

The Topock Remediation Project Overview

The Topock Remediation Project is a RCRA (Resource Conservation and Recovery Act)/CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act) action involving DOI, BLM, USFWS, BOR, and multiple state, local, and tribal stakeholders. The area being treated for contamination contains multiple historic properties, significant traditional cultural properties and other cultural resources of importance to multiple tribes. Legal settlements and relationships between Pacific Gas and Electric (PG&E) and the Fort Mojave Indian Tribe (FMIT) and other local tribes, most details of which are unknown, complicate on-going BLM tribal consultation responsibilities.

The BLM has been designated as the lead federal agency for purposes of cultural resource compliance for the Topock Remediation Project.

Background

The PG&E Topock Compressor Station (Station) is part of a system of natural gas pipelines in northern and central California. The Station is in eastern San Bernardino County about 12 miles southeast of the city of Needles, California, south of Interstate 40, one-half mile west of the Colorado River. The Station is surrounded by federal land, including lands managed by the U.S. Fish and Wildlife Service (USFWS), the Bureau of Land Management (BLM), and the Bureau of Reclamation (BOR).

From 1951-1985 the Station used hexavalent chromium as an anti-corrosion agent in its cooling towers. From 1951 to 1968, cooling tower wastewater was discharged into percolation beds in a normally dry wash (Bat Cave Wash) next to the Station. Beginning in 1964, PG&E treated the wastewater to remove hexavalent chromium and, in 1970, installed an underground injection well to receive treated wastewater. From 1971 to 1974 PG&E alternated disposal of the treated wastewater between the injection well and pumping into a series of lined surface evaporation ponds. By 1974, all wastewater was disposed of in the lined ponds. In 1985, PG&E stopped using the chromium-based additive.

In 1996, the U.S. Environmental Protection Agency (EPA) and the California Department of Toxic Substances Control (DTSC), determined there were hazardous levels of hexavalent chromium (toxic substance and carcinogen) in the groundwater around the Topock Compressor Station. Also in 1996, DTSC entered into a Correction Action Consent Agreement with PG&E to investigate the nature and extent of any chromium contamination and to complete necessary clean up. The agreement was executed under RCRA/CERCLA. The United States Department of the Interior (DOI) is responsible for oversight of the response actions being conducted by PG&E pursuant to CERCLA. DTSC was designated by the EPA to provide oversight for the RCRA compliance process.

Environmental investigation has been under-way at the site since 1997. The investigation focuses primarily on hexavalent chromium contamination of soil and groundwater. A plume of affected groundwater lies mostly beneath federal lands. DTSC and DOI have required PG&E to take actions, known as Interim Measures, to stabilize the chromium levels in groundwater and ensure that landward gradients are present near the Colorado River. Under Interim Measures, PG&E has been extracting and treating groundwater at the site since March 2004.

A Memorandum of Agreement (MOA) addressing cultural resources concerns for Interim Measure 3 (IM-3) was signed by the BLM Lake Havasu Field Office, the California State Historic Preservation Officer (SHPO), and PG&E in September of 2004. The majority of work under IM-3 has been completed, including monitoring and extraction wells, and the construction of a groundwater treatment facility. An Area of Potential Effect (APE) of 1,815 acres was defined for IM-3, and an archaeological survey was completed in 2007. Over 150 archaeological sites were identified in the APE, including prehistoric lithic and ceramic scatters, geoglyphs and intaglios, sections of historic Highway 66 and associated structures, and historic sites associated with railroad construction during the period of 1890-1947. Also identified were traditional cultural properties of importance to local tribes.

With DTSC and DOI review and approval, PG&E has prepared a Final Remedy/Action Plan to address contamination of ground water at the Topock Remediation Project Site, and a final Corrective Measures Study/Feasibility Study (CMS/FS) for soils contamination has also been prepared. This document is being reviewed by tribes and other stakeholders.

On October 26, 2010, the BLM, the Arizona and California SHPOs, and the Advisory Council on Historic Preservation, executed a Programmatic Agreement (PA) as specified under 36CFR800 for treatment of cultural resources affected by the project. The APE was expanded slightly for the PA, and additional archaeological inventory was done of all areas not inventoried in 2007. All nine consulted Tribes, PG&E, DTSC, and the USFWS were invited to participate in the execution of the PA. Only one tribe, the Hualapai Tribe, has signed the PA as an Invited Signatory. This PA stipulates how the BLM will comply with the National Historic Preservation Act and 36CFR800 for the duration of the Topock Remediation Project. A number of products and decisions were stipulated in the PA.

Tribal and Cultural Resource Issues

In July of 2005, PG&E completed construction of a groundwater treatment facility (as part of IM- 3) near the Topock Compressor Station on lands owned by PG&E. This treatment facility is near a large geoglyph commonly called the Topock Maze, which is considered of traditional and spiritual importance to the FMIT, the Chemehuevi Tribe, and other tribes in the region. The construction of the interim treatment facility was considered an affront by the FMIT, with support from the Hualapai Tribe. In addition, the landscape around the Topock Compressor Station, including the Colorado River, the floodplain, several

mountains, and the greater Mojave Valley, have all been identified by the FMIT and other tribes as being of traditional cultural importance.

In November of 2006 FMIT obtained a settlement from PG&E for unspecified damages associated with the chromium contamination and the construction of the groundwater treatment facility. Several tribes, including both FMIT and the Colorado River Indian Tribes (CRIT), consider the ongoing remediation activities in the area of the Topock Compressor Station to be problematic, and in some cases, offensive, to traditional religious and cultural practices and beliefs.

Due to the presence of federal land and the need for DOI oversight and permitting of the CERCLA process, PG&E must comply with all pertinent federal laws and regulations when undertaking remediation activities. One of these requirements is that BLM consult with concerned federally recognized Indian tribes prior to any actions which may affect the interests of the concerned tribes. FMIT, CRIT, and the Hualapai Tribe have utilized the consultation process to express ongoing concerns and protests about the actions associated with the Topock Remediation Project.

FMIT has stated repeatedly that federal consultation on the Topock Remediation Project has been insufficient. FMIT has had their legal counsel review all correspondence and communication between the BLM and the Tribe. Responses to BLM requests for FMIT comment and feedback are often from legal counsel and other consultants, rather than the FMIT government. The FMIT has stated that they do not recognize the validity of the PA, although they continue to consult with BLM and other federal partners. This PA was negotiated to address federal and tribal cultural resources management concerns in and near the project area, for the duration of the selected final remedies for both groundwater and soil contamination. The PA included specific consultation protocols that are currently in use by the BLM for the Topock Project.

The hexavalent chromium contamination of sediment and groundwater adjacent to the Colorado River poses an immediate risk to human health and safety. The remediation of the contaminated materials is not a discretionary activity and must move forward to protect drinking and irrigation water sources for large population and agricultural centers in southern California. The designation of the effort under CERCLA puts in motion a series of actions required to remediate the problem. Tribal consultation and cultural resource compliance are legally required, but are not the primary focus of the undertaking. Timely completion of remediation must be achieved, even though tribes may object to some actions.