



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
FISH AND WILDLIFE SERVICE
BUREAU OF RECLAMATION



ELECTRONIC SUBMISSION

April 01, 2020

Curt Russell
Topock Project Manager – Site Remediation
Pacific Gas and Electric Company
P.O. Box 337
Needles, CA 92363

Subject: PG&E Topock Compressor Station Remediation Site – Orderly and Temporary Shutdown of the Final Groundwater Remedy Construction Field Activities during the COVID-19 Pandemic.

Dear Mr. Russell:

On March 27, 2020, the U.S. Department of the Interior (the Department) verbally directed Pacific Gas and Electric (PG&E) to initiate an orderly, temporary shutdown of the final groundwater remedy construction field activities to further protect personnel and communities in response to the COVID-19 pandemic. While the field activities associated with the construction of the final groundwater remedy implementation are necessary for the long-term protection of the Colorado River and cleanup of the groundwater aquifer, continued operation of the interim measure (IM-3) treatment facility, and its related appurtenances, adequately minimizes any threat to public health, welfare, or the environment during the temporary shutdown. Continued operation of the IM-3 facility meets the criterion regarding infrastructure that are “critical to protect public health and safety” as well as the environment. In the case of the ongoing field activities associated with the groundwater remedy construction, the current potential health risk incurred by site personnel with respect to travel and social distancing outweighs the need to continue construction field activities during the pandemic.

The Department of Homeland Security issued guidance on the “Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response.” The

Cybersecurity and Infrastructure Security Agency (CISA) executes the Secretary of Homeland Security's responsibilities as assigned under the Homeland Security Act of 2002 to provide strategic guidance, promote a national unity of effort, and coordinate the overall federal effort to ensure the security and resilience of the Nation's critical infrastructure. CISA developed an initial list of "Essential Critical Infrastructure Workers" to help State and local officials during the coronavirus outbreak as they work to protect their communities, while ensuring continuity of functions critical to protect public health and safety, as well as economic and national security. CISA included workers who support hazardous materials response and cleanup but did not provide any additional guidance on the definition of essential or critical to apply to the response or cleanup. While general in nature, the language provides the Department flexibility in determining which actions are critical with respect to protecting the public when considering CERCLA remedies being implemented throughout the United States.

In making this decision regarding temporary shutdown of construction field activities, the Department also took into account the limitations in our ability to perform compliance oversight due to mandated travel restrictions. The Director of the Office of Environmental Policy and Compliance imposed travel restrictions in early March which remain in effect through April 30, 2020. The pandemic situation will be assessed on an ongoing basis and additional restrictions may be imposed. The California Department of Toxic Substances Control (DTSC) has similar travel restrictions in place. It is the Department's and DTSC's responsibility to ensure compliance with the Construction/Remedial Action Work Plan (CRAWP) and with the regulatory requirements identified in the CRAWP, but current travel restrictions make this difficult. If construction field activities continue, the Department and its bureaus will not be able to respond to the site to evaluate key construction components or site management issues, such as an unanticipated release. Therefore, the Department believes that a temporary shutdown of construction field activities associated with the groundwater remedy is necessary until travel restrictions are reduced.

Additionally, the interested Tribes have also made the decision to forego monitoring of construction during the pandemic. Correspondence from the Fort Mojave Indian Tribe dated March 24, 2020 indicated that "The Fort Mojave Indian Tribe is ceasing work at the Topock project site for a 2 week period effective today, we will monitor the COVID-19 situation and inform you when tribal monitors will be able to return to work." The Programmatic Agreement Appendix C - Tribal and Archaeological Monitoring Protocol Monitor specifies ways in which the Tribes, Bureau of Land Management and PG&E may ensure tribal monitors have the opportunity to observe and comment on ongoing field activities. Once construction field activities resume, Tribal and Archaeological Monitors will be provided with anticipated schedules for Topock Remediation Project work that requires monitoring as early as possible.

Based on the above, the Department directs PG&E to delay groundwater remedy construction field activities for the next 30 days (through April 30, 2020) to promote protection of the site personnel during the COVID 19 pandemic. The Department, in coordination with DTSC and PG&E, will periodically re-evaluate the potential restart of construction and plan the logistics for resuming field work when appropriate. It is our expectation that communication will continue throughout the shutdown and that PG&E will continue to satisfy the obligations regarding the continued operation of the IM-3 facility and appurtenances, environmental compliance

requirements such as surface water protection measures and compliance reporting, and continued progress related to the soil investigation reporting and removal action evaluation.

PG&E may seek relief under the provisions of Section XVIII (Force Majeure) of the Consent Decree for any event arising from causes beyond the control of PG&E that delays or prevents the performance of any obligation under the Consent Decree despite PG&E's best efforts to fulfill the obligation. If PG&E intends to assert a claim of force majeure based on the Department's decision to temporarily shut down construction field activities as herein directed, PG&E should follow the process identified in Paragraph 61 of the Consent Decree.

It is our hope that all remain safe during this national crisis. If you have any questions, please contact me at (303) 501-5685.

Sincerely,

A handwritten signature in cursive script that reads "Pamela S. Innis".

Pamela S. Innis
DOI Topock Remedial Project Manager

Cc: Consultative Work Group Members
Technical Review Committee