

Minnesota 3M PFC Settlement

Notes for Combined Citizen-Business and Government and 3M Working Group Meeting

Wednesday, November 16, 2022

9 a.m. – 11:45 a.m.

Webex and in-person meeting

Combined working group members in attendance

- Alex Roth
- Clint Gridley
- David Filipiak
- Jack Griffin
- Jack Lavold
- Jamie Wallerstedt
- Jeff Dionisopoulos
- Jeff Holtz
- Jess Richards
- Jessica Stolle
- Jim Westerman
- Karie Blomquist
- Kevin Chapdelaine
- Kirk Koudelka
- Kristina Handt
- Laurie Elliott
- Lucas Martin
- Marian Appelt
- Mark Jenkins
- Mary Hurliman
- Melissa Kuskie
- Michael Madigan
- Monica Stiglich
- Ron Moore
- Ryan Burfeind
- Stephanie Souter
- Steven Johnson

Presenters

- Kirk Koudelka, Minnesota Pollution Control Agency (MPCA)
- Jess Richards, Minnesota Department of Natural Resources (DNR)
- Heather Hosterman, Abt Associates
- Andri Dahlmeier, MPCA
- Jamie Wallerstedt, MPCA
- Jill Townley, DNR
- Rebecca Higgins, MPCA

Welcome and updates

Heather Hosterman (Abt Associates) welcomed the work group to the meeting and reviewed the agenda. Kirk Koudelka (MPCA) and Jess Richards (DNR) also welcomed the group and provided updates on Priority 1. The Co-Trustees sent an update email about grants submitted since the last work group meeting as well as a questionnaire asking communities about upcoming project implementation plans for the next year. This will be used in the Conceptual Drinking Water Supply Plan (Conceptual Plan) Annual Review document, that includes a review of Priority 1 spending and other activities in the last year, as well as a brief look at upcoming community plans. The annual review document is anticipated to be finalized early 2023 and shared with the public. The Co-Trustees would also like to put together some video clips to the work communities have accomplished since the release of the Conceptual Plan. Lastly, Gary Krueger from MPCA and Jim Kelly from Minnesota Department of

Health (MDH) are retiring at the end of 2022. Both were active in the work leading up to and following the Settlement.

Update on Settlement funding in anticipation of changes to health values

Andri Dahlmeier (MPCA) discussed impacts to the Settlement based on anticipated changes to health values for PFAS. The U.S. Environmental Protection Agency (EPA) plans to release draft maximum contaminant levels (MCLs) for PFOS and PFOA by the end of 2022, and final MCLs in 2023. MDH plans to release revised health-based values (HBVs) for PFOS and PFOA either in late 2022 or early 2023. The MCLs and HBVs are anticipated to be lower than current MDH HBVs/Health Risk Limits (HRLs). The Co-Trustees

The state agencies are working with communities that are currently planning and designing long-term treatment for their municipal drinking water systems. The Co-Trustees determined that design costs for providing PFAS treatment to existing municipal wells, not currently included in the Conceptual Plan to receive treatment, are Settlement-eligible for Cottage Grove and Woodbury; these communities are currently in the process of designing their new long-term water treatment plants. This includes municipal wells with a health index (HI) below 1. The Co-Trustees also determined that some construction costs to treat wells with an HI below 0.5 may be eligible for reimbursement under specific conditions that must be identified in a grant agreement with these communities. The level of reimbursement is based on cost-effectiveness and eligibility of projects under the Settlement and as identified in the Conceptual Plan. Lastly, a grant agreement must be in place prior to any bidding and any construction costs incurred and would detail portions of the project(s) that are currently eligible for reimbursement and portions of the project(s) that would be potentially eligible in the future.

Feedback

One work group member asked how the new expected MDH levels compared to the HI of 0.5. Andri explained that the HI is an equation made up of multiple PFAS constituents and that the new MDH values for PFOA and PFOS are expected to be very low. It was clarified that the new, lower values will impact the HI.

Another work group member asked if individual (private) well testing would increase given the new values. Andri explained that MPCA will continue to use the same process to determine which wells to sample, and the frequency, which both depend on the where PFAS contamination is. Chris Formby (MPCA) said the State will continue to delineate the edges of the PFAS plume. They will be resending letters to private well owners who have not yet opted to have their wells sampled. When asked about the frequency of sampling, Chris clarified that well sampling occurs every 1-3 years. The sample results dictate the sampling frequency. Because the health values are changing, MPCA expects that any well currently testing above a current HI of 0.5 is most likely going to receive a health advisory and need treatment. Therefore, if a private well had a PFAS detection this season, the State will prioritize resampling in that location.

A member of the public asked if any biomonitoring or blood testing had been conducted. Andri said that there had been some studies conducted in the past but is not aware of current biomonitoring. MPCA confirmed with MDH that they are not currently conducting biomonitoring/blood testing studies.

A work group member asked if there would be a time limit for reimbursement of construction costs. Andri confirmed that communities could be reimbursed for construction costs up until the effective date of the MCL,

which could be 3-5 years from now. The work group member commented that due to lags in science, a community that is trying to be proactive with treatment may not be helped by a reimbursement plan that only lasts 3-5 years. The reimbursement period should be longer, especially if there are available Settlement funds. Kirk explained that after 3-5 years, the most updated science and regulations will be known, most likely more stringent than what is in place now. Changes in the future are likely because of changes in pumping or plume movement, and not new criteria.

One work group member asked why an HI standard of 0.5 was adopted and not a lower standard. Kirk explained that the Settlement wanted to provide cushion for construction costs. They will know more when the values are released, but the State expects that they will be right around the lab detection limit. In that case, there is no difference between an HI of 0.5 and an HI of 1. However, once these standards are set, it is expected that EPA will not change the values for a long time, which will add certainty moving forward. Gary Krueger (MPCA) added under the 2007 Consent Order, 3M is required to provide safe drinking water at current values, not 2007 values; therefore, if the MCLs are lowered, 3M is still required to treat the drinking water.

PFAS as a Hazardous Substance

Jamie Wallerstedt (MPCA) presented on the implications of PFAS and PFOA being designated as a hazardous substance. First, Jamie reviewed key legislation at the federal and state level, including:

1. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)
2. State Superfund – Minnesota Environmental Response, Compensation, and Liability Act (MERLA)

These laws require MPCA and EPA to respond to releases of hazardous substances from facilities. Jamie explained that hazardous waste and hazardous substances are two different things. Hazardous waste has additional disposal and liability implications. Under MERLA, PFAS is already a hazardous substance, meaning the State can either require responsible parties to respond to PFAS releases or the State can respond directly. It also allows the State to seek cost recovery and list PFAS release sites on the State Superfund list (or Permanent List of Priorities [PLP]). EPA is proposing to designate PFOA and PFOS as hazardous substances under CERCLA. This will allow EPA to require responsible parties to respond to releases of PFOA/PFOS or allow EPA to address releases at federal Superfund sites. It also allows EPA to list PFAS release sites on the federal Superfund list (National Priorities List [NPL]).

EPA's designation of PFOA/PFOS as hazardous substances under CERCLA does not change disposal options. However, landfills can at any point decide not to accept PFAS-contamination materials or may charge more. Communities should ensure their contractors are following proper disposal protocols to reduce the potential of future liability. The public comment period on EPA's proposal closed November 7, 2022; EPA anticipates a final rule in the summer or fall of 2023.

Feedback

One work group member asked if EPA was considering listing PFAS under the Resource Conservation and Recovery Act (RCRA) as a hazardous waste or hazardous constituent. Crague Biglow (MPCA) said that if EPA chooses to list PFAS under RCRA as a hazardous constituent, then it would be subject to RCRA corrective action at facilities with certain RCRA treatment, storage, or disposal permits or operated as an interim status facility. The work group member said it was their understanding that a community could be responsible under RCRA and

subject to cleanup if, for example, a raw water line with PFAS contaminated water breaks. Crague said that it would fall under MERLA authority to address contamination and there may not be any applicable RCRA regulations depending on the concentrations. Jamie added that a key to RCRA is a permitted facility. MPCA is not aware of RCRA looking at listing PFAS as a hazardous waste or constituent at this time. Woodbury would like to have a follow-up conversation about this topic. Kirk added that permits are used to help prevent the release of contamination into the environment. The Superfund program is utilized if contamination is not covered under permits or before regulations were in place. Crague agreed that the universe of RCRA permitted facilities in Minnesota is very small. Wastewater treatment plants or water treatment plants do not require a RCRA hazardous waste treatment, storage, or disposal permit.

A member of the public asked if the new proposal would allow EPA to ask for additional money from 3M that can then be added to the Settlement. Kirk explained that the 2007 Consent Order is still in place even if Settlement funds run out. The Consent Order requires 3M to do sampling and meet HBVs. Kirk is not sure if the federal government could bring action against 3M, but the Settlement was between the State and 3M only.

Another work group member said that this will impact the costs of disposal and wondered how this would affect the Settlement allocation. Kirk explained that it might not impact disposal costs. Many disposal sites are already handling PFAS waste and knew that this regulation was coming. Disposal costs are considered part of water treatment plant operations and maintenance and would be considered Settlement-eligible. Under the Consent Order, 3M is responsible for operating costs, including disposal.

Priority 2 work group meeting updates

Jill Townley (DNR) provided an update on Priority 2. Priority 2 is intended to address projects that restore and enhance natural resources and recreational opportunities. Over the last few months, DNR has been coordinating with internal State agency staff to develop project evaluation criteria and revise the Priority 2 goals. Another effort that has been underway is considering what the request for projects process will look like. As part of that discussion, one of the key areas that has been discussed is mitigating conflict of interest that might arise during Priority 2 with those involved in the planning process. Ken Roberts has left DNR and will no longer be the Priority 2 Coordinator. Staff shortages are pushing back the schedule for Priority 2 work group meetings.

DNR has also been revising the Priority 2 structure. Priority 2 will use two work groups: the Government-3M work group and the Resident work group. The work groups will serve as an advisory committee to the planning process. Twenty-five communities and 3M will be invited to participate on the Government-3M work group. The Resident work group will utilize an online application. Residents from Ramsey, Washington, and Dakota counties are eligible to apply; the DNR and MPCA will review applications and decide membership. There will also be a subgroup, the Ecosystem Services and Recreation Subgroup, which will provide data and information on local restoration and recreational planning in the East Metro. The Subgroup will not hold formal meetings, which aims to help avoid any conflict-of-interest issues.

Jill also reviewed the funding process. Most importantly:

1. All grant project funds will be available for the public competitive solicitation process
2. No State-led projects are competing for funding at this time; however, if there are not sufficient projects, then the State can consider funding a State project

3. Project sponsors (any individual or organization with capacity to propose and execute a project) can apply for a grant; this is not limited to Priority 2 work group members
4. Communities and organizations can collaborate to submit a project proposal

Mitigating conflict of interest is important for Priority 2. Work group members cannot be involved in the development or submittal of project proposals; however, work group members can apply for grants if the individuals involved in the work group and proposal development are different and do not communicate. Subgroup members are sharing information and, therefore, can apply for grants with no conflicts of interest. Upcoming Priority 2 deadlines include:

1. Recruit new members for Priority 2 work groups (December – February)
2. Recruit Subgroup participation (December – February)
3. Develop draft charters (December – February)
4. Initiate Priority 2 work group meetings. These will be separate from any Priority 1 meetings (Spring 2023)
5. RFP solicitation posted (end of 2023)
6. Grants awarded (2024)

Questions can be submitted to 3MPriority2@state.mn.us.

Feedback

One work group member expressed concern about the structure of Priority 2 and the conflict-of-interest consideration. Considering many people involved in the Settlement are either elected or employed by the city or county within an affected area, it does not make sense that they would need to drop off of Priority 2 so that their community can submit projects. They said it is unfair that work group members cannot advocate for projects and that this handcuffs small communities who may not have many staff members. Other work group members agreed. Jill said the goal of the conflict-of-interest arrangement was not to limit anyone's participation. Jess Richards (DNR) reiterated that the State is not trying to exclude any communities. He explained that it is not just communities that will be submitting projects, so DNR wants to ensure that there is equal opportunity for communities and other entities. Another work group member asked if there were similar issues with Priority 1. There were not because Priority 1 was not an open solicitation process. Priority 1 projects also followed community boundaries. The work group member emphasized that communities want the ability to interact with their technical staff members on Priority 2. Another work group member said that they work on other natural resources projects funded by different agencies (e.g., FEMA), and their community wants to get funding from Priority 2 to complete this work. They indicated that it would be hard for work group members who are most knowledgeable about ongoing projects such as this to not be coordinating with other staff on Priority 2.

Another work group member asked where environmental non-profits fall into the Priority 2 structure. Jill explained that DNR envisions non-governmental organizations (NGOs) fitting into the Subgroup to help inform the Priority 2 process and discuss area priorities. An NGO could be a project proposer.

Another work group member asked if there is a need for conflict-of-interest language if the Co-Trustees are still the ultimate deciders. They referenced the expedited project process under Priority 1. Other work group members agreed. One member asked how Co-Trustees would monitor if work group members were helping

Subgroup members submit proposals and said the process seemed ambiguous. Heather (Abt) explained there would be an FAQ page about conflict of interest posted online and that questions can also be directed to 3MPriority2@state.mn.us.

Another work group member asked if there were still plans to have Priority 1 meetings. Kirk explained that there would be Priority 1 meetings, but they would be scaled back as presented during the May work group meeting.

Public comments and questions

A member from the public asked about the connection between autoimmune issues and PFAS contamination in their private well. Kirk said that a representative from MDH would contact them directly.

Project 1007 update

Rebecca Higgins (MPCA) provided an update on the Project 1007 Feasibility Study Progress. The Project 1007 area is in the Valley Branch Watershed District and consists of a system of stormwater pipes, open channels, catch basins, and two dams that direct the flow of water from the Tri-Lakes area to the St. Croix River.

The high-level steps of the Project 1007 Feasibility Study include a Source Assessment and Near-Term Actions that inform the recommendations and outcomes of the Feasibility Study report and ultimately, inform the long-term drinking water resource protection options for the Co-Trustees to consider.

A robust and comprehensive conceptual site model is being built for the Project 1007 area as part of the Source Assessment and Feasibility Study. The data collection effort completed thus far has evolved the understanding of primary and secondary sources of PFAS as well as the many pathways of PFAS movement in the region. The current understanding shows a more detailed view of the numerous PFAS constituents in multiple aquifers.

To date, progress has been made on the source area investigation through iterative hydrologic assessment in surface water, groundwater, and sediment. This data has been used to update the aquifer-specific PFAS plume maps. This is important for determining how to prevent future PFAS migration. The installation of monitoring wells will be completed by the end of 2022 or early 2023, which will help fill in remaining data gaps. Sampling is expected to be completed by the end of 2023. Aquifer testing will also continue in three different areas, which will help finalize the combined surface and groundwater model. This model will help track surface and groundwater flow to track how PFAS moves. This model will also help determine how PFAS may flow through multiple drinking water aquifers as shown by particle tracking simulations.

Rebecca also provided an update on the concept and purpose of multi-benefit wells. These wells are designed to reduce the spread of PFAS while providing municipal water supply demands as designated in the Conceptual Drinking Water Supply Plan for communities in the vicinity of the well array. The concept is aimed at additionally maintaining safe groundwater elevations in drinking water aquifers. The goal is to slow the spread of PFAS and also provide treated, safe water to communities for current and future generations. The multi-benefit well process is currently in the modeling and reconfiguration phases. The process is iterative – new data is being used to reconfigure the well array. MPCA wants to understand the physical and chemical properties of PFAS in the area through this process as it will impact the multi-benefit well alignment in the future.

One of the near-term action items under Project 1007 is a groundwater and surface water treatment pilot study. A two-step technology process has started and MPCA is evaluating how this treatment system could operate at

a larger scale in real-world conditions. Currently, Project 1007 is piloting surface activated foam fractionation (SAFF) and electrochemical oxidation (DE-FLUORO™) systems. The SAFF technology physically creates foam that is concentrated with PFAS before transforming and reducing or destroying it using DE-FLUORO technology. The SAFF system will be located at Tablyn Park, and the DE-FLUORO system will be located at Washington County landfill. Both systems are mobile and can be tested at different locations in the Project 1007 system. Other potential testing locations include Eagle Point Lake and upstream Raleigh Creek. The effectiveness of both systems will be evaluated in comparison to other technologies for PFAS removal and transformation to less-harmful forms of PFAS to human and ecological health, with the goal to destroy PFAS that has been removed from the environment.

Feedback

One work group member asked if this technology would impact the Settlement or the EPA values. Rebecca explained that the high priority constituents have already been evaluated and data has already been provided to those that make standards for their consideration. She emphasized the importance of real-world examples in data and rulemaking.

Another work group member asked how much had been spent on Project 1007 to date. Rebecca explained that between \$8-9 million had been spent so far. This money has primarily been spent from interest earned by the Settlement. The next phase of funding will come out of the \$70 million set aside for drinking water protection. The same work group member said that any spending beyond the feasibility study should come back to the work groups given that current O&M costs laid out in the Conceptual Plan may not be covered under the Settlement, and that funding drinking water projects should be higher priority with agreement from some other work group members. Other work group members disagreed and said they feel it is important for the Settlement to look at reducing the need for treatment in the future. Kirk explained that the annual review document would touch on the future of funding allocations. He also explained that the Project 1007 feasibility study is required as a part of the Settlement documentation and that it is very important to protect our drinking water source and prevent contamination from spreading further to other communities.

Another work group member asked about the status of the multi-benefit well array. Rebecca explained that it will be evaluated as a part of the feasibility study and would take several years before it would be fully implemented if it was determined to be a good long-term drinking water resource protection option. Additionally, she added it would be evaluated in a step-by-step approach, with new information and data informing the feasibility of installation and operation.

Next steps

Heather Hosterman (Abt) presented on next steps for the work groups. She explained that Co-Trustees would like to hold a meeting after EPA releases the draft MCLs and/or MDH HBVs are released, which is expected at the end of 2022/early 2023. Work group members could have a meeting in December or January. Heather also reminded the work group members that Co-Trustees will be sharing the annual review document soon and indicated that outreach to communities and residents to recruit new Priority 2 work group members will occur in December and January.

Feedback

Work group members preferred meeting in January instead of December.



Public comments and questions

There were no questions or comments from the public.