

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

PERMITTEE:	Chippewa Cree Tribal Water Resources Department
FACILITY NAME AND MAILING ADDRESS:	N.O. Winz Reverse Osmosis Treatment Plant Reject Pond 16 Black Prairie Street Box Elder, Montana 59521
PERMIT NUMBER:	MT-0000007
RESPONSIBLE OFFICIAL:	Ted Whitford (406) 395-4225 ted@chippewa-cree.org
FACILITY CONTACT:	Tim Nault Lead Operator (406) 395-4225
PERMIT TYPE:	Minor, New Permit, Domestic Water Production
FACILITY LOCATION:	10625 US-87 Box Elder, MT 59521 48.4023°, -109.9115°

1 INTRODUCTION

This statement of basis (SoB) is for the issuance of a National Pollutant Discharge Elimination System (NPDES) permit (the Permit) to the Chippewa Cree Tribal Water Resources Department for the N.O. Winz Reverse Osmosis Treatment Plant Reject Pond (Facility). The Permit establishes discharge limitations for any discharge of wastewater from the Facility through Outfall 001 to Big Sandy Creek. 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 Rocky Boy's 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 the Permit.

3 BACKGROUND INFORMATION

The Facility is owned and operated by the Chippewa Cree Tribal Water Resources Department which is a division of the Tribal government. The Facility is located at latitude 48.4023°, longitude -109.9115° with Outfall 001 located at latitude 48.4001°, longitude -109.9120°.

The following background information was obtained from the Facility's application for the Permit and in conversations with the operator.

3.1 Facility Process Description

The Facility is a reverse osmosis water treatment plant that uses membranes to treat groundwater for domestic uses. The domestic water treatment process generates reject water and membrane cleaning wastewater. The wastewater is discharged to a lagoon. When the lagoon is at capacity the wastewater will discharge into a drainage at Outfall 001 that flows to Big Sandy Creek. The Facility does not add chemicals to the water during the treatment and membrane cleaning processes. The Facility operates for 8 hours at a time and produces 38 gallons per minute of reject water. The reject water is collected in a 10,000-gallon tank. When the tank is full the contents are pumped to the lagoon. The Facility is operated once every two weeks, and 18,240 gallons accumulate in the lagoon every two weeks. The lagoon volume has been estimated by the permittee as having an operating volume of 105,000 gallons. At current production of 18,240 gallons every two weeks, the lagoon hydraulic residence time is almost 3 months. The lagoon is expected to discharge 105,000 gallons every three months over a 24-hour period.

Figure 1. A satellite picture showing the Rocky Boy's RO Facility, wastewater lagoon, Outfall 001, and the drainage to Big Sandy Creek.



3.2 Treatment Process

The reject water is collected in a wastewater lagoon before discharge through a pipe at Outfall 001 immediately south of the Facility. Treatment in the lagoon is limited to settling total suspended solids (TSS) and blending of the wastewater for a homogenous composition. Biological treatment is not expected to occur in the lagoon. The Facility is investigating whether they will have to use chemicals such as acid to reduce the pH to meet permit limitations.

3.3 Chemicals Used

Chlorine is used to disinfect the product water after reverse osmosis but does not enter the treatment waste stream. Chlorine is not used when cleaning the RO membrane. Chlorine is not expected to be present in the reject water.

4 PERMIT HISTORY

This is the first NPDES permit issued to the Facility.

4.1 Discharge Monitoring Report (DMR) Data

The Facility reported in its permit application that it has not discharged from the lagoon. The Facility analyzed their wastewater for pollutants identified as being present in reject water based on the EPA's "Drinking Water Treatment Plant Residuals Management Technical Report" (September 2011). The pH was high and might require additional treatment beyond the capabilities of the lagoon. It will be up to the Permittee to decide how best to treat the wastewater.

Table 1. Summary of the reject water monitoring data from one sampling event reported by the Permittee in the application

Parameter	Result
pH, standard units	9.5
Alkalinity, mg/L	2,350
Cyanide, mg/L	ND
Organic Carbon, mg/L	55
Phenolics, total recoverable, mg/L	ND
Ammonia as N, mg/L	ND
Nitrate and Nitrite as N, mg/L	ND
Antimony, total, mg/L	ND
Arsenic, total, mg/L	0.012
Beryllium, total, mg/L	ND
Cadmium, total, mg/L	ND
Chromium, total, mg/L	ND
Copper, total, mg/L	ND
Lead, total, mg/L	ND
Mercury, total, mg/L	ND
Nickel, total, mg/L	0.007
Selenium, total, mg/L	ND
Silver, total, mg/L	ND
Thallium, total, mg/L	0.0014
Zinc, total, mg/L	ND

4.2 Other Facility History

N/A

5 DESCRIPTION OF RECEIVING WATER

The receiving water is Big Sandy Creek, a tributary of the Milk River. Outfall 001 discharges into an unnamed drainage approximately 1 mile away from Big Sandy Creek.

Figure 2. Facility Discharge Flow Path to the Receiving Water



6 PERMIT LIMITATIONS

6.1 Technology Based Effluent Limitations (TBELs)

EPA Region 8 has developed a TBEL for TSS at drinking water treatment plants that use lagoons for wastewater treatment.

40 CFR § 125.3(c)(2) states that technology-based treatment requirements may be imposed on a case-by-case basis under section 402(a)(1) of the Act, to the extent that EPA-promulgated effluent limitations are inapplicable. The permit writer shall apply the appropriate factors listed in § 125.3(d) and shall consider:

- The appropriate technology for the category or class of point sources of which the applicant is a member, based upon all available information; and
- Any unique factors relating to the applicant.

40 CFR § 125.3(d) states that when setting case-by-case limitations pursuant to § 125.3(c), the following factors must be considered for best practicable control technology requirements:

- The total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application;
- The age of equipment and facilities involved;
- The process employed;
- The engineering aspects of the application of various types of control techniques;
- Process changes; and
- Non-water quality environmental impact (including energy requirements).

There are currently no existing effluent limitation guidelines for water treatment plants (WTPs) so it will be necessary to follow the requirements of 40 CFR § 125.3(c)(2) when developing the TBEL.

Best practicable control technology currently available emphasizes treatment at the end of a manufacturing process, but also includes the control technology within the process itself when it is considered to be normal practice within an industry. For WTPs, minimizing TSS introduction into the system can also be an important consideration. Because groundwater has lower TSS, WTPs that use groundwater sources do not usually require wastewater treatment to meet TSS effluent limitations. The BPT level of technology may be assessed using performance metrics by facilities of various sizes, ages, and processes within the individual subcategory. There are currently 12 potable water treatment facilities permitted by EPA in Region 8. Every facility has monitored for TSS and, if necessary, implemented TSS controls in their wastewater treatment. Data from these facilities was analyzed in the development of this case-by-case TBEL.

The EPA considered two types of common TSS reduction technologies: pond settling of suspended solids prior to discharge, and no treatment – both of which are used at Region 8 facilities to maintain low TSS in their discharge. These represent the appropriate technologies for the facilities and nothing indicates that the appropriate technology is not affordable to the facilities. Both are discussed further below.

Settling ponds are the predominant treatment technique for removal of suspended solids in the domestic water industry. Settling ponds are versatile in that they perform several waste-oriented functions including solids removal (i.e., solids settle to the bottom and the clear water overflow is much reduced in suspended solids content), equalization and water storage capacity (i.e., the clear supernatant water layer serves as a reservoir for reuse or for controlled discharge), and solid waste storage (i.e., the settled solids are provided with long term storage). Their versatility, ease of construction and relatively low cost explains the wide application of settling ponds as compared to other technologies. The performance of these ponds depends primarily on the settling characteristics of the suspended solids, the flow rate through the pond, and the pond size. Settling ponds can be used over a wide range of suspended solids levels. As the ponds fill with solids, they can be dredged to remove these solids or they may be left filled and new ponds provided. The choice often depends on whether land for additional new ponds is available. When

suspended solids levels are low and ponds large, settled solids build up so slowly that neither dredging nor pond abandonment is necessary for a period of many years.

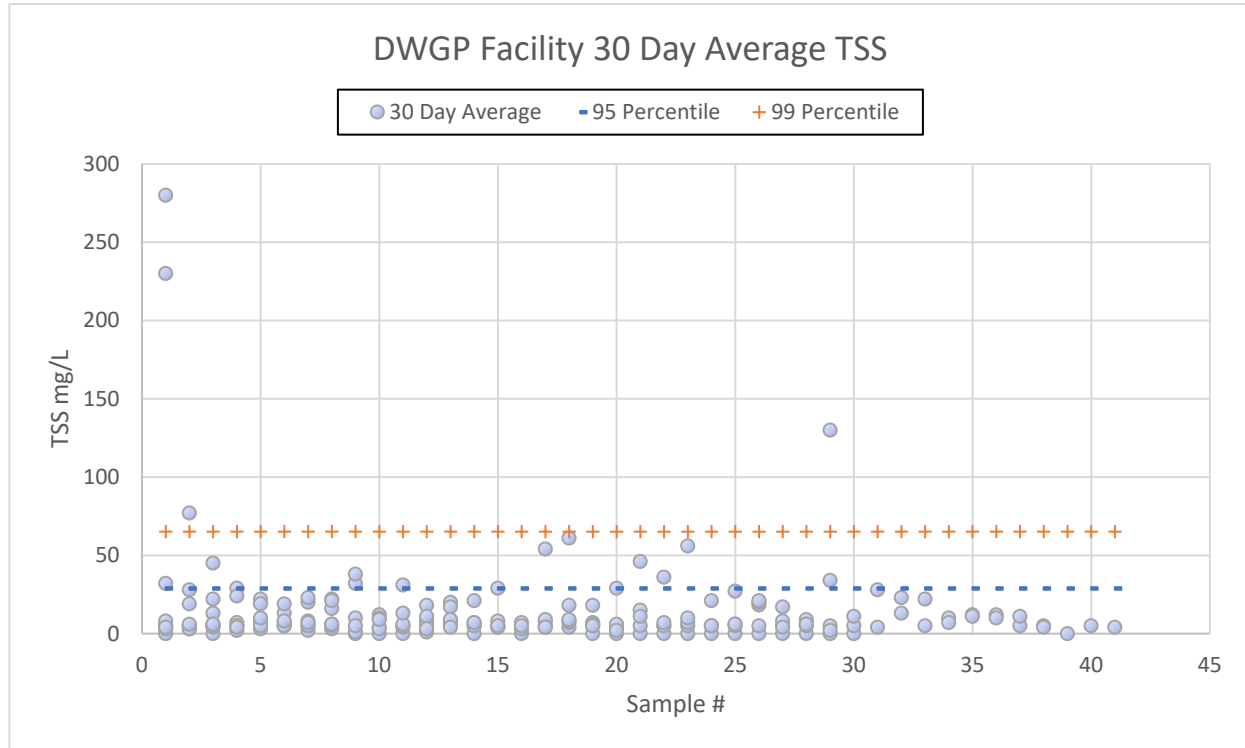
The chief problems experienced by settling ponds are rapid fill-up, insufficient retention time and short circuiting. The first can be avoided by constructing larger or multiple ponds. Frequent dredging of the first in a series of ponds can reduce the need to dredge the remaining ponds. The solution to the second problem involves additional pond volume or use of flocculants. The third problem, short circuiting, is simply the formation of currents or water channels from pond influent to effluent whereby whole areas of the pond are not utilized. The object is to achieve a uniform plug flow from pond influent to effluent. This can be achieved by proper inlet-outlet construction that forces water to be uniformly distributed at those points, such as by use of a weir. Frequent dredging or insertion of baffles will also minimize channeling. A final consideration for settling ponds is that they can take up substantial physical space and depending on the geography and topography of the specific site, it may be infeasible to install them without a massive amount of earthwork.

No treatment is an option that WTP facilities implement. Filter backwash water is piped directly to the receiving water with no treatment. These facilities have source water of such high quality that TSS is virtually nonexistent, making wastewater treatment of the filter backwash water unnecessary.

The EPA generally uses statistical procedures to develop a TBEL using monitoring data. These procedures involve fitting effluent data to distributions and using estimated upper percentiles of those distributions. These methods are described in the EPA's Technical Support Document for Water Quality-based Toxics Control⁶ (commonly referred to as the "TSD"). The TSD suggests using a confidence level approach combined with a relatively high percentile of the data to determine a statistically defensible value that is then implemented as an average monthly limit (AML) and/or a maximum daily limit (MDL). The TSD recommends using the 95th and 99th percentiles of data for determining the AML and MDL, which equate to approximately 29 mg/L and 65 mg/L, respectively.

The data presented in Figure 2 were collected from water treatment plants' discharge monitoring reports submitted per the 2019 drinking water general permit. The data span from June 2019 to November 2025. The x-axis is sample # sequentially during the facility's permit term. Sample number was chosen rather than sample date because the facilities did not start permit coverage at the same time. Facilities gained coverage at different times due to factors such as the timing of individual permit expiration.

Figure 3 – TSS Discharges at Existing WTP Facilities covered by the 2019 DWGP.



Below, each of the factors in 40 CFR § 125.3(d) is addressed to fulfill the requirements for this case-by-case TBEL.

1. The total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application.
 - Considering the nature of 95th and 99th percentile statistics, the WTP data in Figure 3 show that facilities are generally able to meet the 29 mg/L 30-day average and 65 mg/L daily max for TSS.
 - The drinking water industry is aware of the need to abate TSS in their wastewater.
 - Drinking water facilities are designed around the constraints of the source water and the drinking water treatment types, such as how much solids are present in groundwater versus surface water.
 - If wastewater treatment is necessary, a lagoon or other settling pond is typically used.
2. The age of equipment and facilities involved:
 - New facilities, such as this one, can install new equipment and design discharge systems with newer technology available without incurring costs associated with any process or layout modifications that existing facilities may need to perform.

- Lagoons are the cheapest form of treatment besides no treatment. Lagoons are simple to construct and require minimum inputs to operate when compared to other types of treatment.

3. The process employed:

The process employed would likely be digging a small retention pond. Other potential processes (i.e., chemical flocculation, centrifuges/hydrocyclones, and total retention) would require more economic investment at the facility and would require electricity or larger footprints, addition of chemicals, etc. Therefore, these were not considered in the economic evaluation.

4. The engineering aspects of the application of various types of control techniques:

Settling ponds are very simple to design, engineer, install, and maintain. Other types of control techniques would be much more complex and would require significantly more infrastructure.

5. Process changes:

Because retention pond technology is easily installed (new or retrofit) at the end of a process train, no changes or impacts to other process steps would be expected or required.

6. Non-water quality environmental impact (including energy requirements)

Settling ponds, once installed, are passive and have no identified non-water quality environmental impacts (such as energy use, etc.).

Considering the relatively simple and inexpensive implementation of settling ponds, their proven ability to substantially reduce TSS in the discharge, and the robust dataset and analysis provided above, the EPA will implement a case-by-case BPT limitation (as allowed by 40 CFR § 125.3(d)) at this Facility, and apply an average monthly limit of 29 mg/L for TSS in wastewater discharges, and a daily maximum limit of 65 mg/L TSS in wastewater (Figure 3).

6.2 The EPA implemented the same TSS TBEL for WTP facilities covered by the 2026 DWGP, which was justified using the same monitoring data discussed above and presented in Figure 2. Water Quality Based Effluent Limitations (WQBELs)

The Facility discharges to a drainage that flows to Big Sandy Creek. The receiving water is within the Rocky Boy's Reservation of the Chippewa Cree Tribe (Tribe). The Tribe does not have EPA-approved water quality standards under Section 303(c) of the CWA. 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 in the absence of federally-approved Tribal water quality standards (WQS) on the Reservation, EPA considers the beneficial uses of the receiving waters to include aquatic life, human health (fish consumption), and recreation. Currently Big Sandy Creek and the downstream Milk River are not used as a source for drinking water on the Reservation. EPA relied on CWA § 301(b)(1)(C) in establishing WQBELs based on EPA's Section 304(a) recommended water quality criteria (WQC).

6.2.1 pH

Permit application data (see Table 1) show that pH could exceed the WQC. The aquatic life WQC specifies pH must remain in the range of 6.5-9.0 standard units. The pH WQC will be the basis for the pH effluent limitation.

6.2.2 BOD

The Facility's source water is groundwater, which would not present a source of oxygen demand. Thus, BOD₅ is not expected to be present in quantities that would affect the receiving water.

6.2.3 Temperature

Temperature is not expected to be a pollutant of concern due to the extended residence time of the lagoon (approximately 3 months).

6.2.4 Ammonia

Ammonia and nitrate/nitrite were not detected in the reject water; see Table 1.

6.2.5 TSS

The WQC do not have recommended criteria for TSS. TSS monitoring data was not submitted with the Facility's application. The TBEL discussed in section 6.1 will be used to establish TSS limits for this Permit.

6.2.6 Metals and other toxic pollutants

The Facility uses groundwater as a source water and as a result is required to monitor the reject water for metals identified as being geologically available in Region 8. The Facility submitted monitoring data with the application for: antimony, arsenic, beryllium, cadmium, chromium, copper, cyanide, lead, mercury, nickel, selenium, silver, thallium and zinc. Antimony, beryllium, cadmium, chromium, copper, cyanide, lead, mercury, selenium, silver, and zinc were not detected and are assumed to be absent in the reject water. Arsenic, nickel and thallium were detected in the reject water and will require additional review.

Total arsenic was detected at 12 µg/L. The aquatic life WQC is 340 µg/L dissolved for acute and 150 µg/L dissolved for chronic. For fish consumption, the human health WQC is 0.14 µg/L. The Permit will require additional arsenic monitoring to gether data for a future reasonable potential analysis.

Total nickel was detected at 7 µg/L. The WQC for nickel is hardness dependent. As hardness increases nickel becomes less toxic causing higher effluent limitations for aquatic life. The permittee did not submit monitoring data for hardness in the receiving water. The default hardness used when determining toxicity values for the WQC is 100 mg/L. Based on this default value, the aquatic life WQC for dissolved nickel is 470 µg/L acute and 52 µg/L chronic. For fish consumption, the human health WQC is 4,600 µg/L. The Permit will require additional nickel monitoring to gether data for a future reasonable potential analysis. Indicator monitoring will be required on an annual basis to verify that nickel concentrations remain well below the WQC.

Thallium was detected at 1.4 µg/L using EPA method E200.8. There is not an aquatic life WQC for thallium. For fish consumption, the human health WQC is 0.47 µg/L. The Permit will require additional thallium monitoring to gather data for a future reasonable potential analysis.

6.3 Final Effluent Limitations

Applicable TBELs and WQBELs were compared, and the most stringent of the two was selected for the following effluent limits (Table 2).

Table 2 - Final Effluent Limitations for Outfall 001

Effluent Characteristic	30-Day Average Effluent Limitations <u>a/</u>	7-Day Average Effluent Limitations <u>a/</u>	Daily Maximum Effluent Limitations <u>a/</u>	Limit Basis <u>b/</u>
Flow, million gallons per day (mgd)	report only	N/A	report only	N/A
Total Suspended Solids (TSS), mg/L	29	N/A	65	TBEL
Total Dissolved Solids (TDS), mg/L	report only	N/A	N/A	N/A
Arsenic (As), µg/L	report only	N/A	N/A	N/A
Nickel (Ni), µg/L	report only	N/A	N/A	N/A
Thallium I (Tl), µg/L	report only	N/A	N/A	N/A
pH, standard units	Must remain in the range of 6.5 to 9.0 <i>at all times</i>			report only

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

b/ WQBEL = Limitation based on water quality-based effluent limit; TBEL = Limitation based on technology based effluent limit;

6.4 Antidegradation

The Tribe does not have an antidegradation policy. There is no antidegradation requirement.

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 issuance of an NPDES permit to the Facility. Anti-backsliding does not apply.

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.

7.1.1 Conventional Pollutants (pH and TSS)

The Facility is operated once every two weeks and the lagoon has capacity to retain 3 months of reject water without considering evaporation or infiltration. Discharges are expected on an intermittent basis approximately every 3 months over 24 hours. As a result, every discharge is required to be monitored for pH and TSS. A grab sample is appropriate when a sample is needed to monitor effluent that does not discharge on a continuous basis, and when the flow and characteristics of the waste stream being sampled are relatively constant. The lagoon is expected to be homogenous since the Facility's source water is groundwater and the lagoon has a long retention time.

7.1.2 Total Dissolved Solids (TDS)

TDS is a common pollutant in reject water from reverse osmosis water treatment plants. TDS can cause toxicity for aquatic life and can also impact other uses such as drinking water and agriculture irrigation and livestock watering. Big Sandy Creek flows into the Milk River. The Milk River is a drinking water source for the City of Havre. There is approximately 28 stream miles from the facility to the confluence of Big Sandy Creek and the Milk River. Currently the State of Montana has not developed TDS WQS. The intermittent wastewater discharges are expected to be diluted at a ratio of greater than 50:1 in Big Sandy Creek and the Milk River.

The EPA has not developed WQC for TDS to use as a reference when developing effluent limitations. In the absence of a WQC the EPA has decided to require monitoring for TDS and discharge flow rates to track the facility's potential impact on receiving streams. The source water for the Facility is ground water which is assumed to be relatively consistent in TDS composition. As a result, the reject water and wastewater are expected to be consistent in composition requiring less frequent monitoring. The facility is required to monitor for TDS once per year for the duration of the permit. The facility is required to monitor the receiving water for TDS to determine the assimilative capacity of Big Sandy Creek.

7.1.3 Metals

Arsenic, nickel and thallium were detected during the Facility's initial pollutant scan. These metals will have annual effluent monitoring requirements to conduct future reasonable potential analyses. A grab sample is appropriate when a sample is needed to monitor effluent that does not discharge on a continuous basis, and when the flow and characteristics of the waste stream being sampled are relatively constant. The lagoon is expected to be homogenous since the Facility's source water is groundwater and the lagoon has a long retention time.

Table 3. 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>	Every Discharge	Grab	Daily total
TSS, mg/L	Every Discharge	Grab	Daily Max. 30-Day Avg.
TDS, mg/L	Once Per year	Grab	Daily Max. 30-Day Avg.
Arsenic, Total µg/L	Once per year	Grab	Daily Max. 30-Day Avg.
Nickel, Total µg/L	Once per year	Grab	Daily Max. 30-Day Avg.
Thallium, Total µg/L	Once per year	Grab	Daily Max. 30-Day Avg.
pH, standard units	Every Discharge	Grab	Minimum Maximum

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

7.2 Receiving Water Monitoring

Receiving water monitoring is required to determine if Big Sandy Creek has assimilative capacity for arsenic and thallium. The Facility is required to monitor upstream of the bridge where South Fresno Road crosses Big Sandy Creek, which is upstream of the confluence between the drainage and Big Sandy Creek. Hardness monitoring will also be required in the receiving stream, because nickel is hardness dependent.

Table 3 - Monitoring requirements for Outfall 001-RW

Effluent Characteristic	Monitoring Frequency	Sample Type <u>a/</u>	Data Value Reported on DMR
Arsenic, Total, <u>c/</u> µg/L	Once per year	Grab	Average Value
Nickel, Total, <u>c/</u> µg/L	Once per year	Grab	Daily Max. 30-Day Avg.
TDS, mg/L	Once per year	Grab	Daily Max. 30-Day Avg.
Thallium, Total <u>c/</u> µg/L	Once per year	Grab	Average Value

Effluent Characteristic	Monitoring Frequency	Sample Type <u>a/</u>	Data Value Reported on DMR
Hardness (as CaCO ₃), mg/L	Once per year	Grab	Daily Max. 30-Day Avg.

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

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 is expected to discharge on an intermittent basis with a maximum of one sampling event per quarter.

10 General Requirements

10.1 Inspection Requirements

10.2 Every discharge, unless otherwise modified in writing by EPA, the Permittee shall inspect the wastewater lagoon. The permittee shall document the inspection, as required by the Permit. Inspections are required in order to determine if a discharge has happened since the last inspection. The inspection will also determine if a wastewater discharge is required in the near future. The inspector will also document any corrective actions according to Part 6.2.3 of the Permit 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. In addition to an operation and maintenance plan, regular facility inspections and consideration of staff and funding resources are important aspects of proper operation and maintenance. Operation and maintenance requirements have been established in section 6.3 of the Permit to help ensure compliance with the provisions of 40 CFR § 122.41(e).

10.3 Industrial Waste Management

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)).

The U.S. Fish and Wildlife Information for Planning and Conservation (IPaC) website (<https://ecos.fws.gov/ipac/>) was accessed on August 10, 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 the Facility and downstream waters.

Table 5. IPaC Federally listed Threatened and Endangered Species

Species	Scientific Name	Species Status	Designated Critical Habitat
Monarch Butterfly	<i>Danaus plexippus</i>	Proposed Threatened	No designated critical habitat
Suckley's Cuckoo Bumble Bee	<i>Bombus suckleyi</i>	Proposed Endangered	No designated critical habitat

11.1 Biological Evaluation

Based on the IPaC information generated, the Facility location is outside of the critical habitat for the monarch butterfly or suckley's cuckoo bumble bee. These are both terrestrial species. EPA's determination for these species is "No Effect" because of Habitat information in Table 5 and the information below.

There is no critical habitat listed for the monarch butterfly or suckley's cuckoo bumble bee. The species listed are terrestrial species. The Facility's treated wastewater discharges into an unnamed creek and then into Big Sandy Creek. If these species are present, they may use these creeks for a short period of time during the year. However, discharge will be rare, every two to three months and the pollutants are regulated to protect aquatic life; therefore, no effects are expected. The EPA has determined no effect on the listed species from the issuance of this Permit.

Based on the IPaC information and the details of this facility, EPA determined the permitting action will have "no effect" on the species listed above.

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). Permits 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 issuance, EPA was the CWA Section 401 certifying authority for the Permit, because the Tribe 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 Paul Garrison, U.S. EPA, 303-312-6016 (03/2026)

ADDENDUM

AGENCY CONSULTATIONS

On [Month Day, Year], the Tribe's Tribal Historic Preservation Office [agreed with/disagreed with/did not comment on] EPA's preliminary determination that the Permit reissuance will not impact any historic properties.

NEIGHBORING JURISDICTION

The EPA conducted a neighboring jurisdiction analysis of water resources located downstream from the Facility and outside the external boundaries of the Rocky Boy's 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 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, including the CWA Section 401 certification, were public noticed [on EPA's website and in the newspaper name] 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: