

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

<p>IN THE MATTER OF:</p> <p>El Paso Natural Gas, L.L.C.,</p> <p>Respondent</p>	<p>U.S. EPA Region 9</p> <p>CERCLA Docket No. 2013-9</p> <p>SECOND MODIFICATION TO ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT FOR MINE ASSESSMENTS AND INTERIM REMOVAL ACTIONS</p> <p>Proceeding Under Sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622</p>
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**SECOND MODIFICATION OF ORIGINAL ADMINISTRATIVE
SETTLEMENT AGREEMENT AND ORDER ON CONSENT
ENGINEERING EVALUATIONS AND COST ANALYSES
FOR PRIORITY MINE SITES
CHARLES HUSKON #12 and #14**

I. RELATIONSHIP OF MODIFICATION TO ORIGINAL AGREEMENT

The Administrative Order on Consent and Settlement Agreement, CERCLA Docket No. 2013-09, entered into on August 23, 2013 (“Original Agreement” or “2013 AOC”) between El Paso Natural Gas Company, L.L.C. (“EPNG” or “Respondent”) and the United States Environmental Protection Agency (“USEPA”), provided for modification of any requirements of this Settlement Agreement “in writing by mutual agreement of the parties.” *See* 2013 AOC, Section XXVII. MODIFICATIONS at para. 87. Pursuant to that provision, Respondent and USEPA entered into a First Modification of the 2013 AOC in 2017. In this Second Modification of the 2013 AOC, Respondent agrees to perform additional work as provided herein.

II. ADDITIONAL WORK PROVISIONS

The purpose of this Second Modification of the 2013 AOC is completion of the following additional tasks that Respondent has agreed to perform: Engineering Evaluations and Cost Analyses for two of the original 19 mine sites that have been designated by USEPA as Priority Mine Sites, specifically, Charles Huskon #12 and Charles Huskon #14 (collectively the “Priority Mine Sites”). This additional work shall be completed in accordance with (1) the Scope of Work provided as Attachment C to the Original Agreement, and (2) the provisions of this Second Modification, including Attachment A (Supplemental Scope of Work) to this Second Modification, which is incorporated herein by this reference.

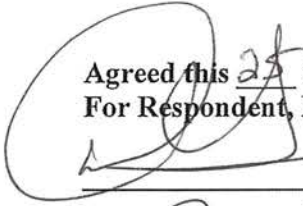
III. ALL OTHER PROVISIONS OF ORIGINAL AGREEMENT TO APPLY

All provisions of the Original Agreement and/or the First Modification shall remain in full force and effect, except to the extent that any of these provisions conflict with this Second Modification. In the event of any conflict between the Original Agreement and/or the First Modification, the First Modification and this Second Modification, this Second Modification shall control.

IV. Effective Date

This Second Modification shall be effective (“Effective Date”) three (3) days after Respondent is notified that it has been signed by the Assistant Director of the Superfund Division.

The undersigned representative of Respondent certifies that s/he is fully authorized to enter into the terms and conditions of the Second Modification and to bind the party s/he represents to this document.


Agreed this 27 day of June, 2018
For Respondent, El Paso Natural Gas Company, L.L.C.

By (Name): Dirk Cockrum
(Title): Vice President

APPROVED
AS TO FORM
Dirk Cockrum
6/27/2018
DATE

It is so ORDERED and Agreed, this 31 day of July, 2018

By: Will C. Duncan III
Will Duncan
Assistant Director, Superfund Division
Partnership, Land Revitalization and Cleanup Branch
United States Environmental Protection Agency, Region 9

[Note: Three days after Respondent is notified that the Order has been signed by EPA]

Effective Date: 3rd day of August, 2018

**Attachment A to Second Modification of EPNG 2013 AOC
Supplemental Scope of Work for
Engineering Evaluations and Cost Analyses for Two Priority Mine Sites
Charles Huskon #12 and #14**

This Supplemental Scope of Work (“Supplemental SOW”) describes the additional work (“Additional Work”) to be performed by EPNG pursuant to the Second Modification (“2nd Modification”) to the Administrative Order and Settlement Agreement, CERCLA Docket No. 2013-9, dated August 23, 2013 (“2013 AOC”) with respect to two Priority Mine Sites, Charles Huskon #12 and #14 (“Sites”).

1. Introduction

This Supplemental SOW specifies actions required to be completed by El Paso Natural Gas, L.L.C. (“Respondent”) pursuant to the Administrative Settlement Agreement and Order on Consent, CERCLA Docket No. 2013-9 (“2013 AOC”) for conducting the Engineering Evaluation and Cost Analysis (EE/CA) issued by the United States Environmental Protection Agency, Region 9 (USEPA). All terms used in this Supplemental SOW shall be interpreted in a manner consistent with the definitions provided in the 2013 AOC. In the event of any conflict between this Supplemental SOW and the 2nd Modification of which it is a part, the 2nd Modification shall control.

2. Description of the Sites

The Sites and vicinity are shown on the Maps, provided as Attachment 1. The areas to be addressed by this Scope of Work are those areas of the Sites identified in the Removal Site Evaluations as having contaminant levels exceeding the Preliminary Remedial Goals established pursuant to the 2013 AOC.

3. General Requirements

3.1 Priority Media: Priority media to be addressed at the Sites are soils, sediments and dust.

3.2 Contaminants of Potential Concern: Contaminants of Potential Concern (COPCs) are arsenic, mercury, molybdenum, selenium, vanadium, and the radionuclides uranium-238, radium-226, and their progeny. The COPCs shall be evaluated in the risk assessment to determine whether they are Contaminants of Concern.

3.3 Data Deliverables: Respondent shall submit all deliverables to USEPA and the Navajo Nation Environmental Protection Agency (NNEPA) in electronic form. If any deliverable includes maps, drawings, or other exhibits that are larger than 8.5" by 11", Respondent shall also provide USEPA and NNEPA with paper copies of such exhibits. The Draft EE/CA and Final EE/CA shall be submitted in both hard copy and electronic form, in accordance with the following specifications:

- (1) Sampling and monitoring data should be submitted in standard regional Electronic Data Deliverable (EDD) format. The specific Electronic Data Deliverables shall

be developed in a Data Management Plan that will be part of the Work Plan. Other delivery methods may be allowed if electronic direct submission presents a significant burden or as technology changes.

- (2) Unless otherwise approved by USEPA in the Work Plan, spatial data, including spatially-referenced data and geospatial data, should be submitted: (1) in the ESRI File Geodatabase format and (2) as unprojected geographic coordinates in decimal degree format using North American Datum 1983 (NAD83) or World Geodetic System 1984 (WGS84) as the datum. If applicable, submissions should include the collection method(s). Projected coordinates may optionally be included but must be documented. Spatial data should be accompanied by metadata, and such metadata should be compliant with the Federal Geographic Data Committee (FGDC) Content Standard for Digital Geospatial Metadata and its USEPA profile, the USEPA Geospatial Metadata Technical Specification. An add-on metadata editor for ESRI software, the USEPA Metadata Editor (EME), complies with these FGDC and USEPA metadata requirements and is available at <https://edg.epa.gov/EME/>.
- (3) Each file must include an attribute name for each site unit or sub-unit submitted. Consult <http://www.epa.gov/geospatial/policies.html> for any further available guidance on attribute identification and naming.
- (4) Spatial data submitted by Respondent does not, and is not intended to, define the boundaries of the Sites.

4. Work to be Performed

The Work to be performed pursuant to this SOW shall be:

4.1 EE/CA Work Plan: Respondent shall submit a Draft Work Plan providing a proposed outline for the EE/CA, including the Removal Action Objectives and a description of proposed alternatives for analysis. The Work Plan shall also describe the proposed approach for conducting the risk assessment, screening COPCs, and for calculating proposed removal action goals. The Draft Work Plan shall also include a Data Management Plan.

4.2 Community Involvement Plan: As requested by USEPA, Respondent shall provide information supporting USEPA's community involvement plan and shall participate in the preparation of such information for dissemination to the public and in public meetings which may be held or sponsored by USEPA to explain activities at or concerning the Sites.

4.3 Human Health Risk Assessment and Ecological Risk Assessment: Respondent shall perform the Streamlined Human Health Risk Assessment and Ecological Risk Assessment (Risk Assessments) in accordance with this SOW, EE/CA Work Plan, and applicable USEPA guidance, including, but not limited to: "Interim Final Risk Assessment Guidance for Superfund, Volume I - Human Health Evaluation Manual (Part A)," (RAGS, EPA-540-1-89-002, OSWER Directive 9285.7-01A, December 1989); "Interim Final Risk Assessment

Guidance for Superfund, Volume I - Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments),” (RAGS, EPA 540-R-97-033, OSWER Directive 9285.7-01D, January 1998); “Ecological Risk Assessment Guidance for Superfund: Process for Designing and Conducting Ecological Risk Assessments” (ERAGS, EPA-540-R-97-006, OSWER Directive 9285.7-25, June 1997) or subsequently-issued guidance. The Risk Assessment shall include exposure scenarios representative of Navajo traditional uses of the land, including consumption of locally grazed livestock. As originally required in the EPNG First Modification of 2013 AOC, a streamlined risk assessment is no longer required in the Removal Site Evaluation Report. Instead, the human health and ecological risk assessments described above will be provided in the EE/CA.

4.4 Development and Screening of Alternatives: Respondent shall develop an appropriate range of waste management options that will be evaluated through the development and screening of alternatives. The alternatives shall include options for managing mine waste and mine-contaminated soil both on and off the Navajo Reservation. Respondent shall provide USEPA with a proposed description of removal action objectives and a proposed description of alternatives in the EE/CA Work Plan. The removal action objectives shall include proposals that consider beneficial re-use of the Sites. Alternatives that include engineering controls and/or institutional controls must be designed for beneficial re-use of the land, including, at a minimum, design and maintenance to allow for grazing and open space use. Respondent shall screen the comprehensive list of possible alternatives in the Work Plan and provide a list of alternatives for a detailed analysis in the EE/CA.

4.5 Detailed Analysis of Alternatives: Respondent shall conduct the EE/CA in accordance with the provisions of CERCLA, the NCP, and USEPA guidance, including, but not limited to, the Guidance on Conducting Non-Time-Critical Removal Actions under CERCLA, OSWER (Aug. 1993), EPA 540-R-93-057, and guidance referenced therein, and guidances referenced in this SOW, as may be amended or modified by USEPA. The EE/CA shall identify the objectives of the planned removal action, propose alternatives that may be used to achieve these objectives, and analyze those alternatives for cost, effectiveness, and implementability.

4.6 Alternatives Analysis for Institutional Controls and Screening: The Alternatives Analysis for Institutional Controls and Screening shall (i) state the objectives (i.e., what will be accomplished) for the Institutional Controls; (ii) determine the specific types of Institutional Controls that can be used to meet the removal action objectives; (iii) investigate when the Institutional Controls need to be implemented and/or secured and how long they must be in place; and (iv) research, discuss, and document any agreement with the proper entities (e.g., state, tribal and/or local government entities, local landowners, conservation organizations, Respondent) on exactly who will be responsible for securing, maintaining, and enforcing the Institutional Controls. Respondent shall be responsible for monitoring implementation of all Institutional Controls.

The final removal action goals shall be selected by USEPA in an Action Memorandum, following consultation with the Navajo Nation and public comment on the EE/CA.

5. Schedules

The Work to be performed pursuant to the AOC and this SOW shall be performed in compliance with the following schedule and subject to the approval provisions set forth in the AOC at AOC Section X (EPA Approval of Plans and Other Submissions):

- **Draft EE/CA Work Plan:** Respondent shall submit its Draft Work Plan to EPA with a copy to NNEPA, within 60 days of the Effective Date of the Second Modification to the EPNG 2013 AOC.
- **Final EE/CA Work Plan:** Respondent shall submit a proposed Final Work Plan to EPA, with a copy to NNEPA, within 45 days of its receipt of EPA's approval, approval with modifications, or approval upon specified conditions of Respondent's Draft Work Plan.
- **Draft EE/CA:** Respondent shall submit a Draft EE/CA to EPA, with a copy to NNEPA, within 90 days of EPA's approval of the Final Removal Site Evaluation Report or within 60 days after EPNG's receipt of validated data with respect to samples obtained during additional field work (e.g., to fill data gaps) required by the Final Removal Site Evaluation, whichever is later.
- **Final EE/CA:** Respondent shall submit a proposed Final EE/CA to EPA, with a copy to NNEPA, within 45 days of its receipt of EPA's approval, approval with modifications, or approval upon specified conditions of Respondent's Draft EE/CA.

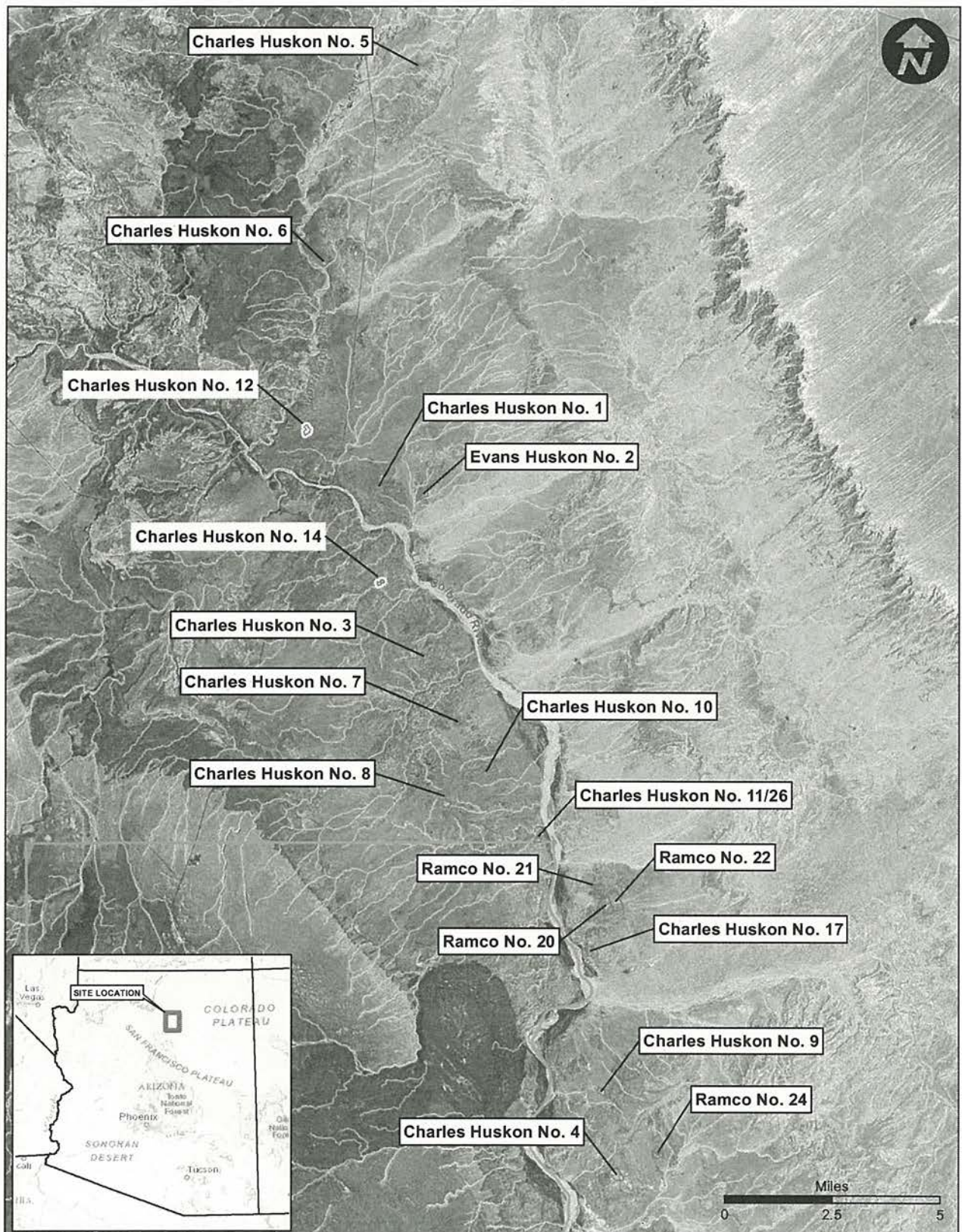
6. Reporting

6.1. Monthly Technical Calls: Respondents shall, as needed, participate in weekly technical conference calls with EPA's project manager, USEPA's consultants, and Navajo Nation representatives. On the weekly call, Respondent's representatives shall provide updates on all tasks and raise issues that may need to be resolved in order to expedite completion of the Work.

6.2. Monthly Reporting: Respondent shall provide a Monthly Report to the USEPA's project manager via email, with a copy to NNEPA via email, no later than the last day of the first full month following the Effective Date of the AOC, and include in each report a complete update on all field, analytic and planning activities.

7. List of Attachments

Attachment 1 – Maps of Sites and Sites Vicinity



Legend

- EPNG Abandoned Uranium Mines (AUMs)
- EPNG AUMs CH12 & CH14
- Navajo Nation
- Stream/Surface Channel

Cameron Area Mines Charles Huskon No. 12 and No. 14 Coconino County, Arizona BACKGROUND AND CORRELATION STUDIES WORK PLAN	
CAMERON AREA MINE AUM LOCATIONS	
	FIGURE 1