



**New Jersey Municipal Environmental
Risk Management Fund**

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MEMORANDUM

TO: Members of the New Jersey Environmental Risk Management Fund

FROM: Steve Sacco, Executive Director
Fred Semrau, General Counsel
Peter King, General Counsel

DATED: September 25, 2023 (revised September 27, 2023)

RE: PFAS Litigation: 3M & DuPont Settlement & Potential Future Action

We are writing on behalf of the New Jersey Municipal Environmental Risk Management Fund (EJIF), to which your municipality belongs. This correspondence specifically pertains to EJIF members that provide their own municipal water system services to residents of their municipality and/or other communities.

In 2021 the New Jersey Department of Environmental Protection established regulations relating to per- and polyfluoroalkyl substances known as “PFAS” chemicals. This new water quality standard is one of the most stringent in the country and has required some municipalities to change or enhance their water systems. In some cases, legal challenges have been filed against municipalities that are not in compliance with the new standard.

The purpose of this correspondence is to alert member water system providers that there have been significant actions filed in the Federal District Court against responsible parties regarding PFAS chemicals. One matter, known as In Re: Aqueous Film-Forming Foams Products Liability Litigation, 2:18-mn-2873 and City of Camden et al. v. 3M Co., 2:23-cv-03147, is pending in the U.S. District Court for the District of South Carolina and involves twenty-three attorney generals from different states, including New Jersey. Settlements with 3M and DuPont in the amount of \$12.8 billion to be distributed, were reached by the parties based upon claims of effects from firefighting foam made with PFAS chemicals. The below chart provides for the deadlines that need to be adhered to regarding these settlements. The next dates are regarding objections and requests for exclusion from the settlements.

Deadline Description	DuPont Deadline Date	3M Deadline Date
Deadline to Submit Objections	11/4/2023	11/11/2023
Deadline to Submit Requests for Exclusion	12/4/2023	12/11/2023
Court's Final Fairness Hearing	12/14/2023 at 10:00 AM EST	2/2/2024 at 10:00 AM EST
Phase One Public Water System Settlement Claims Form	60 Days After the Effective Date	60 Days After the Effective Date
Phase One Special Needs Claims Form	45 Days After the Phase One Public Water System Claims Form Deadline	45 Days After the Phase One Public Water System Claims Form Deadline
Phase Two Testing Claims Form	1/1/2026	1/1/2026
Phase Two Public Water System Claims Form	6/30/2026	7/31/2026
Phase Two Special Needs Claims Form	8/1/2026	8/1/2026
Phase One Supplemental Fund Claims Form	12/31/2030	12/31/2030
Phase Two Supplemental Fund Claims Form	12/31/2030	12/31/2030

There are additional pending and anticipated lawsuits against 3M, Tyco, DuPont de Nemours, and other companies that have produced PFAS chemicals. Resulting settlements could amount to billions of dollars. There appears to be at least six law firms that represent a number of the municipalities in this litigation.

The EJIF has been carefully monitoring the case against 3M and DuPont noted above and believes that as a member water provider, you should consider the legal merit and benefits of joining this litigation. Funding has already been committed by some of the responsible parties to be used for system repairs or enhancements as a result of PFAS contaminants in water systems. Negotiations are ongoing regarding the distribution of funds pursuant to previous PFAS lawsuits.

Although we cannot make a specific recommendation regarding your municipality, we urge you to speak to your legal counsel and reach out to one of the firms listed below or any other legal counsel with expertise or involvement in this case to determine if participation would be beneficial to you. The following firms are currently involved in this litigation: Law Offices of Michael D. Fitzgerald; Douglas & London, P.C.; Napoli Shkolnik PLLC; Baron & Budd PC; Fegan Scott LLC; Cossich, Sumich, Parsiola & Taylor, LLC; Kennedy & Madonna, LLP; and Wilentz, Goldman & Spitzer, P.A. We note that a number of participants have retained these law firms on a contingency basis, which means that there would be no additional cost except a percentage based on any recovery that may be rewarded. The purpose of this letter is not to refer any specific law firm, but to provide you with information.

As you are likely aware, private insurance companies do not provide coverage for PFAS claims for damages and/or repairs. The EJIF does provide members with a limit of up to \$25,000 for defense costs in the event of any third-party claims. However, given the new significant water quality standards and the cost of such compliance, we urge you to review this pending litigation and obtain direction by consulting your legal counsel.

Should you have any questions, please do not hesitate to contact us.