

Portsmouth, New Hampshire, POTW/Clean Water Act: U.S. EPA Environmental Appeals Board Petition Challenging NPDES Permit Conditions



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The City of Portsmouth, New Hampshire, (“Portsmouth”) filed a September 7th Petition for Review (“Petition”) before the United States Environmental Protection Agency (“EPA”) Environmental Appeals Board.

The Petition challenges certain conditions in a Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) permit issued to Portsmouth by EPA Region 1.

Portsmouth’s Petition states that EPA Region 1 issued an NPDES permit renewal to a Portsmouth Public Owned Treat Works (“POTW”) on August 8th. It describes the permit as allowing its POTW to continue to discharge treated wastewaters to surface waters of the United States.

The NPDES permit is also stated to allow what Portsmouth describes as a:

. . . necessary upgrade and expansion to meet the growing commercial and industrial needs of the Pease International Tradeport, one of the economic engines of the State of New Hampshire.

The expansion is described as an increase in wastewater treatment capacity from the current 1.2 million gallons per day to 1.77 million gallons per day.

The Petition argues that certain conditions in the NPDES permit are “based on clearly erroneous findings of fact and conclusions of law.” It also argues that certain requirements and provisions are in part arbitrary and capricious, not in compliance with law, and exceed EPA’s legal authority.

Certain of the issues are characterized by Portsmouth as being of “national significance.”

Portsmouth challenges the following NPDES permit conditions:

1. Rolling Annual Average Effluent Flow, Permit Part I.A.1
2. Daily Maximum BOD & TSS Limits, Permit Part I.A.1
3. BOD & TSS Loading Limits at 1.77 mgd, Permit Part I.A.1
4. Instream Mixing/Dilution Analysis, Permit generally
5. General Water Quality Standards Compliance Language, Permit Part I.A.2
6. Total Residual Chlorine Limits, Permit Part I.A.1

A copy of the Petition can be downloaded [here](#).