



# United States Department of the Interior

**BUREAU OF LAND MANAGEMENT**  
**FISH AND WILDLIFE SERVICE**  
**BUREAU OF RECLAMATION**



## **ELECTRONIC SUBMISSION**

September 28, 2011

**Subject:** PG&E Topock Compressor Station Remediation Site – Land Use Assumptions in Conducting the CERCLA Baseline Human Health Risk Assessment and Development of Remedial Alternatives for the Topock Site, PG&E Topock Compressor Station, Needles, CA.

Dear Tribal Leaders:

In 2007, the Department of the Interior (DOI) established expected future land use assumptions to be applied in the ongoing soil investigation tailored to the reasonably foreseeable uses of federal lands and reflecting the presence of sensitive cultural and biological resources in the vicinity of the Topock Compressor station.

At the Bureau of Land Management (BLM) Soil RCRA Facility Investigation/Remedial Investigation Work Plan Section 106 Consultation Meeting held with Tribal representatives on Thursday, July 21, 2011, the Fort Mohave Indian Tribe requested justification of why the area is proposed to be treated for residential use when the BLM Resource Management Plan (RMP) designates the Beale Slough Riparian and Cultural Area of Critical Environmental Concern (ACEC). With this designation, BLM has committed to manage the area to protect and prevent irreparable damage to the relevant characteristics or important values.

When evaluating remedial alternatives pursuant to CERCLA, the analysis must consider, among other things, whether remedial alternatives will protect human health. This analysis is based on risk levels developed during the baseline human health risk assessment that are premised on assumptions about the future land uses at the site. The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) guidance emphasize the importance of factoring reasonable, but conservative, future land use assumptions into both the baseline risk assessment and the development of remedial alternative; the risk levels developed in the baseline human health risk assessment are then used to evaluate whether remedial alternatives will be protective of human health. In promulgating the revisions to the NCP adopted in 1990, EPA explained in the

preamble that land use restriction, generically defined as institutional controls, were not to be factored into the baseline risk assessment. As explained by EPA:

One commenter requested clarification on the purpose of risk assessment in the Superfund program, especially the baseline risk assessment. EPA responds that the purpose of risk assessment in the Superfund program is to provide a framework for developing risk information necessary to assist decision-making at remedial sites. Risk assessment provides a consistent process for evaluating and documenting threats to human health and the environment posed by hazardous material at sites. One specific objective of the risk assessment is to provide an analysis of baseline risk (i.e., the risks that exist if no remediation or institutional controls are applied to a site).<sup>1</sup>

With respect to the remedy selection process, on the other hand, institutional controls may appropriately be included in remedial alternatives under consideration and in the final remedy that is selected. The NCP expressly identifies institutional controls as one of the potential response action components that may be utilized in remedial actions to mitigate risk.

In the case of Topock, institutional controls for federal lands are addressed by the land management agencies through their respective regulations and management plans such as the BLM RMP. Similarly, the Fish and Wildlife Service (FWS) Lower Colorado River National Wildlife Refuges Comprehensive Management Plan *1994-2014* (“the CMP”), adopted in 1994, currently guides land management at the Refuge.

Beale Slough is part of an Area of Critical Environmental Concern (“ACEC”) designated under the BLM RMP/FEIS. This ACEC includes 2,395 acres that incorporate much of the Topock Site, including locations B and C of the Topock Maze and the floodplain. The Topock-Needles area (1,127 acres including portions of the Topock site) is designated more generally as a Special Cultural Resource Management Area (“SCRMA”). Within the ACEC, camping is only authorized in developed or signed sites (locations are yet to be determined).<sup>2</sup> Neither the ACEC nor Special Cultural Resource Management Area (“SCRMA”) designations prohibit future camping within those areas.

When the CERCLA response actions have been completed, therefore, it is reasonably foreseeable that camping would be authorized in areas along the floodplain. Management of the ACEC also would seek to accommodate the traditional cultural practices of Tribes.

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<sup>1</sup> 55 FR 8666 March 8, 1990

<sup>2</sup> Recreational shooting and firewood collection will be prohibited. In addition, no new utilities or roads will be authorized, with the exception of utilities and access roads that provide service to nonfederal land within these areas. Motorized vehicle use will be limited to existing routes and trails outside of the current emergency closure. Following route designation, anticipated for this area in 2007-2008, “Limited to Existing Roads and Trails” areas would be converted to “Limited to Designated Roads and Trails.” *Id.* at 2-258-260.

In addition to future use expectations established by the RMP, there is a lease between San Bernardino County and Reclamation/BLM which runs from 1964 to 2039<sup>3</sup> and which addresses the use of public land adjacent to the Topock Site.<sup>4</sup> The lease allows for limited, seasonal residential use of the leased property by certain County employees. Given the fact that the Topock site is adjacent to the Park-Moabi, the future use assumptions adopted in the baseline risk assessment for the BLM/Reclamation portion of the Site should take into consideration human use of the Park Moabi-leased area with the assumption that it will continue to include both seasonal residential use by the public and year-round residential use by a limited number of San Bernardino County staff.

Under the National Wildlife Refuge System Improvement Act of 1997 (“FWS Organic Act”), FWS has a primary conservation mission, which is further articulated in relevant policies and the relevant land management plan for each particular refuge. This conservation mission limits human use of refuge property and makes it unlikely that refuge property will be transferred out of federal ownership. Therefore, it is reasonably foreseeable that the property will continue to be managed as a wildlife refuge and the resulting future human use assumption will be limited to recreational and tribal uses.

In summary, for the purposes of the ongoing soil investigation and the baseline risk assessment, the future land use assumptions for FWS-managed refuge will be limited to recreational and tribal uses. The future land use assumptions for BLM-managed land should remain conservative and reflect a residential scenario. In the future, however, institutional controls will appropriately be considered in evaluating the remedial alternatives.

As we move forward in the process of developing cleanup decisions for the soil, we will continue to work with the Tribes and interested stakeholders.

If you have any questions, please contact me at (303) 445-2502.

Sincerely,



Pamela S. Innis  
DOI Topock Remedial Project Manager

Cc: PG&E Topock Consultative Workgroup (CWG) Members

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<sup>3</sup> *25-Year Lease Extension Granted Updated Plan of Development Approved*, BLM Decision, Lease CAAZRI3327 (Approving San Bernardino’s request to extend the original lease, which ran from Sept. 15, 1964 to September 14, 2014 to extend 25 years through September 14, 2039).

<sup>4</sup> *Lease of Land for Park and Recreational Purposes (Park Moabi)* between the United States and San Bernardino County, CAAZRI3327(BOR#14-06-300-1496), (Sept. 15, 1964), p.8.