



February 3, 2020

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Committee Chairs and Ranking Minority Members

Page 2

February 3, 2020

Dear Legislators:

Please see the attached 3M Settlement Biannual Report, as required by 2018 Session Law, ch. 204, sec. 1, subd 4 (2).

Please contact us if you have questions.

Sincerely,



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Minnesota Pollution Control Agency  
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St. Paul, MN 55101



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Attachment

cc: Kristin Beckmann, Office of Governor Tim Walz  
Sasha Bergman, Office of Governor Tim Walz

February 2020

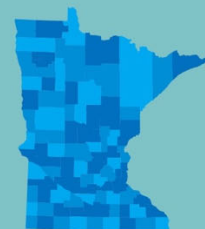
# 3M Settlement biannual report

Biannual report to the Legislature on the 3M Natural Resources Damage Assessment settlement



**m** MINNESOTA

Pollution Control Agency  
Department of Natural Resources



## Legislative charge

*The commissioner of the Pollution Control Agency and the commissioner of the Department of Natural Resources must jointly submit by February 1 and August 1 each year, a biannual report to the chairs and ranking minority members of the legislative policy and finance committees with jurisdiction over environment and natural resources on expenditures from the water quality and sustainability account during the previous six months. Minn. Stat. § 115B.52*

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This report is available in alternative formats upon request.

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# Foreword

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On February 20, 2018, the State of Minnesota settled its Natural Resources Damage lawsuit against the 3M Company in return for a settlement of \$850 million. Minnesota's Attorney General sued 3M in 2010 alleging that the company's disposal of chemicals known as perfluorochemicals (PFCs), more commonly referred to as per- and polyfluoroalkyl substances (PFAS), had damaged and continue to damage drinking water and natural resources in the Twin Cities East Metropolitan Area.

The Minnesota Pollution Control Agency and the Minnesota Department of Natural Resources are co-trustees of these funds.

# Contents

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Summary .....	4
Conceptual Drinking Water Supply Plan .....	5
Expedited Projects .....	6
Project 1007.....	7
Capacity grants .....	8
Temporary treatment .....	9
3M reimbursement dispute .....	9
Expenditures.....	10

# Summary: State of Minnesota and 3M 2018 Settlement

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On February 20, 2018, the State of Minnesota settled a Natural Resources Damage lawsuit with 3M for PFAS contamination in the East Metropolitan Area. Under the terms of the settlement agreement, 3M made an \$850 million grant to the state to be used for clean drinking water and natural resource projects, and to pay the state's lawsuit and other expenses. After legal and other expenses were paid, about \$720 million is available to finance drinking water and natural resource projects in the Twin Cities East Metropolitan Area. The grant's co-trustees are the Minnesota Pollution Control Agency (MPCA) and Minnesota Department of Natural Resources (DNR).

The court-approved agreement settling the lawsuit specifies how the grant from 3M can be spent by the Minnesota Pollution Control Agency (MPCA) and the Minnesota Department of Natural Resources (DNR). It sets two top priorities for funding and provides guidelines for using any remaining money after those two issues are adequately addressed. It also directs the MPCA and DNR to set up a working group to guide use of the funds.

## Priority One — Ensure Safe Drinking Water

The top priority for the grant money is to enhance the quality, quantity and sustainability of drinking water in the East Metropolitan Area. This area includes, but is not limited to, the cities of Afton, Cottage Grove, Lake Elmo, Lakeland, Lakeland Shores, Maplewood, Newport, Oakdale, St. Paul Park, Woodbury and the townships of Denmark, Grey Cloud Island and West Lakeland, and the Prairie Island Indian Community.

Two main work groups and one technical subgroup have been meeting monthly to help accomplish the goals of Priority 1. Meeting notes and presentations from these work groups are available on the 3M Settlement website — <https://3msettlement.state.mn.us>.

## Priority Two — Enhance Natural Resources

The second priority for grant spending is to restore and enhance water resources, wildlife, habitat, fish and other aquatic resources, resource improvement, and outdoor recreational opportunities in the East Metropolitan Area and downstream of the areas on the Mississippi and St. Croix Rivers.

The MPCA and DNR have immediate access to \$20 million in grant funds for projects in this priority category. After the safe drinking water goals of the first priority are reasonably achieved, all remaining grant money is then available for natural resource restoration and enhancement projects.

## Remaining grant funds

If there are funds remaining after the first two priority goals have been met, the grant can be used for statewide environmental improvement projects. Only projects in categories such as statewide water resources, habitat restoration, open space preservation, outdoor recreation improvements, or other sustainability projects would be eligible.



# Conceptual Drinking Water Supply Plan

The Conceptual Drinking Water Supply Plan (CDWSP) is a key component to ensure drinking water needs and options for the East Metropolitan Area are appropriately and thoroughly considered.

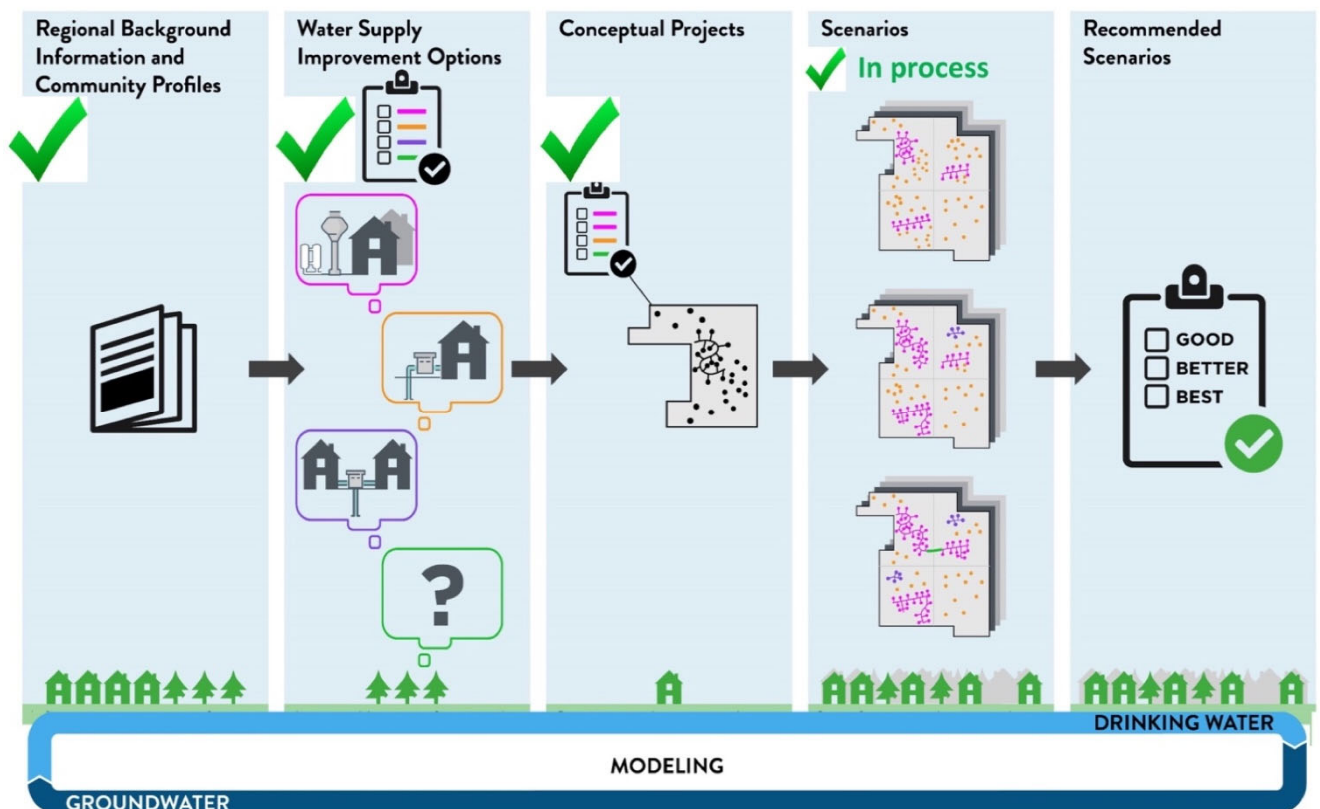
The Drinking Water Supply Technical Subgroup (Subgroup 1) is providing technical input and feedback on potential projects and technologies for evaluation. Subgroup 1 is composed of technical experts from MPCA, DNR, MDH, 3M, Metropolitan Council, and Washington County. The cities of Afton, Cottage Grove, Lake Elmo, Lakeland, Maplewood, Newport, Oakdale, St. Paul Park, Woodbury, and the townships of Denmark, Grey Cloud Island, West Lakeland and the Prairie Island Indian Community also have representatives on this technical subgroup.

Wood Environment and Infrastructure Solutions Inc. (Wood) has been retained to help develop it. Wood has engineering expertise in water system planning, cost estimating, modeling, and treatment. They also have experience in PFAS fate and transport and treatment strategies.

## Approach and timeline

- ✓ Step one — Develop background and community profiles (people, growth, drinking water needs for today and tomorrow, existing resources)
- ✓ Step two — Identify water supply improvement options for individual communities (high-level)
- ✓ Step three — Identify concept-level projects (more detailed)
- Step four — Bundle concept-level project scenarios (in process)
- Step five — Recommend good/better/best scenario for East Metropolitan Area

Steps one through three are complete. Step four is currently in process.



## CDWSP timeline



## Expedited projects

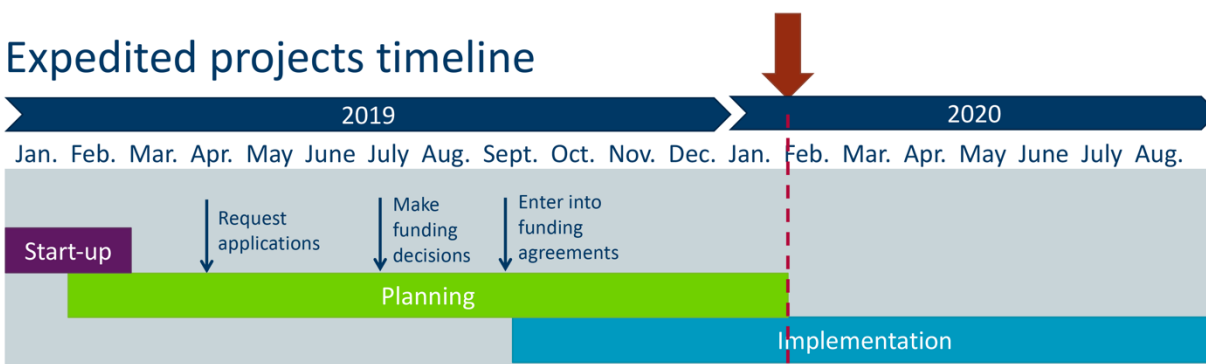
The MPCA and DNR, through discussions with both the Government and 3M Working Group and Citizen-Business Work Group members, recognized there may be some time-sensitive opportunities for projects that are consistent with the agreement’s first priority. These projects could be implemented before the Conceptual Drinking Water Supply Plan was completed, but would not be in conflict with potential outcomes of the plan.

About \$25 million from the 2018 3M Settlement was made available for expedited projects that are consistent with the settlement’s top priority — ensuring safe drinking water for communities in the East Metropolitan Area. These projects will align with the Conceptual Drinking Water Supply Plan as long-term projects for the East Metro.

Applications were accepted through May 25, 2019. The opportunity was open to everyone, including individuals, for-profit businesses, nonprofit organizations, and public entities including the state, tribes, counties, schools, and higher education institutions. Eighteen applications were submitted totaling \$26.8 million.

Under Minnesota Data Practices Act, funding decisions are not public information until all grant agreements are signed and executed. The Co-Trustees anticipate announcing the awarded expedited projects late February 2020.

## Expedited projects timeline



# Project 1007

As part of the 3M Settlement Agreement, the MPCA is conducting a source assessment and feasibility study regarding the role of the Valley Branch Watershed District's project known as Project 1007 in the conveyance of PFAS in the environment.

In 1987, the Valley Branch Watershed District constructed Project 1007 — a large flood control project originating in the Tri-Lakes Area of the city of Lake Elmo (Lakes Jane, Olson, and DeMontreville). Project 1007 is a system of stormwater pipes, open channels, catch basins, and two dams that direct the flow of water from the Tri-Lakes area to the St. Croix River. It also flows through a number of lakes and creeks to connect to the St. Croix River.

One of those creeks, Raleigh Creek, also flows through the former 3M Oakdale disposal site. Additionally, between the late 1980's to the early 1990's, water untreated for PFAS compounds was discharged to Project 1007 from Washington County Landfill.

The study is looking into the connections between surface water and groundwater from Project 1007. AECOM Technical Services Inc. is providing the initial assessment and evaluation. They have been working with Valley Branch Watershed District to gather current and historical data. AECOM continues to develop a complete understanding of the PFAS movement through this system through a three-step investigation process.

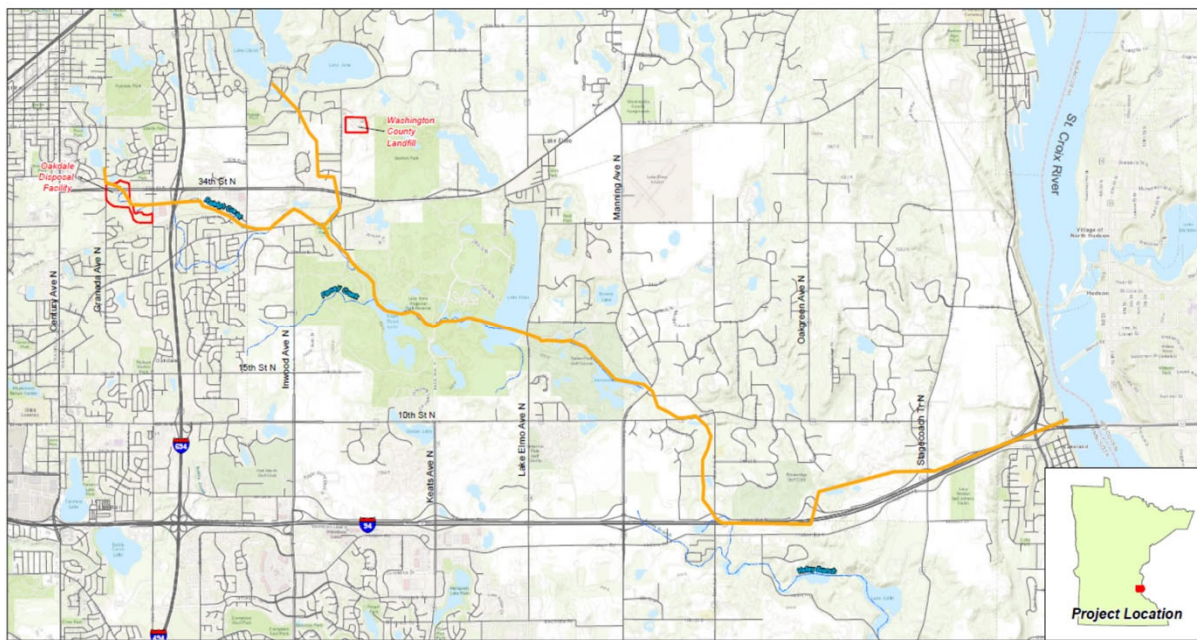


Figure 1: Project 1007 corridor

## Investigation process

The source assessment investigation of PFAS impacts within the Project 1007 corridor included initial sampling in the fall of 2019. Surface water, sediment, and PFAS-containing foam were sampled during that event throughout the project area. Significant findings from the samples collected included confirmation of PFAS impacts in surface water across the whole system with the highest concentrations in Raleigh Creek near the Oakdale disposal site, high-concentrations of PFAS in foam on the surface of

the water, and low concentrations of PFAS in the sediments located at the center of the bottom of the creek.

The investigation continues with installing monitoring wells to collect samples and help inform how PFAS impacts are connected to the drinking water aquifers.

The final step of Project 1007 is a source assessment that may include a combined surface water and groundwater model and near-surface groundwater monitoring.

Once the investigation phases are complete, the robust data sets will be used for feasibility studies to evaluate potential mitigation efforts for this portion of the East Metro Area.

This investigation is being completed in partnership with the Valley Branch Watershed District, Department of Natural Resources, Department of Health, Minnesota Geological Survey, the University of Minnesota, Department of Transportation, Lake Elmo Parks and Recreation Department and private property owners.

## Capacity grants

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Some of the larger affected communities have full-time staff who are experts with their city's municipal drinking water system. Smaller communities typically rely on outside contractors to help them operate and maintain their systems and associated infrastructure.

Some communities expressed a need for funding to support their participation on the technical subgroups. The MPCA and DNR agreed to provide "capacity grants" to ensure that all communities could fully participate in the technical subgroups. The \$25,000 grants expired December 31, 2019.

Grants can be amended to meet additional funding needs, if necessary, during the grant period.

The following communities and townships extended their capacity grants to continue their work as part of the technical subgroup:

- Afton
- Cottage Grove
- Grey Cloud Island Township
- Lake Elmo
- Lakeland
- Newport
- Oakdale
- Prairie Island Indian Community
- St. Paul Park
- Washington County
- Woodbury

Watershed districts and other organizations have also extended their capacity grants:

- Valley Branch Watershed District
- South Washington County Watershed District
- Middle St. Croix Watershed Management Organization
- Washington Conservation District
- Ramsey-Washington Metro Watershed District

West Lakeland did not request the original capacity grant when offered; however, they have requested, and will receive, a capacity grant for 2020. In addition, a grant with the University of Minnesota is providing technical support for workgroup activities by the Minnesota Geologic Survey.

# Temporary treatment

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Cottage Grove, Woodbury, and St. Paul Park requested funds for temporary treatment for their municipal water following a drinking water well advisory issued for PFAS by the Minnesota Department of Health. The Co-Trustees approved the temporary treatment requests for all three communities. The funds used to cover these costs will come out of the 2007 Consent Order agreement the MPCA has with 3M, not the 2018 3M Settlement.

Under terms of the 2018 Settlement Agreement, 3M is to provide up to \$40 million, in addition to the \$850 million grant amount, over the first five years of the agreement for temporary drinking water treatment systems until a long-term action is identified. These temporary treatment systems are to meet 3M's obligation to provide an alternative drinking water supply where public or private drinking water wells exceed MDH criteria for PFAS, as outlined in the 2007 Settlement Agreement and Consent Order (2007 SACO) between 3M and the MPCA. Such temporary municipal treatment systems are currently operating or are being constructed in Cottage Grove, St. Paul Park, and Woodbury. Under the terms outlined in the 2007 SACO, the MPCA seeks costs recovery of State expenses related to these temporary treatment systems.

## 3M reimbursement dispute

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Under terms of the 2007 Settlement Agreement and Consent Order, 3M is to reimburse the MPCA for agency costs for oversight of 3M response activities at the three disposal sites in Oakdale, Woodbury, and Cottage Grove. These costs include MPCA staffing along with financial assistance to the Minnesota Department of Health (MDH) for technical assistance on selecting and sampling residential wells in the East Metro.

Reimbursable costs also include agency expenses to install and maintain granular carbon filter systems in residential homes, sampling/analytical costs to evaluate drinking water advisories that are issued by the MDH, and costs to reimburse the cities of Cottage Grove, St. Paul Park, and Woodbury for construction and operation of temporary carbon treatment systems for municipal water supply wells to ensure levels of PFAS are within MDH guidelines.

In a provision in the 2018 3M Settlement agreement, 3M agreed to provide up to an additional \$40 million (beyond the \$850 million settlement) over the first five years of the agreement for those "temporary" solutions until long-term actions can be identified. These temporary solutions, as outlined in the 2018 Agreement, included individual home treatment systems, providing bottled water or temporary municipal water treatment systems.

3M has disputed some of the MPCA determinations as to what are "temporary" measures and thus reimbursable costs under the appropriate provisions outlined in the 2018 Settlement Agreement. Through mediation efforts overseen by the District Court, the MPCA and 3M have agreed that 3M will pay 100% of non-disputed costs and 50% of those disputed costs until after completion of the CDWSP. After completion of the CDWSP, 3M and MPCA will present remaining disputed costs to the District Court for resolution of payment responsibility. 3M will continue to reimburse the MPCA in full for those "temporary" measure costs that are not disputed.

For the time frame from January 1, 2018 through June 30, 2019, the MPCA sought recovery of approximately \$4.6 million from 3M for these "temporary" measures. Under the mediated agreement, 3M has reimbursed the MPCA approximately \$1.85 million in non-disputed costs and \$1.35 million of

disputed costs. As such, 3M has paid a total of approximately \$3.2 million of the \$4.6 million in outstanding past MPCA costs.

## Expenditures

Expenses related to implementation of 3M Settlement: Original grant: \$850,000,000  
 This report covers the period July 1, 2019 - December 31, 2019

**Balance July 1, 2019** **\$738,917,448**

**Revenue** (Interest Earned July 1, 2019 - December 30, 2019) **\$7,772,066**

**Expenditures** (FY2019, as of June 30, 2019)

*Settlement, business/community, and technical-based Work Group costs* **\$1,485,998**

MPCA and DNR selected Abt Associates as consultants to coordinate and facilitate implementation activities for the 2018 Settlement. Abt Associates has considerable expertise with natural resource damage assessment and settlement implementation and is providing an essential supplement to existing agency staff capacity.

MPCA and DNR have selected Wood Environmental Consultants to provide technical assistance in development of the CDWSP.

MPCA selected AECOM Consultants to provide technical assistance with Project 1007.

Both Wood and AECOM are existing MPCA environmental consultants for Superfund projects, have extensive experience in providing technical assistance with hazardous substance release site evaluations, have extensive experience with municipal infrastructure projects, and bring national expertise relative to PFAS contamination issues.

Amount shown includes \$7,672 in payments for expedited projects, \$582,411 in payments for LGU and Watershed District capacity grants, and approximately \$36,548 for MDH staff support.

*MPCA/DNR payroll expenses* **\$393,266**

The MPCA and DNR have dedicated agency resources to implement settlement activities. Such activities include planning, communication, implementation, and coordination with state, consultant, and stakeholder groups.

**Expenditures subtotal** (as of December 30, 2019) **\$1,879,264**

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**Balance (as of December 31, 2019)** **\$744,810,251**

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