

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 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 December 15, 2017, the Parties submitted a joint status report to the Court regarding their progress on the RI/FS. ECF No. 47. In that report, the Parties explained that they were working diligently to complete the Phase II sampling effort, and proposed a revised schedule according to which all remaining field sampling, laboratory analysis, data validation and

evaluation, and DOEE review and final approval of the Phase II RI field work would be completed by July 9, 2018. The proposed schedule also provided that the final comprehensive RI Report would be completed by March 8, 2019, and the final Feasibility Study would be completed by May 6, 2019 (with this deadline to be adjusted as necessary if a Treatability Study is required). The Court approved this proposed schedule and directed the parties to submit a further status report on July 9, 2018.

As explained in prior status reports, a full delineation of on-site contamination is necessary to ensure that DOEE's decision regarding potential remedial actions will be fully informed. The process of delineating the areas of contamination is necessarily iterative as sampling locations are moved, both vertically and horizontally, from the initial areas of detection to the point where the contamination ends. At the time of the last status report on December 15, 2017, the Parties had identified the need for additional soil samples at up to 40 locations in the next round of sampling to be conducted, and they anticipated that one further round of sampling would be required, involving an estimated 20 additional locations, to complete the full delineation of on-site contamination. However, the exact scope of this effort could not be predicted in advance due to the iterative nature of this process, and substantially more sampling has been required to complete the full characterization of the site than was anticipated at the time of the last status report to the Court.

During the period since the last status report, several additional rounds of sampling were conducted. A total of 342 additional soil samples were collected at more than 80 locations. Despite the substantially expanded scope of this effort, the Parties have worked diligently, including making arrangements for expedited laboratory analyses to facilitate data evaluation and decision-making, and they believe that all field sampling is now complete. The last round of

sampling, to complete the horizontal delineation in two remaining areas of the site, was conducted on July 3, 2018. The results of laboratory analyses of these last samples should be received in the next few days. Two contingency samples were collected during this last sampling round which can be submitted for laboratory analysis if necessary to complete the delineation. The Parties do not expect that any further sampling in these two areas will be necessary, although that possibility cannot be ruled out until the most recent sampling results are evaluated.

Pepco has completed a number of additional field sampling and data evaluation efforts in support of the RI/FS since the last status report. Prior sampling at the National Park Service (NPS) Kenilworth Maintenance Yard (KMY) adjacent to the Benning Road site showed concentrations of arsenic in soil above screening levels. To be able to compare these concentrations to background levels, DOEE required that additional discrete samples be collected at the KMY site for arsenic. After preparing a sampling work plan and applying for and obtaining an extension of the sampling permit from NPS, Pepco collected the samples from the KMY site on May 16, 2018, and the laboratory analyses of these samples have been completed. DOEE also required additional sampling and specialized analysis of soil samples from both the KMY site and the Benning Road site to identify the various forms of chromium present in the samples. DOEE approved the sampling plan for the KMY site on June 4, 2018, and approved the sampling plan for the Benning Road site on June 21, 2018. Pepco completed the additional chromium sampling on June 29, 2018. The laboratory results are expected shortly.

In addition to these field sampling activities, Pepco researched and mapped several upgradient and cross-gradient sites that may be contributing to methyl tertiary-butyl ether (MTBE) detected in groundwater in the northeast corner of the Benning site, and prepared a

forensic analysis report to identify sources of perchloroethylene (PCE) detected at the Site. The Parties are currently in discussions to determine if any further sampling is necessary to delineate the PCE plume. Finally, all data validation is complete except for the samples collected in the last two weeks.

In sum, the Parties have continued to work diligently over the past several months to complete all the field sampling and associated laboratory analyses, and all of these efforts should be completed in the very near future. Moreover, the limited additional time required to complete this phase of the project is not expected to affect the other project deadlines, and the Parties therefore currently expect that the final comprehensive RI Report will be completed by March 8, 2019, and the final Feasibility Study will be completed by May 6, 2019 (subject to any adjustment if a Treatability Study is required) in accordance with the current schedule approved by the Court following the December 2017 status report. The Parties propose to submit the next status report to the Court on or before March 8, 2019. In the meantime, the Parties will continue to meet monthly with the Community Advisory Group (CAG) established for this project to provide updates.¹

Dated: July 9, 2018

Respectfully submitted,

KARL A. RACINE
Attorney General for the
District of Columbia

¹ The CAG consists of representatives from civic associations, Advisory Neighborhood Commissions and environmental groups which are active within the areas around the Benning Service Center site. The CAG meets once a month with DDOE, Pepco, and Pepco's RI/FS contractor (AECOM) to receive updates and status reports and ask questions about the RI/FS. The CAG sends out a newsletter by email every six months to approximately 11,000 community residents in the area.

ROBYN BENDER
Deputy Attorney General
Public Advocacy Division

/s/ Catherine Jackson
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 Section
441 4th Street, N.W., Suite 600-S
Washington, D.C. 20001
Tel: (202) 727-6211
Email: Brian.Caldwell@dc.gov

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

Attorneys for the District of Columbia

/s/ Eric J. Murdock
Eric J. Murdock (Bar no. 443194)
HUNTON ANDREWS KURTH LLP
2200 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20037
Telephone Number: (202) 955-1500
emurdock@huntonak.com

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