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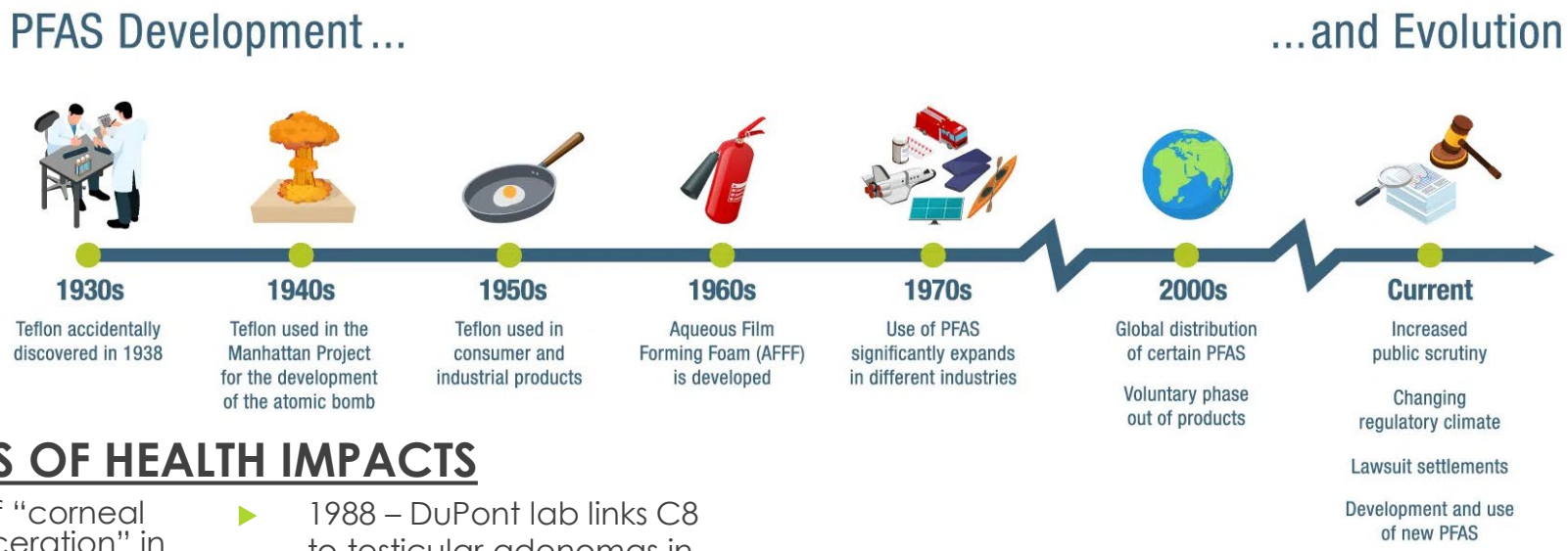
Aqueous Film-Forming Foam (AFFF) Product Liability Litigation (MDL 2873)

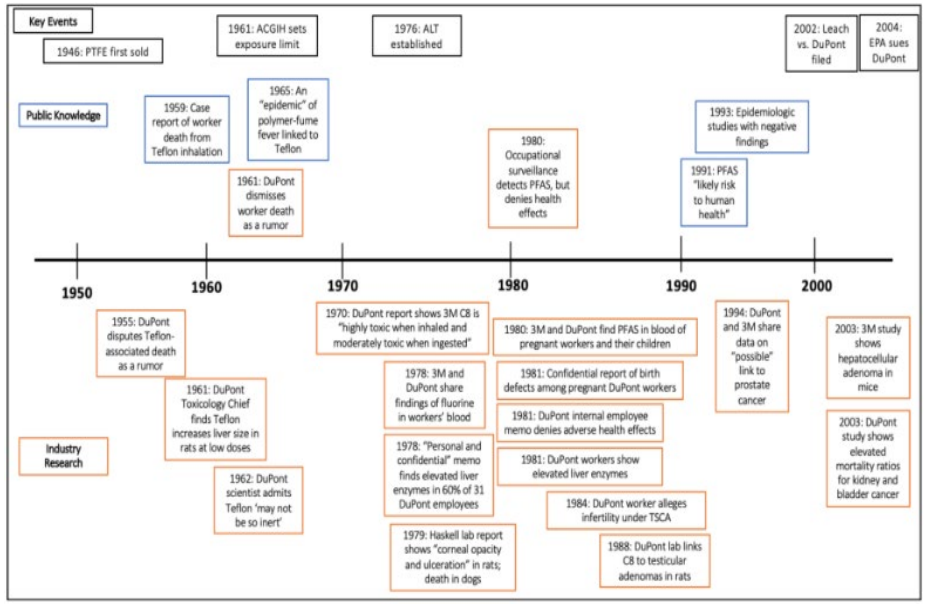
PFAS DRINKING WATER SETTLEMENT

PFAS HISTORY



DUPONT & 3M AWARENESS OF HEALTH IMPACTS

- 1955 - Fatality (Teflon)
- 1961 - DuPont Chief of Toxicity finds that Teflon increases liver size of rats at low doses
- 1965 - "Epidemic" of polymer-fume fever (Teflon)
- 1970 - DuPont show 3M C8 is "highly toxic…"
- 1978 - 3M and DuPont share findings of fluorine in workers' blood
- 1978 - DuPont find elevated liver enzymes in 60% of 31 employees
- 1979 - Report of "corneal opacity and ulceration" in rats; death in dogs
- 1980 - Occupational surveillance detects PFAS, but denies health effects
- 1980 – 3M and DuPont find PFAS in blood of pregnant workers and their children
- 1981 – Confidential report of birth defects among pregnant DuPont Workers
- 1981 – DuPont internal employees memo denies adverse health effects
- 1981 – DuPont workers show elevated liver enzymes
- 1984 - DuPont worker alleges infertility under TSCA
- 1988 – DuPont lab links C8 to testicular adenomas in rats
- 1991 – PFAS "likely risk to human health"
- 1993 – Epidemiologic studies with negative findings
- 1994 – DuPont and 3M share data on "possible" link to prostate cancer
- 2003 – 3M study shows hepatocellular adenoma in mice
- 2003 – DuPont study… mortality ratios for kidney and bladder cancer



"No level of PFAS is considered safe"

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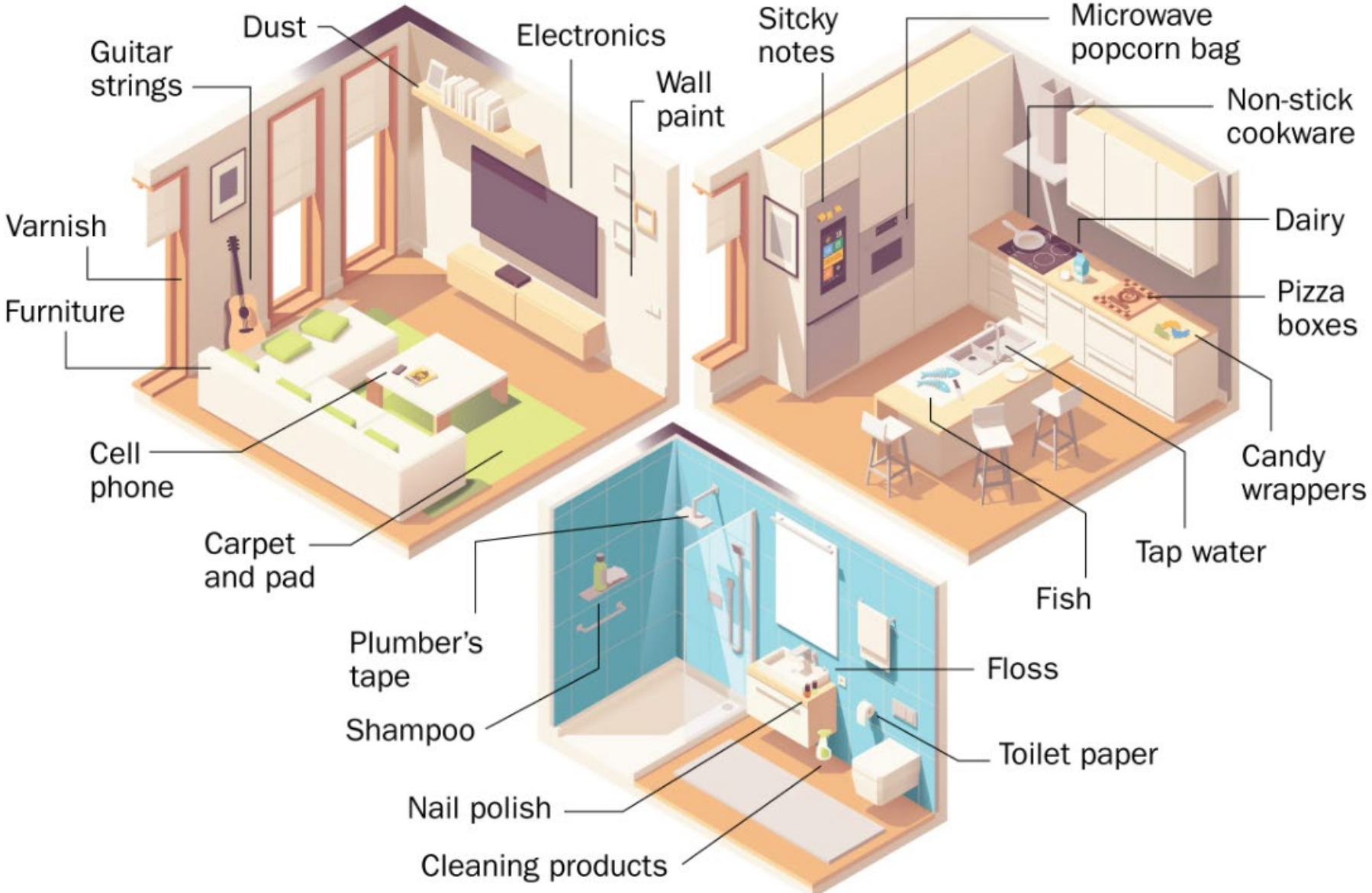
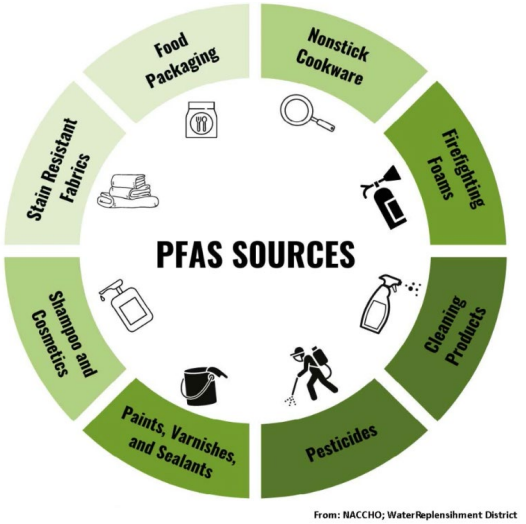
All The Stuff in Your Home That Might Contain PFAS 'Forever Chemicals'





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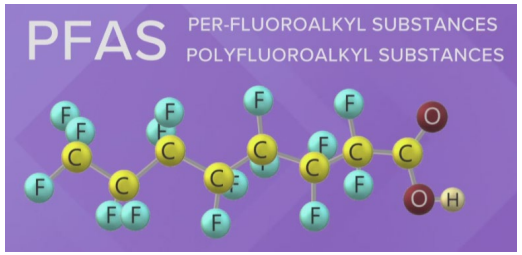
PFAS – STOUGHTON DRINKING WATER

- Regulation
  - Current regulation
  - 70 parts per trillion (ppt) for PFOA and PFOS
  - Proposed regulation
    - Maximum Contaminant Level (MCL) of 4 parts per trillion PFOA (Maximum Contaminant Level Goal (MCLG) of 0 ppt.)
    - Hazard index of 1.0 (for mixtures of four additional PFAS compounds (i.e., GenX, PFBS, PFNA, and PFHxS)).



- Sampling of 4 Wells
  - 3 Wells No Detect
  - 1 Well with Detect
    - PFOS =1.5 ppt
    - Hazard Index = 0.3675

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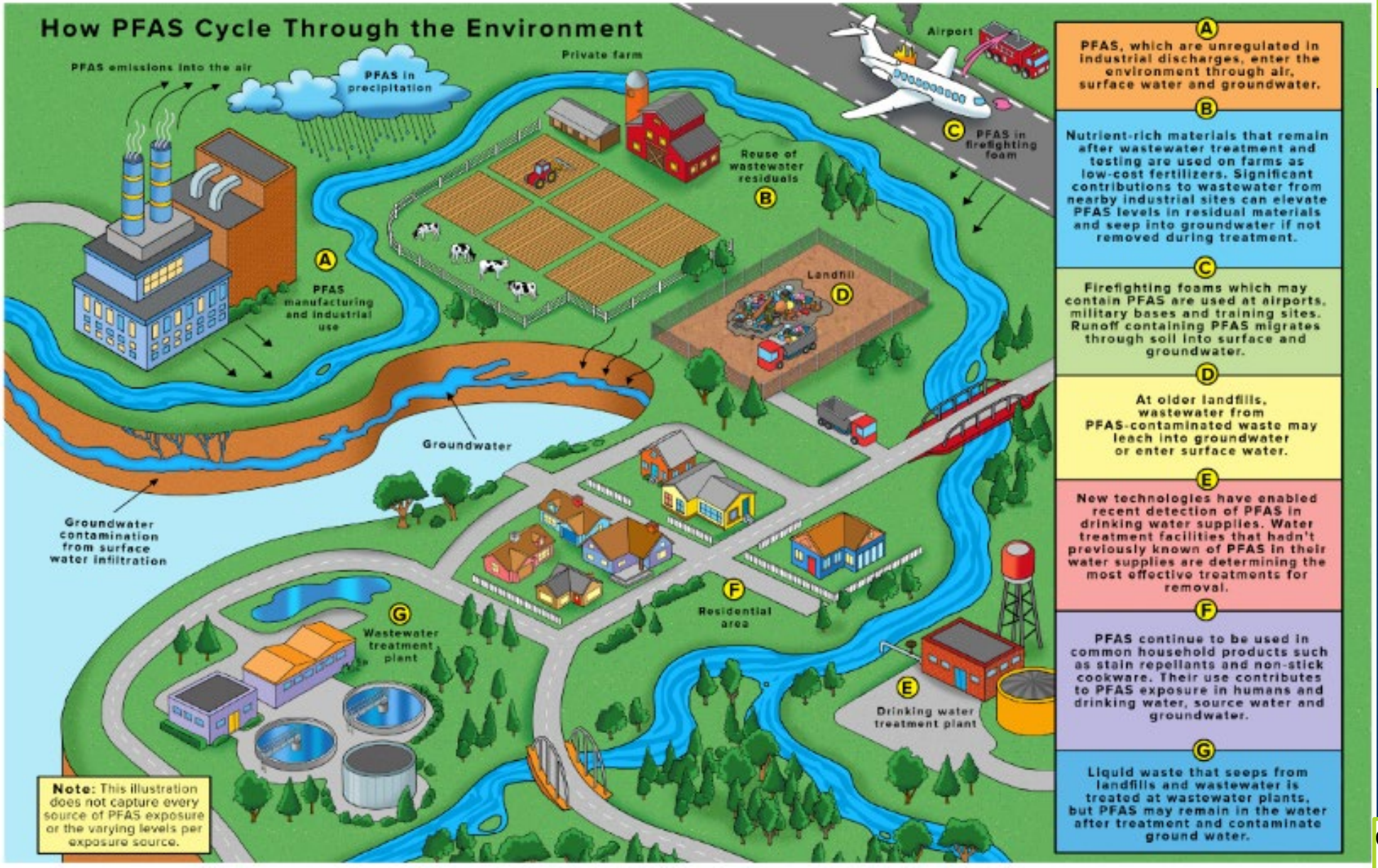

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Aqueous Film Forming Foam (AFFF) Liability Litigation Settlement - OPTIONS

- **3M Settlement**
  - The 3M settlement provides for overall payments of between $10.5 billion and $12.5 billion to settle all claims of PFAS contamination in public water systems against 3M.
- **DuPont Settlement**
  - The DuPont settlement provides for payment of $1.185 billion to settle all claims of PFAS contamination in public water systems against DuPont.
- The 3M and DuPont settlements encompass public water systems that have PFAS detections as well as those that have tested but not detected PFAS in drinking water.
  - Stoughton Utilities is a part of the settlement class.
- The settlements encompass claims for PFAS contamination caused by any product from that manufacturer, including firefighting foam known as Aqueous Film Forming Foam (AFFF), as well as PFAS chemicals in consumer, industrial, and other products.
- Any public water system that is part of the 3M and/or DuPont settlement classes and does not affirmatively opt out of the class will be bound by the settlement once it is finally approved and will lose the legal right to file a separate lawsuit against 3M or DuPont in exchange for any monies received through the settlement.

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Aqueous Film Forming Foam (AFFF) Liability Litigation – Settlement Options

- **Option A: Take No Action**
  - Automatically remain a part of the settlement class
  - Receive settlement monies
    - Monies to be reserved for future PFAS mitigation
  - Maintain ability to seek additional settlement funds if additional wells have new PFAS detection prior to 2030
  - Release all liability for drinking water and groundwater PFAS contamination
- **Potential Future Negative Outcomes**
  - PFAS levels hold steady through 2030 and then spike post 2030, potentially resulting in costly remediation
- **Potential Future Positive Outcomes**
  - Funding source created for any future treatment requirements
  - PFAS levels in wells remain low or have a no detect
  - Technology advances and treatment options are extensive and inexpensive

- **Option B: Opt – Out of Settlement Class**
  - No monies received from settlement
    - No release of liability
  - Retain ability to pursue a lawsuit in the future
- **Potential Future Negative Outcomes**
  - 3M and/or Dupont go bankrupt due to ongoing high settlement litigations with other parties
    - Wastewater, landfills, firefighters, airports, public health, individual health, etc.
  - Litigation would be "on our own"
    - Very expensive to litigate as an individual plaintiff
    - City responsible for proving contaminant source and company liability
    - Additional litigation for drinking water is slated to be heard after other industry class-action suits completed
- **Potential Positive Future Outcomes**
  - Retain ability to litigate in the future

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PFAS DRINKING WATER SETTLEMENT

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