

Minnesota 3M PFAS Settlement

Notes for Combined Working Group Meeting

Wednesday, October 18, 2023

9 a.m. – 12 p.m.

Hybrid Webex and in-person meeting

Combined working group members in attendance

- Brian Lintgen
- Chris Volkers
- David Filipiak
- Jack Griffin
- Jeff Dionisopoulos
- Jeff Holtz
- Jess Richards
- Jessica Stolle
- Jim Westerman
- John Buelow
- John Hanson
- Kirk Koudelka
- Kristina Handt
- Laurie Elliot
- Mark Jenkins
- Mary Van Milligen
- Melissa Kuskie
- Mike Madigan
- Mike Kothe
- Monica Stiglich
- Ron Moorse
- Stephanie Souter

Presenters

- Kirk Koudelka, Minnesota Pollution Control Agency (MPCA)
- Jess Richards, Minnesota Department of Natural Resources (DNR)
- Debra Fleischer, Abt Associates
- Emma Glidden-Lyon, Abt Associates
- Rebecca Place, MPCA
- Hannah Albertus-Benham, WSP

Welcome

Debra Fleischer (Abt Associates) welcomed the work group members to the meeting and reviewed the agenda. Kirk Koudelka (MPCA) informed members of the passing of David Johnson, who represented the City of Oakdale on the Priority 1 and Priority 2 work groups. Kirk also shared success stories from fiscal year (FY) 2023, including:

- The installation of approximately 152 point-of-entry treatment systems (POETS) and the connection of 124 homes to municipal systems.
- Cottage Grove's Low Zone Treatment Plant had its groundbreaking last month and is expected to be fully operational in 2025.
- Communities contributed to the creation of a video on PFAS in the East Metro to communicate the Settlement actions, successes, and importance (short video was played during the meeting).

Conceptual Plan Annual Review

Emma Glidden-Lyon (Abt Associates) presented the Drinking Water Supply Conceptual Plan (Conceptual Plan) Annual Review for FY 2023, which covers July 2022 through June 2023. This presentation covered:

- The purpose of the Annual Review.
- Progress on the implementation of the Conceptual Plan in FY 2023.
- Impacts to implementation of the Conceptual Plan from new information.
- Anticipated projects in FY 2024.
- Contingency fund allocation and fund reallocation.

The Co-Trustees must provide an annual update to the work groups on the implementation of the Conceptual Plan. The Annual Review also provides an opportunity to obtain feedback from the work groups.

In FY 2023, approximately \$32.3 million was spent across the five funding allocations. There were 31 active grant agreements, including 22 in the capital fund allocation, two in the operations and maintenance (O&M) fund allocation, and seven in the contingency fund allocation. Examples of grant projects include ion exchange pilot programs, interconnect planning, connecting homes to municipal water, and installing POETS. As part of the Annual Review, the Co-Trustees compared estimated costs in the Conceptual Plan to awarded funding. Four communities submitted grant forms and subsequently had grants awarded during the review period. In most cases, costs were higher than Conceptual Plan estimates, mostly due to changes in design assumptions.

The Annual Review considered new information regarding changing PFAS health values for drinking water, inflation and other cost increases, and accounting for temporary drinking water treatment systems:

- Final maximum contaminant levels (MCLs) for PFOA and PFOS and updated health-based values (HBVs) are anticipated by late 2023 or early 2024. MDH has already increased sampling at public and private wells but new MCLs and HBVs could increase municipal wells eligible for treatment, increase treatment plant size, and require more water mains to new wells.
- The Conceptual Plan assumed 3% annual inflation; inflation has outpaced this assumption but there has been a stabilization of inflation for the relevant cost indices over the past 6 months. Some Settlement funds are in State Board of Investment (SBI) interest bearing accounts and have earned 4% over the past fiscal year, which outperforms the assumptions in the Conceptual Plan.
- The provision for 3M to fund \$40 million in temporary drinking water treatment expired on February 20, 2023, and the O&M costs of these systems must come from the Settlement Funds until long-term systems are in place. Temporary treatment is currently operating in Cottage Grove, Woodbury, and Oakdale. Cottage Grove and Woodbury has also requested additional temporary treatment for wells that meet or exceed a Health Index (HI) value of 1.

As part of the Annual Review, the Co-Trustees solicited feedback from communities via a survey on anticipated projects for FY 2024. The survey results informed the progress of projects and anticipated future work. Almost all projects are in progress, and some will be completed soon. Project 1007 also continued to move forward and drinking water monitoring will continue in FY 2024.

The contingency fund allocation reserves funding to address different areas of future uncertainty and does not go through the fund reallocation process. Primary areas of uncertainty in future spending are treatment for drinking water wells that may receive a health advisory but were not included in the Conceptual Plan and project cost increases. In FY 2023, \$8.3 million (4.5%) of the contingency fund allocation was used; 6.2% of the contingency fund allocation has been used since the release of the Conceptual Plan. Eligible projects will continue to use the capital fund allocation before drawing on contingency funding.

The fund reallocation process allows Co-Trustees to evaluate project implementation and compare actual costs to plan estimates and determine when funds may need to be reallocated. Using the Annual Review process, the Co-Trustees determined that a fund reallocation was not necessary for FY 2023 because implementation costs were generally within the estimates for each funding allocation in the Conceptual Plan. The Co-Trustees will continue to consider new information as FY 2024 progresses.

Feedback

Following Emma Glidden-Lyon's presentation several work group members asked questions.

- One work group member asked how many municipal wells are below the HI value of 0.5 but have levels that will be above the 4 parts per trillion (ppt) MCL from the EPA and will therefore need remedy. The work group member also asked if, based on the number and locations, the State anticipates needing to make substantial change to the Conceptual Plan. The Co-Trustees responded that this would be discussed in more detail in the next presentation, which includes cost estimates. There are additional municipal wells being added to treatment that will result in a change in cost estimates for the projects.
- One work group member asked if 3M's liability is expanded when the State lowers the health-based standards to conform to federal standards. The Co-Trustees clarified that the MCLs and HBVs are separate standards and processes. The 2007 Consent Order is tied to HBVs; when the HBV values are adjusted, the 2007 Consent Order remains effective.
- One work group member asked if the Conceptual Plan would be revised at any point, given that the costs for projects that came in during FY 2023 were higher than what was included in the Conceptual Plan. The Co-Trustees responded that there would be more discussion on cost estimates and spending in the next presentation.
- One work group member asked if communities who have already sent their proposed projects should update the Co-Trustees on any changes to the projects that may have occurred. The Co-Trustees responded that if there is a gap in information or other pieces of information that would be helpful, the community should communicate that information to the Co-Trustees.

Public comments and questions

There were no public comments or questions at this time.

Future Funding Considerations

Rebecca Place (MPCA) and Hannah Albertus-Benham (WSP) presented on future funding considerations. Their presentation builds on the Annual Review to show expenditures through FY 2023 and provides forward-looking information for the next couple of years of implementation.

Rebecca began by presenting on current spending, interest earned, and amount of funding unobligated:

- Capital fund allocation has \$73.2 million tied up in contracts, of which \$21.6 million has been spent. Including interest earned, the capital fund allocation has \$256 million in unobligated funds.
- O&M fund allocation has \$2.4 million tied up in contracts, of which \$2.1 million has been spent. Including interest earned, this O&M fund allocation has \$116 million in unobligated funds.
- Drinking water protection fund allocation has \$8.4 million spent on Project 1007 and sampling for drinking water monitoring. Including interest earned, this allocation has \$63 million in unobligated funds.
- Contingency fund allocation has \$15 million tied up in contracts, with \$11.4 million spent on Requests for Funding projects to extend water mains and connect homes to municipal water. Including interest earned, this allocation has \$174 million in unobligated funds.

- The State administration has used \$2.7 million in funding. Including interest earned, this allocation has \$14 million in unobligated funds.

Hannah highlighted major anticipated projects in FY 2024 and FY 2025, including Cottage Grove's Low Zone Water Treatment Plant, Woodbury's centralized water treatment, and investments in Woodbury's water mains. She summarized the differences between the updated cost estimates from the estimates in the Conceptual Plan for these projects:

- Design changes for Cottage Grove's Low Zone Water Treatment Plant, including pretreatment, clearwell storage, pump chambers, backwash tanks, and additional design effort to accommodate these factors
- Woodbury's need for larger water treatment plant capacity and more water mains, clearwell storage and pump station to overcome hydraulic challenges, inclusion of backwash tanks, future flexibility components, and additional design effort to accommodate these factors.

These costs are considered Settlement eligible because they are reasonable and necessary to treat PFAS in these communities. Preliminary cost estimates for these projects are approximately \$236 million more than the original estimates in the Conceptual Plan. In addition, there are other anticipated projects that do not yet have cost estimates.

Hannah then explained that updated costs for the capital projects in the Conceptual Plan have been prepared for discussion purposes in anticipation of MCL changes, new information coming out of submitted designs, and inflation. As a result of the WSP analysis, the difference between the Conceptual Plan estimates for all communities (including Woodbury and Cottage Grove) and the updated cost estimates is an increase of \$361 million.

Given the cost increase, Rebecca discussed future reallocation. When comparing the Conceptual Plan capital allocation and the updated costs estimates, \$297 million is the minimum needed from other allocations to cover the current estimated costs for capital. If the remaining contingency fund allocation is added to the capital allocation, the gap between the Conceptual Plan capital and contingency allocation and the updated costs estimates decreases to \$116 million. Rebecca reiterated that the Settlement Funds are sufficient to cover the current estimated costs. The Co-Trustees plan to continue to use the capital fund allocation until it is depleted, and then contingency funds can be used without a formal reallocation. The Co-Trustees anticipate needing contingency funds for capital projects in FY 2025. In addition, the Co-Trustees and work groups may need to discuss formal reallocation of funds in FY 2025. If all allocations ran out of funding, drinking water activities would revert to the 2007 Consent Order.

Feedback

Following Rebecca Place and Hannah Albertus-Benham's presentation, several work group members provided feedback and asked questions.

- One work group member asked how the Co-Trustees can assure all communities that clean water will be supplied to meet 2040 demand. The Co-Trustees reiterated that the Settlement has sufficient funds to cover anticipated drinking water projects costs. If the Settlement fund runs out, the State would then revert to the 2007 Consent Order to provide safe drinking water to impacted communities.
- Several work group members asked if any additional insight or analysis had been completed by the Co-Trustees regarding the funds that are held in reserve for Lake Elmo regarding future water supply options. Jess (DNR) indicated that the decision to issue changes to water appropriation permits remains separate from decisions on how to allocate Settlement Funds. He also indicated that the DNR cannot grant all requested permits, but DNR will review permit requests and recognize those requests are a

high priority and fit under this Settlement. Melissa added that under state statute, domestic water use is the highest priority under Minnesota State Law.

- Another work group member asked if the cost estimate projections provide the funding for the option to connect to Saint Paul Regional Water Services (SPRWS), if that is what the communities want. The Conceptual Plan cost estimates for the Oakdale and Lake Elmo capital allocation were sufficient to cover the SPRWS connection; however, the O&M allocation did not account for the SPRWS connection because estimated O&M costs for the SPRWS connection were much higher than the other alternatives. Instead, the Co-Trustees anticipated that the contingency fund allocation could cover difference in O&M costs if that was the final option chosen by the communities. In addition, that work group member followed up and asked if DNR would be receptive to appropriations increase because of PFAS. Jess (DNR) offered to discuss in additional detail concerns that usage could increase but appropriations to coverage that usage would not.
- One work group member asked for a timeline on when to expect outcomes from Project 1007. The Co-Trustees are currently scheduling a meeting update on Project 1007 for both Priority 1 and Priority 2 work group members in December. They added that the Project 1007 team is in the process of drafting the Project 1007 Feasibility Study, with a goal to complete the Feasibility Study by early 2024. Following up, another work group member asked about the final costs for the Feasibility Study. The Co-Trustees plan to finish the Feasibility Study, which will project costs for potential future projects. MPCA staff added that we will have spent approximately \$10 million out of the \$70 million allocated for drinking water protection on the feasibility study and public and private well sampling.
- One work group member asked why the cost increase factors for Cottage Grove and Woodbury were missed when creating the initial Conceptual Plan, especially the inclusion of pretreatment. The Co-Trustees responded that the Conceptual Plan did include \$25 million for pretreatment, which was to be used on a cost-effective basis (e.g., if it saved money in the long term by extending the life of the GAC system). Hannah (WSP) clarified that the addition of pretreatment is one of the higher dollar items. The other additional costs are more typical of shifts in design as the design is firmed up. Clearwell storage, for example, is storage built into the treatment plant to house clean water before it gets distributed. This storage is minimal at Cottage Grove but much larger at Woodbury, and Co-Trustees would only fund part of clearwell storage at Woodbury.
- One work group member indicated that the communities were concerned that the original Conceptual Plan estimates were low and now they are seeing that the updated capital costs could use all the capital and contingency fund allocations, as well as potentially use up the drinking water projection and O&M fund allocations. Co-Trustees responded that the estimates are higher for some components and lower for others when compared to the 30% design and bid numbers. Some aspects included in the 30% design are for elements added by a community but may not be considered Settlement eligible and, therefore, may not be covered by the Settlement. The Woodbury work group member added that their community would hit 90% design by Q2 of next year and that will give a much better idea of actual costs. The Co-Trustees reiterated that it will be important to review and update these estimates in an ongoing process.
- One work group member asked how the Co-Trustee plan to cover the \$116 million gap presented in needed capital, and the Co-Trustees reiterated that the Settlement Funds are sufficient to cover the current estimated costs.
- One work group member asked why Lake Elmo is different from other communities in the consideration of White Bear Lake court order. The Co-Trustees responded that the court order has multiple elements, one is that any permits that exist within a 5-mile radius of White Bear Lake have several different restrictions. This affects Lake Elmo because a small portion of the community is within the 5-mile radius. The other element is about sustainability of White Bear Lake which brings in other communities that are farther than 5 miles away.

- One work group member asked if the language under the 2007 Consent Order is broad enough to allow for fund reallocation from O&M. The Co-Trustees reiterated that all the Settlement Funds must be spent before the 2007 Consent Order can be used. The 2007 Consent Order says that 3M, under the Settlement, has to provide safe drinking water to those who exceed the HBV. When the O&M fund allocation was created, the amount set aside was intended to cover projects at a level lower than the HBV and, in that case, the 2007 Consent Order would not cover those projects. However, as the HBV levels decrease, all projects that meet the HBV will be covered by the 2007 Consent Order.
- One work group member asked if the Co-Trustees feel that the O&M costs are more stable than the capital costs or will there be additional analysis going on for O&M. The Co-Trustees responded that some of the O&M costs were considered with home treatment systems as discussed in the FY 23 Conceptual Plan Annual Review. However, at this time, the Co-Trustees have limited actual GAC change out costs to show a definitive increase. Hannah added that WSP is developing updated O&M cost estimates now for treatment identified in the Conceptual Plan.
- One work group member pointed out that the numbers will vary by change out schedule for systems but that unless carbon costs dramatically increase this may stabilize. Hannah added that WSP estimated treating to a lower amount of 2 ppt to be conservative. One work group member asked for clarification if the 2007 Consent Order can be used for O&M and provided the example of if GAC replacement is needed after Settlement dollars are gone with concern that the issue will remain if the well is at an HI of 1.0 at the time because there will be wells using Settlement dollars to install GAC with an HI of 0.5. The Co-Trustees responded that the HI of 0.5 standard is gone and the MCLs are going down much further. With that in mind, when Settlement Funds are gone, the 2007 Consent Order would take on O&M. A member of the public added that the 2007 Consent Order is in place under Superfund liability, and this is a forever liability. A work group member followed up by asking if there are future costs or situations not covered by the 2007 Consent Order that cities and townships should consider. The Co-Trustees replied that they do not believe there is anything under O&M that is not covered by the 2007 Consent Order. The ineligible design items are those that are not part of the actual treatment system but items that go above and beyond to improve the physical plant for the community. Another work group member pointed out that the 2007 Consent Order did not cover things in Lake Elmo, to which the Co-Trustees clarified that the Washington County Landfill funds are different and not part of the 2007 Consent Order.

Next Steps

Rebecca Place (MPCA) reviewed the next steps and key dates:

- The Co-Trustees will provide a Project 1007 update for the Priority 1 and Priority 2 work groups in December 2023.
- EPA's updated MCLs and MDH's updated HBVs are expected in late 2023 or early 2024. The Co-Trustees will hold meetings with the Priority 1 and Priority 2 work groups after these are finalized.
- The next biannual Priority 1 combined work group meeting is in Spring 2024.
- Rebecca also provided an update on the Priority 2 status and schedule.

Feedback

There was no additional feedback at this time.

Public comments and questions

There were no public comments or questions at this time.