



Federal Communications Commission
Washington, D.C. 20554

August 21, 2026

Via Email

Dr. Gillian Goslinga, Mr. Billy Harvey, Mr. Stewart B. Koyiyumptewa and Individual Filing Parties
(collectively Requesters)

SQF, LLC

Ms. Kimberly Morning and Mr. Joshua Bobeck (counsel for SQF, LLC)
Morgan, Lewis, and Bockius LLP

Dear Requesters and SQF, LLC:

By this Letter, the Competition and Infrastructure Policy Division (Division) of the Wireless Telecommunications Bureau of the Federal Communications Commission (FCC or Commission) dismisses in part and denies in part requests for further environmental review filed in response to an Antenna Structure Registration (ASR) Application for a proposed monoelm structure in Cornville, Arizona, with Application number A1208809.¹

I. Background

On March 11, 2022, Tilson Technology Management, Inc. (Tilson) filed ASR Application Number A1208809 on behalf of SQF, LLC (Applicant) for a 30.5-meter (100-foot) monoelm to be located at 9420 Cornville Road in Cornville, Arizona.² The proposed project would consist of the construction of a 100-foot tall stealth communications tower located within an approximately 79.52-foot by 72.32-foot by 57.8-

¹ See Tilson Technology Management, Inc., Antenna Structure Registration (FCC Form 854), ASR App. No. A1208809 (filed March 11, 2022), <https://wireless2.fcc.gov/UlsApp/AsrSearch/asrApplication.jsp?applKey=4691241> (Application). An application was submitted on February 15, 2022, but this application was later updated and a new date of March 11, 2022 was reflected in the system.

² *Id.*

foot triangular shaped lease area with a 12-foot-wide access/utility easement.³ The local zoning authority approved the Applicant's zoning application on February 2, 2022.⁴

On March 30, 2022, Dr. Gillian Goslinga, a resident of Cornville, Arizona, and Billy Harvey, Founder and Director of Runnin' W Wildlife Center located in Cornville (Goslinga and Harvey or Goslinga/Harvey), filed a request for further environmental review (Goslinga/Harvey Mar. 2022 Request).⁵ In their Request, Goslinga and Harvey argue that an environmental assessment (EA) should be completed for a number of reasons.⁶ These allegations are addressed more fully below. Goslinga and Harvey also note that the Applicant submitted its required notice regarding the tower construction in a daily paper that does not distribute in the Verde Valley, where the proposed tower would be located.⁷ On April 9, 2022 Applicant filed a letter acknowledging receipt of the concerns raised in the Goslinga/Harvey Request and indicating that it had contracted with EBI Consulting, Inc. (EBI) to complete a National Environmental Policy Act (NEPA) report for the proposed telecommunications tower.⁸

On April 11, 2022, Goslinga and Harvey filed an addendum to their initial request (Goslinga/Harvey April 2022 Addendum or Addendum)⁹ in which they submit additional information on alleged potential effects on endangered, protected, and threatened species; potential RF exposure concerns; and potential

³ The project description was updated via a National Environmental Policy Act (NEPA) Update Letter submitted into ASR for association with the Application on May 18, 2026. *See* EBI, NEPA Update Letter dated May 9, 2025 (EBI NEPA Update Letter). This NEPA Update Letter also includes a March 7, 2025 Natural Resources Review Update (NR Update).

⁴ Letter from Jeremy Dye, Interim Director, Yavapai County Development Services to Michael J. Campbell, Campbell A&Z, LLC (Feb. 2, 2022). The letter approving the application indicated, "Full stealth design required within 1,000 feet, as measured from the base of the tower, of a residentially zoned parcel as approved by the Development Services Director. Stealth design to match the characteristics of the surrounding community." *Id.* To the extent the change in the project description to include the access road/utility easement requires additional zoning approvals, Applicant will need to work directly with the local zoning authority. Our review, however, takes into account the updated description.

⁵ Filing submitted to Mr. Ramon Williams and Members of the NEPA Review Committee at the FCC, from Dr. Gillian Goslinga, Cornville, AZ; Billy Harvey, Founder, Runnin' W Wildlife Center, a 501 C3 Public Charity, Cornville AZ, in consultation with Nina Rinehart, Founder and President, Cornville Historical Society; Regarding FCC Form 854 File Number "A1208809"/ 9420 Cornville Road, Cornville AZ 86325/Tilson Technology Management, Inc/ 100-foot monoelm telecommunications tower (March 30, 2022) (Goslinga/Harvey Mar. 2022 Request). *See* Pleadings, ASR Application No. A1208809, <https://wireless2.fcc.gov/UlsApp/AsrSearch/asrAllPleadings.jsp?appKey=4691241>; *see also* Application A1208809 Attachments, <https://wireless2.fcc.gov/UlsApp/AsrSearch/asrAttachmentsListAll.jsp?appKey=4691241#> (providing additional documents in the record after March 2023).

⁶ Goslinga/Harvey Mar. 2022 Request at 1-6.

⁷ *Id.* at 1.

⁸ Letter from Heather Carlisle, Senior Counsel, Siting & Real Estate, Tilson Infrastructure to Ramon Williams, FCC Wireless Telecommunications Bureau (April 9, 2022).

⁹ Goslinga/Harvey, ASR A1208809, Addendum (April 11, 2022) (Goslinga/Harvey Apr. 2022 Addendum).

concerns related to the alleged poor optimization of the proposed site.¹⁰ Goslinga/Harvey also argue that Applicant's engineering plans include an insufficient and dangerous fall zone.¹¹

On July 7, 2022, Tilson filed an Opposition to the request for additional environmental review.¹² According to the Opposition, based on the NEPA Report completed by EBI, the proposed tower will not trigger the need for an EA under section 1.1307(a) of the FCC's NEPA rules. Applicant also states that based on an RF Safety and NIER Analysis Report completed by their third party consultant, Biwabkos Consultants LLC (Biwabkos), the exposure limits for radiofrequency radiation exposure under section 1.1310 will not be exceeded by the proposed tower. As a result, Applicant states the preparation of an EA is not required.

Goslinga/Harvey filed a Request for Denial on July 25, 2022, responding to Tilson's Opposition by making a number of arguments including claiming that the action area studied to evaluate impacts to endangered species by EBI was incorrect, making additional claims regarding potential RF impacts including whether the RF study provided was inadequate,¹³ making additional claims regarding potential impacts to migratory birds, and alleging that Tilson acted in bad faith.¹⁴

Between September 22, 2022 and October 19, 2022, additional parties (Individual Filing Parties) submitted filings requesting further environmental review or denial of the Cornville application (collectively the Individual Filer Requests).¹⁵ The Individual Filer Requests make a number of arguments including raising concerns regarding: aesthetic impacts;¹⁶ potential RF safety impacts on the environment,

¹⁰ *Id.* at 1-3.

¹¹ *Id.* at 2-3.

¹² Letter from Heather Carlisle, Senior Counsel, Tilson, to Ramon Williams, FCC (Jul. 7, 2022) (Applicant July 2022 Opposition).

¹³ Goslinga/Harvey Request for Denial, ASR A1208809 (July 25, 2022) (Goslinga/Harvey July 2022 Request for Denial).

¹⁴ Goslinga/Harvey July 2022 Request for Denial.

¹⁵ Letter from Lila Wright to Ramon Williams, FCC Wireless Telecommunications Bureau (Sept. 22, 2022) (Wright Request); Letter from Bonnie and Briggs Hubbell to Ramon Williams, FCC Wireless Telecommunications Bureau (Oct. 10, 2022) (Hubbell Request); Sharon Fried, Fried Environmental Request to Deny ASR A1208809 (Oct. 17, 2022) (Fried Request); Letter from Tracey Lynn Campbell to Ramon Williams, FCC Wireless Telecommunications Bureau (Oct. 17, 2022), with attachments (Campbell Request); Letter from Cora Wilkins to Ramon Williams, FCC Wireless Telecommunications Bureau (Oct. 18, 2022) (Wilkins Request); Letter from Corey Colvin to Ramon Williams, FCC Wireless Telecommunications Bureau (Oct. 19, 2022), with attachments (Colvin Request); Letter from Jennifer and Evan Richards to Elizabeth Shule and Members of the NEPA and NHPA Review Committee at the FCC (Oct. 19, 2022), with attachments (Richards Request); Letter from Wisdom of the Earth to Ramon Williams, FCC Wireless Telecommunications Bureau (Oct. 19, 2022) (Wisdom of the Earth Request). Two "Collective Letters" were also submitted into the ASR record on Oct. 20, 2022. These letters contain identical content raising environmental and other concerns that were signed by multiple individuals. *See* Letter from Linda Oh, et al., to Ramon Williams, FCC (Oct. 20, 2022) (Collective Letter 1) (signed by 63 individuals including Billy Harvey) and Letter from Paula Westby, et al., to Ramon Williams, FCC (Oct. 20, 2022) (Collective Letter 2) (signed by 23 individuals). We are referring to all requests submitted by individual filing parties collectively as the Individual Filer Requests.

¹⁶ Hubbell Request at 1-2; Fried Request; Campbell Request at 2; Colvin Complaint at 3; Wisdom of the Earth Request at 1-2.

wildlife, and residents, particularly those with electromagnetic sensitivity;¹⁷ potential impacts on historic properties including areas significant to Native American culture;¹⁸ impacts on property values;¹⁹ and physical safety concerns related to the fall zone.²⁰ The Hopi Tribe also filed to oppose construction of the tower.²¹

On October 20, 2022, Goslinga and Harvey submitted a second Request for Denial (Goslinga/Harvey Oct. 2022 Request for Denial) of the Application, in which they restate a number of their earlier claims but also raise new concerns.²² Goslinga/Harvey argue that a number of procedural irregularities have taken place with respect to the Application²³ and also argue there was activity at the site before the NEPA screening process was completed.²⁴ Goslinga/Harvey also raise additional arguments in support of their earlier claims.

Tilson responded to the Goslinga/Harvey Oct. 2022 Request for Denial with an Opposition dated October 30, 2022 (Applicant Oct. 2022 Opposition). Goslinga/Harvey then replied to Tilson with a filing on November 3, 2022, making a number of the same arguments made previously but adding additional claims.²⁵

As discussed in more detail below, between December 2022 and February 2025, a number of actions were taken by the Applicant, through its consultant EBI, and by the Hopi Tribe to further evaluate potential effects to historic properties from the proposed project under the National Historic Preservation Act (NHPA). The Commission considers this process to have concluded as of March 2026.

On June 2, 2026, a Request for Expedited Review was filed by counsel for the Applicant.²⁶ This request was opposed by Goslinga and Harvey on June 18, 2026.²⁷

¹⁷ Wright Request; Hubbell Request at 1-2; Fried Request; Campbell Request at 1-2; Wilkins Request; Colvin Request at 3-4; Richards Request at 1-2 and 3-5; Wisdom of the Earth Request at 1-2.

¹⁸ Hubbell Request at 2; Richards Request at 2-3 and 5-6.

¹⁹ Hubbell Request at 2; Colvin Request at 3.

²⁰ Colvin Request at 2.

²¹ Letter from Stewart B. Koyiyumtewa, Program Manager/THPO, Hopi Cultural Preservation Office, to Ramon Williams, FCC, ASR A1208809, at 1 (Oct. 11, 2022).

²² Goslinga and Harvey, Request for Denial of ASR A1208809 (Oct. 20, 2022) (Goslinga/Harvey Oct. 2022 Request for Denial).

²³ Goslinga/Harvey Oct. 2022 Request for Denial at 2-3.

²⁴ *Id.* at 4-6 and Exh. D.5.

²⁵ Letter from Gillian Goslinga and Billy Harvey to Ramon Williams, FCC, November 3, 2022, “Response to Tilson October 30, 2022 Letter in response to Requests for denial of authorization of ASR A1208809 in the Pleadings record” (Goslinga/Harvey Nov. 2022 Response Letter).

²⁶ Joshua M. Bobeck & Kimberly Morning, Counsel to SQF, LLC to Marlene H. Dortch, Secretary, FCC, ASR A1208809 (Jun. 2, 2026).

²⁷ Gillian Goslinga and Billy Harvey Opposition to Marlene H. Dortch, FCC, ASR A1208809 (Jun. 18, 2026); Email from Gillian Goslinga to Allison Jones et al., FCC (Jun. 4, 2026 18:50 ET); Letter from Gillian Goslinga & Billy Harvey to Marlene H. Dortch, Secretary, FCC, ASR A1208809 (Jun. 3, 2026).

We first address each of the allegations pertaining to environmental factors that may require an Applicant to prepare an EA under the Commission's section 1.1307 environmental rules. We then address the objections to the project that do not allege potentially significant environmental effects but make claims based on other concerns that are not normally part of the Commission's environmental review process.

II. Allegations Regarding Environmental Factors

Section 1.1307(c) of the Commission's rules requires an interested person alleging that an action will have a significant environmental effect to "submit to the Bureau responsible for processing that action a written petition setting forth in detail the reasons justifying or circumstances necessitating environmental consideration in the decision-making process."²⁸ The rules state that the Bureau "shall review the petition and consider the environmental concerns" raised, and if it "determines that the action may have a significant environmental impact, the Bureau will require the applicant to prepare an EA [(environmental assessment)]."²⁹

Wildlife Preserve or Wilderness Area

Section 1.1307(a)(i)(1) and (2) of the Commission's rules state that EAs may be required for facilities that are to be located in an officially designated wilderness area³⁰ or wildlife preserve.³¹ Gosling and Harvey and several Individual Filing Parties have argued that the proposed site is in close proximity to a number of environmentally significant areas,³² including wetlands associated with Oak Creek,³³ the Coconino National Forest,³⁴ the Runnin' W Wildlife Center,³⁵ Yavapai County wildlife corridor,³⁶ Sheepshead Wetland,³⁷ and a nature preserve held by The Nature Conservancy.³⁸

As Applicant has indicated, however, the site will not be located *within* an officially designated wilderness area or officially designated wildlife preserve.³⁹ Filings by other parties referencing distances associated with the areas identified support Applicant's statements.⁴⁰ Of note, the tower will be located in

²⁸ 47 CFR § 1.1307(c).

²⁹ 47 CFR § 1.1307(c).

³⁰ 47 CFR § 1.1307(a)(1).

³¹ 47 CFR § 1.1307(a)(2).

³² Goslinga/Harvey Jul. 2022 Request for Denial at 6.

³³ Goslinga/Harvey Mar. 2022 Request at 2; Hubbell Request at 2.

³⁴ Goslinga/Harvey July 2022 Request for Denial at 7.

³⁵ Goslinga/Harvey July 2022 Request for Denial at 8. Runnin' W Wildlife Center is a native bird and wildlife rescue facility and a registered nature preserve. Goslinga/Harvey Mar. 2022 Request for Review at 1-3, Exh. F.

³⁶ Goslinga/Harvey July 2022 Request for Denial at 8.

³⁷ Wright Request at 1.

³⁸ Goslinga/Harvey July 2022 Request for Denial at 8; Campbell Request at 1.

³⁹ Applicant Opposition, Exh. A at 19-20, 27-28.

⁴⁰ Goslinga/Harvey July 2022 Request for Denial at 8 ("The Oak Creek greenbelt wetlands beginning at the Cornville Ditch just 500' to the East . . ."); *id.* at 7 ("Coconino National Forest starts 700' away to the SW."); *id.* at 8 ("A Yavapai County wildlife corridor not even 500'-1000' away, an Exh. on the AESFOs"); *id.* at 8 ("The Greenwell Slough Nature Conservancy on Oak Creek 1700' nearby: . . ."); Wright Request at 1 ("Another favorite

an already developed area⁴¹ with a commercial zoning designation.⁴² Therefore, we deny the Goslinga/Harvey Requests and Individual Filer Requests as they pertain to this allegation.

Endangered Species and Critical Habitats

Section 1.1307(a)(3) of the Commission's rules states that EAs may be required for facilities that "[m]ay affect listed threatened or endangered species or designated critical habitats."⁴³ When considering the impact of the proposed tower, the federal agency considers the "action area" of the build, which includes "all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action."⁴⁴

Goslinga and Harvey assert that when Applicant and EBI made their determination of no impact under section 1.1307(a)(3), they did not assess the appropriate action area⁴⁵ and, as a result, they failed to properly screen the 11 endangered species, 10 migratory birds (see next section), and 6 critical habitats that are flagged when the Arizona Ecological Services Field Office (AESFO) of the U.S. Fish and Wildlife Service (USFWS) guideline is followed.⁴⁶

Applicant argues that the area used by Goslinga and Harvey for its review was incorrect and, as a result, "the affected species and habitats referenced by the Parties are inaccurate."⁴⁷ Applicant states that as part of the NEPA Report, EBI reviewed the same resources referenced by Goslinga and Harvey and also corresponded with the AESFO and ultimately "determined that there were no suitable habitats capable of supporting the endangered species within the actual project vicinity."⁴⁸ In the materials submitted with its July 2022 NEPA Report, EBI evaluated 7 species and their habitats.⁴⁹ With respect to each of these species, EBI provided its analysis and concluded the project would have *no effect* on any of these species.⁵⁰ Applicant consulted the Arizona Game and Fish Department and the AESFO to identify species to be evaluated for purposes of 1.307(a)(3),⁵¹ and Applicant provided its analysis as part of its

hike is into Sheepshead Wetland which the National Forest Service protects. This wetland is within one mile of the proposed cell site.").

⁴¹ Applicant July 2022 Opposition, Exh. A at 19 ("The property on which the Facility is proposed (herein, the Subject Property), is an approximately 1.4-acre parcel, improved by a gas station and small strip mall with an associated storage lot.")

⁴² Applicant July 2022 Opposition at 4.

⁴³ 47 CFR § 1.1307(a)(3)(i); *see also id.* § 1.1307(a)(3)(ii).

⁴⁴ 50 CFR § 402.02.

⁴⁵ *See* Goslinga/Harvey Mar. 2022 Request for Review at 2-3.

⁴⁶ Goslinga/Harvey Mar. 2022 Request for Review. Goslinga/Harvey's Exh. C is a USFWS March 24, 2022 IPaC species list. This list was based on Goslinga/Harvey's own interpretation of the project action area.

⁴⁷ Applicant July 2022 Opposition at 2.

⁴⁸ Applicant July 2022 Opposition at 2

⁴⁹ Applicant July 2022 Opposition, Exh. A at 21. The Natural Resources Review references the Monarch Butterfly but states, "No Determination – Candidate species are not afforded protection under the Endangered Species Act." It also states that, "identified listed species which require strictly aquatic habitats (e.g. fish) were not included in the table above as no such habitat is present at the proposed Project Site." Applicant Opposition, Exh. A at 21.

⁵⁰ Applicant July 2022 Opposition, Exh. A at 21.

⁵¹ Applicant July 2022 Opposition, Exh. A at 13-15.

Natural Resources Review.⁵² Subsequently, through an updated NEPA analysis conducted in March of 2025, EBI provided further support for its findings of *no effect* on threatened and endangered species.⁵³ EBI found that since the March 2022 Natural Resources (NR) Review, two aquatic species had been added to the IPaC species list and that no suitable habitat for these species is present within the vicinity of the project site.⁵⁴ In addition, EBI reported that the Northern Mexican Gartersnake, the Razorback Sucker, and the Woundfin had been removed from the IPaC species list.⁵⁵ As a result, EBI made no changes to the original finding of *no effect* with regard to the proposed facility's potential effects on protected species, as summarized in the original 2022 NEPA Report,⁵⁶ and EBI also indicated no change to their determination that the project would have *no effect* on listed and proposed endangered and threatened species.⁵⁷

We deny the Goslinga/Harvey Requests and other Individual Filer Requests⁵⁸ as they pertain to whether the project *may affect* listed threatened or endangered species or designated critical habitats. The list of species Goslinga/Harvey provided is similar to the list of species provided by Applicant.⁵⁹ However, Goslinga/Harvey included a much larger geographic area in their description of the area that would be impacted by the project, extending past and including Oak Creek, which resulted in the inclusion of an additional species and the three critical habitats. We have determined, based on the potential impacts of this project, that the action area used by Goslinga/Harvey is overly broad. Construction debris will be limited to the construction site, given that applicant has indicated it will use best management practices to minimize disturbance.⁶⁰ Other potential impacts alleged by Gosling/Harvey, such as concerns about RF are discussed below, but the USFWS does not list RF specifically in its Consultation Package Builder in IPaC as a stressor to resources that should be analyzed during Section 7 consultations.⁶¹ In addition, as

⁵² Applicant July 2022 Opposition, Exh. A, Appx. A.

⁵³ See EBI NEPA Update Letter at 2.

⁵⁴ EBI NEPA Update Letter at 2.

⁵⁵ EBI NEPA Update Letter at 2.

⁵⁶ EBI NEPA Update Letter at 2.

⁵⁷ *Id.*

⁵⁸ See e.g. Campbell Request at 1; Richards Request at 1.

⁵⁹ Although the same amount of fish appear in both lists, the Goslinga/Harvey list contains the experimental population/non-essential woundfin, and the EBI January 24, 2025 list includes the endangered Gila topminnow. The Goslinga/Harvey list also contains an additional threatened reptile species and three critical habitats.

⁶⁰ Applicant Opposition at 3.

⁶¹ USFWS Information for Planning and Consultation, <https://ipac.ecosphere.fws.gov/>. Consultation Package Builder is a feature in IPaC that allows federal agencies or their delegated entities to create a biological assessment by filling out fields and following prompts. A “stressor” is a term used broadly to describe any change in the environment that can elicit a response from a species or features of critical habitat. A species may respond to a stressor when the stressor (a) impacts the resources the species requires to fulfill its life cycle or (b) directly interacts with the species itself (e.g., the stressor “increase in vehicle traffic” results in crushing a species). The response may be negative, neutral, or positive. In IPaC, “features” are physical, biological, or environmental elements of the landscape, or natural processes.

Goslinga and Harvey recognize,⁶² the UFWFS recommendations to minimize the impacts of communications towers on birds do not mention RF.⁶³

Commission staff have independently reviewed the action area and conclude that the project will have *no effect* on endangered or threatened species or critical habitat. The Commission biologist retrieved an updated species list from IPaC on June 25, 2026 using the area that would be directly impacted by the proposed project along with an additional approximately 0.5-mile-buffer from the limits of disturbance of the proposed project as the action area. This list contained, when compared to the January 24, 2025 list in the May 9, 2025 EBI NEPA Update Letter, an additional two reptile species - narrow-headed gartersnake and Northern Mexican gartersnake (both threatened), and one new fish species - the endangered desert pupfish. No suitable habitat is present on the project site for these species. Four final critical habitats were also added that were not on the January 24, 2025 IPaC list in the May 9, 2025 EBI NEPA Update Letter – loach minnow, Northern Mexican gartersnake, spikedace, and yellow-billed cuckoo. However, no suitable habitat for these species occurs within the project area. Six of the 12 threatened, endangered, or proposed threatened or endangered species on the list are fish, and no waterbodies are present in the project area. The snakes are riparian obligates that occur within Oak Creek and its associated vegetation or aquatic habitats.⁶⁴ Of the remaining 4 species, 1 is *proposed* threatened (monarch butterfly) and one is *proposed* endangered (Suckley's cuckoo bumble bee) (see below for discussion of proposed species). The two remaining species are the yellow-billed cuckoo and the southwest willow flycatcher. Suitable habitat for the yellow-billed cuckoo (threatened) and southwest willow flycatcher (endangered) includes cottonwood and willow trees, such as those located near the Verde River for example.⁶⁵ No suitable habitat occurs in the project area for these species. Given the additional 0.5-mile buffer used (as compared to the June 25, 2026 list) and the fact that there is no suitable habitat for the additional species or critical habitats present in this expanded area, we reject the contention by Goslinga/Harvey that there are species in the action area that may be affected by the proposed tower.⁶⁶

Given that the monoelm will be located in an area that does not contain suitable habitat for any of the listed or proposed to be listed threatened or endangered species, and the Applicant's commitment to use best management practices during construction, the project will have *no effect* on federally listed species

⁶² Goslinga/Harvey Oct. 2022 Request for Denial at 17.

⁶³ USFWS Migratory Bird Program, *Recommended Best Practices for Communication Tower Design, Siting, Construction, Operation, Maintenance, and Decommissioning* (March 2021), <https://www.fws.gov/sites/default/files/documents/usfws-communication-tower-guidance.pdf>.

⁶⁴ USFWS, *Northern Mexican gartersnake*, <https://ecos.fws.gov/ecp/species/7655> (last visited Jun. 25, 2026); Nature Serve Explorer, *Narrow-headed gartersnake*, https://explorer.natureserve.org/Taxon/ELEMENT_GLOBAL.2.103150/Thamnophis_rufipunctatus (last visited Jun. 25, 2026).

⁶⁵ USFWS, *Yellow-billed cuckoo Species Survey Guidelines* (May 1, 2016), <https://ipac.ecosphere.fws.gov/guideline/survey/population/6901/office/65413.pdf>; USFWS, *Southwest Willow Flycatcher*, Undated, <https://www.fws.gov/species/southwestern-willow-flycatcher-empidonax-traillii-extimus> (last visited Jun. 25, 2026).

⁶⁶ Goslinga/Harvey Oct. 2022 Filing at 8.

and Section 7 of the Endangered Species Act is complete.⁶⁷ For those species listed as *proposed*, formal conference with the USFWS is required only if the project would *jeopardize the continued existence of* a proposed species.⁶⁸ Given the already disturbed nature of the project site and scope of this project, formal conference is not required and the project *will not jeopardize the continued existence* of the monarch butterfly and Suckley's cuckoo bumble bee. Additionally, consultation with the USFWS under Section 7 of the Endangered Species Act is not required for *no effect* determinations, and the USFWS is not required to respond requests for concurrence on *no effect* determinations.⁶⁹ We note that even if the action area were to be expanded, as Goslinga and Harvey advocate, the area beyond Applicant's action area is almost entirely developed, including by Harvey's Runnin' W Wildlife Center,⁷⁰ and areas located outside of the project site are less likely to be impacted by the project the further away they are from the site. Additionally, the project footprint does not overlap critical habitats for any listed species, no suitable habitat for species with final critical habitat within 0.5 mile of the project boundaries occurs on the project site, and there are no designated or proposed critical habitats within the project boundaries so the project is *not likely to destroy or adversely modify* designated or proposed critical habitats.⁷¹

Another party raises concerns regarding the facility's potential adverse impact on the Mexican Spotted Owl and Bald Eagle.⁷² Mexican Spotted Owl is federally listed as threatened, and is listed as a species of concern by the State of Arizona, but it is not documented within 0.5 mile given it is not listed on the USFWS IPaC species list for the project site.⁷³ Mexican spotted owls are residents of old-growth or mature forests, and also use canyons with riparian or conifer communities.⁷⁴ Mexican spotted owls have been documented in Yavapai County, but no trees will be impacted by the project. Suitable habitat for this species is not present in the project area. Therefore, the project would have *no effect* on this species. Bald Eagles are discussed below.

We find, based on the information submitted by the Applicant and an independent verification by FCC staff, that the project does not trigger the need for an EA based on the requirements of 47 CFR §1.1307(a)(3).

Migratory Birds

⁶⁷ See USFWS, IPaC, <https://ipac.ecosphere.fws.gov/>.<https://ipac.ecosphere.fws.gov/>.

⁶⁸ 47 CFR 1.1307(a)(3)(ii).

⁶⁹ Pacific Southwest Region Section 7 Consultation, <https://www.fws.gov/program/pacific-southwest-region-section-7-consultation/pacific-southwest-region-section-7a2>. Also, see USFWS Midwest Region Section 7 Consultation Assistance, https://www.fws.gov/sites/default/files/documents/2025-04/x2_no-effect-already-developed-area.pdf.

⁷⁰ Applicant Opposition at 3-4.

⁷¹ To the extent that Individual Filer Requests raise general RF concerns, we address them in the Radiofrequency (RF) Emissions section, *infra*.

⁷² Campbell Request at 1.

⁷³ June 6, 2026 IPaC resource list. The "Not For Consultation" watermark indicates this list was run in IPaC BETA, where the only difference between IPaC and IPaC BETA is that IPaC BETA does not notify the FWS that consultation has been initiated on a project. In this case, consultation had already been completed.

⁷⁴ USFWS, ECOSphere, Mexican spotted owl, <https://ecos.fws.gov/ecp/species/8196> (last visited June 25, 2026).

With respect to migratory birds, Goslinga and Harvey claim that 10 migratory bird species⁷⁵ will be affected, that the area evaluated was incorrect, and that EBI screened for the tower design but not for the tower location.⁷⁶ They argue that the tower location increases the likelihood and volume of migratory and local bird death or injury by collision as birds use the wind currents to approach, descend into, and leave the Oak Creek wetland.⁷⁷

Applicant argues that EBI reviewed the project and considered potential effects to migratory birds and protected species, and EBI determined that the project will not have a significant environmental effect.⁷⁸

We deny the Goslinga/Harvey and other Individual Filer Requests as they pertain to allegations regarding whether the Applicant properly evaluated if the project will have a significant environmental effect on migratory birds under section 1.1307 of the Commission's rules. Under the Commission's rules an EA is required if a proposed antenna structure will be over 450 feet in height above ground level (AGL) in order to assess potential impacts on migratory birds.⁷⁹ In this case, the proposed tower is not more than 450 feet tall.⁸⁰ In addition, the project will meet most of the best practices established by the USFWS for communications towers.⁸¹ Applicant also consulted with the Arizona Game and Fish Department on this matter.⁸² In consulting the Arizona Game and Fish Department, the Applicant received recommended actions for it to take, and Applicant states that it will comply with and utilize best management practices throughout the construction process.⁸³ EBI also contacted the Arizona Game and Fish Department a

⁷⁵ As stated in the IPaC report, the bird species listed are Birds of Conservation Concern or warrant special attention in the project location.

⁷⁶ Goslinga/Harvey July 2022 Request for Denial at 7-11, 17.

⁷⁷ Goslinga/Harvey Mar. 2022 Request at 2, Exh. D. Goslinga/Harvey reference a 2014 United States Department of the Interior (DOI) letter to the National Telecommunications and Information Administration (NTIA), in which the DOI commented on proposed NEPA implementation procedures of the then newly formed First Responder Network Authority (FirstNet), in support of their claims regarding impacts on migratory birds. However, that letter discussed specific issues related to that project, which involved numerous proposed towers rather than an individual tower.

⁷⁸ Applicant July 2022 Opposition, Exh. A at 7; *see also* EBI NEPA Update Letter at 2.

⁷⁹ 47 CFR § 1.1307 (Note to Paragraph (D)).

⁸⁰ Application (showing project is 30.5 meters (~100 feet) in overall height about the ground).

⁸¹ USFWS issued "Recommended Best Practices for Communication Tower Design, Siting, Construction, Operation, Maintenance, and Decommissioning" to guide communication tower applicants on minimizing impacts to migratory birds. EBI states that the proposed facility meets nearly all of USFWS tower design and location recommendations. In particular, "the tower is proposed to be in an already degraded area (a developed and previously disturbed parcel of land containing a gas station, convenience store and outdoor storage), it is designed to minimize habitat loss, it is not designed to be more than 199' above ground level, no guy wires are needed, and the tower is not designed to contain any lighting unless lighting will be required by the Federal Aviation Administration." Applicant July 2022 Opposition at 3.

⁸² EBI, Natural Resources Review Update (Mar. 7, 2025), Appx. Email from Kenneth Jacobson, Raptor Management Coordinator, Arizona Game and Fish Department, to cc Owen Price, EBI Consulting (Jan. 27, 2025 15:15 ET).

⁸³ For example, Applicant stated it would comply with recommendations to have a qualified biologist conduct a survey for nesting birds prior to removing vegetation if this activity is proposed during the nesting season. *Id.*

second time, and they responded on January 27, 2025 stating that there are no known eagle nests within a mile.⁸⁴

With respect to concerns raised that there are bald eagles in the vicinity, eBird—a clearinghouse of bird data—notes a bald eagle was observed on January 25, 2026, 1.04 miles northeast of the project site but nothing has been observed any closer in 2026.⁸⁵ The Avian Knowledge Network does not indicate bald eagles have been documented within a mile in 2026.⁸⁶ Permits under the Bald and Golden Eagle Protection Act are only required if bald eagles are nesting within 660 feet of the project site.⁸⁷ Given no eagle nests have been documented within this distance, the project is unlikely to impact bald eagles. Overall, based on our review and the commitments made by the Applicant, the record does not demonstrate that the project will have a significant environmental effect on migratory birds and we do not require an EA based on our rules.⁸⁸

Goslinga/Harvey and others⁸⁹ argue that that an artificial tree made of sharp materials will result in more bird injuries and fatalities and also raises concerns about microplastic pollution.⁹⁰ The local zoning authority has conditioned permit approval on stealthing the tower, which involves a local zoning condition. The arguments that stealth materials will have an impact on migratory birds and will contribute to microplastic pollution are speculative in nature. Goslinga/Harvey and others have provided nothing specific, as required by section 1.1307(c) of the Commission’s rules, to support their claims that this specific tower will result in such harms. Accordingly, we dismiss the Goslinga/Harvey Requests and Individual Filer Requests to the extent they rely on these claims.

Goslinga/Harvey also make allegations related to RF impacts on migratory birds.⁹¹ Those concerns are discussed below.

Radiofrequency (RF) Emissions

Section 1.1307(b)(1)(i)(C) of the Commission’s rules requires preparation of an EA only if RF propagation sources associated with the provision of spectrum-based communications service regulated by the Commission “would cause human exposure to levels of RF radiation in excess of the limits in § 1.1310.”⁹² Under the rules, “[i]f an interested person alleges that a particular action” “will have a

⁸⁴ EBI NEPA Update Letter at 2; EBI, NR Review Update (Mar. 7, 2025), Appx. Email from Kenneth Jacobson, Raptor Management Coordinator, Arizona Game and Fish Department, to cc Owen Price, EBI Consulting (Jan. 27, 2025 15:15 ET).

⁸⁵ See Cornell Lab of Ornithology, eBird.org (last visited June 18, 2026).

⁸⁶ See Point Blue, Map, <https://data.pointblue.org/multimap/natnode/> (last visited June 18, 2026).

⁸⁷ USFWS, *Do I Need an Eagle Take Permit?*, <https://www.fws.gov/story/do-i-need-eagle-take-permit>.

⁸⁸ 47 CFR §1.1307 (note to d).

⁸⁹ See e.g., Goslinga/Harvey Oct. 2022 Request for Denial at 18; Collective Letter 1 and Collective Letter 2.

⁹⁰ Goslinga/Harvey Oct. 2022 Request for Denial at 18.

⁹¹ See e.g., Goslinga/Harvey Mar. 2022 Request at 2.

⁹² See 47 CFR §§ 1.1307(b)(1)(i)(C), 1.1310.

significant environmental effect,” the person shall . . . set[] forth in detail the reasons justifying or circumstances necessitating environmental consideration in the decision-making process.”⁹³

Allegations of RF Impacts on Humans

Goslinga/Harvey and Individual Filer Requests raise general concerns regarding human exposure to RF emissions.⁹⁴ In addition, Goslinga/Harvey allege that the RF analysis that the Applicant has submitted is inadequate.⁹⁵ Goslinga/Harvey and other parties also raise related concerns about microwave radiation, 5G technology, and impacts associated with future collocations on the site.⁹⁶

Applicant’s Opposition submitted on July 7, 2022, included an RF Safety and NIER Analysis Report conducted by third-party consultant, Biwabkos.⁹⁷ Applicant states that based on the RF Safety and NIER Analysis Report completed by Biwabkos, the exposure limits for radiofrequency radiation exposure under section 1.1310 will not be exceeded by operations on the proposed tower.⁹⁸ As a result, the Applicant states the preparation of an EA is not required under section 1.1307(b) of the FCC’s rules.⁹⁹

The Commission’s rules categorically exclude actions that do not involve a site location specified in section 1.1307(a)(1)-(7), involve high intensity lighting under section 1.1307(a)(8), or result in human exposure to RF radiation in excess of the applicable safety standards in section 1.1307(b).¹⁰⁰ In this case, the Applicant has provided an RF analysis indicating that the proposed facility is compliant with the FCC’s emissions limits.

With respect to Goslinga/Harvey’s arguments regarding the sufficiency of the RF study submitted by the Applicant, under the Commission’s rules, applicants are required to confirm that operations will be within the limits defined by 1.1310 of the FCC’s rules. For towers that are not yet constructed, such as this one, a predictive model is appropriate. That has been done in this case. Therefore, based on the Applicant’s submission, we find the project at hand to be compliant with the Commission’s RF exposure limit requirements and categorically excluded from requiring additional environmental review on the basis of

⁹³ 47 CFR § 1.1307(c).

⁹⁴ See, e.g., Goslinga/Harvey Mar. 2022 Request at 2, Exh. E; Goslinga/Harvey Oct. 2022 Request for Denial at 15-16 and 18-20; Campbell Request at 1; Fried Request at 1; Hubbell Request at 1-2; Richards Request at 3-5; Wilkins Request at 1; Wisdom of the Earth Request at 1; Wright Request at 1. See also Collective Letter 1 and 2 at 3-4.

⁹⁵ Goslinga/Harvey Oct. 2022 Request for Denial at 15-16 and 18-20. To the extent Goslinga/Harvey discuss the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *Environmental Health Trust v. FCC*, 9 F.4th 893 (D.C. Cir. 2021) (*Environmental Health Trust*), we note that the court’s remand in that case did not change or render inoperable the Commission’s existing RF rules concerning human exposure codified at 47 CFR §§ 1.1307(b) and 1.1310.

⁹⁶ See, e.g. Campbell Request at 1.

⁹⁷ Applicant Opposition at 5-6, Exh. D.

⁹⁸ 47 CFR § 1.1310. The Commission rules do not require the submission of any RF information if the propagation characteristics of the RF sources are within the Commission’s human exposure limits set forth in section 1.1310 of its rules. See *id.*

⁹⁹ 47 CFR § 1.1307(b); Applicant Opposition at 5-6, Exh. D.

¹⁰⁰ 47 CFR § 1.1306(b).

RF emissions. With respect to any future antennas that will be added to the site, section 1.1307(b)(5)(i) of the Commission’s rules pertains to emissions from multiple RF sources and requires that “when the exposure limits specified in § 1.1310 of this part are exceeded in an accessible area due to the emissions from multiple fixed RF sources, actions necessary to bring the area into compliance or preparation of an Environmental Assessment (EA) as specified in § 1.1311 of this part are the shared responsibility of all licensees whose RF sources produce, at the area in question, levels that exceed 5% of the applicable exposure limit proportional to power...”¹⁰¹

While Goslinga/Harvey and other individual filers express general concerns regarding RF emissions, they fail to allege (or present any evidence) sufficient to refute the Applicant’s submission or otherwise show that the proposed facility will result in human exposure to RF emissions that will exceed the Commission’s emissions limits described in the Commission’s rules.¹⁰² Specifically, the requests do not present sufficient “detail” or “circumstance,” as required by section 1.1307(c), indicating that RF propagating equipment to be hosted on the proposed structure will cause human exposure to RF in excess of the limits in section 1.1310 of the rules. Pursuant to section 1.1307(c), given that the requesters have not provided sufficient detail indicating that the RF sources to be hosted on the proposed structure will exceed these RF limits, the requests have not satisfied the requirements for requiring an EA.

We also note that based on the materials submitted, it does not appear there are plans to operate microwave antennas on the tower.¹⁰³

Allegations of RF Impacts on Wildlife and Fauna

Goslinga/Harvey also raise a number of concerns related to potential RF impacts on wildlife, including migratory birds and fauna.¹⁰⁴ Such claims include arguments that the proposed project should be studied for potential non-thermal, non-ionizing EMF impacts on birds and other wildlife and due to general concerns that RF emissions will reach “sight lines” of mesas and bluffs at heights close to the height of the tower and at distances of around 700 to 2500 feet away.¹⁰⁵ Other individual filers and the Hopi Tribe raises similar concerns.¹⁰⁶ The concerns raised are general RF concerns that are not project specific.

¹⁰¹ 47 CFR § 1.1307(b)(5)(i).

¹⁰² See Goslinga/Harvey Mar. 2022 Request for Review at 2, Exh. E; Campbell Request at 1; Fried Request at 1; Hubbell Request at 1-2; Richards Request at 3-5; Collective Letter 1 and 2 at 1-2; Wilkins Request at 1; Wisdom of the Earth Request at 1; Wright Request at 1.

¹⁰³ To the extent requesters are concerned with the safety of microwave antenna operations, however, they may wish to review the FCC’s RF Safety FAQ, which includes information regarding microwave antennas. FCC RF Safety FAQ, <https://www.fcc.gov/engineering-technology/electromagnetic-compatibility-division/radio-frequency-safety/faq/rf-safety#Q19>.

¹⁰⁴ Goslinga/Harvey July 2022 Request for Denial at 11-15; Gosling/Harvey Oct. 2022 Request for Denial at 11-20

¹⁰⁵ Gosling/Harvey March 2022 Request at 2-3, Exh. A and B.1.

¹⁰⁶ See, e.g., Campbell Request, Colvin Request, Wisdom of the Earth Request; See also Collective Letter 1 and Collective Letter 2; See Letter from Stewart B. Koyiyumptewa, Program Manager/THPO, Hopi Cultural Preservation Office, to Ramon Williams, FCC, ASR A1208809, at 2-3 (Oct. 11, 2022).

Through their submissions, which also include references to a two-part study,¹⁰⁷ Goslinga/Harvey argue an EA should be required based on potential RF emissions impacts on wildlife and fauna. We disagree due to material procedural and substantive deficiencies, as discussed below, and we dismiss the requests to the extent they rely on these claims.

In applying the Commission's rules to the facts of this case, we disagree that an EA should be required on the basis of alleged RF and EMF impacts on non-human species. Specifically, with respect to RF emissions limits, section 1.1307(b)(1)(C) requires preparation of an EA if an action exceeds the RF emissions limits set forth in the Commission's rules.¹⁰⁸ The Commission, through notice and comment rulemaking and consideration of relevant scientific evidence, determined that exceeding these limits may have a significant environmental effect, requiring the preparation of an EA. In this case, the Applicant has provided an RF analysis indicating that the proposed facility is compliant with the FCC's emissions limits.¹⁰⁹ That submission and Commission analysis of the proposed project leads us to find the project at hand to be compliant with the Commission's RF exposure limit requirements and categorically excluded from requiring additional environmental review on the basis of RF emissions. Nothing in the record indicates that the Commission's RF exposure limits will be exceeded. The claims that an EA should be required on the basis of RF and EMF impacts on wildlife and fauna, therefore, appear to be predicated on the position that the Commission should change its current RF rules. A request to change the Commission's rules, however, is beyond the scope of this proceeding.¹¹⁰

Because the Commission's rules pertain to human exposure to RF and the applicant has evaluated and provided information related to compliance with the Commission's rules, any allegations related to potential RF and EMF impacts to wildlife and fauna are considered under 1.1307(c) of the Commission's rules. Claims raised pursuant to section 1.1307(c) must include sufficient detail to support the complaining party's allegation that the proposed facility may have a significant environmental effect. The information provided and source referenced by the requesters do not demonstrate with sufficient detail that the action may have a significant environmental impact under section 1.1307(c). First, the study referenced is not specific to the tower project being evaluated but, rather, is cited to support what appears to be Goslinga/Harvey's broader claim that the Commission should change its RF rules. Second,

¹⁰⁷ Goslinga/Harvey March 2022 Request at Exh. B: B. Blake Levitt, Henry C. Lai, and Albert M. Manville II, *Effects of non-ionizing electromagnetic fields on flora and fauna, Part 1. Rising ambient EMF levels in the environment*, Rev Environ Health (2021).; Goslinga/Harvey Oct. 2022 Request for Denial at Exh. E.6: B. Blake Levitt, Henry C. Lai, and Albert M. Manville II, *Effects of non-ionizing electromagnetic fields on flora and fauna; Part 2 impacts: how species interact with natural and man-made EMF*, Rev Environ Health (2021).

¹⁰⁸ 47 CFR § 1.1307(b)(1)(C) (requiring preparation of an EA if "RF sources would cause human exposure to levels of RF radiation in excess of the limits in § 1.1310.").

¹⁰⁹ Applicant July 2022 Opposition at 5-6, Exh. D.

¹¹⁰ See 47 CFR § 1.1401. See also *Viasat Inc. v. FCC*, 47 F.4th 769, 776 (D.C. Cir. 2022) ("an agency need not - indeed should not - entertain a challenge to a regulation, adopted pursuant to notice and comment, in an adjudication or licensing proceeding" (quoting *Trib. Co. v. FCC*, 133 F.3d 61, 68 (D.C. Cir. 1998), internal quotation marks omitted)). See also *AT&T Corp. v. FCC*, 448 F.3d 426, 434 (D.C. Cir. 2006) ("[I]t is elementary that an agency must adhere to its own rules and regulations.") (quoting *Reuters Ltd. v. FCC*, 781, F.2d 946, 950 (D.C. Cir. 1986) (internal quotation marks omitted)).

relevant standard-setting institutions have not established standards recognizing alleged RF and EMF effects on non-human species. In contrast, the Commission's RF rules are based upon the findings of established scientific and technical standard-setting institutions, and evaluating such evidence would require a broader examination with a more fulsome record than is present here. Any questions raised regarding the adequacy of the Commission's RF rules are outside the scope of this proceeding, which is focused on the limited context of this proposed construction.¹¹¹

For the foregoing reasons, we find that Goslinga/Harvey and other Individual Filing Parties have not met the burden under section 1.1307(c) to demonstrate why an EA should be required for the proposed tower based on alleged RF and EMF impacts to wildlife and fauna and we deny the requests to the extent they are based on this claim.

Allegations regarding alleged RF impacts on migratory birds

Beyond impacts to migratory birds due to collisions, commenters argue that the RF emitted from the proposed tower will also have significant negative impacts on migratory birds.¹¹² As discussed above, commenters appear to base their arguments on claims that the Commission should change its RF rules, but such claims are beyond the scope of this proceeding. Further, commenters have submitted no detailed evidence that RF from the operation of *this particular tower* will have material negative effects on the circumstances of any local migratory birds in the vicinity and have, therefore, failed to satisfy the "detail" element of section 1.1307(c) of the Commission's rules.

For the foregoing reasons, we find that commenters have not met the burden under section 1.1307(c) to demonstrate that an EA should be required based on potential RF impacts on migratory birds. We therefore deny the Goslinga/Harvey Requests and other Individual Filer Requests to the extent they rely on the claim that an EA should be required on this basis.

Historic Properties and Indian Religious Sites

Section 1.1307(a)(4) of the Commission's rules states that EAs may be required for facilities that "may affect districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places."¹¹³ Section 1.1307(a)(5) provides that an EA may be required if the proposed facilities may affect Indian religious sites.¹¹⁴ To address these concerns, applicants are required to comply with the Commission's Section 106 historic preservation rules.

The Goslinga/Harvey Request claims that the tower's action area overlaps with Cornville's deepest Old West history. Moreover, Goslinga and Harvey and the Individual Requests state that Walt Disney's

¹¹¹ 47 CFR § 1.1310(a)-(d), Note, *supra* note 4.

¹¹² See e.g., Gosling/Harvey July 2022 Request for Denial at 17-18.

¹¹³ See 47 CFR § 1.1307(a)(4). Section 1.1307(a)(4) requires that the historic property be subject to review pursuant to Section 1.1320.

¹¹⁴ See 47 CFR § 1.1307(a)(5).

animal training facility in the 1960s is now Runnin' W Wildlife Center and is less than 300 feet from the tower, and many Old West cowboy films were filmed in the action area.¹¹⁵

The Goslinga/Harvey Request argues that those living in the area routinely find Native American pottery shards, artifacts and flintstones on their lands, all within a 2000-foot radius of the proposed site.¹¹⁶ Goslinga and Harvey also claim that a settlement of 400 ruins atop the most prominent Sheepshead canyon mesa, 2,300 feet from and at level with the tower, is the largest settlement of native ruins in the valley.¹¹⁷

Applicant responded that Tribes were contacted and Tribal historic properties are not affected by the project.¹¹⁸ Applicant consulted with the State Historic Preservation Office (AZ SHPO), which originally determined that the proposed tower will have no effect to historic properties.¹¹⁹ AZ SHPO's finding was based in part on outreach to potentially affected Tribes, none of which raised any concerns about the proposed monoelms.¹²⁰

On October 11, 2022, the Hopi Tribal Historic Preservation Officer (THPO) submitted a letter of opposition to the tower out of concern that it would irreparably disturb critical viewshed and ancestral settlements of the Hopi Bear clan burial mounds found on either side of the proposed tower site, and also out of concern that it would be located along the Tribe's ancestral *Palatkwapi* Trail system.¹²¹

In February of 2023, the AZ SHPO rescinded its previous concurrence with the finding of "no historic properties affected" and issued a determination of "adverse effect" after the Hopi THPO notified the AZ SHPO of their concerns.¹²²

In order to address concerns raised by the Hopi Tribe, the Commission, EBI on behalf of the Applicant, the AZ SHPO, and the Hopi THPO held a conference call on June 9, 2023.¹²³ As a result of the call, it

¹¹⁵ Goslinga/Harvey Mar. 2022 Request for Review at 4; *see also* Colvin Request at 1; Richards Request at 2; Email Gillian Goslinga to Aniela Travers, Technical Director, Archaeological/Tribal Consultation Services, EBI Consulting (Jun. 12, 2023 13:46 ET); *see also* Wright Request at 1; Richards Request at 2-3.

¹¹⁶ Goslinga/Harvey Mar. 2022 Request at 4; *see also* Hubbell Request at 2.

¹¹⁷ Goslinga/Harvey Mar. 2022 Request at 4; *see also* Richards Request at 5; Email Gillian Goslinga to Aniela Travers, Technical Director, Archaeological/Tribal Consultation Services, EBI Consulting (Jun. 7, 2023 12:01 ET). Goslinga argues that there have been incomplete disclosures to the tribes. Goslinga, Issues Recap at 28 (Nov. 20, 2023). However, the engagement of the AZ SHPO and Hopi Cultural Preservation Office demonstrate the Applicant's efforts to work with the SHPO and Tribes. *See, e.g.*, Applicant Opposition at 4.

¹¹⁸ Applicant Opposition at 4; EBI NEPA Update Letter at 3.

¹¹⁹ Letter from Kathryn Leonard, State Historic Preservation Officer, AZ SHPO, to Christine Heacock et al., Deputy Federal Preservation Officer, FCC (Feb. 27, 2023) (AZ SHPO Rescinding Letter).

¹²⁰ *See e.g.*, AZ SHPO Rescinding Letter at 1.

¹²¹ Letter from Stewart B. Koyiyumtewa, Program Manager/THPO, Hopi Cultural Preservation Office, to Ramon Williams, FCC, ASR A1208809, at 1 (Oct. 11, 2022); *see also* AZ SHPO Rescinding Letter at 1; Collective Letter 1 and 2 at 3; Wright Request at 1.

¹²² AZ SHPO Rescinding Letter.

¹²³ *See* EBI, Addendum FCC Submission, at 38; Email from Aniela Travers, EBI Consulting, to Christine Heacock et al., (Feb. 4, 2025 17:19 ET) (recapping conversation and documentation).

was determined that the Hopi Cultural Preservation Office would conduct its own onsite survey and visual effects assessment.¹²⁴ The Hopi Cultural Preservation Office conducted the fieldwork in September 2023 and March 2024 and concluded that there were no cultural resources present within the area of potential effect-direct effect (APE-DE) and that the proposed undertaking will have no visual effects on historic properties.¹²⁵ EBI followed up with the AZ SHPO with updated information in February 2025, which included the aforementioned assessment of effects from the Hopi Preservation Office and an updated assessment from EBI which also included a no adverse effect determination.¹²⁶ Subsequently, AZ SHPO issued a no adverse effect determination, but indicated in its response that the Applicant should continue to work with the Tribe to resolve any remaining concerns.¹²⁷ Commission staff reached out to the Hopi Tribe via email in May 2025 inviting them to discuss any remaining concerns and did not receive a response.¹²⁸ Commission staff called the Hopi Tribe in July 2025 and left a voicemail with an invitation to discuss any concerns. In March 2026, Commission staff reached out to the Hopi Tribe to provide a final opportunity to comment, and explained that absent a response, they would conclude that good faith efforts to resolve remaining concerns had been met.¹²⁹ Commission staff did not receive a response.

The AZ SHPO and all affected Tribes have had an opportunity to assess the impact on historically and tribally significant sites and have either concluded that there is no adverse impact or remained silent. Accordingly, we find that the Applicant's construction will have no adverse effect on historically or Tribally significant sites. We therefore deny requests to require an EA based on concerns related to historic properties or tribally significant sites.

Missing Photograph. FCC Form 620, a form used to complete the Commission's Section 106 process, states the submission of photographs of the project site, and "Photographs taken from the tower site

¹²⁴ Email from Caroline Klebucha, Archaeology Compliance Specialist, AZ SHPO, to Aniela Travers, EBI Consulting (Feb. 25, 2025 11:30 am), attaching Email from Aniela Travers from Feb. 4, 2025.

¹²⁵ See Email from Christine Heacock, FCC, to Stewart B. Koyiyumtewa et al., Program Manager/THPO, Hopi Cultural Preservation Office (Mar. 5, 2026 13:15 ET); Email from Aniela Travers, EBI Consulting, to Christine Heacock et al., FCC (Feb. 4, 2025 17:19 ET) ("The Hopi Cultural Preservation Office's Class II survey concluded that there were no cultural resources present within the APE-DE and that the proposed undertaking will have no indirect visual effects on Historic Properties."); Email from Allison Jones, FCC, to Heather Carlisle, Tilson (Apr. 4, 2023 17:59 ET); see also EBI NEPA Update Letter at 3.

¹²⁶ Email from Aniela Travers, EBI Consulting, to Christine Heacock et al., FCC (Feb. 4, 2025 17:19 ET) ("The Hopi Cultural Preservation Office's Class II survey concluded that there were no cultural resources present within the APE-DE and that the proposed undertaking will have no indirect visual effects on Historic Properties."); see also EBI NEPA Update Letter at 3.

¹²⁷ Email from Caroline Klebucha, Archaeology Compliance Specialist, AZ SHPO (Feb. 25, 2025 8:30 ET), Attach. FCC—AZ SHPO, Cell Tower Consultation Form at 2 ("Additional SHPO Comments: "Concur, no adverse effect. Please continue to work with the Hopi Tribe to address concerns brought up in consultation.").

¹²⁸ Email from Christine Heacock, Deputy Federal Preservation Officer, to Jakob Maase and Stewart Koyiyumtewa (May 29, 2025 08:18 ET).

¹²⁹ See Email from Christine Heacock, Deputy Federal Preservation Officer, FCC, to Stewart B. Koyiyumtewa, Program Manager/THPO, Hopi Cultural Preservation Office (Mar. 3, 2026 13:15 ET).

should show views from the proposed location in all directions.”¹³⁰ “The direction (e.g., north, south, etc.) should be indicated on each photograph, . . .”¹³¹ Goslinga and Harvey argue that the Applicants did not supply a westerly photograph that would have “revealed to consulting agencies severe grading and import of rubble and nonnative soil along the Easterly fenceline.”

FCC Form 620 Instructions direct applicants to provide photographs. In this case, the Applicant and Goslinga have supplied numerous photographs of the site, but did not include views from all direction.¹³² If applicants do not provide photographs from all directions of the proposed tower, it can slow down the review process, but does not automatically trigger a need for an EA. As described above, the Section 106 review is complete and an EA is not warranted. To the extent Goslinga/Harvey raise this concern to support a claim that an EA is required based on a change to surface features, we deny this request. The proposed project will occur on already disturbed land,¹³³ has a small footprint of approximately 0.16 acre, no trees are proposed for removal, and the adjacent desert wash will be protected from construction impacts using best management practices. Therefore, the evidence is sufficient to determine that the Commission’s rules do not require an EA due to a significant change in surface features.¹³⁴

With respect to concerns regarding the character of the town and other points of interest, consideration of such factors are outside of the scope of the Commission’s review unless they are identified in the course of the Section 106 review process described above or fall under the Commission’s aesthetics review discussed below.

Aesthetic Arguments

Goslinga and Harvey and Individual Filing Parties argue that the proposed tower will impact the aesthetic views of residents and visitors.¹³⁵ The Commission does not consider visual or aesthetic effects as an EA trigger requirement under section 1.1307(a) and does not require tower builders to evaluate it during their initial NEPA assessment. The Commission, however, does permit interested persons to raise aesthetic concerns pursuant to section 1.1307(c), and it will review on a case-by-case basis and gives considerable weight when the site is approved by localities consistent with the *Copper Harbor* Order.¹³⁶

¹³⁰ FCC Form 620 at 4.

¹³¹ FCC Form 620 at 4.

¹³² Applicant Opposition at 68-69, 78, 156 (providing north and south pictures); Goslinga/Harvey November 2022 Letter, Exh. A.1 at 3-5.

¹³³ Applicant Opposition at 3.

¹³⁴ See 47 CFR § 1.1307(a)(7).

¹³⁵ Goslinga/Harvey Mar. 2022 Request, Exh. H; Goslinga/Harvey Mar. 2022 Request at 3-4; Campbell Request at 2; Colvin Request at 1-2; Fried Request at 1; Hubbell Request at 1-2; See also Collective Letter 1 and 2 at 2.

¹³⁶ See SBA Towers III, LLC, Petitions to Deny and Requests for Environmental Review Against Antenna Structure Registration (FCC Form 854) with Environmental Assessment, Copper Harbor, Michigan, ASR App. A0909673, *Memorandum Opinion and Order*, 31 FCC Rcd 1755, 1765-66, para. 38 (2016) (*Copper Harbor*). In *Copper Harbor*, the Division did not find any aesthetic impacts because the site had not been recognized as a specially protected scenic area and because the local government gave approval to the proposed tower after considering visual impacts. *Copper Harbor*, 31 FCC Rcd at 1766, para. 39.

We find that the record does not demonstrate that the tower would have sufficient visual impact to have a significant impact on the environment. Like *Copper Harbor*, the site has not been recognized as a specially protected scenic area and the local government gave approval to the proposed tower after considering visual impacts.¹³⁷ It is not sufficient for a commenter to simply allege a project will have an adverse visual impact because the site of the tower would be unpleasant to the commenter. In this instance, the tower will be located in a previously disturbed area that is zoned commercial. The Hopi Tribe has evaluated potential visual impacts, including potential impacts to the *Palatkwapi* Trail and has found no adverse visual effects to the trail.¹³⁸ Accordingly, we deny the Goslinga/Harvey Requests and Individual Filer Requests to the extent they rely on the claim of aesthetic impacts under NEPA.

III. Other Issues

Insufficient Notice. Section 17.4(c)(3) requires that a prospective “applicant must provide local notice of the proposed new antenna structure or modification of an existing antenna structure through publication in a newspaper of general circulation or other appropriate means.”¹³⁹ Goslinga and Harvey raised concerns regarding whether the local notice provided by Applicant in the Prescott *Daily Courier* was consistent with FCC rules.¹⁴⁰

In 2022, staff from the Division requested that Applicant provide additional information regarding its decision to publish local notice in *The Daily Courier* in Prescott, Arizona instead of a publication of general circulation that might be in closer proximity to the residents of Cornville.¹⁴¹ EBI subsequently filed a copy of the notice in the *Verde Independent* on September 11, 2022, and an affidavit that notice was published in the *Verde Independent/Bugle*.¹⁴² Accordingly, Applicant has proved that they provided legally sufficient notice. This is further emphasized by the fact that the Hopi Tribe¹⁴³ and others¹⁴⁴ relied on that notice.

¹³⁷ See Letter from Jeremy Dye, Interim Director, Yavapai County Development Services to Michael J. Campbell, Campbell A&Z, LLC (Feb. 2, 2022). The letter approving the local application indicated, “Full stealth design required within 1,000 feet, as measured from the base of the tower, of a residentially zoned parcel as approved by the Development Services Director. Stealth design to match the characteristics of the surrounding community.” *Id.*

¹³⁸ Email from Aniela Travers, EBI Consulting, to Christine Heacock et al., FCC (Feb. 4, 2025 17:19 ET) (“The Hopi Cultural Preservation Office’s Class II survey concluded that there were no cultural resources present within the APE-DE and that the proposed undertaking will have no indirect visual effects on Historic Properties.”); Email from Allison Jones, FCC, to Heather Carlisle, Tilson (Apr. 4, 2023 17:59 ET); *see also* EBI NEPA Update Letter.

¹³⁹ 47 CFR § 17.4(c)(3).

¹⁴⁰ Goslinga/Harvey March 2022 Request at 1.

¹⁴¹ Email from Paul D’Ari, Senior Counsel, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau to Heather Carlisle, Counsel for Tilson (Aug. 15, 2022); Email from Paul D’Ari, Senior Counsel, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau to Heather Carlisle, Counsel for Tilson (Sept. 6, 2022) (finding insufficient notice).

¹⁴² See EBI Consultants, F620 Addendum, FCC ASR A1208809, at 200-202 (Feb. 4, 2025).

¹⁴³ Letter from Stewart B. Koyiyumptewa, Program Manager/THPO, Hopi Cultural Preservation Office, to Ramon Williams, FCC, ASR A1208809, at 1 (Oct. 11, 2022).

¹⁴⁴ See, e.g., Wisdom of the Earth Request at 1.

Property values. We dismiss allegations made by parties concerning property and business values¹⁴⁵ for failure to allege a significant environmental effect. Property values are not a cognizable environmental harm.¹⁴⁶

Location of proposed tower. We also dismiss the allegations raised concerning the location of the proposed tower in an area with residences nearby,¹⁴⁷ inefficient wireless coverage,¹⁴⁸ fire risk,¹⁴⁹ and fall zone¹⁵⁰ for failure to allege a significant environmental effect. The local authority may consider applications for tower construction and enforce its zoning ordinances in a manner consistent with the conditions set out in the Commission's rules. State or local zoning ordinances may include consideration of location, aesthetics, consistency with neighboring land uses, structural safety, noise, and similar concerns. Accordingly, to the extent safety concerns have been raised about the location of the proposed tower, these concerns should be addressed to a state or local government authority.

In addition, we note that there is no requirement under the Commission's rules that Applicants for ASR registration demonstrate that there is insufficient wireless coverage in the area where they are proposing to build a tower or that the project will result in efficient or sufficient coverage.¹⁵¹

Alternate Locations. Goslinga notes that the Applicant did not consider alternative locations.¹⁵² This is only a requirement if the Applicant is required to complete an EA.¹⁵³ Because we do not find that an EA is warranted, the Applicant does not need to discuss alternative locations.

Public Controversy. If an Applicant is required to submit an EA, the Applicant must provide a statement as to whether the construction of facilities has been a source of controversy in the community.¹⁵⁴ Individual Filing Parties have expressed concern about this build,¹⁵⁵ and Goslinga cites to section 1.1311(a)(3), regarding public controversies.¹⁵⁶ For the purposes of an environmental review, this rule is only applicable after an EA is required. Where an EA is required, additional inputs about the community

¹⁴⁵ See, e.g., Colvin Request at 2; Hubbell Request at 2.

¹⁴⁶ See, e.g., *Gunpowder Riverkeeper v. FERC*, 807 F.3d 267, 274 (D.C. Cir. 2015) ("The zone of interests protected by the NEPA is, as its name implies, environmental; economic interests simply do not fall within that zone."); *Mount. States Legal Found. v. Glickman*, 92 F.3d 1228, 1235-36 (D.C. Cir. 1996) ("NEPA's rather sweeping list of interests . . . do not include purely monetary interests, such as the competitive effect that a construction project may have on plaintiff's commercial enterprise.").

¹⁴⁷ Goslinga/Harvey Mar. 2022 Request at 3-4; Wright Request at 1.

¹⁴⁸ Colvin Request at 2-3; Hubbell Request at 2.

¹⁴⁹ Goslinga/Harvey Mar. 2022 Request at 3, 5.

¹⁵⁰ See Colvin Request at 1; Collective Letter 1 and 2 at 2.

¹⁵¹ See generally 47 CFR § 1.1307 and 47 CFR § 17.4.

¹⁵² See, e.g., Gillian Goslinga, Issues Recap at 27 (Nov. 20, 2023).

¹⁵³ 47 CFR § 1.311(a)(4).

¹⁵⁴ 47 CFR § 1.1311(a)(3).

¹⁵⁵ See Individual Filer Requests.

¹⁵⁶ Gillian Goslinga, Issues Recap at 27 (Nov. 20, 2023).

sentiment can be informative. The environmental concerns raised in this case have been evaluated without the need for an EA.

Bad faith and premature clearing. Goslinga/Harvey also argue that Applicant has on several occasions acted in bad faith.¹⁵⁷ We dismiss this argument. Today's determination is based on the Commission staff's assessment of the facts as they pertain to environmental concerns, and Applicant has been cooperative in this process.

With respect to arguments made regarding premature activity at the site, including grading, the Division issued notifications on September 23, 2022 and on March 4, 2025 directing Applicant to suspend such activity and Applicant complied with these requests.¹⁵⁸ Applicants who file applications in the FCC's ASR system are not authorized to proceed with construction before an ASR application is granted.

IV. Conclusion

After a full review and assessment of the record, we have determined that an EA is not required for this project.

Competition and Infrastructure Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission

¹⁵⁷ Goslinga/Harvey Jul. 2022 Request for Denial at 1-5 (“We also bring to FCC’s attention evidence of a pattern of bad faith on the part of the opposing Party, Tilson, showing that Tilson et al failed in due diligence and the requirement to provide “substantial written evidence,” cherry-picking siting information and making absurd claims, including that of no impact.”)

¹⁵⁸ Email from Michael C. Smith, Program Analyst, FCC, to all parties (Sept. 23, 2022 16:45 ET); Email from Allison Jones, Associate Division Chief, CIPD, WTB, FCC, to Mr. Schneider and Ms. Carlisle, Tilson, ASR A1208809 (Mar. 4, 2025 17:10 ET).