

Environmental Group Of The Year: Baron & Budd

By Aaron West

Law360 (February 8, 2024, 3:14 PM EST) -- Baron & Budd PC attorneys wrangled a \$12.5 billion settlement with 3M over contamination of public water systems — the largest settlement of its kind in U.S. history — which, among other notable legal accomplishments, earned it a spot among Law360's 2023 Environmental Groups of the Year.

It's achievements like the 3M case, as well as a similar settlement with DuPont, that put the group at the forefront of employing creative environmental law strategies and negotiating large, complex settlements, according to Scott Summy, the practice group's leader, who founded it in 2002.

Baron & Budd represented more than 200 public water systems across the U.S. in PFAS, or forever chemicals, litigation against 3M, which Summy said not only required monumental juggling because of how many parties were involved, but saw the firm employing unique strategies to finish the job. According to Summy, the best way to approach the litigation was from a product liability standpoint instead of an environmental one — which wasn't an obvious method, but is now one the firm relies on.

"I've been representing public entities and water cases for 25 years, and in those cases historically we have alleged the companies have put products out into the market that are harmful," Summy said. "We traditionally don't sue these folks under environmental statutes: we focus on product liability, which we have been sort of the pioneers behind."

The product liability strategy can be more appealing to juries, Summy said, and can lead to bigger penalties for the companies involved. In June, Baron & Budd obtained a record \$12.5 billion nationwide class agreement with 3M, the largest drinking water contamination settlement in U.S. history.

The settlement funds will assist with the removal of harmful chemicals in public drinking water by paying for the cost of testing and removing PFAS, or perfluoroalkyl and polyfluoroalkyl substances, after testing, the firm said. Also, the company agreed to pay the funds to public water systems that detect the chemicals in drinking water supplies.

Although the firm achieved a huge settlement, navigating its distribution because of all the different parties involved was another complex angle the firm had to deal with.



"It was very challenging — you're in effect resolving cases on behalf of water districts across the U.S.," Summy said. "It was extremely complicated; we had to come up with the allocation plan for dozens and dozens of different entities. It was the most complicated settlement I've ever done."

In a similar case, Baron & Budd attorneys helped convince DuPont to pay \$1.185 billion to public water systems across the U.S. in which forever chemicals were detected in drinking water supplies. The settlement resolved a lawsuit alleging DuPont and other manufacturers knew PFAS-containing products would contaminate the environment and potentially cause significant human health problems, including cancer, when they brought the products to market.

The case helped develop a comprehensive settlement structure addressing PFAS in public water systems nationwide, Summy said.

"In coming up with the settlement agreements we had to understand what was coming up on the ground to define a class," he said. "We had to negotiate our way through these problems, and it wasn't easy."

It's not just water systems with the firm's environmental practice, however. Baron & Budd also played a vital role in securing a \$24 million settlement with Pacific Gas & Electric for 10 public entities impacted by the 2021 Dixie Fire, which was attributed to malfunctioning PG&E equipment.

One of the largest fires in California history, the blaze scorched roughly more than 950,000 acres in Plumas, Lassen, Butte, Shasta and Tehama counties. Although PG&E denied any wrongdoing going into mediation, Baron & Budd attorneys John Fiske and Torri Sherlin negotiated with the company and compelled it to opt for settlement, avoiding high-profile litigation, Fiske said.

Like water contamination cases, the group's work with wildfire-related lawsuits also requires unique approaches, Fiske said. For instance, with the Bobcat Fire in 2020, which burned more than 100,000 acres in Los Angeles County, Fiske said the practice group looked toward stormwater system damage that was caused by the burning of vegetation.

"After these fires stripped the vegetation off the steep slopes, the rain moved the incredible mass of soil and trees and debris and went down into the reservoir," he said. "So largely our claim was because of the impact on the reservoir system and the flood control system."

It's creative approaches like that, or considering road damage related to trucks that are part of firefighting efforts, that lead to large settlements that help counties to rebuild their communities and help offset the expenses incurred by the fire, Fiske said.

"These settlements are so important because they help governments change and prevent future events, which can be so destructive for residents," he said. "It's why the work is so important."

--Editing by Caitlin Wolper.