

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NATIVE VILLAGE OF POINT HOPE, et
al.,

Plaintiffs,

v.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,

Defendant,

And

TECK ALASKA INCORPORATED, et
al.,

Intervenor-
Defendants

CASE NO. C11-667 MJP

ORDER GRANTING MOTION TO
TRANSFER

This matter comes before the Court on Intervenor-Defendants’ motion to transfer. (Dkt. No. 42.) Having reviewed the motion, Plaintiffs’ opposition (Dkt. No. 43), the reply (Dkt. No.

1 47), and all related papers, the Court GRANTS the motion. The U.S. Environmental Protection
2 Agency has not taken a position on the matter.

3 **Analysis**

4 A. Standard

5 The parties agree that this matter can be litigated in Alaska. (Dkt. No. 47 at 2.) The
6 Court thus finds this aspect of the venue requirements satisfied. See 28 U.S.C. § 1391(e).

7 A motion to transfer venue under § 1404(a) requires the court to weigh multiple factors to
8 determine whether transfer is appropriate. The court may consider: (1) the plaintiff’s choice of
9 forum; (2) the convenience of witnesses and the parties; (3) the familiarity of the forum with the
10 applicable law; (4) the ease of access to evidence; (5) any local interest in the controversy and
11 contacts with the chosen forum, and (6) the relative court congestion and time to trial in each
12 forum. Jones v. GNC Franchising, Inc., 211 F.3d 495, 498-99 (9th Cir. 2000). “The question of
13 which forum will better serve the interest of justice is of predominant importance on the question
14 of transfer, and the factors involving convenience of parties and witnesses are in fact
15 subordinate.” Wireless Consumers Alliance, Inc. v. T-Mobile USA, Inc., No. C03-3711 MHP,
16 2003 WL 22387598, at *4 (N.D. Cal. Oct.14, 2003). The Intervenor-Defendants bear the burden
17 of showing the inconvenience of litigating in this forum. Decker Coal Co. v. Commonwealth
18 Edison Co., 805 F.2d 834, 843 (9th Cir. 1986).

19 B. Alaska is the Proper Venue

20 After considering all of the above factors, the Court finds that this case should be
21 transferred to Alaska.

22 \\
23 \\
24

1 1. Plaintiff's choice of forum is outweighed by the ties to Alaska

2 Generally the plaintiff's choice of form is accorded deference and "should rarely be
3 disturbed." Sec. Investor Prot. Corp. v. Vigman, 764 F.2d 1309, 1317 (9th Cir. 1985). However,
4 where the forum has little connection to the action, the Court may accord less deference to the
5 plaintiff's choice of venue. Saleh v. Titan Corp., 361 F. Supp. 2d 1152, 1157 (S.D. Cal. 2005)
6 ("[N]umerous courts have given less deference to the plaintiff's choice of forum where the action
7 has little connection with the chosen forum.")

8 Plaintiffs' choice to litigate this matter in this District is accorded little deference in light
9 of the substantial impact this case will likely have in Alaska and the few connections it has to
10 this District. The Intervenor-Defendants make a strong argument that Alaska has greater ties to
11 this case than Washington or this District's residents. The case involves a challenge to water
12 quality standards of the Red Dog Creek, a creek unique to Alaska. The water quality decision
13 only applies to the Red Dog Creek, and it implicates an Alaska state agency's underlying
14 administrative decision. The Intervenor-Defendants are two Alaska corporations operating on
15 the Red Dog Creek. Against these contacts to Alaska, Plaintiffs identify only two ties to this
16 District. First, the EPA's regional office where the dispute water quality standard was adopted is
17 in Seattle. Second, some of Plaintiffs' constituents reside in Western Washington. However,
18 the numbers are relatively small: fewer than 3 percent of one group's members and 1 percent of
19 the other live in this District.

20 The Court finds that the ties here clearly favor Alaska as the preferred venue, despite
21 Plaintiffs' choice of forum. The impact of the litigation will be felt primarily in Alaska, while
22 the only significant tie to Seattle is the fact the EPA's decision was made here.

23 \\

