

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA**

DISTRICT OF COLUMBIA )  
 A municipal corporation )  
 1200 First St., N.E., 5<sup>th</sup> Floor )  
 Washington, DC 20002 )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 Potomac Electric Power Company )  
 701 Ninth Street, N.W. )  
 Washington, D.C. 20068 )  
 )  
 Pepco Energy Services, Inc. )  
 1300 North 17<sup>th</sup> Street )  
 Suite 1600 )  
 Arlington, VA 22209 )  
 )  
 Defendants. )

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

**JOINT STATUS REPORT**

**A. Introduction**

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 the adjacent segment of the Anacostia River.

On November 15, 2017, the Parties submitted a joint status report to the Court regarding their progress on the RI/FS. ECF No. 45. In that report, the Parties explained that they were working diligently to complete their evaluation of the Phase II sampling data to determine the

scope of any additional sampling, and proposed to file a supplemental status report on December 15, 2017, by which time they expected to have completed their review of the sampling data and thus be in a position to advise the Court regarding the scope and schedule of any further field sampling and data analysis necessary to complete the investigation and to propose revised deadlines for completion of the RI/FS.

The Parties have now completed their review of the Phase II sampling data. Although the vertical delineation of contaminants is essentially complete, the horizontal extent of contamination is still not fully defined at several on-site locations, and additional sampling is required to complete the characterization of the site. The Parties have identified the need for additional soil samples at up to 40 locations in the next round of sampling, and they anticipate that one further round of sampling will be required, involving an estimated 20 additional locations, to complete the full delineation of on-site contamination. In addition, the parties have determined that up to another 22 samples previously collected from the river and from off-site background locations will need to be submitted for laboratory analysis and subsequently evaluated as part of the Phase II data set.

Based on the scope of the additional field sampling and data evaluation needed to complete the site characterization, the Parties have prepared a revised schedule for completing the RI/FS. A copy of the revised schedule is attached as Exhibit 1. According to this schedule, all remaining field sampling, laboratory analysis, data validation and evaluation, and DOEE review and final approval of the Phase II RI field work will be completed by July 9, 2018.

Following the completion of the field work, Pepco will prepare a draft comprehensive RI report (incorporating the data from both Phase I and Phase II). This effort will include updating the human health and ecological risk assessments based on the results of the Phase II sampling,

as well as completing the background data and forensic evaluations. The time allotted for this task is 119 days, consistent with time frame specified in Section 8.c.iv. of the Consent Decree. Allowing time for DOEE review as well as for public comment on the draft comprehensive RI report, as required by this Court's order entering the Consent Decree, the final comprehensive RI report would be completed by March 8, 2019.

Pepco will proceed with the preparation of the Feasibility Study in parallel with the preparation of the comprehensive RI report. The Feasibility Study will involve the identification, technical evaluation, and ranking of a range of potential remedial alternatives as necessary to address any unacceptable risks identified through the RI. The time allotted to prepare the draft FS report is 179 days from the completion of all field work and data evaluation, consistent with the time frame specified in Section 8.c.v. of the Consent Decree. Allowing time for DOEE review as well as for public comment on the draft FS report, as also required by this Court's order entering the Consent Decree, the final FS report would be completed by May 6, 2019.<sup>1</sup>

Based on the foregoing, and for the reasons explained in the status reports filed by the Parties on September 30, 2017 (ECF No. 45) and November 15, 2017 (ECF No. 46), the Parties respectfully request that the Court approve the following revised deadlines for completing the RI/FS:

- (1) Complete the field work for the Phase II RI by July 9, 2018;
- (2) Complete the final comprehensive RI Report by March 8, 2019; and

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<sup>1</sup> In accordance with Section 8.c.v. of the Consent Decree, if a treatability study is necessary to evaluate remedial options, the draft FS report would be completed within 120 days after DOEE's approval of the final treatability study report. The dates for completing the subsequent tasks leading to the final approved FS report would be adjusted to correspond to the time period for these tasks as shown in the schedule.

- (3) Complete the final Feasibility Study by May 6, 2019 (adjusted as necessary if a Treatability Study is required).

In addition, the parties propose to file the next status report with the Court on or before July 9, 2019.

Dated: December 15, 2017

Respectfully submitted,

KARL A. RACINE  
Attorney General for the  
District of Columbia

ROBYN BENDER  
Deputy Attorney General  
Public Advocacy Division

CATHERINE JACKSON (D.C. Bar #1005415)  
Chief, Public Integrity Unit

*/s/ Brian Caldwell*  
BRIAN CALDWELL (D.C. Bar # 979680)  
Assistant Attorney General  
Office of the Attorney General for the District of  
Columbia  
Public Integrity Unit  
441 4th Street, N.W., Suite 600-S  
Washington, D.C. 20001  
Tel: (202) 727-6211  
Email: [Brian.Caldwell@dc.gov](mailto:Brian.Caldwell@dc.gov)

*/s/ David Dickman*  
David Dickman (DC Bar #465010)  
General Counsel  
Department of Energy and Environment  
1200 First Street, N.E., 5<sup>th</sup> Floor  
Washington, D.C. 20002  
Telephone Number: (202) 481-3845  
[david.dickman@dc.gov](mailto:david.dickman@dc.gov)

*Attorneys for the District of Columbia*

/s/ Eric J. Murdock

Eric J. Murdock (Bar no. 443194)  
HUNTON & WILLIAMS LLP  
2200 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, D.C. 20037  
Telephone Number: (202) 955-1500  
emurdock@hunton.com

*Attorney for Potomac Electric Power Company  
and Pepco Energy Services.*

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1300 North 17<sup>th</sup> Street )  
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**JOINT STATUS REPORT**

**EXHIBIT 1**

Updated Benning Road RI/FS Project Schedule																								
ID	Task Name	Duration	Start	Finish	Q4 '17			Q1 '18			Q2 '18			Q3 '18			Q4 '18			Q1 '19			Q2 '19	
					Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
1	<b>Resolve Additional Sampling /Analytical Data Needs</b>	75 edays	Sun 10/1/17	Fri 12/15/17																				
2	Data Submittals and Discussions Between DOEE and Pepco	75 edays	Sun 10/1/17	Fri 12/15/17																				
3	Final Resolution	0 edays	Fri 12/15/17	Fri 12/15/17																				
4	<b>Landside Additional N&amp;E Sampling</b>	176 edays	Fri 12/15/17	Sat 6/9/18																				
5	Fieldwork Permitting	28 edays	Fri 12/15/17	Fri 1/12/18																				
6	Fieldwork (utility clearance + sampling + Lab Analysis)	60 edays	Fri 1/12/18	Tue 3/13/18																				
7	Data Submittals to DOEE	21 edays	Tue 3/13/18	Tue 4/3/18																				
8	DOEE Review and Approval	30 edays	Tue 4/3/18	Thu 5/3/18																				
9	Contingency Allowance	30 edays	Thu 5/3/18	Sat 6/2/18																				
10	Complete Data Validation	7 edays	Sat 6/2/18	Sat 6/9/18																				
11	<b>Preliminary RI Data Interpretation/Discussion</b>	30 edays	Sat 6/9/18	Mon 7/9/18																				
12	<b>Fieldwork Completion Approval by DOEE</b>	0 edays	Mon 7/9/18	Mon 7/9/18																				
13	<b>Finalize the RI Report</b>	242 edays	Mon 7/9/18	Fri 3/8/19																				
14	Prepare Draft Final RI Report	119 edays	Mon 7/9/18	Mon 11/5/18																				
15	Draft Final RI Submittal	0 edays	Mon 11/5/18	Mon 11/5/18																				
16	DOEE Reviews	50 edays	Mon 11/5/18	Tue 12/25/18																				
17	Public Comment Period	30 edays	Tue 12/25/18	Thu 1/24/19																				
18	Finalize RI Report	43 edays	Thu 1/24/19	Fri 3/8/19																				
19	Final Submittal	0 edays	Fri 3/8/19	Fri 3/8/19																				
20	<b>FS Report</b>	301 edays	Mon 7/9/18	Mon 5/6/19																				
21	Prepare Draft FS Report	179 edays	Mon 7/9/18	Fri 1/4/19																				
22	Draft FS Report Submittal	0 edays	Fri 1/4/19	Fri 1/4/19																				
23	DOEE Reviews	49 edays	Fri 1/4/19	Fri 2/22/19																				
24	Public Comment Period	30 edays	Fri 2/22/19	Sun 3/24/19																				
25	Finalize FS Report	43 edays	Sun 3/24/19	Mon 5/6/19																				
26	Final Submittal	0 edays	Mon 5/6/19	Mon 5/6/19																				
27	<b>Assumptions:</b>																							

Project: Field Work Schedule, R Date: Fri 12/15/17	Task		Project Summary		Inactive Task		Inactive Milestone		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual Task		Duration-only		Manual Summary Rollup		Manual Summary		Inactive Summary		Manual 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**Updated Benning Road RI/FS Project Schedule****27 Assumptions:**

The schedule is based on the following assumptions:

1. All task durations are in calendar days or elapsed days (edyas).
2. The schedule shows assumed timeframes for DOEE's document reviews. One Draft and one Final submission are assumed for each document. If additional reviews or longer review times are needed, the schedule will need to be adjusted accordingly.
3. As of the revision of this schedule Pepco and DOEE have agreement on field sampling for the most part except for Landside N&E sampling and waterside additional forensics. For the purpose of this schedule, it is assumed that the additional work will not require more than 60 borings and the analytical results can be obtained on a 72-hour turnaround.
5. Duration of the remaining landside field investigation activities is currently an estimate and is dependent upon actual field conditions and the extent of contamination.
6. Based on discussions with the labs, it is assumed that the rapid turnaround time of 72 hours can be met for the N&E purposes. For all other analyses, normal laboratory turnaround time is 15 to 20 business work days. Forensics and some specialized analyses could take longer as there are limited laboratories that perform these analyses and the labs have been reporting a heavy work load.
7. Field sampling is not required to establish Incremental Sampling Methodology (ISM) background. This can be accomplished using calculations to synthesize ISM background from already available discrete background samples.
8. It is assumed that further landside field sampling beyond what is shown in this schedule is not required; any remaining data needs will be deferred to the next stage of the project (e.g., Remedial Design).
9. The schedule assumes that treatability studies are not necessary prior to the FS; in the event they are required, it is assumed that the scope will be limited to bench-scale treatability studies, which are expected to take up to 6 months. Upon completion of the treatability studies, the Draft FS will be made available for public comment in June 2019 and the Final FS Report approved by November 06, 2019.