

## APPENDIX C

### TOPOCK REMEDIATION PROJECT PROGRAMMATIC AGREEMENT TRIBAL AND ARCHAEOLOGICAL MONITORING PROTOCOL

The intent of this Monitoring Protocol is to provide best practices and guidance for monitoring activities for work conducted in, and areas related to, remedial actions conducted by Pacific Gas & Electric Company (PG&E or the Company) in the Topock Remediation Project Area.

This protocol provides guidance for monitoring activities specifically related to the Topock Remediation Project Undertaking. This protocol outlines procedures for use by Archaeological and Tribal Monitors in identifying and/or evaluating effects to previously recorded or newly discovered cultural and historic resources during ground-disturbing activities associated with the Undertaking. Monitoring provides a means of preventing potentially unanticipated adverse effects to cultural and/or historic resources.

Working with Tribal Cultural Monitors (hereafter referred to as Tribal Monitors) and Tribal community members requires awareness of, and sensitivity to, Tribal cultures, customs, traditions, and histories. This protocol provides a set of guidelines that facilitates a collaborative partnership between Tribes and the Department of the Interior (DOI), the Bureau of Land Management (BLM), and PG&E throughout the Topock Remediation Project (Undertaking).

Cultural sensitivity training will be required of all staff, workers, and contractors engaged in activities in the Topock Remediation Project Area of Potential Effect (APE) to familiarize them with the sacred nature of the area so that they will perform their jobs in a respectful manner. This training will also be given to new personnel before they are allowed to do fieldwork within the APE. This training will be conducted by PG&E with participation by Tribes and Tribal Monitors, Archaeological Monitors, Federal Agency staff, and PG&E supervising staff, as appropriate. Consistent with PG&E's stated policy, PG&E will not tolerate any disrespectful behavior in the field and will remove any staff, workers, or contractors who do not comply with this section.

This Protocol specifies ways in which the Tribes, BLM, and PG&E may ensure that:

1. Tribes, BLM, and PG&E, each are kept well informed of Undertaking activities and outcomes;
2. Tribal and Archaeological Monitors have the opportunity to alert PG&E's site supervisor (or designee) to potentially sensitive areas or issues that Monitors may be aware of or may become aware of while fieldwork is in progress;
3. PG&E's site supervisor (or designee) notifies BLM of potentially complicated situations. These situations may include discovery of a new cultural or historical resource, damage to a previously recorded cultural or historical resource, or unanticipated effects identified;
4. Tribal concerns regarding work activities are addressed while fieldwork is in progress.

Nothing in this Protocol shall be taken to substitute or supersede BLM's performance of its responsibilities under other Federal laws and policies including NHPA Sections 106 and 110, the

American Indian Religious Freedom Act, the Religious Freedom and Restoration Act or for compliance with the terms of the PA.

## **MONITOR QUALIFICATIONS**

Qualified Tribal Monitors:

1. Shall be appointed by the Tribe to represent Tribal interests;
2. Shall have the training the Tribe deems necessary;
3. Must be physically capable of doing the required work.

Qualified Archaeological Monitors:

1. Must meet Secretary of the Interior professional qualification standards as indicated in PA Stipulation XI A.;
2. Must be physically capable of doing required work;
3. Must be able to work with Tribal Monitors and assist, where appropriate, in communicating the recommendations of such Monitors;
4. Will have standard field monitoring tools of the profession available onsite (including but not limited to GPS, camera, brush, trowel, notebook, etc).

## **WORK SCHEDULE**

The Signatories and Invited Signatories to the PA understand that not all activities at the Topock Compressor Station site are undertaken as a part of the Topock Remediation Project, nor do all activities require the services of Tribal and Archaeological Monitors. Tribal and Archaeological Monitors will be provided with anticipated schedules for Topock Remediation Project work that requires monitoring as early as possible but at least three (3) business days in advance of the initiation of the identified project work, whenever possible. Recognizing that changes to the work schedule may be inevitable, any change in the work schedule will be provided to the Tribal and Archaeological Monitors as soon as possible after the change becomes part of the work schedule. If there is a question regarding need for a monitor, the questioning party shall consult the BLM Project or Field Manager who will make the final determination of need.

## **MONITORING DUTIES AND RESPONSIBILITIES**

Prior to execution of the PA for the Undertaking, PG&E sometimes invited the Tribes to be present on site during construction to monitor and observe non-maintenance grading, trenching, or other excavation for any facilities, new roads, or other project components related to the Undertaking which may have had the potential to adversely impact cultural and historic resources. The Tribal and Archaeological Monitors shall both be invited to monitor such field work.

PG&E has found that the participation of Tribal Monitors is beneficial to both the Company and to the Tribes with whom the Company works. Tribal Monitors are encouraged to provide recommendations to the PG&E site supervisor (or designee), but may not direct or supervise work activities. Any concerns or recommendations Tribal Monitors may have during work activities are to be directed to the PG&E's site supervisor (or designee), BLM Field Manager, and the Tribes. The Tribal Monitor shall document any such recommendations and concerns as well as the extent to which the recommendations were implemented.

The duties of Tribal Monitors include, but are not limited to:

1. Being on site during construction to monitor and observe grading, trenching, or other excavation for any facilities, roads, or other project components related to the Undertaking which may have the potential to adversely impact cultural and historic properties.
2. Alerting the Archaeological Monitor, designated PG&E site supervisor, and/or PG&E's onsite project manager (or designee) as to potentially sensitive areas or issues that the Tribal Monitor may be aware of or may become aware of during fieldwork. The designated site supervisor and/or onsite project manager (or designee) must then contact BLM's Topock Project Manager or Field Manager and provide notice of discovery or damage. Any issues regarding sensitive areas are to be resolved as specified in the Dispute Resolution clause on page 5.
3. Identifying and understanding the types of impacts with comparisons to baseline data and previous monitoring data while in the field.
4. Through observation, being aware of the magnitude and probability of further impacts.
5. Effectively communicating impacts affecting traditional resources, including but not limited to, cultural features in and of the landscape.
6. Being prepared to interpret impacts that reflect ecological, economical, political, and socio-cultural consequences to Tribal norms, values, and beliefs while in the field.
7. Ensuring that the Tribe(s) Monitor representative is regularly updated on project progress and is aware of any issues that may arise.
8. Consulting with other Tribal experts and/or the Tribal Council before making recommendations, as appropriate.
9. When cultural items are found, the Tribal Monitor will be consulted to determine if discovered artifacts are items of cultural patrimony or may have had other traditional ceremonial or cultural uses.
10. Tribal Monitors may consult other Tribal experts and/or their Tribal Council before making recommendations. Final recommendations shall be offered within fifteen (15) days of the discovery and identification of objects specified in 9.

The duties of Archaeological Monitors include, but are not limited to:

1. Determining what types of cultural and historic resources have been previously recorded in or near areas in which work is being monitored.
2. Understanding how the CHPMP and its contents apply to discovery or damage situations prior to fieldwork.
3. Being on site during construction to monitor and observe grading, trenching, or other excavation for any facilities, roads, or other project components related to the Undertaking which may have the potential to adversely impact cultural and historic properties.
4. Alerting the Tribal Monitor, designated PG&E site supervisor, and/or PG&E's onsite project manager (or designee) as to potentially sensitive areas or issues that the Archaeological Monitor may be aware of or may become aware of during fieldwork. The designated site supervisor and/or project manager must then contact BLM's Topock Project Manager or Field Manager and provide notice of discovery or damage. Any issues regarding sensitive areas are to be resolved as specified in the Dispute Resolution clause on page 5.

5. Through observation, being aware of the magnitude and probability of further impacts.
6. Being able, during fieldwork, to identify measures which would avoid further adverse effects to cultural and historic properties.
7. Ensure that PG&E, the BLM, and Tribes are aware of any issues that may arise.

## **DISCOVERIES**

If the Undertaking will affect previously unidentified resources, or affect a previously recorded cultural or historical resource in a way not previously anticipated, or have greater or different effects than previously anticipated, all work having potential for adverse affect shall cease within a fifty (50)-meter radius (or a smaller or larger area if determined appropriate by the BLM, the Monitors, and PG&E in the field) of the point of discovery. The Archaeological and Tribal Monitors will work with BLM and PG&E to ensure that the PA requirements of Stipulation VII (CHPMP) and Stipulation IX (Discoveries) are met.

## **HUMAN REMAINS**

If the Undertaking affects previously unidentified human remains and/or associated funerary objects or graves, or affects such resources in a way not previously anticipated, or has greater adverse effect than previously anticipated, all work in the vicinity of the discovery shall cease. No further action will be taken until the BLM, in consultation with Tribal and Archaeological Monitors and PG&E in the field, has determined the nature of the discovery and delineated an area not to exceed fifty (50) meters from the approximate center point of the discovery (or a smaller or larger area if warranted) in which no further work is to take place until treatment of the discovery is resolved.

At such point BLM will notify all Signatories, Tribes, and Invited Signatories of the nature and general location of the discovery. The BLM will implement appropriate measures, including stabilization or covering, to protect any discovery (human remains, funerary objects, sacred objects, or objects of cultural patrimony) from further disturbance in accordance with the principles set forth in Stipulation I. Ongoing work not within fifty (50) meters (or a smaller area if determined appropriate by parties in the field) of the discovery may continue. If human remains and/or associated funerary objects compose all or part of the discovery, then BLM shall ensure the stipulations of the Plan of Action included in the CHPMP, as described in Stipulation VII (H), will be completed. Also, if human remains and/or funerary objects are encountered, all activities shall follow the procedures and direction provided in NAGPRA and California Public Resources Code sections 5097.98 and 5097.991. For Arizona, such activities shall follow the procedures and direction provided in NAGPRA and applicable state laws, including the Arizona Antiquities Act of 1927 (ARS §41-841 to 41-846), Burial Protection Law of 1990 (ARS §41-865), and ARS §41-844 of 1990.

## **MONITORING AND REPORTING REQUIREMENTS**

Monitors shall check-in and out with the designated site supervisor and/or PG&E's site manager (or designee) each day. Each monitor shall complete a Daily Monitoring Log detailing monitoring activities. This log will provide the Tribe, BLM, and PG&E with details on the

activities that took place during each day, any concerns or issues, and how those concerns or issues were resolved.

The Daily Monitoring Log must be completed and signed by the monitor and the designated site supervisor and/or PG&E's onsite project manager (or designee), both, at the end of each day. PG&E will also provide copies of the Daily Monitoring Log to the BLM Topock Project Manager. This Log will provide details on the activities that took place during each day, any concerns or issues, and how those concerns or issues were resolved. In the event that the designated site supervisor and/or PG&E's onsite project manager is not available to sign the log at the end of the day, the monitor will acquire their signature(s) the next time they meet. The Daily Monitoring Log will be the property of PG&E; and the company shall fax or email a copy to the Tribe, upon request. The Tribal and Archaeological Monitors may also maintain additional monitoring notes and photos, which will be the property of the Tribes and BLM, respectively.

## **SAFETY**

Tribal and Archaeological Monitors will be required to meet with PG&E's site supervisor prior to initiating monitoring activity and will be required to obtain any applicable training required under 29 CFR 1910.120 and 40 CFR 300.150. The PG&E site supervisor will identify the safety and logistical guidelines that are appropriate for the monitoring activity. Tribal and Archaeological Monitors are invited to attend the safety meetings at the start of each workday or new work task. If the Monitors do not attend this meeting, they will be instructed about the safety concerns of the day by a PG&E representative. Tribal and Archaeological Monitors will be expected to wear all personal protective equipment specified by PG&E's site supervisor and required of other similarly situated field workers. Tribal and Archaeological Monitors will be expected to actively participate to enhance the safety of themselves and the other workers onsite by communicating with PG&E's site supervisor if any safety concerns are identified. Due to safety considerations at the Project site, Tribal and Archaeological Monitors will also be prohibited from conducting any monitoring within designated construction exclusion zones, unless otherwise authorized by PG&E. Such zones are to be clearly delineated to the Tribal and Archaeological Monitors by PG&E's site supervisor. In these situations, other efforts to provide alternative methods for accommodating Monitors including, but not limited to, high-powered binoculars, spotting scopes, or other vision enhancement tools or alternative viewing platforms will occur.

## **DISPUTE RESOLUTION**

PG&E's site supervisor (or designee) shall take into consideration all Tribal and Archaeological Monitor recommendations, subject to final approval by BLM in the event of a dispute. The Tribal and Archaeological Monitor's recommendations and the extent of their implementation will be detailed in the Tribal and Archaeological Monitor's Daily Monitoring Log and also in the PG&E's site supervisor's daily notes. If the Tribal and Archaeological Monitors' recommendations relate to either the discovery of human remains or other cultural or historical material, the Tribal and Archaeological Monitors have the responsibility to notify PG&E's site supervisor (or designee), who must then follow procedures specified in the PA Stipulation IX Discoveries. The Tribal and Archaeological Monitors and PG&E's onsite site supervisor (or designee) must then immediately contact BLM's Topock Project Manager or Field Manager.

Work will not proceed within fifty (50) meters from the approximate center point of the discovery. If the Tribes, PG&E, and BLM can resolve treatment of the discovery in a manner that does not cause adverse effects to significant cultural and historic properties and follows the procedures outlined in PA Stipulation IX B, the activities may proceed. Any concerns or disputes that cannot be resolved in the field will be directed to BLM for consideration and appropriate action under PA Stipulation XV, Dispute Resolution. The Tribal and Archaeological Monitors, PG&E, and BLM will use their best efforts to resolve any dispute as quickly as possible.

## **COMPLIANCE AND MONITORING GUIDELINES**

It is the Tribal and Archaeological Monitors' responsibility to comply with all the monitoring guidance provided in this Protocol. If the monitor is unable to do so, the designated field supervisor and/or PG&E's onsite project manager (or designee) will contact PG&E's Cultural Resources Specialist who will consult with BLM and the Tribe regarding the situation.

## **ADMINISTRATION**

The Signatories and Invited Signatories to the PA agree to designate a contact person in writing to assist in implementing these guidelines within thirty (30) calendar days of execution of the PA. This contact person may be the same as called for as a Point of Contact (POC) in Appendix B of this PA. Any future changes to contact person or contact information for PG&E, BLM, and the Tribes shall be communicated in writing within ten (10) calendar days of any such change.