

Appendix J – Response to Public Comments

Comments were received from:

- (1) Quapaw Nation (QN)
- (2) Oklahoma Farm Bureau (OKFB)
- (3) Citizen comments regarding Arkansas River (AR)
- (4) Charles Pratt, P.E., Quadrelec Engineering Corp. (CP)
- (5) Lauren Haygood (LH)
- (6) Barbara VanHanken (BV)
- (7) Kelsey Royce (KR)

This key is used in the summary of comments below to identify the commenter. DEQ responses to comments are indicated in italics. Verbal comments received during the public meeting were transcribed to the best of our ability.

- 1) (QN) On behalf of the Quapaw Nation Environmental Office, we appreciate the opportunity to review and comment on the Oklahoma Department of Environmental Quality's (DEQ) Draft 2024 Integrated Report. We recognize the importance of this biennial assessment in protecting and improving the quality of Oklahoma's surface waters, and we commend DEQ's efforts to maintain transparency and public engagement throughout this process. As a sovereign tribal nation with deep cultural, historical, and environmental ties to the land and waters of northeastern Oklahoma, the Quapaw Nation has a vested interest in the health of our shared water resources. We offer the following comments and recommendations:

a. Request for Consultation on Designated Uses of Tribal Waters

In Appendix C of the Integrated Report, ODEQ lists 3 water bodies within the Quapaw Reservation on the "303 d" list (regulations implementing Section 303(d) require states to develop lists of water bodies that do not meet Water Quality Standards and to submit updated lists to the U. S. Environmental Protection Agency (EPA) every two years). These water bodies include Spring River, Neosho River, and Tar Creek. Although the Integrated Report assigns "Designated Uses" of these water bodies, these Designated Uses do not consider the cultural and subsistence uses by the Nation of these water bodies within the Quapaw Reservation. In particular, the Nation's citizens are exposed to pollutants to a much greater extent than the general public, due to much higher fish consumption rates and ceremonial practices. Therefore, I hereby request formal consultation with the state of Oklahoma regarding the stated "Designated Uses" of these water bodies within the reservation. We recommend that future Integrated Reports consider the impacts of climate

change on water quality and availability, as well as the presence of emerging contaminants such as PFAS. These issues are increasingly relevant to the health of our ecosystems and communities.

DEQ Response: DEQ appreciates your comments. DEQ will discuss redesignation of beneficial uses of these waterbodies with the Quapaw Nation during the next WQS revision, planned for this year, and develop a plan to assess new information as it becomes available. Emerging contaminants such as PFAS are not currently included in Oklahoma’s Water Quality Standards. Emerging contaminants will continue to be evaluated in future WQS rulemaking efforts.

b. Reevaluation of Tar Creek’s Designated Use to Support Comprehensive Cleanup

Much of the length of Tar Creek is within the Quapaw Reservation. Consistent with the request for consultation regarding Designated Uses discussed above, the Designated Use of Tar Creek (“Habitat Limited Aquatic Community”) should be changed, not only to be protective of the tribal uses stated above, but also to facilitate an adequate cleanup of the Tar Creek Superfund site. Specifically, if Tar Creek, which has been severely contaminated with heavy metals resulting from historic mining, is cleaned up to meet the current Designated Use, the cleanup will be woefully inadequate. Adequate cleanup of the Tar Creek Superfund site would be beneficial not only to the health of the citizens of the Quapaw Nation but also to that of the citizens of Ottawa County and the State of Oklahoma.

DEQ response: DEQ will review the beneficial use designations for Tar Creek in future rulemaking efforts. Your input and that of DEQ’s Land Protection Division, will be considered during these rulemaking efforts.

c. Inclusion of Beaver Creek on the 303(d) List Due to Cultural and Environmental Significance

Beaver Creek, just east of the town of Quapaw, flows through the Nation’s Powwow grounds and is culturally significant to the Nation. Beaver Creek has also been adversely affected by historic lead and zinc mining as well as by bacteria and nutrient loading from nearby sources. Thereby I hereby request that ODEQ add Beaver Creek to the 303(d) list.

DEQ response: Beaver Creek (WBID OK121600070060 00) is currently listed as impaired for zinc on the 303(d) list in the 2024 Integrated Report. New data is assessed every two years to determine the impairment status of a waterbody for the Integrated Report.

d. Collaboration on TMDL Development Using Historic Monitoring Data

EPA and affected stakeholders (States and Tribes) have historic water and sediment monitoring data collected within the Superfund sites of the Tri-state Mining District

(including within the Quapaw Reservation). This data would likely provide vital data to any effort to revise or establish TMDLs for water bodies within the Reservation and throughout Ottawa County. Therefore, I request that ODEQ coordinate and collaborate with Kansas and Missouri, as well as with the Nation, in establishing TMDLs for water bodies within northeast Oklahoma. The Quapaw Nation is committed to protecting water quality and would welcome opportunities to partner with DEQ on monitoring, restoration, and public education initiatives. We thank you for your consideration of these comments and look forward to continued collaboration with DEQ to protect Oklahoma’s water resources for current and future generations.

DEQ response: We thank you for your efforts to partner with DEQ on monitoring, restoration, and public education initiatives. DEQ considers all available reliable data during assessment of waterbodies for impairment decisions and TMDL development. Prior to TMDL development, a waterbody must be listed as impaired on the 303(d) list. When DEQ staff develop a TMDL for an impaired waterbody, all available data meeting Quality Assurance (QA) requirements are included in the TMDL development process.

2) (OKFB) These comments are submitted on behalf of the Oklahoma Farm Bureau (OKFB), the state’s largest agricultural organization. It represents farmers, ranchers, agricultural producers, and rural residents in every county in Oklahoma. Thank you for the opportunity to provide comments on this 2024 Draft Report.

These comments address specific items in the Draft:

a. Tables 7. Lakes Acres Impaired by Potential Sources and Table 8. River and Stream Miles Impaired by Potential Sources. Pages 12-13.

Questions: What is the definition of “Residential Districts”? Is there something on these lists that account for housing addition areas, both in and outside of municipalities, which do not have sewer systems? Is there something on these lists that include runoff from fertilizer application from these areas as a potential source? If not, we think this potential source should be included.

DEQ response: The potential sources listed in the Integrated Report do not have definitions. They are very broad categories that have the potential to contribute pollutants. Specific contributing sources would be determined during the TMDL development process for the impaired waterbody.

b. Ground Water Quality. Pages 15-16.

Comment: There may be other things in this section that need to be updated regarding legislation and subsequent actions by state agencies. The specific thing we noted that does

need updated is the paragraph at the top of Page 16 which addresses the Produced Water Working Group. We think the activities of this working group have been completed.

DEQ response: Thank you for bringing this to our attention. DEQ will review this topic and include any updated information in the 2026 Integrated Report.

c. Nonpoint Source Control Program. Pages 24-26.

Comment: We would like to see the efforts of the Illinois River Watershed Partnership (IRWP) recognized in this section. The IRWP is a non-profit that works to improve the integrity of the Illinois River watershed through public education, outreach and implementation of conservation and restoration practices throughout the watershed. There are four Oklahomans on the IRWP board representing the Grand River Dam Authority, Oklahoma Conservation Commission, Oklahoma Farm Bureau, and the Cherokee Nation. The IRWP's on-the-ground conservation activities on Flint and Barren Fork Creeks in Arkansas have helped improve water quality in Oklahoma. The IRWP has provided youth education on water quality and conservation in Oklahoma schools. The Oklahoma Conservation Commission and the Arkansas Natural Resources Division have been working collaboratively to develop the Illinois River Watershed management plans in Oklahoma and Arkansas for the next decade. The IRWP facilitated public outreach and provided technical expertise for these plans. Information about the management plans can be found on the IRWP's website here:

<https://www.irwp.org/watershedmanagementplan>.

DEQ response: We appreciate your comment and will include the efforts of the Illinois River Watershed Partnership in the 2026 Integrated Report.

3) (AR)

Kelsey Royce: I am a resident of Tulsa and am writing to let you know that I do support ODEQ's determination that Waterbody ID OK120420010010_10 (7.32 miles of the Arkansas River in Tulsa) is "Not Supporting" beneficial use, PBCR. It would be prudent to initiate a TMDL Study to address this impairment and I urge ODEQ to prioritise this TMDL study.

Ann Marie Beer: I support ODEQ's determination that Waterbody ID OK120420010010_10, 7.32 miles of the Arkansas River in Tulsa, is Not Supporting the beneficial use PBCR. I urge that a TMDL Study be initiated to address this impairment.

Walt Kosty: I support ODEQ's determination that Waterbody ID OK120420010010_10, which is the 7.32 miles of the Arkansas River in Tulsa, is Not Supporting the beneficial use PBCR. I urge that a TMDL Study be initiated to address this impairment.

James E Mathewson: I support ODEQ's determination that Waterbody ID OK120420010010_10, 7.32 miles of the Arkansas River in Tulsa, is Not Supporting the beneficial use PBCR. I urge that a TMDL Study be initiated to address this impairment.

Fred Storer: I support ODEQ's determination that Waterbody ID OK120420010010_10, 7.32 miles of the Arkansas River in Tulsa, is Not Supporting the beneficial use PBCR. I urge that a TMDL Study be initiated to address this impairment.

Michael Christopher: I am sending this in support ODEQ's determination that Waterbody ID OK120420010010_10, 7.32 miles of the Arkansas River in Tulsa, is Not Supporting the beneficial use PBCR. I urge that a TMDL Study be initiated to address this impairment. We must know if the river is safe for us and our children, and this is the only real way to know if e.coli levels are safe.

Scott Hood: I support ODEQ's determination that Waterbody ID OK120420010010_10, 7.32 miles of the Arkansas River in Tulsa, is Not Supporting the beneficial use of PBCR. I urge that a TMDL Study be initiated to address this impairment.

DEQ response: A TMDL is currently under development for this segment of the Arkansas River (WBID OK120420010010_10). The assessment results included in the Integrated Report only address the long-term conditions of the stream over a five-year period. The Integrated Report should not be relied upon to determine the real-time safety of recreational activities in any waterbody.

4) (CP) I am writing to provide you information that will allow for providing a beneficial use rating for a stretch of the Arkansas River passing through the Tulsa area, namely OK120420010010_10.

This body of water up until 2014-2016 had a proven and legitimate recreational use of SBCR only. To my knowledge this is an appropriate rating as all water bodies upstream and downstream have SBCR. It is impossible for the water to become cleaner downstream of these other bodies of water.

The city of Tulsa or INCOG attempted to get this body of water rated PBCR in that time frame with no justifiable data to support PBCR. As a result, for reasons I can only speculate on, ODEQ and OWRB were convinced the supporting evidence would be forthcoming and the body of water was given an "Insufficient Information" rating. That supporting data was never provided to my knowledge and if it was, I request a copy of the full report by the city or INCOG supporting such.

It is my opinion that the rating of "Insufficient Information" was never justifiable. Logic alone would maintain the rating of SBCR or lower based on all of the test data of that water segment since 1978. Even the data the city had from reports around 2014 concluded that SCBR would be appropriate. It would be an unreasonable stretch of imagination to think the water greatly improved since then.

Extensive testing has been underway in the Zink Lake area of this water body which is located near the end of the water body in question. That testing began in May of 2024 and is on going. All of the data proves the water body still can at best only support a rating of SBCR. There is

evidence such as observed frequent oil sheens and some limited test data that this body of water should not even bear SBCR due to petrochemical pollution in the lower reaches of the water body.

I have been tracking the city bacterial data since published in 2024 and thus far that portion of the river fails PBCR just as it always has. I therefore request as a minimum you take the river back to its known SBCR rating and ditch the "Insufficient Information" rating. A compendium of that data is attached.

Strong consideration should be given to even pull the SBCR due to petrochemical pollution and cases of severe body rashes reported from either the chemicals or unknown bacteria or possible pathogens. Members of the ODWC and frequent anglers for years have only entered the river with waders due to rashes they received from contact with this water. If you need personal references of these adverse encounters, I can provide some of them.

DEQ response: Beneficial use designations for body contact recreation are not assigned to waterbodies to indicate which activities are allowed to take place in the waterbody. The Primary Body Contact Recreation designated use is assigned to waterbodies that are large enough to present opportunities for activities where immersion and ingestion are likely. It is beyond the purview of DEQ to determine the scope of activities that are allowed to take place in waters of the state. The designated use of Secondary Body Contact Recreation (SBCR) provides less protection for a waterbody than the Primary Body Contact Recreation (PBCR) designated use, as the criteria for PBCR are more stringent. The data submitted by the City of Tulsa to DEQ indicate that the Arkansas River through Tulsa (WBID OK120420010010 10) should be listed as impaired on the 303(d) list for E. coli. The data submitted for the assessment was collected 2019-2022 and submitted to DEQ for the 2024 Integrated Report. Any newer data will be assessed for inclusion in the 2026 Integrated Report.

In the WQS, the beneficial uses of PBCR and SBCR only include criteria for bacteria. If there are noticeable issues such as an oil sheen or rash, please report these to DEQ's Environmental Complaints and Local Services Division (ECLS), so they can be investigated and addressed as they are occurring.

5) (LH)

a. With the construction and grand opening of Zink Lake, are there plans to include Zink Lake as a new waterbody in future waterbody reports? Zink Lake was not listed in the 2024 version.

DEQ response: Thank you for your comment. To date, DEQ has not considered adding Zink Lake as a new waterbody. This waterbody is currently identified and included in the 2024 Integrated Report and 303(d) list as Arkansas River (OK120420010010 10). Although the waterbody has been altered with the construction of the dam, the characteristics of the waterbody are more representative of a river than a lake. DEQ is open to further discussions regarding the classification of this waterbody.

b. What are the plans to expand water monitoring in Oklahoma to account for the new data centers scheduled to be built in various locations? The data centers could put a potential strain on already limited resources.

DEQ response: For reasons of jurisdiction, funding, and manpower, DEQ does not conduct ambient stream monitoring. Ambient stream monitoring is conducted by other state, federal, and local agencies and other entities throughout the state. Since the data centers will be considered a point source discharge, any discharges from the data centers would have to be permitted through the OPDES program. An OPDES Permit establishes effluent limits protective of the beneficial uses of the receiving waterbody and requires any such facility to sample its discharge for relevant pollutants and report the analytical results to DEQ for evaluation of Permit compliance.

c. Are there plans to expand water monitoring to include university collaborations and collaborations with communities?

DEQ response: Any new data submitted to DEQ will be considered for use in waterbody assessments for the 2026 Integrated Report. DEQ includes data collected by other agencies and entities in the Integrated Report waterbody assessments. The data must be collected using an acceptable Quality Assurance (QA) plan and monitoring activities must adhere to the requirements of the QA plan.

d. Parameters, such as mercury, are only measured in lake samples. Are there any plans to expand testing to include other water bodies?

DEQ response: As data for mercury in other waterbodies becomes available, it will be considered for inclusion in future Integrated Reports. State monitoring agencies have tested 94 public lakes in Oklahoma and DEQ has issued a series of lake and species-specific fish consumption advisories for those lakes where mercury levels in fish are too high to promote consumption of fish in unlimited amounts. For those lakes, private ponds, and streams that have not been monitored for mercury, pregnant or nursing women, women of child-bearing age and children younger than 15 years of age are advised to eat no more than one meal per week of predator fish. DEQ's recommendation is based on the evaluation of data concerning mercury in fish and applies to fish caught in waters statewide.

6) (BV) Theses are powerful words when they are adhered to. I have been following the Arkansas River in Tulsa for the last several years cofounding Tulsa Area Arkansas River Advocates. I am a native Tulsan and am very unhappy with the condition of the water in the Arkansas River near Tulsa. It has not been legally monitored for pollutants regularly since their century and before due to the allowed presence The refinement of oil and gas into salable products. There seems to have not been regular monitoring and correction of problems with seepage of toxic waste from both the East and the West Refineries.

The riverine area around the riverbanks has been altered so no one can use this safely for recreation. It is sad that two young Tulsans were injured with the opening of this super expensive restructuring of this river last September, 2024. I hate this! It is time for someone of import to stand up for this river and quit lying to the citizens of Oklahoma. We need restoration of the water in the river.

I want to see meaningful action to stop all pollution from the HF Sinclair refineries in Tulsa.

DEQ response: Thank you for your comments regarding water quality in the Arkansas River.

For reasons of jurisdiction, manpower, and funding, DEQ does not conduct ambient stream monitoring. Ambient stream monitoring is conducted by other state, federal, and local agencies and other entities throughout the state. However, any point source discharges from the refineries would be monitored through DEQ-issued OPDES permits. An OPDES Permit establishes effluent limits protective of the beneficial uses of the receiving waterbody and requires any such facility to sample its discharge(s) for relevant pollutants and report the analytical results to DEQ for evaluation of Permit compliance.

All available ambient stream monitoring data from the City of Tulsa was assessed for the 2024 Integrated Report. The segment of the Arkansas River that runs through Tulsa (OK120420010010 10) was listed as impaired for E. coli on the 2024 impaired waterbodies list (303(d) list).

Your concerns about the HF Sinclair refineries will be communicated to the Land Protection Division at DEQ.

6) (KR)

a. With all the developments like AI data centers, smelters, I think there's a new munitions plant that's been proposed to be opened as well. How is it possible for ODEQ to keep up not only with testing, but with any permitting and additional pollutant loads to the rivers, streams, and lake? Can you guys? I just don't know if it's possible with all of the pressure that's being put on our watersheds.

DEQ response: DEQ reviews all available funding and resources to prioritize activities to best achieve the goals and responsibilities of the agency. DEQ does not receive funding for waterbody monitoring. Ambient stream monitoring is conducted by other state, federal, and local agencies and other entities throughout the state. DEQ uses all available ambient stream monitoring data to assess each waterbody's status related to the attainment of Water Quality Standards. DEQ staff also prepare updates to Oklahoma's Water Quality Management Plan to list all discharges to Waters of the State and the effluent limits appropriate to protect Water Quality Standards. Discharge permits are developed by permitting programs in the DEQ Water Quality Division. These permits assign pollutant concentration limits that are calculated to meet water quality criteria within the waterbody(ies) receiving the discharge(s).

b. If independent groups, which wanted to go ahead and do testing, as long as they were done within the protocol for appropriate testing, would you accept data from interested parties, or just regular folks?

DEQ Response: Data collected by independent groups can be used in the Integrated Report if the monitoring is conducted following the procedures detailed in an acceptable quality assurance plan. DEQ Watershed Planning staff are available to discuss any additional questions you may have regarding this process.

c. I do have another question. Is there ever a point at which permits are ever denied because of the potential for increased pollutant loads. I mean, for exceeding a total maximum daily load

study based on the proposed additional pollution that would be put into the watershed? Like do you guys deny permits ever?

DEQ Response: Discharge permits are issued by the Industrial Permitting and the Municipal Permitting sections of the DEQ Water Quality Division. Available assimilative capacity of the receiving stream and any existing wasteload allocations and TMDLs factor heavily in permitting decisions. If water quality modeling shows that a proposed discharge could not be safely assimilated into its receiving stream, such proposed discharge would not be approved.

d. How closely do you guys work with the army corps, or the corps of engineers, and what sort of influence or impact do you guys have with regard to what may or may not be appropriate for project approval. Insofar as it impacts impaired watersheds or waterbodies

DEQ Response: DEQ Water Quality Division staff work closely with the U.S. Army Corps of Engineers (USACE) to review Section 404 permits. DEQ staff review the USACE permits for potential water quality impacts as a result of the project. DEQ will issue a Section 401 Water Quality Certification for the permit if it is determined that the water quality will not be impaired by the permitted activity.