

Minnesota 3M PFC Settlement

Notes for Government and 3M Working Group Meeting

Wednesday, February 17, 2021

9:00 a.m. - 12:00 p.m.

Virtual WebEx Meeting

Group members in attendance:

Ann Pierce	Chris Hartzell
Christina Volkers	Daniel Kylo
Jeff Dionisopoulos	Jennifer Levitt
Jess Richards	Jessica Stolle
Jim Kotsmith	Kathryn Sather
Kevin Chapdelaine	Kirk Koudelka
Kristina Handt	Lowell Johnson
Mary Hurliman	Michael Martin
Michelle Elsner	Monica Stiglich
Ray Kaiser	Ron Moore

Presenters:

- Kirk Koudelka Minnesota Pollution Control Agency (MPCA)
- Jess Richards, Minnesota Department of Natural Resources (DNR)
- Heather Hosterman, Abt Associates
- Hannah Albertus-Benham, Wood
- Mark Lorie, Abt Associates

Welcome

Mark Lorie (Abt Associates) welcomed the work group to the meeting. Mark reviewed the agenda. The purpose of the meeting was to review the public feedback and detailed cost updates, as well as discuss next steps. Kirk Koudelka (MPCA) reviewed recent updates. The Co-Trustees have been receiving and evaluating community feedback and work group feedback. The cost updates are primarily based on community feedback received in comment letters and from the one-on-one technical meetings. It is important to the Co-Trustees that the communities are comfortable with the cost estimates. Kirk also noted that MPCA recently released a PFAS Blueprint, which details their plan to address PFAS across the State. The Blueprint can be found here: <https://www.pca.state.mn.us/waste/minnesotas-pfas-blueprint>.

The Citizen-Business group liaisons provided a recap of the Citizen-Business meeting. There was a lot of discussion on West Lakeland including some concerns about cost and residents keeping their wells for irrigation. There was concern about 3M's letter in response to the Settlement. However, the Co-Trustees explained that the agencies were clearly responsible for the final decisions and that 3M could not take the funds back. There was some concern about disposal of used carbon from treatment systems and

liability issues the communities could face. Two major cost discussions were on city fees and stormwater compliance.

Summary of feedback from work groups and public comments

Heather Hosterman (Abt Associates) presented the feedback that was received since the draft Plan was released in September. The comments came from three sources: comment letters from various communities and organizations, work group comments on specific elements of the Plan, and comments submitted via the public survey. Several key themes included:

- There were many comments about administrative elements of the Conceptual Plan. Communities would like to begin preliminary work before the Plan is final. There were also concerns about how the funds would be distributed among the communities and whether the State would guarantee to implement everything included in the Plan regardless of capital costs. Some would also like an independent cost review.
- A lot of feedback centered on capital and O&M cost estimates. There were concerns about the high amount of O&M funding for Lake Elmo/Oakdale for Option 3 (connecting to St. Paul Regional Water Services) and the difference in O&M funding for public and private wells. Others felt the cost estimates were too low and that the cost difference would fall to communities and their residents.
- Many comments focused on funding categories. Many commenters wished to prioritize drinking water treatment before sustainability and conservation projects were funded. Others asked for more specific information about what was covered under drinking water protection versus sustainability and conservation.
- Most work group members prefer Option 2 due to the lower Health Index (HI) threshold. Some community members liked that all options include a treatment threshold below HI of 1.
- Municipal versus private wells. Many West Lakeland Township residents do not want to connect to a municipal system. If they are connected, many requested to keep their wells for irrigation. Commenters from Lake Elmo and Oakdale did not want to connect to other systems.

The public survey asked if each of the options were acceptable. For each option there are more responses indicating the option is not acceptable than it is acceptable. Common themes from the public survey response include:

- Urging Co-Trustees to use the lowest possible HI threshold for treatment
- Urging Co-Trustees to prioritize capital and O&M to minimize water bill increases
- Too high a percentage of funds are going to funding allocations with little explanation of what they will cover (e.g., sustainability and conservation, drinking water protection)
- Some respondents felt that communities should not pay anything since they are not the source of contamination
- Many West Lakeland residents oppose a municipal system and would like to keep their wells for irrigation even if a municipal system is put into place

Feedback:

Work group members were concerned about the letter from 3M that claimed the Plan was legally baseless and outside the scope of the Settlement. They hope that the 3M letter does not delay progress and were concerned that the 3M letter contained inaccuracies about Woodbury's system. Kirk explained that they had been in contact with 3M since the letter and the agencies still feel they are within the Priority 1 framework. There is a dispute resolution process built into the Settlement and the State has been keeping the judge who originally ruled on the Settlement up to date on all developments.

One work group member asked about the opposition to using water from St. Paul Regional Water Services. Is that based on governance concerns or fear of using surface water? Kirk explained that it was a combination of these issues. People are hesitant to connect with water that is outside of their community jurisdiction, regardless if it is surface water or groundwater. Jess Richards (DNR) added that people want to be in control of their own water systems and water costs.

Updated cost estimates for recommended options

Hannah Albertus-Benham (Wood) presented updated cost estimates for the recommended options. The updated costs are compared to those originally released in September 2020 in the draft Plan. The costs were refined primarily based on one-on-one conversations with the communities. Updated costs were sent out to group members on February 5th. Wood will continue to refine costs after follow-up one-on-one meetings in February and March. The goal is to make costs as conservative and inclusive as possible at this point. Hannah clarified that the updated costs include 20-year operation and maintenance (O&M) costs both with and without interest. Kirk added that there has been some discussion with 3M on what the \$40 million temporary fund under the Settlement should include. 3M has had some issues with items billed under that temporary fund.

Key cost updates include:

- Options 1 – 3 (these costs include a West Lakeland municipal system and a Lake Elmo-Woodbury interconnect for options 1 and 2): there was an overall increase in capital of about \$180 million for Options 1 and 3 and an increase of about \$214 million for Option 2. The biggest difference is the lower HI threshold, which means additional wells and POETS are treated. The O&M costs were not impacted as much as capital costs.
- Wood looked at several options for Lake Elmo and West Lakeland Township. Details on cost differences between these options were sent out to work group members on February 5th.

	Capital cost (\$Ms)			Annual O&M cost (\$Ms)			Total 20 year costs (\$Ms)*		
	Sept 2020	Jan 2021	Difference	Sept 2020	Jan 2021	Difference	Sept 2020	Jan 2021	Difference
Option 1	302	481	179 (59%)	4.24	4.36	0.13 (3%)	417	599	182 (44%)
Option 2	320	534	214 (67%)	4.54	5.54	0.99 (22%)	441	684	243 (55%)
Option 3	299	479	180 (60%)	8.19	7.98	-0.20 (-2%)	520	694	174 (33%)

- Some overarching changes to costs include stormwater compliance costs, community-specific updates (e.g., Lake Elmo-Woodbury interconnect), updated service laterals costs to connect homes to the system, power factor adjustment for large water treatment plants in Cottage Grove and Woodbury, demolition of temporary facilities, costs of POETS installed after the Settlement in February 2018, well and tank costs prorated to include expedited projects, and reduced some O&M costs related to the St. Paul Regional Water Supply bulk water rate.
- There is an updated number of POETS estimated for West Lakeland. Previously, Wood included costs for all homes to be connected if a municipal system were put into place. However, after additional evaluation, it was determined that connecting some homes was not as feasible as providing them with POETS. In addition, more POETS were added based on updated sampling data from 2020.

Hannah also discussed in more detail the factors that influenced costs. Wood used an updated power factor to scale high-capacity water treatment systems based on feedback from the communities. They found, using an EPA tool, that 0.85 is appropriate. It makes sense to keep a smaller power factor (0.6) for smaller systems. This primarily impacts Woodbury and Cottage Grove that have plants over 6,000 gallons per minute. This creates an overall cost increase of \$8.3 million for Option 1 and \$17.1M million for Option 2.

Wood also worked to refine the service lateral connection costs. The updated costs incorporate the price to remove POETS (\$4,000 per POET) and community-specific conditions based on past experience, shallow bedrock, and City connection charges. This brings service lateral costs to \$19 million. This also brought up the importance of being consistent in what the Settlement covers across communities. One large factor is city connection fees that can include water availability charges, water connection charges, water meter charges, and permits. Each community has a different fee schedule. There are differences among communities on how they apply these fees in the expedited projects.

The most impactful cost update was stormwater compliance. The Valley Branch Watershed District requires stormwater management for all projects that create or reconstruct impervious surfaces equal

to or greater than 6,000 square feet. Other construction permits have similar requirements. Based on a recent project in Cottage Grove, Wood estimated \$82/linear foot of pipe to account for stormwater compliance. However, these costs will not be fully known until the design phase. It is currently estimated that stormwater compliance accounts for \$70-90 million in additional capital costs across the options.

Hannah then discussed cost updates for Option 3. The increased costs primarily came from stormwater compliance costs. Under Option 3 SPRWS would provide softened water to Lake Elmo and Oakdale, which could save many homeowners money. Currently the O&M estimate for Option 3 includes the full bulk water charge for SPRWS. Subtracting out estimated cost savings to homeowners for softened water is being considered.

Overall, Wood incorporated a lot of feedback into the updated costs for Priority 1 funding categories. The estimates are a Class 4 level of accuracy with a margin of error +50%/-30%. More accuracy will occur in the detailed design phase. The increased costs create shortfalls of \$56-\$263 million under the previous funding allocations and O&M timeframes. The Co-Trustees do not plan to pull funds from the capital and O&M funds to cover the other funding categories; however, final decisions have not yet been made.

Feedback:

One work group member said that the range of cost uncertainties reinforces their opinion to treat to a lower HI threshold. Hannah explained that the large range in capital costs is primarily due to West Lakeland's system. Kirk explained that they sent out updated sampling results to work group members, including POETS hookups. The increase in the number of POETS was because of wells that had never been tested before, not because the HI shifted and more wells became contaminated. The Co-Trustees will continue to sample as homeowners allow them to.

Another work group member stated that if there was going to be an interconnect with Lake Elmo and Woodbury, they need to have meetings immediately to work on associated policy issues.

City connection fees:

Hannah asked the work group if it is appropriate to cover City fees using Settlement funds and what those city fees cover. Kirk explained that they want to ensure that with city fees, the Settlement is not paying for the same thing twice. The Co-Trustees need clarity on what is covered in terms of home connections – what does the city pay for and what does the Settlement pay for?

Feedback:

One work group member explained that their water availability charge (WAC) charges are used for recapitalization for things like wells and replacing water mains. They said if a decision is made to not cover fees, Lake Elmo would have to incorporate water main replacement costs into the long-term budget. Their city fees do not overlap with installation costs. A work group member from Oakdale agreed that the fees should be covered by the Settlement. Hannah pointed out that they agreed to not

include recapitalization costs as part of the Plan. Those fees would cover a portion or contribute to recapitalization components needed for the drinking water system. The Co-Trustees decided early on that any infrastructure added becomes part of the city's system and they are responsible for the replacement of these systems.

Another work group member said it was imperative that projects follow city fee structures. No one is allowed to be exempt from city fees or construction fees, no matter who the developer is. Every city is going to be different. The State should reimburse fees established by city councils as part of this project.

Kirk said that the State has heard fees are helpful to run lines in front of houses and for treatment. If the Settlement is already covering those costs, why should it cover the fees as well? He asked what other costs city fees cover.

One work group member explained that the Settlement covering fees would not be paying twice since their city fees do not pay for water lines to be replaced. When they put in new water mains, they do not assess fees because it is maintenance. Their source of revenue is the WAC charges that people pay. Additional revenue would not be needed for wells or treatment plants normally – this is infrastructure only being added because of PFAS. Cities should be able to implement this infrastructure without upending their financial plans.

Another work group member explained that every city had very different fees but they want to ensure that no community has double compensation under the Settlement. For example, some cities include staffing expenses. If the communities will be financially compensated through grants for staffing, then this should not be covered under city fees. Others agreed that there should be equity across the system between communities. One work group member pointed out that equitable does not necessarily mean being equal given the differences between communities like population size. Hannah said the Co-Trustees would need to talk to each community individually.

Stormwater compliance:

Hannah asked the work group if the stormwater compliance costs seem accurate based on previous experience and rules in place.

Feedback:

One work group member said the Co-Trustees should talk to the watershed districts together since each one has different rules that apply to different communities. They wondered if the money could come out of another fund besides capital costs (e.g., sustainability and conservation) since it touches on the goals of those funding allocations as well.

Another work group member said that stormwater costs needed to be covered since it was already decided in expedited projects that road reconstruction costs would be covered. It would be difficult to go back to the community now and say those costs are not covered now. Kirk reminded the work group that expedited project rules were subject to change.

One work group member said that items directly related to drinking water should be funded. Road projects that are not directly related should not be covered. They support the idea of funding through design and then determining eligible costs. That would help determine opportunities for cost sharing in some places. Others agreed but stated there would need to be further conversations on how communities received funds before reimbursement and how Settlement design would fit with community updates and projects already underway.

Water softening:

Hannah also reviewed the topic of central water softening. Central softening has benefits to residents and the environment and some synergies with the pre-treatment process necessary in certain communities. Estimated cost for centralized water softening in Cottage Grove for one treatment plant is \$12.6 million. There are also health considerations, such as lost sources of important minerals. Hannah asked if they feel this is Settlement-eligible and if it is a priority.

Feedback:

One work group member asked for a special meeting just on water softening that includes the watershed district, Department of Health, government representatives, and technical experts.

Another work group member supported water softening if it comes out of the sustainability fund. They do not want it to impact capital costs, O&M durations, or the HI threshold.

Another group member asked for more details on the cost savings to individual homeowners.

Cost estimates:

Hannah asked if the work group members were comfortable with the updated cost estimates.

Feedback:

Multiple work group members said that they are still reviewing the details but they were happy the costs had been refined. They still have questions and concerns but are feeling more confident. Another work group member said there are other ways to save costs in Lake Elmo. They do not want to make decisions based only on White Bear Lake.

Next steps

Mark reviewed the next steps in the process for finalizing the Plan. Over the next couple months, the Co-Trustees will continue to gather feedback and update the Plan based on that feedback. There will be one-on-one technical and leadership meetings throughout the next month. The Co-Trustees expect to have a final decision in May and release the Plan in June.

The next work group meeting will occur on Wednesday, March 17th. The agenda is not yet set but will most likely include additional updates made to the Plan.

Public comments and questions

There were no comments or questions from the public at this time.