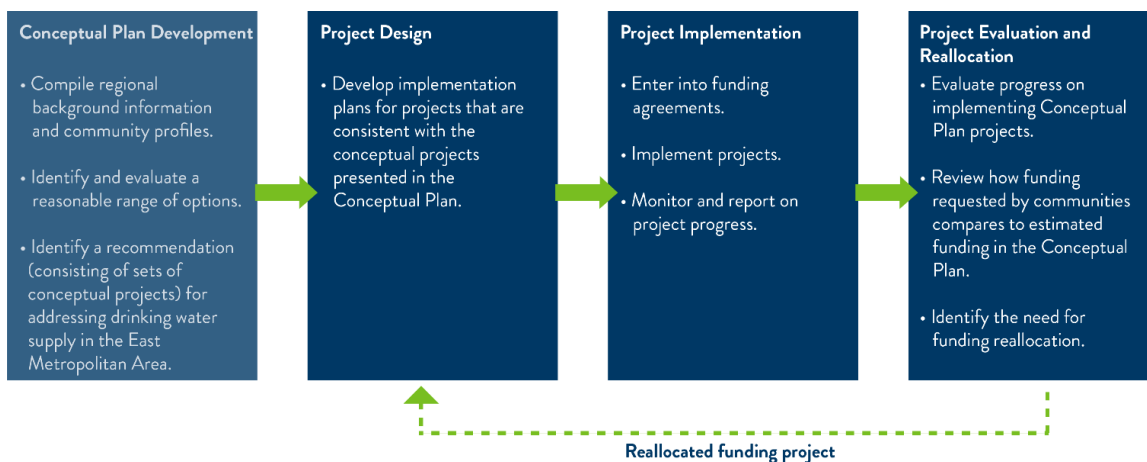


# Minnesota 3M PFAS Settlement Conceptual Drinking Water Supply Plan Annual Review, 2022–2023 October 2023

## 1. Annual Review Purpose

The Conceptual Drinking Water Supply Plan (Conceptual Plan), released on August 18, 2021, serves as a guide for using the 3M per- and polyfluoroalkyl substances (PFAS) Settlement (Settlement) funds to provide safe, sustainable drinking water to the affected communities in Minnesota’s East Metropolitan Area. The Minnesota 3M PFAS Settlement website (<https://3msettlement.state.mn.us/>) has additional information on the Settlement and the Conceptual Plan.

As a part of the Conceptual Plan, the Co-Trustees—the Minnesota Pollution Control Agency (MPCA) and the Minnesota Department of Natural Resources—recognize the need to annually evaluate progress in implementing projects (Figure 1). In addition, the Co-Trustees recognize that actual costs will likely differ from the estimated project costs in the Conceptual Plan, and therefore the amounts set in each fund allocation will need to be regularly evaluated.



**Figure 1. Process Diagram for Evaluating the Conceptual Plan Project Design, Implementation, Evaluation, and Reallocation**

The Co-Trustees are conducting an annual review of the Conceptual Plan implementation efforts, to evaluate progress, review how actual costs compare to estimates in the Conceptual Plan, and determine whether a funding reallocation is warranted. The [first Conceptual Plan Annual Review \(Annual Review\)](#) covered progress made since the release of the Conceptual Plan (August 18, 2021) through the fiscal year (FY) 2022 end (June 30, 2022), and was released in early 2023. This second annual review provides a year-in-review of progress made in FY 2023 (July 1, 2022 through June 30, 2023), and discusses anticipated progress for FY 2024 (July 1, 2023 through June 30, 2024).

In this report, Section 2 provides an evaluation of progress in implementing the Conceptual Plan, Section 3 provides an overview of new information that has affected or may affect the implementation of the Conceptual Plan, and Section 4 discusses anticipated fiscal year 2024 projects. Finally, Section 5 provides a review of contingency funding and a discussion of whether there was a need for a funding reallocation in FY 2023.

## 2. Progress on the Implementation of the Conceptual Plan

Priority 1 of the Settlement aims to fund a variety of projects to enhance the quality, quantity, and sustainability of drinking water in the East Metropolitan Area. The Conceptual Plan allocates \$700 million in available funding from the 3M Settlement, which is the amount of Settlement funding available after payment of legal fees and deducting the \$20 million set aside for Priority 2.<sup>1</sup> Settlement funding includes three priority funding allocations: capital infrastructure, operation and maintenance (O&M), and drinking water protection (Figure 2).



**Figure 2. Conceptual Plan Priorities**

Including these three priority funding allocations, the Settlement defines the following five funding allocations out of the available \$700 million:

- **Capital funding (45%,<sup>2</sup> or \$317 million)** allocated to plan, design, construct, and install the drinking water supply infrastructure for public water systems and private wells. The Conceptual Plan provides the affected communities with a tailored project list to meet the long-term goals of the Settlement based on their specific needs and cost estimates.
- **O&M funding (16%, or \$115 million)** allocated to operate and maintain public water systems for an estimated 20 years and private well treatment systems for an estimated 30 years, as outlined in the Conceptual Plan.
- **Drinking water protection funding (10%, or \$70 million)** allocated to improve drinking water quality at the source, to target contamination cleanup in order to benefit drinking water quality for wells impacted by PFAS. This will start with source assessment and feasibility evaluation of PFAS impacts on soil, groundwater, surface water, and sediments along the Project 1007 corridor that are transported to the drinking water. More information about Project 1007 can be found here: <https://3msettlement.state.mn.us/project-1007>.
- **Contingency funding (26%, or \$183 million)** allocated to potentially fund work in several different areas of uncertainty, including providing treatment for drinking water wells that are not included in the capital and O&M budgets of the Conceptual Plan because they did not meet the treatment threshold at the time.
- **State administration (2%, or \$15 million)** allocated to administer and implement the Conceptual Plan, including review and development of grant agreements; tracking progress of project implementation; annual review and reallocation; reporting; and preparing for and holding public meetings.

<sup>1</sup> The second priority of the Settlement is to restore and enhance aquatic resources, wildlife, habitat, fishing, and outdoor recreational opportunities in the East Metropolitan Area and in downstream areas of the Mississippi and St. Croix Rivers.

<sup>2</sup> Percentages do not sum to 100% because of rounding.

The Settlement funds have been placed into interest-bearing accounts distributed by allocation. Within FY 2023 (July 1, 2022 to June 30, 2023), the accounts had earned a total of approximately \$24.7 million in interest. The interest earned in FY 2023 remains in the interest-bearing accounts (Box 1). Details on the projects funded through interest earned in previous fiscal years can be found in the [2022 Annual Review](#).

#### **Box 1. Allocation of Interest Earned on Settlement Dollars**

Settlement funds are in interest-bearing accounts, and, as of June 30, 2023, had earned approximately \$24.7 million in interest. The interest earned in FY 2023 remains in the interest-bearing accounts split by allocation:

- \$12.09 million is in the capital fund allocation.
- \$3.51 million is in the O&M fund allocation.
- \$1.66 million is in the drinking water protection fund allocation.
- \$5.58 million is in the contingency fund allocation.
- \$1.90 million is in the state administration fund allocation.

## **2.1 Awarded Implementation Funding**

In fiscal year 2023 (July 1, 2022 to June 30, 2023), the state spent approximately \$32.3 million in Settlement funding across the five funding allocations. The cumulative spending of Settlement funding between the release of the Conceptual Plan in August 2021 and June 2023 is shown in Figure 3.<sup>3</sup>

Spending during FY 2023 includes:

- **Capital funding (\$15.4 million)** spent on:
  - Planning and design for water treatment plants in the cities of Cottage Grove and Woodbury
  - Planning for two interconnects with Newport
  - Connecting properties with private wells in various neighborhoods to municipal water in the cities of Cottage Grove, Lake Elmo, Lakeland/Lakeland Shores, and Woodbury
  - Installing whole-home water filter systems, also called point of entry treatment systems (POETSs), for private wells over the treatment threshold, in communities across the East Metropolitan Area
  - Temporary treatment of additional wells in Cottage Grove and Woodbury to meet their water demand until the permanent water treatment plants are in place
  - Finalizing ion exchange pilot studies and administrative and communications tasks in Woodbury and Cottage Grove
- **O&M funding (\$1.5 million)** spent on maintenance of granular activated carbon (GAC) filters in POETSs across the East Metropolitan Area and O&M for St. Paul Park's and Oakdale's permanent water treatment plants.
- **Drinking water protection funding (\$5.7 million)** spent on Project 1007, including contractor support for the feasibility study, and drinking water monitoring for public and private systems.

<sup>3</sup> Section 2.1 in the Annual Review focuses only on funding from the \$700 million included in the Conceptual Plan. Any discrepancies with the legislative report reflect the different time period for the legislative report (January 1, 2023 to June 30, 2023) and the inclusion of temporary spending and spending on projects funded with interest earned before the release of the Conceptual Plan.

- Contingency funding (\$8.3 million)** spent on Request for Funding projects to extend water mains and connect homes to the municipal drinking water supply system in Lake Elmo. These projects were similar to expedited projects in that they were consistent with the Conceptual Plan, were time-sensitive, and were reviewed and approved with input from the work groups. However, these projects were funded with contingency funds because interest earned prior to this year, which was intended to cover the expenses, was not sufficient to cover these projects and to maintain the capital allocation. Contingency is also being used for O&M costs for the temporary drinking water treatment plants for Cottage Grove, Oakdale, and Woodbury.
- State administration (\$1.4 million)** spent on administering and implementing the Conceptual Plan, including state and contractor review and development of grant agreements, tracking project implementation progress, annual review and reallocation, reporting, and preparing for and holding work group and public meetings.

Project status information is available at <https://3msettlement.state.mn.us/investing-east-metro-drinking-water>.

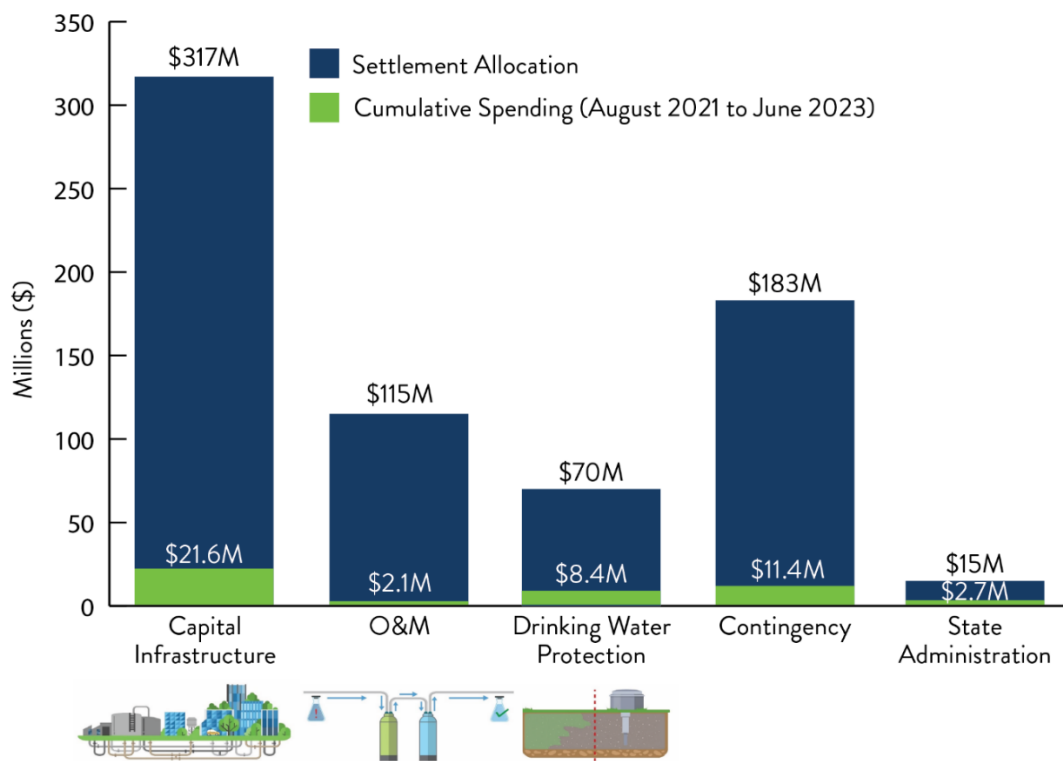


Figure 3. Funding Spent Across Project Types, August 2021–June 2023<sup>4</sup>

<sup>4</sup> Figure 3 includes only funding from the \$700 million included in the Conceptual Plan. It does not include spending from interest earned or spending on temporary treatment.

## 2.2 Implementation of Grant Agreements

The Conceptual Plan identifies projects the Co-Trustees intend to fund; however, communities are not automatically allocated the portion of capital or O&M outlined in the Conceptual Plan. Rather, project implementation is driven by the communities through a grant process with the state. The state reviews information provided by communities and develops grant agreements to enable project implementation.

Many communities will have multiple grants over several years for different phases of a given project (e.g., planning and design, construction, and O&M phases). Once a grant agreement is in place, each community follows their own processes for implementation, coordinating with the state as necessary. For private wells, the MPCA will continue to manage the installation and maintenance of POETSS using contractors.

Since the Conceptual Plan release, Co-Trustees have prioritized funding the projects outlined in the Conceptual Plan and have completed individual project funding reviews within the expected six- to eight-week timeframe. For grants that contain elements that are not specifically evaluated in the Conceptual Plan, the Co-Trustees must ensure that projects are consistent with the Conceptual Plan and that adequate funding is available to cover project costs. The level of reimbursement (i.e., cost share) of construction costs would be based on cost-effectiveness and eligibility of projects under the Settlement and as identified in the Conceptual Plan. Additional review time may be required as more information is gathered; however, the Co-Trustees are regularly refining the implementation process to increase efficiency.

The state had a total of 31 grant agreements active in FY 2023 (July 1, 2022 to June 30, 2023), using Settlement funding. Of the 31 grant agreements, 16 are ongoing, 8 are newly executed, and 7 have been closed (Table 1).

- **Twenty-two of the grant agreements** are associated with capital projects. Six were closed during the annual review period, seven were newly executed, and nine are ongoing (executed prior to FY 2023).
  - The **nine** ongoing projects include land purchases<sup>5</sup> and planning activities for new permanent water treatment projects in Cottage Grove and Woodbury (including Woodbury's ion exchange pilot study), temporary treatment of additional wells in Cottage Grove and Woodbury, and the connection of homes to municipal drinking water supply systems in Cottage Grove and Lake Elmo.
  - The **seven** newly executed agreements are for Cottage Grove planning, design, and communication, Newport interconnect planning, connecting St. Paul Park's third well to treatment and watermain improvements, and Woodbury administrative and design costs.
  - The **six** closed grant agreements include Cottage Grove's ion exchange pilot study and planning and pre-construction activities for Well 13 and water mains to replace contaminated wells as well as the municipal connection of Salem Church in Woodbury.
- **Two grant agreements** are associated with O&M: an ongoing grant for the St. Paul Park's permanent water treatment facility and a newly executed grant for Oakdale's permanent treatment for Wells 5 and 9.

<sup>5</sup> Land purchases by the City of Cottage Grove and City of Woodbury for their water treatment facilities are associated with grant agreements that were executed prior to the release of the Conceptual Plan (August 18, 2021).

- **Seven grant agreements** are associated with contingency funding. One is for temporary treatment O&M in Oakdale; that facility was closed during the annual review period, and the work is now captured under a different grant. Six more are ongoing to extend water mains and connect homes in Lake Elmo neighborhoods to the municipal drinking water supply system and for temporary treatment O&M in Cottage Grove and Woodbury.

**Table 1. Number of Settlement Grant Agreements, July 2022 through June 2023**

Funding Allocation Category	Ongoing Grant Agreements (Open)	New Grant Agreements Executed (Open)	Number of Grant Agreements (Closed)
Capital	9	7	6
O&M	1	1	0
Contingency	6	0	1
<b>Total</b>	<b>16</b>	<b>8</b>	<b>7</b>

### 2.3 Comparison of Estimated Costs to Awarded Funding

The overall sum of grant funding awarded for municipal capital projects in the fiscal year 2023 (July 2022 to June 2023) review period exceeds the estimated sum included in the Conceptual Plan for those projects.<sup>6</sup> Figure 4 shows this comparison using capital project grant amounts for Cottage Grove, Woodbury, St. Paul Park, and Newport, the four communities that submitted grant forms and subsequently had grants awarded during the review period. Projects may take place over multiple years, and grant amounts awarded (and compared in this section) may include full project costs even though the projects may not be completed within the annual review period. In some cases, project costs were lower than estimated in the Conceptual Plan, but in most cases, costs were higher than estimated.

In instances where construction costs exceed the estimates in the Conceptual Plan, a combination of factors has contributed, including, but not limited to, increase in construction costs since the original estimates were completed, current bidding climate, and/or change in construction assumptions or methods. All four communities identified new planning needs, including grant administration and communication, and increased planning/design costs due to increased construction scopes.

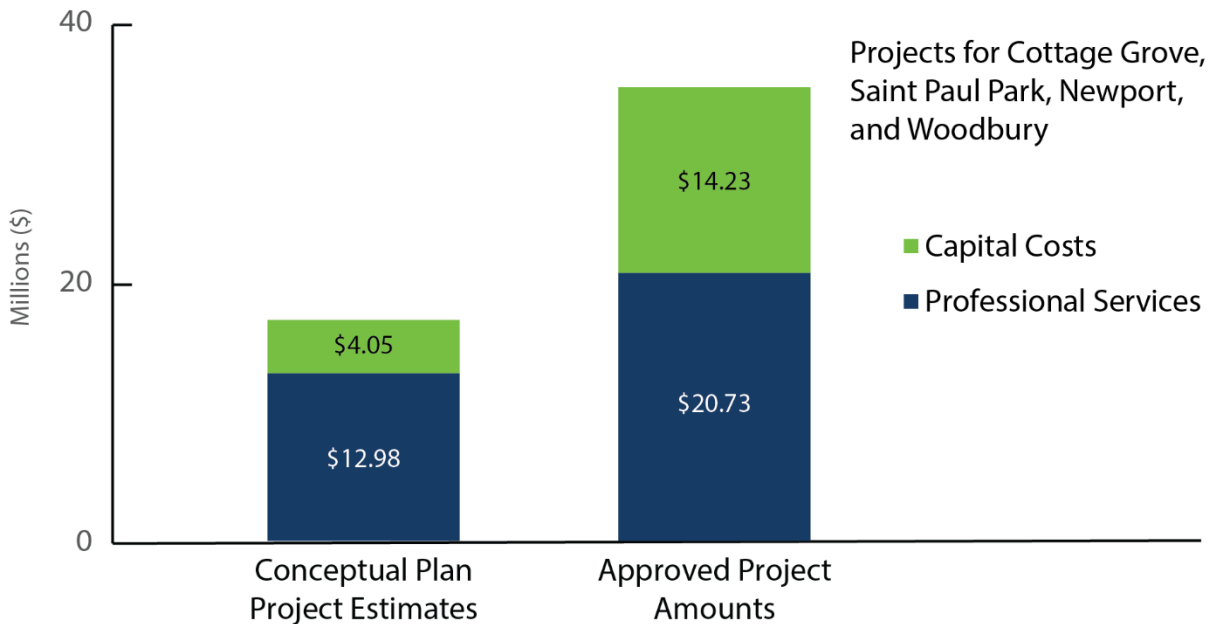
Large cost differences from Conceptual Plan estimates are mostly attributed to changes in design and engineering assumptions. In one instance, a water main could not be installed in parallel with an existing water main because of utility constraints; therefore, a larger-diameter pipe had to be installed to accommodate the necessary flow.

In other instances involving water treatment plant design, engineering assumptions continue to evolve and reveal that the design and construction require more funding than what was in the Conceptual Plan. For example, in some communities, changes in water demand growth projections and/or new PFAS concentration data since the Conceptual Plan was released have led to additional wells requiring treatment or changes in treatment strategies, such as designing for larger treatment plants, overcoming additional distribution system challenges, and incorporating approaches to adaptability for long-term

<sup>6</sup> A comparison to estimates in the Conceptual Plan is not always exact, because some communities separate portions of projects into several different grant agreements, combine the costs of individual project elements, and/or propose projects that are different than the Conceptual Plan projects such that the costs cannot be directly compared. In instances where the project was not in the Conceptual Plan, the Conceptual Plan estimate used is \$0. Total grant agreement amounts are being compared to Conceptual Plan estimates, not necessarily the amount reimbursed during this review period.

treatment. Some of these changes (e.g., treating additional wells or adding pretreatment where warranted) were anticipated in the Conceptual Plan, while other changes (e.g., evolving system operations and the magnitude of inflation) were not.

As planning and design efforts move ahead, and these additional engineering considerations become known, actual project costs continue to further exceed the cost estimates in the Conceptual Plan. Unexpected projects also increase costs for both construction and professional services, such as temporary treatment and communications costs.



**Figure 4. Cost Comparison of Conceptual Plan Estimates and Grant Awards for Cottage Grove, Woodbury, Newport, and St. Paul Park (Combined) Municipal System Projects, July 2022–June 2023**

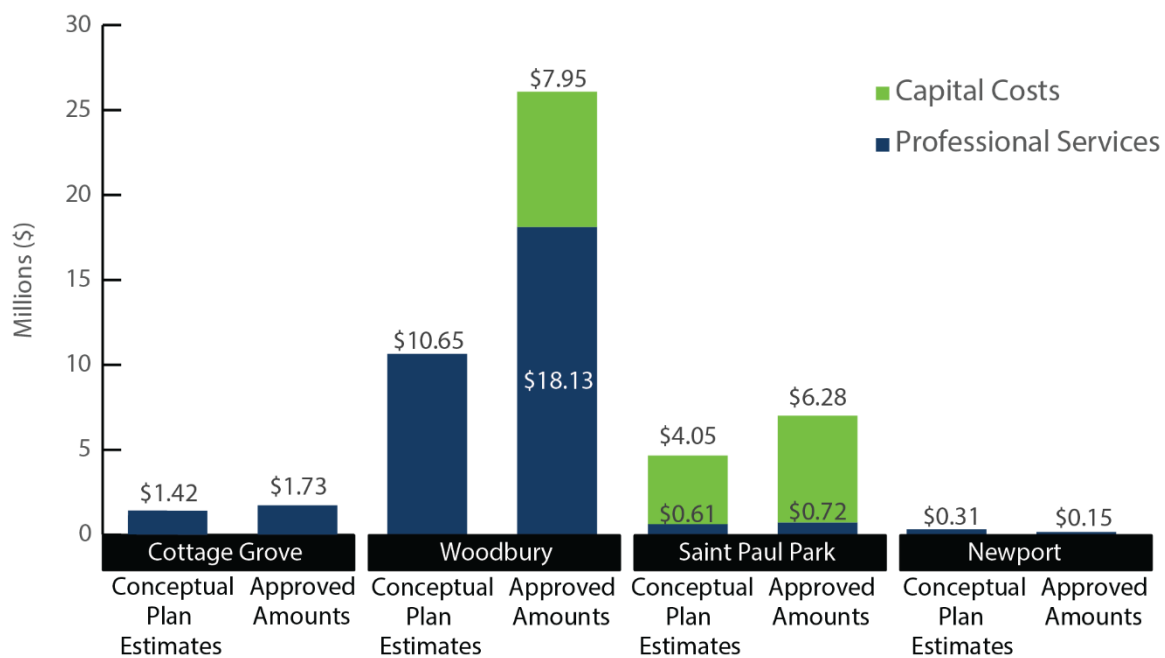
At a community level, Figure 5 shows the funds awarded per community during the review period. One community, Cottage Grove, has experienced professional services costs similar to the Conceptual Plan estimates. Cottage Grove completed planning and design for the smaller of their two planned water treatment plants, where considerable planning prior to the Conceptual Plan release, notably Cottage Grove’s ion exchange pilot study, has kept planning efforts post-Conceptual Plan to a minimum.

In contrast, Woodbury has experienced significantly higher costs than the Conceptual Plan estimates. Woodbury began the major design phase for their centralized water treatment plan, which will serve the whole community. Woodbury identified the need for their own pilot study to assess treatment technologies and the potential need for pretreatment after the Conceptual Plan was released. Higher planning and design costs for Woodbury are also a result of the need to design a larger treatment plant, and additional hydraulic challenges due to higher community demands, moving to a centralized water source, and the need to treat additional wells because of expected lower MDH health-based values (HBVs) and EPA maximum contaminant levels (MCLs).

In addition, the Conceptual Plan generally did not account for things like communication efforts and planning and designing temporary treatment. Such activities have depleted the already limited resources in the planning estimates and will create higher capital and O&M costs in the future as well. However, the Conceptual Plan is designed to adapt to and cover these higher costs so long as they are Settlement-eligible.

St. Paul Park’s major water main project to connect its third well to the existing treatment facility and connect treated water to water towers launched during the review period. Costs were higher because of different design and construction assumptions than were accounted for in the Conceptual Plan.

Newport started planning for their interconnects with Cottage Grove and Woodbury and had very little approved costs to compare with the conceptual plan estimates during the review period.



**Figure 5. Cost Comparison of Conceptual Plan Estimates and Grant Amount Awarded for Cottage Grove, Woodbury, St. Paul Park, and Newport Municipal System Projects, July 2022–June 2023**

Funding for O&M costs for long-term municipal drinking water treatment is under way, but it is too early in the process to make a comparison to Conceptual Plan estimates. Some permanent treatment systems are in place, but the treatment plants are not yet constructed according to the proposed design in the Conceptual Plan; therefore, costs are not yet comparable. More data will be available once additional long-term systems come online and/or when existing systems are completed and incur media change-outs in the next few years.

A cost comparison was also conducted for POETSs and municipal water connections costs. For state contractors and their vendors, capital and O&M costs for POETSs are comparable to the costs estimated in the Conceptual Plan. For new POETS installation, capital costs are around \$2,644. The Conceptual Plan POETS installment cost estimate was \$2,500, plus a contingency of 25% for construction and 15% for professional services associated with capital projects. With the contingency and professional services



accounted for, the total capital cost estimate in the Conceptual Plan is \$3,500, which is approximately 21% higher than the fiscal year 2023 expenditure per POETS. O&M costs have increased to just above the Conceptual Plan estimate of \$1,000/system/year. This will impact O&M funding over the long term, but in a less significant way compared to municipal system costs.

Five neighborhood connections were completed during the review period in the communities of Cottage Grove and Lake Elmo. However, these neighborhoods were connected as part of expedited projects initiated prior to the Conceptual Plan and the cost comparison has not changed over the past fiscal year. The previous cost comparison can be found in [2022 Annual Review](#).

### 3. Impacts to Implementation from New Information

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The Conceptual Plan was built with a degree of resiliency to proactively account for future potential changes. For example, the Conceptual Plan includes a designated contingency allocation for future changes and unknowns that is more robust than traditional approaches. A 25% contingency was built into capital costs, rather than using a more traditional 10%, and an additional \$16 million in capital funds was set aside to cover potential future inflation of costs.<sup>7</sup>

While the Conceptual Plan outlines estimated costs for projects, unknown conditions continue to introduce additional costs as communities implement drinking water infrastructure projects. This section focuses on new information and unexpected conditions during the annual review period that have had the greatest impact on implementation.

#### 3.1 Changing PFAS Health Values for Drinking Water

EPA released draft MCLs for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) in March 2023, with final MCLs anticipated by January 2024. The Minnesota Department of Health (MDH) is also reviewing the new information, and plans to release updated HBVs for PFOA and PFOS in late 2023. It is anticipated that the new HBVs and MCLs will be more stringent than the MDH's current HBVs and health risk limits (HRLs).

The MPCA and MDH are going through various scenarios to better understand how anticipated future, lower values may impact wells in the East Metropolitan Area. Based on different regulatory scenarios, the need is clear for additional sampling of some public and private wells to determine the potential impacts to the East Metropolitan Area. The MDH has increased sampling at public wells, and the MPCA continues to sample private wells based on plume location.

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/constructing 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 additional construction costs to treat wells may be eligible for reimbursement if those costs are associated with exceedances of the upcoming PFOA and PFOS

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<sup>7</sup> These funds are associated with the capital fund allocation and are beyond what is in the separate contingency allocation described in Section 5.1.

HBVs and MCLs. 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.

### 3.2 Inflation and Other Cost Increases

It is anticipated that construction of capital projects under the Conceptual Plan will likely take approximately 10 years to complete. Costs for materials and labor are expected to increase over this time due to ongoing and anticipated construction sector inflation, which the Conceptual Plan assumed to be 3% annually when determining the amount of capital and O&M funds set aside to cover potential future inflation costs. Currently, Settlement funds are in a State Board of Investment interest-bearing account and earned approximately 4% over the past fiscal year. This outperforms the original 1% annual earnings anticipated in the Conceptual Plan for funds allocated to capital projects over 10 years and the 3.5% anticipated for O&M.

However, actual costs continue to be higher than what was anticipated in the Conceptual Plan because of previous increases due to material cost increases, labor shortages, and supply chain issues. For example, between January 2020 and July 2023 material and equipment costs increased by 41% for water treatment, 30-40% for ductile iron, and over 100% for plastics and rubber. Cost indices show a stabilization of costs over the last six months, which suggests that additional significant cost increases due to inflation are not expected in the future.<sup>8</sup>

Moving forward, Co-Trustees anticipate that increased costs may result in the need to use funds from the contingency fund allocation (see Section 5.1 for additional information about the use of contingency funding).

### 3.3 Accounting for Temporary Drinking Water Treatment Systems

Under the terms of the Settlement, 3M provided up to \$40 million for a period of up to five years (February 20, 2018–February 20, 2023) to fund temporary drinking water treatment solutions. The \$40 million was in addition to the Settlement grant amount. Since this provision expired on February 20, 2023, Settlement funds from the capital allocation are now used to fund the remaining and additional construction of temporary treatment construction and O&M costs.

Temporary municipal GAC treatment systems are currently operating in Cottage Grove, Oakdale, and Woodbury. The temporary treatment system in Oakdale is in addition to the permanent GAC treatment system already in place. The St. Paul Park water treatment facility was initially built as a temporary treatment system but is now operating as the long-term treatment facility as identified in the Conceptual Plan. St. Paul Park is currently connecting their third well to this long-term treatment facility.

Under the terms outlined in the 2007 Consent Order, the MPCA sought cost recovery of state expenses related to these temporary treatment systems. The MPCA submitted the final invoice to 3M for reimbursement of temporary expenses. In total, MPCA has recovered \$29,742,089 from 3M in costs

<sup>8</sup> The Chemical Engineering Plant Cost Index: <https://www.chemengonline.com/pci-home>; Producer Price Index by Industry: Iron Foundries: Ductile Iron Pressure Pipe and Fittings: <https://fred.stlouisfed.org/series/PCU3315113315111>; Producer Price Index by Commodity: Rubber and Plastic Products: Plastics Water Pipe: <https://fred.stlouisfed.org/series/WPU072106033>.

related to temporary systems, along with expenses to provide bottled water until individual home GAC treatment systems were installed from February 20, 2018 to February 20, 2023.

Since this provision expired on February 20, 2023, Settlement funds are now used to fund the remaining and additional construction of temporary treatment construction and O&M costs. Cottage Grove and Woodbury have since requested temporary treatment for additional wells that meet or exceed an HI of 1 so they could meet their water demands and remain compliant with MDH's current HBVs. They will use the temporary treatment systems until the long-term water treatment systems are in place. Future requests for temporary treatment systems will be evaluated on a case-by-case basis. From February 20, 2023, to June 30, 2023, \$5,130,059 of Settlement funds were spent on temporary treatment systems. This number includes vessels that were purchased for Woodbury and Cottage Grove's temporary treatment that will be transferred over for permanent treatment.

#### 4. Projects in Fiscal Year 2024 and Anticipated Impact on Settlement Funds

Communities are continuing to move forward in implementing projects outlined in the Conceptual Plan. The Co-Trustees, in coordination with communities, anticipate several projects in fiscal year 2024 (with some already under way), including the following activities across the Settlement accounts.

- **Capital fund allocation** is anticipated to be spent on the following projects:
  - Planning, design, and construction on permanent water treatment plants and associated water main extension and installations in Cottage Grove, St. Paul Park, Woodbury, and Prairie Island Indian Community, including necessary equipment for the long-term operation of treatment facilities and new wells, as appropriate
  - Final site work at temporary treatment facilities in Cottage Grove and design and construction of temporary treatment facilities in Woodbury<sup>9</sup>
  - Sealing of private wells in Afton, Lake Elmo, Lakeland, Lakeland Shores, Newport, Oakdale, St. Paul Park, and the townships of Denmark, West Lakeland, and Lake St. Croix Beach
  - Continued planning for emergency and/or sustained water system interconnections for the City of Newport to Cottage Grove and Woodbury
  - Start of the water main extension in Lake Elmo to 18 homes in the Homestead neighborhood and construction of other water main improvements
  - Preparation of preliminary plans for new water treatment plants, including consideration of permanent and temporary treatment in Lake Elmo, with construction to follow if necessary
  - Abandonment of an existing well in Woodbury
- **O&M fund allocation** is anticipated to be spent on the following projects:
  - Permanent treatment facilities in St. Paul Park and Oakdale
- **Drinking water protection fund allocation** will continue to be expended on Project 1007, including contractor support for the feasibility study, and drinking water monitoring for public and private systems.
- **Contingency fund allocation** is anticipated to be spent on the completion of the Request for Funding projects in Lake Elmo and O&M costs for the temporary drinking water treatment plants for Cottage Grove, Oakdale, and Woodbury.

<sup>9</sup> At the time of publication of the Annual Review, Cottage Grove had submitted an additional request for design and construction funding for temporary treatment at Wells 9 and 11 but the final Co-Trustee review of that request had not yet occurred.

- **State administration fund allocation** will continue to be expended administering and implementing the Conceptual Plan, including state and contractor review and development of grant agreements, tracking project implementation progress, annual review, reporting, and preparing for and holding work group and public meetings.

Temporary treatment continues to be implemented at wells to enable communities to meet their water demands until permanent solutions are in place. As discussed in Section 3.3., all funding for temporary treatment construction and O&M has been provided for by the Settlement funds and drawn down on the account. To date, requests for funding for temporary treatment have exceeded the anticipated demand, and the Co-Trustees will continue to examine how permanent solutions can be accelerated to meet water treatment needs and minimize the need for and costs associated with temporary treatment. Additional temporary treatment requests are individually reviewed as needed.

## 5. Contingency Fund Allocation and Fund Reallocation

As the Conceptual Plan continues to be implemented, the Co-Trustees will evaluate progress on projects, compare actual costs to estimates, and monitor where and when funds may warrant reallocation. The Conceptual Plan includes contingency plans to ensure it is flexible and resilient to help address uncertainties into the future and fund safe drinking water in additional areas if necessary. (See Section 5.1 for additional detail.)

Contingency funds may be used during implementation of the Conceptual Plan if Co-Trustees determine it is necessary to implement projects that are consistent with the Conceptual Plan; use of contingency funds does not require fund reallocation. In addition to the contingency fund allocation, the Conceptual Plan also provides a framework to reallocate funding; this includes incorporating work group and public feedback, should it be necessary (see Section 5.2 for additional detail).

If Settlement funds are depleted in the future, the 2007 Consent Order requires 3M to fund treatment costs for drinking water wells with a health advisory (issued when the PFAS HI  $\geq 1$ ). A summary of the Consent Order is available at <https://3msettlement.state.mn.us/about>.

### 5.1 Contingency Fund Allocation

The contingency fund allocation reserves funding to address different areas of future uncertainty.<sup>10</sup> For instance, contingency dollars may be used to fund treatment for drinking water wells that receive a health advisory in the future but were not included in the Conceptual Plan. These additional health advisories could result from several situations, including:

- Increased concentrations of PFAS as groundwater migrates
- Improvements in analytical methods that can measure PFAS constituents at lower levels
- Reduced HBVs or HRLs for the PFAS compounds used to calculate the HI
- HBVs or HRLs being developed for additional PFAS compounds
- Final MCLs for PFAS compounds

<sup>10</sup> This contingency fund is a separate allocation from the 25% contingency built directly into capital costs. It is also separate from the additional \$16 million set aside to cover potential future inflation described in Section 3.2.

The contingency fund allocation may also be used to help PFAS-affected East Metropolitan Area communities fund the cost of providing an alternative source of drinking water because of potential restrictions on use of aquifers that affect White Bear Lake. Finally, the contingency fund allocation may be used to address project cost increases, such as increases in construction costs (e.g., inflation, labor increases) since the original estimates were completed, and/or change in construction and system operation assumptions or methods. Refer to the Conceptual Plan (Section 10.3) for additional information about the contingency fund allocation.

Contingency fund allocation dollars can be used for eligible projects at any time and do not require fund reallocation. As described in Section 2, \$8.3 million (or 4.5%) of the \$183 million dedicated to the contingency fund allocation have been used within this annual review period for Settlement-eligible neighborhood connection projects and temporary treatment O&M. The impact of temporary treatment on the Settlement funds is discussed in Section 3.3, and current requests for additional temporary treatment funding have exceeded previous estimates. If future needs exceed the Settlement Agreement funds, the 2007 Consent Order requires 3M to fund the costs of treatment for drinking water wells with a health advisory (i.e., those wells with  $HI \geq 1$ ).

Given requests for funding received since the end of fiscal year 2023, the Co-Trustees anticipate that eligible projects will be approved using capital funding before drawing on the contingency fund allocation.

## 5.2 Fund Reallocation

As part of the annual review of the Conceptual Plan, the Co-Trustees consider new information that has evolved over the previous year, a review of actual costs of projects, reallocation discussions as needed, and discussion of any other adjustments that may be necessary to ensure the effectiveness of the plan.

After reviewing how actual costs compare to estimates and considering new information over the past year, the Co-Trustees determined that a funding reallocation was not necessary during FY 2023, because the capital project grants awarded in FY 2023 still do not exceed the total capital fund allocation (see Section 2.1). The awarded grant amounts reflect spending that will occur over multiple years and not only spending in FY 2023. As fiscal year 2024 progresses, the Co-Trustees will continue to consider new information—including impacts to drinking water treatment implementation costs under new PFAS health values, impacts to inflation in fiscal year 2024, earned interest, and project funding requests—to determine whether reallocation is needed. The Conceptual Plan provides a framework with flexibility to reallocate funds, as necessary.<sup>11</sup> In addition to the contingency fund allocation, the Co-Trustees can review if any funds remain after the completion of projects within the drinking water protection, and determine how to spend these remaining funds, with input from the work groups and public. If any funding is not needed for the state administration expenses, the Co-Trustees can also reallocate those funds with input from the work groups and public.

See the Conceptual Plan (Section 10.4) for additional information about the fund reallocation strategy.

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<sup>11</sup> In general, savings associated with the capital allocation will not be reallocated to other uses until the majority of projects are completed, while any annual O&M savings will remain within the O&M allocation.