



CHESAPEAKE BAY PROGRAM TOXIC WORK GROUP

August 12, 2020



OAG/DOEE SUMMARY OF MONSANTO SETTLEMENT

- High Level Legal Summary of Monsanto Settlement
(David Hoffmann, Assistant Attorney General, OAG)
- DOEE's Possible Use of Settlement Funds
(Gretchen Mikeska, Anacostia Coordinator, DOEE)





High Level Legal Summary of Monsanto Settlement

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ENVIRONMENT

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History of PCB Production

- Monsanto primary manufacturer of PCBs.
- PCBs are very stable and resistant to decomposition – ubiquitous in our environment
- Due to heat absorption capabilities, used as a dielectric fluid in transformers, in paint and adhesives
- Internal Monsanto records revealed:
 - Health and science researchers were aware of the dangers of PCBs as early as the 1930s when plant workers began experiencing liver and other health problems.
 - Growing understanding of the health risks to workers and environment.
 - Health risks largely ignored because PCBs were an extremely lucrative product line.
- In 1978, EPA banned PCB production because of health risks.

Liability Aspects of PCB production

- PCBs are main or principal contaminant at many Superfund sites.
- Monsanto has been able to avoid Superfund liability because it is not a “PRP”.
- ~5 years ago, Washington, Oregon and several cities filed claims against Monsanto on the theory that PCBs were causing a public nuisance.
- Monsanto vigorously defended these claims on the grounds that it was merely a producer of a useful product and not the end user.
- Monsanto lost most of the early rounds and faced its first trial in the state of Washington.

District's Case

- District brought a similar action against Monsanto several months ago
- District's damages:
 - PCBs were the principal COC in the Anacostia River.
 - Costs on impaired waters listing and TMDL development.
 - MS4 maintenance costs.

Settlement with Monsanto

- After several rounds of mediation, District and Monsanto agreed to settle for \$52 million.
- Other states and cities did the same.
- District maintains that this will not diminish the collective liability of other PRPs.



Possible Uses for Monsanto Settlement Funds by DOEE

Possible Uses for DOEE Settlement Funds

- Settlement funds must be used to remediate or restore damages in the District caused first and foremost by PCBs
- DOEE's settlement funds will be used to capitalize its Clean Land Fund, which was established in 2001 to support the investigation and remediation of contaminated sites in the District
- While all District waters are listed as impaired for PCBs, initial focus will be Anacostia River since extent of PCB contamination is well characterized
- Types of projects: remediation, source control, restoration



ANACOSTIA RIVER SEDIMENT PROJECT

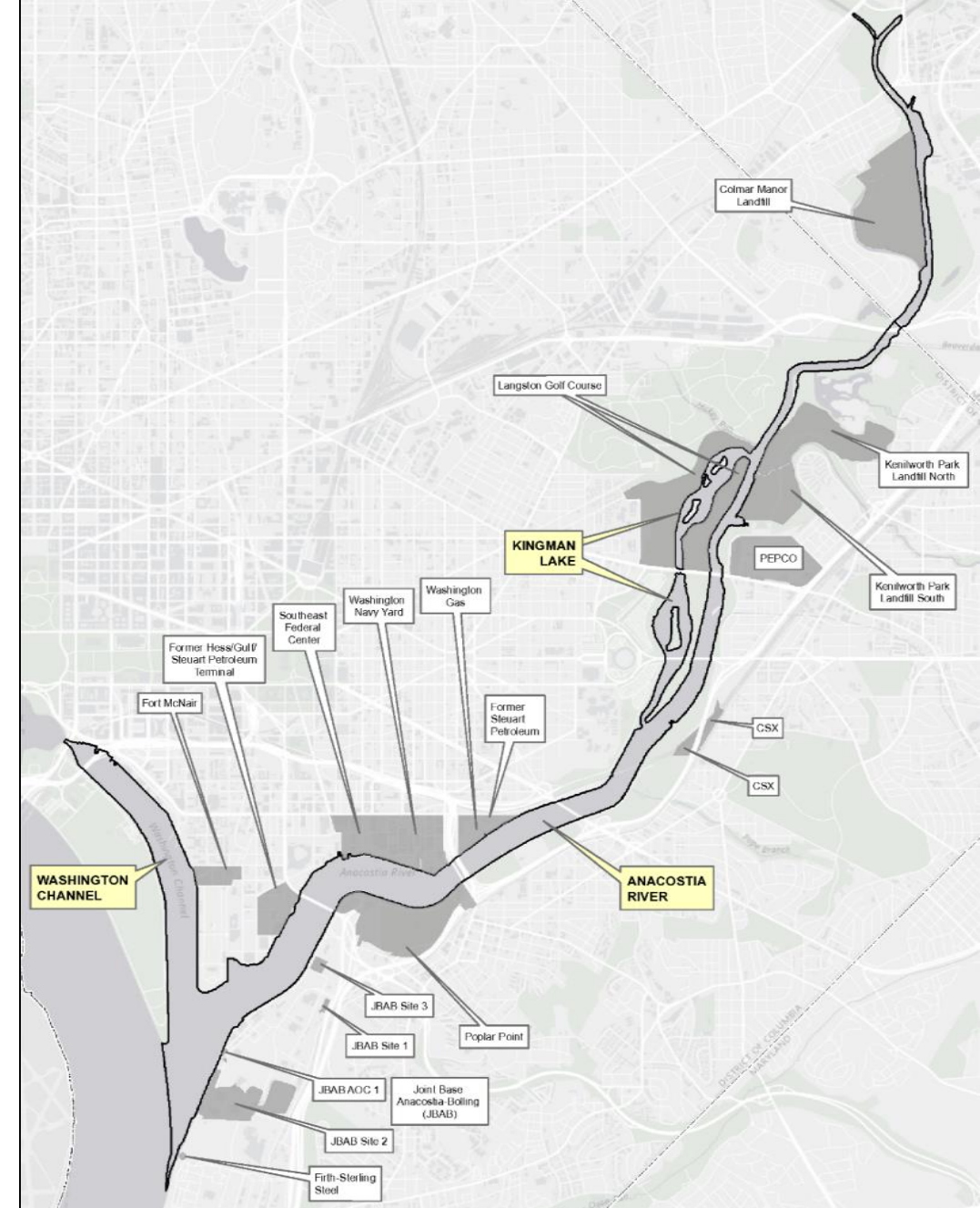
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ANACOSTIA RIVER SEDIMENT PROJECT

STUDY AREA CHARACTERISTICS

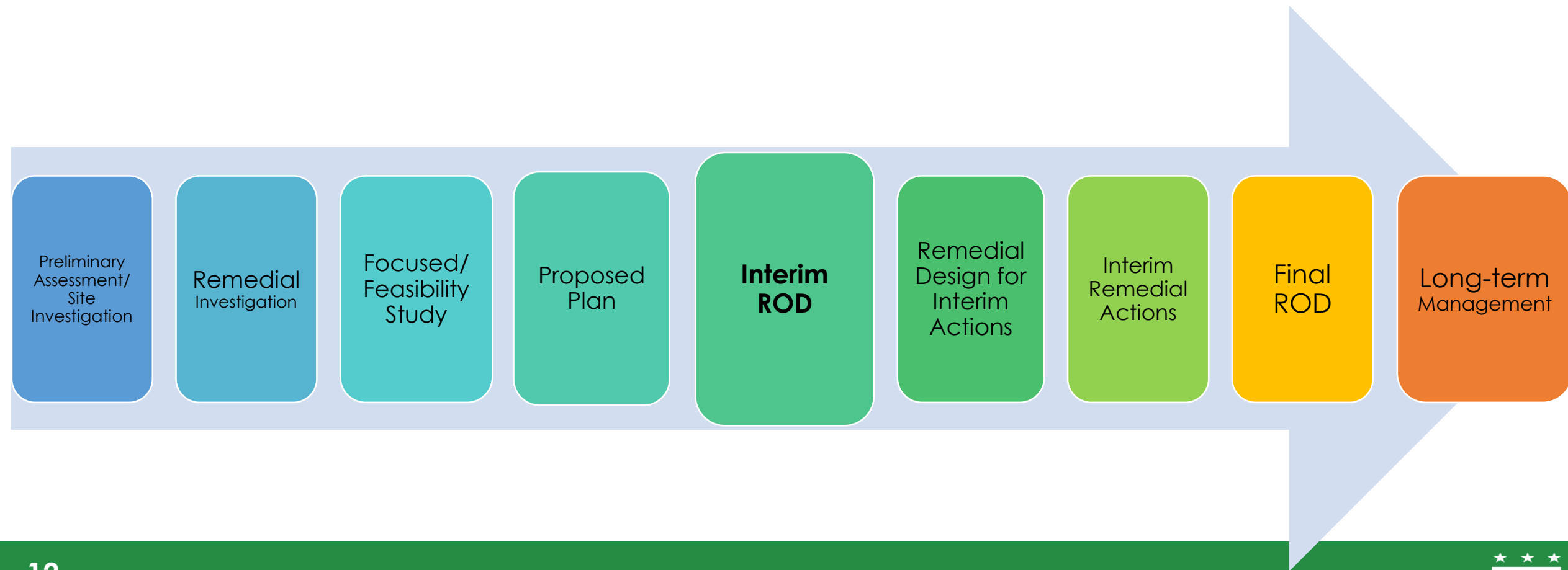
- 176 square mile urbanized watershed
- 16% of Anacostia Watershed in District
 - 136 Stormwater outfalls
 - 16 Combined Sewer System outfalls
 - 14 Tributary streams
- **Main stem:** 9 miles long
- **Kingman Lake:** 1.8 miles long
- **Washington Channel:** 2 miles long
- Potential Environmental Cleanup Sites: 15 (PECS)



ANACOSTIA RIVER SEDIMENT PROJECT SCHEDULE

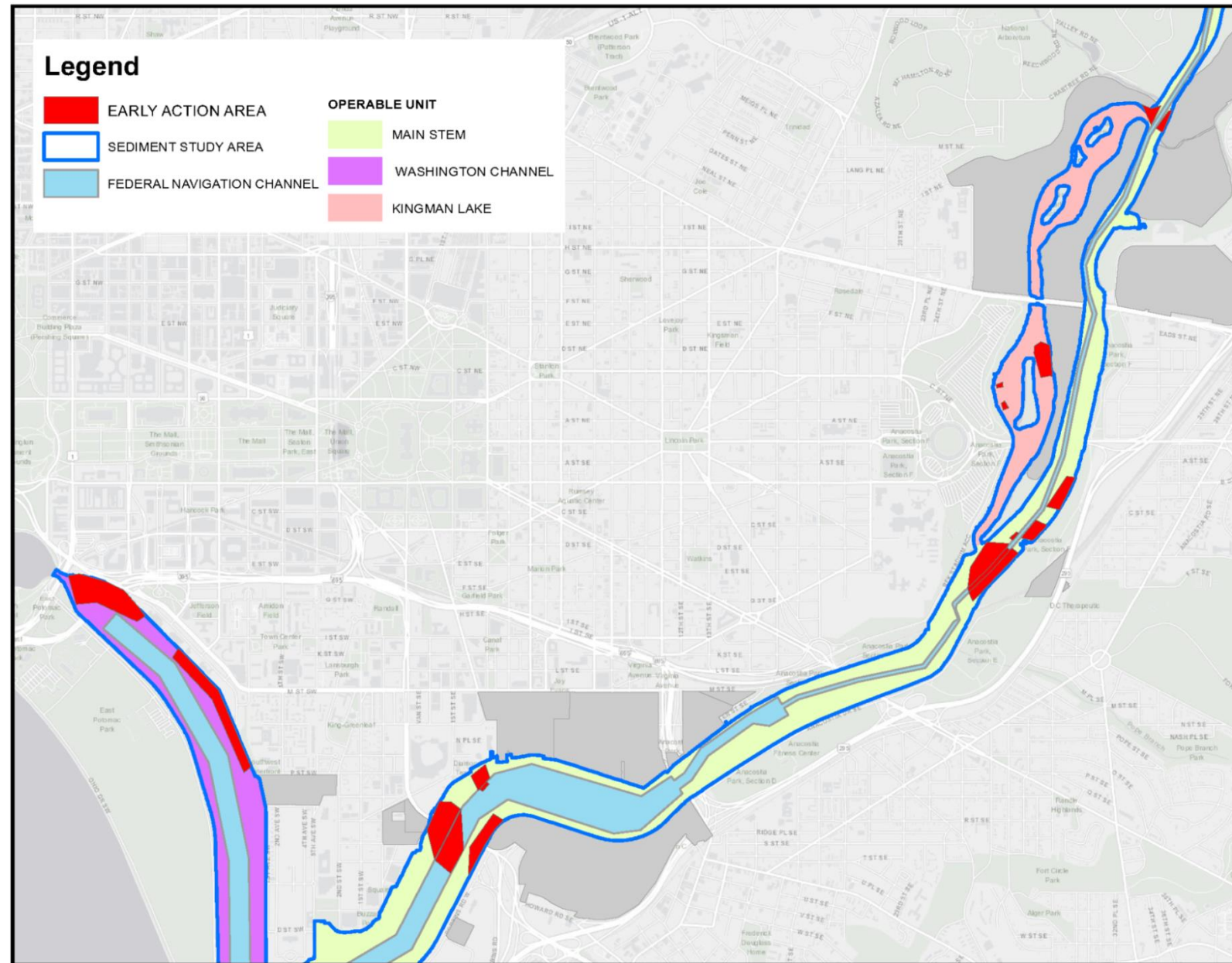
Interim ROD: September 30, 2020

Current activity: *Responsiveness Summary and Decision Summary (part of Interim ROD)*



11 EARLY ACTION AREA (EAA) LOCATIONS

- Main Stem: 6 EAAs
- Kingman Lake: 3 EAAs
- Washington Channel: 2 EAAs



DISCUSSION

