

Minnesota 3M PFAS Settlement

Notes for Combined Priority 2 Working Group Meeting

Wednesday, November 15, 2023

9:00 a.m. – 12:00 p.m.

Hybrid Teams and in-person meeting

Combined work group members in attendance

- Aaron Betcher
- Amy Sigveland
- Brian Johnson
- Dave Schulenberg
- David Filipiak
- Howard Markus
- Ingrid Schneider-Sougstad
- James Creaghe
- James Kelly
- Jess Richards
- Jill Trescott
- Kirk Koudelka
- Kristin Seaman
- Kristina Handt
- Laurie Elliott
- Melissa Kuskie
- Michael Madigan
- Michael Molenda
- Monica Stiglich
- Pam Anderson
- Randall Clary
- Ron Moorese
- Stephanie Souter
- Steve Dibb
- Tony Manzara

Presenters

- Debra Fleischer, Abt Associates
- Karen Carney, Abt Associates
- Andrew McFadden, Abt Associates

Welcome

Debra Fleischer (Abt Associates) opened the work group meeting by walking through the hybrid meeting logistics, conducting roll call, and discussing the meeting agenda. Melissa Kuskie (Department of Natural Resources [DNR]) then provided opening remarks. She explained that the meeting would provide a review of the overall Priority 2 process, continue discussion on draft PFAS consideration options and evaluation criteria with a focus on work group survey results, and discuss the Request for Proposals (RFP) geographic scope. She noted that the Minnesota Department of Health (MDH) will release updated fish consumption advisories in spring 2024. Several subgroup members have provided plans that are relevant to Priority 2 goals. She also provided scheduling notes – there will be a Project 1007 information meeting on December 6th that is open to Priority 1 and Priority 2 work group members. Finally, she reported that the September work group meeting materials are posted on the 3M Settlement website.

One work group member asked if the list of plans provided by the subgroup members would be sent to work group members. Susan Johnson (MPCA) responded that the Co-Trustees could send a list of the plans received but will not send copies of the plans.

Priority 2 Overview/Reminder

Karen Carney (Abt Associates) presented an overview of the Priority 2 work group process. She reviewed what Priority 2 is, what the Priority 2 goals are, and what the process will be for figuring out how to award Priority 2 funding to projects.

Language from the Settlement indicates that Priority 2 is intended to replace, protect, and enhance the natural resources and services that have been lost due to the release of PFAS from 3M. This language is important because it shapes how the process is structured, and any projects that are funded by Priority 2 have to be consistent with this language.

Karen reviewed the Priority 2 goals, which are: to restore, protect, and enhance aquatic and terrestrial resources, wildlife, and habitat; to increase understanding of fish tissue contamination, improve communication about PFAS-based fish consumption advisories, and identify and enhance alternative, non-contaminated fishing area; and to improve and enhance outdoor recreational opportunities.

The Government and 3M and Resident work groups support the Priority 2 planning process by providing feedback on goals, the screening and evaluation criteria, and some components of the RFP. The technical subgroup identifies relevant natural resources and recreation planning efforts. Unlike Priority 1, Priority 2 has limited funding, so projects will be solicited via a competitive public RFP. Co-Trustees will then select projects that best meet the Priority 2 goals. DNR, the lead for Priority 2, routinely uses a competitive RFP approach to distribute its funding.

Karen noted that due to the use of an RFP process, the Co-Trustees need to be aware of potential conflicts of interest to ensure work group members are not perceived as having an unfair advantage. The work group cannot talk about or advocate for specific projects in meetings, and only certain parts of the RFP process can be discussed with the work group.

Feedback

There were no comments or questions from work group members.

Review of Work Group Survey Results: PFAS Consideration Options and Evaluation Criteria

Karen Carney presented an overview of the work group survey results. The Co-Trustees wanted to make sure they heard from everyone regarding the draft PFAS consideration options and evaluation criteria, so they sent a survey to all work group members. The survey asked work group members to rank and provide feedback on the PFAS consideration options and to rank the relative importance of the evaluation criteria. Co-Trustees received 17 responses, compared to 27 entities that participate in the work groups.

Karen first reviewed the different PFAS consideration options and noted that all respondents seemed to understand the differences between the options.

Karen then presented the survey results for the PFAS consideration options. The Option 3+4 hybrid and Option 4 as a standalone were most favored by respondents. Option 4 received one more first choice vote, but the hybrid option received the most first and second choice votes combined. Option 3 was selected by some respondents

as their first or second choice and was not ranked last by any work group members. Overall, it was the most favored option. Option 1 was favored by some respondents and was chosen more frequently than Option 3 as a first choice, but it was also ranked last the most frequently, making it the least favored option overall.

Some themes emerged from the qualitative feedback on the PFAS consideration options. Respondents generally agreed that PFAS-related risks should be considered during the screening and/or evaluation process and that PFAS risks and mitigation strategies should be addressed in project proposals. The hybrid option was preferred because it would only screen out projects with the highest risk of harming wildlife, while allowing projects that could substantially benefit wildlife. Those who chose Option 1 felt it was important to avoid causing any further PFAS injury to wildlife through Priority 2 funded projects.

Karen then presented the results of the evaluation criteria ranking. Respondents were asked to rate each criterion as “most important,” “more important,” or “somewhat important.” Results indicate that the two “most important” criteria are 1) benefits to injured resources and services and 2) minimizes potential for additional wildlife injury and fish consumption related human health risks (when this criterion incorporates PFAS-related risk of injury). The “more important” criteria are cost effectiveness, minimizes potential for additional wildlife injury and fish consumption related human health risks (when this criterion incorporates only non-PFAS related risks of injury), minimizes adverse community impacts, public access, and self-sustaining benefits. The “somewhat important” criteria are consistency with local planning, community engagement, equity and environmental justice, benefits multiple municipalities, monitoring plans, measurability of project benefits, and matching/leveraging funding. Although equity and environmental justice was ranked as “somewhat important,” the state administration places a high importance on this criterion, and the RFP will reflect that.

The themes from the qualitative feedback on the evaluation criteria ranking were that all draft criteria were appropriate for inclusion, that respondents’ rankings were trying to strike a balance between the potential risks and benefits of proposed projects, and that there is a concern that smaller communities may find it harder to do well on certain criteria (e.g., matching funds, monitoring plans).

Feedback

One work group member asked for clarification on the ranking of the public access criterion, since it was ranked as “most important” in the results table but “more important” in the final list. Karen responded that the number of votes for “most” and “more” were very close for this criterion (seven versus six). The other criteria in the “most important” category had stronger signals towards that category.

One work group member asked for confirmation that the criterion referred to as being important to the state and prioritized in the RFP, despite being ranked as “somewhat important” by the work group members, was the equity and environmental justice criterion.

One work group member asked how the two criteria ranked as “most important” will interact or potentially counteract each other. Karen responded that the criteria are not linked but will help frame how the Co-Trustees balance the risks and benefits of projects. Melissa added that the language of the Settlement says Priority 2 funding needs to restore and enhance natural resources, and projects that do that may or may not pose additional risks for wildlife and human health. There may be projects with only benefits and no risks, but these two criteria will be unique and independent to account for projects where there are risks.

One work group member asked how the Co-Trustees plan to measure the equity and environmental criterion. The work group member noted that a similar conversation took place regarding community engagement during the last work group meeting and asked how equity and environmental justice can be ensured unless community engagement is also measured and considered. Melissa responded that MPCA already incorporates environmental justice considerations into its RFP and grant process and there is a standard scoring process in place. The scoring process looks at the community and populations served by the project, how they have been impacted by environmental issues, and how the project plans to mitigate these impacts. There are quantifiable metrics for environmental justice considerations. The work group member noted that there should be some education on this criterion so that project proponents know how to describe and measure it. Karen responded that the Co-Trustees are planning to host a pre-proposal grant meeting after the RFP is released to walk through the RFP components. The equity and environmental justice criterion can be discussed in more detail then.

One work group member expressed surprise that the community engagement criterion was ranked as “somewhat important” because it can be tied to equity considerations. The work group member added that community engagement should be incorporated into the RFP because having the consensus of the community is important to the success of a project. The work group member asked if the criteria that were ranked “somewhat important” will still end up in the RFP. Karen responded that none of the criteria are going to be removed and the survey was asking how work group members think the criteria should be weighted.

Ron Wieland (DNR) noted that a lot of restoration work involving wildlife may enable communities to engage populations that are underserved through part-time employment, which would allow people from communities without much access to natural areas to work in the outdoors.

One work group member noted that, in their experience, all government grants have an accountability or reporting component. The work group member felt that although these criteria were ranked as “somewhat important” in the survey, the RFP should still require monitoring of funds and accountability.

One work group member noted that some communities may not have the staff and resources to monitor and measure benefits or find matching grants. Karen responded that partnerships with other organizations, municipalities, educational institutions, or other entities would be allowed and could make sense in these situations. Jess said that monitoring and measuring benefits must remain important at some level, as progress and results must be tracked somehow. One work group member agreed that demonstrating effectiveness is important but was worried that PFAS monitoring to demonstrate results would be too expensive. Karen responded that, most of the time, benefits will not be directly related to PFAS levels, but to actions that counteract the negative impacts of PFAS.

Public Comments and Questions

There were no comments or questions from members of the public.

RFP Geographic Scope Discussion

Andrew McFadden (Abt Associates) presented on the Priority 2 RFP geographic scope. He noted that the Co-Trustees are looking for feedback on the principles used to guide the selection of geographic boundaries and the pros and cons of using jurisdictional, hydrologic, or other boundaries. He encouraged work group members to

focus on a holistic view of the pros and cons related to the principles. He noted that to avoid any conflicts of interest, the Co-Trustees will not discuss specific communities or areas to include or exclude.

Andrew reiterated that the objective of Priority 2 is to restore ecological services and recreational opportunities that were harmed by releases of PFAS from 3M. The Co-Trustees are establishing a geographic scope to make sure applicants are not investing energy in proposing projects that are outside of the area the Co-Trustees want to consider. Andrew introduced five principles that will be used to define the area in which Priority 2 projects will be accepted and reviewed. These guiding principles are:

1. East Metro area and downstream areas of Mississippi and St. Croix Rivers.
 - a. This principle comes directly from the Settlement language.
2. Inclusive of areas impacted by PFAS releases from known 3M source areas.
3. Inclusive of broader areas to allow for projects with lower PFAS risk.
 - a. The Co-Trustees do not want the scope to be as narrow as principle 2. Including broader areas is consistent with the Settlement language and allows for projects such as upstream restoration that would benefit more impacted downstream areas.
4. Consider the use of non-jurisdictional boundaries as opposed to municipal boundaries that are sometimes used to define geographic scopes.
 - a. This principle is in line with the fact that terrestrial and aquatic ecosystems do not adhere to jurisdictional boundaries.
5. Inclusive of populations that are underserved.
 - a. Environmental justice is a priority of the current administration and will be considered in this project selection process.

The geographic scope options are communities, counties, watershed management districts, hydrologic unit code level 10 (HUC 10) designations, or HUC 12 designations. The HUC designations are created by the United States Geological Survey to classify/designate catchment features and divide them into various levels. HUC 10 is the typical watershed boundary and HUC 12 is the sub-watershed boundary.

Andrew showed five maps corresponding to the five geographic scope options.

The first map showed the Priority 2 communities invited to the work group, as well as the Prairie Island Indian Community (this community is included in all geographic scope options). The approximate area covered is 430 square miles. This scope is narrow and very focused on 3M impacted areas but does not include many areas that are less impacted and have less PFAS risk.

The second map showed the counties (Ramsey, Washington, and Dakota) and covers 1180 square miles. The scope is large and inclusive and checks all the principles. However, it includes some areas that are well beyond the 3M impacted area, and the boundaries are not resource based and do not take an ecosystem view into account.

The third map showed the watershed management districts (WMDs) and covers 670 square miles. WMDs are loosely based on HUC 10 designations but follow some jurisdictional bounds. This scope is watershed focused and could allow for projects that focus on a watershed region and cross municipal boundaries. It also includes less impacted areas that are tributaries to more impacted reaches, but it could be too broad.

The fourth map showed HUC 10 designations and covers 750 square miles. It is very similar to the WMDs map but is broader in the southwest corner. It includes areas with lower PFAS risk but, like the WMDs map, could be too broad.

The final map showed HUC 12 designations and covers 620 square miles. It incorporates all the Priority 2 communities without expanding too far beyond the 3M PFAS-impacted area. It also includes less impacted areas, such as tributaries to more impacted reaches, and so could allow for aquatic restoration projects. However, it might be challenging for applicants to understand where they fall in relation to this boundary. The Co-Trustees would work with applicants to make this an easier process, potentially by providing a KML file so applicants could figure out where a project would fall using its latitude and longitude. This option may be too far away from impacted areas in some of the reaches, but overall, could be a better fit than some of the other geographic scopes presented.

Feedback

One work group member asked which watershed districts were included in the WMDs map. Other work group members said that Vermillion, Ramsey-Washington Metro, South Washington, and the Lower Mississippi are included. Andrew said that the Co-Trustees can update the map with the district delineations and names and will include this in the slides posted as part of the meeting materials.

One work group member asked if there was a map or list of locations that have been shown to have PFAS levels above the national averages, and that if there is one, it would make sense to include in this presentation. Andrew responded that the Co-Trustees do not have that information readily available for this meeting, but that the presentations from the July [incorrectly stated as May] work group meeting included data that the Co-Trustees are using to understand where PFAS impacts are. The data are presented as hazard quotients and are compared to risk thresholds rather than national averages. The hazard quotient is the concentration divided by an ecological risk threshold, where any value exceeding one indicates risk. Another work group member noted that it would be helpful to have this information overlaid on the maps shown in the presentation. Andrew showed a map of the HUC 12 geographic scope overlaid with a three-mile buffer around surface water bodies with evidence of PFAS contamination based on ecological thresholds, which can be shared with work group members. He noted that in this context, the “impacted” designation is broad – an entire stream is categorized as PFAS-impacted if it has one sample that indicates risk. This map shows that the HUC 12 scope does a good job of representing the PFAS-impacted areas but also goes slightly beyond into the less impacted areas.

One work group member asked how the downstream areas of the Mississippi and St. Croix rivers are designated. Andrew responded that the downstream area is the confluence of the Mississippi and St. Croix rivers through Pool 3.

Ron Wieland asked what the difference was between the light blue-shaded and dark blue-shaded areas were on the buffer map. Andrew explained that the buffer layers are transparent and the buffer was done twice, once on lakes and once on streams, so the darker shade is where the two buffers are overlapping.

One work group member asked how many square miles are in the three-mile buffer zone. Andrew said that information can be provided in the slides when they are posted.

One work group member noted that having the different maps side-by-side would be helpful.

One work group member asked how the Co-Trustees know where the cutoff of 3M PFAS river exposure is and if potential restoration projects could partner with other states. Andrew responded that Priority 2 funding is limited in scope to Minnesota. He added that the Co-Trustees and work group members are aware that there are multiple sources of PFAS through many states and there are PFAS signals in large rivers downstream that are likely not connected to 3M releases. Jess said that Priority 2 funded projects must have a connection to 3M related impacts, and the farther downstream a project is located, the looser that connection becomes.

One work group member asked if projects that do not provide a benefit to Wisconsin should be avoided. Andrew said that projects should be focused on restoring injured resources in Minnesota, which can include tributaries to injured aquatic systems that may be connected to areas bordering Wisconsin. Another work group member noted that Wisconsin recently passed legislation for grants to landowners for PFAS mitigation. Although recognition of Minnesota's neighbor across the river is important, Wisconsin has their own PFAS work going.

One work group member asked if principle four required the Co-Trustees to choose a watershed-based geographic scope. Andrew responded that principle four was included because the Co-Trustees want to at least consider the use of watershed boundaries, but all five of the geographic scope options presented fit the principles to some degree. Principle four is not meant to be exclusive but is something for consideration. Karen clarified that the principles are not a requirement and influence the options being considered. The Co-Trustees would appreciate input on whether the principles make sense, as well as any feedback on the scope options presented. Melissa added that principle one is non-negotiable since it is based on Settlement language, but the rest are only meant to be guiding.

Work group members thought the 3M disposal sites should be an important factor in determining the geographic scope. One work group member felt that including areas that are broader and less impacted is less important than having the connection to the 3M disposal sites. Another work group member agreed that it does not make sense to spend money on a project in an area that has not been affected by the disposal sites that are the focus of the Settlement. Another work group member added that there are other grant programs that the non-3M impacted areas could apply to. Karen noted that focusing funding only on the most impacted areas leaves out the option to restore resources that could provide benefits to areas with less PFAS risk. She also asked if the work group members disagreed with including a small buffer to allow for upstream projects. One work group member said yes, as there are other sources of funding for that.

One work group member was in favor of a buffer that encompassed upstream projects because wildlife moves.

One work group member asked if the geographic scope would be an eligibility requirement or an evaluation criterion. Karen said it would be an eligibility/screening component.

One work group member expressed support for using the three-mile buffer map. Another work group member asked if there was a reason why three miles was chosen. Karen responded that the Settlement language is vague on geographic scope, so the Co-Trustees have to make some judgement calls. The Co-Trustees believe that three miles balances impacted areas with the possibility of restoring resources outside of impacted areas, where it makes sense.

One work group member asked if any of the maps could be modified and noted that they think the WMDs map goes too far west. Andrew responded that the Co-Trustees would be open to potentially modifying maps but pointed out that the HUC 12 map limits the westerly extent.

One work group member noted that they feel the Co-Trustees and consultants are in favor of projects that are outside of the immediately impacted area and are favoring things that help wildlife, while work group members from impacted communities are saying that while it is important to have a holistic approach, there are communities very specifically being affected by PFAS. The work group member asked if the analysis is going to learn more towards helping nature and less towards projects that specifically work in communities. Kirk responded that Priority 2 impacts are larger because they focus on ecological and recreational harm and are different from Priority 1 impacts, which focused narrowly on drinking water. Kirk said that there is a conversation about downstream projects and benefits because ecological impacts from PFAS are broad. The agencies are interested in achieving benefits within impacted areas but also understand that projects located outside of those areas can provide even more benefits to the area. The Co-Trustees do not want to rule out those possibilities. Jess reiterated that since this is a natural resource damage assessment (NRDA) settlement, impacts to natural resources must be addressed and the Co-Trustees are considering impacts to wildlife and natural resources, not communities. Karen added that the Co-Trustees are not favoring projects that are farther away, they just want the option to possibly fund those projects.

One work group member expressed support for a combination of the HUC 12 and community maps. They noted that they did not feel it was right to exclude the areas that are included in the community map but are not in the HUC 12 map. The work group member felt that most money should be spent in the most impacted areas, but would want to allow some money in less impacted areas.

One work group member expressed support for the HUC 12 map, as they feel it is the best balance of 3M-impacted areas with a natural resource boundary.

One work group member expressed support for both the three-mile buffer map and the HUC 12/community combined map.

One work group member noted that by funding a project outside of 3M-impacted areas, it necessarily defunds another project that is within 3M-impacted areas.

One work group member asked if the location could also be a weighted component of the proposal. They would like to see the location screening be limited to the HUC 12 or community map, but then further evaluated, with areas located in the overlap of the HUC 12 and community maps scoring higher than those just in the HUC 12 map. Kirk asked if the work group member meant that the projects should be located in the communities, or the benefits should be felt in the communities. The work group member said the projects. Karen said that geographic proximity to injured resources could be an evaluation point. Jess added that the criteria could also be framed as benefit of project to PFAS-impacted resource, to allow projects that provide lots of benefits to communities but may take place outside of communities. Ron Wieland was in favor of this point and added that parcels of natural lands in the communities are typically small, and most residents go further afield to larger areas of nature. It would be beneficial to enhance those so that people could experience improved habitats near their neighborhoods, even if they aren't necessarily in their neighborhoods.

Kirk clarified that the current group consensus is in favor of the combined communities and HUC 12 map.

One work group member noted that it is very easy to determine whether a project fits into a geographic region, but very difficult to determine where the benefits will go. The work group member favored the idea of a proximity/location criterion rather than widespread benefit criteria. Melissa noted that a project can be located

inside a community, but if it is on the far edge, the most significant benefits may be outside of the community boundary.

One work group member noted that the HUC 12 map seems like a minor increase in geographical space (adding a bit of the Vermillion River boundaries to the south and Sunrise River to the north) that provides a good, scientific expansion to the municipalities.

Next Steps

Karen Carney covered the next steps for Priority 2. Before the next meeting, the Co-Trustees will share the content from the November meeting; continue to engage work group members, including via a survey (as appropriate) to elicit feedback on specific RFP related topics; incorporate feedback on evaluation criteria weighting and RFP topics; and plan the next work group meeting. Karen reviewed the schedule for the remaining work group meetings.

Feedback

One work group member asked if the Co-Trustees have decided how long applicants will have to apply for the RFP. Karen responded that they have not decided and asked for work group input. One work group member said that six to eight weeks would be the very minimum, as this is a new program, and it takes time to put partnerships together. Other work group members said that three months would be more appropriate, so watershed district boards and county councils can meet, and organizations that need to get board approval can do so. Karen said there will be outreach and engagement prior to the RFP release so that communities know it is coming.

One work group member asked if there was a deadline for when awarded Priority 2 funding must be spent/projects completed. Karen said there is no deadline.

Public Comments and Questions

One member of the public noted that they understand the logic of projects upstream of impacted areas but have concerns about spending money on a project that benefits areas like Rosemount over something in Lake Elmo, which is in the most impacted area.

One member of the public noted that there are numerous regional parks located in the HUC 12 scope, including Battle Creek Park, which has over 1,300 acres of natural land.

One member of the public shared a link to information on the regional watershed management districts.