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# U.S. EPA Environmental Appeals Board: City of Rochester, New Hampshire, Petition for Review/Wastewater Treatment National Pollutant Discharge Elimination System Permit

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The City of Rochester, New Hampshire, (“Rochester”) filed an April 19th document before the United States Environmental Protection Agency (“EPA”) Environmental Appeals Board (“EAB”) styled:

*Petition for Review of City of Rochester Wastewater Treatment Facility NPDES Permit Issued by Region 1 (“Petition”)*

The *Petition* addresses a Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) Permit (“Permit”) issued by Region 1 of EPA on March 20, 2023.

Rochester is stated to own and operate a wastewater treatment facility (“Facility”) which discharges treated effluent to the Cocheco River. The Facility is stated to operate under a NPDES Permit which was issued in 1997. It has been administratively continued since its initial expiration more than 20 years ago.

The Facility is also stated to be required to comply with a General Nitrogen Permit (“GNP”). The GNP is stated to have been issued by EPA to address discharges for 13 wastewater treatment facilities located in 12 communities that discharge treated wastewater containing nitrogen within the Great Bay Watershed.

Rochester challenges certain conditions and effluent limits in the NPDES Permit issued in March because:

- They are based on one or more findings of fact or conclusions of law which are clearly erroneous, involved in abuse of discretion or implicate important policy conditions
- They impose new conditions and limits that are overly burdensome, not required by law, exceed EPA’s authority, or based on clearly erroneous findings of fact or conclusions of law
- Several of EPA’s responses in the record are stated to fail to meaningfully acknowledge or address significant comments and concerns raised by Rochester
- There was a failure to provide Rochester with fair notice of its new compliance obligations in certain material respects

Specific issues raised in the *Petition* include:

- The Region's imposition of a Total Phosphorus (TP) seasonal effluent limit of 0.12 mg/l is clearly erroneous and an abuse of discretion.
- The Region's Unexplained Imposition of a Lower Ammonia Nitrogen Limit was Not Based on a Sufficient Factual Basis.
- The Region Imposed Whole Effluent Toxicity (WET) Testing Without Any Reference to Particularized Need Therefor.
- The Region failed to respond to the comments regarding the imposition of maximum daily (summer/winter) CBOD limits.
- The Region's finding of downstream impairment of pH in the Cocheco is plainly erroneous and, to the extent it relies on insufficient data, arbitrary and capricious.
- The Permit's General Water Quality Standards Compliance Language Is Impermissibly Broad
- The Region's Failure to Provide a Reasonable Opportunity to Comment on Its Expanded Sampling Obligations for PFAS Chemicals is Erroneous, Arbitrary, and Capricious.
- The Region's refusal to provide time to implement the significant new requirements in the Permit was arbitrary and capricious.

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