

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

PERMITTEE:	Wesco Operating, Inc.
FACILITY NAME AND MAILING ADDRESS:	Lander Field 120 S. Durbin Street P.O. Box 1650 Casper, WY 82602
PERMIT NUMBER:	WY-0000221
RESPONSIBLE OFFICIAL:	Robert Kirkwood, President 307-472-4618 bobk@kirkwoodcompanies.com
FACILITY CONTACT:	Chad Forsman, Production Engineer 120 S. Durbin Street P.O. Box 1650 Casper, WY 82602 307-577-5319 chadf@kirkwoodcompanies.com
PERMIT TYPE:	Minor, Permit Renewal- Industrial
FACILITY LOCATION:	HWY 789 Fremont County Lander, WY 82520 Latitude/Longitude: 42.8646/-108.6947
NEAREST RECEIVING WATER:	Unnamed tributary to the Popo Agie River
OUTFALL 001 LOCATION:	Latitude/Longitude: 42.8660/-108.6937

1 INTRODUCTION

This statement of basis (SoB) is for the issuance of a National Pollutant Discharge Elimination System (NPDES) permit (the Permit) to Wesco Operating, Inc. (Wesco) for the Lander Field (Facility). The Permit establishes discharge limitations for any discharge of wastewater from the Facility. This Permit is a renewal of NPDES permit number WY-0000221, a no-discharge permit, which expired on October 31, 2022 and was administratively continued. 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 Wind River Indian 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

Major changes from the previous permit include the following:

- The addition of a Notification of Change to Discharge Status requirement (see Section 8.1 of the SoB).
- The previous "No Discharge During Calendar Year XXXX" certification form will no longer be implemented and the Permittee will use EPA's NetDMR electronic reporting system to indicate whether a discharge has occurred and report any required monitoring results for each calendar year (see Section 9 of the SoB).
- Updates to definitions and standard condition language in the Permit in alignment with updated Code of Federal Regulation (CFR) requirements and EPA Region 8 standard permit template requirements/language for similar facilities. Updates to applicable language since the previous permit issuance have been included in Permit sections: Section 1- *Definitions*, Section 6- *Inspections, Corrective Actions, and Operation and Maintenance*, Section 7- *Monitoring, Record Keeping, and Reporting Requirements*, Section 8- *Compliance Responsibilities*, and Section 9- *General Requirements*.
- The addition of a Notification to the State of Wyoming for Discharges to the Popo Agie River requirement (see Section 8.2 of the SoB).

3 BACKGROUND INFORMATION

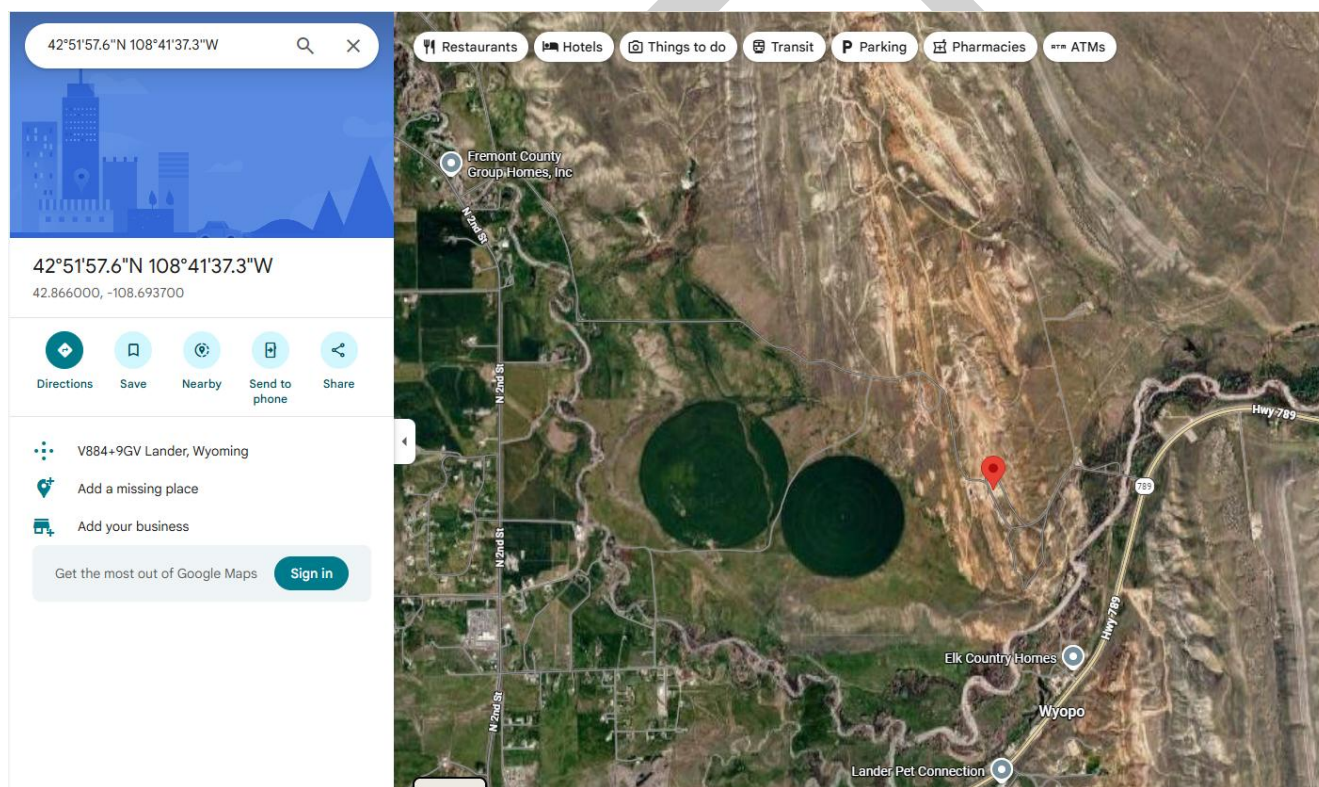
The Facility was previously permitted as a no discharge facility. Based on the permit application, the Permittee has indicated that the Facility is not anticipated to discharge produced water from the Facility's outfall (i.e., Outfall 001) during the next permit cycle. However, the Permittee has requested that the previous "No Discharge" permit be renewed. Therefore, this Permit does not authorize a discharge from the Facility but establishes monitoring and/or reporting provisions should a bypass or unauthorized release of produced water occur from the oil production site/Facility.

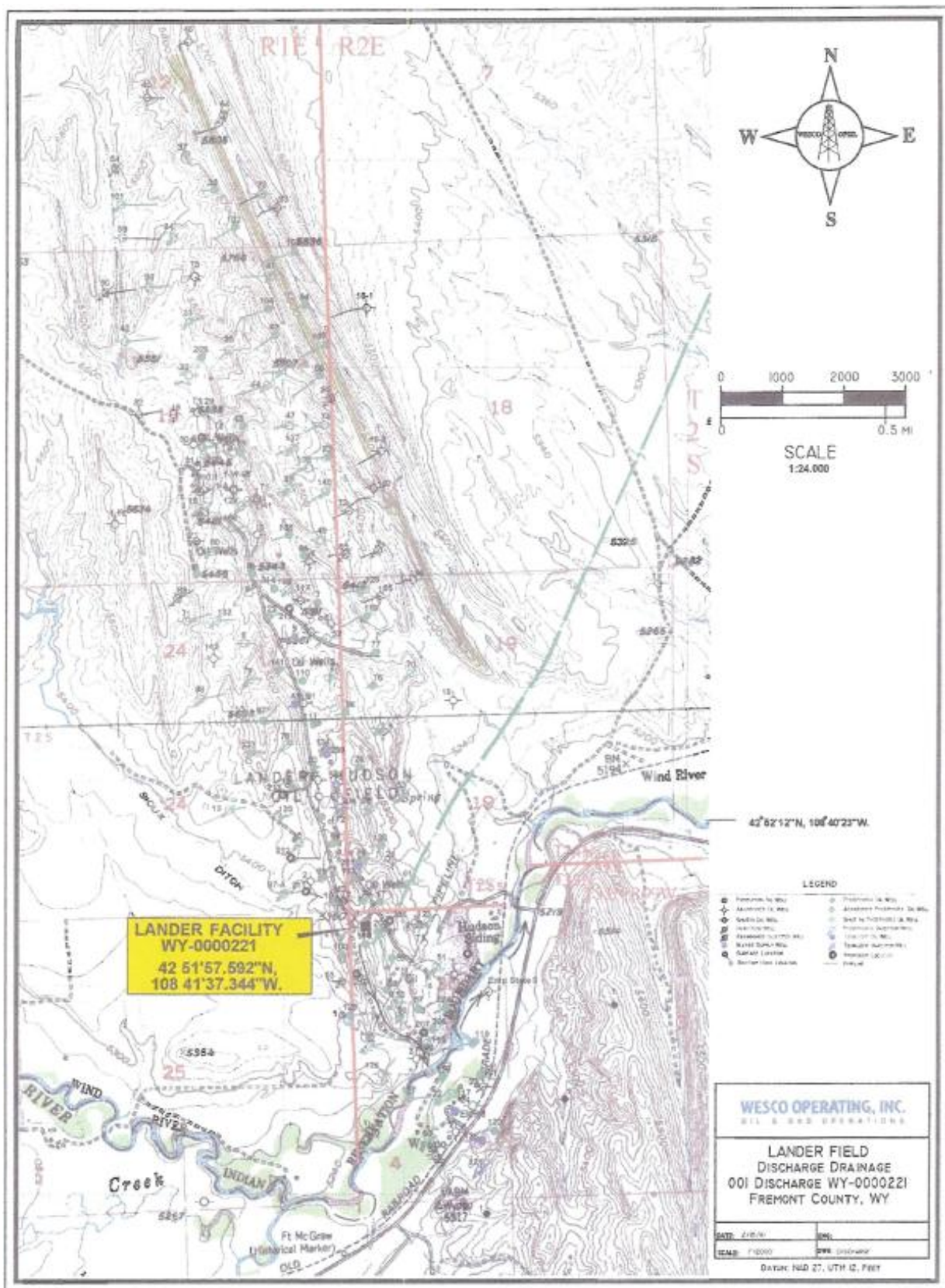
Based on the renewal application for the Permit, the Facility is a petroleum exploration and production facility. Operations include oil/water separation of production fluids, and the Facility has an average anticipated discharge flow of zero MGD (million gallons per day).

3.1 Facility Process Description

The Facility is owned and operated by Wesco and is designed, built and operated so that there is no discharge of produced water under normal operating conditions. Based on information obtained during an EPA inspection of the Facility on July 22, 2019 (2019 EPA inspection) and previous permitting records, the Facility provides separation treatment for the produced oil and gas generated from approximately 60 Wesco oil wells. Figures 1 and 2 below provide an overview of the Facility location and well area.

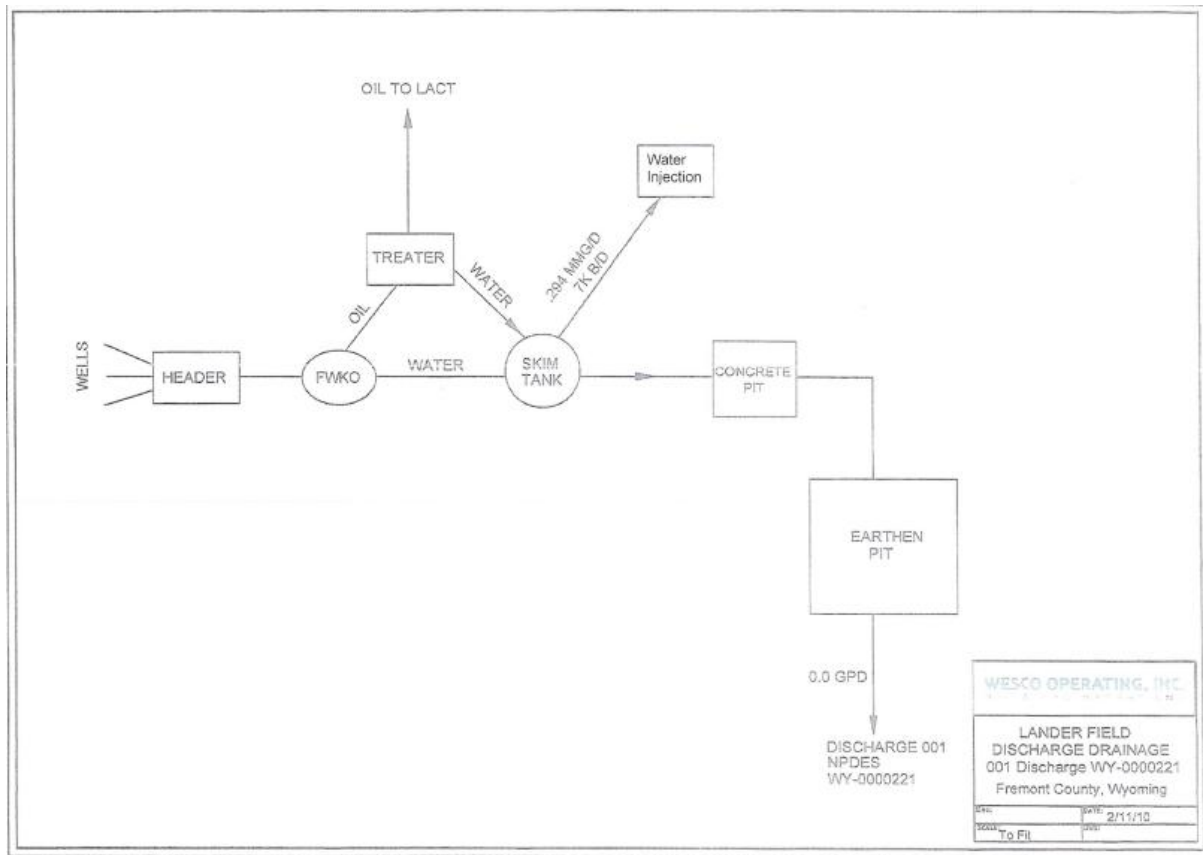
Figure 1. Overview Map of Facility Location/Coordinates (from Google Maps)





3.2 Treatment Process

Figure 3. Facility Treatment Process Flow Diagram



Based on previous permit records, the 2019 EPA inspection and the permit application, the Facility's separation treatment process (i.e. battery) for produced oil and gas begins with pumped liquids being transported to the Facility's header building, and then to three horizontal Free Water Knockout (FWKO) tanks where initial oil/water separation takes place. Oil from the FWKO tanks is transported to three heater treaters and produced water is transferred to two water skim tanks. The water skim tanks each have an approximate capacity of 1,000 barrels. The heater treater tanks are vertical and allow phase separation of the gas, oil and water. A burner tube, operating above 100°F, runs through the middle of the vertical tanks. The separated water from the heat treater tanks is transferred to a wood pit with an approximate capacity of 4,229 barrels. The separated oil and gas produced from the heat treater tanks are collected and sent off-site via truck. Separated water from the skim tanks is transferred to either:

- 1) water flooding/enhanced oil recovery (EOR) which is injected back into the producing formation (approximately 7,000 barrels/day),
- 2) a concrete pit (capacity of approximately 749 barrels), or
- 3) the wood pit (capacity of approximately 4,229 barrels).

Water from the concrete pit is sent via gravity flow to the wood pit and water from the wood pit can be recycled back to the skim tank if additional skimming is needed. The wood pit also has a storage tank, located southwest of the pit, which is used to store skimmings from the wood pit.

Within the wood pit there is a T-siphon that leads to a large earthen safety pit with an approximate capacity of 21,360 barrels. The earthen safety pit has a high water level/overflow pipe and a high water level float valve that is connected to a callout system for notification should a high water mark level occur. The high water notification level is approximately three feet before a discharge would occur through the outfall pipe (i.e., Outfall 001). The Permittee has previously noted that under normal conditions there should be no water transferred to the earthen safety pit and the pit is to be used in the event of a process upset (e.g., an exceptional, unintentional, and temporary incident that causes a breakdown or abnormal operating condition).

If a significant process upset were to occur at the Facility's battery that releases enough produced water volume to fill all pits, then a discharge to nearby waters will likely occur. Any discharge from the earthen safety pit through Outfall 001 would flow to an unnamed tributary and then to the Popo Agie River. However, based on the permit application and EPA's discharge monitoring report (DMR) records for the Facility as of the drafting of this renewal Permit, there have been no discharges during the last two permits term issuances. The previous two permits were issued in 2011 and 2017.

At the time of the 2019 EPA inspection, the Facility also had a "bad" oil treatment area for oil and skimmings that require additional treatment, and a land farm which was used to store solids from tanks and any spill cleanup waste.

3.3 Chemicals Used

As described above, the Facility's general separation treatment process/battery uses heater treater tanks for phase separation of the gas, oil and water along with skim tanks, pits, off-site trucking and water flooding/EOR. No specific chemicals (e.g., emulsion breaking chemicals) were identified in the Facility's permit application or previous permit documents related to the separation processes. However, should additional chemicals be used and be present in the Facility's produced water, there is expected to be no discharge of produced water since the Facility is built and operated to be no discharge under normal operating conditions.

4 PERMIT HISTORY

According to EPA permitting records for the Facility, this renewal is at least the 4th issuance of this NPDES permit. The previous permit for the Facility became effective on November 1, 2017 and was set to expire on October 31, 2022. The Facility submitted a permit renewal application prior to the permit's expiration, which EPA received on March 23, 2022 and thus the previous permit was administratively continued.

4.1 Discharge Monitoring Report (DMR) Data

The Facility was previously permitted as a no discharge facility, except in accordance with the bypass provisions of the previous permit. Based on DMR data submissions and information provided in the Facility's permit application, there have been no discharges over the previous two permit terms. Therefore, no monitoring data was reported in the EPA Integrated Compliance Information System (ICIS).

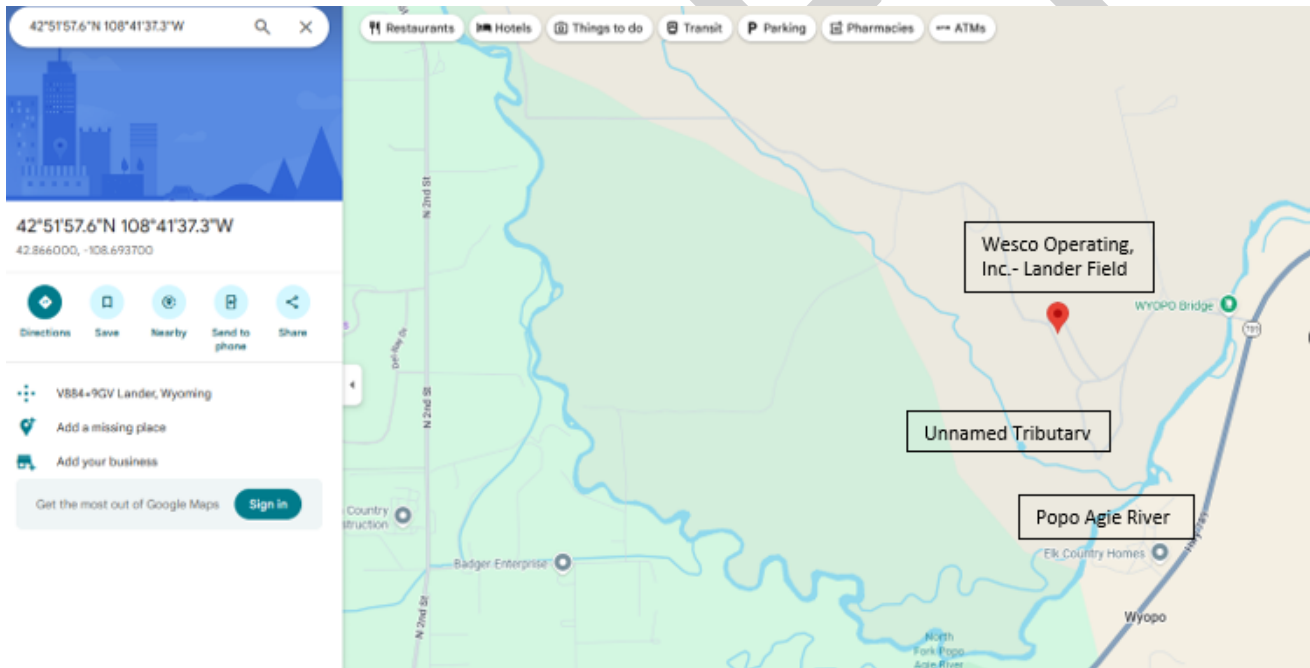
4.2 Other Facility History

The last EPA inspection of the Facility was performed on July 22, 2019. At the time of the inspection, the earthen safety pit where Outfall 001 was located was empty and there was no observed discharge from the outfall.

5 DESCRIPTION OF POTENTIAL NEARBY RECEIVING WATERS (SHOULD BYPASS OR UNAUTHORIZED DISCHARGE OCCUR)

Based on information from the permit application and the 2019 EPA inspection report, Outfall 001 is the discharge point from the Facility's earthen safety pit that is intended to be used to collect produced water in the event of a process upset. The earthen pit is connected to a callout system for notification should a high water mark level occur (e.g., high water level leading to discharge). This renewal Permit does not authorize the Facility to discharge. Should an unauthorized discharge occur from the earthen safety pit through Outfall 001, it would flow to an unnamed tributary that flows to the Popo Agie River (see Figure 4 below).

Figure 4. Map Showing the Facility Location with Respect to Nearby Waters



6 PERMIT LIMITATIONS

Similar to previous permits issued to the Facility, this Permit does not authorize the Facility to discharge and the Permittee is required to maintain no discharge except in accordance with the bypass provisions in Section 8.6.3 of the Permit. The Permit establishes monitoring and/or reporting requirements should a bypass or unauthorized release of produced water (i.e., discharge) occur from the Facility.

Since the Permit does not allow discharges except in accordance with the bypass provisions in Section 8.6.3 of the Permit, no technology-based or water quality-based effluent limitations are applicable or

included in this Permit. As discussed in Section 4.1 of the SoB, the Permittee has a history of no discharges and has indicated in the permit application that there is no anticipation of any discharge in the next permit cycle. If the Permittee begins to produce a significant volume of produced water and anticipates a need to discharge, then the Permittee is required to notify EPA so the Permit may be modified in advance of any discharge.

6.1 Technology Based Effluent Limitations (TBELs)

The applicable treatment technology standards for similar operations to that of the Facility are found in 40 CFR Part 435, Oil and Gas Extraction Point Source Category Subpart E – Agricultural and Wildlife Water Use Subcategory. Since the Facility is designed, built and operated so that there is no discharge of produced water under normal operating conditions, this Permit does not authorize a discharge from the Facility except in accordance with the bypass provisions in Section 8.6.3 of the Permit. However, should the Facility's status change to a discharging facility, the above listed category would be evaluated for the development of applicable limitations.

6.2 Water Quality Based Effluent Limitations (WQBELs)

6.2.1 Wind River Reservation- Tribes' Tribal Water Quality Requirements

The Tribes have adopted surface water quality requirements that apply to waters within the exterior boundaries of the Reservation. Based on an October 29, 2007 Memorandum, provided to the EPA by the Wind River Environmental Quality Commission, the Eastern Shoshone and Northern Arapaho Tribes adopted draft Tribal water quality requirements as presented by the Wind River Environmental Quality Commission. Additionally, EPA also received a copy of Tribal legal Resolution No. 2007-9377, signed by the Tribes, which was "A resolution declaring the adoption of draft tribal water quality standards, as prepared by the Wind River Environmental Quality Commission (WREQC), as permitted under the provisions of tribal resolution #6206, Dated June 7, 1988."

Section 101(a)(2) of the CWA states, "[I]t is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water to be achieved by July 1, 1983." To achieve this Congressional goal EPA may consider the beneficial uses of the receiving waters to include aquatic life, human health and recreation. In similar permitting actions, EPA established WQBELs based criteria in Tribal water quality requirements and EPA's Section 304(a) recommended water quality criteria (WQC) to protect the uses of the Tribe's receiving water(s). The Tribes' water quality requirements include the following narrative provisions indicating that the beneficial uses for most Tribal waters include industrial and agricultural water supply.

"Unless otherwise demonstrated, all Reservation surface waters have the natural water quality potential for use as an industrial water supply."

"Unless otherwise demonstrated, all Reservation surface waters have the natural water quality potential for use as an agricultural water supply."

The EPA considered the Tribes' water quality requirements and used EPA's Section 304(a) recommended water quality criteria (WQC) as a technical reference for some pollutants in this SoB.

6.2.2 Facility WQBELs

Since the Facility is designed, built and operated so that there is no discharge of produced water under normal operating conditions, this Permit does not authorize a discharge from the Facility except in accordance with the bypass provisions in Section 8.6.3 of the Permit. However, should the Facility's status change to a discharging facility, the previously discussed Tribes' water quality requirements would be evaluated for the development of applicable limitations.

6.3 Antidegradation

Since the Facility is not permitted to discharge, EPA has determined that the Facility's discharge status does not have reasonable potential for an exceedance of the Section 304(a) water quality criteria or Tribes' water quality requirements.

6.4 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 Permit renewal complies with anti-backsliding regulatory requirements. All effluent limitations, standards, and conditions in the Permit are either equal to or more stringent than those in the previous permit.

7 MONITORING REQUIREMENTS

7.1 Self-Monitoring Requirements

Self-monitoring and reporting requirements are included in this Permit in the event of an unauthorized release of produced water (i.e., discharge) from the oil production site/Facility. Any discharge, except in accordance with the bypass provisions in Section 8.6.3 of the Permit, is considered an unauthorized discharge. For any unauthorized discharge, Section 7.10 Twenty-Four Hour Notice of Noncompliance Reporting and Section 4 Self-Monitoring and Data Requirements of the Permit must be met.

Per the statutory authority in CWA § 308(a)(1)(A)(iv), 33 USC § 1318(a)(1)(A)(iv), "Whenever required to carry out the objective of this chapter, including but not limited to (1) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance under this chapter . . . (A) the Administrator shall require the owner or operator of any point source to . . . (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe)..." Additionally, the regulatory authority in 40 CFR § 122.41(j)(1) states, "Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity." 40 CFR § 122.48(b) also provides that "All permits shall specify . . . b)

Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring...”.

7.1.1 Maintaining Previous Permit Monitoring Parameters

In accordance with the above listed provisions, monitoring requirements will be maintained from the previous permit for total flow, specific conductance, total dissolved solids, sulfide (as H₂S), chlorides, pH, sulfates, total radium 226, and oil and grease. 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.

7.1.2 Monitoring Type and Frequency Requirements

Sample Types:

In alignment with the previous permit, instantaneous sampling is required for flow sampling and all other pollutants will require grab samples. These sample types are appropriate when the quality of discharge is assumed to be relatively consistent. Additionally, grab samples are generally appropriate to provide information about instantaneous concentrations of pollutants at a specific time, allow collection of variable sample volumes, and monitor parameters not amenable to compositing. Instantaneous measurements of flow are typical of most facilities to measure volumes during a specific period of time.

Sample Frequencies:

In alignment with the previous permit, all parameters will be required to be sampled on a daily basis during any unauthorized discharge event to collect representative data. This frequency will also help to capture any variability in discharge characteristics and effluent quality, with respect to these parameters, across all days of the event.

Table 1. Monitoring requirements for Outfall 001

Effluent Characteristic	Monitoring Frequency	Sample Type <u>a/</u>	Data Value Reported on DMR <u>b/</u>
Flow, mgd, <u>c/</u> , e/	d/	Instantaneous	Daily Max
Specific Conductance, μ mhos/cm, e/	d/	Grab	Daily Max
Total Dissolved Solids, mg/L	d/	Grab	Daily Max
Chloride, mg/L	d/	Grab	Daily Max
Sulfate, mg/L	d/	Grab	Daily Max
Sulfide (as H ₂ S), mg/L	d/	Grab	Daily Max
Total Radium 226, pCi/L	d/	Grab	Daily Max
pH, s.u., e/, f/	d/	Grab	Daily Max
oil and grease (O&G), mg/L	d/	Grab	Daily Max

a/ See Section 1 of the Permit for definition of terms.

b/ Refer to the Permit for requirements regarding how to report data 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 Permittee shall monitor the flow for the duration of the discharge and estimate the total volume of the discharge. The daily maximum flow rate observed, in mgd, shall be reported. The Permittee may estimate the rate of discharge if it is not possible to measure.
- d/ The discharge shall be monitored daily as soon as practicable after the unauthorized release is discovered. The discharge shall be monitored at a daily frequency until the unauthorized release is terminated.
- e/ Flow, specific conductance, and pH: can be conducted using low-cost handheld meters/measuring devices; however, monitoring methods should still be CWA-approved.
- f/ Measurement must be analyzed within fifteen (15) minutes of sampling per 40 CFR Part 136.

8 SPECIAL CONDITIONS

8.1 Notification of Change to Discharge Status

As of the effective date of the Permit, the Permittee shall notify the EPA upon becoming aware of/when planning to change the operation of the Facility from a no discharge to a discharging facility. This notification is to be provided to the EPA as outlined in Section 9.1 Planned Changes of the Permit. This is in alignment with reporting requirements outlined in 40 CFR 122.41(l)(1)(ii) for planned changes. These require that the Permittee give notice as soon as possible of any planned physical alterations or additions to the permitted facility when:

“The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements for toxic pollutants under § 122.42(a)(1).”

This Permit requirement is included in Special Conditions (Section 5.1) of the Permit.

8.2 Notification to the State of Wyoming for Discharges to the Popo Agie River

As of the effective date of the Permit, the Permittee shall notify the Wyoming Department of Environmental Quality for any discharges that reach the Popo Agie River.

In accordance with Section 4 (Notification, Containment and Clean Up of Releases) of the Wyoming Administrative Rules, Chapter 4: Regulations for Releases of Oil and Hazardous Substances into Waters of the State of Wyoming, Environmental Quality, Dept. of Water Quality, Effective Date: 01/12/2026 to Current, Reference Number: 020.0011.4.01122026 (Wyoming Chapter 4 Rules), notification to the State of Wyoming Water Quality Division is required “... after the release of an oil or a hazardous substance in any amount that enters or threatens to enter Waters of the State”.

Section 3.(b) of the Wyoming Chapter 4 Rules defines hazardous substance as: “...any substance or waste that, after release, constitutes a threat to public health or welfare, or other aquatic life or wildlife because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious, radioactive, or other harmful characteristics.”

Section 3.(c) of the Wyoming Chapter 4 Rules defines oil as: "... insoluble or partially soluble oil of any kind including, but not limited to, crude or fuel oil, lubricating oil, oily sludge, asphalt, crude condensate, gasoline, aviation fuel, kerosene, diesel motor fuels, road oil, waste oil, oil mixed with federally defined nonhazardous wastes and derivatives of mineral, animal, or vegetable oils."

Since the stretch of the Popo Agie River that runs near the Facility is a Waters of the State of Wyoming, the Permittee shall notify the Wyoming Department of Environmental Quality, as outlined in the Special Conditions section (Section 5.2) of the Permit, for any Facility discharges to the Popo Agie River.

9 REPORTING REQUIREMENTS

Reporting requirements are based on requirements in 40 CFR §§ 122.44, 122.48, and Parts 3 and 127. A DMR submission frequency of annual was chosen, because the Facility is not anticipated to discharge; however, previous permit requirements have included an annual no discharge certification be submitted on an annual basis. With this renewal of the Permit, the previous "No Discharge During Calendar Year XXXX" certification form will no longer be implemented and the Permittee will use EPA's NetDMR electronic reporting system to indicate whether a discharge has occurred for each calendar year. If there is no data to report on the DMR for a parameter (i.e., no discharge has occurred during a reporting period), the applicable no data indicator (NODI) code for no discharge can be entered in NetDMR for that monitoring period. The due date for submission will remain the same as the previous permit, with the submission due by January 28th for the previous calendar year (i.e., compliance monitoring period) as outlined in the table below:

Table 2. DMR Compliance Monitoring Periods and Due Dates

Compliance Monitoring Period	Due Date
January through December	January 28

The Permittee must sign and certify all electronic submissions in accordance with the Signatory Requirements (see Section 9.7 of the Permit) through the NetDMR system. NetDMR is accessed from the internet at https://usepa.servicenowservices.com/oeca_icis?id=netdmr_homepage.

10 COMPLIANCE RESPONSIBILITIES AND GENERAL REQUIREMENTS

10.1 Inspection Requirements

As required by the previous permit, on a weekly basis, unless otherwise modified in writing by EPA, the Permittee shall inspect its production facility. The Permittee shall maintain a log in either paper or electronic format recording information obtained during inspections for activities necessary to achieve compliance with the conditions of the Permit. The minimum information for the log is outlined in Section 6.2 of the Permit. Inspections are required to determine if the Facility is discharging or a discharge is likely.

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 the Permit. Operation and maintenance requirements have been carried forward from the previous permit with requirements established in Section 6.3 of the Permit to help ensure compliance with the provisions of 40 CFR § 122.41(e).

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)).

The U.S. Fish and Wildlife Information for Planning and Conservation (IPaC) website (<https://ecos.fws.gov/ipac/>) was accessed on 6/29/2026 to determine federally-listed Endangered, Threatened, Proposed and Candidate Species for the area near the Facility. The IPaC Trust Resource Report findings are provided below. The designated area utilized was identified in the IPaC search and covers 5.09 square miles which includes the Facility area identified in the permit application and the nearest major waterbody of the Popo Agie River.

Figure 5. IPaC Mapped Area for the Facility and the Popo Agie River

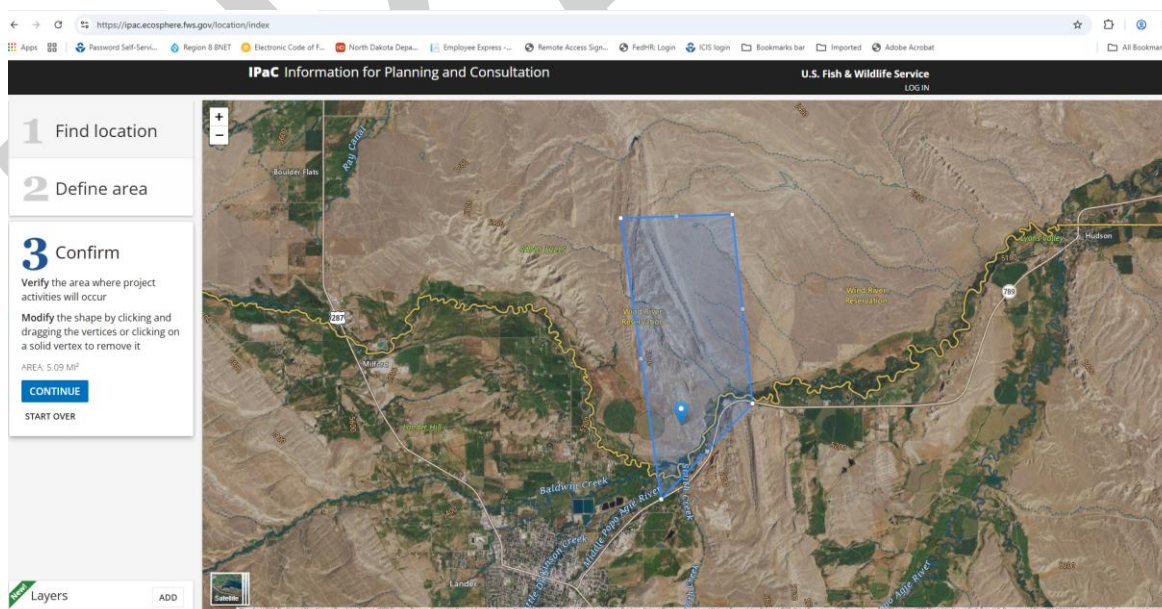


Table 3. IPaC Federally listed Threatened and Endangered Species

Species	Scientific Name	Species Status	Designated Critical Habitat
Grizzly bear	<i>Ursus arctos horribilis</i>	Threatened	There is proposed critical habitat for this species. There are no critical habitats within the mapped project area.
Monarch butterfly	<i>Danaus plexippus</i>	Proposed Threatened	There is proposed critical habitat for this species. The mapped location does not overlap the critical habitat.
Suckley's cuckoo bumble bee	<i>Bombus suckleyi</i>	Proposed Endangered	No critical habitat has been designated for this species.
Ute ladies'-tresses	<i>Spiranthes diluvialis</i>	Threatened	No critical habitat has been designated for this species.

11.1 Biological Evaluation

The justification to support the determination for the species is as follows.

For the Suckley's Cuckoo Bumble Bee, Monarch Butterfly and Ute Ladies'-tresses: Based on the IPaC information generated, the Facility location is outside of the critical habitat for the Monarch Butterfly. There is no critical habitat listed for the Suckley's Cuckoo Bumble Bee or Ute Ladies'-tresses. Additionally, this Permit does not directly permit habitat disturbing activities and no changes in physical habitat/habitat modifications from permitted discharge activities will occur. The Suckley's Cuckoo Bumble Bee, Monarch Butterfly and Ute Ladies'-tresses also do not feed on aquatic organisms. Therefore, these are all terrestrial species that do not eat aquatic animals, and are therefore not aquatic dependent species, and will likely have limited contact with major waterbodies near the Facility. If these species are present, they may use nearby waters for a short period of time during the year; however, there are no expected significant adverse changes in water quality in nearby waters due to the Facility being a no discharge facility. Therefore, EPA's determination for these species is "No Effect" based on the Designated Critical Habitat information in Table 3, the consideration that these are all primarily terrestrial species, and since the Facility is non-discharging.

For the Grizzly Bear: The IPaC results indicated that there is proposed critical habitat for this species. However, the results also indicated that there are no critical habitats within the mapped project area. As noted above, this no discharge permitting activity does not directly permit habitat disturbing activities and no changes in physical habitat/habitat modifications from permitted discharge activities will occur. Based on IPaC information, grizzly bear diets are highly variable among individuals, seasons, and years, and between ecosystems. They opportunistically seek and consume whatever plant and animal foods are available to them. Grizzly bears will consume almost any food available including living or dead mammals or fish, insects, worms, plants, human-related foods, and garbage. This species is therefore a primarily terrestrial species that does not solely eat aquatic animals and is not a primarily aquatic dependent species. As a primarily terrestrial species, grizzly

bears will likely have limited contact with major waterbodies near the Facility. If grizzly bears are present, they may use nearby waters for a short period of time during the year; however, there are no expected significant adverse changes in water quality in nearby waters due to the Facility being a no discharge facility. Under these conditions and considering that there are no designated critical habitats identified within the immediate vicinity of the Facility for this species, the EPA has determined the impact for this species is "No Effect".

Overall, based on the IPaC information and considerations listed above, EPA has determined the permitting action will have "No Effect" on the species listed as threatened or endangered in the action area by the FWS under the Endangered Species Act nor their critical habitat. Since a "No Effect" determination was made, no consultation with FWS is required.

12 NATIONAL HISTORIC PRESERVATION ACT REQUIREMENTS

Section 106 of the National Historic Preservation Act of 1966 (NHPA), 16 U.S.C. § 470(f) requires that federal agencies consider the effects of federal undertakings on historic properties. The implementing regulations of the NHPA can be found at 36 CFR Part 800. An "undertaking," as defined at 36 CFR § 800.16(y), includes projects requiring a federal permit. Therefore, the issuance of this permit constitutes an undertaking. The first step in this analysis is to consider whether the undertaking is a type of activity that has the potential to cause effects on historic properties. See 36 CFR § 800.3(a). Permit renewals such as this one, where there is no new construction, are generally not the type of action with the potential to cause effects on historic properties.

13 401 CERTIFICATION CONDITIONS

At the time of the Permit reissuance, EPA was the CWA Section 401 certifying authority for the Permit, because the Tribes had not received authorization to implement Section 303(c) of the CWA. The EPA will seek public comments on the Section 401 certification prior to issuing the certification and finalizing the Permit.

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 Alysia Tien, U.S. EPA, 303-312-7021 June/July 2026

ADDENDUM

AGENCY CONSULTATIONS

On [Month Day, Year], the Tribes' Tribal Historic Preservation Office was notified of the permit public notice. [Comments/No comments were received on] EPA's preliminary determination that the Permit reissuance will not impact any historic properties.

EPA is the CWA Section 401 certifying authority for the Permit, because the Tribes have not received authorization to implement Section 303(c) of the CWA.

NEIGHBORING JURISDICTION

The EPA conducted a neighboring jurisdiction analysis of water resources located downstream from the Facility and outside the external boundaries of the Wind River Indian Reservation, in accordance with 40 CFR § 121.13. On [Month Day, Year], the EPA permit signatory made a TBD "may affect" determination for the authorized discharges from the Facility in the neighboring jurisdiction of Wyoming. 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, including the CWA Section 401 certification, were public noticed on EPA's website on [Month Day, Year]. The comment(s) received and the response(s) are provided below/No comments were received. Upon addressing all comments received during the public notice comment period related to Section 401 certification requirements, the signing of the Permit shall constitute EPA's Section 401 certification.

Comment:

The commenter noted that ...

Response:

The following language was added to the final Permit./No changes were made to the final Permit: