

# United States Court of Appeals

## For the First Circuit

No. 11-1474

---

UPPER BLACKSTONE WATER POLLUTION ABATEMENT DISTRICT,

Petitioner,

v.

U.S. ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

---

No. 11-1610

CONSERVATION LAW FOUNDATION,

Petitioner,

v.

U.S. ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

---

### ORDER OF COURT

Entered: January 24, 2012

The petitions for review in this case were set for hearing on January 12, 2012. At that hearing, the court advised counsel that it had carefully reviewed the filings made by the parties and amici and the record. Those filings established, inter alia, that there were several new and arguably superior sources of information material to the parties' dispute, including the effects of the Upper Blackstone Water Pollution Abatement District's plant upgrades (resulting from the 2002 consent decree), the results of the District's lately-completed water quality study and model, and potential alternative remedial measures.

The court noted the EPA's expressed commitment to review this data as part of a permit modification request and the District's representation to file promptly such a request in light of this and other new data. The court recognized that consideration of this and other data might render the issues at stake in this appeal largely academic in nature.

Accordingly, this court requested that the parties and amici agree to participate in the Civil Appeals Management Program ("CAMP") under Judge Patrick King in an effort to resolve voluntarily all or some of the issues raised on appeal. The parties agreed, and the court requested a suggested schedule for the CAMP proceedings from the parties within ten days. Under these circumstances, the court informed the parties that it would hold the petitions under advisement, that oral argument would not be of assistance to the court, and that the stay issued on April 29, 2010 would continue in effect until further order of the court.

The court acknowledged the existence of serious problems in the Blackstone River and in Narragansett Bay and noted that a voluntary resolution may well provide faster and more efficacious solutions.

The parties and amici met with Judge King later that day, and have since made a filing with a suggested schedule, which we have considered. We order as follows:

1. The parties and amici, and such other interested persons or entities as Judge King may determine, shall meet or confer with Judge King at such times and places as he may direct.
2. No later than March 30, 2012, each of the parties and Judge King shall file with this court status and progress reports on the progress to date, and shall file such reports every 30 days thereafter while the case is in CAMP.
3. Should Judge King be of the view that further participation in the CAMP program beyond March 30, 2012 would be fruitful, he shall continue to work with the parties, amici (and any others) toward a resolution.
4. On or after May 1, 2012, this court will consider the status of this case and whether further orders, if any, should be issued.

So ordered.

By the Court:

/s/ Margaret Carter, Clerk

cc:

Hon. Patrick King, Settlement Counsel  
Robert D. Cox, Jr.  
Frederic P. Andes  
Douglas Thomas Radigan  
Samir Bukhari  
Madeline Paradise Fleisher  
Ira W. Leighton  
Karen A. McGuire  
Jennifer Helen Beaton  
David M. Moore  
Karma Barsam Brown  
Donald Lynn Anglehart  
Christopher Michael Kilian  
Anthony N.L. Iarrapino