

Minnesota 3M PFC Settlement

Notes for Government and 3M Working Group Meeting

Wednesday, January 19, 2022

9 a.m. – noon

Virtual Webex meeting

Group members in attendance

- Ann Pierce
- Chris Hartzell
- David Brummel
- Jeff Dionisopoulos
- Jess Richards
- Jim Kotsmith
- Kevin Chapdelaine
- Jamie Wallerstedt
- Kristina Handt
- Laurie Elliot
- Mary Hurliman
- Monica Stiglich

Presenters

- Jamie Wallerstedt, Minnesota Pollution Control Agency (MPCA)
- Jess Richards, Minnesota Department of Natural Resources (DNR)
- Jim Kelly, Minnesota Department of Health (MDH)
- Mark Lorie, Abt Associates
- Jennifer Peers, Abt Associates/consultant

Welcome

Mark Lorie (Abt Associates) welcomed the work group to the meeting and reviewed the agenda. The purpose of the meeting was to (1) receive feedback on the Co-Trustee's plans for investing the Settlement funds; (2) discuss the preliminary approach for Priority 2; and (3) discuss recent state and federal actions on PFAS. Jess Richards (DNR) also welcomed the group. Jamie Wallerstedt (MPCA) introduced herself as the new Remediation Division Director (replacing Kathy Sather) and will be filling in for Kirk Koudelka for this month's meeting. She notified the work group that we have eight grant agreements in place; two with Woodbury and six with Cottage Grove, all generally for new municipal treatment and supply. She also announced that on February 8, 2022 from 1 – 4 p.m., MDH will be hosting a virtual advisory meeting for environmental health and biomonitoring in the East Metro Region related to PFAS. The meeting is open to the public.

The work group liaisons provided a recap of the previous day's Citizen-Business group meeting. The liaisons reported that there was conversation about the rising rate of inflation when discussing the investment plan for the Settlement funds. There are also potential supply chain issues. However, the group is happy that the State Board of Investment (SBI) is analyzing the funds. The work group also discussed Priority 2. The work group liaisons reminded the group that the Co-Trustees had gathered feedback from the public on Priority 2. The Settlement Program Goals, which include Priority 2, were developed with work group members and finalized in spring 2019 and are posted on the 3M Settlement webpage. There was also discussion about how the Priority 2 work group would function. Some work group members felt it would be helpful to have some carry over

between the work groups of Priority 1 and Priority 2. The work group also discussed how the new EPA PFAS numbers would affect Minnesota.

Investment Planning for the Settlement and Conceptual Plan

Mark presented on the investment planning for the Settlement funds. The Co-Trustees planned for Settlement funds to generate interest over time to achieve higher returns while managing risk. The SBI has provided expertise and analysis to the Co-Trustees. Mark explained that:

- The Settlement funds are currently in a cash account that earns roughly 1% annual interest.
- While the SBI are financial experts, future performance of any investment is uncertain. Therefore, actual returns could be higher or lower than expected.
- The SBI and the Co-Trustees will meet regularly to review past performance and potential strategies. In turn, the Co-Trustees will provide updates to the work groups and communities.
- More information on how surpluses and shortages will be handled can be found in Chapter 10 of the Final Plan

Mark also explained that the Co-Trustees are making separate recommendations for capital, operation and maintenance (O&M), contingency, and state administration allocations:

- **Capital.** The Final Plan allocates \$370 million to capital, plus \$17 million to cover anticipated inflation. The Co-Trustees expect that capital spending will decrease over time, with increases in year 2 and year 6 as larger projects are built. SBI analyzed a ladder of treasury bonds that would mature over time to match the expected schedule of capital spending. This approach provides flexibility and should cover inflation greater than the 3% rate estimated for the Conceptual Plan. Co-Trustees recommend this investment approach for the capital funds.
- **O&M.** The Conceptual Plan allocates \$28 million for O&M for POETs and \$87 million for public water systems, estimated to cover 30 and 20 years of O&M, respectively. These costs assumed a 3% inflation rate and a 3.5% earning on the funds. After consulting with the SBI, the Co-Trustees must decide what portion of the funds will be invested in equities versus bonds. One of the key metrics that the Co-Trustees looked at was the probability of an O&M shortfall relative to the estimated 20- and 30-year durations. There is more potential return with a greater investment in equities, but also potential for a larger shortfall. The Co-Trustees recommend investing O&M funds with 40% in equities and 60% in bonds and cash due to a favorable tradeoff between risk and expected returns.
- **Contingency.** The Plan sets aside \$183 million to address various sources of future uncertainty. However, the timing of future contingency spending is highly uncertain. Therefore, the Co-Trustees recommend a lower risk approach by investing 87.5% of the funds in cash and 12.5% invested in equities.
- **State administration costs.** The Plan allocated \$15 million to cover these costs over the next 20 years. The Co-Trustees recommend keeping this money in a cash account.

While no set next steps have been established with the SBI, the Co-Trustees are prepared to move forward with these recommendations.

Feedback

One work group member asked for clarification on how surpluses and shortages would be managed. They thought the strategy outlined in the Plan was to come back and discuss any changes with the work group. Mark explained that Chapter 10 outlined some priorities such as any surplus in O&M would fund longer O&M over time. Chapter 10 states that if there are remaining contingency funds, then the Co-Trustees will come back to the work groups.

The same work group member felt that it was overly conservative to reserve the \$15 million for state administration funds in cash. Additionally, they saw this money as guaranteed for the state when no other community projects were guaranteed. They also thought the contingency approach was overly conservative and thought all of the funds should be invested into 40% equities and 60% in bonds and cash. Jamie responded that the state wants to maintain a practice of being conservative with this money due to inherent risks in investing. The work group member asked if the funds were being invested in a broader long-term equities fund or a more limited large capital index equities fund. Jamie said the Co-Trustees would follow up with the SBI. Another work group member agreed that not investing the \$15 million was too conservative. Myrna Halbach, interim MPCA CFO, said the State would re-evaluate with the SBI and follow-up with work group members.

Preliminary plan for Settlement Priority 2

Jennifer Peers (Abt Associates/consultant) presented on the Co-Trustees' plan for moving forward with Priority 2 of the Settlement. Jennifer explained that Priority 2 is for projects that restore and enhance natural resources and human use of those resources affected by PFAS. The Settlement includes language about creating a work group with representatives from the state, municipalities, and 3M to identify and recommend projects. There is \$20 million set aside in funds for Priority 2, so the process will need to be more streamlined than Priority 1 efforts. The Co-Trustees' proposed approach for Priority 2 includes the following:

- Follow typical Natural Resource Damage Assessment restoration approach
- Incorporate work group feedback throughout the process
- The Co-Trustees lead the process
- DNR would provide a coordinator
- Resource teams would support the agencies
 - There would be two teams initially, one for recreation and one for ecosystem services
 - The resource teams would ideally be limited to approximately 20 participants that bring a range of perspectives on natural resource restoration
 - The resource teams, in partnership with the Co-Trustees and with feedback from work group, would use evaluation criteria to recommend projects
- The work groups would provide feedback on the overall priorities/goals for Priority 2

Jennifer also reviewed a proposed timeline for Priority 2. Key dates include:

- Winter 2022: Finalize approach and structure
- Spring 2022: Organize internal team and determine work group membership
- Late spring 2022: Work group up and running
 - Likely meet every other month for approximately one year

Ann Pierce (DNR) added that this process would pull expertise from across all of the State agencies.

Feedback

One work group member said that while Priority 2 may not need a comprehensive plan like Priority 1, Priority 2 will still need a set framework for evaluating projects given the limited funds. Some of these natural resource projects could have funding added to them from other sources in addition to the Settlement. They felt the work groups should be more involved in setting up the framework since those on the resource teams would also be proposing projects. The work groups are an important connection between the Co-Trustees and their communities and have experience reviewing project proposals under the Settlement. Ann explained that the Co-Trustees would create a conflict-of-interest solution.

Another work group member asked that municipalities get the first opportunity to select a representative for the resource groups, whether city staff or a representative.

Another work group member thought they would be keeping the work groups and only the technical Subgroup 1 would be disbanding. They felt the continuity of the work groups would be helpful for the process. They felt communities without restoration projects would not have to be involved if they did not want to be. Jennifer explained that there may be communities that did not have groundwater affected by PFAS but did have natural resources affected by PFAS that would be part of the resource teams. She said Priority 2 had a larger geographic area than Priority 1. Work group members felt that Settlement funds should be used in the East Metro first and asked for more information on the geographic scope of Priority 2. Susan Johnson (MPCA) said that the Co-Trustees were still examining the Settlement language. While the 14 communities would be prioritized, there could be projects that affect communities downstream or on the other side of the Mississippi River.

One work group member felt that the entire conversation came back to the criteria for evaluating projects. That is what the work groups helped with for Priority 1, regardless of the exact project locations. Projects in the 14 communities would be “scored” higher using the established criteria and those downstream would be “scored” lower. The resource teams can provide technical input, but the work groups should be in charge of creating those criteria. Other work group members agreed. Jennifer explained that restoration projects follow watershed boundaries more than community boundaries.

One work group member reminded others to consider O&M in restoration projects (e.g., fishing piers). Jennifer explained that the Co-Trustees may work in partnerships with organizations that would manage the restoration projects in the future.

Another work group member expressed concern about the Priority 2 approach. They felt that too much focus was being placed on restoration and not enough on recreation. Jennifer explained that the term “restoration” in this case covers both restoration and recreation. The work group member was also concerned that watersheds and special interest groups would have too much control and would leave out community perspectives. Jennifer explained that while these outside groups would be involved, community perspectives would be heard. Jess Richards added that when developing criteria, they would include language about approval from the community where the project is located.

Public comments

There were no questions or comments from the public.

Updates on state and federal actions on PFAS

Jim Kelly (MDH) presented on PFAS updates at the state and federal levels and Mark reviewed their impact on the Final Plan. PFHxA is a breakdown product of stain- and grease-proof coating on food packaging and other household items.

Jim provided a brief history and background on establishing health-based values, reminding the group that health-based values and health risk limits represent a concentration of a chemical that is likely to pose little to no risk to human health. He also explained how MDH creates health-based values, beginning with examining effects of the chemical in animal studies. MDH then creates a reference exposure level, at which PFAS would be harmful. This number has added margins of safety and MDH only allows half of the reference exposure level to come from drinking water. PFHxA was selected for review in October 2020 but was delayed due to COVID-19. The updated health-based value is 0.2 parts per billion.

Mark explained that a new health-based value for PFHxA resulted in a new revised HI calculation. He reviewed the treatment decisions outlined in the Final Plan based on the health index:

- Regardless of how health values change, any well with an HI of 1 or greater will get treatment under the Conceptual Plan, or, when Settlement funds are depleted, under the Consent Order.
- Wells with an HI between 0.5 and 1, based on the HI equation used in the Final Plan, will be treated in order to increase resiliency by deploying treatment in places now that may need it in the future.
- Wells with an HI less than 0.5 will not be treated, but will continue to be monitored.
- One municipal well and 14 private wells received new health advisories due to the new PFHxA health-based value. All of these wells were already slated to receive treatment under the resilience approach in the Conceptual Plan

Jim also presented updates about EPA's recent actions on PFAS. In November 2021, EPA released documents in support of proposed Maximum Contaminant Level Goals for PFOA and PFOS. MDH submitted comments on the documents. These comments, and those from other stakeholders, will help EPA craft a PFAS National Primary Drinking Water Regulation, which is planned to be finalized in 2023.

Feedback

One work group member asked what would happen to the Settlement if the proposed EPA values were enacted. Jim explained that EPA had not yet examined cost, benefits, or technological feasibility which is part of the process to finalize drinking water regulations. However, if the values were accepted as is, then they would be lower than Minnesota's current values and municipalities would have to meet these new requirements. The work group member said that the communities would need to coordinate closely with the state as new requirements would affect the design and construction of treatment plants. Jamie assured the work group that MPCA was following the situation closely and would bring updates to the work group; however, there are no changes to the Conceptual Plan at this time. Additionally, EPA is extremely early in their process. Minnesota was not the only state with concerns.

Next steps

Mark provided an overview of the planned activities for MPCA and DNR. Activities include:

- Continuing to receive and review grant forms and establish grant agreements
- Updated grant request forms for construction and O&M
- Move forward with the SBI on the investment plan, incorporating work group feedback
- Share the final Cottage Grove pilot project report
- Continue work on Project 1007
- Continue preparing to ramp up Priority 2

The plan for February is to have a Subgroup 1 meeting, but not a Citizen-Business or Government-3M meeting. Potential topics include the Cottage Grove pilot project and Project 1007.

Feedback

One work group member recommended having joint work group meetings in the future if there are no major discussion items. Another work group member supported this idea as long as the meeting time worked for everyone.

Public comments and questions

There were no questions or comments from the public.