

State of Minnesota, by its Attorney General Lori Swanson, its Commissioner of Pollution Control, John Linc Stine, and its Commissioner of Natural Resources, Tom Landwehr,

Plaintiff,

v.

3M Company,

Defendant.

Case Type: Other Civil  
Civil File No. 27-CV-10-28862  
Judge Kevin S. Burke

**AFFIDAVIT OF CHARLES KIESTER IN  
SUPPORT OF 3M COMPANY'S RESPONSE  
AND SUPPORTING MEMORANDUM IN  
OPPOSITION TO PLAINTIFF STATE OF  
MINNESOTA'S MOTION TO COMPEL  
DISCOVERY**

1. My name is Charles Kiester. I am over the age of 18 and competent to make this statement of facts.

2. I was employed by 3M for approximately 38 years. I started at 3M as a sanitary engineer in 1962. After 1990, I served as the Senior Vice President of Engineering, Manufacturing, and Logistics, addressing environmental issues in a corporate executive capacity.

3. Early in the morning of May 8, 2000, I met with Livio DeSimone, the Chief Executive Officer of 3M, for breakfast. During breakfast, I recommended to Mr. DeSimone that 3M phase out of the manufacturing of perfluorooctanyl chemicals ("C-8 Chemicals"). After a 30-45-minute conversation, Mr. DeSimone agreed with my recommendation. At no point did I draft or show Mr. DeSimone documents during this meeting related to why I recommended that 3M phase out of the manufacture of C-8 Chemicals.

4. After breakfast, I arranged for a short meeting with additional individuals on the Steering Committee,<sup>1</sup> including Charles Reich, Executive Vice President for the Specialty Materials Division, to inform them of the decision. No documents were presented at this meeting.

5. The next day, I, along with Mr. DeSimone, informed the Board of Directors (the “Board”) of the decision at a regularly scheduled meeting of the Board. I do not recall the Board voting to approve the phase out of C-8 Chemicals. Nor did I, or anyone else, present any written documentation or presentations to the Board regarding why the phase out decision should be made, seeking approval of the phase out decision, or even informing the Board of the phase out decision.

6. In connection with preparing this affidavit, I recently reviewed a document with the title “3M Fluorochemical EHS&R Initiative, Chuck Kiester’s Board of Directors Presentation May 9, 2000.”<sup>2</sup> I do not believe this document was ever presented to the Board, but was instead meant to prepare me for the Board meeting occurring on May 9, 2000.

7. The same day as the board meeting, 3M announced to the Environmental Protection Agency the decision to phase out of the manufacture of C-8 Chemicals. On May 11, 2000, 3M made the same announcement to the Food and Drug Administration. 3M publicly announced its decision on May 16, 2000.

8. I recommended the phase out based on 3M’s commitment to product stewardship and environmental sustainability, as well as thoughts from other 3M employees.

9. It is my understanding that Mr. DeSimone agreed to the phase out for those reasons, as explained in numerous documents released publicly after the decision was made.

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<sup>1</sup> The Steering Committee was formed to provide management oversight to assure that, at a minimum, risks relative to Environmental, Health, Safety, and Regulatory are being adequately managed to achieve business objectives.

<sup>2</sup> Attached as Exhibit A.

10. Throughout this process, I do not recall that any documents were prepared for the express purpose of allowing Mr. DeSimone to review them when considering my recommendation. Instead, the decision was based on information gathered and reviewed by myself, DeSimone, and others over a period of time.

11. I declare under penalty of perjury that everything I have stated in this document is true and correct.

Dated: October 9, 2017

  
\_\_\_\_\_  
Charles Kiester

\_\_\_\_\_  
County and State where signed

# **Exhibit A**

# **3M Fluorochemical EHS & R Initiative**

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**Chuck Kiester's**

## **BOARD OF DIRECTORS PRESENTATION**

**May 9, 2000**

**05 132126**

# 3M Fluorochemicals EHS&R Initiative



## Issue Summary

- 3M discovery of 3M fluorochemical in blood of general population
- No medical or scientific basis to attribute any adverse health effects to 3M products
- Developing and implementing plans to minimize exposures and emissions
- Accelerating scientific studies - health, safety, environmental issues

Attorney-Client and Work Product Privileged  
Do Not Copy-Do Not Disclose

SANDERS CREAPPTWENHAR INITIATIVE

**05 132127**

# 3M Fluorochemical EHS & R Initiative

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## Internal Questions

- **What Does This Finding Mean?**
- **Where Does PFOS Come From?**
- **What Should We Do?**
- **What is Context for Risk Management Decisions?**
- **Have We Caused Harm? (past)**
- **Are We Causing Harm? (current)**
- **Will We Cause Harm? (future)**
- **Is Exposure From Products?**
- **Is Exposure From Historical Releases?**
- **Is PFOS Everywhere in World?**
- **What Process Should We Use To Obtain Answers?**

**05 132128**

## Estimated 3M Annual Production (Global)

### Perfluorooctanyl - Based Products\*

#### PFOS-Based Products

Scotchgard	3,844,796 lbs.
Scotchban	2,909,064 lbs.
Lightwater	96,240 lbs.
Surfactants & Intermediates	<u>399,900 lbs.</u>
TOTAL PFOS-Based	7,250,000 lbs.

#### PFOA-Based Products:

TOTAL PFOA-Based: 363,444 lbs.

Total Annual Perfluorooctanyl\*\*-  
Based Products 7,613,444 lbs.

\* Expressed as lbs. - solids

\*\* Estimate Based on April 2000 YTD Actual Shipments

**05 132129**



# 3M Fluorochemical EHS & R Initiative

## Program Scope

- **Assemble Current Knowledge**
  - Composition of Products
  - Applications & Life Cycle Exposures
  - Life Cycle Releases
  - Historical Production & Releases
  - Toxicology & Occ. Medicine Studies
  - Environmental Fate & Effects Studies
- **Fill in Knowledge Gaps**
  - Undertake Additional Studies
- **Characterize Overall Risks**
  - Internal & External Characterizations and Assessments
- **Risk Management Initiatives**
  - Re-engineering
  - Applications Review
  - Reinvention
  - Emissions Reduction
  - Exposure Reductions
- **Communicate to Stakeholders**
  - Regulators
  - Employees
  - Customers
  - Trade Associations
  - Other Suppliers

**05 132130**

# Fluorochemical EHS & R Initiative

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## U.S. Regulatory Stakeholders

- May-Sept. 1998* • *Information Submissions to EPA, FDA*
- Dec. 1998* • *Meeting with EPA*
- Jan. '99 -  
Mar. 2000* • *Scientific Information Submissions -  
EPA, FDA*
- January 2000* • *EPA Requests for information re selected  
Fluoro-Organics (PBT focus)*
- March 7, 2000* • *Meeting with EPA*
  - *Update EPA on EHS&R Initiative*
  - *Seek Guidance on Science*
  - *Confidence in 3M Program*
  - *Clarify EPA Information Requests*
- March 20,  
April 7* • *EPA Requests for Additional information*

05 132131

# Fluorochemical EHS & R Initiative

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## U. S. Regulatory Stakeholders

*April 28 • Meeting with EPA - Their Concerns:*

- *Widespread Distribution - Humans, Environment*
- *Accumulation Potential*
- *Safety Margins*
- *Submit Additional (Interim) Data*
  - *EPA wants to know what 3M knows*

*May 9 • Meeting with EPA*

- *Clarify Path Forward with EPA*
- *Discuss 3M Intentions*

**05 132132**