

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA)
 A municipal corporation)
 1200 First St., N.E., 5th Floor)
 Washington, DC 20002)
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 Plaintiff,)
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 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.)
)

Civil Action No. 1:11-cv-00282 (BAH)

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 August 3, 2020, the Parties submitted a joint status report to the Court regarding their progress on the RI/FS. ECF No. 57. In that report, the Parties advised that Pepco submitted the Final Remedial Investigation Report to DOEE on February 28, 2020. The Parties further advised that DOEE had approved the final Treatability Study Work Plan on March 18, 2020, and after

securing the necessary permits, Pepco's consultant, AECOM, initiated the work in the field on May 13, 2020, to collect samples for laboratory testing of potential remedial technologies and to collect additional field data needed for the evaluation of remedial alternatives in the Feasibility Study. Finally, the Parties advised that completion of the Treatability Study would be delayed by 60 to 90 days as a result of delays in obtaining permits and mobilizing field sampling teams due to restrictions associated with COVID 19, and that the completion of the Feasibility Study may be similarly delayed. (As discussed below, the actual COVID-related delays for the Treatability Study work turned out to be nearly seven months.) By minute order dated August 4, 2020, the Court directed the Parties to submit their next joint status report by February 3, 2021. This report is submitted in compliance with that order.

Since the last status report, AECOM has continued work on the Treatability Study. All of the field work has been completed with the exception of certain long-term data collection activities that were anticipated to extend beyond the completion of the Treatability Study report. On November 25, 2020, Pepco submitted an interim draft Treatability Study report to DOEE presenting the results of the sampling and laboratory studies that had been completed as of that date, including (a) measurement of sedimentation rates, (b) topographic and bathymetric surveys of the river bed within the Waterside Investigation Area, (c) monitoring of tides and currents, (d) monitoring of discharges from several outfalls in the cove of the river near the Site, (e) measurement of sediment seepage rates, (f) surveying of existing ecological conditions in the Waterside Investigation Area, and (g) testing of sediment for stability and dewatering characteristics.

An additional critical element of the Treatability Study is a sequestration study to evaluate the effectiveness of amending capping materials with three different carbon/treatment

additives in reducing the bioavailability of polychlorinated biphenyls (“PCBs”) in sediment samples collected from the river cove. The laboratory phase of this study was subcontracted to Dr. Upal Ghosh of the University of Maryland Baltimore County (“UMBC”). This phase of work could not start as scheduled due to the delay in mobilizing to the field for the collection of sediment samples. In addition, the time required for the laboratory study was significantly extended due to COVID restrictions imposed by UMBC (including limitations on the number of persons who could be present in the lab at the same time). The laboratory testing was recently completed and UMBC is scheduled to provide a final report to AECOM by February 5, 2021. Because this element of the Treatability Study was not yet complete at the time Pepco submitted the interim report, DOEE advised Pepco that it would defer its review of the report until that work was completed and documented in an updated draft report. Pepco anticipates that a full draft of the Treatability Study Report will be submitted to DOEE by February 26, 2021.

In parallel with the Treatability Study, Pepco has continued to work on the forensics analysis and source identification assessment as part of the Feasibility Study phase of work. As described in the August 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 continued to search for and review historical documents regarding its operations at the Benning facility dating back to the early decades of the 20th Century, and in has retrieved documentation of past sampling results for Site stormwater discharges to the river

which is currently being evaluated by AECOM. Pepco is in the process of preparing a revised and expanded draft report to document the forensics evaluation. Following submission of the revised draft forensics report, the Parties will work to resolve all forensics issues prior to the completion of the Feasibility Study.

Pepco also prepared a work plan, as required by DOEE, to evaluate the local groundwater flow patterns at the southern property boundary to determine if off-site sources of perchloroethene (“PCE”) could be impacting on-site groundwater. This work plan was approved by DOEE on September 22, 2020, and includes the following elements: (1) the installation of a set of 12 piezometers on site and four off-site piezometers in the public roadways to the south of the property; and (2) the collection and analysis of two rounds of hydrogeologic and chemical data (six months apart) from these piezometers. AECOM has obtained permits required for this field sampling work from the District Department of Consumer and Regulatory Affairs and the Washington Metropolitan Area Transit Authority and is awaiting permits from DC Department of Transportation. Pepco anticipates that the installation and first round of sampling of the piezometers will be completed in time to be incorporated into the Feasibility Study.

In sum, the Parties have continued to make good progress on the key elements of the Feasibility Study, including the Treatability Study and forensics analysis. The Court’s minute order of March 11, 2019 called for the final Feasibility Study report to be completed by September 16, 2021. However, due to the substantial COVID-related delays in completing the Treatability Study, the Parties currently anticipate that they will require additional time to complete the Feasibility Study. The September 16, 2021 date was based on a project schedule that contemplated completion of field sampling and laboratory bench testing for the Treatability Study by July 7, 2020. As noted above, the results of the bench testing are expected by February

5, 2021, approximately seven months later than scheduled. While the Parties believe that some of that delay can be made up over the remaining course of work to complete the Feasibility Study, there are minimum time frames required for certain elements of the work, such as DOEE's review and comment on an initial draft Feasibility Study, public review and comment on a draft of the Feasibility Study, and DOEE's consideration and response to comments received from the public, that constrain the ability to accelerate the schedule going forward. In view of the foregoing, the Parties respectfully request that the Court extend the deadline for the final Feasibility Study by a period of six months to March 16, 2022. The Parties further propose to file the next status report to the Court by August 3, 2021, six months from the date of this status report.

Dated: February 3, 2021

Respectfully submitted,

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