U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 8
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
STATEMENT OF BASIS

PERMITTEE:	Wild Horse Hot Springs, Inc.
FACILITY NAME AND ADDRESS:	Wild Horse Hot Springs 175 Camp Aqua Road, Hot Springs, Montana 59845
PERMIT NUMBER:	MT-0000005
RESPONSIBLE OFFICIAL:	Denny Larson 175 Camp Aqua Road, Hot Springs, Montana 59845 (406) 741-3777
FACILITY CONTACT:	Denny Larson
PERMIT TYPE:	Minor, New Permit, Industrial
FACILITY LOCATION:	Latitude 47.6407, Longitude -114.5725; Section 29, Township 22 N, Range 23 W

1 INTRODUCTION

This statement of basis (SoB) is for the issuance of a National Pollutant Discharge Elimination System (NPDES) permit (the Permit) to the Wild Horse Hot Springs, Inc. for the Wild Horse Hot Springs (Facility). The Permit establishes discharge limitations for any discharge of wastewater from the Facility through Outfall 001 to an unnamed tributary of the Little Bitterroot River. The SoB explains the nature of the discharges, EPA's decisions for limiting the pollutants in the wastewater, and the regulatory and technical basis for these decisions.

The Facility is located on the Flathead Reservation. EPA Region 8 is the permitting authority for facilities located in Indian country, as defined in 18 U.S.C. § 1151, located within Region 8 states and implements federal environmental laws in Indian country consistent with the EPA Policy for the Administration of Environmental Programs on Indian Reservations and the federal government's general trust responsibility to federally recognized Indian tribes.

2 MAJOR CHANGES FROM PREVIOUS PERMIT

This is the first issuance of a NPDES permit for the Facility.

3 BACKGROUND INFORMATION

The Facility is a private business owned and operated by Denny Larson. The Facility is located on a 10-acre site in the town of Hot Springs, Montana and is situated within Section 29, Township 22 N, Range 23 W. The Facility's outfall is located at latitude 47.640435 and longitude -114.572539 and is within the external boundaries of the Flathead Indian Reservation, which is home to the Confederated Salish and Kootenai Tribes (CSKT or the Tribes).

Wild Horse Hot Springs provides on-site cabins, RV camping, public restrooms, changing rooms, and 14 soaking pools and tubs fed by two natural hot springs located on the property (Figure 1).

The following background information was obtained from the Wild Horse Hot Springs NPDES permit application and a facility inspection completed by EPA inspectors on June 13, 2022.

3.1 Facility Description

The Facility collects water from two natural hot springs and conveys the water to the tubs and pools. The hot springs are located at latitude and longitude 47.641027, -114.572333 and 47.640545, -117.571766. The water temperature from the hot springs was reported to range from 90° to 120°F and is blended to provide a series of temperatures for each of the tubs and pools. The hot spring water is not chemically treated prior to use. Water flowing out of the tubs and pools is collected using an overflow pipe and is conveyed by a piping system to the discharge point. There is also no chemical treatment of the water flowing out of the tubs and pools prior to discharge at Outfall 001. All excess water from the hot springs that is not utilized by the Facility, is bypassed around the tubs and pools and is piped directly to the Outfall 001.

The Facility's permit application indicates the Facility will discharge at a rate of 100 gallons per minute (0.142 million gallons per day [MGD]).

Pool cleaning occurs daily, with half the pools cleaned one day and the remaining half being cleaned the following day. The cleaning process consists of draining the pool by removing the overflow riser pipe and allowing the tub or pool to drain. The tub or pool is then power washed with water from the hot springs and brushed. Once the tub or pool is cleaned the overflow riser is reinserted, and the clean tub or pool is allowed to fill. There are no chemicals used during the cleaning process.

The permit application indicated that the cabins and RV camping spots are without running water and do not generate any wastewater for the Facility. All wastewater generated from two public restrooms and associated showers is directed to an on-site septic system.

Effluent limitation guidelines for discharges of wastewater from a natural hot spring have not been promulgated. The effluent limitations established in this Permit are based on water quality standards developed by the Tribes and professional judgement of the permit writer.

Figure 1. Wild Horse Hot Springs

3.2 Treatment Process

The Facility directly discharges without treatment.

3.3 Chemicals Used

No chemicals are used at the Facility.

4 PERMIT HISTORY

This is the first NPDES permit issued to the Facility. The Facility applied for an NPDES permit in May 2023.

4.1 Other Facility History

The EPA's Enforcement and Compliance Assurance Division conducted an on-site inspection of the Facility on June 13, 2022. The inspectors found evidence that the Facility was discharging wastewater without a discharge permit. The corrective action was for the Facility to apply for coverage under the NPDES permit program.

5 DESCRIPTION OF RECEIVING WATER

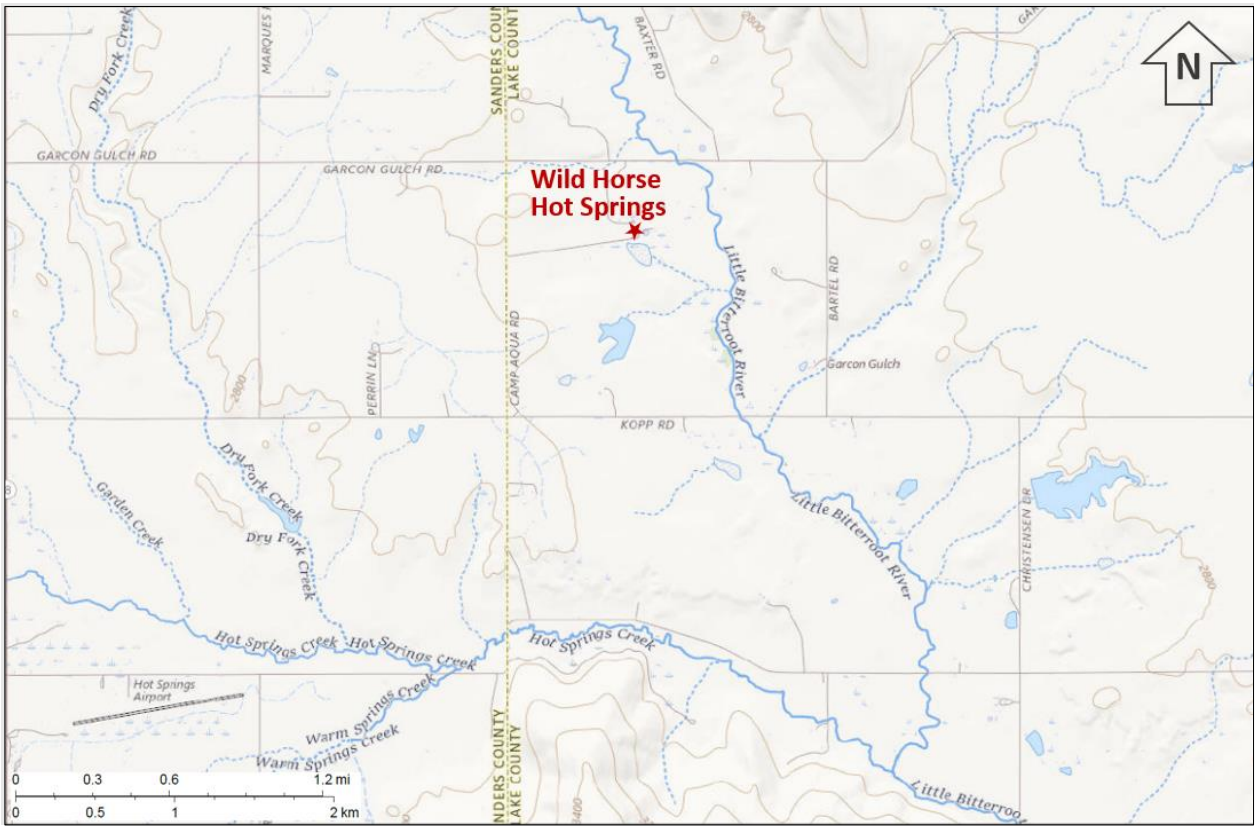
Wastewater discharged from the Facility flows south from Outfall 001 to an unnamed tributary located within the Flathead Reservation (Figure 2). An examination of aerial imagery indicates that the unnamed tributary flows to an impoundment prior to flowing approximately 0.32 stream miles to the Little Bitterroot River. From there, flows continue approximately 29 additional stream miles down the Little Bitterroot River to the Flathead River, and another 42 stream miles down the Flathead River to the Flathead Reservation boundary.

The Tribes applied for and have been authorized by the EPA for "Treatment in a Similar Manner as States" (TAS) and have adopted water quality standards (WQS). The EPA approved the Tribes' initial WQS on March 18, 1996, which are applicable to the "waters of the Tribe." The most recent revision to the Tribes' WQS was approved by the EPA on April 2, 2019.

The Tribes have classified the receiving unnamed tributary as a B-2 water. According to Section 1.3.8.1.c of the Tribes' WQS document, the section of Little Bitterroot River where the unnamed tributary enters the Little Bitterroot River is also classified as a B-2 water. All waters classified as a B-2 water *"must be maintained suitable for drinking, culinary, and food processing purposes after conventional treatment; bathing, swimming and recreation; wildlife (birds, mammals, amphibians and reptiles); the growth and marginal propagation of salmonid fishes and associated aquatic life; and agricultural and industrial water supply purposes."*

There is no flow data for the unnamed tributary, however, upstream of Outfall 001, the unnamed tributary is anticipated to have zero low flow at times throughout the year because it does not have a clear or consistent water source. Downstream of Outfall 001, the unnamed tributary flows into the Little Bitterroot River. At a location on the Little Bitterroot River immediately upstream of the unnamed tributary, the United States Geological Survey's (USGS) StreamStats website (https://streamstats.usgs.gov/ss/) calculates the Little Bitterroot River has a 7-day low flow average in a 10 year period (7Q10) of 17 cubic feet per second (cfs), or 10.9 MGD.

Figure 2. Facility Receiving Water



6 PERMIT LIMITATIONS

6.1 Technology Based Effluent Limitations (TBELs)

Technology-based effluent limitations have not been developed for this type of Facility.

6.2 Water Quality Based Effluent Limitations (WQBELs)

The receiving water, an unnamed tributary to the Little Bitterroot River, is within the Flathead Reservation and thus the Tribes' WQS apply. The latest published revision of the Tribes' WQS occurred in October 2018, and these updated WQS became CWA-effective when the EPA approved them in April 2019. EPA considered these during the development of effluent limitations for the Permit.

The Tribes have adopted designated uses, numeric and narrative water quality criteria, and antidegradation requirements for B-2 waters as part of their WQS. The Permit will not allow any pollutants and/or pollution to be discharged, which, either alone or in combination with other pollutants and/or pollution, will cause exceedances of any WQS.

The Tribes have not identified or listed any "waters of the Tribe" as impaired, and as a result there are no 303(d) listed waters and no Total Maximum Daily Loads (TMDLs) for impaired water bodies. Thus, this permit did not need to consider TMDLs for establishing permit limits.

The Permit contains a reopener provision that would allow the Permit to be reopened to include any applicable Waste Load Allocation developed and approved by the Tribes and EPA.

The following pollutants were identified as pollutants of concern and were further analyzed to determine whether they would need to be limited in the Permit.

6.2.1 Total Suspended Solids

The Tribes do not have numeric WQS for total suspended solids (TSS), but several of their narrative and numeric criteria address suspended sediments and turbidity. For this reason, TSS limits will be included in the Permit. The limits are based on professional judgement and will be in line with the National Secondary Standards for wastewater treatment (30-day average of 30 mg/L and 7-day average of 45 mg/L). Using the National Secondary Standards for TSS ensures a minimum level of effluent quality that should be attainable by the Facility.

6.2.2 *Escherichia coli* and fecal coliform

The Tribal WQS have established standards for *Escherichia coli* (*E. coli*) and fecal coliform. According to the WQS, the geometric mean number of *E. coli* may not exceed 126 colony-forming units per 100-milliliters (cfu/100 mL) during any 30-day period, and 10 percent of the samples may not exceed 252 cfu/100 mL during any 30-day period. The Tribal WQS for fecal coliform specifies that the geometric mean number of fecal coliform may not exceed 200 cfu/100 mL during any 30-day period, and 10 percent of the samples may not exceed 400 cfu/100 mL during any 30-day period.

The Facility submitted analytical results for *E. coli*, coliform, and fecal bacteria with their permit application. The reported results were “absent” for both *E. coli* and coliform and “<1” for fecal bacteria. These results provide a snapshot of *E. coli*, coliform, and fecal bacteria; however, due to the nature of the Facility, with individuals soaking in the pools and tubs, *E. coli* and fecal coliform limits will be required in the Permit. The Permit limits are based on the CSKT WQS and will include 30-day average limits, reported as the geometric mean, and daily maximum limits. The 30-day geometric mean *E. coli* is not to exceed 126 number/100 mL and the 30-day geometric mean fecal coliform is not to exceed 200 number/100 mL.

The daily maximum limits are based on the *E. coli* and fecal coliform values included in the Tribal WQS that are not to be exceeded more than 10 percent of the time. Since effluent monitoring is required monthly, for all practical purposes the daily maximum and ‘10% may not exceed’ criteria are equivalent. They are equivalent because any one sample that exceeds the daily maximum limit would also exceed the 10 percent threshold from the WQS unless the Facility collects at least 10 sample per month. Since the Permit only requires one sample per month, the 10% threshold and daily maximum are essentially the same. Implementing this criterion as a daily maximum limit is more protective, as it allows for no exceedances of this value while still meeting the Tribal WQS of not exceeding 10 percent of the time. It also provides consistency with how EPA has issued other NPDES permits within the Flathead

Reservation. The daily maximum limits *E. coli* and fecal coliform are 252 number/100 mL and 400 number/100 mL, respectively.

Due to the various testing methods for bacteria approved in 40 CFR Part 136, and the variability in lab-testing methods, EPA Region 8 implements bacteria permit limits as a generic number per volume analyzed (i.e., "Number/100 mL"), rather than as a specific method (i.e., cfu/100 mL or most probable number [mpn] per 100 mL).

6.2.3 pH

The Tribal WQS have established standards for pH of 6.5 – 9.0 standard units (S.U.). The pH standard for B-2 classified waters states, "[*i*]*nduced variation of hydrogen ion concentration (pH) within the range of 6.5 to 9.0 must be less than 0.5 standard units. Natural pH outside this range must be maintained without change. Natural pH above 7.0 must be maintained above 7.0.*"

The Facility has reported a single pH value of 7.5. Given this is a single value and there is no chemical treatment of the wastewater from the facility, EPA will implement the range stated in CSKT's WQS (i.e., 6.5 to 9.0) and require it to be maintained at all times.

6.2.4 Temperature

The Tribal WQS have established temperature standards for "naturally occurring waters." While the temperature WQS are intended to protect aquatic life from the influence of impacted or treated wastewater, the effluent from the Facility is from two hot springs that are themselves "naturally occurring waters." The Facility does not physically alter the heat energy in the water prior to entering the soaking pools and tubs, nor is it altered prior to discharge from Outfall 001. Discussions with the Tribes concluded that the water flowing through the Facility and discharging from Outfall 001 to the unnamed tributary is the same water that would flow to the unnamed tributary if it were not diverted to the Facility. Since the Tribes view the hot spring water as "naturally occurring water," temperature limits will not be established in this Permit. In place of temperature limits, temperature monitoring will be included in the Permit.

Temperature limits may be considered in a future permit if the hot springs or the water coming out of the hot springs is modified to the extent that it can no longer be considered "naturally occurring water."

6.3 Final Effluent Limitations

Effluent limitations are provided in Table 1.

Table 1. Final Effluent Limitations for Outfall 001

Effluent Characteristic	30-Day Average Effluent Limitations a/	7-Day Average Effluent Limitations a/	Daily Maximum Effluent Limitations a/	Limit Basis b/
Flow, MGD	report only	N/A	report only	N/A
Total Suspended Solids (TSS), mg/L	30	45	N/A	PJ
Escherichia coli (*E. coli*), number/100 mL	126 c/	N/A	252	WQBEL
Fecal Coliform, number/100 mL	200 c/	N/A	400	WQBEL
Temperature, °C	report only	N/A	report only	N/A
pH	Must remain in the range of 6.5 to 9.0 *at all times*			WQBEL

a/ See section 1 of the Permit for definition of terms.
b/ WQBEL = Limitation based on water quality-based effluent limit; PJ = professional judgement
c/ The 30-day average shall be reported as the geometric mean.

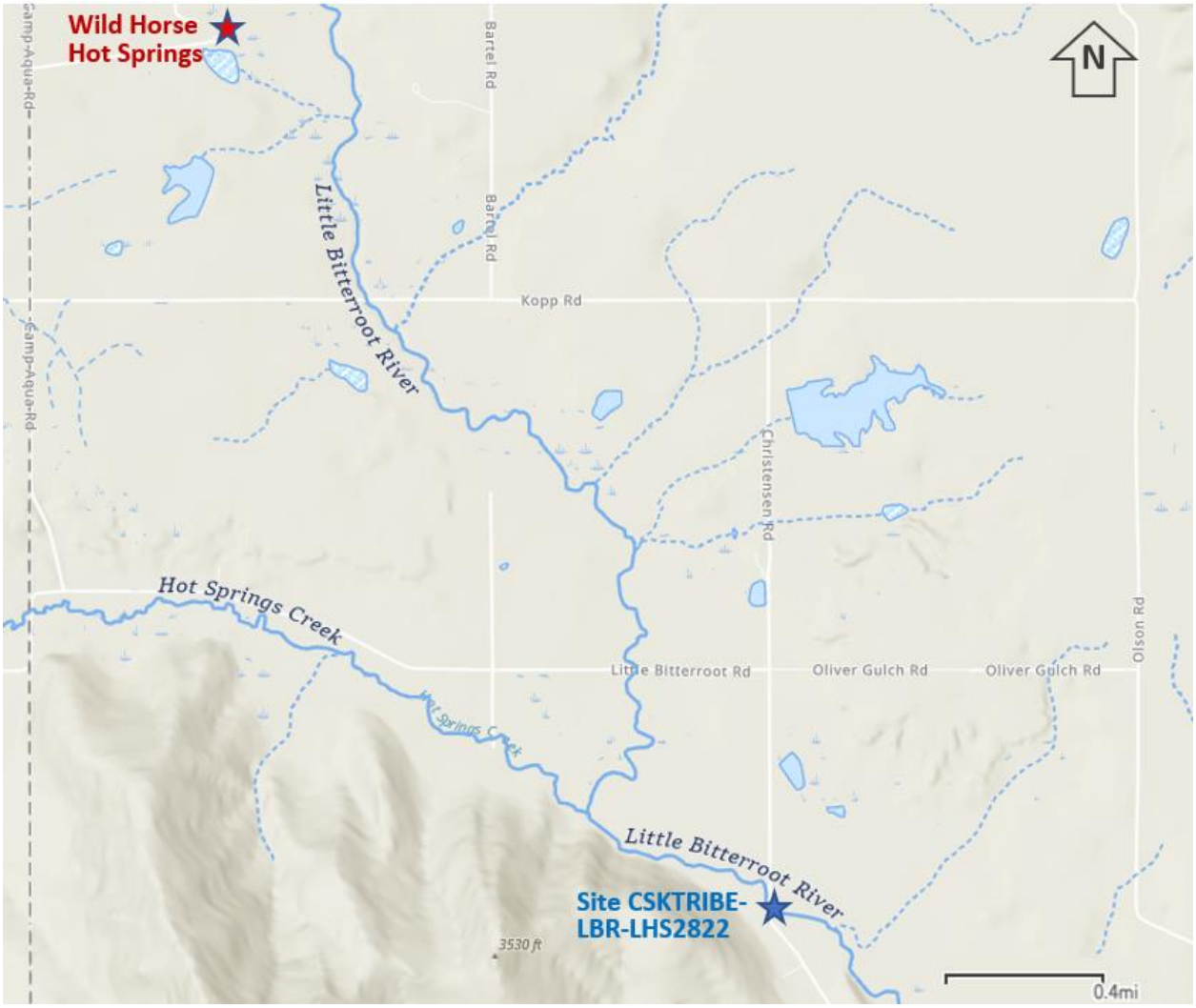
6.4 Antidegradation

The Tribes' WQS include antidegradation provisions (CSKT WQS, Part IV). The antidegradation provisions were established to promote and maintain protections for existing surface water quality. The antidegradation program assigns all Tribal waters baseline protections, also known as Tier 1 protections. Surface waters can also qualify for a higher level of protection (i.e., Tier 2), or the highest level of protection (i.e., Tier 3). Whether a stream qualifies for higher levels of protection is based on available information regarding the overall quality and value of the stream segment, and whether the existing quality is better than necessary to support fishable/swimmable uses.

Based on the high quality and assimilative capacity of the unnamed tributary, the Tribes have classified the unnamed tributary to receive Tier 2 protection. Since the Facility is a new discharge, an antidegradation review must be completed to determine whether the proposed activity (i.e., discharge of effluent) will cause a significant degradation to the unnamed tributary. The Tribes provide nine decision criteria for determining whether changes in surface water quality will result in a significant effect for Tier 2 classified waters (CSKT WQS, pg 31). The Tribes also provide a percentage change in water quality as a general guideline for determining whether a proposed activity will have a significant effect. Proposed activities resulting in a 5% or more change in surface water quality, on a parameter-by-parameter basis, or a 10% change in cumulative surface water quality will be classified as significant. Effects resulting in less than 5% or 10% change in water quality due to the proposed activity are determined to "result in truly minor changes in water quality" (CSKT WQS, pg 32).

A review of the National Water Quality Monitoring Councils Water Quality Portal for available water quality data in the vicinity of the Facility was completed. The nearest site with surface water quality data was located approximately 3.6 stream miles downstream of Outfall 001 and is located on the Little Bitterroot River (Figure 3). Data from the CSKT water quality monitoring site, Site CSKTRIBE-LBR-LHS2822, were used to determine whether the proposed action has the potential to result in a significant effect. The dataset utilized for this analysis has 129 datapoints for samples collected from 2001-2023.

Figure 3. Locations for Wild Horse Hot Springs and tribal water quality monitoring site, Site CSKTRIBE-LBR-LHS2822



6.4.1 TSS

There are no TSS data available for the proposed action, and therefore a direct estimate of impact cannot be made. However, 30-day average and 7-day average permit limits for the proposed activity are established at 30 mg/L and 45 mg/L, respectively. Using the proposed Permit limits can provide an estimate of whether the Facility will contribute excess levels of

TSS. For this analysis a comparison of TSS loading at Site CSKTRIBE-LBR-LHS2822 was used as the basis for the effects determination.

TSS at Site CSKTRIBE-LBR-LHS2822 ranges from 9 to 520 mg/L, with an average of 111 mg/L. The 7Q10 for Site CSKTRIBE-LBR-LHS2822 is 13.9 MGD. With an average of 111 mg TSS/L and a 7Q10 of 13.9 MGD, the TSS loading equates to approximately 11,203 pounds of TSS. The proposed activity will contribute a 7-day average of no more than 45 mg TSS/L at a rate of 0.142 MGD, which equates to an upper limit of 53.4 pounds of TSS. If the Facility discharges the daily maximum limit (i.e., 45 mg TSS/L) this would result in an increase in TSS loading of approximate 0.48%, which is below the 5.0% antidegradation threshold for significant degradation.

In the absence of TSS data for both the unnamed tributary and the proposed activity, some assumptions were made in the TSS antidegradation analysis discussed above. First, data was collected from Site CSKTRIBE-LBR-LHS2822 located on the Little Bitterroot River, which has greater flow volume than the unnamed tributary, so the TSS loading would be expected to be higher at Site CSKTRIBE-LBR-LHS2822. Additionally, using the 7-day maximum TSS limit as the basis for the calculation of the Facility's contribution of TSS is also conservative. The 45 mg TSS/L is based on the daily maximum limit for facilities that treat domestic sewage, whereas a similar hot springs facility also located in the town of Hot Springs, Montana, has an average monthly TSS concentration of 1.4 mg/L. Using a concentration of 1.4 mg TSS/L as the Facility's TSS contribution, rather than the daily maximum limit would considerably reduce the estimated TSS loading levels. Lastly, there is an impoundment located downstream of Outfall 001 on the unnamed tributary. Impoundments slow water flow, which allows for TSS to settle out of the water column. Any TSS in the effluent will likely be attenuated by the impoundment, further reducing the loading to the unnamed tributary below the impoundment.

Based on the antidegradation analysis for TSS it has been determined that the potential increase in TSS from **the proposed activity will result in truly minor changes to water quality**.

6.4.2 E. coli

The average measured *E. coli* concentrations reported at Site CSKTRIBE-LBR-LHS2822 are 597 MPN/100 mL (MPN/100 mL is equivalent to number/100 mL). A single *E. coli* sample was collected by the Facility and the analysis determined the *E. coli* concentration in the sample was below limits of detection. It has been determined that **the proposed activity will result in truly minor changes to water quality**.

6.4.3 Temperature

The Facility provided a single temperature measurement associated with the proposed activity. The temperature at Outfall 001 was reported as 100°F. While this temperature may be well above the temperature of the water in the unnamed tributary, it has been determined that the water from the hot springs is "naturally occurring water" (section 6.2.4). Since Outfall 001 drains to the same watershed as the hot springs would under natural conditions

and the heat content of the hot springs water is not physically altered prior to entering the soaking pools and tubs nor after leaving the soaking pools and tubs, the effluent water temperature is considered natural and does not require an antidegradation analysis.

6.4.4 pH

The Facility provided a single pH measurement as part of the application for the proposed activity. The reported pH measurement was 7.5. For pH, the receiving waters' assimilative capacity is the focus rather than concerns over concentration or loading. The reported pH at Site CSKTRIBE-LBR-LHS2822 ranged from 5.71 to 8.43, with an average of 7.6. Since the pH reported by the facility falls slightly lower than the average pH observed at Site CSKTRIBE-LBR-LHS2822, there are no concerns with the effluent affecting the assimilative capacity of the unnamed tributary. It has been determined that **the proposed activity will result in truly minor changes to water quality**.

6.5 Anti-Backsliding

Federal regulations at 40 CFR § 122.44(l)(1) require that when a permit is renewed or reissued, interim effluent limitations, standards or conditions must be at least as stringent as the final effluent limitations, standards, or conditions in the previous permit unless the circumstances on which the previous permit were based have materially and substantially changed since the time the Permit was issued and would constitute cause for permit modification or revocation and reissuance under 40 CFR § 122.62.

This is the first permit issuance to the Facility and therefore, there are no anti-backsliding concerns.

7 MONITORING REQUIREMENTS

7.1 Self-Monitoring Requirements

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, as required in 40 CFR § 122.41(j), unless another method is required under 40 CFR subchapters N or O. See Table 2 for self-monitoring requirements.

7.1.1 Flow Monitoring

The Facility is required to monitor effluent flow on a weekly frequency using a grab measurement. Weekly, grab flow measurements for the Facility are sufficient since the water source is hot springs and they are anticipated to have minimal variation in flow.

7.1.2 TSS

The Facility is required to monitor TSS on a monthly frequency using a grab measurement. Monthly, grab TSS measurements for the Facility are sufficient since the water source is hot springs and they are anticipated to have minimal variation.

7.1.3 E. coli and fecal coliform

The Facility is required to monitor *E. coli* and fecal coliform on a monthly frequency using a grab sample. A monthly frequency and a grab sample type for *E. coli* and fecal coliform samples are appropriate for the Facility since the effluent water chemistry is expected to be consistent. Additionally, *E. coli* and fecal coliform samples are not amenable to compositing.

7.1.4 Temperature

The Facility is required to monitor temperature on a monthly frequency using a grab sample. Grab sample types are appropriate for temperature monitoring, because temperature samples are not amenable to compositing. A monthly frequency was decided for the Facility since the effluent temperature is expected to remain fairly consistent. Note that temperature samples must be analyzed within 15 minutes of collection. For this reason, most facilities use an *in situ* meter or a handheld meter to measure temperature directly in the field.

7.1.5 pH

The Facility is required to monitor pH on a monthly frequency using a grab sample. Grab samples are appropriate for pH, because pH samples are not amenable to compositing. A monthly frequency was decided for the Facility since the effluent water chemistry is expected to be consistent. Note that pH samples must be analyzed within 15 minutes of collection. For this reason, most facilities use an *in situ* meter or a handheld meter to measure pH directly in the field.

Table 2. Monitoring requirements for Outfall 001

Effluent Characteristic	**Monitoring Frequency**	**Sample Type a/**	**Data Value Reported on DMR b/**
Flow, MGD c/	Weekly	Grab	Daily Max. 30-Day Avg.
TSS, mg/L	Monthly	Grab	Daily Max. 30-Day Avg.
Escherichia coli (*E. coli*), number/100 mL	Monthly	Grab	Daily Max. 30-Day Avg. d/
Fecal Coliform, number/100 mL	Monthly	Grab	Daily Max. 30-Day Avg. d/
Temperature, °C	Monthly	Grab e/	Daily Max. 30-Day Avg.
pH, units	Monthly	Grab e/	Instantaneous Min. Instantaneous Max.

a/ See section 1 of the Permit for definition of terms.
b/ Refer to the Permit for requirements regarding how to report date on the DMR.
c/ Flow measurements of effluent volume shall be made in such a manner that the Permittee can affirmatively demonstrate that representative values are being obtained. The average

flow rate in million gallons per day (MGD) during the reporting period and the maximum flow rate observed, in MGD, shall be reported.

d/ The 30-day average shall be reported as the geometric mean.

e/ This sample must be analyzed within 15 minutes of collection per 40 CFR Part 136. Typically, these samples are measured *in situ* using a meter that records an instantaneous measurement.

8 SPECIAL CONDITIONS

N/A

9 REPORTING REQUIREMENTS

Reporting requirements are based on requirements in 40 CFR §§ 122.44, 122.48, and Parts 3 and 127. A discharge monitoring report (DMR) frequency of quarterly was chosen, because the Facility discharges continuously.

10 COMPLIANCE RESPONSIBILITIES AND GENERAL REQUIREMENTS

10.1 Inspection Requirements

On a monthly basis, unless otherwise modified in writing by EPA, the Permittee shall inspect its infrastructure conveying water from the tubs and soaking pools to Outfall 001 and Outfall 001 to confirm proper operation and maintenance. The permittee shall document the inspection, as required by the Permit.

10.2 Operation and Maintenance

40 CFR § 122.41(e) requires permittees to properly operate and maintain at all times, all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.

Operation and maintenance requirements have been established in sections 6.3.3 of the Permit to help ensure compliance with the provisions of 40 CFR § 122.41(e).

10.3 Industrial Waste Management

N/A

10.4 Per- and Polyfluoroalkyl Substances (PFAS) Notification and Plan

N/A

11 ENDANGERED SPECIES CONSIDERATIONS

The Endangered Species Act of 1973 requires all Federal Agencies to ensure, in consultation with the U.S. Fish and Wildlife Service (FWS), that any Federal action carried out by the

Agency is not likely to jeopardize the continued existence of any endangered species or threatened species (together, "listed" species), or result in the adverse modification or destruction of habitat of such species that is designated by the FWS as critical ("critical habitat"). See 16 U.S.C. § 1536(a)(2), 50 CFR Part 402. When a Federal agency's action "may affect" a protected species, that agency is required to consult with the FWS (formal or informal) (50 CFR § 402.14(a)).

Figure 4. Project area identified for IPaC search for the Wild Horse Hot Springs NPDES permit

The U.S. Fish and Wildlife Information for Planning and Conservation (IPaC) website (https://ecos.fws.gov/ipac/) was accessed on November 2, 2023, to determine federally-listed Endangered, Threatened, Proposed and Candidate Species for the area near the Facility (Figure 4). The IPaC Trust Resource Report findings are provided below (Table 3). The project area identified in the IPaC search covers the unnamed tributary and the Little Bitterroot River to the point immediately below the confluence with Hot Springs Creek and adjacent lands.

Table 3. IPaC Federally listed Threatened and Endangered Species

Species	Scientific Name	Species Status	Designated Critical Habitat
Canada Lynx	*Lynx canadensis*	Threatened	"There is final critical habitat for this species (published in the Federal Register on September 12, 2014). Your location does not overlap the critical habitat."
North American Wolverine	*Gulo gulo luscus*	Proposed Threatened	"No critical habitat has been designated for this species."
Monarch Butterfly	*Danaus plexippus*	Candidate	"No critical habitat has been designated for this species."
Spalding's Catchfly	*Silene spaldingii*	Threatened	"There is proposed critical habitat for this species (published in the Federal Register on April 24, 2000). Your location does not overlap the critical habitat."

11.1 Biological Evaluation

On November 30, 2023, a technical assistance meeting regarding the species generated by the IPaC report occurred with Jacob Martin of the Fish and Wildlife Service's Montana Field Office. During this meeting it was determined that each of the four species IPaC identified within the action area are terrestrial and are not aquatic dependent species. A determination of "No Effect" was made for all four species based on two factors. First, the listed species may have incidental contact with the effluent, but a prolonged exposure is not anticipated because they are terrestrial and non-aquatic dependent species. Second, there is a low exposure risk because the source water is a natural hot spring, and the Facility does not apply chemicals prior to discharge. Additionally, there is no critical habitat located within the action area, so a "No Effect" determination was made for the critical habitat for both the Canada Lynx and the Spalding's Catchfly (Table 3).

12 NATIONAL HISTORIC PRESERVATION ACT REQUIREMENTS

Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470(f) requires that federal agencies consider the effects of federal undertakings on historic properties. The first step in this analysis is to consider whether the undertaking has the potential to affect historic properties, if any are present. See 36 CFR § 800.3(a)(1). A review of the National Register of Historic Places found that there are no listings located within or adjacent to the Facility property boundary. During the public comment period, the CSKT's Tribal Historic Preservation Office will be notified as an interested party to ensure that historic properties are not negatively affected by the conditions of the Permit.

13 401 CERTIFICATION CONDITIONS

CSKT are the CWA Section 401 certifying authority for the Permit, and EPA requested a CWA Section 401 certification from CSKT prior to Permit finalization.

14 MISCELLANEOUS

The effective date of the Permit and the Permit expiration date will be determined upon issuance of the Permit. The intention is to issue the Permit for a period not to exceed 5 years.

Permit drafted by Dan Guth, U.S. EPA, (303) 312-6121 (November 2023)

ADDENDUM

AGENCY CONSULTATIONS

On January 29, 2024, an offer for consultation was provided to the Tribes' Tribal Historic Preservation Office (THPO). The Tribes' THPO did not comment on EPA's preliminary determination that the Permit issuance will not impact any historic properties.

On February 1, 2024, the EPA sent a CWA Section 401 certification request to CSKT. CSKT certified without Section 401 conditions on February 13, 2024.

NEIGHBORING JURISDICTIONS

The EPA conducted a neighboring jurisdiction analysis of water resources located downstream from the Facility and outside the external boundaries of the Flathead Reservation, in accordance with 40 CFR § 121.13. On March 12, 2024, the EPA permit signatory made a negative "may affect" determination for the authorized discharges from the Facility in the neighboring jurisdiction of Montana. The EPA documented the factors considered in this determination in the administrative record for this Permit.

PUBLIC NOTICE AND RESPONSE TO COMMENTS

The Permit and statement of basis were public noticed on EPA's website on January 30, 2024. No comments were received.