

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: AQUEOUS FILM-FORMING FOAMS
PRODUCTS LIABILITY LITIGATION

MDL No. 2873

TRANSFER ORDER

Before the Panel:* Defendant 3M Company moves under 28 U.S.C. § 1407(c) to transfer the actions listed on Schedule A to the District of South Carolina for inclusion in MDL No. 2873.¹ No party responded to this motion.

After considering the argument of counsel, we find that the actions listed on Schedule A involve common questions of fact with the actions transferred to MDL No. 2873, and that transfer under 28 U.S.C. § 1407 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. In our order centralizing this litigation, we held that the District of South Carolina was an appropriate Section 1407 forum for actions in which plaintiffs allege that aqueous film-forming foams (AFFFs) used at airports, military bases, or certain industrial locations caused the release of per- or polyfluoroalkyl substances (PFAS) into local groundwater and contaminated drinking water supplies. The actions in the MDL share factual questions concerning the use and storage of AFFFs; the toxicity of PFAS and the effects of these substances on human health; and these substances' chemical properties and propensity to migrate in groundwater supplies. *See In re Aqueous Film-Forming Foams Prods. Liab. Litig.*, 357 F. Supp. 3d 1391, 1394 (J.P.M.L. 2018).

Plaintiffs in these two actions allege that they developed cancer caused by the contamination of their drinking water by PFAS discharged from a 3M facility located in Cordova, Illinois. In a prior order, we denied transfer of an action involving the Cordova facility because this facility did not manufacture AFFF. *See Order Denying Transfer* at 1–2, MDL No. 2873 (J.P.M.L. Aug. 3, 2022), ECF No. 1510 (denying transfer where 3M argued that AFFF from an Army facility could have contributed to the alleged PFAS contamination). Here, though, 3M has provided evidence (in the form of a detailed declaration by the Environmental Supervisor at the Cordova facility) that AFFF has been used at the Cordova facility for fire suppression since 1969 and that, historically, wastewater containing AFFF was discharged, spilled, or released at the

* Judges Nathaniel M. Gorton and David C. Norton did not participate in the decision of this matter.

¹ 3M also moved to transfer the Northern District of Illinois *Noland* action. We deny transfer of *Noland* in a separate order for the reasons explained therein.

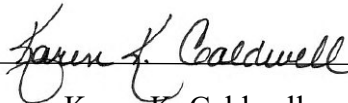
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facility. *See* Declaration of Erin (Balasky) Monte, MDL No. 2873 (J.P.M.L. Jan. 29, 2025), ECF No. 3227-7. Transfer of these actions thus is consistent with our past practice of transferring actions involving industrial facilities where the alleged PFAS contamination is attributable to use of an AFFF fire suppression system. *See, e.g.*, Transfer Order at 2, MDL No. 2873 (J.P.M.L. Oct. 4, 2024), ECF No. 2938 (transferring *City Utilities* because plaintiff alleged that groundwater contamination was caused, at least in part, by operation of AFFF fire suppression system at industrial facility).

3M has met its burden of demonstrating that transfer of these actions, which on the face of the complaints do not reference AFFF, is appropriate. *See* Order Denying Transfer at 2, MDL No. 2873 (J.P.M.L. Dec. 18, 2019), ECF No. 541 (“[A] party seeking transfer of an action that does not on its face raise AFFF claims bears a significant burden to persuade us that transfer is appropriate and will not undermine the efficient progress of the AFFF MDL.”). These actions will share common questions of fact with the AFFF actions in the MDL and will benefit from inclusion in the centralized proceedings.

IT IS THEREFORE ORDERED that the actions listed on Schedule A are transferred to the District of South Carolina and, with the consent of that court, assigned to the Honorable Richard M. Gergel for coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Karen K. Caldwell
Chair

Matthew F. Kennelly
Dale A. Kimball

Roger T. Benitez
Madeline Cox Arleo

**IN RE: AQUEOUS FILM-FORMING FOAMS
PRODUCTS LIABILITY LITIGATION**

MDL No. 2873

SCHEDULE A

Central District of Illinois

CASSADAY v. 3M COMPANY, C.A. No. 4:24-04173
DEUFEL v. 3M COMPANY, C.A. No. 4:24-04174