

# United States Court of Appeals For the First Circuit

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No. 10-2141

CONSERVATION LAW FOUNDATION,

Petitioner,

v.

U.S. ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

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Before

Lynch, Chief Judge,  
Torruella and Lipez, Circuit Judges.

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JUDGMENT

Entered: December 6, 2010

The petitioner has filed a petition for review of a decision issued on May 28, 2010 by the Environmental Appeals Board of the United States Environmental Protection Agency. On October 12, 2010, we ordered the petitioner and respondent to address the stage of the administrative proceedings and whether this petition should be dismissed for lack of jurisdiction. Having reviewed the parties' responses to our order to show cause and the parties' subsequent filings, we dismiss this appeal for lack of jurisdiction. See 33 U.S.C. § 1369(b)(1)(F) (providing for review of "the Administrator's action . . . in issuing or denying any permit under section 1342 of this title"); 40 C.F.R. § 124.19(f)(1) ("For purposes of judicial review . . . final agency action occurs when a final . . . NPDES . . . permit decision is issued by EPA and agency review procedures under this section are exhausted."); see also Rhode Island v. EPA, 378 F.3d 19, 22-23 (1st Cir. 2004).

As this court lacks jurisdiction, the Upper Blackstone Water Pollution Abatement District's Motions to Amend the Caption and For Leave to Intervene in Support of Respondent are denied as moot.

By the Court:

/s/ Margaret Carter, Clerk.

cc:

Tricia K. Jedele  
Christopher M. Kilian  
Madeline Fleisher  
Karen A. McGuire  
Ned Bartlett  
Robert D. Cox, Jr.  
Nathan A. Stokes  
Karen L. Crocker  
Susan B. Forcier  
Roland C. Gauvin  
J. Bradford Lange  
Donald G. Manseau  
David M. Moore  
James Shuris