

Thomas F. King, PhD

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Professional Resumé

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Cultural Resource Impact Assessment and Negotiation, Writing, Training

Employment

Presently: Private consultant, educator, writer, facilitator in cultural resource management and environmental review; Trainer/Consultant, SWCA Environmental Consultants; Archeologist, The International Group for Historic Aircraft Recovery Amelia Earhart Project. Member, Sussex Archaeological Executive, advising the Government of Great Britain regarding archaeological recovery of site thought to be *Sussex* shipwreck off Gibraltar.

Formerly: Senior Instructional Consultant, National Preservation Institute. Expert consultant to U.S. General Services Administration, program director for Advisory Council on Historic Preservation, Consultant to the High Commissioner, Trust Territory of the Pacific Islands, Archeologist with the National Park Service, consulting archeologist, head of archeological surveys at San Francisco State University, UCLA, University of California Riverside.

Education

PhD, University of California, Riverside, Anthropology, 1976.

BA, San Francisco State University (then College), Anthropology, 1968.

Certificate: Mediator, Bowie State University Center for Alternative Dispute Resolution, 1997.

Recent and current Clients

Government Agencies: U.S. Department of Veterans Affairs; Yap State Historic Preservation Officer; Bureau of Land Management California State Office; Bakersfield Field Office; USDA Forest Service. USDA Farm Service Agency, U.S. Fish and Wildlife Service. U.S. Navy, U.S. Air Force, U.S. Army, Federal Aviation Administration, Grand Canyon Monitoring and Research Center. City of Newport News, Virginia.

Indian Tribes & Other Indigenous Groups: Fort Mojave Indian Tribe, Table Mountain Rancheria, Big Pine Band of Paiute, Tuolumne Rancheria, Confed. Tribes of the Umatilla Reservation, Klamath River Intertribal Fish and Water Commission; Office of Hawaiian Affairs; Mole Lake Sokaogon Community of Lake Superior Chippewa Indians; Bad River and Red Cliff Bands of Lake Superior Tribe of Chippewa Indians, Hualapai Tribe. Quechan Indian Nation. Round Valley Indian Tribes. Penobscot Tribe.

Private Sector: Blythe Energy Corp., Cingular Wireless. Odyssey Marine Exploration, Avista Utilities, Dripping Springs Ranch.

Non-profit organizations: National Preservation Institute, Buckland Preservation Society, Backcountry Horsemen of California.

Courses Taught

Short courses for SWCA Environmental Consultants, National Preservation Institute, University of Nevada, Reno, General Services Administration, Advisory Council on Historic Preservation, Environmental Protection Agency, National Park Service, and Department of Defense in cultural resource law and policy, Section 106 review, National Environmental Policy Act implementation, identification and protection of traditional cultural properties, Native American consultation, environmental justice, conflict resolution, and related subjects.

Publications (Selected)

Books and Monographs

- *Companion to Cultural Resource Management* (Editor). Wiley-Blackwell, 2010 (in press)
- *Thirteen Bones* (Novel). Dog-Ear Press, 2009.
- *Our Unprotected Heritage: Whitewashing Destruction of Our Natural and Cultural Environment*. Left Coast Press, 2009.
- *Cultural Resource Laws and Practice: An Introductory Guide* (Third edition) AltaMira Press 2008 (First edition 1998; second edition 2004)
- *Saving Places that Matter: A Citizens Guide to the National Historic Preservation Act*. Left Coast Press 2007.
- *The Archaeological Survey Manual*. With Greg White. Left Coast Press 2006.
- *Doing Archaeology: a Cultural Resource Management Perspective*. Left Coast Press 2005.
- *Amelia Earhart's Shoes*. With R. Jacobson, K. Burns, and K. Spading. AltaMira Press, 2004 (First edition 2001).
- *Places that Count: Traditional Cultural Properties in Cultural Resource Management*. AltaMira Press 2003
- *Thinking About Cultural Resource Management: Essays From the Edge*. AltaMira Press 2002.
- *Federal Projects and Historic Places: the Section 106 Process*. AltaMira Press, 2000
- *Piseken Nóómw Nóón Tonaachaw: Archeology in the Tonaachaw Historic District, Moen Island, Truk*. With P.L. Parker, Southern Illinois University, Carbondale and Micronesian Archeological Survey, Saipan 1984.

Articles

- Archaeology of the Recent Past; The Legal Mélange; and A Future for Cultural Resource Management? Chapters in *Companion to Cultural Resource Management*, Wiley-Blackwell, 2010 (in press)
- My Historic Environment. *Historic Environment* 1:1:103-6, Maney & Son, London, 2010.
- Backing Into Disaster: Lessons in Cultural Resource Management from the "Graving Dock" at Port Angeles, Washington. *Journal of Northwest Anthropology* 4(2):153-161, 2009.
- Who Makes It Heritage? *Heritage Management* 1:1:99-107, 2009.
- Review of *Archaeological Theory and the Politics of Cultural Heritage*, Laurajane Smith, *Australian Archaeology* 66:77-8. June 2008.

Articles (continued)

- Entries on archaeological ethics, archaeology in environmental impact analysis, and deep-ocean archaeology in *The Encyclopedia of Archaeology*, Deborah M. Pearsall, ed. in chief, Elsevier, New York, 2007.
- Review of *Yearbook of Cultural Property Law: 2006*, Sherry Hutt et al, eds., *The Public Historian* 29:2:109-113, 2007
- Review of *Ethnographies of Archaeological Practice: Cultural Encounters, Material Transformations*, Matt Edgeworth, ed.; *The Applied Anthropologist* 27:2:186-8, 2007
- "Creatures and Culture: Some Implications of Dugong v. Rumsfeld." *International Journal of Cultural Property* 2006
- "Animals and the National Register." *The Applied Anthropologist* 2006.
- "How Micronesia Changed the U.S. Historic Preservation Program, and the Importance of Keeping It From Changing Back." .” *Micronesian Journal of the Humanities and Social Sciences* 5:1, 2006 (online journal, <http://marshall.csu.edu.au/MJHSS/>).
- "TIGHAR and the TBD in Jaluit: An Example of the Complexities to be Considered in Planning Submerged Historic Aircraft Recovery." *Micronesian Journal of the Humanities and Social Sciences* 5:1, 2006 (online journal, <http://marshall.csu.edu.au/MJHSS/>)
- "Cultural Heritage Preservation and the Legal System with Specific Reference to Landscapes." Chapter 13 in *Landscapes Under Pressure: Theory and Practice of Cultural Heritage Research and Preservation*, Ludomir R. Lozny, ed., Springer, New York, 2006.
- "What Are Traditional Cultural Properties? *The Applied Anthropologist* 25:2:125-130, 2005.
- Review of "Tribal Cultural Resource Management: The Full Circle to Stewardship," by Darby C. Stapp and Michael S. Burney. *High Plains Applied Anthropologist* 25:1:S:05:68, 2005.
- An Archaeological Reconnaissance of McKean Island, Phoenix Group, Kiribati, TIGHAR, http://tighar.org/wiki/McKean_Island, 2004
- Counterpoint to review: "Four Books by Thomas F. King: a Joint Review," *High Plains Applied Anthropologist* 25:S:04:201, 2004.
- Considering the Cultural Importance of Natural Landscapes in NEPA Review: The *Mushgigamongsebe* Example. *Environmental Practice* 5:4, Oxford University Press, 2003
- "I Learned Archaeology From Amelia Earhart: Using a Famous Mystery to Teach Scientific Methods." In *Strategies for Teaching Anthropology*, 3rd Edition, Patricia Rice and David McCurdy, eds., Prentice Hall, New York; 2003..
- "Cultural Resources in an Environmental Assessment Under NEPA." *Environmental Practice* 4(3):137-144, National Association of Environmental Professionals, Sept. 2002.
- "Historic Preservation Laws" in *Encyclopedia of Life Support Systems*. EOLSS Publishers for UNESCO, 2002.
- "What Should Be the 'Cultural Resources' Element of an Environmental Impact Assessment?" *Environmental Impact Assessment Review* 20(2000):5-30, 2000.
- "Archaeology in the Search for Amelia Earhart." With Richard Gillespie. In *Lessons from the Past: An Introductory Reader in Archaeology*, Kenneth L. Felder, ed., Mayview Press, Mountain View CA, 1999

Articles (continued)

- "How the Archeologists Stole Culture: a Gap in American Environmental Impact Assessment and What to Do About It." *Environmental Impact Assessment Review* 18(2): 117-133, January 1998.
- "The Nature and Scope of the Pothunting Problem." In *Protecting the Past: Readings in Archaeological Resource Management*. J.E. Ehrenhard and G.S. Smith, eds., The Telford Press, Caldwell NJ 1991.
- "AIRFA and Section 106: Pragmatic Relationships." In *Preservation on the Reservation*, A. Klesert and A. Downer, eds., Navajo Nation Publications in Anthropology 26, Window Rock 1991.
- "Prehistory and Beyond: The Place of Archeology" In *The American Mosaic: Preserving a Nation's Heritage*. R.E. Stipe and A.J. Lee, eds., US/ICOMOS, Washington DC, 1987.
- "Intercultural Mediation at Truk International Airport." With P.L. Parker. In *Anthropological Praxis: Translating Knowledge Into Action*. R.W. Wulff and S.J. Fiske, eds., Washington Association of Professional Anthropologists, Westview Press, Boulder 1987.
- "The Once and Future Drought." *American Archeology* 5:3:224-8, Ridgefield, CT 1985
- "Professional Responsibility in Public Archeology." *Annual Review of Anthropology* 12, Palo Alto 1983.
- "Recent and Current Archeological Research on Moen Island, Truk." With P.L. Parker. *Asian Perspectives* xxiv(1):11-26, Honolulu 1981.
- "The NART: A Plan to Direct Archeology Toward More Relevant Goals in Modern Life." *Early Man*, Evanston, winter 1981.
- "Don't That Beat the Band? Nonegalitarian Political Organization in Prehistoric Central California." In *Social Archeology*, C. Redman, Editor, Academic press, New York 1978.
- "'The Evolution of Complex Political Organization on San Francisco Bay". In *'Antap: California Indian Political and Economic Organization*. L.J. Bean and T.F. King, eds., Ballena Press, Ramona, CA 1974.

Government Guidelines and Regulations

- Draft revised cultural resource management directive and handbook for Department of Veterans Affairs, 2010.
- Regulations, guidelines, and plain-language brochures on environmental and cultural resource management, NEPA review, Section 106, and related topics, for Department of Agriculture Farm Service Agency (FSA) (unattributed, with FSA NEPA and Cultural Resource staff). FSA, 2004.
- Orders, Guidelines, and Fact Sheets: Cultural Resource Management, Floodplain Impact Management, Wetlands Impact Management, Federal Real Property Disposal, Archeological Collections Management, Indian Sacred Sites Management, Historic Document and Artifact Management, Environmental Justice, and Social Impact Assessment (unattributed, with GSA NEPA Call-In Staff). General Services Administration, Washington DC, 1998.
- *NEPA Desk Guide* and related orders (unattributed, with L.E. Wildesen and GSA Environmental Quality Working Group). General Services Administration, Public Buildings Service, Washington DC, 1997.
- *Guidelines for Evaluating and Documenting Traditional Cultural Properties*. With P.L. Parker. National Register Bulletin 38, National Register of Historic Places; National Park Service, Washington DC, 1990

Government guidelines and regulations (continued)

- *Preparing Agreement Documents*. Advisory Council on Historic Preservation, Washington DC, 1989.
- *Public Participation in Section 106 Review: a Guide for Agency Officials*. Advisory Council on Historic Preservation, Washington DC 1989.
- *Identification of Historic Properties: a Decisionmaking Guide for Managers*. Advisory Council on Historic Preservation and National Park Service, Washington DC 1988.
- *The Section 110 Guidelines: Guidelines for Federal Agency Responsibilities Under Section 110 of the National Historic Preservation Act*. With S.M. Sheffield. 53 FR 4727-46, National Park Service, Washington DC 1988
- *Regulations for the Consideration and Use of Historic and Cultural Properties* (Unattributed). Commonwealth of the Northern Mariana Islands Historic Preservation Office, 1983
- *Treatment of Archeological Properties: a Handbook*. Advisory Council on Historic Preservation, 1980.

Popular

- "Recent Cosmic Impacts on Earth: Do Global Myths Reflect an Ancient Disaster?" *About.com*, December 2007, http://archaeology.about.com/od/climatechange/a/masse_king.htm
- "Archaeology and the Fate of Amelia Earhart." *About.com*, June 2005. http://archaeology.about.com/od/pacificislands/a/king_ae.htm
- "Amelia Earhart: Archaeology Joins the Search." *Discovering Archaeology* 1:1:40-47, El Paso; January-February 1999
- "Sea Changes: 14th Century Micronesia." *Glimpses of Micronesia and the Western Pacific* 25:1, Honolulu 1985.
- "Tonaachaw: a Truk Village Rediscovered its Past." With P. Parker. *Glimpses of Micronesia and the Western Pacific* 21:4, Honolulu 1982.
- "How You Can Help the Archeologists." *Boys Life*, Boy Scouts of America, 1971.

Other

- Videotapes on "historic contexts" and "traditional cultural properties," for National Park Service
- "E-Book" environmental review software, for General Services Administration
- "NEPA for Historic Preservationists and Cultural Resource Managers," worldwide web pages for National Preservation Institute.
- "Cultural Resource Management Checklist," interactive worldwide web pages for the Department of Veterans Affairs

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*Training, writing, consultation and dispute resolution
in cultural resource management*

July 17, 2010

Nora McDowell-Antone,
Project Manager Topock Remediation
Fort Mojave Indian Tribe
P.O. Box 5990
Mohave Valley, AZ 86440

RE: Comments on Draft Environmental Impact Report for PG&E Topock Groundwater
Remediation Project

Dear Nora:

Per your request for technical consultant review and comment, I've reviewed the draft environmental impact report (DEIR) on the Topock Remediation Project (Project), and am writing to provide comments for you to consider and, at your discretion, share with the California Department of Toxic Substances Control (DTSC) and others. My comments focus on the Project's impacts on cultural resources that I understand to be of significance to the Fort Mojave Indian Tribe (FMIT) and other tribes. Notable among these resources, as I understand from conversations with you, Linda Otero, and others, is the landscape, broadly construed, within which the existing Topock treatment plant and compressor station exist and within which remediation of toxic substances in the groundwater is proposed. I will comment on sections of the DEIR that I think are deficient or otherwise give reason for concern.

My comments are based on my work over the last five years as your consultant on this Project, and my 40 years experience working with tribes, federal, state and local government agencies, Native Hawaiian organizations, non-governmental organizations and other interests interpreting the federal and related tribal, state, and local environmental, historic preservation, and "cultural resource" laws. A resumé of my qualifications is attached for reference.

Section 4.1: Aesthetics.

- A. *General Concern:* Aesthetics are, of course, very much in the eye and mind of the beholder, so it strikes me as odd that the authors of this section give no indication that they actually discussed aesthetics with anyone who regularly looks at the area. Similar analyses I have reviewed have been grounded on interview and polling data in which real viewers are asked to look at and respond to views with and without the proposed facilities under analysis. The

Topock aesthetic analysis appears to me to be flawed by its failure to outline any basis for its many conclusory statements. Who, for example, decided what the “key views” are, and how was this decided? In the absence of interview data with viewers, how is it possible for the analysts to even decide what the key views are, or how serious the impacts will be on a particular view? Surely the purpose of the DEIR is not to examine impacts only on the visual analysts themselves. The lack of grounding in the actual views and opinions of viewer groups strikes me as a fundamental methodological flaw, as does the failure even to specify a basis for many of the study’s statements.

- B. *Subsection 4.1.1.2: Existing Visual Quality.* Related to the above general concern, without talking to the people who do the viewing, how are the analysts able to say that, for instance, “(v)iewers located in, or looking toward, the western edge of the Project area experience a low level of visual quality?” Visual quality is a highly subjective phenomenon, but these analysts seem to think that they can somehow objectify it without even considering the views of those who, in this case, experience it.
- C. *Subsection 4.1.1.3: Viewer Groups.* This subsection is especially deficient in its failure to identify members of the FMIT and other tribes as a group with special views, viewpoints, and values invested in the viewed landscape. Tribal members are lumped with “tourists” as people who engage in “traditional cultural practices” somehow related to what the analysts define as the “Topock Maze.” This maze appears to be the one defined by the Bureau of Land Management (BLM) and others based entirely on archaeological data and interpretations; it is of course only one small (though important) part of the landscape important to FMIT members. It is truly astounding that the analysts did not recognize that FMIT members, and members of other Mojave tribal groups, might have special concerns about the Project’s “aesthetic” impacts. Given this amazing misunderstanding, it is not surprising – but is nonetheless disappointing – that they failed to talk with the Tribe about what these concerns might be. I believe that the failure to identify the FMIT and other tribes as a viewer group or groups, and to try to determine their concerns – in essence to visualize the Project’s impacts through their eyes – utterly invalidates this portion of the DEIR.
- D. *Subsection 4.1.3. Environmental Impacts and Mitigation Measures.* Having adduced the quality of the visual environment both generally and from specific viewpoints without bothering to discuss the matter with those who will do the viewing, the analysts move blithely on to tell us what impacts the Project will have and how these can be mitigated. They report preparing simulations of the potentially altered views from their self-defined “Key View” points, but there is no indication that they showed these simulations to anyone who might actually be affected. Instead, it appears that they simply looked at them themselves and arrived at conclusions, possibly based on standardized guidelines. Particularly in a case like this one, where a key issue involves effects on tribal members whose views of the landscape are likely to be highly influenced by cultural factors not experienced by the analysts, I suggest that it is simply unacceptable for the analysts to use their own

aesthetics as their sole basis for judgments about the severity of impact. Predictably, the analysts find that most impacts on the aesthetic environment are not significant, and that those that are “potentially” significant can be “mitigated” to an insignificant level. I can find no evidence that the FMIT or any other viewer group (except the analysts themselves) was consulted in reaching these “significance” assignments or in developing measures to mitigate impacts.

- E. *No consideration of cumulative effects.* Section 4.1 is notable for the way it totally ignores the cumulative visual effects of development. In fact, it treats some of the accumulated effects of past actions (the highway, pipelines, railroad, etc.) as rationales for finding that the current Project’s effects will be insignificant or easily mitigated. This stands the concept of cumulative effects analysis on its head. The lack of cumulative effects analysis is a clear and obvious deficiency.
- F. *Summary Comment:* Section 4.1 may be an accurate description of the Project’s potential aesthetic impacts on the visual environment as experienced by the analysts, but the analysts are not the ones who will actually be affected, or who are now actually affected by the pattern of cumulative effects to which the proposed Project will contribute. Most particularly, the analysts are not the ones whose deceased relatives, in their belief, pass through the Topock visual environment en route to the next world. This section accomplishes nothing, because it analyzes only impacts on a population (the analysts) that will not be impacted in any event.

Section 4.2: Air Quality.

- A. *Subsection 4.2.1.8: Odors.* The DEIR summarily dismisses the possibility that there could be any offensive odors in the area, since there is “little human development.” It is interesting that to the analysts, apparently highways, railroads, pipelines and pumping plants do not constitute “human development.” Predictably, there is no evidence that they asked anyone – notably members of the FMIT – whether they like the way the place smells.
- B. *Subsection 4.2.2.3: Odors.* Here the DEIR seems, rather ambiguously, to recommend that odor impacts be determined qualitatively at some future time. Presumably this means that someone is supposed to ask people how the place smells once the Project is underway. This seems a strange way to analyze a Project’s potential effects.
- C. *Subsection 4.2.3: Impact Analysis.* Having acknowledged neither existing odors nor the potential for new ones, the DEIR has nothing to analyze in the way of odor impacts – even direct ones; as usual, cumulative effects are ignored.

Section 4.3: Biological Resources.

You and other FMIT members have repeatedly explained to me, as well as to DTSC and others involved in the remediation Project, that plants and animals (“biological resources”) are integral

elements of the cultural landscape valued by members of the FMIT. Such “resources” are among the living things with which people share the landscape, and some (e.g. mesquite) are critically important in tribal culture. This section never addresses this aspect of the biological environment. As a result, it neither accurately characterizes the landscape’s existing condition nor addresses the Project’s potential effects (direct or indirect, or its contribution to cumulative effects) on the landscape’s “biological resources.”

Section 4.4: Cultural Resources (sic)¹

This section begins with a contradiction. Although titled “cultural resources,” it specifies in its first sentence that it addresses only “historical, archaeological, and paleontological resources.” The first two types of resources are certainly cultural, but they hardly exhaust the range of “resources” in the environment to which cultural significance may be attached. Spiritual, artistic, educational, and subsistence values are regularly ascribed by tribes and others to plants, animals, water, air, rocks, earth, and other aspects of the environment; these are certainly cultural resources that do not always fall easily within the rubrics “historical” and “archaeological.” On the other hand, it is something of a stretch (albeit one that is made routinely in CEQA practice²) to define paleontological resources as “cultural,” though such resources do have educational value and are regarded as ancestral beings by some tribal groups. Uncertainty about the subject of this section is exacerbated by its swift passage, in Subsection 4.4.1.1, into a lengthy discussion of “historical context” and “archaeological setting.” It appears that in the minds of the analysts, though contrary to plain English usage, “cultural resource” means “archaeological or historical site or place,” with “paleontological site” thrown in for good measure.

This section goes on to discuss the various tribes of the area as aspects of its “ethnographic setting.” The perspective of the discussion is that of an outsider looking in, and the tribes are mostly described in the past tense. Toward the end of each tribal description there is brief acknowledgement of the tribes’ continued existence, but on the whole they are treated only as historical/ethnographic curiosities. As usual there is no indication that anyone in the tribes was asked for their thoughts about the environment or the Project’s impacts, and very little is said about the deep cultural attachment that the FMIT and some other tribes feel toward the landscape in which the Project is planned to be carried out.

- A. *Subsection 4.4.1.2: Archaeological and Historical Resources.* This subsection continues to reflect confusion about its subject. Titled “Archaeological and Historical Resources,” it repeatedly refers to “cultural resources” as though the two terms meant the same thing. If this is what the analysts think, they should explain to the reader why they have such a narrow view of culture, and somewhere the DEIR should address potential impacts on those aspects of the cultural environment that are neither “archaeological” nor “historical,” or that transcend these narrow categories.

The subsection begins with a discussion of “methods and sources of information,” which focuses primarily on archaeological surveys conducted within an arbitrarily defined “area of potential effects” (APE). We are not told how this APE was established, but it clearly does not embrace all the areas in which effects – notably visual, auditory, and olfactory effects – may occur. It appears to be merely an area

within which it is thought (by someone) that “archaeological sites” may be damaged by construction. Exactly what those conducting the archaeological surveys were looking for is not made clear; the authors refer vaguely to seeking “visible, potentially significant cultural resources.” In keeping with their overall practice, they do not tell us what they think “cultural resources” are; we are also not told to whom such resources may be “visible,” and we are not enlightened about who determines “potential significance” or how. The subsection ends with an “inventory” of “prehistoric and historic resources;” exactly how this terminology relates to the subsection’s references to “cultural, “archaeological and historical,” and “paleontological” resources is not elucidated. I surmise that this “inventory” (outlined in a multi-page table) comprises a list of places revealed by the archaeological survey – that is, recognized by archaeologists – as places somehow associated with human activity either since the coming of non-Native Americans to the area (“history”) or before (“prehistory”).

- B. *Subsection 4.4.1.3: Native American Heritage Resources.* Refreshingly, this subsection does attempt to relate to the values tribes ascribe to the environment, but its very existence is something of a puzzle. Are “Native American Heritage Resources” not “historic?” Are they not sometimes expressed “archaeologically” – that is, through the presence of artifacts and other material on and in the ground? Are not all the ostensibly “prehistoric” resources discussed in the previous subsection also “Native American Heritage Resources?” The reader is left to wonder how this subsection relates to the preceding one.

Much of this subsection is given over to a discussion of how the analysts consulted with the various tribes. It is good to see that they did consult to some extent, and some concerns of some tribes are briefly outlined in tabular form (Table 4.4-2). The FMIT’s concerns about effects on the entire landscape, including the river, are summarily reported in the table, as is its insistence that cumulative effects be addressed. FMIT concerns are elaborated upon to some extent on subsequent pages (See pages 4.4-28 through 31).

On page 4.4-32, we are given another “inventory of resources;” how this relates to the previous one is not explained. The first “resource” described is the Topock Maze, including a very handsome aerial photograph. It is my understanding that it is contrary to the traditions of the FMIT for the Maze to be photographed, or at least for such photographs to be published; one wonders whether the analysts were not made aware of this, or simply elected to ignore it. Be this as it may, the discussion responsibly notes that the Maze is only part of a larger culturally significant landscape, but little is said about this landscape, how the Maze relates to it, or its other component parts. The reader is left with the impression that the Maze as defined by archaeologists and included in the National Register of Historic Places (NRHP) is the main (if not exclusive) “heritage resource” of concern to the tribes. As you know very well, and as I have learned over the last five years, this is by no means the case. We have repeatedly explained to DTSC and the other agencies involved in the Project that the FMIT’s culturally valued landscape extends far up and down the

Colorado River and for some miles back from its banks; it is disappointing to see this fact so poorly represented in the DEIR.

- C. *Page 4.4-36/37: Discussion of traditional cultural properties.* In a generally accurate gloss on National Register Bulletin 38, the National Park Service's guidelines for determining the eligibility of traditional cultural properties for the NRHP, the DEIR says that agencies must first "evaluate the integrity of the resource as a TCP," before determining its eligibility for the NRHP. What the authors leave out is Bulletin 38's repeated allusions to evaluating integrity and other aspects of a property through the eyes of those who value it. As the co-author of Bulletin 38, who thought it was almost too obvious a point to mention, I am continually surprised at the difficulty that some agencies and consultants have in grasping this simple principle. In a very real sense, no one outside the group that values a place – and certainly no agency of government – can say whether that place is a "TCP" or has integrity. This is a particularly important point with regard to the landscape surrounding and including the Topock Maze. Though no fault of the FMIT or other tribes, the area has suffered many abuses over the years (the pattern of cumulative effects alluded to above), it is up to the tribes and their members, not to DTSC or any other agency of government, to decide whether these abuses have caused it to lose integrity. Failure to recognize this seemingly obvious point has led BLM in the past to discount tribal cultural concerns about places where the land had been "disturbed" by recent construction or land use. Such places may have lost integrity in the eyes of archaeologists, but they have not necessarily lost integrity in the eyes of tribes and their members. Since it is to tribes and their members that places like the landscape around the Topock Maze is culturally significant, it is their views, not those of archaeologists, that matter in judging the integrity of the landscape and its component parts.
- D. *Pages 4.4-47, 53-54: Topock Cultural Area.* It is gratifying to see DTSC acknowledge that what it calls the "Topock Cultural Area" – not only the Topock Maze as understood by archaeologists but the landscape within which it lies – qualifies as an historic resource under CEQA. This determination shows a good deal more wisdom, humanity, and good sense than BLM's continued dithering over whether the area qualifies for the NRHP³. Unfortunately, however, the DEIR, without providing any rationale for doing so, restricts recognition of the landscape's cultural significance to that portion of the landscape lying "within the Project area" or within "the area that may be affected by the proposed Project" (both terms appear on page 4.4-53). This restriction introduces ambiguities into DTSC's determination that (a) make no sense and (b) are likely to complicate efforts to manage and mitigate Project effects.

By way of analogy, imagine that we were considering remediating a toxic spill under a parking lot in Yosemite Valley. In considering the potential impacts of the remediation on the Valley, would we say that Yosemite has historical, cultural, and scenic significance only within the Project area (that is, the parking lot)? Or would we ascribe such significance only to areas that might be affected by the remediation? Of course we would do neither, because neither ascription would make any sense.

Instead we would recognize that Yosemite Valley is a beautiful, historical, culturally valuable place with or without parking lots, toxic spills, or remediation projects, and we would then evaluate the potential impacts of the remediation Project on its values. In just the same way, the expansive landscape that surrounds and includes the Topock Maze is culturally, historically, and spiritually significant to the FMIT and other tribes; this significance is utterly independent of the effects of the Topock Remediation Project.

If DTSC recognizes only that area within the “Project area” as significant, then it fails to consider areas that may be subject to visual, auditory, and other effects outside the Project area boundaries, and hence it fails to consider effects on such areas. This is unlikely to be acceptable to the FMIT and other tribes, and is contrary to CEQA’s requirement that all environmental impacts – not just direct, physical, impacts within a Project area – be considered, so it is sure to lead to further arguments down the road. If DTSC recognizes as significant only “the area that may be affected,” as that area is presently defined, then in the future if the effects of the Project change in any way, DTSC is going to have to go through a whole process of evaluating the significance not only of the newly defined effects but of the lands where the effects will occur. This will certainly waste time and money, and try everyone’s patience (especially that of the FMIT). It would be much simpler, more efficient, more consistent with reality, and more defensible legally simply to recognize as historically significant the entire landscape within which the Project is proposed, and move on to the real question of how impacts on that landscape’s values can be mitigated.

- E. *Subsection 4.4.3.3: Impact Analysis.* This analysis is fundamentally flawed by its stated focus on “those locations where planned construction, operations, and decommissioning activities would occur” (p. 4.4-54). These are arguably the locations where direct physical impacts will occur on resources important to archaeologists – assuming, ridiculous as it would be to do so, that the pattern of such impacts will not change as the Project matures – but they are not the only areas within which impacts may occur on aspects of the cultural landscape that are important to the FMIT and other tribes. On page 4.4-55 the DEIR acknowledges that effects beyond physical effects on places valued by archaeologists may occur, alluding to visual, auditory, and other impacts and to the effect of the Project’s “mere presence,” but the fact remains that the analysis focuses overwhelmingly on physical impacts on places and things that archaeologists recognize and value, not on those qualities of the environment valued by tribes. It is asserted that visual and auditory effects on the area’s cultural significance are addressed in Sections 4.1 and 4.9, but as noted above and below, this is not really true.

That said, this subsection (in a rather tortured manner) reaches what I think is a correct conclusion on page 4.4-56, that the Project’s impacts on the “Topock Cultural Area” will be significant and unavoidable.

- F. *Mitigation Measures (Pages 4.4-57 through 64).* As usual in this DEIR, the mitigation measures for “cultural resources” have apparently been developed by

DTSC's ostensible experts, without significant attention to the concerns of tribes or other parties. As a result, they are largely irrelevant, and mitigate nothing.

Measure CUL-1a has PG&E avoiding physical impacts to archaeologically defined archaeological sites "to the extent feasible," while allowing tribal members access to the Project site for cultural purposes, provided such access does not interfere with operations or raise safety issues. How these actions are perceived to mitigate the impacts of the Project on cultural resources is not explained.

Measures CUL-1b and 1c have PG&E hiring a "qualified cultural resource consultant" (whatever that means) to prepare plans for dealing with archaeological sites besides those involved in the Topock Cultural Area. It is not clear whether PG&E is expected to implement these plans or simply put them on a shelf. Generally these measures provide for archaeologists to monitor construction, and for permitting the tribes to visit once a year.

Measure CUL-2 also provides for archaeological monitoring.

Measure CUL-3 provides for paleontological monitoring.

Measure CUL-4 provides for archaeological monitoring and treatment of human remains if encountered.

In summary, these "mitigation measures" appear designed to ensure the employment of archaeological planners and monitors, plus paleontological monitors. They have little to do with mitigating the Project's impacts on the Topock Cultural Area as defined by DTSC, and nothing to do with mitigating impacts on the landscape that is significant to the FMIT and other tribes.

Section 4.7: Hydrology and Water Quality

I have personally heard you, other FMIT members, and members of other tribes repeatedly stress to DTSC and others that the Colorado River, its tributaries, marshes, and associated aquifers, and the plants and animals that live in or use these water bodies, are important aspects of the cultural landscape to which you and they attach traditional cultural significance. Nothing of this importance is reflected in the discussion of impacts on hydrology and water quality.

- A. *Mitigation Measure HYDRO-1: This proposed measure* would require that the Project "meet the substantive criteria of all applicable federal, state, and local permit and regulatory requirements." This measure may be deficient because it fails to require meeting substantive criteria established by the tribes. Even if tribes may not have formally promulgated such criteria, this does not mean they do not have them, and given the long life of this Project, they may well publish such standards before the Project has been fully implemented. This mitigation measure surely should allow for this possibility..

- B. *Mitigation Measure HYDRO-2*: This measure posits that the Project will alter local drainage patterns. Since drainages comprise an important aspect of the cultural landscape, the FMIT is likely to want to be consulted about how to implement this measure.

Section 4.8: Land Use and Planning

This section fails to note the traditional and ongoing use of land potentially affected by the Project, and already the victim of cumulative impacts, for cultural and spiritual purposes. As a result, it fails to propose any measures to mitigate impacts on such use.

Section 4.9: Noise

Like Section 4.1 on visual impacts, this section suffers from a failure to consult those actually subject to current and potential auditory impacts. It appears to reflect an assumption that all human beings experience noise in similar ways, so that hard and fast noise thresholds can be established without recourse to subjective experience. Such an assumption is questionable at best. Also like Section 4.1, this section fails entirely to consider cumulative effects, except by treating past and present effects as the basis for characterizing current ambient noise levels; in other words, past and present contributions to cumulative noise effects are simply accepted as given, and only changes that would exacerbate noise levels above current conditions are addressed. These flaws should be corrected.

- A. *Subsection 4.9.3.2: Thresholds of Significance*. It is gratifying to see that “conflict with Native American values associated with the Topock Cultural Area” is identified (fifth bulleted phrase) as a significant impact. One’s gratification evaporates, however, when one turns the page and finds oneself referred back to Section 4.4 (“Cultural Resources”) for detail about how such conflicts might be identified and dealt with. Section 4.4, of course, alludes to noise impacts only by referring the reader to Section 4.9. This sort of treatment can only be characterized as giving the reader a run-around; it is meaningless verbiage masquerading as a description of impact significance.
- B. *Subsection 4.9.3.3: Impact Analysis*. Here it is gratifying to find, in the discussion of IMPACT NOISE-3 on pages 4.9-23/24, an explicit and somewhat detailed acknowledgement of the potential for noise impacts on tribal values associated with the “Topock Cultural Area”. The analysis is flawed in the usual ways. It fails to analyze cumulative impacts, instead accepting past and present contributions to cumulative impacts as the basis for existing ambient noise conditions. It attempts to impose objective standards of impact measurement on the intrinsically subjective act of hearing, and it was apparently carried out without any involvement by anyone (for example, anyone from the FMIT) whose ears and brains will actually be subject to noise impacts from the Project. Its conclusion – that the auditory impact of the Project on Native American values is “potentially significant” is probably accurate, but the mitigation measures that it goes on to outline are not very meaningful. In essence, MITIGATION MEASURE NOISE-3 proposes to implement general noise control measures outlined in measures NOISE-1 and NOISE-2, and have a tribal liaison person warn tribes when particularly noisy activities are planned. Presumably the tribes are expected to prevent

anyone from dying and sending his or her spirit through the Maze landscape during the conduct of such activities. Needless to say, there is nothing in the DEIR to suggest that these ostensible mitigation measures were approved by, or even worked out in consultation with, the tribes.

Section 5.1: Unavoidable Significant Impacts

- A. *Subsection 5.1.1: Cultural Resources.* This subsection appears to be a verbatim copy of Section 4.4, and is subject to all the comments offered above on that section.
- B. *Subsection 5.1.2: Noise.* This subsection appears to be a verbatim copy of Section 4.9, and is subject to all the comments offered above on that section.

Section 6: Cumulative Impacts

Rather than considering cumulative impacts with reference to each resource or impact type, the DEIR elects to consider them in a separate chapter. This is an interesting approach, with the potential to give cumulative impacts more thoroughgoing attention than might be the case were they embedded in the overall discussion of direct and indirect impacts. On the other hand, by isolating the discussion of cumulative impacts in its own section, this approach facilitates the flawed analyses found in the previous sections, in which past and present contributions to cumulative impacts are accepted as the baseline against which potential effects are measured, resulting in a systematic underestimation of the significance of such effects. Be this as it may:

- A. *Subsection 6.4.1: Aesthetics.* This subsection acknowledges the potential for the proposed Project to contribute significantly to cumulative effects on the Topock Maze as it is defined by archaeologists, but it quickly proposes that such contributions will be mitigated by various landscaping activities. Beyond this there is no consideration of cumulative effects on tribal values associated with the landscape, and as usual there is no indication that tribes were consulted in developing the DEIR's conclusions. As a result, tribal cultural concerns about ongoing effects that can be classified as aesthetic remain unaddressed.
- B. *Subsection 6.4.3: Biological Resources.* Like Section 4.3, this subsection evidences no appreciation for the cultural value of "biological resources" to the FMIT and other tribes, so it naturally fails to analyze cumulative effects on such resources as they are valued by the tribes. This too leaves tribal environmental concerns unconsidered.
- C. *Subsection 6.4.4: Cultural Resources (sic).* Although this section responsibly reports the general concerns of the tribes for the overall landscape within which the Project is proposed, it does not actually analyze cumulative impacts. In fact, it expends a rather large number of words to say very little, and does not reflect much evident understanding of what cumulative effects are. It correctly (if vaguely) concludes that the Project (along with other activities) will have significant cumulative impacts that cannot be reduced to an insignificant level, but it vitiates this accurate observation by proposing that the manifestly inadequate measures set forth in Section 4.4 will somehow mitigate these impacts. Once again, tribal concerns about cumulative impacts – while to some extent represented in the text – are left unconsidered.

- D. *Subsection 6.4.7: Hydrology and Water Resources*: Like Section 4.7, this subsection evidences no appreciation for the cultural significance of the Colorado River and its associated water resources to the FMIT and other tribes, so it fails to analyze cumulative effects on such resources in a manner relevant to the FMIT's cultural concerns, and effectively leaves these concerns unconsidered.

Section 7: Alternative Baseline Analysis

This section appears simply to reorganize and parrot material found in Sections 4.3 and 4.4, and reflects the same flaws as the ones found in those sections. The last sentence in this section, on page 7-26, strikes me as a breathtakingly arrogant expression of self-perceived omnipotence on the part of the DEIR authors. Is there, I wonder, a training program that certifies an environmental impact analyst as expert in the restoration of sanctity?

Section 8: Alternatives

With the caveat that it reflects all the same biases and blinders on display in the other sections, this section's comparison of the impacts of the various alternatives appears to me to be fairly accurate.

Section 9: Other Informational Analysis

Subsection 9.1: Environmental Justice

Paragraph 9.1.1.2 on page 9-2 accurately concludes that the proposed Project "could result in a disproportionate burden" on "the Native American community" (i.e. the FMIT and other tribes), "because the resource (the "Topock Cultural Area") is "imbued with cultural, religious, and sacred values" to that community. The impact analysis presented at 9.1.3.2 essentially regurgitates those offered in other sections, and preserves the flaws found in those sections, but the conclusions offered on pages 9-9 and 9-10 appear to be accurate.

Summary Conclusions

To summarize: in my view, the central flaw in this DEIR lies in its failure to consider the cultural values ascribed by the FMIT and other tribes to the landscape, its physical components, its air and water, and its spiritual qualities; as a result, the DEIR fails to consider direct, indirect, and cumulative effects on these aspects of the environment. Some sections of the DEIR allude to such values, but nothing is done actually to analyze impacts on them, or to propose ways of mitigating impacts. As a result:

- A. Most sections of the DEIR (regarding aesthetics, water resources, air quality, biological resources, cumulative impacts, etc.), either ignore tribal cultural values altogether or give them only ineffectual lip service;
- B. The "cultural resources" sections, while I believe they are well-intentioned, are biased in favor of the values ascribed to aspects of the environment by archaeologists and

government historic preservation officials, at the expense of tribal values (and indeed anyone else's values).

- C. The measures proposed to mitigate Project impacts are entirely inadequate – indeed, most do not even merit being called mitigation measures. They may be appropriate from the standpoint of archaeologists, but they do not relate to the impacts of the Project on tribal cultural values as these have been explained to me (and to DTSC).

To correct these problems, I believe that DTSC should thoroughly re-work all the sections of the DEIR discussed above, in consultation with the FMIT and other tribes, and if the Project goes forward, should require PG&E to implement mitigation measures that:

- A. Are developed through consultation with the tribes, and are acceptable to them;
- B. Address the full range of impacts (direct, indirect, cumulative; visual, olfactory, physical, etc.) on all aspects of the environment to which the tribes ascribe cultural value; and
- C. To the extent possible, compensate for the offenses that the tribes and their culturally valued landscape have suffered over the years at the hands of PG&E and other agents of cumulative change.

I hope the above comments are helpful to you and the Tribe.

Sincerely,



¹ The term “cultural resource” as used in this DEIR and in many other contexts is deeply misleading, tempting the reader to think that environmental resources having cultural significance have been comprehensively addressed – when in fact, only archaeological sites and sometimes buildings and other places eligible for various historical registers have been considered. This ignores the vast majority of cultural values in the environment – culturally significant plants, animals, qualities of air and water, associated songs, stories, subsistence and medicinal practices, art forms, traditional land uses and lifeways – and results in a systematic failure to consider a Project's effects on such values. For further discussion of this issue see “How the Archeologists Stole Culture: a Gap in American Environmental Impact Assessment and What to Do About It.” *Environmental Impact Assessment Review* 18(2): 117-133, January 1998.

² I am aware that it is standard practice under CEQA to lump paleontological resources with cultural resources, but I suggest that California should re-think this practice. We cannot know, of course, whether extinct animals or plants had culture as we understand it today, but since analysts do not routinely ascribe culture to non-human living things, it seems peculiar to ascribe it to dead ones. Paleontological research is certainly a cultural activity, but so is particle physics, and we do not see quarks and Higgs bosons categorized as cultural resources. I suspect that the lumping of paleontology with culture under CEQA reflects a long-standing practice of equating “cultural resources” with archaeological resources; at some point, I can only assume, someone decided that paleontologists and archaeologists do similar work, so paleontological resources must also be cultural. As noted in the previous footnote, the general equation of culture with archaeology is a most unfortunate one, that results in systematically undervaluing and even ignoring most impacts on cultural resources. This result is vividly on display in this DEIR.

³ The overall landscape within which the Project is proposed, extending for miles along the Colorado River and for miles back from its banks, is clearly eligible for the NRHP as a traditional cultural property, based on its association

with core cultural/historical Mojave traditions and traditional practices. Despite repeated FMIT explanations, BLM (encouraged by PG&E) seems not be able to quite bring itself simply to recognize and accept this simple fact. To the extent I can understand BLM's less-than-coherent expressions on the subject, it appears to me that BLM is unable to comprehend the difference between formally nominating a place to the NRHP, which requires a good deal of research, analysis, and documentation, and agreeing to regard a place as eligible for the NRHP, which does not require such activities. BLM seems to think that it cannot regard the FMIT's treasured landscape as eligible for the NRHP without elaborate studies and paperwork; moreover, it appears to think that thus regarding it will have administrative complications. In fact, under the relevant federal regulations (36 CFR 800.4(c)), no particular studies or paperwork are required, and the only administrative "complication" implicit in regarding a tribally valued cultural place as eligible is that agencies must consult with the concerned tribe about their actions – a "complication" that agencies must live with regardless of whether NRHP-eligible properties have been identified. Arguably, regarding the landscape as eligible for the NRHP would actually simplify administration of BLM's responsibilities, because it would relieve BLM of the responsibility of making new determinations of NRHP eligibility/ineligibility each time a new Project is proposed that might affect the FMIT's valued landscape. None of this may be directly relevant to DTSC; I would only caution that DTSC should not look to BLM for any wisdom on the question of how to deal with the significance of tribal cultural places. I should also note that DTSC cannot escape its own legal responsibilities by expecting BLM to consult with tribes and to communicate what it learns. DTSC has an independent obligation to ensure that the impacts of the Project are accurately assessed and avoided or mitigated to the extent feasible; it cannot meet this obligation without engaging the tribes in a respectful, consultative manner.



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July 18, 2010

VIA FACSIMILE

Ms. Nora McDowell-Antone
FORT MOJAVE INDIAN TRIBE
Project Manager Topock Remediation
Aha Makav Cultural Society
P.O. Box 5990
Mohave Valley, AZ 86440-5990

Re: Technical Review of DEIR for the Topock Compressor Station Groundwater Remediation Project, April 2010

Dear Ms. McDowell-Antone:

Per your request, attached are my technical review comments on the California Department of Toxic Substances Control's April 2010 *Draft Environmental Impact Statement [DEIR] for the Topock Compressor Station Groundwater Remediation Project*. Please contact me if you have any questions concerning these comments or need further information on the DEIR.

Sincerely,

HARGIS + ASSOCIATES, INC.

Leo S. Leonhart, PhD, PG, CHG
Principal Hydrogeologist

Attachment
839.07 DEIR

Other Offices:
Mesa, AZ
San Diego, CA

EXHIBIT 2

Ms. Nora McDowell-Antone
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Technical Review Comments
Draft Environmental Impact Report for the
Topock Compressor Station
Groundwater Remediation Project
April 2010

For the past five years I have served as Consultant to the Fort Mojave Indian Tribe (the Tribe) assigned to the technical review of the Topock Compressor Station Project. I earned a doctorate in watershed hydrology from the University of Arizona, and I am professionally certified as a Professional Geologist (Certificate No. 5779) and Hydrogeologist (Certificate No. 350) in the State of California. My experience as an environmental professional extends over 35 years and includes direct responsibility of reviewing federal environmental impact statements issued pursuant to the National Environmental Policy Act of 1969, Section 102(C), while serving as the U.S. Environmental Protection Agency's liaison with the U.S. Department of the Interior in Washington, D.C.

On the basis of this experience, I have completed my review of the Draft Environmental Impact Report (DEIR) for the Topock Compressor Station Groundwater Remediation Project as directed, and have prepared comments focusing on the technical issues presented in the report, which I have deemed to be of interest to the Tribe. Generally, the comments follow in order of presentation in the DEIR.

Project Objectives (Section 1.2.2)

- Are institutional controls in place to prevent the risk of future groundwater development in the project area as well as in adjacent areas where groundwater extraction might adversely affect the remedy?



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- The potential for future well development affecting the capture and possibly the cleanup time under Alternative E was discussed in the DEIR as it relates to the Remedial Action Objectives. Did Pacific Gas & Electric Company (PG&E) run any scenarios about the degree & type of interference due to hypothetical pumping scenarios, particularly at Park Moabi? Isn't there a freshwater injection well (IW) located strategically to prevent this? (See also Section 3.4)

Remediation Facilities (Section 1.2.3.1)

- The key facilities associated with the infrastructure are summarized on Tables 1-1 and 4.3-4 of the DEIR. The Tribe understands that the estimates of the types, quantities, size, and locations of this infrastructure are best estimates of the maximum requirements. However, the Tribe also understands that there will likely be a need for facility replacement and possibly design adjustments throughout the long timeframe projected for this project. Accordingly, the Tribe believes that these estimates, and hence the associated impacts, may be understated in the DEIR, and therefore their environmental impacts may not be being fully mitigated.
- In addition to the above, there are concerns about the cumulative impacts of all of this infrastructure that will be added to the existing infrastructure and disturbances of the land as a result of the characterization studies to date as well as those yet to come in regard to the soils characterization and remedy. How is this accounted for in the DEIR?
- Will there be infrastructure emplaced at the present location of Interim Measure 3 (IM3) or on the IM3 property in support of Alternative E? If so, Why? What? Where? In general, the Tribe is concerned about and would like to limit infrastructure on the IM3 parcel, a parcel the Tribe now owns.
- Will the IM3 location be used for temporary storage and/or staging during project construction or afterwards as it has recently been used for implementation of the AOC-4



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Time-Critical Removal Action? If so, Why? What? Where? Again, the Tribe is concerned about and would like to limit infrastructure on the IM3 parcel.

- What is the plan for facility abandonment? The Tribe understands that there are State regulations, guidelines, and standards in place for well abandonment. These should be reviewed for applicability in regard to the various well designs in the project area and discussed with the tribes. In particular, how many and which of the wells could be abandoned in the near future? When will this be reviewed? What kind of environmental impacts may occur during such abandonment? (See comments on Section 3.5.4.1).
- It seems that there is no basis for well replacement estimates (that lead to the estimate of the maximum numbers of wells in Table 1-1). However, engineering information is available from technical literature that might enable a better basis for assumptions. For example, there is the on-site experience with IWs to date. Additionally, there is industry information on the operation and longevity of municipal extraction wells constructed from various materials. This is important to the Tribe because the number of replacement wells represents the potential for future intrusions at the site. Failure to include such information may underestimate significant impacts to the Tribe.

Description of the Proposed Project Features (Section 3.5.1)

- The conceptual design calls for a string of extraction wells (EW) at five locations along the edge of the Colorado River. These are intended to provide interception of any contaminants that might pass through the line of *In Situ* Reduction Zone (IRZ) wells along National Trails Highway.
- Is it necessary to continually pump these wells to insure capture if there are monitor wells between the IRZ and the EWs that confirm there are no contaminants passing through the IRZ? We understand that in the initial phases of operation it would be necessary to observe circulation of the reductants across the IRZ and also towards and into the EWs.

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Once this is assured, however, it may be acceptable to simply monitor for breakthrough. This is important, as this could be one way to lessen activities and impacts within the area.

- It is understood that, if the EWs along the Colorado River were not pumped continuously, the cleanup timeframe might be extended. Did PG&E run any scenarios involving intermittent pumping of the EWs to see the effect on cleanup times?
- The conceptual design of the EWs at these five proposed locations has not been specified in either the CMS/FS report or the DEIR. Do these five locations represent a single well or multiple nests of EWs? From what depth(s) of the aquifer will these wells draw water? For example, the EWs associated with IM3 were initially set at different depths in order to draw water across the entire thickness of the contaminant plume. Will the EWs along the River be similarly constructed with multiple wells set at different depths, or will there be fully penetrating wells screened across a large thickness of the aquifer?
- The Tribe is concerned with the extreme level of environmental impact of some of the proposed extraction well configurations in the East Ravine (ER) bedrock area involving numerous, closely-spaced extraction wells. It will be important to ascertain the potential for contaminated groundwater in this area to enter the Colorado River. This will indicate the level of urgency for addressing this contingency through remedial measures. (See also DEIR Section AOC 10 (East Ravine) on p. 4.7-29 to -30).
- It may be appropriate to perform groundwater extraction in the alluvial materials adjacent to the bedrock contamination in the ER first and determine whether there is an effect on the bedrock concentrations.
- In line with the above, it may also be appropriate to implement the groundwater remedy in the areas outside the ER to determine whether there is any change in the groundwater conditions (hydraulic or quality changes) that might indicate the possibility of a more passive strategy for the ER, which could reduce environmental impacts.

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- When will the design for this area be decided? Will it require another regulatory vehicle such as a Record of Decision (ROD) amendment or Explanation of Significant Differences (ESD)?

Decommissioning of Wells (Section 3.5.4.1)

- This section does not address whether the type of well (such as single- vs. multiple-completion) will require different or any special type of abandonment procedures. While the Tribe is concerned with proper sealing and abandonment of wells, it is also interested in the level of disturbances associated with various types of abandonment. The DEIR describes the general requirements for abandonment, but does not clarify whether different types of wells such as multiple completions and slant holes under the Colorado River might require some different procedures.
- Is there any schedule or generalization that can be drawn as far as how many of the existing wells can be abandoned?
- Is there any possibility that any of the existing network of wells can be incorporated into the design in an effort to reduce the overall number of wells required for the project?

Decommissioning of IM-3 (Section 3.5.4.5)

- The current project schedule suggests that the IM3 will end upon completion of construction of the groundwater remedy. The targeted date for this milestone is listed as August 13, 2011. However, recent presentations have indicated that someone has decided that the decommissioning of the IM3 plant will be contingent on demonstration of successful circulation of reductive agents within the aquifer instead of using an actual date.

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- It seems that planning for IM3 decommissioning, regardless of the milestone date, can begin immediately. This would permit immediate implementation and better opportunities for Tribal consultation in the interim. This was discussed at the June 2010 meeting of the Consultative Working Group (CWG) in which the Department of the Interior (DOI) indicated that PG&E would be directed to proceed with this plan. Additionally, the master schedule needs to be adjusted to reflect changes in both the planning and implementation of the IM3 decommissioning.
- The Tribe requests the opportunity to consider alternative configurations for restoration of all aspects of the IM3 site, such as the type of contouring or regarding that could be achieved, in all components of the property – the wells, the treatment plant area and the former parking area. This perhaps could be presented in simulation images. What does DTSC envision as the schedule for these discussions?
- Are there any IM3 facilities apart from the treatment plant, such as the injection wells (IW), observation wells (OW), or EWs, that might be incorporated into the final remedy design?
- Or conversely, that might be eligible for decommissioning and removal in the IM3 plant?
- A detailed basis for the estimate of IM3 removal and site restoration is provided in Table D-17 of the Corrective Measures Study/ Feasibility Study (CMS/FS) report. This estimate totals \$1.6M, including a line item for site restoration of \$89K. The Tribe requests an opportunity to discuss the details of this estimate, and as discussed in regard to the relationship between the IM and the DEIR, to request that the planning for this decommissioning begin as soon as practical so that the plan can be implemented at the earliest possible time. Additionally, the Tribe requests opportunities to have meaningful input into the preparation of this plan and as it develops.

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Air Impacts (Section 4.2)

- There is a fine line with regard to air quality, aesthetics, and cultural impacts. For example, the impacts of fugitive dust emissions with regard to Tribal values primarily relate to reduced visibility. It is noted that the period of concern could be limited primarily to the construction phase of the project and that measures to minimize this source will be imposed. Nevertheless, it is important for the DEIR to recognize that air quality potentially impacts cultural values as well.
- The Tribe offers the assistance of its Tribal monitors in the identification of problem areas, and mitigation measures.

Biological Impacts (Section 4.3)

- These sections call for a survey of wetlands and other habitats and also restoration as necessary under various federal and state authorities as a matter of protection of wildlife habitat. All creatures of the earth, wildlife and vegetation alike, are important to the Tribe.
- The Tribe requests to be notified whenever such surveys and restoration planning occurs and be offered the opportunity to participate in those efforts.

Geology and Soils (Section 4.5)

- The Tribe is concerned with activities that contribute to soil erosion and compaction. In particular, activities that result in off-road and on-road impacts can be disruptive for access to ceremonial areas. Compaction can also prevent plant re-growth. Of even greater concern is the potential for damage due to legal and illegal off-road transportation attracted to the area, in part, due to an increase in field and other activities related to the Project. We understand that mitigation measures (such as described on p. 4-5-48 & 49)

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will be taken to minimize or otherwise offset such damage, but it should be pointed out that there has already been such damage in certain areas as a result of past and ongoing activities.

- Enforceable and effective mitigation should also be undertaken to repair this damage as well as to prevent further damage, particularly by controlling the access.
- The Tribe requests that it be consulted and have Tribal monitors assist in the identification of problem areas and solutions.

Hazardous Materials (Section 4.6)

- Spills and releases of hazardous chemicals as discussed in this section are characterized as “potentially significant,” and the DEIR suggests that mitigation measures can be undertaken to reduce such impacts to “less than significant” levels. Again, it must be said that a determination of a “less than significant” impact relates primarily to the various respective regulatory standards, but does not address the potential desecration of the sacred land.
- The best mitigation is prevention and avoidance to the maximum extent possible. Best management practices, as they may evolve over the long timeframe of the project, should be in place and exercised at all times.

Hydrology and Water Quality (Section 4.7)

- As discussed in comments for Section 4.5, erosion and siltation is a concern to the Tribe and under Impact Hydro-2 in Section 4.7 it is recognized as a “potentially significant” impact that potentially creates impervious surfaces. Additionally, soil compaction can also increase runoff, erosion, and siltation. This is a condition that can be mitigated

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through proper planning and implementation of best management practices during all phases of the project.

- The Tribe expects to be consulted and offers the assistance of its Tribal monitors in the identification of problem areas and solutions.

Noise (Section 4.9)

- The DEIR correctly acknowledges that an increase in noise within the Topock Cultural Area would be “potentially significant.” It is ultimately concluded in Section 4.9 that the effect would be “significant and unavoidable.” The Tribe emphasizes that this new source of noise is in fact an impact that is superposed onto the existing noise level from operations at the Topock Compressor Station, jet boats on the River, recreational noises at the Park Moabi facilities after recent expansions and the recent notice of a recreational vehicle park with possibly 250 spaces.
- The distraction that is present during religious ceremonies is at times intolerable. The mere notification of the times of occurrence may not be sufficient mitigation. It may be appropriate and necessary at times to defer these activities if there is a significant ceremony taking place.

Utilities and Service Systems (Section 4.11)

- The DEIR acknowledges the possibility of construction of new facilities for generation or transmission of electrical power. It is suggested that one possible mitigation measure would be to phase the power demands such that the power demand for operating the IM3 facility would be phased out due to decommissioning, while, at the same time, the power demand for the new facilities would be phasing in (see p. 4.11-7). It is concluded that such a mitigation measure would then reduce the impact to “less than significant.” While

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this might offset a temporary increase in the net power demand, it seems that power transmission lines would still be needed. From the Tribe's standpoint, the possibility of added transmission lines and associated facilities is a significant impact.

- While the details of this electrical utility need may remain uncertain at the present time, the Tribe, a property owner in the area and an entity with deep cultural and religious ties to the area, needs to be apprised of this situation as it develops and requests participation in any planning, development and siting.
- The current pole locations of the existing lines are within significant cultural sites. The Tribe has asked about the status of the utilities rights of way, the Bureau of Land Management is investigating the issue, and is to provide information to the Tribe. No consultation was done for the past connections to IM-3 and, as a result, ground disturbance was sustained. In the recent past, the City of Needles Electric intruded into culturally sensitive areas, and partly because of this past history, discussions and planning must include the Tribe.
- The growth inducing aspects of utility extension and expansion must also be studied in the DEIR.

Water Supply (Section 4.12)

- As suggested earlier in regard to risk scenarios, the potential for interference from private wells in the Park Moabi area can be assessed using model simulations. Considering that a question was asked about this type of scenario at the Needles public meeting, PG&E should proceed to complete an assessment.

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Unavoidable Significant Impacts (Section 5.1) (Cultural Resources)

- As a mitigation measure, it is suggested that the siting of new “physical improvements” make use of “previously disturbed” areas to the extent possible. In this context, the measure should read, “to the maximum extent possible” to make every effort to try and protect tribal cultural values.
- First, the Tribe challenges that the facilities associated with the Compressor Station and/or any of the remedial facilities should be referred to as “physical *improvements*” as they indeed scarify a once pristine landscape. What would be improved? Why is DTSC attempting to ameliorate the adverse profile of these intrusions by referring to them as “improvements?” “Infrastructure” is a more neutral term.
- Second, the use of “previously disturbed” areas may reduce impacts only to the extent that new areas of disturbance are not being created. But in fact such areas generally represent the disturbance, disruption, and or desecration of areas within the cultural landscape that may or may not have been the subject of mitigation or tribal consultation in the past. These are areas that were once undisturbed and undesecrated and that now may persist as pock marks within the formerly intact landscape. It is important to consider possibilities for minimizing or avoiding need for new facilities and not taking these areas as a “given” for facilities. Such areas need to be considered on a case by case basis. Some may need to be restored quickly to reduce the potential for attracting additional activity into the area unrelated to the remediation.
- It is unclear as to the context of the DEIR’s reference to “... mitigation required through the federal CERCLA process.” (p. 5.2, 2nd arrow). Please provide further explanation and a citation for this CERCLA reference.
- It is appropriate that the Tribe be notified whenever project activities will generate new noise, but this in no way should be considered mitigation. The noise and aesthetic impacts remain significant and unmitigated.

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- On p. 5-5, the last bullet discusses a protocol for PG&E involving Native American tribal monitors to observe various site activities. It is imperative that this protocol be formalized. It may not need to be the same for all tribes, and the points of contact need to be established.

Alternatives to the Proposed Project Report (Section 8)

- Because the DEIR relies on previous reports in order to assess the impacts of the proposed groundwater remedy, it is necessary to review these documents in parallel for consistency. In particular, there are various assumptions and aspects of the conceptual design discussed in the CMS/FS report that carry through to the assessment of impact in the DEIR, such as the level of infrastructure and the cost basis.
- One particular inconsistency between the DEIR and CMS/FS report is the redefinition of the no action alternative (CMS/FS Alternative A) as the “Continued Operation of Interim Measure Alternative” (CMS/FS Alternative I, and thus the elimination of what was formerly labeled as the “No Action Alternative” in the CMS/FS). The Tribe does not consider this an appropriate action for several reasons:
 - Alternative I is truly not a “no action alternative” as called for in Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) guidance.
 - Does not account for the pre-2004 baseline.
 - Does not comply with the Settlement Agreement.
 - It is important that the assumptions underlying the conceptual design and implementation of the proposed project are understood and accurate because these will affect the approach to and level of mitigation required, and hence potentially a number of conclusions in the DEIR. At no time was there consultation by any agency with the Tribe on this significant change. The Tribe views this as a form of discrimination and a matter of environmental justice.

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Cost Estimates

- Table D-6 of the CMS/FS summarizes the basis for the cost ranges estimated for the various alternatives, including the proposed Alternative E. For Alternative E, the cost range is given as \$92 million to \$198 million, with a best estimate of \$184 million. Does this spread encompass the -30% to +50% range of cost uncertainty required at the feasibility study stage?
- We understand that there is uncertainty in all the cleanup timeframes, including that for Alternative E, which ranges from 10 to 110 years, with an expected timeframe of 29 years. This is based on model predictions for flushing between two and 20 pore volumes, with the expected value of five pore volumes. How does this timeframe uncertainty factor into the cost range?
- The timeframe for cleanup under Alternative E is estimated to be 29 years. It should be made clear, however, that the overall project requires additional phases at the front and back ends, including construction (3 yrs); long-term monitoring (10 yrs); and decommissioning (2 yrs). Thus overall, if project construction were to begin early in 2011, it is not expected to be completed by about 2055.
- This long-term presence at the site should factor into impact assessment, planning, management and mitigation. The Tribe seeks assurances that that there will be continuity and consistency in the measures and mitigation that is exercised over this entire project lifetime.

Environmentally Superior Alternative (Section 8.7)

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- On p. 8-69, the section says that, although Alternative B is environmentally superior to Alternative E, it does not meet the “fundamental project objective” of achieving the

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remedial action objectives (RAO) in a “reasonable timeframe” as required by California State Water Board Resolution 92-49. The RAOs do not contain any language about “reasonable timeframe,” but in Section 1.2 the criterion seems to be listed as a project objective. This seems to be a rather circuitous way of eliminating monitored natural attenuation (MNA).

- Also, if MNA is unacceptable as a stand-alone remedy, what makes it acceptable as a component remedy? The timeframe may not be different for natural attenuation of contamination in recalcitrant areas. Does this indicate that the time to achieve the RAOs under even the preferred remedy may extend beyond a reasonable timeframe?
- This question relates to whether the Department of Toxic Substances Control (DTSC) would consider MNA a serious alternative in the East Ravine area. The Tribe considers that MNA may be an appropriate alternative, and may prefer MNA in that area to the excessive number of bedrock wells as presently proposed by PG&E. MNA is the Tribe’s preferred remedial alternative as stated in its letter of February 2009 on the CMS/FS report. The Tribe believes that MNA is the remedy that best addresses remediation of the chromium plume while minimizing impacts to its cultural and spiritual values.



AHAMAKAV CULTURAL SOCIETY

Fort Mojave Indian Tribe

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July 19, 2010

Mr. Aaron Yue
DTSC Project Manager
5796 Corporate Avenue
Cypress, CA 90630

RE: Comments on Draft Environmental Impact Report for PG&E Topock Compressor Station
Groundwater Remediation Project

Dear Mr. Yue,

Through this letter are my review comments on the Department of Toxic Substances Control's April 2010 Draft Environmental Impact Statement (DEIR) for the PG&E Topock Compressor Station Groundwater Remediation Project.

I offer these comments based on my experience as the Fort Mojave Indian Tribe's (FMIT) Project Manager for the Topock Remediation for the past two years and on my prior experience as Chairperson of the Fort Mojave Indian Tribe for the past 25 years, with expertise in the Tribal Government field.

My experience as the former Chairperson provided me with the knowledge and traditional values necessary to lead my people for the past two decades, and built my expertise on my people's cultural values. I have learned the historical record of the severity of impacts upon our people and our lifeways. Knowledge that our traditional cultural beliefs will be -shared to the next generation and the connectivity to our ancestors is the -responsibility I hold and carry on behalf of the Aha Makav -the Mojave name for our people.

It is based on this experience and knowledge that I offer comments on the DEIR. I want to make it known for the record that the Fort Mojave people will be heard and that the DTSC, Federal representatives and PG&E will need to make amends for the destructive and adverse way this project has been implemented at the expense of the Religious and Sacred landscape that we revere at the location of our holiest of places, Topock.

For the past six years, the Fort Mojave Tribe has repeatedly asked for the recognition and sanctity of our spiritual place be made a priority and given respect and acknowledgement at the highest levels of State and Federal governments. Sadly, for this we have been penalized with diminished oversight and minimized value of our cultural affiliation to this project site.

It is with stern disappointment and great dissatisfaction that I state that the DEIR document in its present form doesn't reflect the many years of the Elders and adult member's voices which I've heard begging for so many years, pleading and at times with burning tears telling the regulatory agencies of this place of reverence, and asking simply that the area be left alone and allowed to continue to heal on its own, in its own time. This request from the voices of the ones most impacted the "Aha Makav" is the one missing from this DEIR document.

To ensure their voices will be part of the record, attached to this letter, please find a Sign on Letter with signatures from the Fort Mojave Indian Tribe Community and specific letters from individuals. Also attached is the Statement from Linda Otero, Director/Tribal Council Member of the FMIT which was read at the Public Hearing on June 29, 2010 for the record.

In general the document tries haphazardly to offer a history and account of our people, but fails in reflecting the most accurate account - the one directly from the Tribal viewpoint. During discussions with DTSC, the Tribe tried very early on in the process to discuss this Tribal viewpoint so that we would not have to be at the 11th hour trying to explain again the fundamental flaw. We have painstakingly tried to make it clear that this area is a Sacred Landscape and asked that it be given true acknowledgement and utmost respect in the technical process. We have written countless letters to the DTSC, DOI and PG&E which reflected the tribal perspective, and in addition we have echoed this same statement for the record within the CWG, TWG, CTF and TLP processes only to have it minimized, ignored or rejected within the written record, or reworded to lessen the true meaning from our point of view and how we see things.

In our discussions with representatives of your contractor, EDAW, we were never allowed to discuss mitigation measures, but only to provide general cultural background information; we could not provide input on specific impacts and mitigation. We were told that the DTSC was not legally able to discuss such specific impacts as those on the view shed for example; the contractors were cautioned by the DTSC lawyer to not discuss specific mitigation. It was a very difficult and stressful process, which led us to request a written account so that we could see what EDAW had captured from our long interview. It was very disappointing to receive a one page bullet list as the record of our meeting. Several times we met and tried in vain to have an adequate and meaningful dialogue; it was at times insulting and tension producing to have to repeatedly repeat ourselves. We provided eventually a written account which I have attached; I request that it be incorporated into the DEIR as the background section specific to Fort Mojave.

The DEIR document reflects very basic mitigation, standard mitigation you might see for a general development project in some ordinary place, not what we view from the Tribal perspective as adequate for a large scale remediation project with significant unmitigated impacts lasting possibly for decades or a hundred years that irreversibly damages and desecrates a Holy Place to the Mojave people. From our perspective, everything that this and other developments -continue to do within this area has an adverse affect. It will forever change what Creation has made.

Mitigation should be given the highest priority and consideration, - This place is PRICELESS to us, and the past actions and the proposed project - directly, indirectly, and cumulatively impacts us. -Each member of our Tribe holds the Topock landscape within their minds – knowledge of a place of peace, a place of holiness, a place that is inscribed within our hearts, a place specific to our natural being, a holy place of existence for the Mojave people, atonement for the soul of our people, past, present and the future.

This project will be carried out in the area through which the souls of our people pass to the afterlife; it is critical to our very existence, in this world and the next, that it be respected. If DTSC could understand the levels of impact that intrusions upon our religious place create, -if DTSC could view the need for mitigation from the impacts we live with day in, day out, it would understand the level of priority that must be given to developing effective mitigation measures. We continue to be impacted by the experiences we have dealt with during this ongoing process, and we will continue to be impacted long into the future.

Since DTSC cannot guarantee the passage of souls to the afterlife, DTSC and the Tribe are left in the uncomfortable position of trying to determine what else can be done to mitigate impacts to the Tribe. While this may be a difficult, unpleasant or unfamiliar task, it must be done, in order to make something good come out of something bad - a situation the Tribe did not cause, a situation the Tribe did not ask for the industrialization and polluting of its sacred place.

We ask therefore that specific mitigation be given the highest priority and consideration during this comment period. The Fort Mojave Indian community will not accept anything less than that in exchange for accepting and having to live with this revised Alternative E, an alternative that will cause additional adverse effects and irreversible damage for the life of the project- regardless of the risk to public health and the environment that DTSC believes warrants this project. We request DTSC and its contractors to be creative, fair and comprehensive.

As a Community, the known historic people in the area begin with the Aha Makav (Mojave) who trace their occupation of the area to the time of creation. Our continuous occupation of this area is based on the fact that Matavilya (the Creator) placed us here and this is where we have remained since recorded time. This is our only homeland, this is where our beginning is and where our end transitions, this area holds the footprints of our ancestors and attests to our past, present and future generations, who cannot and will not ever leave this place, until our time ends here at this place, our Sacred area called Topock.

What DTSC is recommending for mitigation is unacceptable and does not reflect our specific cultural concerns and the continuing and long-lasting harms that are being thrust upon Us. We deserve due consideration now of our issues, because - we were told by DTSC, PG&E, DOI that this DEIR document will be the place that will focus on the Cultural aspects of our concerns. So we once again and finally ask: Why have you not addressed our cultural concerns?

We therefore ask that specific mitigation measures be addressed and negotiated with the FMIT as a means to ensure a better future for the culture and practice of the FMIT people as part of its Draft EIR and project approval.

Thank you for your time and attention to my written comments for the record and on behalf of the Fort Mojave Indian Community.

Sincerely,

A handwritten signature in dark ink, appearing to read "Nora McDowell-Antone". The signature is fluid and cursive, with the first name "Nora" being the most prominent.

Nora McDowell-Antone

Project Manager Topock Remediation

Fort Mojave Indian Tribe/Aha Makav Cultural Society

Attachments

FOR INCLUSION INTO DEIR July 19, 2010
TOPOCK DEIR COMMENTS (ATTACHMENT)

Ethnographic Literature

The Mojave are a Yuman-speaking people whose core territory, according to the ethnographic literature, included a main settlement area centered on the Colorado River corridor north of the Bill Williams River. While their main settlements were in the Mojave Valley north of present-day Needles, they travelled widely across the desert and had place names for locations from as far east as Prescott Valley into the Los Angeles basin. According to Kroeber (1959), the region of core Mojave occupation extended on both sides of the lower Colorado River from south of Davis Dam to Topock. By the mid-19th century, however, Mojave settlements had extended both north and south, including Cottonwood Island to the north, and the Chemehuevi and Colorado valleys to the south (Stewart 1969:265–286). The historical record suggests the Mojave were encountered by the Juan de Onate Spanish expedition as far south as the present Colorado River Indian Reservation in 1604 (Stewart 1969), and intermittently controlled areas as far south as Palo Verde (Kroeber 1959). Modern Mojave consultants indicate that three somewhat distinct geographic groupings of clans were recognized: a northern group in the Davis Dam vicinity, a middle group in the Mojave Valley, and a southern group south of Needles. Sherer (1965:8) describes their settlement area thusly:

Their river holdings stretched from Black Canyon, where the tall pillars of First House of *Mutavilya* loomed above the river, past *Avi kwame* or Spirit Mountain, the center of spiritual things, to the Quechan Valley, where the lands of the Indians began. Translated into present landmarks, their lands began in the north at Hoover Dam and ended about one hundred miles below Parker Dam. Their tribal name was *Aha macave*, meaning the people who lived along the water (the river).

Habitation patterns and types at the time of contact with Europeans typically consisted of flat-topped shade structures during the summer months and low, rectangular, sand-covered structures during the winter months. The roofs were typically covered with arrowweed thatch, upon which a thick layer of muddy sand was created for insulation (Kroeber 1925:731–735).

Subsistence for the Mojave was dependent partially on agriculture, with crops such as maize, tepary beans, pumpkins, and melons forming the foundation of the diet. Maize was by far the most principal of all the crops, however, with a family typically clearing between 1 and 2 acres. Silt deposited by river overflows fertilized the fields, while women did most of the planting and cultivation (Stewart 1983:58).

Tribes Reservation was founded in 1865. Many Mojave though remained in Mojave Valley. The Fort Mojave Reservation was founded there in 1870.

The Mojave religion places special emphasis on the experience of and interpretation of dreams, with dreams affecting nearly all facets of life and behavior. Stewart (1983:65) states:

Mohave religion featured an unusual conception of dreaming, which was in fact a pivotal concept in their culture as a whole, permeating almost every phase of Mohave thought and endeavor. All special talents and skills, and all noteworthy successes in life, whether in warfare, lovemaking, gambling, or as a shaman, were believed to be dependent upon proper dreaming.

Kroeber (1925) noted that dreams often were experienced in close connection with tribal history and mythological traditions. *Kroeber (1963) stated that,

There is the further peculiarity in Mohave-Yuman narratives that the stories and songs are first dreamed, and it is the dreamer who then sings and tells his dream, and in this way his listeners learn the songs and at least parts of the narrative. . . . It is reserved to these Colorado River peoples to dream their entire literary *corpus*. To them, dreaming is moving back in time and in understanding to the beginnings of things when gods walked the new earth. They participate in the events and feelings and beliefs of those days by way of the dream, so that even the creation of the world may become part of the dreamer's own experience . . .

It is possible - it has been done - to pinpoint on a modern geodetic map of the Colorado River area of California and Arizona the villages, the scenes of wars, the mountains, the passes, the springs, and the desert washes which are named and described in such a dreamed myth, even to tracing in detail the routes of long migrations made in mythical times . . .

This accuracy, this lingering and savoring of place and event in story is, of course, something the Mohave like to do today next best to actually travelling to familiar but distant places within their own land . . .

Oral traditions for the Mojave people are generally rich with detail, with mythical occurrences commonly associated with identifiable places and landmarks. Mojave stories typically recount journeys and/or the transformation of mythical persons into animals or landmarks (Stewart 1983). Many stories are part of traditional song cycles, and the landmarks identified in the stories include those within traditional Mojave territory as well as places in the surrounding region (Kroeber 1925). Additionally, Mojave tradition involves the naming of clans. Clan names were given by *Mutavilya*, The Creator, based on aspects of the natural world, including (but not limited to) the sun, rain, small birds, the coyote, prickly pear cactus, and the frog. According to oral tradition, each clan went in different directions from *Avi kwami* (Spirit Mountain) after receiving their name. Each clan has a song commemorating the journey and various encounters experienced during that journey. According to Kroeber (1925) Mojave traditional culture is extraordinarily shaped by the tribe's historical narratives.

Literature Regarding the Topock Maze Area A very significant place within the project area is the Topock Maze and the surrounding landscape. According to Earle (2005), the Topock Maze—also referred to historically by non-Indians as “Mystic Maze”—is a large geoglyph of piled gravel windrows of dark desert-pavement terraces, approximately 13 miles southeast of Needles, California, to the west and northwest of the PG&E Station. The windrows are made of large pieces of gravel that are typically darkly stained by “desert-varnish,” which is a naturally occurring chemical transformation of exposed rock surfaces that largely depends on geological and atmospheric factors. Each windrow is comprised of piled gravel. The maze is comprised of a series of parallel rows, some of which may intersect and curve slightly across the landscape, spanning minor drainages. As stated above, the Topock Maze is not physically a maze at all, as it does not have a beginning, end, or “solution” per se.

The Topock Maze is viewed by non-tribal archaeologists as comprising three separate locations, typically referred to by archaeologists as Loci A, B, and C. Locus A is the largest of the loci (17.7 acres) and is located west of the Station, south of Interstate 40. Loci B (9 acres) and C (6 acres) are located north of the Station near the Interim Measure 3 (IM-3) Groundwater Extraction and Treatment Facility (IM-3 Facility), on the east and west sides of Bat Cave Wash, respectively. Locus A is thought by archaeologists to contain the best preserved rows. Historical testimony suggests that a large, anthropomorphic geoglyph, as well as a cairn shrine, were part of a complex of cultural features in the vicinity of Locus A at Topock. Loci B and C are smaller and have experienced a higher level of disturbance than Locus A, but windrows are still visible in these areas. According to the draft report by Earle (2005), the rows at Locus B show more variation in their alignments than at Locus A, while some rows at Locus C are almost completely gone, leaving only the faintest hint that rows once existed. The evidence suggests, and interviews with the Mojave confirm, that all maze loci and nearby geoglyphs form a complex suite of an associated cultural complex that has been disturbed to varying degrees by the construction of the railroad, interstate, various other linear features in the area, and by ORV activity. As discussed below, members of the Fort Mojave Indian Tribe indicate that the maze as understood by archaeologists is only part of the maze as they understand and value it; the tribally valued property includes the disturbed inter-locus areas as well as surrounding lands, and is linked conceptually and spiritually to other landforms in the area.

The origin of the Topock Maze has been disputed by some, with arguments supporting a Native American origin, while others have suggested that the maze is a byproduct of railroad construction between 1888 and 1893 (cite SBCM report). There is also disagreement as to its age or how it was created. Those arguing for an origin related to the construction of the railroad typically cite a single memo from a railroad engineer in 1891 that describes the collection of gravel into windrows by Mojave workers, prior to the gravel being hauled and used to support a bridge caisson. Photographic evidence of the bridge construction, interviews with railroad workers from the time, and statements from Needles residents present at the time of the bridge construction all suggest, however, that the maze was present prior to bridge construction, even if portions of it were later collected for ballast or support (cite SBCM report and Earle).

Interviews conducted by Kroeber with Mojave tribal members in the early 20th Century did not highlight a strong cultural interest in the Topock Maze, but these interviews cannot be considered definitive. At least one observer suggested that the origin might be attributed to a tribe that had lived in the area prior to the Mojave, perhaps the Maricopa (Earle 2005). Other interviewees, however, suggested that the Mojave would use the maze (regardless of its ultimate prehistoric origin) to purify themselves by running through the maze or by navigating through the maze without walking over a windrow, leaving evil spirits or ghosts in the maze. (There are also ethnographic reports that reference the sending of tribal decedents down the River and through the Maze area). Interviews conducted with Fort Mojave Indian Tribe representatives for this EIR as part of the NACP suggest that it would not be proper for them to say who made the maze. Earle indicates that the ultimate constructors of the maze are unknown to him, as his research did not identify stories, songs, or tales that relate directly to its construction; however, Tribal interviewees believe that the maze is of ancient origin and of deep cultural importance to the Mojave People.

Regardless of its origin or age, the Topock area and the many other intaglios and geoglyphs in the region (including those within the project site area) seem to be an integral part of the Mojave worldview. Earle (2005) outlines the many other intaglios in the region, as well as many Mojave song cycles that speak of the Topock area (though not necessarily of the maze itself), and concludes that the Topock area is a key location for supernatural events and mythical feats for the Mojave. Despite apparent variances in the ethnographic record, there is no dispute that Topock Maze is believed to form part of a geoglyph tradition for the lower Colorado River valley that has "its origin in the sacred song and story traditions of the prehistoric and historic Yuman-speaking cultures of the region" (Earle 2005).

Information Provided by the Fort Mojave Tribe

The following information was provided to the EIR team, either in correspondence from the Tribe or through meeting with designated tribal representatives:

- The FMIT has cultural resources affiliation with an expansive traditional territory extending from north of Las Vegas to the south as far as the Phoenix area, and East into Kingman, and as far West as Santa Barbara. The Tribe has lived within this area since time immemorial, and although Tribal lands are now confined to Reservations within the states of AZ, CA, and NV, the Tribe still has very strong cultural affiliation with their entire traditional territory.
- The FMIT has concerns about many areas of cultural and spiritual connection along the Colorado River valley. The Tribe's traditional beliefs about these areas are very important in defining tribal identity and are critical to how the Tribe continues to exist as a people.
- The Tribe is affiliated deeply with the land, plants and animals, air, and water of the region. The Tribe feels it has a duty or responsibility to be stewards of the historical land and the environment of the region. The tribe respects the land and the spirit of the place. They were put there by the Creator for a purpose. They've never severed their relationship with the land and the entire environment.

- The Tribe did not create and had no power to stop the contamination of the Topock area by others, but now it has to live with the consequences of that. The Tribe's religious and traditional beliefs are uniquely affected by the continued efforts to remediate the contamination. The Tribe is also uniquely affected in that it is the nearest tribe to the site and has reservation and fee lands in the area.
- The protection of the Colorado River is the primary responsibility and concern to the Tribe, as well as downstream tribes, but the clean-up process should minimize impacts to traditional cultural resources. Residual data gaps may be acceptable to the Tribe, and decisions regarding the need for additional data acquisition must be balanced by decision makers against further impacts on cultural resources, Tribal members and legal obligations to prevent or minimize such impacts.
- The Tribe has strong cultural ties to the Topock area. The Tribe's traditional songs are tied to the land on and surrounding the project site. The songs describe the Tribe's creation and history and provide guidance about the Creator's commandments about how to live life.
- Specifically, the area of the proposed project -- including but not limited to the "Topock Maze" as it is understood by archaeologists -- is critical to tribal cultural beliefs, especially those beliefs related to the afterlife, and the area should be treated with respect and acknowledged as sacred despite previous impacts and desecrations to the area. The Tribe still reveres the area today and wants to be able to conduct traditional religious activities in the area.
- According to Fort Mojave Indian Tribe representatives, the Topock Maze -- including the disturbed inter-locus areas as well as surrounding lands -- is the area where the spirits of the deceased go to pass on to the next world. The Tribe has done as best it can to adequately describe the importance of this area in order to try and protect it, while acknowledging respecting the fact that it is culturally disrespectful to speak of the dead. There are impacts to the People, their spirits and their connection to their relatives when projects come into this area.
- The Tribe has expressed concerns that the project has and will continue to impact the burial practices, ceremonies and passage of Tribal members to the afterlife.
- The Topock Maze area is also a place to go for purification, for instance after engaging in warfare or in more modern times for other types of spiritual healing and strength. It is also a teaching area for Tribal youth. The Tribe has done as best it can to adequately describe the importance of this area in order to try and protect it, while respecting private matters. There are impacts to the People and their lifeways when projects come into this area.
- The Tribe has expressed concerns that the project has and will continue to impact the Tribe's transmission of its cultural values to its youth.
- The Maze area cannot be moved and the roles it plays cannot be bestowed upon some other location. The Creator put it here and it is not for us to change or move it.

- The approach to cultural resource management must fully consider the cultural value attributed by the Tribe to the entire landscape and its constituent parts (landforms, water, plants, animals, spiritual qualities, etc.), and not focus merely on the research value of specific sites that are of interest to archaeologists.
- The Tribe believes that the entire Topock area is a traditional cultural property (TCP) that deserves protection. The TCP includes essentially the entire area under consideration in selecting the final remedy.
- The Tribe is also concerned about a larger scale cultural landscape along the Colorado River corridor from the Colorado River delta at least as far upstream as Hoover Dam.
- The Tribe also believes an area larger than that which has already been listed on the National Register since 1978 is eligible for listing on the National Register of Historic Places and the California Register. To the Tribe, the Maze area is not just the three loci that are visible to archaeologists. But rather, a larger area that includes the spaces between the loci, the areas where the Maze physically once was and associated intaglios, both those still visible and those no longer present. The Tribe's view is that these areas within the larger landscape are interconnected. If you impact or sever one area, that it affects the whole. Like cutting off a limb, it can affect your well being and cannot be recreated.
- Lithic scatters at Topock are important to the Tribe. There is an overwhelming sense of connection there. These sites are markers of what is still there, what remains of their ancestors. These sites deserve to be protected.
- Tribal monitors continue to identify previously unrecorded archaeological sites and archaeological material in the field in and around the Topock remediation area. This indicates the potential need for additional cultural surveys with qualified Tribal monitors as the remediation project progresses.
- Based on the importance placed on Topock as described above, this entire area is considered to be integral to the Tribe's traditional culture. If a desecration occurs to this area, there is no remedy that can fully mitigate it or fully undo that desecration.
- The Tribe expects that impacts in this area be as limited as possible. The Tribe believes that some groundwater and soil remediation technologies are more damaging than others and has and will comment on the alternatives. A proper analysis of alternatives must include Tribal views on the relative impacts. Consultation between DTSC, its consultants, and the Tribe should occur regarding each and every alternative prior to the finalization of the EIR, as different alternatives may affect cultural resources differently.

- Consultation between DTSC, its consultants, and the Tribe should occur during remedy design and implementation and monitoring phases, as different project designs or refinements may affect cultural resources and the Tribe differently.
- The Tribe is concerned about existing and additional visual impacts not only from the viewpoints of the general public but also from that of a Tribal person looking out from and toward the Topock Maze mesas while carrying out spiritual activities. The Tribe is also concerned about impacts on views of the river, the mountains, and other features of the landscape, which create a context for spiritual experiences.
- The Tribe is concerned about existing and additional noise impacts to the Topock TCP. The EIR should include an assessment of impacts of existing and expected noise sources on human receptors, including Tribal members who may be in the area engaging in cultural or spiritual activities.
- The EIR should contain a thorough assessment of the cumulative impacts on the Topock area TCP, which is considered to be a cultural and ethnographic landscape. The Tribe is very concerned about the impacts of the remedial investigations and interim measures that already have been installed at Topock, and thus, the cumulative impacts analysis should include any impacts since at least January 2004 that have occurred due to the groundwater and soils investigations and clean-up. Cumulative impacts would also include the development, operation, maintenance and repair of pipelines that took place in the past or are ongoing in the present, any plans related to the past or future construction or relocation of facilities at the PG&E Compressor station, power lines, highways, the railroad, farming operations, urbanization, and recreational facilities and uses, including the potential expansion of Park Moabi and the development of the Naked Pirate Cove Bar and Grill.
- The Tribe has noticed that project operations have attracted people to the area which has caused environmental harm to resources. The Tribe is concerned about additional project operations further attracting more people into the area increasing the illegal OHV activity and trespassing.
- The Tribe is concerned about having the capacity (staff, consultants and equipment) to sustain its level of involvement in project tracking, monitoring and making technical and policy input into the project for the life of the project which could be thirty years or more. The Tribe would also like to formally train Tribal members in such fields as hydrology, hydrogeology, cultural resource management, language and environmental sciences to help strengthen its in-house capacity.
- The Tribe is concerned that open consultation did not occur regarding the cultural resource and related sections of the DEIR (i.e., impact determinations, mitigation measures) in that drafts of all the relevant sections were not provided to the Tribe for its review despite several requests by

the Tribe. The Tribe is concerned that this could result in unnecessary delay in the DEIR review process.

- The Tribe is concerned that the Earle report, commissioned by PG&E for a limited purpose yet cited many places in the DEIR text, is not authoritative, is a draft report only, and was written without benefit of interviewing the Mojave Tribal Council, the Ahamakav Cultural Society or other qualified Tribal members.
- The Tribe does not believe ethnographic reports need to be done or referred to - that the agencies must trust the Tribe and take its beliefs as the authoritative view. In any case, the Tribe feels that the Ethnographic Literature sections as presented to them from the DEIR are not complete and do not reflect a comprehensive ethnographic report.
- The Tribe is surprised and disappointed that no effort has been made to date as part of the final remedy by the lead agencies to consult with it on potential mitigation measures for the project's direct, indirect and cumulative impacts, despite the ongoing effort to draft a Cultural Resources Programmatic Agreement for the final remedy and subsequent design and operation. The Tribe is concerned this failure to timely consult could result in otherwise unnecessary project delays as these issues must then be addressed through the public review period. Because of the severe impacts this project has had and continues to have on the Tribe's sacred landscape and People, "standard" or "boilerplate" CEQA EIR mitigation measures alone will not be sufficient.
- The Tribe is very concerned that despite its prioritization of this issue and settlement terms, that there appears to be no schedule or criteria established for decommissioning and removal of the IM3 treatment plant as part of the final remedy or its DEIR. Until it is removed, there will certainly be significant, continuing impacts to the Tribe that will require mitigation that must be addressed in the EIR.
- The Tribe is especially concerned as DTSC repeatedly said that Tribal concerns would be thoroughly addressed in the DEIR. That is the reason they gave the Tribe for not fully or more directly addressing the Tribe's concerns earlier during the RI/RFI, CMS/FS and various work plans.
- Regulatory agencies are required under federal law and the recent settlement agreement to consult with the Tribe. Consultation must be understood to involve a direct discussion of issues and concerns of the Tribe, for the purpose of resolving such issues and concerns in a mutually agreeable way, and it must lead either to a documented agreement or formal disagreement that informs final agency decisions.
- The Tribe will be hosting a forum for tribal members to discuss the project. The Tribe would like the comments to be incorporated into the NOP process and to inform the EIR.
- All efforts must be made to avoid and minimize impacts on the cultural and spiritual values the Tribe ascribes to the landscape, air, and water subject to effect.

- The Tribe may prefer, if a choice must be made for project component location, for infrastructure to be placed within historic road instead of other previously disturbed locations or native soils.
- All efforts must be made to correct, restore and compensate for the damage that has already been sustained and the Tribe must be timely and meaningfully consulted on such matters.
- The EIR must be consistent with the settlement agreement in *Fort Mojave Indian Tribe v. Department of Toxic Substances Control, et al.*, Sacramento Superior Court Case No. 05CS00437.
- The project must be consistent with, and the EIR must fully evaluate, Public Resources Code Sections 5097.9 and 5097.97 on project design and impacts on both state and federal lands.
- The Tribe wants the DEIR, maps and the administrative record to reflect that the IM-3 facility parcel has been repatriated recently to FMIT ownership. This repatriation reflects the high value the Tribe places on this land area to its people. The Tribe believes that having cultural lands in Tribal ownership and/or management supports traditional cultural values and strengthens the Tribe.
- The DEIR must be relevant for the People in the future. If it's a thirty year project, this EIR, its Impacts analysis and mitigation measures should strive to be comprehensive and adequate for the time period of the remedy activities.

*(Theodora Kroeber, *The Inland Whale*, University of California Press, 1963, pages 193-194).

Statement of Linda Otero
Tribal Council Member/Director of Aha Makav Cultural Society
Fort Mojave Indian Tribe
Topock Compressor Station
Public Hearing
June 29, 2010
Needles High School Auditorium
1600 Washington Street
Needles, California 92363

Good Evening members of the hearing panel.

My name is Linda Otero, I serve in the capacity as Director of the Aha Makav Cultural Society and also as Council member of the Fort Mojave Tribe of California, Arizona and Nevada. The Fort Mojave Indian Tribe has 1,200 enrolled tribal members who reside on the Fort Mojave reservation. The Fort Mojave Indian reservation is situated along the banks of the Colorado River and this whole valley, from above Hoover Dam to below Blythe, California was once our traditional homeland. Since time immemorial we have inhabited this area, we were created and placed along the Colorado River to live and care for all of mankind. For centuries we lived and enjoyed the natural setting, the River our namesake "Aha Makav" people of the river, the Mountains we revere as the place of creation known as "Avi Kwa Ame" Spirit Mountain, all things the air, the sky, things above and below ground. These named places in Mojave are the cornerstones of our existence and demark the footprints of our ancestors upon this birthplace of the Mojave people.

Today, we continue to oversee the vast land holdings of this valley, even though throughout time the lands were taken from our ownership and we were minimized to the 48,000 acres that encompass our reservation land, by that past action of the federal government (taking of our traditional homelands) we continue to play a critical role in what takes place on these lands which are private, state and federally held in ownership, these lands hold the birthplaces, living areas of 18 clans upon the mountain ridges and along the natural river corridor, cremation areas, cultural sites, earth figures, petroglyphs, cultural environment and home sites of our people, past, present and into the future. We, as a people continue to be connected to these places of religious and cultural affiliation, the values, the traditional landscape of this valley as far as the eye can see, east, west, north and south, are our ties to this area and our reference points from our beginning to our end, from birth to death, that bond with all things is what and who we are and make us the Aha Makav. All lands within this valley are considered sacred especially the area where this proposed Alternative E will be implemented.

We, as a Tribal Government have actively been involved in the ongoing actions at the Topock Compressor Station since we were first notified of the Chromium VI contamination and its potential to reach the Colorado River back in 2004. At that time we asked to become a part of the process and asked for a 30 day period to come up to speed with what was taking place in our Sacred site area and to be able to assess the actions of the Federal government and the State of California Department of Toxic Substances Control who were the regulators overseeing the proposed actions. Our appeal to DTSC representative then manager Norman Shopay was not filtered up the chain of command and because of the pending actions being contemplated by the regulators we had no choice but to file a lawsuit to get our foot in the door and to have our issues addressed at the highest levels of State government. A Settlement agreement was reached with DTSC, PG&E and Metropolitan Water District in 2007.

From that point on we have continued to struggle to have our concerns heard and to see them given equal if not more weight in the decisions that will affect the our Sacred land, water, and our religious and spiritual beliefs. We have diligently been following DTSC/DOI actions relative to this remediation action proposed within our Sacred Site landscape area we know as Topock. We have attending many many meeting with DTSC/DOI/BLM and PG&E where we offered testimony to DTSC/PG&E personnel on the Cultural and practice of the Fort Mojave Indian Tribe religious beliefs and the impacts that have occurred past, current and now into the future as proposed within the draft Statement of Basis, draft EIR and proposed plan which will continue to impose on our practice of our religion and continue with the desecration of our Sacred lands located within the APE where this proposed alternative E will occur.

I cannot begin to tell you of the devastation I feel when I contemplate such actions as those that are being proposed to this sacred area. My only response is the heart felt hurt, pain and anguish our people feel to their spirits as we know how this applies to our beliefs and what that area represents to us when we leave this earthly existence. Our knowing of what happens to the ceceased when they pass from this world to the next is our greatest pain, knowing if they will safely pass to the otherside without impediments is our greatest worry for my people. The actions listed as the alternatives means to us more impacts/adverse effects of the past, current and future PG&E projects in the way of pipelines, compressor stations, pollution, disturbances 170 new wells in addition to the 150 that are currently in the ground, and remediations i.e., IM-1, IM-2, IM-3, Arizona Wells, AOC-4, East Ravine, the list goes on and on and we haven't even addressed the soils yet. Those mitigation issues will also need to be addressed when they occur.

The cumulative “added together” effects of those remediation and operations along with other past projects in the area, National Trails Highway, Route 66, I-40 Freeway, Bridges, Railroad, gas transmission lines, electric lines, utility corridors, and current projects unmanaged recreation, ORV, Park Moabi, Naked Pirate Beach/Grill just add to the impacts on our culture and practice of the Fort Mojave people. We feel as members of the Fort Mojave Indian Tribe who are first hand suffering and will continue to suffer the impacts/adverse effects on our cultural environment that PG&E and DTSC must do something more than what’s in the draft EIR, recommending the State standard mitigation measures as outlined is unacceptable and does not address our specific concerns. We therefore ask that specific mitigation measures be addressed and negotiated with the Fort Mojave Indian Tribe as a means to ensure a better future for the culture and practice of the Fort Mojave Indian Tribe as part of its Draft EIR and project approval.

The Fort Mojave Indian Community (1,200) tribal members will not accept anything less than that in exchange for accepting and having to live with this revised Alternative E, an alternative that will cause additional adverse effects and irreversible damage for over 30-100 years to our Native American Community who is the closest and most impacted people affected everyday by this man-made disaster. This gross oversight/lack of proper Cultural mitigation in essence is an Environmental Justice issue that needs to be looked into as part of this DEIR process if not properly addressed and mitigated by those who are responsible for seeing what we have been told that by them (DTSC/DOI/PG&E) “that our Cultural issues would be dealt with in the draft EIR process.”



AHAMAKAV CULTURAL SOCIETY

Fort Mojave Indian Tribe

P.O. Box 5990 Mohave Valley, Arizona 86440

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July 14, 2010

Mr. Aaron Yue
DTSC Project Manager
5796 Corporate Avenue
Cypress, CA 90630

RE: Topock EIR Comments
Topock Compressor Station Groundwater Remediation Project

Dear Mr. Yue,

We are writing to comment on the Draft Statement of Basis (SOB) and the Draft EIR and Proposed Plan currently open for public comment.

We are members of the Fort Mojave Indian Tribe and people with close community ties to the Fort Mojave people who reside on the Fort Mojave Indian Reservation located in Needles, California and/or Mohave Valley, Arizona. We have been made aware of the ongoing actions at the Topock Compressor Station through various Community Meetings held in conjunction with this project and have been diligently following DTSC/DOI actions relative to this remediation action proposed within our Sacred Site landscape area we know as Topock.

We have been part of the Tribal Community team who has offered comments at meetings with DTSC/DOI/BLM and PG&E, attended scoping meetings where we offered testimony to DTSC/PG&E personnel on the Cultural and practice of the Fort Mojave Indian Tribe religious beliefs and the impacts that have occurred past, current and now into the future as proposed within the draft SOB, draft EIR and Proposed plan which will continue to impose on our practice of our religion and continue the desecration of our Sacred lands located within the APE where

We cannot begin to tell you of the devastation we feel when we contemplate such actions as those that are being proposed to this sacred area. Our only response is the heart felt hurt, pain and anguish we feel to our spirit as we know how this applies to our practice of our religious beliefs and what that area represents to us when we leave this earthly existence. Our knowing of what happens to the deceased when they pass from this world to the next is our greatest pain, knowing if they will safely and without any impediments make it to the other side, is our greatest worry for our people, that any actions listed as the alternatives means more impacts/adverse effects of the past, current and future PG&E projects in the way of pipelines, compressor stations, pollution, 170 new wells in addition to the 150 that are currently in the ground, and remediation i.e., IM-1, IM-2, IM-3, Arizona Well, AOC-4, East Ravine, the list goes on and on and we haven't even addressed the Soils yet. Those mitigation issues will also need to be addressed when they occur.

The Cumulative "added together" effects of those remediation and operations along with other past projects in the area, National Trails Highway, Route 66, I-40 Freeway, Bridges, Railroad, gas transmission lines, electric lines, utility corridors, and current projects unmanaged recreation, ORV, Park Moabi, Naked Pirate Beach/Grill/ just add to the impacts on our culture and practice of the Fort Mojave Tribe.

We feel as members of the FMIT who are first hand suffering and will continue to suffer the impacts/adverse effects on our cultural environment that PG&E and DTSC must do something more than what's in the draft EIR, recommending the standard mitigation measures as outlined is unacceptable and does not address our specific cultural concerns. We therefore ask that specific mitigation measures be addressed and negotiated with the Fort Mojave Indian Tribe as a means to ensure a better future for the culture and practice of the Fort Mojave Indian Tribe people as part of its Draft EIR and project approval.

As a Community, we have existed in this area for many generations as a tribe, this is our only homeland, this is where our beginning is and where our end transitions, this is all that we have known as our traditional cultural properties, from Hoover Dam to below Blythe, this area holds the footprints of our ancestors and attests to our past, present and future generations, who cannot and will not ever leave this homeland until our time ends here at this place, our Sacred area called Topock.

The Fort Mojave Indian Community (1,200 tribal members) will not accept anything less than that in exchange for accepting and having to live with this revised Alternative E, an alternative that will cause additional adverse effects and irreversible damage for over 30-100 years to our Native American Community who is the closest and most impacted individuals affected by this man-made disaster. This gross oversight/lack of proper Cultural mitigation in essence is an Environmental Justice issue that needs to be looked into as part of this DEIR process if not properly addressed and mitigated.

We ask these measures be given the highest priority and consideration during this comment period as we speak from our hearts for our Elders, Children and those yet to be born, the animals that co-exist and especially the Sacred land area, People, Places and Things that will be desecrated and cumulatively impacted over the course of this remediation clean up.

Sincerely,
Fort Mojave Indian Tribe Members

Cc: Pamela Innis, DOI
William Lodder, DOI, DC Office
Maziar Movasagghi, DTSC

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Linda Owens 401 Meridian Meadows, CA



Fort Mojave Vocational Rehabilitation

**8678 Highway 95, Suite B
Mohave Valley, AZ 86440
PHONE (928) 768-1144**

July 16, 2010

Aaron Yue
DTSC Project Manager
5796 Corporate Avenue
Cypress, CC 90630

Re: Topock EIR Comments / Topock Compressor Station / Remediation Project

Dear Mr. Yue,

I am writing to comment on the Draft Statement of Basis (SOB) and the Draft EIR and proposed Plan Currently open for Public comment. I am the Fort Mojave Vocational Rehabilitation (FMVR) Director, and I have lived and worked in the Fort Mojave community for ten years. The FMVR Program provides services to the Fort Mojave people with disabilities who reside on the Reservation located in Needles, California and Mohave Valley, Arizona. I am requesting that the Natural Attenuation be the final and only plan and that the existing 150 wells be removed from the sacred lands of the Mojave people.

I have been a participant at several of the meetings held on the reservation that was designed to address the groundwater cleanup alternatives and mitigation. The litigation in theory is supposed to create an avenue where respectful dialog and appropriate follow-through is achieved and where an equitable solution to benefit all parties is the outcome, the Fort Mojave People, PG&E, DTSC, and MWD. Thus far PG&E/DTSC has demonstrated a deaf ear to the testimony of the many Fort Mojave people who have shared their heart, their tears, and their hope that PG&E will understand that the Fort Mojave people are the stewards and caretakers of their homeland, and they have been instructed by the Creator to safeguard all lands, water, and life.

The expectation is that DTSC/DOI and PG&E will:

- *Prevent any action which has the aim or effect of depriving [the Fort Mojave People] of their integrity as distinct peoples or their cultural values or ethnic identities*
- *Prevent any action which has the aim or effect of dispossessing [the Fort Mojave People] of their lands, territories or resources*
- *Prevent any form of forced population transfer which has the aim or effect of violating or undermining any of [the Fort Mojave People] rights*
- *Prevent any form of forced assimilation or integration*
- *Prevent any form of propaganda designed to promote or incite racial or ethnic discrimination directed against [the Fort Mojave People]*

United Nations Declaration on the Rights of Indigenous Peoples, 2007

In closing I have two questions that beg an answer: would you build a plant and drill wells in the middle of a Christian Church, a Synagogue, or a Mosque, or any house of worship? If your answer is no, then why are you desecrating the sacred lands and waters of the Fort Mojave people?

To reiterate, I have heard testimony by the Fort Mojave people and their plea is straightforward and profound; Alternative E is not in the best interest of the Fort Mojave people, the land, the water, and all life forms. I ask that you do the right thing and honor the request of the Fort Mojave People.

June 30, 2010

Mr. Aaron Yue
DTSC Project Manager
5796 Corporate Ave.
Cypress, CC 90630

Re: Topock EIR Comments
Topock Compressor Station
Remediation Project

Dear Mr. Yue,

My name is Diane L. Montoya and I am an Aha Macav Tribal member within the Oach clan. We had an opportunity to provide brief comments at the Needles Public Hearing on June 29, 2101.

However, this was very brief; I did not feel I had enough time to explain the cultural significance regarding the maze, and how Alternative E is not in our best interest -or- the best interest of land and life. I am asking that Natural Attenuation be the final and only plan. I am also advocating that the existing 150 wells be removed.

As Tribal members we have been instructed by, The Great Spirit, our Creator to be as stewards, and as caretakers of our homelands to safeguard all land and life. To date, you may have heard our ancestors made a great maze in the Topock area that has been riddled with 150 wells and other encroachments. To include or consider additional wells would be an act of further desecration. The maze is the place where we make a final journey once our meat body expires. It is a place where we reflect and review our life, and then we journey on to the Spirit World. We must have a clear path; we cannot withstand having any more obstacles in our path. Please understand that further damage, blockage and desecration would definitely hinder and impede our journey to rejoin our ancestors in the next world, per our Creator's instructions. You see, we all share a deep understanding of WHERE WE ARE GOING, when it is our time to make the journey to the Spirit World. We still actively practice our traditional sacred funeral rites.

Already we have suffered from the 150 wells placed in our maze directly in our path to the next world. We have resided here since the beginning of time.

This is why further construction of wells in accordance to plan E is a threat to our very existence.

We shall never abandon our home; it was given to us by our Creator and is understood then as home of our hearts and the heart of our home.

Please remove the wells that are already there, do not continue to desecrate our home. You need to allow Mother Nature's all powerful ability via Natural Attenuation to occur.

It is my sincerest prayers that all destruction stops.

Thank you,
Di'ench Oach
Diane L. Hammond, Montoya



EXHIBIT 4

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ASSOCIATES

June 24, 2010

VIA FACSIMILE & REGULAR MAIL
(760) 629-5767

Honorable Chairman Timothy Williams
Fort Mojave Indian Tribe
500 Merriman Avenue
Needles, CA 92363

Re: Topock Groundwater Remediation Project and Draft EIR - Summary of
May 27, 2010 Meeting at Fort Mojave Indian Tribal Council (Needles,
California)

Dear Honorable Chairman Williams:

Thank you for welcoming us on May 27, 2010, to discuss the above referenced project and related Draft Statement of Basis and Draft Environmental Impact Report ("DEIR"). We appreciated hearing directly from the Tribal members who were present and believe, overall, that the meeting was a positive one. The purpose of this letter is to memorialize the issues of concern we heard expressed by representatives of the Tribe regarding the proposed final remedy, the adequacy of the DEIR, and consistency of the proposed final remedy and DEIR with previous settlement agreements, among other matters. We understand the meeting was intended to be informal and preliminary. We nevertheless see value in attempting to capture the comments made so that DTSC staff can determine whether and how to incorporate changes into the Final EIR or other appropriate document as the project moves forward.

I have conferred with DTSC and AECOM staff in preparing the summary of preliminary concerns from the Tribe below. Please let me know if you think we have missed anything of substantive concern or mischaracterized any of the comments that were made.

EXHIBIT 5

1. Project Description:
 - a. AECOM was asked to clarify what "Replacement wells through O&M phase" means exactly in terms of potential new future construction, if any, as well as timing and frequency of this activity. (DEIR, p. 18.)
2. Aesthetics
 - a. Tribe would like more visuals of wells, size, number(s) and potential locations.
 - b. Tribe would like EIR to weave in cultural concerns re: adding wells and other infrastructure to area into aesthetics analysis.
3. Historical/Cultural Analysis:
 - a. Tribe believes the area of potential effects (APE) needs to be enlarged to address potential direct and indirect effects of project on Tribe as previously expressed in PA process (consider using DEIR Exhibit 3-4).
 - b. Wells along existing road would be better than most other locations although still significant to Tribal members. To Tribal members, significance depends on number and location of wells and other facilities. Need performance standards as part of mitigation measures and more visuals.
 - c. Water is sacred and its use should be given great consideration in the cultural analysis of potential effects to the Tribe. Natural attenuation should be discussed as part of view that humans should not be altering the environment.
 - d. Recognize that some members view any activity in sacred area as an impact and hurtful. Want DTSC to consider policy changes to thresholds and how sacred sites are treated generally.
 - e. Consider ways to better depict the maze loci (currently shown as "holes" on the project footprint) to avoid implication that only these loci are important.

4. Land Use

No area of critical environmental concern (ACEC) assessment/management plan yet so should be explained more what this would entail.

5. Noise

- a. Existing cumulative noise levels are high. DTSC should consider mitigation measures requiring PG&E to decrease the volume on their existing outdoor PA/phone system, require people in the field to use cell phones, and fully enclose loud equipment.
- b. List of cumulative projects identified for consideration and geographic scope of area considered should be better explained.

6. Mitigation Measures:

- a. Tribe would like to see inclusion of performance standards that reflect Tribal concerns re: final remedy in CMS/FS and Draft Statement of Basis.
- b. Tribe would like estimates of costs for implementation and enforcement of mitigation measures.
- c. Removal of Interim Measure (IM-3) should be required as part of binding mitigation measure or condition of approval. Tribe requests a work plan for decommissioning and removal as soon as possible, and potentially as part of implementation plan so that physical removal can happen promptly following decision to decommission this facility. Restoration of the IM-3 footprint following decommissioning is viewed as critical.
- d. DEIR needs to better explain existing PG&E and Tribal consultation with overseeing and monitoring activities. Need to add specifics and enforceability to involvement of Tribal members in future monitoring, in part, because selected Tribal monitors would have information and knowledge that others do not.
- e. Need to better explain existing laws to protect human remains and cultural resources that could be uncovered during construction, including AB 2641 and Health and Safety Code provisions.
- f. Need to tighten measures re: archaeological monitor to include qualified osteologist to identify bone fragments etc. if anything found during construction.

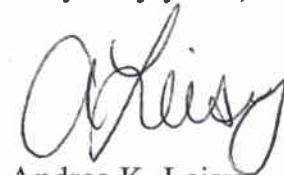
- g. Consider imposing "Fair Share" fees on PG&E to offset significant and cumulative cultural impacts.
7. Alternatives:
- a. Tribe believes Alternative I conflicts with provisions of Settlement Agreement.
 - b. Tribe states that Alternative I improperly assumes IM-3 remains in place. DEIR should have used a pre-IM-3 baseline to determine significance throughout the DEIR. IM-3 is to be removed and it was wrong to include it as part of the baseline.
 - c. Estimated costs of various alternatives appear "soft" because we don't have final design.
 - d. Tribe is opposed to any equipment, wells etc. being added to IM-3 parcel and view such attempts as contrary to the Settlement Agreement with PG&E.
8. Process
- Tribe would like to review admin final EIR (or portions thereof) and/or have the opportunity to review DTSC responses to their comments prior to the final remedy decision.

* * *

We look forward to meeting again on July 6, 2010, to continue the above dialogue. In order to make the meeting as productive as possible we ask that the Tribe consider bringing proposed changes to the EIR mitigation measures so that we can discuss.

If you have any additional comments to add to this summary, or if you think I have mischaracterized anything please also bring those comments to the meeting. Thank you.

Very truly yours,



Andrea K. Leisy

Honorable Chairman Timothy Williams

June 24, 2010

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cc: Honorable Vice Chair Shan Lewis, Fort Mojave Indian Tribe
Linda Otero, Fort Mojave Indian Tribe
Nora McDowell, Fort Mojave Indian Tribe
Karen Baker, DTSC
Courtney Coyle, Esq.
Steve Heipel, AECOM
Nancy Long, DTSC
Steven McDonald, Esq.



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.
Washington, D.C. 20240

IN REPLY REFER TO:

H32(2280)

NOV 23 2009

Ms. Courtney Ann Coyle
Held-Palmer House
1609 Soledad Avenue
La Jolla, CA 92037-3817

Dear Ms. Coyle:

This letter responds to your correspondence of October 6, 2009, on behalf of the Fort Mojave Indian Tribe regarding proposed revisions to the National Register of Historic Places listing for the Topock Maze in Needles, California. The Topock Maze Archeological Site was originally listed in the National Register on October 5, 1978.

Until a formal nomination is presented to our office for consideration the National Register is not in a position to direct how an agency shall carry out its identification and documentation responsibilities under the National Historic Preservation Act. Under the Act each Federal agency is charged with establishing its own internal preservation programs for the identification, evaluation, and nomination of historic properties. Each agency is responsible for determining its internal policies and procedures under the framework of the Act and its implementing regulations, including 36 CFR Part 60.

Rest assured that our review of any revised nomination for the Topock Maze site, if and when it is formally submitted under the 36 CFR Part 60 regulations, will include a thorough examination of the documentation, including the sources cited and the parties consulted in reaching the eligibility determinations. Should we find these deficient, or the evaluation process flawed, we will return the nomination with a request to revise the materials as necessary. The National Park Service's guidance on the development of nominations for traditional cultural places explicitly cites the importance of direct consultation with members of the traditional community that values such resources. We view such consultation as essential to understanding the historic context in which these types of properties are appropriately evaluated.

We recommend that your clients utilize the public comment period outlined in the National Register regulations to voice specific concerns regarding the revised nomination and the procedures used in obtaining the information.

EXHIBIT 6

In response to your inquiry I have requested Paul Lusignan of the National Register staff to contact the Federal agencies preparing the Topock Maze nomination to see if he can offer any assistance in their documentation efforts.

If you have any additional questions, please feel free to contact Paul Lusignan at 202-354-2229 or paul_lusignan@nps.gov.

Sincerely,

A handwritten signature in cursive script that reads "Janet Matthews".

Janet Snyder Matthews, Ph.D.
Associate Director, Cultural Resources

cc: CA SHPO
FPO Bureau of Reclamation
FPO BLM

Examples of What Other PAs and MOAs have Accepted as Mitigation Measures

07/05/10

Category 1: Measures to restore the land and its life forms, to improve tribal access, and reduce incompatible uses:

1. Land Transfers, etc.

Glamis Mine: Provide for acquisition of lands of traditional concern

Tahquitz Creek Flood Control Project: Transfer city land to tribe (taken into trust by U.S.)

2. Co-Management, etc.

Imperial Valley Solar: Trail-wide Mitigation Fund

King William Reservoir: Tribal or co-management of river and other places of cultural importance

3. Enhanced Law Enforcement, etc.

West Tavaputs Plateau Natural Gas Full Field (Nine Mile Canyon): Site stewardship program

4. Tribal Access, etc.

King William Reservoir: TCP Mitigation program provisions for access and use by Tribes including for special events and traditional activities

Sequoia and Inyo National Forests: Tribal access to wilderness areas in Sierra high country

Glamis Mine: Ensure continued tribal access to the Area of Traditional Cultural Concern during project implementation and after closure

Warm Springs Dam/Lake Sonoma: Transplanting of basketry plants (sedge, willow) and tribal access to these plant stands in perpetuity

Category 2: Measures to Strengthen traditional Mojave spiritual, cultural and funerary traditions

1. Financial support for cultural, educational, facilities and programming and staffing

Glamis Mine: Provide for expansion plan for Quechan Museum

Imperial Valley Solar: Preparation of comprehensive Interpretive Plan, Interpretive Facilities, Museum Exhibit for Anza National Historical Trail

Tahquitz Creek Flood Control Project: Contribute toward construction of interpretive center

EXHIBIT 7

Snowbowl: Applicant to work with Tribes and USFS to develop cultural center with tribal interpreters

King William Reservoir: Cultural, educational and Tribal community activities

2. Habitat Restoration for sustainable harvest of natural funerary materials

Snowbowl: Access guaranteed for collection of medicinal, ceremonial and food plants, logs offered for kivas

Warm Springs Dam/Lake Sonoma: Transplanting of basketry plants (sedge, willow) and tribal access to these plant stands in perpetuity

Category 3: Measures to assist Tribe in relating to remediation project

1. Education and technical training for tribal members

Glamis Mine: Provide for endowment for tribal member to study cultural features of area and for tribal cultural education.

King William Reservoir: Education and training for interpreters, curators, etc.

2. Continue support for outside technical assistance

King William Reservoir: Funding for expert assistance to develop TCP Mitigation Program

3. Continue support for ongoing tribal monitoring and staffing of project

King William Reservoir: Compensate for reasonable costs of any tribal monitoring