

B R E W E R
ATTORNEYS & COUNSELORS

July 20, 2017

VIA EMAIL: ANN.COHEN@AG.STATE.MN.US
VIA CMRRR: 7001 2510 0001 9696 6283

Ms. Ann E. Cohen
Office of Attorney General
State of Minnesota
445 Minnesota Street, Suite 900
St. Paul, MN 55101-2127

Dear Ms. Cohen:

I am writing on behalf of 3M to acknowledge receipt of your letter, dated July 12, 2017 (“your letter”).

As an initial matter, we disagree that the Minnesota Pollution Control Agency (“MPCA”) was not properly made aware of 3M’s dispute of the reimbursement request dated May 2, 2017. 3M initiated the dispute on June 28, 2017, and I again advised of the dispute on July 3, 2017.

Regarding the requirements for submitting a request for a payment extension, 3M timely submitted that request on July 3, 2017, pursuant to the 2007 Settlement Agreement and Consent Order (“SACO”).¹ The submission occurred on that date because the payment could not be processed until the State replied to 3M’s information request, dated June 28, 2017. As you note in your letter, 3M still awaits a response to its information request.

In any event, in accordance with SACO, on July 12, 2017, 3M submitted to the MPCA Commissioner a written statement which includes an explanation of the matter in dispute and 3M’s position on the matter, along with a summary of the information 3M relies upon in support. As required by SACO Section X.A., this information was timely submitted.

Per your request, this communication was sent to you.

Your letter references past and potential future response actions in connection with the State’s health-based advisory values (HBVs) for PFOA and PFOS announced in May 2017. Your letter states that MPCA sent a letter, dated June 9, 2017, to 3M requesting that we confirm by June 29, 2017, whether or not 3M will pay for such response actions. The reported due date

¹ In its letter to 3M, dated May 2, 2017, requesting reimbursement, MPCA incorrectly states that reimbursement for costs should be remitted to MPCA “within 60 days from the date of this letter.” According to Part XXIII.E of SACO, the reimbursement date is not until “60 days following receipt of the MPCA Commissioner’s reimbursement statement.” 3M did not receive the letter dated May 2, 2017 until May 4, 2017. Therefore, the payment due date would be July 3, 2017.

B R E W E R

Ann E. Cohen

Page 2

referenced in that letter was actually June 19, 2017, which the State now purports to extend to July 20, 2017.²

Before 3M is able to determine its obligations, we seek clarification from the State as to how it established that 3M is solely responsible for the environmental presence of PFCs that allegedly impacted the private and public water supplies in question.³ This information is all the more important given the State's admission in its letter to 3M, dated June 16, 2017, that it has not conducted the due diligence necessary to confirm whether there are other sources responsible for the environmental presence of PFCs allegedly impacting the City of Cottage Grove municipal wells.⁴

Please do not make any assumptions that 3M agrees or declines to participate in the requested actions.⁵ As I am sure you understand, until 3M receives assurances from the State that it has thoroughly investigated and analyzed the facts pertaining to the environmental presence of PFCs and all potential causes of such, 3M is unable to make commitments to funding for corrective measures that may be the responsibility of others.

Thank you for your attention to these matters.

Sincerely,



William A. Brewer III

Cc: Jean B. Sweeney, 3M Vice President and Chief Sustainability Officer
Gary Hohenstein, 3M Company
Mary Cullen, Esq., 3M Assistant General Counsel
John Linc Stine, MPCA
Kathryn Sather, MPCA (VIA CMRRR: 7001 2510 0001 9696 6290)

² 3M has not received an itemized reimbursement request from the State for the expenses allegedly incurred in connection with certain HBV-related response actions.

³ See letter from Jean B. Sweeney to Kathryn Sather, MPCA, dated June 13, 2017.

⁴ See letter from Kathryn Sather, MPCA, to Jean B. Sweeney, dated June 16, 2017.

⁵ Once 3M has an opportunity to review evidence confirming the environmental presence of PFCs and impacts to the water sources in question are due to releases from the disposal sites covered under SACO, we would be pleased to meet with MPCA to discuss.