

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CONSERVATION LAW FOUNDATION,)
INC.,)
Plaintiff,)
)
v.) C.A. No. 16-11950-MLW
)
EXXONMOBIL CORP., EXXONMOBIL)
OIL CORP., EXXONMOBIL)
PIPELINE CO.,)
Defendants.)

ORDER

WOLF, D.J.

October 6, 2021

For the reasons discussed at the hearing on October 5, 2021,
it is hereby ORDERED that:

1. The parties shall, by November 5, 2021, confer and submit
memoranda addressing:

a. The implications of the 2021 Multi-Sector General
Permit for this case generally and for the Amended Complaint
particularly.

b. The implications of the 2021 revision of defendants'
Stormwater Pollution Prevention Plan (the "2021 SWPPP"),
including: (1) whether any changes in the 2021 SWPPP from the 2015
version referenced in the Amended Complaint are material with
regard to any claims or particular paragraphs in the Amended
Complaint; (2) the implications of the 2021 SWPPP for the claims
seeking injunctive relief in the Amended Complaint; (3) whether
this case can and should proceed on the existing Amended Complaint

or whether the court should require the filing of a Second Amended Complaint if plaintiff does not propose filing one; and (4) whether any existing claims are rendered moot by the 2021 SWPPP.

c. The implications of Transunion LLC v. Ramirez, 141 S. Ct. 2190 (2021) and California v. Texas, 141 S. Ct. 2104 (2021) for this case, including whether either or both constitute an intervening change in the law which should cause the court to reconsider its 2019 ruling that plaintiff has standing to litigate certain claims. See United States v. Allen, 573 F.3d 42, 53 (1st Cir. 2009).

d. Whether the court should consider extrinsic evidence in deciding any of the foregoing questions, and, if so: (1) what extrinsic evidence should be considered; and (2) the implications of such evidence.

e. A detailed description of the discovery the party will request: (1) if all claims remain in this case; (2) if only Counts 2 and 3 remain in this case; and (3) if discovery is bifurcated between the issues of liability and remedy or otherwise phased; as well as a proposed schedule for each.

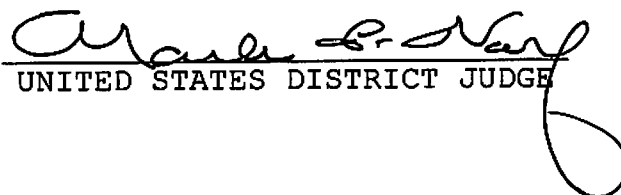
2. Each party shall, by November 19, 2021, respond to the other's memorandum.

3. A further hearing shall be scheduled after the foregoing issues are fully briefed.

3. The parties shall, by November 5, 2021, confer and submit, jointly if possible, a proposed protective order, which shall, among other things: (a) apply only to pre-trial proceedings; (b) limit the use of any confidential information to this case only; (c) provide that, if documents are filed under seal, redacted copies shall simultaneously be filed for the public record; and (c) provide that the court can modify the protective order after giving the parties notice and an opportunity for them to be heard.

4. The parties shall inform the court of any significant developments relating to this case.

5. The parties shall order the transcript of the October 5, 2021 hearing.


UNITED STATES DISTRICT JUDGE