s, 60s, 70s, and up until the 80s. These impacts have resulted in lasting, and in some cases irreversible, impacts to nearby forest communities. In addition, these actions are threatening one of the last secure populations of our state fish - the Rio Grande cutthroat trout.

It is important to note that this project was scoped before Sep 14, 2020. Therefore, the Forest Service must comply with the then-existing Forest Service NEPA regulations and the Council on Environmental Quality's 1978 NEPA regulations that require complete, comprehensive analysis of the cumulative impacts, along with the direct and indirect impacts, of the Proposed Action.

Prior Logging in the Encino Vista Project Area: There has been a lot of logging in the Cañones Creek Watershed, including from the following six commercial logging operations :

- 1) A massive operation in the early 1970s clear cut several square miles in the headwaters of Cañones Creek - all the forests between Cerro Pavo and Cerro del Grant. This occurred mostly in high elevation spruce fir. The excuse at that time was to control a native insect – the spruce beetle. The real reason was to supply the mills with Espanola and Cuba which were running 24 hours a day during those years.
- 2) The Mesa del Medio logging project was a clear cut that consumed most of the southwest portion of the Cañones Creek watershed. The project went on from the

mid-1960s until the mid-70s. **The sparse regeneration since then points to the long lasting impacts.**

3) Around this time there was major cutting east of Cañones Creek, from the confluence of the Chihuahueros to the headwaters of Cañones Creek. Most of the Cañoncito Seco and the Polvadera Creek area, however, were not cut.

4) The Cerro Valdez Timber Sale occurred in the mid-1980s and cut a huge swath of the western portion of the watershed, mostly west of Cañones Creek.

5) Around the same time there was the Valle Project, which cut more land around Cañones Creek, and included the forest around Flavio and La Jara Springs.

6) More recently was the Pavo Cut - a commercial logging operation that occurred again in the headwaters of Cañones Creek.

There seems to be kind of a widespread amnesia within the agency, probably due to the frequent staff changes in Santa Fe National Forest as well as other national forests. **It is useful, though, to remember the extent of past logging in the Encino Vista Project Area, as well as to remember that the Audubon Society went to federal court in the mid 1980s to stop a steep slope logging operation along Cañones Creek.** The Audubon was represented at the time by the New Mexico Environmental Law Center. They were concerned about the impacts not only to the trout, but to wildlife in general and to the impoverished community nearby. Judge Edwin Mechem, the former governor of New Mexico, who was at that time a federal judge in Albuquerque, stopped the project with a restraining order that basically halted steep slope logging for commercial purposes. That was a very controversial subject back in the late 1980s when the original Santa Fe National Forest Plan was being developed.

Cutthroat Trout: Cutthroat trout now occupies only about 10 percent of its historic range. There are about 120 known populations in northern New Mexico and southern Colorado, but only 13 of those are considered “secure” by US Fish and Wildlife Service. **The cutthroat trout population in Cañones Creek is one of those – one of only 13 on the planet.**

There have been two cutthroat trout status reviews by USFWS; one did not propose listing under the Endangered Species Act, and one did. Now they are doing a third status review because a federal judge told them to back in 2019. In the meantime, even the populations deemed secure have drastically fallen in size, probably due to the warming climate.

Forest Service’s Responses to Public Scoping Comments: There are numerous serious issues with the Forest Service’s [response to the Encino Vista scoping comments](#) which will be addressed in forthcoming comments. In the meantime, the agency should be aware of the importance of shared mycorrhizal networks, as they are absolutely vital to the long term functioning of the forest. **There has been much excellent recent research done on shared mycorrhizal networks which the Forest Service must take into account. The agency’s response to scoping comments on the topic only had to do with individual species of**

mycorrhizal fungi, not to the shared networks of them which are so critical to the long term sustainability of the forest.

4) Presentation by John Britt

At the Encino Vista scoping meeting in December 2019, much was offered to the attendees and to the public in terms of input and project planning. **It is vital that the agency's promises in this regard are upheld. This community is very unique in the world, and in New Mexico, and its fish population is very important. The Cañones community and other affected communities want to be sure that they have meaningful input regarding the Encino Vista Project. It is requested that the Forest Service considers the communities' comments because people in these communities will be impacted directly by the Project.**

CONCLUSION

The undersigned entreat Santa Fe National Forest to **prepare, as required by law, an Environmental Impact Statement for the Encino Vista Project** which

contains complete and impartial analysis of the environmental impacts of the Project,

and which is publicized by

maximum levels of public outreach encouraging full community participation in Project planning.

We thank you for your attention.

Yours sincerely,

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