



**Matthew Rodriguez**  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

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Miriam Barcellona Ingenito  
Acting Director  
5796 Corporate Avenue  
Cypress, California 90630



**Edmund G. Brown Jr.**  
Governor

Via Electronic Mail

September 23, 2014

Michael J. Sullivan, Ph.D., CIH  
Consultant to the Fort Mojave Indian Tribe

MAY 8, 2014 AND JUNE 11, 2014 LETTERS ON RISK ASSESSMENT WORKPLAN  
ADDENDUM 2 FOR THE PACIFIC GAS AND ELECTRIC COMPANY (PG&E),  
TOPOCK COMPRESSOR STATION SITE, NEEDLES, CALIFORNIA (EPA ID NO.  
CAT080011729)

Dear Dr. Sullivan,

The Department of Toxic Substances Control (DTSC) has considered the points raised in your May 8, 2014 letter with respect to the development of the Risk Assessment Work Plan (RAWP) Addendum. DTSC has also evaluated several issues raised in your June 11, 2014 comment letter on the RAWP Addendum 2. DTSC would like to clarify several misconceptions that appear to be suggested in your letters to hopefully mitigate any confusion on the risk and decision process.

As a risk assessment professional, you know that the cumulative risk must first be quantified based on the risks of individual chemicals of concern at the site and on the amount of exposure to a population. Risk management can only be determined after the range of potential risks is considered for all chemicals of concern, and for each type of receptor population. At PG&E Topock, we have identified several different populations that would have potentially different exposure patterns. DTSC understands that the Native American Tribal Nations, including the FMIT, are concerned that the originally approved risk assessment work plan did not fully develop a good understanding of the Tribal uses at the site, and therefore; would not be properly estimating the risks to Tribal practitioners at the site. It is for this purpose that the agencies and PG&E agreed to develop the current RAWP addendum. DTSC notes, however, that aside from Tribal uses at the site, other populations with different uses were identified by the US Department of the Interior (DOI) as early as 2007. DOI and its bureaus, including the Bureau of Land Management (BLM), Bureau of Reclamation (BOR) and Fish and Wildlife Service (FWS), are the landowners with management responsibility for public lands around the PG&E Topock Compressor

Station. Therefore, DTSC, as a California State agency, will adhere to the potential future uses and the potential exposure scenario specified by DOI for their lands. DTSC notes that you have mistakenly implied, in the June 11 letter, that there was an inconsistency in the land use evaluation between the soil RAWP and the Environmental Impact Report (EIR). On the contrary, DTSC believes that by requesting only a Tribal land use alternative in the EIR, as proposed by the FMIT, will actually cause inconsistency between the stated documents and the soil investigation work plan. Although DTSC will continue to partner with the Native American Tribes in the cleanup process as important stakeholders of their traditional lands, DTSC cannot discount the protection of other populations identified by DOI as well as the sensitive biological species that are or may be present.

In the May 8, 2014 letter, you stated concerns with the agencies appearing to have made specific decisions on the soil characterization work prior to the EIR. DTSC would like to clarify that the EIR project is largely based on the activities that are proposed in the draft soil investigation workplan and evaluates the potential environmental impacts associated with that work. As you know, that draft workplan, in its current iteration, has been deliberated in detail by the Tribes, agencies, and other key stakeholders of the project since 2010. Nevertheless, in keeping with our commitment to the Tribes and in accordance with the requirements of the California Environmental Quality Act, alternatives to the proposed project based on the objectives of the proposed project have been incorporated and evaluated in the draft EIR. The Tribes, along with all other stakeholders and the general public, has been afforded an opportunity to review and comment on the draft EIR during its comment period. Furthermore, DTSC will not approve the final workplan until all comments received during the comment period have been reviewed, considered and responded to.

With respect to your concern regarding representativeness of data for risk assessment, DTSC agrees that every aspect of sampling and evaluation efforts has cascading influence on the accuracy and precision of the risk assessment. DTSC believes an ideal site characterization sampling event for a given area should be based on a statistically valid approach with strict QA/QC protocols. In general, such a characterization event would be conducted using an unbiased, random, grid sampling that rely heavily on a large data set with significantly greater number of samples to satisfy the statistical evaluation at a 95% confidence level. You are correct in your letter that the overriding goal of agency guidance on sampling is to collect unbiased and representative samples. However, the Tribes have not endorsed a truly unbiased characterization effort due to the Tribes' preference to minimize intrusion. Given that the current sampling effort of biased sampling may already introduce either an unknown over estimation or under estimation of the contamination, the risk assessment should remain conservative to be "protective" of potential receptors. Risk assessments, after all, are designed to quantify risks to inform the risk managers for the protection of receptors. The use of maximum concentration of duplicate samples should introduce minimal discrepancies if sampling is conducted properly. Utilizing the higher

concentration of duplicate samples is a routine practice in risk assessments that maintains conservativeness of the evaluation as long as the sampling results pass data validation. DTSC agrees that a critical component of the baseline risk assessment is the inclusion of a well-developed uncertainty analysis. DTSC is reminded of the statement made in your March 26, 2008 letter, general comment 8, that the “discussion of characterization should be left to the RFI/RI reports. The inclusion of these characterization issues gives the impression that the risk assessment will be the document where characterization decisions are made. The process should be that full characterization is completed and then the data is evaluated in the risk assessment.” DTSC also supports a statement made in your general comment 5 in the March 20, 2009 letter that “risk assessments should present a comprehensive understanding of project risks so that informed risk management decisions can be made.”

DTSC would also like to take this opportunity to correct a couple of inaccurate statements made in your June 11, 2014 letter. In comment #4, your language suggested that the Tribe was denied a preview of language concerning FMIT’s sensitive cultural property in the soil characterization EIR. Please note that during the February 2013 Clearinghouse Task Force meeting, DTSC notified Tribal representatives that we are seeking participation and input from the Tribes, including the FMIT, on the soil investigation draft EIR. Subsequently, Karen Baker of DTSC sent letters to individual Tribes formally inviting input on March 5, 2013 with the Cultural Resources Analysis (Section 4.4) of the January 2011 Final EIR attached as the spring board language for review and comment as requested by the Tribes. In addition, DTSC and our contractor ESA, conducted several field visits/meetings with Tribes, including the FMIT, to gain tribal perspective regarding several EIR resource areas during preparation of the Draft EIR.

Finally, DTSC objects to your statements in both the May 8, 2014 and June 11, 2014 letters that there was a commitment from DTSC to hold additional meetings to discuss RAWP issues beyond the promised September 19 and 20, 2013 scoping meeting/workshop. Although DTSC acknowledges the record from the September meeting that you “strongly prefers face to face meetings whenever possible” there is no record that myself or any DTSC representatives committed to additional meetings. Despite this objection, DTSC is open to meet with FMIT and/or other Tribes as long as the agenda for a proposed meeting is well prepared and topics of discussion can foreseeably be productive and understood by all parties. Please be mindful, however, that there are significant schedule constraints between you, other toxicologists and key project members. As an example, for the September 19 and 20, 2013 scoping meeting/workshop, DTSC began solicitation for available dates as early as June 24, 2013. Since adequate availabilities have proven rare, DTSC must proceed with project coordination through alternative methods, such as letter exchange, teleconferences and web-casts, other than face to face meetings.

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Although DTSC, as a governing agency, must make decisions on the project that sometimes differ from the opinions of the Tribes, DTSC will continue to partner with and seek input from Native American Tribes throughout the PG&E Topock environmental investigation and cleanup project to ensure that their Traditional Cultural Property is protected to the extent possible. With respect to the remaining comments embedded in your May 8 and June 11, 2014 letters, DTSC and DOI have directed PG&E to prepare a draft response to comments table for discussion. Moreover, it is my understanding that DOI will proceed and coordinate a meeting with the Tribes on issues raised in your letter regarding the recreational use scenario.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Aaron Yue', with a stylized flourish extending to the right.

Aaron Yue  
Senior Hazardous Substances Engineer  
Office of Geology  
Department of Toxic Substances Control

aky: 091401C

cc: PG&E Topock Consultative Workgroup Members  
PG&E Topock Geo/Hydro Technical Workgroup Members  
Tribal Representatives in PG&E Project Contact List  
Technical Review Committee