

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

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DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

State of Minnesota, by its Attorney General  
Lori Swanson, its Commissioner of Pollution  
Control, Paul Aasen, and its Commissioner of  
Natural Resources, Tom Landwehr,

Plaintiff,

v.

3M Company,

Defendant.

Case Type: Other Civil

Civil File No. 27-CV-10-28862

DEFENDANT 3M COMPANY'S  
AMENDED ANSWER TO PLAINTIFF'S  
AMENDED COMPLAINT

For its Answer to Plaintiff's Amended Complaint, Defendant 3M Company ("3M") denies each and every allegation contained in Plaintiff's Amended Complaint except as may be hereinafter admitted, qualified, or explained, and states and alleges as follows:

1. 3M denies the allegations contained in paragraph 1 of Plaintiff's Amended Complaint, except admits that certain chemicals within a family of chemicals known as perfluorochemicals ("PFCs") were commercially produced by 3M. The term "PFCs" refers to any perfluorinated (fully fluorinated) carbon chain consisting of 4 to 16 carbons ("C4" to "C16") with a functional end group containing at least one double bond. As such, "PFCs" as used in 3M's Answer to Plaintiff's Amended Complaint does not include "all byproducts, compounds, and/or waste containing any perfluorochemical associated with 3M's manufacture, treatment, disposal, discharge or release of perfluorochemicals" as stated in paragraph 11 of Plaintiff's Amended Complaint. 3M admits that PFCs produced by 3M at its Cottage Grove facility were used in a variety of products, but that the specific PFCs produced at 3M's Cottage Grove facility

and their commercial use changed over time. 3M states that its disposal of waste was legal at the time it occurred.

2. The allegations contained in paragraph 2 of Plaintiff's Amended Complaint are statements of law to which no responsive pleading is required. 3M alleges that the Commissioners of the Minnesota Pollution Control Agency ("MPCA") and Minnesota Department of Natural Resources ("MDNR") are the designated co-trustees for natural resources. 3M denies any allegation or implication that 3M is liable for damage to the groundwater, surface water, wetlands, sediments and aquatic life, including fish.

3. The allegations contained in paragraph 3 of Plaintiff's Amended Complaint are statements of law to which no responsive pleading is required. As to any remaining allegations, 3M admits only that Lori Swanson is the Attorney General, but denies the remaining allegations contained in paragraph 3 of Plaintiff's Amended Complaint.

4. The allegations contained in paragraph 4 of Plaintiff's Amended Complaint are statements of law to which no responsive pleading is required. As to any remaining allegations, 3M admits that Paul Aasen is the Commissioner of the MPCA.

5. The allegations contained in paragraph 5 of Plaintiff's Amended Complaint are statements of law to which no responsive pleading is required. To the extent the statements contained in paragraph 5 of Plaintiff's Amended Complaint are construed to be allegations of fact, 3M denies the allegations.

6. The allegations contained in paragraph 6 of Plaintiff's Amended Complaint are statements of law to which no responsive pleading is required. As to any remaining allegations, 3M admits that Tom Landwehr is the Commissioner of MDNR.

7. The allegations contained in paragraph 7 of Plaintiff's Amended Complaint are statements of law to which no responsive pleading is required. To the extent the statements contained in paragraph 7 of Plaintiff's Amended Complaint are construed to be allegations of fact, 3M denies the allegations, and further denies any allegation or implication that it is liable to the State or anyone else for damages as alleged in Plaintiff's Amended Complaint.

8. 3M admits the allegations contained in paragraph 8 of Plaintiff's Amended Complaint and alleges that its principal place of business is located in Ramsey County Minnesota.

9. 3M denies the allegations contained in paragraph 9 of Plaintiff's Amended Complaint, and alleges that jurisdiction of this matter is proper only in the County of Washington, State of Minnesota, pursuant to Minnesota Statutes § 542.02 (2010).

10. 3M denies the allegations contained in paragraph 10 of Plaintiff's Amended Complaint, except admits that research and development began in the late 1940's that led to the commercial production of PFCs. 3M further admits that PFCs were used in numerous products, but denies that it manufactured all the products identified in paragraph 10 of Plaintiff's Amended Complaint.

11. 3M denies the allegations contained in paragraph 11 of Plaintiff's Amended Complaint, except admits that as part of the electrochemical fluorination process by which 3M manufactured certain PFCs, hydrogen atoms present in hydrocarbon feed stock were replaced by fluorine atoms. 3M further admits that perfluorooctane sulfonate is referred to as PFOS and that perfluorobutane sulfonate is referred to as PFBS.

12. 3M denies the allegations contained in paragraph 12 of Plaintiff's Amended Complaint, except admits that certain PFCs were commercially manufactured at 3M's Cottage

Grove facility until 2002. Without specifying a time period, 3M is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations that it was the sole manufacturer of PFOS and a major manufacturer of PFOA.

13. 3M denies the allegations contained in paragraph 13 of Plaintiff's Amended Complaint, except admits that certain PFCs are somewhat resistant to breakdown or environmental degradation. 3M is without knowledge as to the accuracy of the alleged quotation without further reference and therefore denies the same as stated and as without context.

14. 3M denies the allegations contained in paragraph 14 of Plaintiff's Amended Complaint, except admits that in May 2000 it made an announcement with respect to voluntarily ceasing production of certain PFCs and respectfully refers the Court to the document for its contents. 3M admits that Plaintiff has accurately quoted the United States Environmental Protection Agency's news release in May 2000, but denies the contents of the statement are correct with respect to PFCs.

15. 3M denies the allegations contained in paragraph 15 of Plaintiff's Amended Complaint.

16. 3M denies the allegations contained in paragraph 16 of Plaintiff's Amended Complaint, except admits that the Minnesota Department of Health released for comment a Public Health Assessment in August 2010, and respectfully refers the Court to the document for its contents.

17. 3M denies the allegations contained in paragraph 17 of Plaintiff's Amended Complaint, except admits that the Minnesota Department of Health released for comment a Public Health Assessment in August 2010, and respectfully refers the Court to the document for its contents.

18. 3M denies the allegations contained in paragraph 18 of Plaintiff's Amended Complaint, except admits that the Minnesota Department of Health issued in 2007 a notice relating to the construction of wells in a portion of Washington County and respectfully refers the Court to the document for its contents.

19. 3M alleges that paragraph 19 of Plaintiff's Amended Complaint is a verbatim repetition of paragraph 18 of Plaintiff's Amended Complaint. 3M, therefore, re-alleges its paragraph 18 above.

20. 3M denies the allegations contained in paragraph 20 of Plaintiff's Amended Complaint, except admits that the Agency for Toxic Substances and Disease Registry of the United States Department of Health and Human Services issued a 2005 Health Consultation Report and respectfully refers the Court to the document for its contents.

21. 3M denies the allegations contained in paragraph 21 of Plaintiff's Amended Complaint, except admits that certain other state, federal and foreign governmental bodies have stated provisional or guidance values for certain PFCs in some media.

22. 3M admits the allegations contained in paragraph 22 of Plaintiff's Amended Complaint, but denies that the proposed listing has any legally binding effect.

23. 3M denies the allegations contained in paragraph 23 of Plaintiff's Amended Complaint, except admits that it has extensively studied PFCs. 3M has done so through funding numerous independent studies of PFCs and through monitoring the health of its workers since the 1970's. These efforts are continuing. 3M denies any allegation or implication that it is liable to the State or anyone else for damages as alleged in Plaintiff's Amended Complaint.

24. 3M denies the allegations contained in paragraph 24 of Plaintiff's Amended Complaint, except admits that it legally disposed of waste and discharged wastewater containing certain PFCs in Washington County Minnesota.

25. 3M denies the allegation contained in paragraph 25 of Plaintiff's Amended Complaint, except admits that 3M wastes containing certain PFCs were legally disposed of at its manufacturing facility in Cottage Grove, Minnesota, a disposal site located in Oakdale, Minnesota, and a disposal site located in Woodbury, Minnesota (hereinafter "the Washington County disposal sites").

26. 3M denies the allegations contained in paragraph 26 of Plaintiff's Amended Complaint, except admits that it legally discharged wastewater containing PFCs from the Cottage Grove plant and legally disposed of waste on-site at the plant.

27. 3M denies the allegations contained in paragraph 27 of Plaintiff's Amended Complaint, except admits that low levels of certain PFCs have been detected at certain times at certain locations in the St. Peter, Prairie du Chien, Jordan, and Franconia aquifers.

28. 3M denies the allegations contained in paragraph 28 of Plaintiff's Amended Complaint to the extent the presence of PFCs at all of the identified locations is alleged to be the result of either 3M's discharge of wastewater to the Mississippi River or its disposal of 3M waste at the sites listed in paragraph 25 of Plaintiff's Amended Complaint.

29. 3M denies the allegations contained in paragraph 29 of Plaintiff's Amended Complaint, except alleges that no permit issued to 3M's Cottage Grove, Minnesota manufacturing facility for wastewater discharge or the discharge of Woodbury disposal site pump-out water established a limit for the discharge of any PFC.

30. 3M denies the allegations contained in paragraph 30 of Plaintiff's Amended Complaint, except alleges that no responsive pleading is required to the statements of law and legal conclusions in paragraph 30.

31. 3M denies the allegations contained in paragraph 31 of Plaintiff's Amended Complaint, except alleges that no responsive pleading is required to the statements of law and legal conclusions in paragraph 31.

32. 3M denies the allegations contained in paragraph 32 of Plaintiff's Amended Complaint, except alleges that no responsive pleading is required to the statements of law and legal conclusions in paragraph 32.

33. 3M is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 33 of Plaintiff's Amended Complaint.

34. 3M denies the allegations contained in paragraph 34 of Plaintiff's Amended Complaint, except admits that PFC-containing waste materials disposed of at the Washington County disposal sites, pump out water from the Oakdale and Woodbury disposal sites, and wastewater discharged from 3M's Cottage Grove, Minnesota manufacturing facility have resulted in the release of PFCs which have been detected in certain environmental media at certain locations at certain times, typically at very low levels.

35. 3M denies the allegations contained in paragraph 35 of Plaintiff's Amended Complaint.

36. 3M denies the allegations contained in paragraph 36 of Plaintiff's Amended Complaint, except alleges that no responsive pleading is required to the statements of law and legal conclusions in paragraph 36.

37. 3M admits the allegations contained in paragraph 37 of Plaintiff's Amended Complaint, but denies that the referenced interim guidelines have any legally binding effect.

38. 3M denies the allegations contained in paragraph 38 of Plaintiff's Amended Complaint, except admits that Health Based Values ("HBVs") and Health Risk Limits ("HRLs") have been issued at different times for certain PFCs.

39. 3M denies the allegations contained in paragraph 39 of Plaintiff's Amended Complaint, except admits that Soil Reference Values have been issued for certain PFCs.

40. 3M admits the allegations contained in paragraph 40 of Plaintiff's Amended Complaint, and alleges that the groundwater at the Washington County disposal sites is not used for drinking water and further alleges that 3M has presently spent in excess of \$25 million remediating soils and groundwater at the Washington County disposal sites and is continuing to remediate such soils and groundwater in order to reduce the levels of PFCs. To the extent Plaintiff includes levels found at the Washington County Landfill ("WCLF"), 3M is not responsible for, nor liable for disposal, removal/remediation activities or operations at that site, nor is it responsible for any alleged natural resource damages at that site or resulting from that site.

41. 3M denies that allegations contained in paragraph 41 of Plaintiff's Amended Complaint, except admits that PFCs have been detected in low concentrations at certain locations at certain times in aquifers in the vicinity of the Washington County disposal sites. 3M is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegation regarding the number of residents in the areas described, and therefore denies the same.



42. 3M denies the allegations contained in paragraph 42 of Plaintiff's Amended Complaint, except admits that the Minnesota Department of Health issued a Special Well Construction Advisory, and respectfully refers the Court to the document for its contents.

43. 3M denies the allegations contained in paragraph 43 of Plaintiff's Amended Complaint, except admits that the Minnesota Department of Health has issued advisories related to the consumption of fish and respectfully refers the Court to the documents for their contents.

44. 3M denies the allegations contained in paragraph 44 of Plaintiff's Amended Complaint, except admits that the MPCA has designated certain areas of Lake Elmo and the Mississippi River as impaired and respectfully refers the Court to the document for its contents.

45. 3M denies the allegations contained in paragraph 45 of Plaintiff's Amended Complaint, except is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations so far as they relate to the thoughts of persons within the relevant agencies and those agencies' decision-making processes.

46. 3M denies the allegations contained in paragraph 46 of Plaintiff's Amended Complaint, except admits that in 2007 the MPCA and 3M entered into a Settlement Agreement and Consent Order and respectfully refers the Court to the referenced document for its contents.

47. 3M denies the allegations contained in Paragraph 47 of Plaintiff's Amended Complaint, except is without knowledge or information sufficient to form a belief as to the truth or falsity of Plaintiff's statement of purpose.

48. 3M denies the allegations contained in paragraph 48 of Plaintiff's Amended Complaint.

49. 3M re-alleges paragraphs 1-49 as if herein set out in full.

50. 3M admits the allegations contained in paragraph 50 of Plaintiff's Amended Complaint.

51. 3M alleges that paragraph 51 of Plaintiff's Amended Complaint is a statement of law to which no responsive pleading is required. To the extent the statements contained in paragraph 51 of Plaintiff's Amended Complaint are construed to be allegations of fact, 3M denies the allegations.

52. 3M alleges that paragraph 52 of Plaintiff's Amended Complaint is a statement of law to which no responsive pleading is required. To the extent the statements contained in paragraph 52 of Plaintiff's Amended Complaint are construed to be allegations of fact, 3M denies the allegations.

53. 3M alleges that paragraph 53 of Plaintiff's Amended Complaint is a statement of law to which no responsive pleading is required. To the extent the statements contained in paragraph 53 of Plaintiff's Amended Complaint are construed to be allegations of fact, 3M denies the allegations.

54. 3M denies the allegations contained in paragraph 54 of Plaintiff's Amended Complaint, except admits that under the Landfill Cleanup Act ("LCA"), MPCA is responsible for environmental response actions, including removal and remediation actions at the WCLF. 3M is not responsible for, nor liable for disposal, removal/remediation activities or operations at, the WCLF, nor is it responsible for any alleged natural resource damages at that site or resulting from that site.

55. 3M denies the allegations contained in paragraph 55 of Plaintiff's Amended Complaint, except alleges that the first sentence of paragraph 55 is an incomplete statement of law to which no responsive pleading is required.

56. 3M alleges that paragraph 56 of Plaintiff's Amended Complaint is a statement of law to which no responsive pleading is required. To the extent the statements contained in paragraph 56 of Plaintiff's Amended Complaint are construed to be allegations of fact, 3M denies the allegations.

57. 3M alleges that paragraph 57 of Plaintiff's Amended Complaint is a statement of law to which no responsive pleading is required. To the extent the statements contained in paragraph 57 of Plaintiff's Amended Complaint are construed to be allegations of fact, 3M denies the allegations.

58. 3M denies the allegations contained in paragraph 58 of Plaintiff's Amended Complaint. 3M further asserts that paragraph 58 violates Rule 8.05 of the Minnesota Rules of Civil Procedure and is repetitive of allegations made previously in the Amended Complaint, despite the specific re-allegation of such assertions set forth in paragraph 49 of Plaintiff's Amended Complaint.

59. 3M denies the allegations contained in paragraph 59 of Plaintiff's Amended Complaint, except alleges that the first sentence of paragraph 59 is an incomplete statement of law to which no responsive pleading is required.

60. 3M denies the allegations contained in paragraph 60 of Plaintiff's Amended Complaint, except alleges that the first three sentences of paragraph 60 are incomplete statements of law to which no responsive pleading is required.

61. 3M denies the allegations contained in paragraph 61 of Plaintiff's Amended Complaint, except alleges that the first two sentences of paragraph 61 are incomplete statements of law to which no responsive pleading is required.

62. 3M denies the allegations contained in paragraph 62 of Plaintiff's Amended Complaint.

63. 3M denies the allegations contained in paragraph 63 of Plaintiff's Amended Complaint.

64. 3M denies the allegations contained in paragraph 64 of Plaintiff's Amended Complaint.

65. 3M denies the allegations contained in paragraph 65 of Plaintiff's Amended Complaint.

66. 3M re-alleges paragraphs 1-65 as if herein set out in full.

67. 3M admits the allegations contained in paragraph 67 of Plaintiff's Amended Complaint.

68. 3M alleges that paragraph 68 of Plaintiff's Amended Complaint is a statement of law to which no responsive pleading is required. To the extent the statements contained in paragraph 68 of Plaintiff's Amended Complaint are construed to be allegations of fact, 3M denies the allegations.

69. 3M alleges that paragraph 69 of Plaintiff's Amended Complaint is a statement of law to which no responsive pleading is required. To the extent the statements contained in paragraph 69 of Plaintiff's Amended Complaint are construed to be allegations of fact, 3M denies the allegations.

70. 3M alleges that paragraph 70 of Plaintiff's Amended Complaint is a statement of law to which no responsive pleading is required. To the extent the statements contained in paragraph 70 of Plaintiff's Amended Complaint are construed to be allegations of fact, 3M denies the allegations.

71. 3M alleges that paragraph 71 of Plaintiff's Amended Complaint is a statement of law to which no responsive pleading is required. To the extent the statements contained in paragraph 71 of Plaintiff's Amended Complaint are construed to be allegations of fact, 3M denies the allegations.

72. 3M denies the allegations contained in paragraph 72 of Plaintiff's Amended Complaint, except alleges that the first two sentences of paragraph 72 are incomplete statements of law to which no responsive pleading is required.

73. 3M denies the allegations contained in paragraph 73 of Plaintiff's Amended Complaint.

74. 3M denies the allegations contained in paragraph 74 of Plaintiff's Amended Complaint, except alleges that the first two sentences of paragraph 74 are incomplete statements of law to which no responsive pleading is required.

75. 3M denies the allegations contained in paragraph 75 of Plaintiff's Amended Complaint.

76. 3M denies the allegations contained in paragraph 76 of Plaintiff's Amended Complaint, and alleges that any required permits for 3M's disposal or discharge were obtained.

77. 3M denies the allegations contained in paragraph 77 of Plaintiff's Amended Complaint.

78. 3M denies the allegations contained in paragraph 78 of Plaintiff's Amended Complaint.

79. 3M denies the allegations contained in paragraph 79 of Plaintiff's Amended Complaint.

80. 3M re-alleges paragraphs 1-79 as if herein set out in full.

81. 3M alleges that paragraph 81 of Plaintiff's Amended Complaint is a statement of law to which no responsive pleading is required. To the extent the statements contained in paragraph 81 of Plaintiff's Amended Complaint are construed to be allegations of fact, 3M denies the allegations.

82. 3M denies the allegations contained in paragraph 82 of Plaintiff's Amended Complaint, except admits that it has discharged wastewater from its Cottage Grove plant and Woodbury disposal site pump-put water into the Mississippi River pursuant to permits issued by the responsible state agencies. 3M further admits that low levels of PFCs have been detected in certain locations at certain times in groundwater in the vicinity of the Washington County disposal sites.

83. 3M denies the allegations contained in paragraph 83 of Plaintiff's Amended Complaint.

84. 3M denies the allegations contained in paragraph 84 of Plaintiff's Amended Complaint.

85. 3M denies the allegations contained in paragraph 85 of Plaintiff's Amended Complaint.

86. 3M denies the allegations contained in paragraph 86 of Plaintiff's Amended Complaint.

87. 3M re-alleges paragraphs 1-86 as if herein set out in full.

88. 3M denies the allegations contained in paragraph 88 of Plaintiff's Amended Complaint.

89. 3M denies the allegations contained in paragraph 89 of Plaintiff's Amended Complaint.

90. 3M denies the allegations contained in paragraph 90 of Plaintiff's Amended Complaint.

91. 3M denies the allegations contained in paragraph 91 of Plaintiff's Amended Complaint.

92. 3M denies the allegations contained in paragraph 92 of Plaintiff's Amended Complaint.

93. 3M denies the allegations contained in paragraph 93 of Plaintiff's Amended Complaint.

94. 3M re-alleges paragraphs 1-93 as if herein set out in full.

95. 3M alleges that paragraph 95 of Plaintiff's Amended Complaint is a statement of law to which no responsive pleading is required. To the extent the statements contained in paragraph 95 of Plaintiff's Amended Complaint are construed to be allegations of fact, 3M denies the allegations.

96. 3M denies the allegations contained in paragraph 96 of Plaintiff's Amended Complaint.

97. 3M denies the allegations contained in paragraph 97 of Plaintiff's Amended Complaint.

98. 3M denies the allegations contained in paragraph 98 of Plaintiff's Amended Complaint.

99. 3M denies the allegations contained in paragraph 99 of Plaintiff's Amended Complaint.

100. 3M denies the allegations contained in paragraph 100 of Plaintiff's Amended Complaint.

101. 3M denies the allegations contained in paragraph 101 of Plaintiff's Amended Complaint.
102. 3M re-alleges paragraphs 1-101 as if herein set out in full.
103. 3M denies the allegations contained in paragraph 103 of Plaintiff's Amended Complaint.
104. 3M denies the allegations contained in paragraph 104 of Plaintiff's Amended Complaint.
105. 3M denies the allegations contained in paragraph 105 of Plaintiff's Amended Complaint.
106. 3M denies the allegations contained in paragraph 106 of Plaintiff's Amended Complaint.
107. 3M denies the allegations contained in paragraph 107 of Plaintiff's Amended Complaint.
108. 3M denies the allegations contained in paragraph 108 of Plaintiff's Amended Complaint.
109. 3M denies the allegations contained in paragraph 109 of Plaintiff's Amended Complaint.
110. Plaintiff's Amended Complaint fails to state a claim upon which relief may be granted.
111. Plaintiff's claims are barred by the applicable statutes of limitations.
112. Plaintiff's claims are barred by the equitable doctrines of laches, waiver, and estoppel.



113. Plaintiff has contributed to and is at fault for some or all of the damages about which it complains. Plaintiff's fault includes, but is not limited to, the following activities in the County of Washington:

a. As the responsible party for removal/remediation activities at the WCLF, the MPCA pumped groundwater containing PFCs and other materials into the air allowing for their dispersion and return to the ground.

b. As the responsible party for removal/remediation activities at the WCLF, the MPCA directly pumped groundwater from the WCLF into surface water for a period of 7 years. During that time, 50 to 80 million gallons of water annually was discharged by the MPCA into Raleigh Creek, which discharges into Eagle Point Lake.

c. As the responsible party for removal/remediation activities at the WCLF, the MPCA has ceased to operate groundwater control systems at the WCLF. This results in groundwater flowing unabated from the WCLF naturally, although the MPCA has known for many years that groundwater beneath the WCLF contains PFCs.

114. Plaintiff's claimed damages were caused or contributed to by third-parties over whom 3M had no control and no legal duty to control, including agencies of the State of Minnesota. Such fault includes, but is not limited to, the following activities in the County of Washington:

a. In the 1960's the Minnesota Department of Transportation ("MnDot") constructed a section of Minnesota State Highway 5 in Oakdale, Minnesota.

b. During that construction, MnDot operated bulldozers and other heavy equipment in and through the Oakdale disposal site.

c. The operation of bulldozers and other heavy equipment in the Oakdale disposal site disturbed materials at the site including the destruction of containers of waste materials legally disposed of at the Oakdale disposal site.

115. Plaintiff's claims are barred in whole or in part because 3M's conduct was in accordance with the applicable standards of care under all laws, regulations, industry practice and knowledge at the time, and the activities of 3M were in accordance with such standards of care and were reasonable as a matter of law.

116. Plaintiff's claims are barred because federal, state, and/or local authorities authorized, ratified, or were aware of and acquiesced in actions by 3M that are the subject of the Amended Complaint.

117. Plaintiff's claims are barred because 3M's actions were in compliance with applicable laws and standards, and applicable permits.

118. Plaintiff's claims are barred because any levels of contamination did not exceed any applicable laws or standards.

119. Plaintiff has failed to join necessary and indispensable parties, including state agencies and other trustees.

120. Plaintiff's claims are barred by principles of res judicata, collateral estoppel, and/or claim splitting.

121. Any alleged trespass is de minimis and therefore not compensable.

122. Plaintiff's claims are barred, in part, by Minnesota Statute § 115B.04, subd. 9.

123. Plaintiff's claims are barred, in part, by Minnesota Statute § 115B.04, subd. 8.

124. Plaintiff's claims are barred, in part, by Minnesota Statute § 105B.04, subd. 7.

125. Plaintiff's claims are barred, in part, by Minnesota Statute § 115B.15.

126. Plaintiff failed to mitigate its alleged damages.
127. Plaintiff's damages, if any, are subject to equitable apportionment and allocation.
128. The baseline condition of the natural resources at issue has not been established by Plaintiff or shown to have been adversely affected by 3M's actions.
129. 3M is entitled to off set from Plaintiff's alleged damages all amounts expended for remediation and treatment of PFCs in mitigating the alleged natural resource damage.
130. If 3M is liable for payments into the remediation fund under MERLA, Plaintiff is jointly and severally liable to make such payments as may be adjudicated.
131. The MPCA Consent Order constitutes a prior settlement, accord, and satisfaction barring some or all of Plaintiff's claims, and double recovery or inconsistent relief is prohibited.
132. The Amended Complaint should be dismissed as premature due to the lack of any natural resources damage assessment having been conducted by Plaintiff.
133. Plaintiff's damages, if any, are the result of a superseding and/or intervening cause(s) subsequent to 3M's alleged conduct and which bars 3M's liability.
134. Plaintiff is not the real party in interest or lacks standing to bring the suit under the "*parens patriae* doctrine" to the extent that citizens and/or municipal governments have directly brought the same or similar claims and to the extent that the State lacks a sufficient interest to support its claim.
135. Plaintiff's claims are barred to the extent that Plaintiff seeks to retroactively impose liability for conduct that was not actionable at the time it occurred, and 3M may not be held liable under retroactive theories not requiring proof of fault or causation.
136. MERLA displaces any common law claims for alleged damages to natural resources, as such damages must be deposited in the remediation fund and not any general fund,

and Plaintiff may make no recovery of any funds to be used for any purposes other than those to which remediation funds may be put.

137. Plaintiff cannot recover more than once for the same alleged injury.

138. Plaintiff's allegations with respect to potential future effects on drinking water or other resources and potential future damages are not ripe, are speculative, and fail to state a claim.

139. Any claim made by Plaintiff related to the alleged disposal by 3M of PFCs at the Washington County Landfill is barred by the Closed Landfill Act and by 3M's participation in the State's administration of the Washington County Landfill under the Closed Landfill Program.

140. Plaintiff's claims that depend on the inclusion of any PFC within the scope of MERLA, the MWPCA, or any rules promulgated by the MPCA are barred by application of the Due Process Clause of the Fourteenth Amendment to the United States Constitution and/or the right to due process of law found in Article I, Section 7, of the Minnesota Constitution.

141. Plaintiff's claims for damages from 3M are barred by the Uniformity Clause of Article X, Section 1, of the Minnesota Constitution and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

142. 3M reserves the right to supplement its Answer by adding additional defenses made known to it in the course of discovery in this matter.

**WHEREFORE**, Defendant 3M Company prays that Plaintiff's Amended Complaint and causes of action against it be dismissed and that 3M recover judgment in its favor and against Plaintiff, together with its costs and disbursements herein.

Dated: February 28, 2011

**MASLON EDELMAN BORMAN & BRAND, LLP**

By: 

Cooper S. Ashley (#120558)

Mark W. Lee (#184214)

Michael C. McCarthy (#230406)

3300 Wells Fargo Center

90 South Seventh Street

Minneapolis, MN 55402

Telephone: (612) 672-8200

Facsimile: (612) 672-8397

*Attorneys for Defendant 3M Company*

**ACKNOWLEDGMENT**

I, the undersigned, hereby acknowledge that I am familiar with the terms of Minn. Stat. § 549.211, and that costs, disbursements and reasonable attorney and witness fees may be awarded to the opposing party pursuant to Subd. 2 thereof, in the event a party or an attorney acts in bad faith; asserts a claim or defense that is frivolous and that is costly to another party; asserts an unfounded position solely to delay the order and course of the proceedings or to harass; or commits a fraud upon the court.



Michael C. McCarthy