STATEMENT OF BASIS
TOWN OF HOT SPRINGS WWTF
NPDES PERMIT MT-0020591

January 2018

PERMITTEE:	Town of Hot Springs
FACILITY NAME AND ADDRESS:	Hot Springs WWTF Town of Hot Springs P.O. Box 669 Hot Springs, MT 59845
PERMIT NUMBER:	MT-0020591
RESPONSIBLE OFFICIAL:	Randall Woods, Mayor
FACILITY CONTACT:	Sierra Lazaro, Operator
PERMIT TYPE:	Indian country, minor POTW, renewal
TYPE OF TREATMENT:	Aerated lagoon system with chlorine disinfection
FACILITY LOCATION:	One mile east of the Town of Hot Springs, NE¼ of Section 3, Township 21 north, Range 24 west; latitude 47.612971° N, longitude 114.648592° W
DISCHARGE LOCATION:	Latitude 47.612971° N, Longitude 114.648592° W
RECEIVING WATER:	Hot Springs Creek

1. Permit Status

This statement of basis is for the renewal of the National Pollutant Discharge Elimination System (NPDES) Permit (MT-0020591) authorizing discharge from the Hot Springs Wastewater Treatment Facility (Facility or WWTF).

The WWTF is located within the exterior boundary of the Flathead Reservation and is thus in Indian country as defined at 18 U.S.C. § 1151. The Confederated Salish and Kootenai Tribes (CSKT) were granted Treatment as a State (TAS) status by the EPA under Section 106 of the Clean Water Act (CWA), and TAS for Section 303 Water Quality Standards (WQS) of the CWA, on March 1, 1995. The most recent update to the CSKT WQS was approved by the EPA on April 11, 2007. The EPA has not approved the Tribes to implement the CWA NPDES on the Flathead Reservation. The EPA directly implements the CWA NPDES program on all Indian country lands within the state of Montana.

2. Facility Information

This Permit is for the discharge from the Hot Springs WWTF that serves 544 residents of the Town of Hot Springs. The WWTF was constructed in 1987 and consists of three lined and aerated cells, with a total surface area of 2.81 acres, and chlorine disinfection. The permit application reports a design flow of 0.23 million gallons per day (mgd) and an average daily flow of 0.20 mgd. Flow is measured in a V Notch weir after the discharge passes through the chlorine contact chamber. The discharge from Outfall 001 to Hot Springs Creek is continuous.

As depicted in Figure One, influent enters the westernmost treatment lagoon, moves through the lagoons consecutively, and is disinfected prior to being discharged to a ditch which flows into Hot Springs Creek.

Figure 1. Hot Springs WWTF

2.1 Effluent Characteristics

A summary of self-monitoring effluent data for the period of record (POR) from October 2011 through April 2017 is included in Table One.

Table 1. Summary of Self-Monitoring Data for October 2011-April 2017

Parameter	Value Reported b/				
	Minimum	**Maximum**	**Average**	**No. of Samples**	**No. of Exceed-ances c/**
Five-day biochemical oxygen demand (BOD_5), mg/L	3	58	10.6	65	1
Total Suspended Solids (TSS), mg/L	1	95	15.5	64	6
Fecal Coliform, #/100 mL	1	8,660	382	64	16
Escherichia coli (E. coli), #/100 mL	1	7,700	336	64	20
pH, standard units	7.56	9.45	--	65	5
Floating Solids or Visible Foam	None d/		--	48	0
Oil & Grease, Visual	None d/		--	54	0
Oil & Grease, mg/L	0	0	0	11	0
Total Residual Chlorine (TRC), mg/L	0.0010	0.0900	0.0105	46	0 e/
Flow, million gallons per day (MGD)	0.1840	0.3010	0.2048	23	N/A f/

a/ See Definitions, Part 1.1 of the Permit, for definition of terms.

b/ This table shows the minimum, maximum, and average of values reported on the Discharger's monthly reports. The required monitoring frequency for all parameters was monthly. The values are: sample averages for BOD_5, TSS and Flow; sample averages for fecal coliform and *E. coli*; sample averages and single sample values for TRC; and single sample values for all other parameters. The number of samples represents the total number of numeric values reported, and excludes "No Data Indicator" (NODI) codes reported by the discharger (e.g., NODI code "C" = No discharge).

c/ "Number of Exceedances" is the number of reported values that exceeded one or both of the numeric limits provided in the Permit. For example, if a single value reported on the discharge monitoring report (DMR) exceeded both the 30-day average and the 7-day average, it is counted as a single exceedance in this summary.

d/ No instances of discharge of floating solids, visible foam, or visible sheen were reported.

e/ All reported values for total residual chlorine were below the minimum level of 100 µg/L (0.1 mg/L), which was considered in compliance with the previous permit limitation.

f/ Flow values inconsistent with historical data were assumed to have been reported incorrectly and adjusted to be consistent with other reported values (e.g., values reported as 1848 MGD were adjusted to 0.1848 MGD).

2.2 Compliance History

Based on DMR data, there were 72 effluent violations during the POR:

- The BOD_5 30-day average limitation of 30 mg/L and 7-day average limitation of 45 mg/L were both exceeded once, in July 2013, with a reported value of 58 mg/L.
- The TSS 30-day average limitation of 30 mg/L was exceeded 6 times, with reported values ranging from 33 to 95 mg/L. The TSS 7-day average limitation of 45 mg/L was exceeded 3 times, with reported values ranging from 48 to 95 mg/L.
- The fecal coliform 30-day average limitation of 200 cfu/100 mL was exceeded 16 times, with reported values ranging from 201 to 8,660 cfu/100 mL. The fecal coliform 7-day average limitation of 400 cfu/100 mL was exceeded 10 times, with reported values ranging from 620 to 8,660 cfu/100 mL.
- The *E. coli* 30-day average limitation of 126 cfu/100 mL was exceeded 20 times, with reported values ranging from 148 to 7,700 cfu/100 mL. The *E. coli* 7-day average limitation of 252 cfu/100 mL was exceeded 10 times, with reported values ranging from 298 to 7,700 cfu/100 mL.
- The pH maximum limitation of 9.0 standard units was exceeded 5 times, with reported values ranging from 9.06 to 9.45 s.u.

The WWTF has experienced problems with the chlorinator frequently freezing in the winter and becoming inoperable. Most fecal coliform and *E. coli* exceedances have occurred in the winter. Special condition 3.1.1 has been added to the Permit requirements under the Compliance Responsibilities section to ensure proper operation of the chlorinator at all times, including during winter months when there is a risk of inoperability if the unit freezes.

On March 14, 2017, a sanitary sewer overflow (SSO) event occurred at the WWTF. A period of heavy snow and rain resulted in the lift station pumps unable to meet demand and approximately 150 gallons overflowed from a wet well manhole onto the treatment plant grounds. To prevent and mitigate future SSOs, the WWTF is working to improve the collection system, lift station and lagoons, and plans to install new liner inside the sewer mains and build manhole improvements to stop inflow and infiltration.

3. Technology-Based Effluent Limits (TBELs)

Treated effluent from the Hot Springs WWTF is subject to the Secondary Treatment Regulations found at 40 C.F.R. Part 133. Regulations at 40 C.F.R. § 133.102 require that the minimum level of effluent quality for secondary treatment are 30-day average concentrations of BOD_5 and TSS that do not exceed 30 mg/L, and 7-day average concentrations of these parameters that do not exceed 45 mg/L. The secondary treatment regulations also provide a limit for pH to be maintained between 6.0 and 9.0 standard units. However, as discussed below, the water quality-based effluent limitations (WQBELs) for pH in this Permit are based on the CSKT WQS. These pH WQBELs of 6.5 to 9.0 standard units are more restrictive than limits based on the secondary treatment standards.

The percent removal requirements for BOD_5 and TSS required by 40 C.F.R. § 133.102(a)(3) are not included in this permit. Compliance with percent removal requirements generally is based on influent and effluent data measured at approximately the same time. It has been the experience of the EPA Region 8 that there are practical problems that prevent the determination of the actual percent removals of BOD_5 and TSS in small municipal wastewater lagoon systems such as this one. The detention times in lagoon systems usually range from several weeks to several months. The lag time

between when the influent enters the lagoon and when the wastewater leaves the lagoon system makes it difficult to make a valid comparison between influent and effluent concentrations. Based on professional judgment, percent removal requirements will not be required in this permit.

4. Water Quality-Based Effluent Limits

WQBELs, which are based on water quality standards, must be established for any parameters where TBELs are not sufficient to ensure water quality standards will be attained in the receiving water (40 C.F.R. § 122.44(d)). The parameters that must be limited are those that are or may be discharged at a level that will cause, have the reasonable potential to cause, or contribute to an exceedance of the WQS.

The CSKT adopted surface WQS for the Flathead Reservation that were approved by the EPA and became effective in 1996. The WQS were revised as of April 11, 2006, were approved by the EPA, and became effective on April 11, 2007. This section provides a basis and rationale for establishing WQBELs based on the applicable water quality standards of the receiving water.

4.1 Receiving Waters

The discharge from the WWTF runs through approximately 280 feet of open ditch before discharging into Hot Springs Creek.

4.2. Water Quality Considerations

Hot Springs Creek is classified C-3 in the CSKT WQS. Waters classified C-3 must be maintained suitable for bathing, swimming and recreation; wildlife (birds, mammals, amphibians and reptiles); the marginal growth and propagation of non-salmonid fishes and associated aquatic life; and agricultural and industrial water supply purposes. Numeric or narrative criteria have been developed for various parameters, including: fecal coliform bacteria, *Escherichia coli* (*E. coli*), total residual chlorine (TRC) and oil and grease, as well as for physical characteristics such as pH and dissolved oxygen.

Pollutants typically present in treated effluent from domestic wastewater treatment facilities that may cause or contribute to exceedances of water quality standards include conventional pollutants such as biological material as measured by BOD_5, TSS, oil and grease, fecal coliform bacteria and pH; and non-conventional pollutants or parameters such as *E. coli*, TRC, and ammonia.

Based on the domestic nature of the discharge and absence of industrial users, other parameters, including most priority and non-conventional pollutants with numeric criteria established for the designated uses of Hot Springs Creek, are not expected to be discharged in quantities that would cause, have reasonable potential to cause, or contribute to an excursion of the CSKT WQS; therefore, effluent limitations and monitoring are not required for those additional parameters.

There have not been any mixing studies of the effluent and receiving water, therefore all WQBELs are applied based on meeting the water quality criteria at end-of-pipe.

4.2.1 Conventional Pollutants

4.2.1.1 *BOD_5, TSS, and pH* – The CSKT WQS do not include numeric criteria for BOD_5 or TSS, so no WQBELs are necessary for these pollutants at this time. The water quality criterion for pH is 6.5 to 9.0 standard units, which is more stringent than the TBEL and will apply as the WQBEL.

4.2.1.2 *Fecal coliform* – The numeric criteria for fecal coliform established by the WQS are a 30-day geometric mean of 200 colony-forming units (cfu) per 100 mL and a requirement that no more than 10% of samples during a 30-day period may exceed 400 cfu/100 mL. The designated uses of Hot Springs Creek include bathing, swimming, and recreation. During low flow conditions, there is little or no dilution flow in Hot Springs Creek. Therefore, the numeric criteria for fecal coliform established by the WQS will be applied as "end-of-pipe" numeric effluent limitations each month for the duration of this Permit. These effluent limits modify the limitations in the previous permit, which applied the criteria as 30-day and 7-day averages.

In addition, Section 1.3.14 of the WQS specifies that the WQS "for organisms of the coliform group are based on a minimum of five samples obtained during separate 24-hour periods during any consecutive 30-day period analyzed by the most probable number or equivalent membrane filter methods or in accordance with tests or analytical procedures that are found to be either equivalent or more applicable by the EPA. If, however, there are fewer than 5 samples/30 days available, the available samples will be used to calculate the geometric mean for determination of compliance with standards." Based on this sampling provision in the WQS and because the WWTF has had multiple exceedances of its existing fecal coliform limitations, sampling for fecal coliform is to occur five times during each calendar month, with sampling events equally spaced throughout the calendar month.

4.2.1.3 *Oil and Grease* – The CSKT WQS includes a narrative criterion that reservation surface waters must be free from substances which may or will "Create floating debris, scum, a visible oil film (or oil be present in concentrations at or in excess of 10 milligrams per liter) or globules of grease or other floating materials." The reissued permit includes as WQBELs both a numeric limit of less than 10 mg/L and narrative limitation stating that "[there shall be no] visible sheen in the receiving water." Visual monitoring for oil and grease shall occur monthly. Sampling for compliance with the numeric limit is required only when visual monitoring results in the detection of a visible sheen in the receiving water.

4.2.1.4 *Dissolved Oxygen* – Numeric criteria for dissolved oxygen are established by the CSKT WQS. However, there are currently no dissolved oxygen data for the lagoon system's effluent. Monthly monitoring has been added to the Permit requirements to provide data to evaluate the need for WQBELs for dissolved oxygen.

4.2.2 Non-conventional Pollutants

4.2.2.1 *E. coli* – The CSKT WQS for C-3 classified waters, which includes Hot Springs Creek, establish numeric criteria for *E. coli* of 126 colony-forming units per 100 mL, and ten percent of the total samples may not exceed 252 colony-forming units per 100 mL during any 30-day period. The numeric criteria for *E. coli* established by the WQS will be applied as "end-of-pipe" numeric

effluent limitations each month for the duration of this Permit based on the potential for human exposure as discussed above for fecal coliform bacteria. These effluent limits modify the limitations in the previous permit, which applied the criteria as 30-day and 7-day averages.

In addition, as noted above in the discussion of fecal coliform limitations, Section 1.3.14 of the WQS includes sampling provisions for the coliform group. Based on the sampling provisions from the WQS and because the WWTF has had multiple exceedances of its existing *E. coli* limitations, sampling for *E. coli* is to occur five times during each calendar month, with sampling events equally spaced throughout the calendar month.

4.2.2.2 *Floating solids* – The previous Permit contained the narrative limitation of "there shall be no discharge of floating solids or visible foam in other than trace amounts." This Permit retains a similar narrative limitation revised to more closely match the narrative criterion in the water quality standards, which states: "Reservation surface waters must be free from substances … [that may or will] … Create floating debris, scum, a visible oil film (or oil be present in concentrations at or in excess of 10 milligrams per liter) or globules of grease or other floating materials." The prohibitions of visible oil film, globules of grease, or oil present in concentrations at or in excess of 10 mg/L are addressed by the oil and grease limitations.

4.2.2.3 *Total Residual Chlorine* – The tribal WQS establish numeric criteria of 19 µg/L (acute) and 11 µg/L (chronic). The tribal WQS do not specify the averaging period durations, and were assumed to be 1 hour for acute and 4 days for chronic. These limits are very near or below the detection limit of the commonly used analytical methods for residual chlorine under laboratory conditions and working detection limits under field conditions are typically higher. The previous permit contained limits matching the WQS, with a condition that any values below 100 µg/L were considered in compliance. The 100 µg/L was based on the detection limit for a chlorine analytical method available for field use. A review of TRC analysis results submitted by the WWTF during the previous permit period showed all readings below 100 µg/L and only one reading above 50 µg/L. Because of the WWTFs ability to consistently obtain TRC values below 50 µg/L (0.050 mg/L), the EPA is setting the TRC minimum detection level at 0.050 mg/L for this permit.

The permittee will conduct analyses of total residual chlorine and report actual values for measurements exceeding the minimum detection level of 0.050 mg/L (50 µg/L). Measured values less than the minimum detection level will be reported as less than 0.050 mg/L (<0.050 mg/L). Measured values greater than or equal to 0.050 mg/L will be considered violations of the effluent limitations and values less than 0.050 mg/L will be considered in compliance with the effluent limitations. For average effluent limits, compliance shall be determined by taking the arithmetic mean of values reported for a specified averaging period, using zero (0) for any value reported at a concentration less than the minimum level and comparing that mean to the appropriate average effluent limit. An arithmetic mean that is less than or equal to the average effluent limit shall be considered in compliance with that effluent limit.

4.2.2.4 *Ammonia* – The Statement of Basis from the 2006 permit determined that a limitation for ammonia was not needed based upon an ammonia study on Hot Springs Creek and the CSKT WQS. However, the CSKT WQS do include criteria for ammonia and the permit application did

not include ammonia testing data as required at 40 C.F.R. § 122.21(j)(4)(iii). To better characterize the effluent and receiving water for future reasonable potential analyses, the Permit includes both effluent monitoring requirements for ammonia and ambient (Monitoring Location 001R) monitoring requirements for pH and temperature, which are needed to establish the ammonia criteria values.

4.2.2.5 *Total Kjeldahl Nitrogen (TKN), Nitrate plus Nitrite, Total Phosphorus (TP), Total Dissolved Solids (TDS)* – The permit application did not include TKN, Nitrate plus Nitrite, Total Phosphorus, or TDS testing data as required at 40 C.F.R. 122.21(j)(4)(iii). Quarterly monitoring for TKN, TP, and TDS and monthly monitoring for nitrate plus nitrite has been added to the Permit requirements to provide data for evaluating the need for WQBELs to meet narrative criteria and assess potential impacts on designated uses of the receiving water.

5. Final Effluent Limitations

The effluent limitations in Table Two will be applied to the discharge at Outfall 001 for the duration of the permit cycle. All limits become effective on the effective date of this Permit. Limits are based on the most stringent of either the TBELs or WQBELs presented in Sections III and IV, respectively.

Table 2. Effluent Limitations Included in the Permit

Effluent Characteristic	Effluent Limitation		
	Average Monthly a/	Average Weekly a/	Daily Maximum a/
Biochemical Oxygen Demand (BOD_5), mg/L	30	45	N/A
Total Suspended Solids (TSS), mg/L	30	45	N/A
Fecal coliform, cfu/100 mL	200 b/	N/A	400 b/
E. coli, cfu/100 mL	126 c/	N/A	252 c/
Total Residual Chlorine, mg/L d/	.011	N/A	0.019
The pH of the effluent shall not be less than 6.5 standard units or greater than 9.0 standard units (s.u.) in any single sample or analysis.			
There shall be no visible sheen in the receiving water. If visible sheen is detected, a grab sample shall be taken immediately and analyzed in accordance with 40 C.F.R. Part 136. The concentration of oil and grease shall be less than 10 mg/L in any sample taken.			
There shall be no discharge of floating debris, scum, or other floating materials.			

a/ See Definitions, Part 1.1 of the Permit, for definition of terms.

b/ The geometric mean number of organisms in the fecal coliform group must not exceed 200 cfu/100 mL during any calendar month. In addition, no more than 10 percent of the total samples during any calendar month are to exceed 400 cfu/100 mL.

c/ The geometric mean number of *E. coli* shall not exceed 126 colonies per 100 mL for any calendar month. In addition, no more than 10 percent of the total samples during any calendar month are to exceed 252 cfu/100 mL.

d/ Analytical limitations exist for establishing TRC concentrations. The concentration of TRC shall not exceed this value in any grab sample or single measurement. The analysis for TRC must be done with an approved analytical method that has a method detection limit of no greater than 0.050 mg/L. In the calculation of average TRC concentrations, those analytical results that are less than 0.050 mg/L shall be considered to be zero for calculation purposes. If all individual analytical

results that would be used in the calculations are less than 0.050 mg/L, then "less than 0.050 mg/L" shall be reported on the discharge monitoring report form. Otherwise, report the maximum value and the calculated average value.

6. Self-Monitoring and Reporting Requirements

6.1 Effluent Monitoring Requirements – Outfall 001

The self-monitoring requirements in Table Three apply to Outfall 001. Monitoring for dissolved oxygen, ammonia, total Kjeldahl nitrogen, nitrate plus nitrite, total dissolved solids and total phosphorus have been added to determine whether the discharge will cause, have the reasonable potential to cause, or contribute to an exceedance of water quality standards.

Table 3. Monitoring Requirements – Outfall 001

Effluent Characteristic	Frequency	Sample Type a/
Flow, million gallons per day (MGD) b/	Monthly	Instantaneous
BOD_5, mg/L	Monthly	Grab
TSS, mg/L	Monthly	Grab
pH, standard units	Monthly	Instantaneous
Fecal Coliform, cfu/100 mL	5 per Month c/	Grab
E. coli, cfu/100 mL	5 per Month c/	Grab
Total Residual Chlorine, mg/L	Monthly	Grab
Oil and Grease, visual	Monthly d/	Observation
Oil and Grease, mg/L	d/	Grab
Floating Solids or Visible Foam	Monthly	Observation
Ammonia, as N, mg/L	Monthly	Grab
Total Kjeldahl Nitrogen (TKN), mg/L	Quarterly	Grab
Nitrate plus Nitrite, mg/L	Monthly	Grab
Total Phosphorus, mg/L	Quarterly	Grab
Total Dissolved Solids, mg/L	Quarterly	Grab
Dissolved Oxygen, mg/L	Monthly	Instantaneous

a/ See Definitions, Part 1.1 of the Permit, for definition of terms.

b/ 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) during the reporting period and the daily maximum flow (maximum volume discharged during a 24-hour period) shall be reported.

c/ Five (5) samples shall be collected, equally spaced over a calendar month.

d/ If a visible sheen is detected, a grab sample shall be taken immediately and analyzed in accordance with the requirements of 40 C.F.R. Part 136. The concentration of oil and grease shall be less than 10 mg/L in any sample. If no visible sheen is detected, report NODI code "9" (Conditional Monitoring - Not Required This Period) for the Oil and Grease grab sampling on the DMR.

6.2 Ambient Monitoring Requirements – Outfall 001R

As discussed above, ambient monitoring for pH and temperature have been added to provide data, which are needed to establish ammonia criteria values. At a minimum, upon the effective date of this Permit, the WWTF is responsible for monitoring these parameters on a monthly basis. Monitoring shall occur at the monitoring location defined in section 1.3.3 of the Permit.

Table 4. Monitoring Requirements – Outfall 001R

Parameter	**Frequency**	**Sample Type a/**
pH, standard units	Monthly	Instantaneous
Temperature, °C	Monthly	Instantaneous
Date and time samples collected	Monthly	Instantaneous

a/ See Definitions, Part 1.1 of the Permit, for definition of terms.

6.3 Reporting of Monitoring Results

Upon the effective date of this Permit, the Permittee must electronically submit discharge monitoring reports (DMRs) on a monthly frequency using *Net*DMR. Electronic submissions by permittees must be sent to the EPA Region 8 no later than the 28th of the month following the completed reporting period. The Permittee must sign and certify all electronic submissions in accordance with the signatory requirements of the Permit. *Net*DMR is accessed from the internet at https://netdmr.zendesk.com/home.

In addition, the Permittee must submit a copy of the DMR to the Tribe. Currently, the Permittee may submit a copy to the CSKT by one of three ways: (1) a paper copy may be mailed, (2) the email address for CSKT may be added to the electronic submittal through *Net*DMR, or (3) the Permittee may provide the CSKT viewing rights through *Net*DMR.

7. Endangered Species Act Requirements

The Endangered Species Act (ESA) 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 C.F.R. Part 402. When a Federal agency's action "may affect" a protected species, that agency is required to consult with the FWS, depending upon the endangered species, threatened species, or designated critical habitat that may be affected by the action (50 C.F.R. § 402.14(a)).

The U. S. Fish and Wildlife Information for Planning and Conservation (IPaC) website program was utilized to determine federally-listed Endangered, Threatened, Proposed and Candidate Species for Sanders County and the Flathead Reservation in Montana with focus on the WWTF location. The IPaC Trust Resource Report findings are provided below for the Hot Springs WWTF site. The designated area utilized was taken directly from the IPaC system and covers the entire Town of Hot Springs and the surrounding locale on the Flathead Reservation and in Sanders County.

Figure 1- Town of Hot Springs and Area

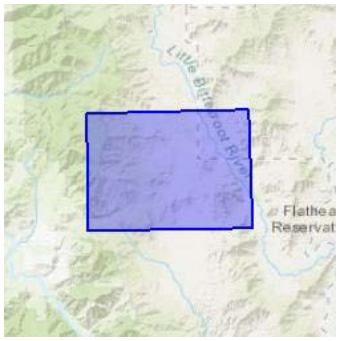

Table 5 – IPaC Official Species List

Species	**Scientific Name**	**Status**
Yellow-billed Cuckoo	*Coccyzus americanus*	T
North American Wolverine	*Gulo gulo luscus*	PT
Canada Lynx	*Lynx canadensis*	T
Spalding's Catchfly	*Silene spaldingii*	T
Grizzly Bear	*Ursus arctos horribilis*	T
There is no critical habitat within or overlapping the project area.		

a/ E = Endangered, P = Proposed, T = Threatened

7.1 Determination

The EPA has determined this Permit renewal is not likely to adversely affect any of the species listed by the U.S. Fish and Wildlife Service under the Endangered Species Act within Sanders County or the Flathead Reservation. The finding is based upon the following:

- The reissue of this Permit does not allow any increase in effluent limitations over the previous Permit.
- There is no new construction or Facility size increase that would result in ground disturbance or vegetation removal with the reissue of this Permit.
- The Facility location is adjacent to the built-up area of the Town of Hot Springs, which is not an area the Wolverine, Lynx or Grizzly Bear would normally frequent.

Before going to public notice, a copy of the draft Permit, this Statement of Basis and the Official Species List was sent to the USFWS requesting concurrence with the EPA's finding that reissuance of this NPDES Permit (MT-0020591) for the Town of Hot Springs WWTF is Not Likely to Adversely Affect any of the species listed as threatened or endangered for Sanders County and the Flathead Reservation by the USFWS under the Endangered Species Act nor their critical habitat. On January 10, 2018, the USFWS concurred with the EPA's conclusion that the described project will not adversely affect listed species.

8. National Historic Preservation Act (NHPA) 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 EPA has evaluated its planned reissuance of the NPDES Permit for the Hot Springs WWTF to assess this action's potential effects on any listed or eligible historic properties or cultural resources.

The EPA does not anticipate any impacts on listed/eligible historic or cultural properties because this Permit is a renewal and will not be associated with any new ground disturbances or changes to the volume or point of discharge. During the public comment period, the EPA notified the Tribal Historic Preservation Office (THPO) of the CSKT of the planned issuance of this NPDES Permit and requested their input on potential effects on historic properties and the EPA's preliminary determination in this regard. On February 6, 2018, the THPO notified the EPA the permit issuance would have no adverse effect to cultural or historical sites.

9. Total Maximum Daily Load

Although the CSKT have adopted water quality standards that have been approved by the EPA, they have not listed water bodies as impaired or developed a 303(d) list to require TMDLs. Hot Springs Creek was listed as impaired on the State of Montana's 2016 303(d) list with causes listed as iron, lead, low flow alterations, nitrogen (total), phosphorus (total), and sedimentation/siltation. When the EPA approved the State of Montana's 2016 list of impaired streams and lakes on December 27, 2016, which included water bodies within tribal reservation boundaries, the EPA specifically stated that the approval did not extend to waters in Indian country. This permit retains a condition, which allows the permit to be reopened to include any Waste Load Allocation applicable to the Hot Springs discharge, that may be developed and approved by the Tribes and/or the EPA.

10. Miscellaneous

On January 3, 2018, the EPA requested the CSKT certify this Permit to be protective of water quality on the Flathead Reservation as required by section 401 of the CWA, asking the CSKT to respond within 60 days. As of March 15, 2018, the CSKT has not responded to the certification request and therefore the EPA considers the CSKT as having waived their CWA section 401 certification.

The effective date and the expiration date of the Permit will be determined at the time of Permit issuance. The intention is to renew the Permit for a period not to exceed five years.

Permit drafted by Kristy Allen, Environmental Scientist, TetraTech
Permit reviewed and edited by David Rise

ADDENDUM:

PUBLIC NOTICE AND RESPONSE TO COMMENTS

The permit and statement of basis were public noticed in the *Missoulian* on January 25, 2018. The EPA did not get any comments on this draft permit public notice.