

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, D.C. 20068)	
)	
Pepco Energy Services, Inc.)	
1300 North 17 th Street)	
Suite 1600)	
Arlington, VA 22209)	
)	
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 Department of the Environment (“DDOE”), and Defendants Potomac Electric Power Company and Pepco Energy Services, Inc. (collectively, “Pepco” and together with DDOE, the “Parties”). The Consent Decree obligated Pepco to perform a Remedial Investigation / Feasibility Study (“RI/FS”) for its facility at 3400 Benning Road N.E., Washington, D.C. 20019 (“Facility” or “Site”).

The entry of the Consent Decree was subject to the requirement that the Parties submit a written status report to the Court no later than May 24, 2013. Electronic Case File (“ECF”) No. 32. The Parties submitted a status report on May 23, 2013, describing the progress to that date in implementing the terms of the Consent Decree. ECF No. 33. The Court issued a Minute Order on May 31, 2013, directing the Parties to file a second joint status report on or before May 24,

2014, regarding the implementation of the requirements of the Consent Decree and any related plans for remediation of environmental contamination. The Parties submitted the second joint status report on May 23, 2014. ECF No. 34. That same date, the Court issued a Minute Order directing the Parties to submit the next status report by May 25, 2015. The Parties are submitting this third joint status report in accordance with the Minute Order.

Pepco and DDOE have continued to work diligently and have made significant progress on the RI/FS since the last status report. To date, Pepco has provided all of the deliverables in a timely fashion, and the deliverables have been of acceptable quality. DDOE has conducted its reviews in a timely fashion, and has worked diligently to keep the project on schedule. As noted in the previous status report, DDOE has engaged and continues to receive support from an outside consultant to assist with its review of project deliverables and evaluation of technical questions. The Parties have continued to work in a cooperative and efficient manner to resolve technical disagreements, and will continue to do so. The current status of the project is summarized below.

A. Remedial Investigation

The field work for the Remedial Investigation (“RI”) began in January of 2013, within 30 days after DDOE’s approval of the final RI/FS Work Plan in accordance with the schedule specified in the Consent Decree. The field work for the RI was completed on December 31, 2014, consistent with the schedule projected in the last status report. In accordance with the RI/FS Work Plan, the field work included the collection and analysis of soil and groundwater samples at the Site and surface water and sediment samples in the portion of the Anacostia River adjacent to the site. Overall, a total of more than 750 soil, water, and sediment samples were collected and analyzed as part of the field investigation. The RI field work also included

geotechnical borings to verify subsurface lithological conditions at the Site; Electric Resistivity Imaging surveys to identify subsurface anomalies at the Site that could represent changes in lithology, buried objects, or liquid phase subsurface contamination; monitoring of tidal effects on the Anacostia River and groundwater elevations at the Site; aquifer testing to characterize the hydraulic properties of the shallow and deep groundwater zones; and bathymetric and side scan sonar surveys to define the contours of the river bottom.

Pepco submitted a draft RI Report to DDOE on April 30, 2015, in accordance with the schedule set forth in the Consent Decree. This report describes the field activities in detail, presents the results of the sampling and analysis, evaluates potential sources of contamination (including forensic analysis of chemical constituents and assessment of background sources), and reports the overall findings of the investigation. The draft RI Report is supported by 50 figures and 37 summary tables. In addition, as part of the RI work, Pepco performed a baseline human health risk assessment and an ecological risk assessment to identify and quantify any potential risks to human health or ecological receptors from conditions at the Site or in the adjacent portion of the Anacostia River. The results of these risk assessments are documented in two separate reports appended to the draft RI Report. The draft RI Report included 24 additional appendices documenting the laboratory results and data validation efforts, presenting field data, providing detailed evaluation of background data and analysis of forensic profiles of chemical constituents, and providing general background information about the Site and the larger Anacostia watershed.

The draft RI Report and supporting materials are currently under review by DDOE. Once DDOE has determined that the draft RI Report is in an appropriate form for public distribution, it will release the draft RI Report for public comment in accordance with Paragraph

2.a. of the Court's order entering the Consent Decree. Given the size and complexity of the draft RI Report, it is anticipated that DDOE's initial review may take several months.

DDOE anticipates that the draft RI Report will be of great interest to the community and thus expects to provide a public comment period of at least 45 days. In addition, DDOE and Pepco expect to hold at least one public meeting at the beginning of the comment period to answer questions and receive input from the community. After the comment period, Pepco will revise the draft RI Report as appropriate to address comments from DDOE and the public. Pepco will then submit a final RI Report for DDOE's approval. The approved final RI Report will be made available on the DDOE and Pepco websites, and paper copies will be provided to local public libraries.

B. Treatability Study and Feasibility Study

Concurrent with DDOE's initial review of the draft RI Report, Pepco is proceeding to plan and conduct a treatability study to support the evaluation in the Feasibility Study ("FS") of possible remedial alternatives. The treatability study may include gathering additional field data and conducting pilot tests to assess the suitability of possible remedial technologies and to quantify the scope of remedial actions that may be warranted. The first step will be for Pepco to submit a proposed treatability study work plan for DDOE's review and approval. It is anticipated that a draft work plan will be submitted to DDOE within the next 60 days.

Once the treatability study work has been completed, Pepco will prepare and submit a treatability study report for DDOE's review and approval, to be followed by the preparation and submission of a draft FS Report. In accordance with the schedule set out in the Consent Decree, the draft FS Report will be due within 120 days after DDOE's approval of the final treatability study report. After a preliminary review of the draft FS Report, DDOE will release the draft

report for public comment in accordance with Paragraph 2.a. of the Court's order entering the Consent Decree. After public review and comment, Pepco will revise the draft FS Report as appropriate to address comments from DDOE and the public, and will submit a final FS Report to DDOE for approval. The approved final FS Report will be made available on the DDOE and Pepco websites, and paper copies will be provided to local public libraries. DDOE's approval of the final FS Report will mark the conclusion of the RI/FS process and Pepco's obligations under the Consent Decree will be satisfied.

C. Public Participation

The Parties have continued to follow a robust public participation process in accordance with the approved Community Involvement Plan. In particular, the Parties have continued to support the Benning RI/FS Community Advisory Group ("CAG") which was formed to facilitate public participation in the RI/FS process for the Site. Since the last status report, the CAG has continued to meet monthly to receive updates from DDOE and Pepco on the progress of the RI/FS and the power plant demolition (as discussed below) and to provide input to DDOE and Pepco on community concerns. In addition, at the request of the CAG, Pepco has shared certain validated sampling data in advance of the release of the draft RI Report to give the CAG the opportunity to begin its consideration of the voluminous data set. DDOE and Pepco also have continued to maintain public websites where relevant documents and information are posted.

D. Power Plant Demolition

The Site was the location of the former Benning Road Power Plant. Pepco shut down the power plant in June of 2012. At that time, the structures associated with the power plant included the generating station buildings and smoke stacks, two cooling towers, four bulk aboveground fuel oil storage tanks, and storage buildings. Pepco removed the cooling towers

and aboveground fuel oil storage tanks in 2013. Last year, Pepco began the process of demolishing the power plant buildings under the oversight of DDOE and in accordance with permits issued by the D.C. Department of Consumer and Regulatory Affairs. Pepco coordinated its plans for demolition with a number of stakeholders, including DDOE and the CAG, and voluntarily implemented an air monitoring plan, in coordination with DDOE, to minimize dust during the demolition of the main power plant buildings. With the exception of the removal of the concrete basins for the cooling towers, all of the demolition work has been completed, the site has been cleared of scrap and debris and re-graded, and the site restoration activities are nearly complete.

The removal of the cooling tower basins has proceeded on a separate schedule because of the need to address localized PCB contamination of the concrete and surrounding soils believed to be the result of leaching from the caulking material used to seal the basin expansion joints. (PCBs were commonly used in caulking material at the time the cooling tower basins were built, which was prior to the 1979 ban on the manufacture of PCB-containing materials.) Pursuant to an addendum to the RI/FS Work Plan, Pepco has conducted extensive soil sampling in the area underneath and immediately adjacent to the basins and has submitted a Remedial Action Plan (“RAP”) to DDOE that calls for the excavation of the contaminated materials and removal for off-site disposal. Upon DDOE’s approval of the RAP, Pepco will proceed with the soil removal concurrently with the removal of the basins. This work is expected to be completed later this year.

E. Anticipated Schedule for Further RI/FS Activities

As noted above, the draft RI Report is currently undergoing initial review by DDOE. Allowing adequate time for public review and comment on the draft RI Report, as well as for

revisions to the report in response to comments, the Parties anticipate that the final RI Report may be submitted by the end of 2015. The Parties expect that Pepco will complete the necessary treatability study by the end of this year and will submit the draft FS report during the first part of 2016. Again allowing adequate time for public review and comment on the draft FS Report, as well as for revisions to the report in response to comments, the Parties anticipate the final FS Report will be submitted to DDOE in the latter part of 2016. Upon DDOE's approval of the final RI and FS Reports, Pepco's obligations under the Consent Decree will be at an end. At that point, DDOE will prepare a Proposed Plan regarding further response actions based on the results of the RI/FS. After considering public comment on the Proposed Plan, DDOE will issue a Record of Decision ("ROD") identifying any further response actions determined to be necessary. The Parties anticipate that the Proposed Plan will be released within one year from DDOE's approval of the final FS Report, and that the Record of Decision will be released within one year after that. The Parties propose to submit another status report to the Court on or before May 24, 2016.

Dated: May 22, 2015

Respectfully submitted,

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