

Chemical companies' PFAS payouts are huge—but the problem is even bigger

Tom Perkins, *The Guardian*, 3 August 2023 (shortened)

When the chemical giant 3M agreed in early June to pay up to \$12.5bn to settle a lawsuit over PFAS contamination in water systems across the nation, it was hailed by attorneys as “the largest drinking water settlement in American history”, and viewed as a significant win for the public in the battle against toxic “forever chemicals”.

A second June settlement with the PFAS manufacturers DuPont, Chemours and Corteva tallied a hefty \$1.1bn. But while the sums are impressive on their face, they represent just a fraction of the estimated \$400bn some estimate will be needed to clean and protect the nation’s drinking water. Orange county, California, alone put the cost of cleaning its system at \$1bn.

Moreover, the two settlements include just over 6,000 water systems nationwide. Utilities that were not part of the suits but have PFAS in their systems can claim some of the settlement money, or they can sue the chemical manufacturers on their own.

That means the settlements only represent the first wave of utility lawsuits to hit chemical manufacturers, legal observers say. Because PFAS are so widely used and the scale of their harm is so great, chemical makers will get hit from a range of legal angles, and some suspect the industry’s final bill could exceed the \$200bn paid by big tobacco in the 1990s.

The number will be “very large”, said Kevin McKie, an attorney with the Environmental Litigation Group who represented a water management company in the 3M case. Though the 3M settlement does not cover all the nation’s costs, it is a strong start, he added.

PFAS are a class of about 15,000 compounds used to make products across dozens of industries resistant to water, stains and heat. They are called “forever chemicals” because they do not naturally break down, and are linked to cancer, kidney disease, liver conditions, immune disorders, birth defects and other health problems.

The chemicals are thought to be contaminating drinking water for over 200 million Americans. Tens of thousands of contaminated private wells are not included in the settlement. The chemicals are also widely used in thousands of consumer products from dental floss to cookware to clothing, and have been found to contaminate food, soil and air.

PFAS constantly cycle and accumulate throughout the environment, and removing them from water is costly. The highly mobile chemicals can slip through most utilities’ filtration systems. Granular activated carbon and reverse osmosis are considered the best options.

Once those systems are in place, they can cost millions more annually to operate than utilities were previously paying.

The settlements also drew unlikely opponents in 22 state attorneys general who urged the judge to reject the 3M settlement because it “does not adequately account for the pernicious damage that 3M has done in so many of our communities”, said the California attorney general, Rob Bonta.

Beyond water utility settlements, chemical makers face personal injury suits. Most US states will also probably sue over contamination of lakes, rivers and other natural resources. Minnesota alone found eliminating PFAS contamination from its wastewater could run to \$28bn.

Local water systems that are not made whole will need help from the federal government, which “basically abandoned public water infrastructure a long time ago”, said Oday Salim, director of the Environmental Law and Sustainability Clinic at the University of Michigan.

“Any amount of money that gets shifted to the victims is helpful,” he added.

The government could implement an excise tax on PFAS to help cover costs, McKie said, and he noted the chemical manufacturers are taking a significant hit. By some estimates, 3M’s PFAS liabilities may soar to as much as \$30bn as claims roll in.

“That’s a pretty big chunk of the total size of their corporation,” McKie said.