



February 8, 2019

The Honorable Carrie Ruud  
Chair, Senate Environment and Natural  
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95 University Avenue West  
St. Paul, MN 55155

The Honorable Bill Ingebrigtsen  
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The Honorable Chris Swedzinski  
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St. Paul, MN 55155

February 8, 2019

Dear Legislators:

Please see the attached report on expenditures from the water quality and sustainability account during the previous six months, as required by 2018 Session Law, ch. 204, sec. 1, subd 4 (2).

Please contact us if you have questions.

Sincerely,



Kirk Koudelka  
Assistant Commissioner  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, MN 55101



Barb Naramore  
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Attachment

cc: Kristin Beckmann, Office of Governor Tim Walz  
Sasha Bergman, Office of Governor Tim Walz

February 2019

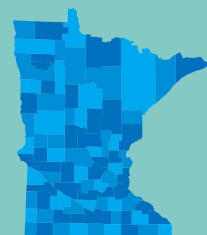
# 3M Settlement biannual report

Natural Resources Damage Lawsuit



**m** MINNESOTA

Pollution Control Agency  
Department of Natural Resources



## Legislative charge

*The commissioner of the Pollution Control Agency and the commissioner of the Department of Natural Resources must jointly submit by February 1 and August 1 each year, a biannual report to the chairs and ranking minority members of the legislative policy and finance committees with jurisdiction over environment and natural resources on expenditures from the water quality and sustainability account during the previous six months. Minn. Stat. § 115B.52*

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This report is available in alternative formats upon request.

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# Foreword

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On February 20, 2018, the State of Minnesota settled its Natural Resources Damage lawsuit against the 3M Company in return for a settlement of \$850 million. Minnesota's Attorney General sued 3M in 2010 alleging that the company's disposal of chemicals known as perfluorochemicals (PFCs), more commonly referred to as per- and polyfluoroalkyl substances (PFAS), had damaged and continue to damage drinking water and natural resources in the Twin Cities East Metropolitan Area. After legal and other expenses were paid, about \$720 million is left to finance drinking water and natural resource projects in this region of the Twin Cities.

The Minnesota Pollution Control Agency and the Minnesota Department of Natural Resources are co-trustees of these funds.

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# Contents

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<b>Summary .....</b>	<b>1</b>
<b>3M Settlement Work Groups .....</b>	<b>2</b>
Government and 3M Working Group Structure.....	3
Citizen–Business Group Structure .....	4
Drinking Water Supply Technical Subgroup .....	4
Groundwater Protection, Sustainability, Conservation and Recharge Technical Subgroup .....	5
<b>Priority 1 — Ensure Safe Drinking Water .....</b>	<b>5</b>
<b>Screening and Evaluation Criteria.....</b>	<b>7</b>
<b>Expedited Projects .....</b>	<b>7</b>
<b>Capacity Grants.....</b>	<b>7</b>
<b>Expenditures.....</b>	<b>8</b>





# Summary: State of Minnesota and 3M 2018 Settlement

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The State of Minnesota and the 3M Company announced an agreement to settle the state's Natural Resources Damage lawsuit for PFAS contamination on February 20, 2018. Under the terms of the agreement, 3M made an \$850 million grant to the state to be used for clean drinking water and natural resource projects, and the state's lawsuit expenses. After legal and other expenses were paid, about \$720 million is available to finance drinking water and natural resource projects in the Twin Cities East Metropolitan Area. The grant's co-trustees are the Minnesota Pollution Control Agency (MPCA) and Minnesota Department of Natural Resources (DNR).

## Priority One — Ensure Safe Drinking Water

The top priority for the grant money is to enhance the quality, quantity and sustainability of drinking water in the East Metropolitan Area. This area includes, but is not limited to, the cities of Afton, Cottage Grove, Lake Elmo, Lakeland, Maplewood, Newport, Oakdale, St. Paul Park, Woodbury and the townships of Denmark, Grey Cloud Island and West Lakeland, and the Prairie Island Indian Community. The goal of this highest priority work is to ensure clean drinking water in sufficient supply to residents and businesses in the East Metropolitan Area to meet their current and future water needs.

Funded projects will address PFAS contamination in a variety of ways, thereby helping provide the region's 157,000 residents and businesses with clean drinking water to meet current and future needs. Such efforts could include alternative sources of drinking water for cities or private well owners, treating existing contaminated drinking water wells, and connecting homes served by private wells to municipal drinking water systems.

Grant funds could also support groundwater sustainability with projects such as promoting water conservation or preserving open spaces to help recharge drinking water sources and enhance water quality.

## Priority Two — Enhance Natural Resources

The second priority for grant spending is to restore and enhance water resources, wildlife, habitat, fish and other aquatic resources, resource improvement, and outdoor recreational opportunities in the east metropolitan area and in downstream of the areas on the Mississippi and St. Croix Rivers. Such projects might include aquatic habitat and water resource protection and restoration; terrestrial and aquatic outdoor recreation facilities; restoration of wildlife habitat; and implementation of other terrestrial conservation and recreational improvements.

The MPCA and DNR have immediate access to \$20 million in grant funds for projects in this priority category. After the safe drinking water goals of the first priority are reasonably achieved, all remaining grant money is then available for natural resource restoration and enhancement projects.

## Remaining Grant Funds

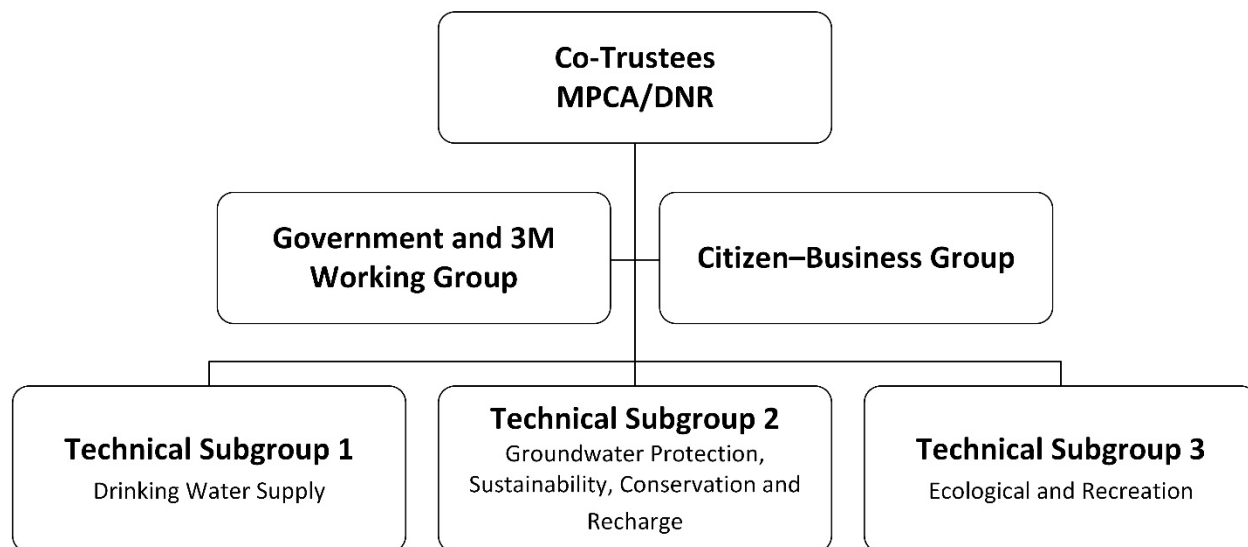
If there are funds remaining after the first two priority goals have been met, the grant can be used for statewide environmental improvement projects. Only projects in categories such as statewide water resources, habitat restoration, open space preservation, outdoor recreation improvements, or other sustainability projects would be eligible.

# 3M Settlement Work Groups

The MPCA and DNR are responsible for implementing the 2018 agreement. Under the agreement, the two agencies are responsible for establishing at least one working group to identify and recommend projects, and are also responsible for determining what projects and other activities will be funded with settlement money.

The MPCA and DNR decided to create two main work groups to engage communities, stakeholders and technical experts to help identify and recommend priorities and projects to be funded from the grant — the Government and 3M Working Group and the Citizen–Business Group. To assist these two main groups, subgroups of technical experts have been or will be formed to analyze options and deliver assessments and advice on alternatives and options to the groups and the MPCA and DNR.

The MPCA and DNR co-chair these groups and will make all final decisions.



The Government and 3M Working Group and the Citizen–Business Group have been meeting monthly since July 2018 and will likely continue to do so throughout calendar year 2019. The two groups’ meetings are open to the public, and time is reserved at during each meeting for public questions or comments.

The MPCA and DNR assist and support these groups, and have hired a contractor — Abt Associates <https://www.abtassociates.com> — to help with process development, preparation of technical materials, and planning and facilitation of group meetings.

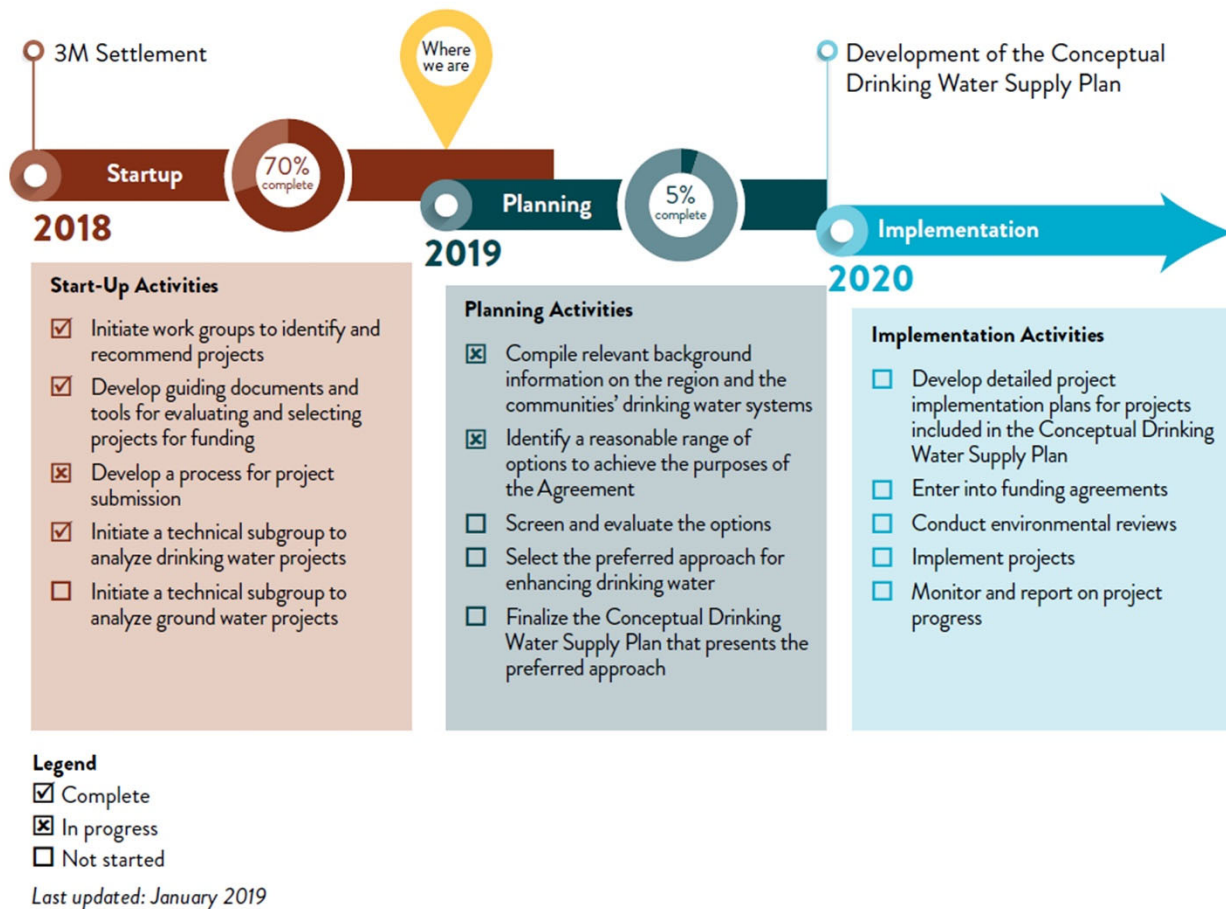
Abt Associates has provided natural resource damage assessment, restoration planning and evaluation expertise for more than 20 years, and has supported the State of Minnesota on these types of projects since 2004. Abt Associates is also providing additional service to the co-trustees, including project management and assistance with strategic planning.

Some of the tasks completed during the first six months these groups met included developing work group charters, an agreed-upon set of program goals, and a set of criteria by which potential projects to be funded with 3M Settlement money can be evaluated. These documents can be found on the 3M Settlement website — <https://3msettlement.state.mn.us/>.

Time was also spent during these early meetings creating a shared understanding of PFAS issues for all work group members, who came to the process with varying levels of knowledge and a desire for enhanced understanding.

All work group members have benefited from presentations and discussions on the details of the 2018 3M Settlement, the spatial extent of PFAS contamination, examples of cooperative multi-community water systems, and PFAS treatment technologies.

The graphic below illustrates progress during the past six months as the main work groups have moved through a startup phase and into a set of activities more focused on developing a Conceptual Drinking Water Supply Plan. This plan will be used to show options for long-term solutions for drinking water supplies in the East Metropolitan Area.



## Government and 3M Working Group Structure

The Government and 3M Working Group is composed of one representative each from the MPCA, DNR, 3M, Washington County and one representative from each of the following affected communities: the cities of Afton, Cottage Grove, Lake Elmo, Lakeland, Maplewood, Newport, Oakdale, St. Paul Park, Woodbury, the townships of Denmark, Grey Cloud Island and West Lakeland, and the Prairie Island Indian Community. (Denmark Township has not selected a representative for this work group.) One representative from the Citizen–Business Group is also a liaison to this group.

The Minnesota Department of Health (MDH) is not technically a member of this work group, but typically has a representative attend these meetings to provide information and advice on regulatory and policy topics.

A list of work group members is available in the group's charter posted on the 3M Settlement website — <https://3msettlement.state.mn.us/government-and-3m-working-group>.

## Citizen–Business Group Structure

The Citizen–Business Group is composed of MPCA, DNR, and 17 at-large citizen, business, and nongovernmental representatives who live or work in the East Metropolitan Area. One representative from the Government and 3M Working Group is also a liaison to this group.

The following criteria were used to select representatives from the affected communities:

- Evaluation of desire to become a member
- Evidence of East Metropolitan Area involvement either as a resident or working in the area
- Skills and abilities, such as personal and professional background and skills, technical abilities, or experience in public engagement, public involvement, or group participation.
- Geographic diversity within the East Metropolitan Area
- Ethnic and age diversity
- Representation of individuals and businesses who are on private wells and municipal drinking water
- Diversity of knowledge, skills, backgrounds, and experiences

As is the case with the Government and 3M Working Group meetings, the MDH typically has a representative at meetings of this group.

A list of group members is available on the 3M Settlement website — <https://3msettlement.state.mn.us/citizen-and-business-group>.

## Technical Subgroup 1: Drinking Water Supply

This technical subgroup will analyze options and provide assessments and advice to the MPCA, DNR, Government and 3M Working Group and the Citizen–Business Group for long-term options for drinking water supply and for treatment of existing water supplies that will ensure clean drinking water in sufficient supply to residents and businesses in the East Metropolitan Area to meet their current and future needs.

### Structure

The group is composed of technical experts from MPCA, DNR, MDH, 3M, Metropolitan Council, Washington County, the Minnesota Geologic Survey, U.S. Geological Survey, Minnesota Rural Water Association, and the Minnesota Well Water Association. The cities of Afton, Cottage Grove, Lake Elmo, Lakeland, Maplewood, Newport, Oakdale, St. Paul Park, Woodbury, and the townships of Denmark, Grey Cloud Island and West Lakeland and the Prairie Island Indian Community each have one representative on the subgroup. The MPCA and DNR co-chair Technical Subgroup 1.

The Drinking Water Supply Technical Subgroup began meeting in December 2018. Monthly meetings have been scheduled, but the group will meet as often as needed to meet the goals of completing a Conceptual Drinking Water Supply Plan by December 2019.

A list of the subgroup's members is available in its charter posted on the 3M Settlement website — <https://3msettlement.state.mn.us/subgroup-1-drinking-water-supply>.

Technical experts not affiliated with the subgroup may be invited to some meetings to consult on topics in their area of expertise.

The MPCA and DNR have hired an additional contractor — Wood Environment & Infrastructure Solutions Inc. (<https://www.woodplc.com/>) — to assist with some highly specialized aspects of the work this subgroup will be performing. Examples of tasks Wood will be responsible for include developing a comprehensive model of existing water supply system structures, operations and connections in the

East Metropolitan Area, completing a water supply alternatives analysis, and generating a water system alternatives feasibility study.

## **Technical Subgroup 2: Groundwater Protection, Sustainability, Conservation and Recharge**

This technical subgroup will analyze options and deliver assessments and advice to the MPCA, DNR, Government and 3M Working Group and the Citizen–Business Group for long-term projects for groundwater protection, recharge, conservation, sustainability, and for groundwater studies and modeling needs in the East Metropolitan Area.

### **Structure**

The subgroup will include technical experts from MPCA, DNR, MDH, 3M, Metropolitan Council, Washington County, Washington Conservation District, South Washington Watershed District, Ramsey-Washington Metro Watershed District, and the Valley Branch Watershed District. One technical representative each from the cities of Afton, Cottage Grove, Lake Elmo, Lakeland, Maplewood, Newport, Oakdale, St. Paul Park, Woodbury, and the townships of Denmark, Grey Cloud Island and West Lakeland and the Prairie Island Indian Community will also be invited to be a part of this group. MPCA and DNR will co-chair Technical Subgroup 2.

The co-trustees plan to have this subgroup begin meeting in the spring of 2019. They will likely meet at least monthly and more frequently as needed.

Technical experts not affiliated with the subgroup may be invited to consult on topics in their area of expertise.

Some of the work performed by this group will be needed by the Drinking Water Supply Technical Subgroup. As such, experts from Wood Environment & Infrastructure Solutions Inc. will work closely with this group.

## **Future Subgroups**

Additional technical subgroups will be established at a later date to address other provisions of the agreement, such as those needed to address natural resources restoration and enhancement.

## **Priority 1 — Ensure Safe Drinking Water**

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The first and highest priority of the 3M Settlement is to ensure clean drinking water in sufficient supply to residents and businesses in the East Metropolitan Area to meet current and future water needs. One of the ways the MPCA and the DNR will accomplish this is by developing a conceptual plan for addressing the area's drinking water supply by the end of December 2019.

A Conceptual Drinking Water Supply plan will provide direction on how to address each community's needs, taking into account both public water systems and private wells, using a holistic approach. The plan will be completed with input from the main work groups, subgroups and members of the general public.

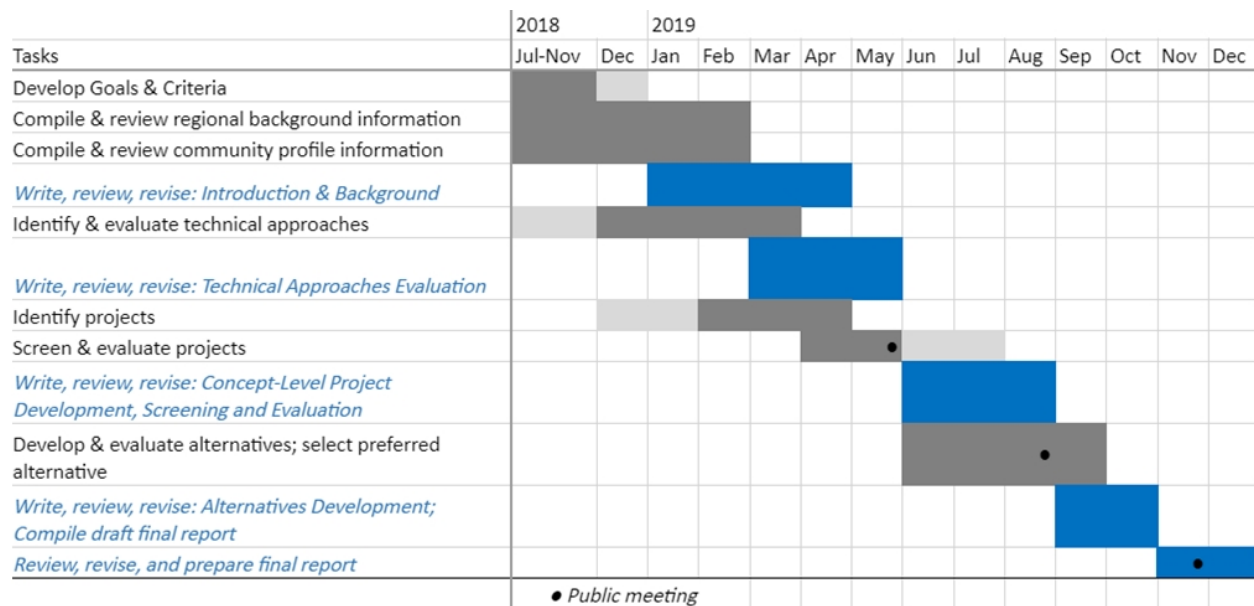
To create this drinking water supply plan, the agencies are using a process that involves startup activities, a planning phase, and an implementation phase. In the first six months, the Government and

3M Working Group and Citizen–Business Group focused on startup activities. With the startup of the Drinking Water Supply Technical Subgroup, this process is now shifting to the planning phase.

During this planning phase, some of the tasks will include:

- Compiling and reviewing community profile information — Examples of information in these profiles include locations of all water supply system assets such as wells, water mains, booster pumps, tanks, etc., and future demand forecasts and infrastructure plans that will be necessary to match these needs. For some communities, this information is already available, but needs to be confirmed and updated. Other communities will need to work with their contractors to complete these profiles.
- Identifying and evaluating technical approaches — Examples of technical approaches might include treating surface water from nearby sources for use as drinking water, connecting some communities to new or existing regional water supplies, drilling new wells in optimized locations, or treating existing drinking water supplies.
- Identifying, screening and evaluating projects — Develop a process for submitting project ideas, and a methodology for applying evaluation criteria.
- Selecting preferred project(s) — Select a set of projects that will meet the top priority of enhancing the quality, quantity and sustainability of drinking water in the East Metropolitan Area.

High level tasks and an estimated timeline for the Conceptual Drinking Water Supply Plan are laid out in more detail in the chart below.



Grey shaded areas represent periods when technical work on the Conceptual Drinking Water Supply Plan is being performed. Blue areas are when those sections of the plan are being written.

# Screening and Evaluation Criteria

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The MPCA and DNR have worked with the Government and 3M Working Group and Citizen–Business Group to develop a set of draft criteria that will be used to screen and evaluate proposed Priority 1 drinking water supply and groundwater protection/restoration projects for funding from the 3M Settlement. These criteria can be found on the 3M Settlement website —

<https://3msettlement.state.mn.us/>.

First, screening criteria will be used to determine whether a proposed project meets minimum standards of acceptability. To be deemed acceptable, a project must meet all of the screening criteria.

Projects that meet the screening criteria will then be assessed using a set of evaluation criteria.

A separate set of criteria will be developed for Priority 2 projects (natural resource protection and restoration projects). If necessary, additional criteria will be developed for other projects that would be funded under Priority 3.

## Expedited Projects

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Fully implementing the recommendations laid out in the Conceptual Drinking Water Supply Plan will likely take a number of years. However, the MPCA and DNR will be considering certain projects for funding under an expedited timeframe. Expedited projects could include projects that are time-critical to implement due to a current opportunity, such as putting infrastructure in place for hooking up households to a municipal water supply during a planned road construction.

The criteria for expedited project funding are still being developed.

## Capacity Grants

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Some of the larger affected communities have full time staff who are experts with their city’s municipal drinking water system. Smaller communities typically rely on outside contractors to help them operate and maintain their systems and associated infrastructure.

Early in the planning process, some communities expressed a need for funding to support their participation on the technical subgroups. The MPCA and DNR agreed to provide “capacity grants” to ensure that all communities could fully participate in the technical subgroups. These \$25,000 grants became effective on December 1, 2018, and will expire December 31, 2019. Grants can be amended to meet additional funding needs, if necessary, during the grant period.

The following communities and townships have applied for these capacity grants:

- |                     |                 |                              |
|---------------------|-----------------|------------------------------|
| • Afton             | • Cottage Grove | • Grey Cloud Island Township |
| • Lake Elmo         | • Lakeland      | • Maplewood                  |
| • Newport           | • Oakdale       | • St. Paul Park              |
| • Washington County | • Woodbury      |                              |

# Expenditures

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## Expenses Related to Implementation of 3M Settlement Original Grant Amount \$850,000,000

This report covers the period July 1, 2018 - December 31, 2018

Submitted February 4, 2019

<b>Balance July 1, 2018 as previously reported</b>	<b>\$ 720,154,766</b>
Balance adjusted for FY18 interest as of June 30, 2018	<u>\$ 3,841,944</u>
<b>Adjusted Balance as of July 1, 2018</b>	<b>\$ 723,996,710</b>

<b>Revenue (Interest Earned July 1, 2018 – January 29, 2019)</b>	<b>\$ 7,768,510</b>
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### Expenditures

<i>Settlement, Business/Community, and Technical-based Work Group Costs</i>	<b>\$ 15,698</b>
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MPCA and DNR have selected Abt Associates as consultants to coordinate and facilitate implementation activities for the 2018 Settlement. Abt Associates has considerable expertise with natural resource damage assessment and settlement implementation and is providing an essential supplement to existing agency staff capacity.

<i>MPCA/DNR Payroll Expenses</i>	<b>\$ 31,293</b>
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The MPCA and DNR have dedicated agency resources to oversee settlement activities. Such activities include planning, communication, implementation, and coordination with state, consultant, and stakeholder groups.

<b><i>Expenditures Subtotal (as of December 31, 2018)</i></b>	<b>\$ 46,991</b>
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<b>Balance (as of December 31, 2018)</b>	<b>\$ 731,718,229</b>
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