

Attachment B

Statement of Decision and Resolution of Approval



**CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL
STATEMENT OF DECISION AND RESOLUTION OF APPROVAL
FOR THE
PACIFIC GAS AND ELECTRIC COMPANY
TOPOCK COMPRESSOR STATION
GROUNDWATER REMEDIATION PROJECT
EPA ID# CAT080011729**



**A RESOLUTION OF THE DTSC APPROVING THE FINAL REMEDY PROJECT,
ADOPTING THE CEQA FINDINGS OF FACT AND STATEMENT OF OVERRIDING
CONSIDERATIONS, ADOPTING THE MITIGATION MONITORING AND
REPORTING PROGRAM, AND ADOPTING THE CONDITIONS OF APPROVAL FOR
THE TOPOCK COMPRESSOR STATION GROUNDWATER REMEDIATION
PROJECT**

WHEREAS, groundwater beneath and near the Topock Compressor Station (“compressor station”) and the Colorado River are designated for beneficial uses under the Colorado River Basin Water Quality Control Plan adopted by the California Regional Water Quality Control Board, Colorado River Basin Region in accordance with criteria contained in the California Porter-Cologne Water Quality Control Act, the Federal Clean Water Act, and other pertinent state and federal rules and regulations. The designated beneficial uses of the groundwater include municipal and domestic supply, industrial service supply, and agriculture supply. The beneficial uses of the Colorado River water body include almost all consumptive and non-consumptive uses. Currently, the Colorado River water is a major source of drinking water for millions of people within the western United States.

WHEREAS, past activities at the Pacific Gas & Electric (PG&E) Topock Compressor Station (compressor station) in San Bernardino County, California, resulted in contamination of groundwater with hexavalent chromium [Cr(VI)], which was used in the past as an additive to the cooling water at the compressor station, and is harmful to human health and ecological receptors in the environment.

WHEREAS, other chemicals present in the groundwater include total chromium [Cr(T)], molybdenum, selenium, and nitrates which, under certain exposure conditions, can be harmful to human health and, if not properly managed, have the potential to come into contact with drinking water wells and the Colorado River if not properly managed.

WHEREAS, remediation of the contaminated groundwater at the compressor station is being conducted under the Resource Conservation and Recovery Act of 1976 (RCRA) and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). RCRA corrective action activities at the compressor station were initiated in 1987 with the completion of a RCRA facility assessment conducted by the U.S. Environmental Protection Agency (USEPA).

WHEREAS, RCRA provides a framework for USEPA to remediate hazardous waste sites throughout the United States and, in California, the Department of Toxic Substances Control (DTSC) implements RCRA under such delegated authority from the USEPA through state law.

WHEREAS, the DTSC has an ongoing Corrective Action Consent Agreement with PG&E, which also describes DTSC's authority over the proposed project.

WHEREAS, the long-term cleanup options for contamination in groundwater at the compressor station have been evaluated and are summarized in the *Final Groundwater Corrective Measures Study/Feasibility Study Report for Solid Waste Management Units (SWMU) 1/Area of Concern (AOC) 1 and AOC 10, PG&E Topock Compressor Station, Needles, California* (Final CMS/FS), which was completed in December 2009.

WHEREAS, the Final CMS/FS was developed under the RCRA and CERCLA process and involved extensive evaluation and comment by stakeholders, agencies, tribal governments and the public.

WHEREAS, as the lead agency under RCRA, the DTSC reviewed the alternatives considered in the Final CMS/FS and determined that Alternative E – In Situ with Freshwater Flushing was the remedy that would best achieve the project goals within a reasonable time frame.

WHEREAS, the DTSC decided to carry Alternative E – In Situ with Freshwater Flushing forward in the Statement of Basis issued under RCRA, and as the Project considered in the Topock Compressor Station Groundwater Remediation Project environmental impact report (EIR) (SCH No. 2008051003).

WHEREAS, DTSC staff has worked in collaboration with U.S. Department of Interior (DOI), U.S. Bureau of Land Management (BLM), U.S. Fish & Wildlife Service (USFWS), the U.S. Bureau of Reclamation, other state and local agencies, the public and interested tribal stakeholders to identify and analyze the impacts of the final remedy for control and remediation of the groundwater plume at and in the vicinity of the compressor station.

WHEREAS, the DTSC prepared, in consultation with AECOM (formerly EDAW), an EIR for the Project in full compliance with CEQA.

WHEREAS, the DTSC has on this date adopted a resolution certifying the Final EIR for the Topock Compressor Station Groundwater Remediation Project.

WHEREAS, the DTSC finds the EIR complies with the terms and the spirit of the “Settlement Agreement Between Fort Mojave Indian Tribe and DTSC,” executed by the parties in January 2006 to settle the matter of *Fort Mojave Indian Tribe v. DTSC* (Sacramento Superior Court Case No. 05CS00437).

BE IT RESOLVED and CERTIFIED by DTSC that:


1. DTSC approves Alternative E – In Situ Treatment with Freshwater Flushing as the Project. The approval of the project is subject to the following conditions of approval:
 - (i) PG&E shall rent or otherwise obtain a single new primary 320 kW generator, of similar make and model to the existing generator (Isuzu Model 6WG1X), for purposes of providing backup electricity when needed at the site for implementation of the approved Project.
 - (ii) The total number of extraction and monitoring wells within the project area shall not exceed a total of 170, not including replacement wells which will be installed on an as needed basis with priority given to previously drilled locations.
 - (iii) PG&E shall comply with financial assurance within 30 days of project approval or otherwise determined by DTSC. The initial financial assurance funding shall be equal to the high range estimate of the project alternative present value in the final December 2009 CMS/FS. PG&E shall refine the cost estimate with each iteration of the remedy design (Preliminary [30%], Intermediate [60%],

Pre-final, and As-built) for DTSC approval and PG&E shall update the financial assurance annually for the life of the project.

- (iv) PG&E shall negotiate in good faith with DTSC all necessary land use covenants and restrictions required for the protection of the remedy, and file all such required restrictions with the County Recorder.
 - (v) Consistent with the Settlement Agreement Between Fort Mojave Indian Tribe and DTSC in the matter of Fort Mojave Indian Tribe v. Department of Toxic Substances Control (Sacramento County Superior Court Case No. 05CS00437) (1/30/06), and prior to adoption of a final remedy design, DTSC shall verify and ensure that a detailed Title Search and GPS/GIS Mapping, consistent with Subdivision III (H)(1) and (2) of the terms of the Settlement Agreement, have been conducted including a radius of one mile beyond the physical perimeter of Site No. CA-SBr-219A, B, and C.
2. The CEQA Findings of Fact and Statement of Overriding Considerations for the Topock Compressor Station Groundwater Remediation Project, attached hereto as “Exhibit 1” and incorporated herein by reference, are hereby adopted.
 3. The Mitigation Monitoring and Reporting Program (MMRP) for the Topock Compressor Station Final Remedy project, attached hereto as “Exhibit 2” and incorporated herein by reference, is hereby adopted.
 4. DTSC directs staff to file a Notice of Determination with the California Office of Planning and Research regarding this determination within five working days and to mail notice to any person who has filed a written request for notices.

PASSED AND ADOPTED by the DTSC on January 31, 2011.

CALIFORNIA DEPARTMENT OF TOXIC
SUBSTANCES CONTROL

By 
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