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PFAS/Sewage Sludge Incinerator: Conservation Law Foundation Files Challenge Before U.S. EPA Environmental Appeals Board Addressing Manchester, New Hampshire NPDES Permit

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The Conservation Law Foundation (“CLF”) filed a Petition for Review (“Petition”) of the City of Manchester, New Hampshire’s Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) Permit before the United States Environmental Protection Agency (“EPA”) Environmental Appeals Board (“EAB”).

The Petition was filed before the EAB since the Region 1 Office of EPA issued the NPDES Permit.

Manchester is stated to operate a wastewater treatment plant (“Plant”) which is described as Northern New England’s largest wastewater treatment facility.

The Plant is designed to treat 34 million gallons of wastewater per day and discharges effluent into the Merrimack River. The Plant is also stated to burn sewage sludge in an on-site incinerator.

The Petition argues in regard to Per- and Polyfluoroalkyl Substances (“PFAS”) that EPA Region 1 in issuing the NPDES Permit:

- Ignored certain EPA policy directives which include:
- PFAS Strategic Roadmap.
- Policy highlighting the importance of mitigating environmental justice through Clean Water Act Permits.

CLF further argues that EPA Region 1 failed to conduct a reasonable potential analysis for PFAS in regard to the sewage sludge incinerator.

The Petition puts forth three specific challenges to the Permit decision:

1. EPA’s failure to consider whether the WWTF’s PFAS discharges have a reasonable potential to cause or contribute to a violation of New Hampshire’s narrative – not numeric – water quality standards for toxic substances and designated uses.
2. EPA’s weakening of the benthic survey requirement in Part 1.G.5 of the Permit with no notice and opportunity for public comment.

3. EPA's failure to perform an environmental justice analysis pursuant to EPA's NPDES Program Policy Addressing Environmental Justice and Equity in NPDES Permitting.

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