



August 12, 2019

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The Honorable Bill Ingebrigtsen  
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Committee Chairs and Ranking Minority Members

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August 12, 2019

Dear Legislators:

Please see the attached 3M Settlement Biannual Report and FY202 spending plan, 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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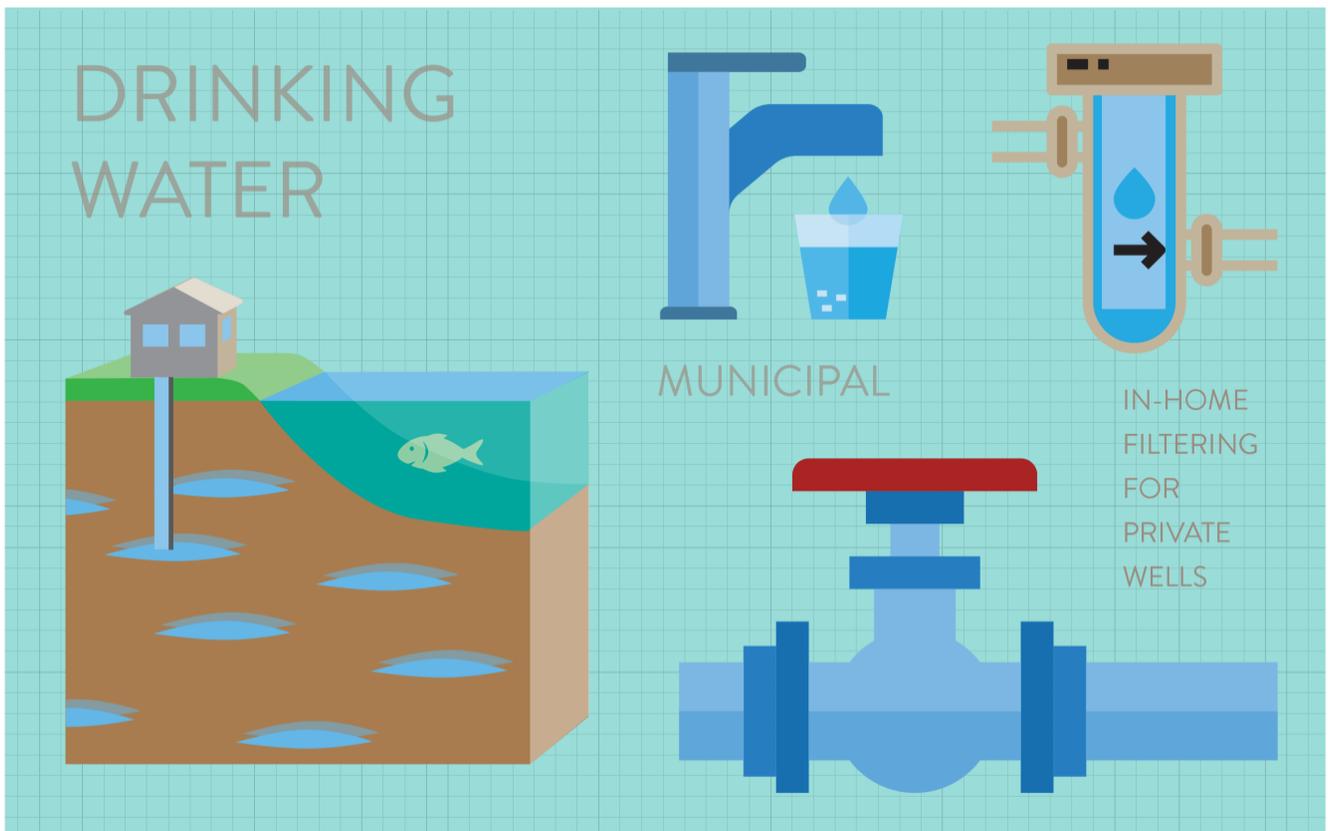
Attachment

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

August 2019

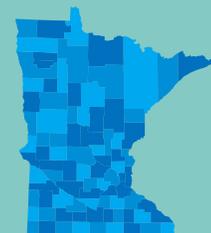
# 3M Settlement biannual report and Spending Plan for FY2020

Natural Resources Damage Lawsuit



**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. After legal and other expenses were paid, about \$720 million is left to finance drinking water and natural resource projects in this region of the Twin Cities.

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

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# Summary: State of Minnesota and 3M 2018 Settlement

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The State of Minnesota and the 3M Company announced an agreement to settle the state's Natural Resources Damage lawsuit for PFAS contamination on February 20, 2018. Under the terms of the agreement, 3M made an \$850 million grant to the state to be used for clean drinking water and natural resource projects, and the state's lawsuit 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).

## 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. The goal of this highest priority work is to ensure clean drinking water in sufficient supply to residents and businesses in the East Metropolitan Area to meet their current and future water needs.

## 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 in 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.

# Expedited Projects

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.

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. The MPCA and DNR developed eligibility criteria to select projects in consultation with the workgroup members.

Applications, accepted through May 25, 2019, were 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.

## Anticipated grant funding timeline

- Final funding decision — mid-July, 2019
- Notification of funding decision to applicants — end of July, 2019
- Proposed work plans/budget submitted to Co-Trustees — end of August, 2019
- Co-Trustees review work plans/negotiations — September/October, 2019
- Grant agreement finalized — end of November/December, 2019



Due to provisions in the Minnesota’s Data Practices Act, details about which applications will and will not be funded cannot be released until all grants have been fully executed. The individual applicants have been notified of final decisions on their projects and are in the process of developing their proposed work plans.

# 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 value of the CDWSP is to narrow options that will meet the needs of the communities in the area — now and for the future. The MPCA and the DNR intend to develop this conceptual plan by the end of 2019.

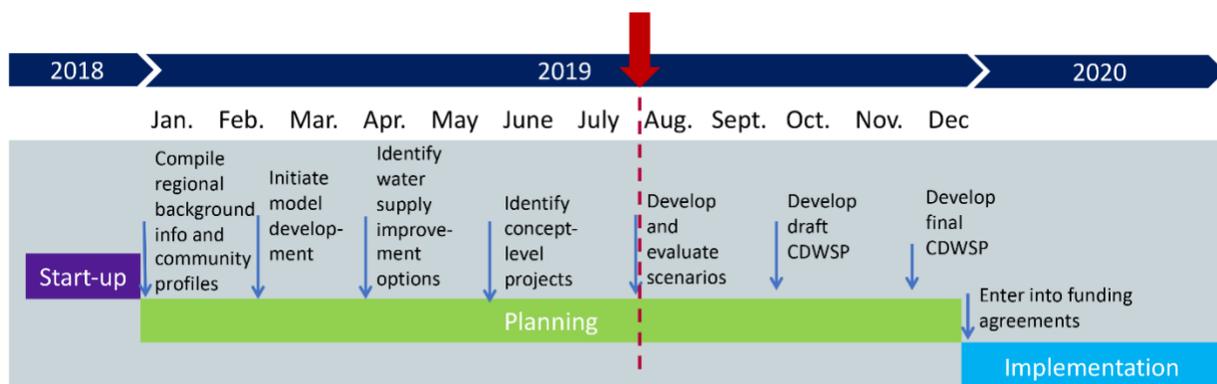
The Drinking Water Supply Technical Subgroup (Subgroup 1) is providing technical input and feedback on potential projects and technologies for evaluation. Subgroup 1 is composed of technical experts from MPCA, DNR, MDH, 3M, Metropolitan Council, and Washington County. The cities of Afton, Cottage Grove, 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.

To meet the goal for completing the CDWSP by December 2019, 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
- Step five — Recommend best scenario for East Metropolitan Area

Steps one and two are complete. Steps three and four are currently in process.



# Project 1007

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As part of the 3M Settlement Agreement, "The MPCA shall conduct a source assessment and feasibility study regarding the role of the Valley Branch Water District's project known as Project 1007 in the conveyance of PFCs in the environment."

In 1987, the Valley Branch Watershed District constructed Project 1007 — a large flood control project for the Tri-Lakes Area (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 uses 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, untreated water from Washington County Landfill was discharged to Project 1007.

AECOM Technical Services Inc. has been retained to provide initial assessment and evaluation. They are working with Valley Branch Watershed District to gather current and historical data. Baseline PFAS sampling is planned for August 2019. A conceptual site model and groundwater model that will be developed from Project 1007 will be based on the larger East Metro model work that's underway in Priority 1 and the Conceptual Drinking Water Supply Plan. The robust data sets will be used for feasibility studies to evaluate potential mitigation efforts regarding PFAS contamination in this part of the East Metro.

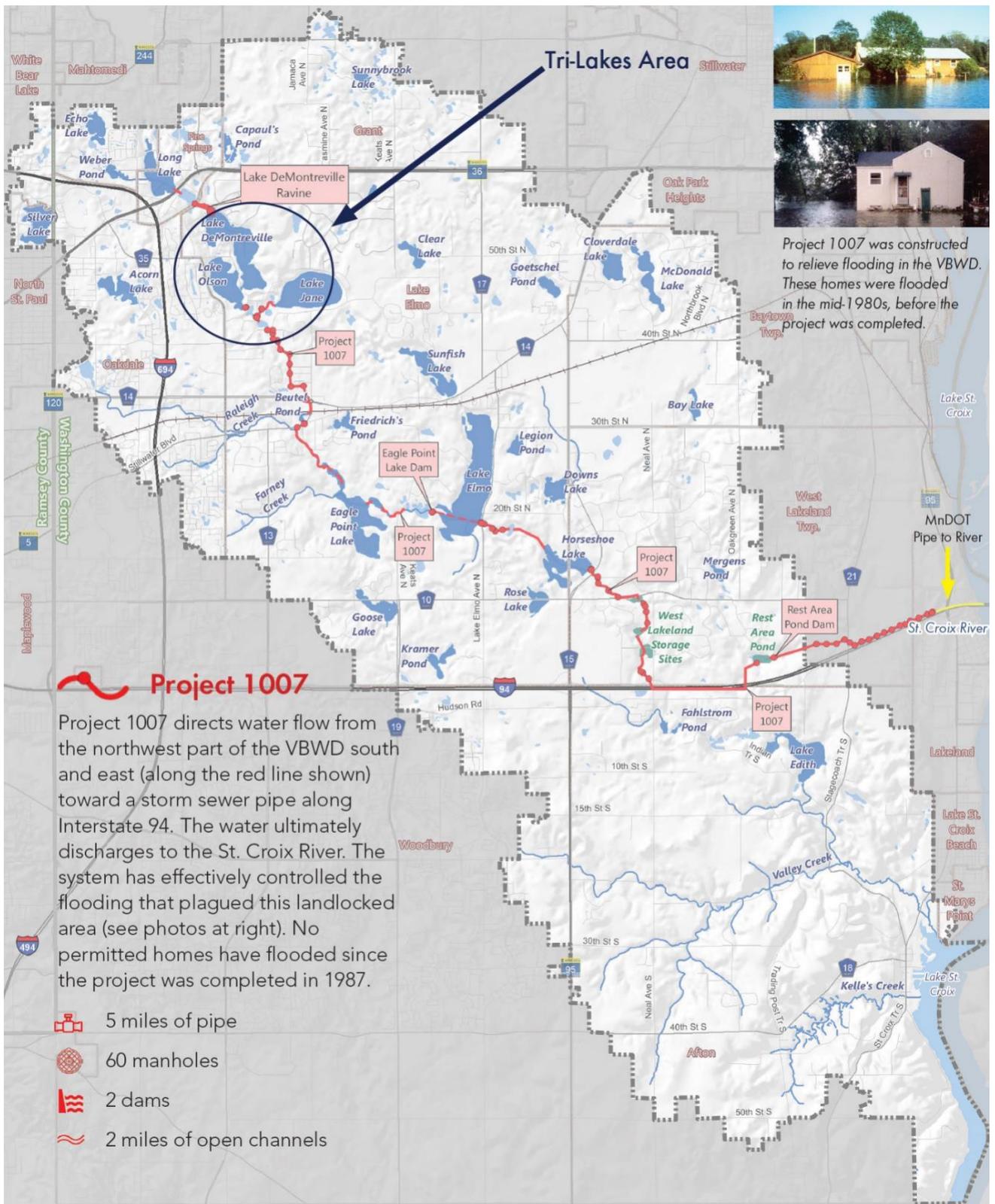


Figure 1: Map of Project 1007. Image courtesy of Valley Branch Watershed District.

# Capacity Grants for Local Units of Government and Watershed Districts

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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.

Early in the planning process, 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. These \$25,000 grants became effective on December 1, 2018, and will expire December 31, 2019. Grants can be amended to meet additional funding needs, if necessary, during the grant period.

The following communities and townships have received capacity grants:

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

Watershed districts and other organizations have also received capacity grants:

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

In addition, a grant with the University of Minnesota is providing technical support for workgroup activities by the Minnesota Geologic Survey.

## Other Settlement Funded Projects

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The following projects were funded through the 2018 Settlement. These projects were evaluated using the Priority 1 criteria and were determined to either inform the CDWSP or provide long-term solutions.

### **Ion exchange pilot study**

The pilot study will test ion exchange treatment technology in removing PFAS from drinking water. The City of Cottage Grove will use its temporary treatment facility for the study. If approved by the Minnesota Department of Health (MDH), ion exchange will be another option for treating drinking water in the East Metropolitan Area.

### **City of Lake Elmo**

March 2018, the City of Lake Elmo closed well No. 1 due to PFAS contamination. An Advisory Study, conducted by Bolton & Menk in coordination with FOCUS Engineering, evaluated possible short-term options to address PFAS in Lake Elmo's Well No. 1.

Of the six alternatives that were evaluated, the best and most cost-effective alternative was to construct a new municipal well and seal Well No. 1. The Co-Trustees determined this option was also a long-term solution that can be incorporated into the CDWSP using 2018 Settlement funding.

The grant agreement with the City of Lake Elmo was signed on July 3, 2019. Funding from the 3M Settlement will pay to construct a new Jordan aquifer water supply well (Well No. 5), located in the northeast part of Lake Elmo, and to seal and abandon Well No. 1.

## **Residential connections to municipal water supplies**

In some cases, when an individual homeowner receives a drinking water well advisory from the MDH due to PFAS contamination the homeowner may decide to connect their residence to the municipal drinking water supply system. The MPCA is able to reimburse these homeowners under the Harmful Substance Compensation provisions in Minn. Stat. 115B with Settlement funds as these actions are considered a long-term solution.

In FY2019, the MPCA reimbursed five homeowners in the East Metro for their costs incurred to connect to the municipal water supply system. It is anticipated that additional homeowners will be requesting reimbursement through this process in FY2020, most likely in the city of Lakeland.

# **2007 Settlement Agreement and Consent Order Reimbursement Dispute**

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Under terms of the 2007 Settlement Agreement and Consent Order (SACO), 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 includes MPCA staff costs, along with financial assistance provided by the MPCA to MDH to provide technical assistance regarding 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 if drinking water advisories that are issued by the Minnesota Department of Health, and costs to reimburse the cities of Cottage Grove and St. Paul Park 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.

In December 2018, the MPCA requested 3M reimburse the agency for costs incurred between January 2018 and June 2018. The total reimbursement request for that time period was \$1,405,064.72, of which the MPCA determined \$1,012,371.69 was considered to be eligible under this “\$40 million” provision for temporary purposes. The remaining \$392,693.03 was determined by the MPCA to be those “temporary” expenses incurred prior to the 2018 Settlement Agreement being in place or costs associated with MPCA oversight of 3M site related activities under terms of the 2007 SACO. However, 3M has disputed these

determinations by the MPCA, and reimbursed the agency only \$322,823.86. Discussions between 3M and the MPCA are on-going regarding the remainder of the MPCA’s reimbursement request.

For FY2019, the MPCA incurred between \$3 - \$3.5 million in expenses which are reimbursable by 3M under terms of the 2007 SACO, most of which apply to these temporary provisions of the 2018 Settlement Agreement. The MPCA will be seeking recovery of these costs from 3M.

## FY2020 Planned Activities

### Conceptual Drinking Water Supply Plan

A primary focus for the MPCA and DNR through January 2020 is the completion of the Conceptual Drinking Water Supply Plan (CDWSP), as outlined earlier. These activities will be closely coordinated with the two main working groups and the Drinking Water Supply technical subgroup (SG-1). Implementation activities relative to the CDWSP and development of project specific plans are anticipated to begin early in calendar year 2020.



#### Legend

- Complete
- In progress
- Not started

Last updated: August 2019

### Expedited Projects

As outlined earlier, the MPCA and DNR will begin discussions with those entities whose projects were selected for funding under the expedited project process. The trustees expect that funding agreements

(grants) will be in place before the end of December 2019 and funding recipients will begin to implement the expedited projects in early 2020.

## Project 1007

On-going assessment of PFAS impacts from Project 1007 will continue into FY2020. As noted earlier, surface water, groundwater and sediment sampling efforts will begin in August 2019, coordinated with the Valley Branch Watershed District.

## Technical subgroup 2

The MPCA and DNR anticipate the stand-up of technical subgroup SG-2 to evaluate groundwater protection, sustainability, conservation and recharge projects, as well as technical subgroup SG-3 to evaluate natural resource protection, restoration and outdoor recreation projects, in early 2020.

## FY 2020 Spending Plan\*

Category	*Estimated amount
<b><i>Expedited Projects</i></b>	up to \$25,000,000
<b><i>Settlement, Work Group and Technical Sub-Group costs</i></b>	
Workgroup Technical Assistance (Abt, Wood)	\$1,825,000
Project 1007 (AECOM)	\$500,000
Lake Elmo Well #5	\$2,500,000
Capacity Grants for Local Units of Government and Watershed Districts	\$450,000
MDH staff/technical support	\$175,000
Ion Exchange Pilot Study	\$750,000
Reimbursements – individual home connections	\$200,000
<b><i>MPCA/DNR staff and operational costs</i></b>	
MPCA/DNR staff/technical support	\$1,000,000
Start of the implementation of the CDWSP	Determined by CDWSP
MPCA/DNR costs for Technical Sub-Groups 2 and 3	To be determined
<b><i>Total estimated expenditures for FY2020</i></b>	
	<b><i>\$32,400,000</i></b>

# Expenditures

Expenses related to implementation of 3M Settlement: Original grant: \$850,000,000

This report covers the period January 1, 2019 - June 30, 2019

Submitted August 9, 2019

**Balance** December 31, 2018 as previously reported **\$731,718,229**

**Revenue** (Interest Earned January 1, 2019 – July 1, 2019) **\$7,730,244**

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

*Settlement, business/community, and technical-based Work Group costs* **\$274,845**

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 approximately \$20,000 in payments for LGU and Watershed District capacity grants, along with approximately \$10,000 for MDH staff support

*MPCA/DNR payroll expenses* **\$256,180**

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

**Expenditures subtotal** (as of June 30, 2019) **\$531,025**

**Balance (as of July 1, 2019)** **\$738,917,448**