



**National Park Service
US Department of the Interior**

Valles Caldera National Preserve

**FINDING OF NO SIGNIFICANT IMPACT - Eagle Take Within Valles
Caldera National Preserve Environmental Assessment**

Approved:

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Director, National Park Service

Date

FINDING OF NO SIGNIFICANT IMPACT

1.1 INTRODUCTION

In compliance with the National Environmental Policy Act (NEPA), the National Park Service (NPS) prepared an Environmental Assessment (EA) to examine alternative actions and environmental impacts associated with eagle take by the Eagle Society of the Pueblo of Jemez at Valles Caldera National Preserve (the park). The park received a special use permit application from the Pueblo of Jemez for the take of a golden or bald eagle.

The statements and conclusions reached in this Finding of No Significant Impact (FONSI) are based on documentation and analysis provided in the EA and associated decision file. Relevant sections of the EA are summarized and incorporated by reference below.

The NPS received a Special Use Permit application on September 8, 2023 for the take of a bald or golden eagle in the park, consistent with their U.S. Fish and Wildlife Service (USFWS) permit # MB72632A. The USFWS permit allows take of up to 8 bald and/or golden eagles in an area encompassing Santa Fe, Sandoval, Rio Arriba, and San Miguel counties, New Mexico. NPS did not have time to circulate the EA to the public because of the limited window of time between application submittal and the start of the ceremonial period within which the proposed eagle take would occur. Public comment on an EA is only required to the extent practicable and due to the circumstances, NPS determined public review was not practicable. Ceremonial activities conducted by the Pueblo of Jemez are independently evaluated from the take of eagles since those activities would occur regardless of whether NPS authorizes take of one bald or golden eagle in the park, consistent with the seasonal requirements in the USFWS permit.

1.2 SELECTED ALTERNATIVE AND RATIONALE FOR DECISION

1.2.1 Selected Alternative

The NPS analyzed three alternatives in detail in the EA. Based on this analysis, the NPS selected alternative 3 as the alternative for implementation because it best meets the purpose of, and need for action, without causing significant impacts on park resources. The selected alternative is described in the EA, Chapter 2.

Under the selected alternative, the NPS would authorize the Eagle Society of the Pueblo of Jemez to take one (1) adult bald eagle or one (1) golden eagle within the park in compliance with the terms of U.S. Fish and Wildlife Service permit # MB72632A. A golden eagle could be taken during the time period specified in the permit that has already been issued to the Pueblo of Jemez for access to the park for ceremonial use of the northwestern corner of the park (October 13 to November 12, 2023). A bald eagle could be taken between November 1 and November 12, 2023 (bald eagles may only be taken under the USFWS permit between November 1 and February 28). During those time periods, the Eagle Society of the Pueblo of Jemez could attempt to capture and take up to one eagle utilizing traditional methods during a religious ceremony. Under the selected alternative, “take,” consistent with the Bald and Golden Eagle Act means, “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb” (50 CFR § 22.6).

1.2.2 Rationale

The selected alternative best meets the purpose and need by providing the take of a bald or golden eagle while also protecting the park's resources. While NPS would not typically allow take of an eagle under the Bald and Golden Eagle Protection Act, the issuance of the permit for take of a golden or bald eagle in this instance supports the park purpose to provide cultural connectivity between the Pueblo of Jemez and their ancestral lands and is consistent with the thousands of years of human use of the park for hunting and gathering, seasonal habitation, and ceremonial pilgrimage for which the park was established to protect.

The NPS evaluated the take of four bald and/or golden eagles in alternative 2 but did not select this alternative because of potential impacts to the golden eagle population. As noted in the EA, the golden eagle population that uses the park is small and the regional population is experiencing a slight decline. Because of this NPS selected the alternative that would help fulfill the park's purpose to provide cultural connection by supporting ceremonial activities by the Eagle Society of the Pueblo of Jemez within the park, but would limit take of an eagle to only one to ensure that the take did not result in significant impacts to the golden eagle population.

NPS also evaluated the No-Action alternative under which NPS would not have authorized take of an eagle within the Park. NPS did not select that alternative because it did not best support the purpose and fundamental values of the park and because the information available on regional eagle populations support that one eagle, either golden or bald, could be taken without causing a significant impact to either bald or golden eagles and without resulting in impairment of park resources. Thus, NPS did not select the No-Action alternative.

1.2.3 Mitigation Measures

The NPS places strong emphasis on avoiding, minimizing, and mitigating potentially adverse environmental impacts. NPS has selected the alternative that best meets the park's purpose while protecting park resources.

1.3 FINDING OF NO SIGNIFICANT IMPACTS

A description of all potential environmental effects associated with the take of a bald or golden eagle and other alternatives are included in the EA and incorporated by reference herein (40 CFR 1501.6(b)).

Consistent with Council on Environmental Quality (CEQ) regulations § 1501.3(b), the National Park Service evaluates the significance of the selected alternative by evaluating the potentially affected environment and the degree of effect of the action including effects on public health and safety and effects that would violate Federal, State, Tribal, or local laws protecting the environment. This significance determination considers the effects of the selected alternative of the take of a bald or golden eagle on the resources within the park.

Resources within the potentially affected environment that may be beneficially or adversely impacted include bald and golden eagles and ethnographic resources. Other resources will be so minimally impacted that they are not analyzed in detail in the EA.

1.3.1 Potentially Affected Environment (Context)

Valles Caldera National Preserve is 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 35,977 ha (88,900 ac) and is surrounded by the U.S. Forest Service's (USFS) Santa Fe National Forest (NF) along its northern and western boundaries and adjoins the Pueblo of Santa Clara along its northeastern boundary (NPS NRCA 2022). 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). Chapter 3 of the EA includes a full description of the potentially affected environment which is incorporated by reference and summarized below.

As discussed in chapter 3 of the EA, section 3.3, 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. Because of these factors, a broader regional evaluation of the impact of the take is necessary to understand whether the take of one bald and golden eagle would result in a significant impact. See Figure 2 in the EA for the regional context considered in this analysis.

Bald Eagles

The park supports a small population of migratory bald eagles (up to 20) during the late fall/early winter (Johnson 2007). Most bald eagle sighting in the park occur between October and January, with sporadic sightings in May (eBird 2023). Sightings recorded typically of have been of an individual eagle, though up to three individuals have been recorded over winter months in the past 3 years (eBird 2023). The populations in the Bird Conservation Region 16 bald eagle populations exhibited a 14.4% annual increase in trend during 2000-2019 (95% credible interval = 8.3-21.6). The bald eagle population is increasing nationwide. Bald eagles have not been known to nest in the park (Johnson 2007). The bald eagle is listed as Threatened in the state of New Mexico and is protected under the Bald and Golden Eagle Protection Act.

Golden Eagles

Golden eagles are most often sighted in the park between May and December (eBird 2023). Sightings recorded typically of have been of one to two eagles during the breeding, rearing, and fledging seasons (April through August), though up to six individuals have been recorded in September over the past 3 years (eBird 2023). A breeding pair of resident golden eagles may live in the vicinity of the park; however, it is unknown whether or not this resident pair overwinters on or in proximity to the park or whether they migrate south in winter (NPS 2017). While the park is likely utilized by resident golden eagles, the modeling depicts a higher probability for a golden eagle nest(s) to be located outside the park in the nearby vicinity. Aerial surveys conducted in 2003 and annually during 2006-2016 and indicate a stable population in the region. A more recent study indicates the regional population is slightly declining (USFWS 2023b).

Ethnographic Resources

Numerous Native American Tribes and Pueblos 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 (NPS 2018). Several Indigenous peoples continue to make annual pilgrimages to a sacred shrine located atop Redondo Peak and have done so for generations prior to the privatization of the land in the mid-1800s (NPS 2022).

The enabling legislation of the park highlights access to traditional cultural and religious sites by members of Native American Tribes or Pueblos for traditional cultural and customary uses, and explicitly provides for protection of traditional cultural and religious sites through limitations on the use of volcanic domes and peaks. This includes the Pueblo of Jemez.

1.3.2 Degree of Effect (Intensity)

No significant impacts to resources were identified that would require analysis in an EIS. Whether taken individually or as a whole, the impacts of the selected alternative, including direct, indirect and cumulative effects, do not reach the level of a significant effect because most adverse impacts associated with implementation temporary and would not significantly impact the bald or golden eagle populations in the region. Chapter 3 of the EA includes a thorough description of the impacts associated with the Selected alternative. This information is incorporated by reference here and summarized below.

Bald and Golden Eagles

Ongoing take of eagles by Native Americans for religious purposes is considered part of the biological baseline level of take. However, the US Fish and Wildlife Service does analyze and consider the effects of this take on local area populations and has determined that take of up to 8 bald or golden eagles would result in negligible effects on eagle populations (USFWS 2023b). Two environmental assessments (USFWS 2009, 2013) have been presented to the public that conclude ongoing take of eagles by Native Americans for religious purposes has no discernable effect on the stability of eagle populations in question (USFWS 2023b). Thus, the take of 1 bald or golden eagle would result in no discernable impact on either the bald or golden eagle population in the region.

Under the selected alternative, there could be the potential for short-term impacts to ecosystem biodiversity from the removal of a bald or golden eagle from the park. While there could be potential for minimal changes to the seasonal trophic structure and functioning of the predator community within the park, it's 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 would remain. It is anticipated that migratory bald eagles would continue to occupy the park during this migration season and there would be little effect to the overall local area population. The selected alternative is below the threshold take identified by USFWS to prevent decline of the current local area population. As described above, bald eagle populations are known to be increasing, thus the selected alternative would result in negligible long- term impacts to future migratory populations of bald eagles in the park.

Under the selected alternative, if the Eagle Society of the Pueblo of Jemez were successful in their take of one golden eagle, the magnitude of impacts would differ depending on whether the eagle taken was migratory or one of the resident golden eagles observed in the vicinity of the park during spring and

summer. If the eagle taken is migratory, the impacts would be similar to those described above for migratory bald eagles, but to a lesser degree. Available roosting habitat and food sources for other migratory eagles would remain and the overall local area population would not be measurably affected.

If a resident golden eagle were taken, the loss of a resident golden eagle would not eliminate the local pair, but the effect of losing a mate could adversely affect the surviving golden eagle. It is presumed the surviving bird would eventually find a new mate and therefore the impact to a resident population would be temporary in nature. 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 anticipated that a new mate for the surviving golden eagle would be found. As such, the impacts to residential golden eagles would be temporary in nature. The loss of one golden eagle is far below the threshold of 87 golden eagles identified by US Fish and Wildlife Service for resiliency of the local area population and therefore impacts to golden eagles on a local population level would be negligible (USFWS 2023b). Thus, the selected alternative would not significantly impact golden eagles.

Ethnographic Resources

As discussed in chapter 3 of the EA, under the selected alternative there would be both beneficial impacts and the potential for adverse impacts to ethnographic resources. The selected alternative would result in beneficial impacts to cultural values of the Eagle Society of the Pueblo of Jemez because they would have opportunity to conduct all elements of their ceremonial practice within the park, whether successful in taking an eagle or not. There could be adverse impacts to cultural values of the Eagle Society of the Pueblo of Jemez in the event they are successful in taking one eagle and would want the opportunity to take additional eagles for use during their ceremonial practice. In that event, the restriction allowing take of only one eagle would result in adverse impacts by placing limitations on the ceremonial practice of the Eagle Society of the Pueblo of Jemez. As is discussed in the EA, cultural values of other Pueblos and Tribes that do not support ceremonial take of eagles would be adversely affected by take of one eagle but may find benefit from the general support of traditional use.

The take of a bald or golden eagle supports the purpose of the park and is consistent with park values, See, Non-Impairment Determination, Appendix A. Thus, the impacts of this action are not significant.

1.3.3 Degree to Which the Proposed Action Effects 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.

1.3.4 Effects That Would Violate Federal, State, Tribal, or Local Law Protecting the Environment

The selected alternative does not threaten or violate applicable federal, state or local environmental laws or requirements imposed for the protection of the environment. A detailed discussion of impacts to bald and golden eagles and ethnographic resources resulting from the selected alternative is included in Chapter 3 of the EA.

The U.S. Fish and Wildlife Service (USFWS) has issued a permit for the take of eagles for ceremonial purposes consistent with the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d).

The take of a bald or golden eagle in the park is consistent with the park purposes and values (see Appendix A, Non-Impairment Determination, and other application NPS policies and laws.

1.4 FINDING OF NO SIGNIFICANT IMPACT

Based on the information contained in the EA, I have determined that the selected alternative does not constitute a major federal action having a significant effect on the human environment. Therefore, an EIS will not be required.

This finding is based on consideration of CEQ criteria for significance (40 CFR 1501.3 (b)), regarding the potentially affected environment and degrees of effects of the impacts described in the EA.

APPENDIX A

NON-IMPAIRMENT DETERMINATION

As described in National Park Service (NPS or Service) 2006 Management Policies, § 1.4.4, the National Park Service Organic Act prohibits the impairment of park resources and values. *Guidance for Non-Impairment Determinations and the NPS NEPA Process* (September 2011) provides guidance for completing non-impairment determinations for NPS actions requiring preparation of an environmental assessment (EA) or environmental impact statement (EIS) pursuant to the National Environmental Policy Act (NEPA). The NPS has completed a non-impairment analysis for the taking of one bald or golden eagle by the Eagle Society of the Pueblo of Jemez within Valles Caldera National Preserve (hereinafter referred to as the “park”) and determined that it will not result in impairment of park resources, or in unacceptable impacts as described in § 1.4.7.1 of the 2006 NPS Management Policies.

Sections 1.4.5 and 1.4.6 of Management Policies 2006 further explain impairment. Section 1.4.5 defines impairment as an impact that, in the professional judgment of the responsible NPS manager, would harm the integrity of park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values. Section 1.4.5 goes on to state:

An impact to any park resource or value may, but does not necessarily, constitute an impairment. An impact would be more likely to constitute impairment to the extent that it affects a resource or value whose conservation is:

- necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park, or
- key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park, or
- identified in the park's general management plan or other relevant NPS planning documents as being of significance.

Section 1.4.6 of Management Policies 2006 identifies the park resources and values that are subject to the non-impairment standard. These include:

- the park's scenery, natural and historic objects, and wildlife, and the processes and conditions that sustain them, including, to the extent present in the park: the ecological, biological, and physical processes that created the park and continue to act upon it; scenic features; natural visibility, both in daytime and at night; natural landscapes; natural soundscapes and smells; water and air resources; soils; geological resources; paleontological resources; archeological resources; cultural landscapes; ethnographic resources; historic and prehistoric sites, structures, and objects; museum collections; and native plants and animals;
- appropriate opportunities to experience enjoyment of the above resources, to the extent that can be done without impairing them;
- the park's role in contributing to the national dignity, the high public value and integrity, and the superlative environmental quality of the national park system, and the benefit and inspiration provided to the American people by the national park system; and
- any additional attributes encompassed by the specific values and purposes for which the park was established.

NPS non-impairment analysis normally does not include discussion of impacts to visitor experience, socioeconomics, public health and safety, environmental justice, land use, park operations, wilderness, etc., as these do not constitute impacts to park resources and values subject to the non impairment standard under the Organic Act. See Management Policies § 1.4.6.

Selected Alternative

The selected alternative analyzed in this document authorizes take of one bald or golden eagle in the park, consistent with the seasonal requirements in the USFWS permit.

Though take of either bald eagles (*Haliaeetus leucocephalus*) or golden eagles (*Aquila chrysaetos*) is authorized, the total combined take in the tribe’s area of collection will not exceed eight (8) individual eagles, as follows: (1) outside the boundaries of the Jemez Reservation, bald eagle take is limited to no more than four individuals; (2) take of bald eagles will be restricted to the species’ local migration and overwintering period of 1 November-28 February; and (3) golden eagles can be taken only during 16 August-28 February to reduce chances that local adult golden eagles are taken while nesting; their breeding season begins with courtship during mid-winter” (USUSFWS 2023b).

The USFWS permit is authorized pursuant to the Bald and Golden Eagle Protection Act (Eagle Act) (16 U.S.C. 668-668d). “Take” under the Bald and Golden Eagle Act means, “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb” (50 CFR § 22.6). A full description of the selected alternative (alternative 3) is included in the EA on page 6.

As a basis for evaluating the potential for impairment or unacceptable impacts on the park’s resources, the NPS relied on the USFWS 2016 programmatic EA that was prepared for the application for take of bald and/or golden eagles and is incorporating the EA by reference here. Additionally, the NPS spoke with U.S. Fish and Wildlife Service (USFWS) eagle experts after receiving the application for take. The conversations with USFWS also inform the analysis below. The EA includes analysis of impacts to bald and golden eagles and ethnographic resources.

Enabling Legislation and Park Purposes

The purposes of Valles Caldera National Preserve, along with the park’s significance statements and a description of the park’s fundamental resources and values, are described in the *Foundation Document Valles Caldera National Preserve* (Foundation Document), 2018. The park’s purpose is:

Located in the Jemez Mountains of north-central New Mexico, Valles Caldera National Preserve protects, preserves, and restores ecosystems and cultural landscapes within an outstanding example of a volcanic caldera for the purpose of education, scientific research, public enjoyment and use, and cultural continuity. (Foundation Document, page 2).

Statements of significance describe the distinctive nature of the park and why an area is important within a global, national, regional, and systemwide context. They focus on the most important resources and values that will assist in park planning and management. The Foundation Document highlights one significance statement that is pertinent to the Special Use Permit application for the take of an eagle from the park by the Eagle Society of the Pueblo of Jemez.

Valles Caldera is a place where one can directly experience pre-agricultural heritage and reflect on inconspicuous cultural landscapes where hunting and gathering were practiced successfully for more than 10,000 years. (Foundation Document, page 6).

Fundamental resources and values are those features, systems, processes, experiences, stories, scenes, sounds, smells, or other attributes determined to warrant primary consideration during planning and management processes because they are essential to achieving the purpose of the park and maintaining its significance. Fundamental resources and values are closely related to a park's legislative purpose and are more specific than significance statements. Several of the park's fundamental resources and values are pertinent to the Special Use Permit application for taking an eagle from the park by the Eagle Society of the Pueblo of Jemez. The park was established in part "to improve forest health, restore wetlands and riparian areas, and regain robust native fish and wildlife populations (Foundation Document, page 9)." Another fundamental resource is the historic and prehistoric legacy of the park. As noted in the Foundation Document, page 8, "The numerous archeological sites in the caldera provide evidence of thousands of years of human use of this landscape for hunting and gathering, seasonal habitation, and ceremonial pilgrimage." Additionally, as noted in the Foundation Document, continued cultural connection is a fundamental value and central to the park's purpose.

The Valles Caldera, and the domes and peaks along its rim and within it, is of spiritual and ceremonial importance to numerous American Indian peoples in the greater Southwest region. Among these features, Redondo Peak (11,254 feet) is the highest point within the caldera and has served as a regionally significant geographic and cultural focal point and a pivotal sacred place for numerous tribal groups. These cultural connections are both contemporary and of great antiquity, and Valles Caldera continues to be part of the practices, beliefs, identity, and history of tribes and pueblos. This landscape is cherished by other communities as well and holds a special place in the heritage of regional peoples.

Bald and Golden Eagles

Summary of Resource

Golden eagles and bald eagles are important components of the park's predator assemblage, feeding on small mammals (golden eagles) and fish (bald eagles); eagles also function as scavengers on large mammal carcasses (elk, deer) that are either killed by other predators (e.g., cougars) or by human hunters. They are an important component of the park's biodiversity, trophic structure, and ecosystem functioning.

Bald Eagles (*Haliaeetus leucocephalus*)

Bald eagles have not been known to nest in the park (Johnson 2007). The park supports a small population of migratory bald eagles (up to 20 recorded during surveys) during the late fall/early winter (Johnson 2007). Over the past several years, the Cornell Lab of Ornithology eBird database records sightings of bald eagles in the park between October and January and sporadically in May (eBird 2023). Sightings recorded typically have been of an individual eagle, though up to three individuals have been recorded over winter months in the past three years (eBird 2023). Individual eagles can be observed at

numerous locations throughout the park, although most are observed feeding on elk carcasses because of hunting activities in the park.

The U.S. Geological Survey's Breeding Bird Survey, bald eagles in Bird Conservation Region 16 (BCR 16; Southern Rockies/Colorado Plateau), which encompasses the park, indicates that the population within and around the region is increasing substantially. The survey results demonstrate a 14.4% annual increase in population numbers during 2000-2019 (95% credible interval = 8.3-21.6). Across the U.S., bald eagles exhibited a 9.0% annual increase in trend during 2000-2019 (95% credible interval = 7.8-10.2).

Golden Eagles (*Aquila chrysaetos*)

Based on the Breeding Bird Surveys conducted on the park, golden eagles are relatively uncommon (Valles Caldera Trust 2014). Over the past several years, the Cornell Lab of Ornithology eBird database recorded sightings of golden eagles in the park between May and December (eBird 2023). Sightings recorded include one to two eagles during the spring and summer months, with up to six individuals recorded in September over the past 3 years (eBird 2023). Population estimates for golden eagles throughout the Jemez Mountains is unknown. In 2001, a general raptor survey of the park was conducted and golden eagles were frequently observed in summer and fall with 17 observations in six surveys between June and August (NPS 2017). Multiple observations indicated eagles traveling in pairs. There may be one breeding pair of resident golden eagles in the vicinity of the park during spring and summer; however, it is unknown whether or not this resident pair overwinters on the park or on adjacent lands or migrates south in winter (NPS 2017). Systematic eagle surveys have not been conducted in the park since 2017. Based on modeling of spatial variation in density of golden eagle nesting habitat (See USFWS 2023c), the golden eagles seen during summer months in the park may be nesting outside the park, especially since a nest has never been found on park lands.

The USFWS estimated the total population size of golden eagles in the coterminous western U.S. in 2016 was 32,256. Size and trend of the late summer population of golden eagles in bird conservation region 16, which encompasses the area of collection of the Pueblo of Jemez, have been estimated via aerial survey conducted in 2003 and annually during 2006-2016 and indicate a stable population. Based on survey data, golden eagle populations across the western U.S. generally appear stable, though recent demographic modeling suggests a slow decline may be occurring (U.S. Fish and Wildlife Service 2016b). Based on data from the U.S. Geological Survey's Breeding Bird Survey (Sauer et al. 2019), golden eagles in BCR 16 exhibited a 0.25% annual decrease in trend during 2000-2019 (95% credible interval = -1.5-1.0) (USFWS 2023b).

Non-impairment Analysis

This impairment analysis considers whether the take of one bald or golden eagle would harm the integrity of the park's resources or values, in this case bald and golden eagles, including the opportunity for the future enjoyment of eagles. As noted above, the park's purpose, fundamental resources and significant statements inform the potential for an action to result in impairment. An acknowledgment of the number of sightings of both species in the park is included, but the impairment analysis focuses on the regional population from which the eagles would be removed. Bald and golden eagles constantly cross jurisdictional boundaries, including the park's boundary. Eagles move throughout the day and from day-to-day within and outside the park depending on food availability. Also, an eagle that uses the park

one year may not return to the park the next. Because of these factors, a broader regional evaluation of the impact of the take is necessary to understand whether bald and golden eagles will perpetuate within the park.

Up to 20 bald eagles have been sighted in the park. Less accurate data exists for golden eagles within the park, but in the past golden eagles were regularly sighted. The number of sightings of both species of eagles vary by year (see eBird 2023). The NPS assumes that both migratory bald and golden eagles and potentially nesting golden eagles use the park. Removal of an individual eagle would result in the absence of that eagle in the park at that time and may result in a noticeable decrease in the population of eagles using the park during that season, especially if a golden eagle is taken. This would detract from the opportunity for enjoyment of these species in the park at that time and detract from the purpose of the park to regain robust wildlife populations. If there are any resident golden eagles, and if a resident golden is taken, it is likely another golden eagle would move in and take its place which would reduce the long-term impact of taking a golden eagle (USFWS 2023a). 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 anticipated that a new mate for the surviving golden eagle would be found.

However, as discussed above whether the resource remains intact and available for future enjoyment is dependent on the regional population, since neither bald nor golden eagles are a static resource within the park. In this case, bald eagles are increasing regionally, and golden eagles are experiencing a slight decline. The USFWS determined that the take of up to eight eagles regionally would not have a significant impact on either the bald or golden eagle population and in fact noted that the impact on the eagle population would be negligible (USFWS 2016a). USFWS considers ongoing take of eagles by Native Americans for religious purposes as part of the biological baseline level of take since it has occurred since time immemorial. Thus, this take is not subject to local area population take limits (USFWS 2016a). Despite that, the USFWS considers the effects of this take on local area populations. Cumulative take rates below 5% of the estimated total eagle population size is the threshold below which take is considered unlikely to cause extirpation (USFWS 2023b). The take of one bald or golden eagle falls below the 5% threshold. Two environmental assessments (USFWS 2009, 2013) have been presented to the public that conclude ongoing take of eagles by Native Americans for religious purposes has no discernable effect on the stability of eagle populations in question (USFWS 2023b). Thus, the take of one bald or golden eagle is highly unlikely to cause extirpation of either species, leaving a sustaining population and species integrity intact and available for future enjoyment. The bald eagle population is increasing which reduces the potential adverse impact on the population, thereby further diminishing the potential for impairment.

In conclusion, a fundamental value of the park is to regain wildlife populations within the park. If the take of a bald or golden eagle occurs, it detracts from this value since it will result in at least a temporary decline in the eagle population using the park if an eagle is removed. However, because the regional population of these species is either increasing (bald eagles) or slightly declining (golden eagles) and take of one bald or golden eagle is considered part of the biological baseline and is less than 5% of the total regional population of either species, the take will not result in significant population changes or extirpation of either species from the region. If a resident golden eagle is removed from the park,

another golden eagle is likely to come in and use the habitat in its place. Thus, the take of one of these species will not impair the integrity of these populations since both golden and bald eagles will continue to use the park.

Ethnographic Resources

Summary of Resource

Ethnographic resources are the cultural and natural features of a park that are of traditional significance to the traditionally associated peoples (NPS Management Policies, § 5.3.5.3). The rich assemblage of vegetation, wildlife, and volcanic resources of the Jemez Mountains has attracted diverse groups of people throughout human history, including present-day. For thousands of years American Indians have used Valles Caldera for hunting all sizes of game, small mammals and waterfowl, fishing, collecting an abundance of seeds, nuts, and berries, and gathering various plants for medicine and ceremonies. The Pueblo of Jemez has such a relationship with the park.

In some tribal cultures, the capture—and sometimes killing—of an eagle is an integral part of the traditional religious practice. In others, killing an eagle is expressly forbidden; eagle feathers for ceremonies must be obtained without harming an eagle or its ability to fly, sometimes by capturing eagles, securing fewer feathers than would disable the eagles from flight, and then releasing the eagles. Many other Native American traditional practitioners only use eagle parts and feathers salvaged as molted feathers or from eagle remains that are found (USFWS 2016a).

As noted in the 2016 *Programmatic Environmental Impact Statement for the Eagle Rule Revision*, “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.” The Eagle Act specifically carves out an exception allowing the Service to authorize possession and take of bald and golden eagles for the “religious purposes of Indian Tribes” (16 USC 668a). Additional information about take of eagles for religious purposes is described in the EA (USFWS 2016a).

Non-Impairment Analysis

To determine whether the take of eagles by the Eagle Society of the Pueblo of Jemez would result in impairment of the ethnographic resources of the park, the NPS must consider whether take of a bald or golden eagle would harm the integrity of ethnographic resources of the park. In this case, the take of eagles is consistent with supporting cultural connections between the Pueblo of Jemez and the park, which is central to the park’s purpose. The take is consistent with the use of the landscape for hunting and gathering, seasonal habitation, and ceremonial pilgrimage which is a fundamental value of the park. While the take would have an adverse effect on tribes that do not support the take of either bald or golden eagles, it would have a beneficial effect on the Eagle Society of the Pueblo of Jemez. The take is consistent with the park’s purpose, significance statements and fundamental resources and values because it supports the Pueblo of Jemez’s cultural connection with the park and continues the religious and ceremonial practices of their people. Thus, because the take of eagles is consistent with the park’s purpose and fundamental resources and values, there is no impairment of ethnographic resources.

Conclusion

As demonstrated here and in the analysis referenced above, the impacts from the take of a bald or golden eagle, neither individually nor cumulatively, preclude the NPS from achieving the purpose of the park or desired conditions for resources; and would not unreasonably interfere with park programs or activities, another appropriate use, the overall atmosphere of peace and tranquility or the natural soundscape, or NPS concessioner or contractor operations or services. As a result, there will not be impairment of or unacceptable impacts to the park's natural and cultural resources or visitor experience as a result of the selected alternative. Impacts to other resources potentially affected were considered so small and insignificant that they did not warrant a written analysis here.

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