# Minnesota 3M PFC Settlement

## Notes for Combined Priority 2 Working Group Meeting

**Wednesday, May 3, 2023**
9 a.m. – 12 p.m.

Hybrid Teams and in-person meeting

## Combined working group members in attendance

* Amy Siqveland
* Brian Johnson
* David Bauer
* David Filipiak
* Howard Markus
* James Creaghe
* James Kelly
* Jamie Wallerstedt
* Jeff Holtz
* Jess Richards
* Jill Trescott
* Karie Blomquist
* Kirk Koudelka
* Kristin Seaman
* Laura Schulz
* Laurie Elliot
* Melissa Kuskie
* Michael Madigan
* Michael Molenda
* Monica Stiglich
* Randall Clary
* Ron Moorse
* Ryan Stempski
* Stephanie Souter
* Steve Dibb
* Steven Johnson
* Tony Manzara
* Victoria Reinhardt

## Presenters

* Jess Richards, Minnesota Department of Natural Resources (DNR)
* Melissa Kuskie, DNR
* Kirk Koudelka, Minnesota Pollution Control Agency (MPCA)
* Jamie Wallerstedt, MPCA
* Debra Fleischer, Abt Associates
* Karen Carney, Abt Associates

## Welcome

Debbie Fleischer (Abt Associates) opened the work group meeting. Jess Richards (DNR) provided opening remarks. He welcomed new work group members and those that were involved in Priority 1. He explained that Priority 2, the natural resources part of the 2018 3M Settlement, had approximately $20 million dedicated to it. It is not the largest amount of funding in the Settlement but is very important. The Co-Trustees look forward to engaging conversations about how to best use the funds to protect natural resources in the East Metro. Kirk Koudelka (MPCA), Melissa Kuskie (DNR), Jamie Wallerstedt, Susan Johnson (MPCA), Jill Townley (DNR), Ron Wieland (DNR), Greg Husak (DNR), Hans Neve (MPCA) also introduced themselves.

## Overview of Settlement and NRDA

Melissa Kuskie (DNR) provided an overview of the Settlement and natural resource damage assessments (NRDA). She started by defining relevant terms:

* **Natural resource damage assessment.** An NRDA is the process of determining the harm caused by releases of hazardous chemicals on natural resources and the amount of restoration necessary to compensate for natural resource and service losses over time.
* **Natural resources.** Natural resources include land, fish, wildlife, biota, air, water, groundwater, and drinking water supplies. They are typically categorized into five groups: surface water, groundwater, air, geologic, and biological resources.
* **Services.** Services are the physical and biological functions performed by a resource, including humans uses.

Melissa explained that an NRDA is different than remediation. Remediation means cleaning up a contaminated area to manage exposure risks to humans and the environment. A NRDA action restores natural resources to compensate the public for harm that has occurred over time. There are times when they can be similar, but it’s important to distinguish them as they have different funding, regulatory, and legal structures. Under NRDA restoration, there are different options. These include restoring a degraded habitat or acquiring new land and protecting it to make up for losses. For Priority 2, restoration projects will be identified through a request for proposal (RFP) process. From the submitted projects, the DNR and MPCA (Co-Trustees) will select projects to be funded through grants. The Co-Trustees will also track projects and report benefits to the public.

Melissa also provided additional background on Per- and Polyfluoroalkyl Substances (PFAS). PFAS represents a group of chemicals that do not easily breakdown in the environment. PFAS is used in a variety of applications such as textiles, wax, polishes, paints, varnishes, Teflon, baking paper, and food packaging. PFAS has been linked to negative health and environmental impacts. PFOS and PFOA are two of the PFAS chemicals found in the East Metro. When PFAS is released into the environment, it does not break down. Instead, it is taken up by plants and invertebrates, which are then eaten by other organisms. PFAS bioaccumulates in animals such as fish, meaning the concentration of PFAS in fish increases over time. PFAS also biomagnifies as animals up the food chain eat contaminated plants and smaller animals. PFAS in fish is also a concern because humans catch and the eat contaminated fish. PFAS releases have resulted in injuries to species and losses of recreational opportunities; Priority 2 aims to replace, protect, and enhance these natural resources and services that have been lost.

Melissa reviewed the timeline of PFAS in the East Metro. In 2022, 3M informed MPCA of PFAS at their production wells in Cottage Grove. In 2007, MPCA and 3M agreed to a consent order which outlined 3M’s responsibilities under the state Superfund program. In 2018, 3M settled a lawsuit with the State for $850 million. Priority 1 work groups were formed, who helped create the Conceptual Drinking Water Supply Plan, released in 2021.

Under the 2018 Settlement, 3M agreed to pay $850 million to the State to be used for long-term solutions in the East Metro. It outlined Priority 1 (safe and sustainable drinking water) and Priority 2 (restoration and enhancement of natural resources). 3M is still obligated under the 2007 Consent Order to remediate disposal sites and provide safe drinking water. It also requires community participation through a work group. The Settlement also included example Priority 2 projects including aquatic habitat and water resource protection, terrestrial and water trails, boat ramps, fishing piers, the restoration of wildlife habitat, and other terrestrial conservation and recreational improvements. Melissa explained that the Co-Trustees will evaluate proposed natural resources projects but that the work groups will advise on Priority 2 goals, evaluation criteria, and the RFP application.

### Feedback

One work group member asked if the slides would be available following the presentation. Melissa said the slides and a recording of the meeting will be posted online.

One work member asked about the $20 million set aside for Priority 2 and how many projects could be funded. They asked how much another restoration project, Lessard Sams fund, spends per year for reference. Jess Richards (DNR) did not know the exact number, but others estimated approximately $100 million per year. He admitted that $20 million could easily go toward one natural resource project. The same work group member asked if the Co-Trustees had any intentions to combine Settlement funds with other funds if the projects have a shared goal. Jess explained that this was discussed previously but it will be discussed further when discussing the RFP evaluation criteria. Future discussions will help determine what it means for a project to be a standalone project versus connecting to other projects. Jill Townley (DNR) added that $20 million is relative to the scope of the project. For example, if you are doing a project focused on increased signage near fishing resources, $20 million is a large amount. That is a different scope than a large stream restoration project. There is a lot that can be done with $20 million, but it will be important for the work groups and Co-Trustees to determine how to best evaluate and prioritize projects.

A work group member asked about the scope of the project. Priority 1 was focused on human health and drinking water while this group focuses on a broader impact on the environment. They said that they knew there was still contaminated water being pumped to the Mississippi River and asked if this contamination was being monitored for PFAS if given the new PFAS standards from EPA, if stricter standards would be placed on 3M. They also asked if the Consent Order would cover any Priority 2 efforts. Kirk provided some additional background information, expanding that there are three 3M disposal sites that 3M is charged with remediating and one that is under State purview. Two of those, Woodbury and Cottage Grove, water is being pumped there to mitigate the PFAS that is still there. Large excavations were done to remove PFAS, but those efforts did not remove all the PFAS. The water pumped from these sites is treated in Cottage Grove and is released to the river. The Consent Order does not cover treatment plant releases; it is instead covered by a state permit program. As the State learns more about PFAS, they are working to revise those permits to lower the level of allowable PFAS. Jess added that there is not a set formula for restoration so there could be several projects that approach PFAS from different angles. The work group member asked if MPCA and DNR could confirm the permitted level of PFAS entering the Mississippi River from 3M disposal sites.

Another work group member mentioned Clean Water Council Funds. For those funds, the Clean Water Council makes recommendations to the State Legislature, who then appropriate the funds. Jess added that the Clean Water Fund is helping to fund testing for PFAS in fish tissue across the State.

One work group member asked about a source assessment in Valley Branch Watershed District mentioned in the 2018 Settlement. Kirk explained that this project is known as Project 1007. There is more information available online, including a recent video: <https://3msettlement.state.mn.us/projects/project-1007>. Kirk explained that information from Project 1007 would be pulled into Priority 2 work, as well as information from other sources about natural and ecological impacts in the region.

## Priority 2 Purpose, Structure and Charter

Karen Carney (Abt Associates) described the structure and purpose of the Priority 2 work groups, which will be used to support the Priority 2 planning process. The Settlement includes a board definition of the working groups. Karen then provided additional detail about the structure of Priority 2:

* **Government/3M Work Group.** These group has 11 members and is comprised of community and company representatives. Communities in the East Metro were invited to participate if they had experienced injuries from PFAS released by 3M. This work group will provide feedback on Priority 2 goals, evaluation criteria, and the RFP solicitation process. To avoid conflict of interest concerns, the work group will not discuss specific project ideas or proposals.
* **Resident Work Group.** This work group has 18 residents of Washington, Ramsey, and Dakota counties. This work group will provide feedback on Priority 2 goals, evaluation criteria, and the RFP solicitation process. They will not discuss specific project ideas or proposals.
* **Ecosystem Services and Recreation Subgroup.** This group is made up of technical, recreational, natural resource, and environmental staff from the east metro. It also includes representatives from watershed districts and resource- and recreation-focused groups. This work group will not have formal meetings but will provide information via email on local natural resource and recreation planning efforts.
* **DNR and MPCA support.** The DNR and MPCA will support the work groups by coordinating meetings, directing state contractors to assist with planning, developing drafts of Priority 2 materials (e.g., goals, evaluation criteria), preparing reports on Priority 2 implementation, preparing, and implementing communication plans, and sharing relevant background information. DNR and MPCA have the final decision-making authority.

Karen also discussed the timeline of Priority 2 in additional detail. The RFP process is expected to take 12-18 months, including project selection. The work groups are expected to meet bi-monthly but will meet more frequently as needed. Every Priority 2 meeting is open to the public.

The expectations of work group members include attending meetings, preparing for meetings, actively participating in meetings, providing feedback on materials, listening to and respecting others prespectives, and considering public comments provided at each meeting.

### Feedback

One work group member asked for clarification on the timeline. Will the 12-18 months include project selected. Karen confirmed that the 12–18-month timeline includes project selection. The current plan is to release the RFP application in early 2024.

One work group member advocated that the Resident and Government-3M Work Group meetings be combined. They felt that it made sense to have them separate for Priority 1 because one work group was focused on voicing community concerns and the other was focused on the mechanics of implementing drinking water protection. They felt that the Priority 2 work groups will have more similar discussions. Other work group members agreed.

One work group member asked if there would be an opportunity for Priority 2 work group members to be caught up on Priority 1 actions and processes. Jess Richards (DNR) said that the Co-Trustees could organize a special meeting to provide relevant background information. Another work group member asked where to find Priority 1 resources. The materials from Priority 1 are available online: <https://3msettlement.state.mn.us/work-groups/priority-1-government-and-3m-working-group>. A work group member who was part of Priority 1 also recommended they read the Settlement since it is relatively short and provides background information. They also recommended that the Co-Trustees give a presentation on other organizations that are working on natural resources in the East Metro (e.g., watershed districts, soil, and conservation districts). They felt that it would help work group members if they did not have to research different organizations on their own. Jess reiterated that there would be a special meeting to provide background on Priority 1 and a broad overview of funding mechanisms related to natural resources work.

## Public Comments and Questions

There were no public comments or questions at this time.

## Request for Proposals Process and Conflict of Interest

Karen Carney (Abt Associates) explained that there will be a competitive public request for proposals for Priority 2 because there are many organizations would be eligible to receive project funding. This is a process that DNR uses regularly to grant restoration funds. The Co-Trustees will select the projects that best meet Priority 2 goals, which the work group will help define. Work group members will not be able to advocate for or discuss specific projects during meetings as this poses a conflict of interest. Therefore, the only venue for organizations or communities to advocate for projects under Priority 2 will be through the RFP process.

The RFP process will be further defined through future work group meetings, including who is eligible to apply for funding. However, Co-Trustees do know that approved project funding will go out through grant contracts, which is the State’s standard practice. The tentative plan is to release the RFP application in early 2024, at which time a formal announcement will be posted on the 3M-Settlement website. Organizations and communities will have 60 days to submit their proposals.

Karen also discussed conflict of interest. To mitigate conflict of interest work group participants will be able to develop and submit projects but the work groups will not discuss specific projects. Subgroup participants will also be able to develop and submit proposals. Like the work groups, they will not discuss specific projects. In summary, work group or subgroup participate does not provide a competitive advantage.

### **Feedback**

A work group member encouraged the Co-Trustees to have a communications plan to announce the release of the RFP. They feel just posting it on the website is not enough. There needs to be more advertisement so that smaller communities and organizations are aware of its release. They also felt that 60 days was not a long time for the RFP to be open. Another work group member agreed that press releases are helpful, especially since people are interested in PFAS.

One work group member thought the conflict-of-interest issue was brought forward because of independent groups that are well-funded and can buy large amounts of land. They asked the DNR and MPCA to provide examples of projects because communities and organizations cannot write RFPs without additional details. They would like example projects so that they can submit projects that are well written and researched. They would also like to get an overview of how the RFP process typically works and the criteria that are often included. They did not feel it was realistic to expect the work group to not talk about any project elements. They felt the conflict-of-interest process was overreaching and could hinder the RFP writing process. Karen clarified that the Co-Trustees would provide the work groups with the draft RFP criteria for work group members to review and provide feedback. She also said they might be able to share some example projects to discuss how they would be evaluated.

One work group member advocated for a discussion about collective concerns. Understanding collective concerns would make the group more productive. Another member noted that Priority 2 is quite different than Priority 1, where each community had a specific water system. Priority 2 is more regionally focused. Jess encouraged work group members to openly share their concerns and suggested time for an open forum to hear concerns at the next work group meeting.

Another work group member suggested that Co-Trustees set a limit that each RFP project can receive to ensure there are projects throughout the area. They were concerned that a few large projects would go to only one or two communities. Another work group member agreed to ensure equity and inclusion are considered. To them, equity means projects go to many communities. Jess said it is important to keep in mind that not all projects are created equal. The Co-Trustees are wary of setting a dollar limit if it means there will be lower-quality projects. Jess said this would be discussed further. Another work group member agreed that there should not be a dollar limit on RFP projects. They warned that a scorecard approach to projects could be problematic because scorecards can eliminate both expensive projects and low-cost projects. They reminded the group that expensive projects sometimes have the best impacts for communities. They advocated flexibility in the Co-Trustees’ decision making become some communities are larger and will naturally have more expensive projects. Another work group member added that RFP applications can be set up and categorized based on project size.

One work group member talked about the rubric approach used in Priority 1. The work groups spent about six months discussing the rubric that would be used to evaluate Priority 1 projects.

Another work group member who was part of Priority 1 discussed the perspective of the Priority 1 work groups. They felt that in those discussions, everyone agreed that all residents were entitled to clean drinking water. That attitude led the work group. They explained that Priority 2 was a little different because it was not so community focused. They said that they did not care which community a project happened in as long as it was mitigating the largest impacts from PFAS. They hoped that would be the overarching attitude for Priority 2. Jess agreed and encouraged work group members to have a regional perspective.

## Revised Priority 2 Goals

Karen Carney (Abt Associates) gave an overview of the revised Priority 2 goals. She showed the Settlement language that was used to develop the goals for Priority 2, including 1) Priority 2 is intended to replace, protect, and enhance the natural resources and services that have been lost and 2) The Priority 2 goals need to reflect the Settlement language and will be used to guide the development of the project evaluation criteria and RFP process. Any proposed project must contribute to meeting at least one of the Priority 2 goals.

The initial draft Priority 2 goals were established by the Co-Trustees and the previous work groups in 2019. As the Co-Trustees began the Priority 2 process, they wanted to revisit these original goals to ensure they were still applicable and attainable. A review with DNR and MPCA staff led to some adjustments, on which the Co-Trustees would like work group members to provide feedback.

Karen discussed the revised goals in more detail:

* Goal 1: Resource and Habitat Restoration
	+ Original goal: Restore, protect, and enhance aquatic resources, wildlife, and habitats
	+ Revised goal: Restore, protect, and enhance aquatic and terrestrial resources, wildlife, and habitats
	+ Justification: Terrestrial resources are included in the Settlement language so ‘terrestrial’ was added to the goal for consistency.
	+ Example projects: Land protection, habitat restoration, nesting improvements, surface water quality improvements
* Goal 2: Recreational Fishing
	+ Original goal: Reduce fish tissue contamination and remove PFAS-based fish consumption advisories
	+ Revised goal: Increase understanding of fish tissue contamination, improve communication about PFAS-based fish consumption advisories, and identify and enhance alternative, non-contaminated fishing areas
	+ Justification: While at first look, this seems like a good goal, it is too costly to achieve under Priority 2. To reach this goal, all major sources of PFAS exposure to fish in any body of water would have to be mitigated. This includes primary sources as well as secondary sources (e.g., PFAS in contaminated soil that has accumulated for decades). Karen noted that there is remediation happening on primary sources such as groundwater and surface water. While $20 million is a significant amount of money, it is not feasible to do the remediation required to reach Goal 2 under Priority 2 with that amount. The revised goal allows the Co-Trustees to improve the public’s abilities to safely enjoy fishing in the region. Karen also clarified that projects that focus on fish habitat improvements would be eligible for Priority 2 funds under Goal 1.
	+ Example projects: Sampling fish tissue in surface water, public communications about fish consumption advisories
* Goal 3:
	+ Original goal: Improve and enhance outdoor recreational opportunities
	+ Revised goal: Improve and enhance outdoor recreational opportunities and access for the public, including populations experiencing inequalities and/or disparities
	+ Justification: The Co-Trustees wanted to ensure that equity and environmental justice were considered in Priority 2.
	+ Example projects: Construct accessible boat launches, accessible trails, bird watching platforms with a focus on underserved areas

### Feedback

One work group member said that a key component of a goal is that it is measurable. If Co-Trustees are going to try to active a goal, they need to measure it one way or another. They asked how Co-Trustees would measure an increase in understanding in Goal 2. They do not feel this is measurable.

The work group member also asked for clarification about the breakdown of funds in the Settlement. They saw $850 million mentioned in the Settlement as the amount received from 3M. They also saw some other values mentioned including $40 million and $20 million for Priority 2. They asked if the Settlement funds were invested and have made additional funds that can be used.

Kirk Koudelka (MPCA) explained that $20 million for Priority 2 was within the $850 million, not in addition to it. All the Settlement money went into a savings account that is gaining approximately 4% interest. The interest is tracked in an annual report that will be released each year moving forward. The $40 million mentioned in the plan was in addition to the $850 million, but it does not impact Priority 2 because it was for drinking water protection. Additionally, the time has passed to use these funds as they were slated for use for five years after the Settlement was signed in 2018. One work group member thought the interest amount was very low. Jess Richards (DNR) explained that the funds were invested strategically and not too aggressively so that none of the money invested would be lost. This was something discussed in Priority 1 meetings and can also be part of the Priority 1 overview that is given to Priority 2 work group members.

Another work group member said that the word education needed to be added to the goals. The Co-Trustees need to educate as well as communicate. If they do not educate, then the community members will not know what they are reading related to PFAS.

One work group member supported the changes made to Goal 2. They felt it was good logic and ensured the Co-Trustees could do additional projects. They noted that the goals mentioned recreational fishing but asked if there were any considerations about smaller communities that use water resources for sustenance fishing. Jess said that they had not considered that but would like to have future conversations about this.

Another work group member asked for clarification on Goal 3. They wondered if it referred to populations experience disparities due to the disparate impacts from PFAS or is the goal to speak to larger inequities in the East Metro regardless of impacts from PFAS. Other work group members agreed and noted that equity and equality are not the same. The Co-Trustees need to ensure this is a measurable goal as well, which it is not currently with the current wording.

One work group member said that if the Co-Trustees changed the language in Goal 2 from communications to publications, then it would be measurable. They said Co-Trustees cannot measure someone’s understanding but they can measure the number of materials they have published. Others disagreed. One work group member argued that publication could mean something like a fish tissue study, which could take years. They did not feel this would be a good use of Priority 2 funds. Another work group member said that a research project could be helpful and encouraged the language to be open to allow different options. One work group member was against changing it from communication to publication in Goal 2 because it would be too limiting. They felt publication was a piece of communications. They also argued it was possible to measure understanding as long as the Co-Trustees had a baseline. The same work group member said that the RFP should include questions about how applicants plan to measure their projects since there are ways to measure inequities and disparities. Another work group member asked if the goals were aspirational or if they are serving other program goals. They agreed that the RFP needs to have information about how their project goals will be measured.

The same work group member also noted it would be helpful for applicants to know the window of project completion and how long the grant funds would be available.

One work group member thought it would be helpful to have more background information on what is happening in the entire State, especially what is happening in the East Metro. They are curious about the existing projects happening, who is leading them, and how they are being funded. They want a picture of restoration actions happening outside of the Settlement dollars, including communications. They felt this was especially important for the work group to know about any fish tissue monitoring taking place. Jess agreed that additional context would be helpful.

One work group member supported keeping the goals broad at this point because the work group members have more to learn. They said you can measure changes in human understanding and government grantees are often required to do that. They encouraged other work group members to keep in mind that while Priority 2 is focused on human health, the work group is also charged with considering recreation areas, natural resources, and wildlife. They need to think more broadly beyond human impacts from PFAS.

Another work group member discussed the scope of PFAS restoration. They felt that the scope was emphasized by the fact that even with $850 million from 3M, there were fish advisories in the East Metro. They said if 3M was still discharging water, which would make it impossible for Priority 2 to achieve some of their goals. They encouraged additional information about fish since there is a lot of information still unknown. Another work group member said there are studies that exist that talk about the impacts of PFAS on fish and wildlife.

Another work group member added that as part of the East Metro Water Resource Education Program, they conduct pre- and post-educational surveys quite frequently to measure success and effectiveness. The outreach is directly tied to implementation, which they also track and measure.

## Next steps

Karen Carney (Abt Associates) covered next steps for Priority 2. She asked questions to the work group about the future of the Priority 2 work group meetings and goals. Work group members preferred morning meetings that were hybrid and combined both work groups.

She also covered the expectations for work group members moving forward, including proposed meeting topics. For the next meeting, Co-Trustees expect to focus on feedback from the first meeting, finalizing the Priority 2 goals, and discuss how to consider PFAS in proposed projects. Before the next meeting, DNR and MPCA will share the content from today’s meeting, engage Subgroup members, including one-on-one meetings, and develop draft evaluation criteria, including RFP scope and language.

### Feedback

One work group member felt the hybrid meetings were positive for a few reasons: people were used to being online and it allowed people to join even if they were sick. Hybrid meetings also allowed for side conversations and relationship building to occur. One work group member online said that it was sometimes hard to tell which State representative was speaking.

One work group member suggested that it would be helpful to start the Priority 2 process with a general definition of key terms. Others agreed and added that defining the geographic area would also be helpful.

Another work group member asked that Co-Trustees send an email with links to studies (e.g., fish studies) that would help identify impacts of PFAS in the East Metro.

Another work group member asked if Co-Trustees could revise the language for Goal 3 and ask communities and project applicants to describe the targeted populations for their projects.

One work group member said that they sent questions ahead of the meetings. They asked, for work group members who were more reflective, where to send questions between meetings. Questions between meetings can be sent to Susan Johnson, the Priority 2 Coordinator.

Another work group member asked if there was a schedule for Priority 2 work group meetings. Susan Johnson (MPCA) explained that they would most likely occur on the third Wednesday of every other month, in addition to a special meeting to provide background meeting on Priority 1. The work group members asked for a tentative schedule to be sent out.

One work group member asked if there was a schedule for the Priority 2 Subgroup. Susan explained that they would not be meeting in person. They would start with a survey to get information about plans happening that align with Priority 2 goals.

## Public comments and questions

There were no public comments or questions at this time.