

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA)	
A municipal corporation)	
1200 First St., N.E., 5 th Floor)	
Washington, DC 20002)	
)	
Plaintiff,)	
)	Civil Action No. 1:11-cv-00282 (BAH)
v.)	
)	
Potomac Electric Power Company)	
701 Ninth Street, N.W.)	
Washington, DC 20068)	
)	
Pepco Energy Services, Inc.)	
701 Ninth Street, N.W.)	
Washington, DC 20068)	
)	
Defendants.)	
)	

JOINT STATUS REPORT

On December 1, 2011, the Court entered a Consent Decree between Plaintiff District of Columbia (the “District”), acting by and through the District of Columbia Department of Energy and Environment (“DOEE”), and Defendants Potomac Electric Power Company and Pepco Energy Services, Inc. (collectively, “Pepco” and together with DOEE, the “Parties”). Electronic Case File (“ECF”) No. 32. The Consent Decree obligated Pepco to perform a Remedial Investigation/Feasibility Study (“RI/FS”) at the Benning Service Center site at 3400 Benning Road N.E., Washington, D.C., (the “Site”) and a nearby portion of the Anacostia River.

On February 3, 2020, the Parties submitted a joint status report to the Court regarding their progress on the RI/FS together with a request to modify the Court’s scheduling order. ECF No. 54. In that report, the Parties advised that the Final Remedial Investigation (“RI”) Report was close to completion, but that a short extension of the deadline specified in the Court’s

scheduling order -- from February 3 to February 28, 2020 -- was needed to allow Pepco and DOEE to complete revisions to the report in response to the numerous comments received from the public on a draft of the report. By minute order dated February 3, 2020, the Court issued a revised scheduling order extending the deadline for completing the Final RI Report to February 28, 2020, while making no change to the September 16, 2021, deadline for completing the final Feasibility Study report. The Court's order also directed the Parties to submit a joint status report by August 3, 2020. This report is submitted in compliance with that order.

The Parties have continued to work diligently on the RI/FS since the last status report submitted to the Court. As the Parties previously advised the Court (ECF No. 56), Pepco submitted the Final RI Report to DOEE on February 28, 2020, in accordance with the deadline specified by the Court's revised scheduling order, along with the response public comments. The Final RI Report is posted to the DOEE public website.¹

In addition, Pepco submitted the final Treatability Study Work Plan to DOEE on March 13, 2020, which was approved by DOEE on March 18, 2020. After securing the necessary permits and authorizations from DOEE, the U.S. Army Corps of Engineers, and the National Park Service (the last of which was received on May 13, 2020), Pepco's consultant AECOM initiated work in the field on May 18, 2020, to collect additional sediment samples for laboratory testing of potential remedial technologies and to set up equipment for collecting additional samples and data regarding river flows, sedimentation rates, effluent flows from outfalls discharging to the cove of the river which is the focus area for the Treatability Study, and aquatic organisms present in sediments. AECOM also is collecting information regarding existing

¹ See <https://doee.dc.gov/page/pepco-benning-road-facility-plans-and-deliverables>.

habitat conditions to support evaluations of possible actions to enhance the ecological functions and values of the area in connection with remediation activities.

Most of the field work for the Treatability Study has been completed and the laboratory phase of the work has been initiated. There were several delays in securing permits, mobilizing field sampling teams, and setting up laboratory tests due to restrictions associated with COVID 19. As a result, the Treatability Study will not be completed and approved by October 21, 2020, as the Parties had projected in their most recent prior status report. It is currently anticipated that an additional 60 to 90 days will be required to complete the Treatability Study. Considering these delays, DOEE anticipates that the Feasibility Study may be delayed by several months beyond the September 16, 2021, deadline specified in the Court's current scheduling order.

In parallel with the Treatability Study, the Parties are continuing to work on the forensics analysis and source identification assessment as part of the Feasibility Study phase of work. As described in the February 3, 2020, status report to the Court, this effort involves a comprehensive statistical analysis of the sampling data that was presented in the Final RI Report as well as a detailed evaluation of the extent to which contaminants in the river sediments may be attributable to activities at the Site based on multiple lines of evidence, including information regarding known or suspected historical spills and releases at the Site, the distribution of contaminants in the environment, and the potential migration pathways and mechanisms. As part of the forensics evaluation, Pepco has been searching for and reviewing historical documents regarding its operations at the Benning facility dating back to the early decades of the 20th Century. Pepco is currently preparing a revised and expanded draft report to document the forensics evaluation.

Following submission of the revised draft report, the Parties will work to resolve all forensics issues prior to the completion of the Feasibility Study.

In sum, the Parties have achieved the key milestone of completing the Final RI Report, and have continued to make good progress on the several key elements of the Feasibility Study, including the forensics analysis and the Treatability Study. The Parties will attempt to remain on schedule to complete the Feasibility Study by September 16, 2021. However, given the 2 to 3 month anticipated delay in completing the Treatability Study, the target date for completion of the Feasibility Study may need to be revisited in the next status report. The Parties propose to file the next status report to the Court by February 3, 2021, six months from the date of this status report.

Dated: August 3, 2020

Respectfully submitted,

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