

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
Department of Energy and Environment



November 19, 2021

Dale Mullen  
Partner  
Whiteford Taylor Preston LLP  
1021 East Cary Street  
Suite 1700  
Richmond, Virginia 23219  
dmullen@wtplaw.com

**VIA ELECTRONIC MAIL**

**Re: Invitation to participate in a Natural Resource Damage Assessment for the Anacostia River**

Dear Mr. Mullen:

We understand you are the legal representative for Joseph Smith & Sons. Please forward this letter to the technical representatives of Joseph Smith & Sons, and please notify the Trustees if you are no longer the legal representative. This letter is to provide Joseph Smith & Sons with notice that a Preassessment Screen for the Anacostia River has been completed by the District of Columbia (District) Department of Energy & Environment (DOEE), the U.S. Department of the Interior (DOI), and the National Oceanic and Atmospheric Administration (NOAA), who are Trustees for natural resources and their services potentially impacted by the release of hazardous substances at the Anacostia River. A copy of the Preassessment Screen is enclosed for your reference. The Preassessment Screen identifies natural resources and natural resource services that have been or potentially have been injured by the release of hazardous substances.

Based upon the Preassessment Screen, the Trustees have determined that further investigation and assessment is warranted. The Preassessment Screen will be used to direct the investigation and assessments but will not preclude consideration of other resources that may later be found to be affected. Information gathered by the Trustees and presented in the Preassessment Screen forms the basis of the Trustees' conclusion that the following criteria in 43 C.F.R. § 11.23(e) for conducting an assessment have been met:

1. A discharge of oil or a release of a hazardous substance has occurred;
2. Natural resources for which DOEE, DOI and/or NOAA may assert trusteeship under CERCLA and/or District law have been or are likely to have been adversely affected by the discharge or release;
3. The quantity and concentration of the discharged oil or released hazardous substance is sufficient to potentially cause injury to those natural resources;
4. Data sufficient to pursue an assessment are readily available or likely to be obtained at

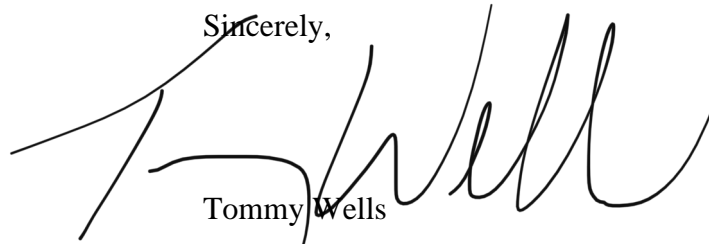
- reasonable cost; and
5. Response actions, if any, carried out or planned do not or will not sufficiently remedy the injury to natural resources without further action.

Based upon the above findings, the Trustees will perform a Natural Resource Damage Assessment of the Anacostia River and by this letter provide notice of their intent to do so. Any proposed Assessment Plan will be subject to review by the public, other natural resource trustees, and affected Federal and State entities before an assessment is performed.

Your company has been identified as a potentially responsible party in connection with the release of hazardous substances and the damages resulting from natural resource injury. By this letter, the Trustees are formally inviting you to enter into a cooperative assessment agreement with them for the Anacostia River. The cooperative assessment approach provides a number of benefits to the potentially responsible party, the Trustees, and the public, such as increased efficiency, reduced transaction costs, and a focus on restoration.

If you are interested in entering into a cooperative assessment agreement to restore injured natural resources and their services in and around the Anacostia River, please contact Natalie Baughman, DOEE Assistant General Counsel, in writing, within 30 days of receipt of this letter. If you have any questions, please contact Ms. Baughman at [natalie.baughman@dc.gov](mailto:natalie.baughman@dc.gov) or (202) 893-1720.

Sincerely,

A handwritten signature in black ink, appearing to read "Tommy Wells". The signature is fluid and cursive, with a large initial "T" and "W".

Tommy Wells

Encls.

cc: (via email)

Gretchen Mikeska, DOEE Office of the Director  
Natalie Baughman, DOEE Office of the General Counsel  
Christina Kravitz, U.S. National Park Service  
Fred Pinkney, U.S. Fish and Wildlife Service  
Genette Gaffney, DOI Solicitor's Office  
Lisa Stevens, DOI Solicitor's Office  
Grant Blumberg, NOAA Office of General Counsel