

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

<b>CITY OF BANGOR,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil No. 02-183-B-S</b>
	)	
<b>CITIZENS COMMUNICATIONS COMPANY,</b>	)	
	)	
<b>Defendant/Third-Party Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>BARRETT PAVING MATERIALS, INC.,)</b>		
<b>et al.,</b>	)	
<b>Third-party Defendants.</b>	)	

**ORDER DENYING OBJECTIONS TO THE  
DECISIONS OF THE MAGISTRATE JUDGE**

Before the Court are the following objections: Citizens Communications Company’s Objection to the Magistrate’s Denial of its Motion for a Jury Trial (Docket # 454), Citizens Communications Company’s Objection to the Magistrate’s Denial of its Motion for Leave to File Partial Summary Judgment (Docket # 455) and Citizens Communications Company’s Objection to the Magistrate’s Denial of its Motion Addressing Issues Binding Third Parties (Docket # 468). Through these objections Citizens Communications Company (“Citizens”) asks the Court to revisit and reverse two rulings by the Magistrate Judge: (1) the February 4, 2005 Memorandum of Decision (Docket # 448), which denied Citizens’ motions to change venue, to allow a jury trial and to allow another round of belated summary judgment motion practice, and (2) the February 17, 2005 Order (Docket # 450), which refused Citizens’ request for a pre-trial ruling that issues resolved at the Phase One trial in this matter would in some respect bind the third

parties (who are not slated to participate in the Phase One trial).

The Court has reviewed and considered these two decisions, together with the entire record. First and foremost, the Court finds no basis for concluding that these rulings by the Magistrate Judge are clearly erroneous or contrary to law. To the extent the Court might be required to consider any of the legal issues raised by Citizens' objections *de novo*, the Court notes that upon *de novo* review of the issues decided in the February 4<sup>th</sup> and February 17<sup>th</sup> rulings, the Court concurs with these rulings for the reasons explained and/or referenced in the Magistrate Judge's respective decisions. In short, having considered the objections put forth by Citizens, the Court finds these objections to be without merit and determines that no further proceeding is necessary.

1. It is therefore ORDERED that the Citizens' Objections (Docket #s 454, 455 & 468) are hereby DENIED.
2. The rulings contained in both the February 4, 2005 Memorandum of Decision (Docket # 448) and the February 17, 2005 Order (Docket # 450) are AFFIRMED.
3. As noted in the February 4, 2005 Memorandum of Decision (Docket # 448), the Court's ruling with respect to jury trial is contingent upon the City of Bangor moving to voluntarily dismiss its state law claims. The City of Bangor shall file such a motion on or before March 18, 2005.
3. On or before June 13, 2005, the parties shall inform the Court how they propose to dispose of Plaintiff's CERCLA § 113(f) claims (Counts III & IV), which Plaintiff has conceded are no longer viable in light of the recent Supreme Court decision in Cooper Industries, Inc. v. Aviall Services, Inc., 125 S. Ct. 577 (2004).

SO ORDERED.

/s/ George Z. Singal  
Chief U.S. District Judge

Dated this 11th day of March, 2005

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