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Understanding Your Options to Address “Forever Chemicals”: What You Need to Do to Ensure Your Community Can Access Funds for PFAS Remediation through Recent Legal Settlements

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The 3M Company and DuPont public water system settlements mark significant steps towards accountability and environmental responsibility. These settlements, valued at \$12.5 billion and \$1.185 billion for 3M Company and DuPont, respectively, are earmarked to benefit public water systems across the United States. Within the complex, multifaceted issues involving per- and polyfluoroalkyl substances (PFAS), these settlements are a major step towards addressing and mitigating the consequences of the chemicals these companies created – a commendable move in an era where corporate accountability is often elusive.

However, public water systems must be aware of their rights and options. For public water systems covered under these settlements, there are crucial dates ahead. The DuPont settlement opt-out deadline is fast approaching on December 4, 2023, followed by the 3M Company opt-out deadline a week later on December 11, 2023. For those considering these settlements, attention to detail is paramount. Decisions made or ignored will have lasting impacts, binding public water systems to the terms of the respective settlement agreements. Accordingly, these decisions should be made with ample consideration and, where necessary, legal consultation. Assuming the presiding judge grants final approval of these settlements, once these dates pass all public water systems that do not opt-out will be bound by the terms of these settlement agreements, which are both lengthy and complex.

One of the critical steps to obtain funds under these settlements is conducting baseline testing. For public water systems that participate in the 3M Company and DuPont settlements, conducting baseline testing is required and stands as the foundation upon which the settlement numbers will be calculated. Baseline testing entails testing each

water source for the presence of at least 29 PFAS analytes, as delineated under the Unregulated Contaminant Monitoring Rule (UCMR) 5. For example, if your public water system draws water from three wells (i.e., ground water sources) and two reservoirs (i.e., surface water sources), your public water system must conduct PFAS testing of samples from all five water sources. Public water systems should engage with accredited laboratories, ensuring that the methodology employed for testing is not only consistent with UCMR 5, but adheres to any stricter state requirements if applicable.

As these pivotal dates loom, public water systems must weigh the implications of participation versus exclusion diligently. Each entity should evaluate its unique circumstances, the compensation offered under the settlements, and the potential benefits and risks of opting out. Namely, public water systems that opt-out will waive their entitlement to relief or benefits under the agreement and cannot submit an objection. Seeking legal advice and weighing the long-term impacts is essential. At this critical juncture, the onus is on each public water system to ensure that their decisions align with their interests, rights, and the broader public good that underscores their operations.

Mid-Year Meeting: Please join us virtually for the Cities Initiative's Mid-Year Meeting **from 1:00 – 4:00pm ET on Thursday, December 7th**. Mr. Ferraro and other experts will be on hand to offer additional guidance to communities engaging in PFAS testing and seeking funding for PFAS remediation amid the evolving legal and policy landscapes in Canada and the United States. [**Register here.**](#)

