

Appendix H – Response to Public Comments

Comments were received from:

- (a) Bryon Helm (BH)
- (b) Fred Storer (FS)
- (c) Kelsey Royce (KR)
- (d) Frank Kohn (FK)
- (e) Barbara VanHanken, Sierra Club, Arkansas River Rights Coalition (BV)
- (f) Jonathon Arnold (JA)
- (g) Barbara Kingsley (BK)
- (h) Jonathan Pinkey (JP)
- (i) Lisa Grimm (LG)
- (j) Scott Carter (SC)
- (k) Evan Inman-Butts (EIB)
- (l) Oklahoma DEQ Staff (DEQ)

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) (BH) Hello my name is Bryon Helm. I'm attorney at Smolen and Roytman in Tulsa, Oklahoma and a member of the Tulsa River Guardians. My comment concerns the department's not using volunteer data in their integrated report. I believe that if information comes from a reliable source and the techniques are proper that the information should be considered. I think that the more information the better especially when we have high population areas like the Arkansas River in Tulsa where data is either not being collected or is not being released. I would like to note my objection to volunteer data not being considered and request that the department begin to utilize this important information.

***DEQ Response:** Monitoring and assessment is an in-depth and intensive process involving approved work plans, QA/QC procedures, etc. and should be carried out by governmental agencies in Oklahoma that conduct monitoring activities on a regular basis and are experienced with all aspects of these procedures. Oklahoma Conservation Commission (OCC) uses Blue Thumb biological data (fish and macroinvertebrates). However, all Blue Thumb biological data is always collected by OCC staff, with help from volunteers. The data is collected using the same standard operation procedures (SOPs) as their rotating basin program by staff who undergo all of OCC's QA/QC procedures.*

- 2) (FS) I appreciate the opportunity to comment on Oklahoma DEQ's Draft 2022 Integrated Report, "Water Quality in Oklahoma". My comments pertain only to Waterbody ID OK120420010010_10, 7.32 miles of the Arkansas River that passes through the heart of Tulsa. This river segment includes Zink Lake where the City of Tulsa is investing millions of dollars to reconstruct the Zink Lake dam and to make the lake attractive for beneficial uses that are "Not Supported". The river segment includes hundreds of major and minor storm sewer outfalls which are covered by the City's MS4 permit. It includes two contaminated RCRA permitted sites (HF Sinclair east and west) that leak oil and soluble chemicals to the river. And

two OPDES discharges from the refineries. The City of Tulsa samples the river upstream and then downstream at the U.S. 64 bridge in Bixby (an abandoned OWRB BUMP station). While the upstream site is of interest, the Bixby site is 14 miles downstream from where the river needs to be sampled to determine the degree that the Lake will be impaired for Primary Body Contact Recreation. The city has not reported any sampling of the major stormwater conveyances for over a decade. The refineries OPDES permits require the river to meet water quality standards downstream of their discharges. However, DEQ has not required the refineries to sample and report river water quality.

Previous Integrated Reports have shown OK120420010010_10 to be impaired for WWAC due to Cadmium. However, there is no data for at least the past 10 years that reports Cadmium. I believe that in an era when the river water was sampled Cadmium was found downstream of the 11th Street stormwater outfall. That may have been due to a now closed electroplating business located at North Cheyenne and Archer. Cadmium has not been confirmed and the river's WWAC status should be listed as "Not Assessed". In fact, all beneficial uses except for Emergency Water Supply*, for river segment OK120420010010_10 should be listed as Not Assessed because there is no contemporaneous data. *The river water quality is usually acceptable for firefighting.

DEQ has the authority to require the City as a MS4 permit condition to sample the river where the public will be tempted to get their face wet. DEQ also has the authority to require the HF Sinclair refineries to sample the river water quality as soon as the seeps and OPDES effluents commingle with the flowing river water. Until the sampling is completed and reported our river segment should remain "Not Assessed".

DEQ Response: *We understand your concerns; however, most of them are outside the scope of the 303(d) program. To the best of our knowledge, the City of Tulsa monitors the Arkansas River for compliance with its OPDES permits but has no immediate plans to conduct continuous monitoring. However, implementation of a continuous monitoring program has been discussed. DEQ will engage with the State water quality monitoring agencies and the City of Tulsa on PBCR monitoring in the Arkansas River and recommends you continue engagement with the City on this issue.*

Your comments regarding stormwater will be forwarded on to the stormwater permitting section at DEQ. Comments related to OPDES will be relayed to the industrial permitting section. The RCRA concerns you expressed will also be communicated to the appropriate section at DEQ.

A waterbody cannot be added to the 303(d) list as impaired unless we have adequate data to indicate that water quality standards are not being met. We also cannot remove or delist an impairment unless we have sufficient data to show that it is no longer impaired for that parameter.

- 3) (KR) My name is Kelsey Royce. I'm a resident of Tulsa County. I live by the river and I'm a parent. The question that I asked during the informal part was how does or will this integrated report impact large construction projects undertaken for public recreational use particularly in areas where the condition is unknown. I encourage you guys to make strong recommendations and actually get this information tested. As parents we have a responsibility to our children to make sure that they are recreating in safe areas. And I think as an agency you guys have a responsibility as well to make sure that these areas are tested and I encourage you to do that

and particularly when these construction projects happen. We need to be kept in the loop and not out of it. I will also be submitting written comments as well.

DEQ Response: *Waterbodies in Oklahoma are monitored by State agencies to the best of their ability with the resources and funding available. Once a waterbody is listed as impaired it is prioritized to receive a TMDL. Monitoring and assessment of all potential chemicals that may be present in waters is not feasible. From June 2016 to May 2022 EPA reviewed approximately 3,600 new chemicals put on the market under their TSCA program (<https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsc/statistics-new-chemicals-review>) with a total of approximately 4,200 submitted. It is not practical for the State to keep up with and develop standards for the entirety of these chemicals. Nor is it reasonable to expect that all waters will be tested all the time at all possible entry points. Water quality can change constantly depending on activities within the watershed. There are many unknowns regarding the health protections from exposure to natural waters. However, the technology we have available today allows us to discharge safe low levels into receiving waters confident that most discharges protect most streams most of the time for most of the chemicals we assume are present.*

- 4) (KR) I am a resident of Tulsa who lives by the Arkansas River. These comments are in regard to Waterbody ID OK120420010010_10. After attending the public zoom meeting, I still have questions and concerns.
1. Why/how was the Zink Lake/Zink Dam project currently underway in the Arkansas River in Tulsa approved by OKDEQ without data supporting the River's beneficial use?
 2. Since it was undetermined at the public zoom meeting what enforcement mechanisms are available to the public when Tulsa City and County Officials refuse to test the water in the River, what is OKDEQ going to do to protect the public and enforce regulations delegated to it by the EPA?
 3. Does this agency provide continuing education? If so, continuing education on proper testing of the Arkansas River must be made available to and required of the Tulsa River Parks Authority Board, INCOG, Tulsa's Mayor Bynum, and our Tulsa City Councilors to explain that anecdotally telling citizens and residents that they themselves or their own relatives swimming in the River does not constitute an adequate or official test of water quality?
 4. I have children and as a responsible parent will not put them in harm's way. What assurance can be given to me that recreating on or near the Arkansas River around Zink Lake/Zink Dam/River Parks Trails/ Gathering Place will not put them in harm's way in terms of exposure to chemicals or bacteria in the River?
 5. Why isn't Waterbody ID OK120420010010_10 under closer scrutiny by OKDEQ?
 6. When will water quality tests commence for the protection of the environment and the public?

I am including links to recently observed and documented videos of the area of most concern - the area where people will be encouraged to recreate.

- [Failed Coffe Dam 5-27-22](#)
- [Unknown brown foamy detritus floating North of the Coffe Dam 5-27-22](#)
- [Fish \(?\) surfacing through the aforementioned scum 5-27-22](#)

DEQ Response: Please see the responses to Comments 2 and 3 above and comments 5 and 6 below. Please see the response to comment 1 above in regard to volunteer data. INCOG does have some data available for OK120420010010_10. The available INCOG data was collected prior to 2014.

In 2013, the Zink Lake project was approved under a Section 404 Permit by the Tulsa District, U.S. Army Corps of Engineers. Section 404 Permits require a 401 Water Quality Certification by the Department of Environmental Quality. A 401 Certification is issued when it has been determined that a project, as proposed, will not result in a violation of Oklahoma's Water Quality Standards.

Concerns related to the videos above should be directed to Environmental Complaints and Local Services (ECLS) Division at DEQ.

- 5) (FK) I think I'd like to make a formal comment here. It seems like we have a very political situation with testing the Arkansas River around the Tulsa area. It would seem to me that if the public could be made aware of the situation and this may take some connection with local TV stations to explain the problem with the non-testing and still proceeding with this new lake that maybe something can force it from that angle. I don't think there's enough of the public who know the details of this and how important it is to get this water tested before you put everybody in it. Frank Kohn, member of the local trout unlimited chapter. Thanks for the opportunity.

DEQ Response: DEQ does not perform ambient water quality monitoring but will engage with the State water quality monitoring agencies and the City of Tulsa on monitoring in the Arkansas River. We recommend you continue engagement with the City on this issue.

- 6) (BV) I have two very critical concerns after listening to discussions during the presentation yesterday, Regular Water Testing Public Report and Enforcement of Non-compliance.

I have lived in Tulsa nearly all my life and have seen and experienced the development of agricultural areas in and around Tulsa. I have many concerns about the quality of all waterways in Oklahoma and especially in the local Tulsa region today. There seems to be a local call for increasing outdoor recreation which is very good for the people living here and visiting here.

Today I am focusing my concerns on the 7.32 miles of the Arkansas River near the heart of the city of Tulsa. I have recently learned that the Arkansas River has not had any comprehensive water testing done since 2006, that is 16 years! Water testing should be reported openly to all the citizens of Tulsa who are choosing to be in the river. This is a disaster waiting to harm our citizens who want to enjoy the Arkansas River in fishing and new recreational activities designed for human interaction with the river.

Without adequate tests, we have no idea if the water is safe for humans or not. The people's trust in our governing bodies ensuring public safety has been abused and broken. It seems no one, including the Mayor, the City of Tulsa, the Tulsa Health Dept, Tulsa County Commission, ODEQ, OCC and OWRB has any concerns about this lack of monitoring with this public water body. Tulsa is a community of 402,441 people as counted in the 2020 census. A community

of this size should be able to depend on city officials being responsible for the quality of this open waterway located within the city.

There are two over-100-years-old aging oil refineries located within the 7.32 miles of untested river water that are RCRA permitted to discharge waste from each refinery directly into the Arkansas River. There are both recreational fishing and subsistence fishing activities routinely in this prairie river. Residents consume the fish caught in the river. The river also receives over 90 different non-point source stormwater discharges from residential and business runoff during rainstorms. The city is doing extensive river restructuring to create a new, larger Zink Lake which will result in a calm lake in the midst of this active Arkansas River where the flow will be slowed. The dynamics of this seems counterproductive to a clean, vital and healthy active prairie river that the public can enjoy.

There is also a lack of noted responsibility to enforce any rules regarding keeping the waterways clean. It would be great to have the data from regular water testing, but it does no good if there is not an enforcement mechanism in place. It seems absurd to think we do not enforce regulations concerning water quality in an area that has many water pollution pressures with encouraged public participation in this river.

At a minimum, I am demanding correction to these two areas of critical health concerns for the public as mentioned in my opening sentence. For the health of the city, the City of Tulsa should embrace this responsibility to keep the public informed about the ongoing water quality and enforce closure until it is cleaned up and permanently remove the polluting entities. It is to my understanding that these two refinery sites would qualify alone for a major Superfund Site by the EPA. Accountability is lacking here and this must be resolved before more innocent people are drawn into this untested recreational water resource.

I look forward to hearing your response.

DEQ Response: *As discussed in the responses to Comments 2 through 4 above, DEQ does not perform ambient water quality monitoring but will engage with the State water quality monitoring agencies and the City of Tulsa on monitoring in the Arkansas River. However, monitoring and assessment of all potential chemicals that may be present in waters is not feasible. Nor is it reasonable to expect that all waters will be tested all the time at all possible entry points. Water quality can change constantly depending on activities within the watershed. There are many unknowns regarding the health protections from exposure to natural waters. However, the technology we have available today allows us to discharge safe low levels into receiving waters confident that most discharges protect most streams most of the time for most of the chemicals we assume are present. To the best of our knowledge, the City of Tulsa monitors the Arkansas River for compliance with its OPDES permits but has no immediate plans to conduct continuous monitoring. However, implementation of a continuous monitoring program has been discussed. We recommend you continue engagement with the City on this issue.*

As stated in Comment 2 above, concerns regarding stormwater and RCRA will be relayed to the appropriate sections at DEQ. In regard to your comments on enforcement, point sources are regulated through permits while nonpoint source controls are implemented by Oklahoma's Nonpoint Source Program, which is led by the Oklahoma Conservation Commission.

- 7) (JA) The 7.32 miles of the Arkansas River flowing through Tulsa must be tested since the projects underway will encourage the public to come into contact with it. This river segment includes hundreds of major and minor storm sewer outfalls which are covered by the City's MS4 permit. It includes two contaminated RCRA permitted sites (HF Sinclair east and west) that leak oil and soluble chemicals to the river. And two OPDES discharges from the refineries. Groundwater flowing under the refineries leak oil and chemicals to the river in addition to wastewater effluent delivered by a pipe. Typical of urban rivers the city's stormwater system discharges bacteria from pets, geese, and people (including illegal sanitary sewer connections). ODEQ should use the National Pollutant Discharge Elimination System authority delegated by it by EPA to require the refineries and the City of Tulsa to sample the river.

DEQ Response: *DEQ does not perform ambient water quality monitoring but will engage with the State water quality monitoring agencies and the City of Tulsa on monitoring in the Arkansas River. Monitoring and assessment is an in-depth and intensive process involving approved work plans, QA/QC procedures, etc. and should be carried out by governmental agencies in Oklahoma that conduct monitoring activities on a regular basis and are experienced with all aspects of these procedures. To the best of our knowledge, the City of Tulsa monitors the Arkansas River for compliance with its OPDES permits but has no immediate plans to conduct continuous monitoring. However, implementation of a continuous monitoring program has been discussed. We recommend you continue engagement with the City on this issue.*

Your comments regarding stormwater will be forwarded on to the stormwater permitting section at DEQ. Comments related to OPDES will be relayed to the industrial permitting section. The RCRA concerns you expressed will also be communicated to the appropriate section at DEQ.

- 8) (BK) I am a resident of Tulsa and concerned about the quality of water in the Arkansas River (Waterbody ID OK120420010010_10) which has not been tested officially or consistently in over a decade. There are projects under construction on the River in Tulsa which will encourage members of the public to recreate in the River. Without water quality data provided by consistent testing and publicly available results, beneficial use is impaired. ODEQ can use the National Pollutant Discharge Elimination System authority delegated to it by EPA to require the refineries and the City of Tulsa to sample the river.

DEQ Response: *Please see the response to Comment 7.*

- 9) (JP) I am a resident of Tulsa, Oklahoma and am concerned about the quality of water in the Arkansas River (I believe the designation is Waterbody ID OK120420010010_10). In fact, I am concerned that various planned recreational projects (e.g., a planned kayak flume near the park called "The Gathering Place") could lead to serious health problems for numerous citizens (including in the long term) because the water quality is inadequate or even potentially hazardous, but that the relevant information will not be disclosed to the public, nor will adequate, regular testing take place. (For example, refinery chemicals are oozing into the water, both upstream of, and also literally right across the river from, "The Gathering Place.") What can be done to address this potentially dangerous situation? I am told that you can help require regular testing of this stretch of water. Please consider your available options to bring this about and inform me if this is not the case/about other options, if possible.

DEQ Response: *Please see the response to Comment 7.*

10)(LG) The 7.32 miles of the Arkansas River flowing through Tulsa must be tested since the projects underway will encourage the public to come into contact with it. This river segment includes hundreds of major and minor storm sewer outfalls which are covered by the City's MS4 permit. It includes two contaminated RCRA permitted sites (HF Sinclair east and west) that leak oil and soluble chemicals to the river. And two OPDES discharges from the refineries. Groundwater flowing under the refineries leak oil and chemicals to the river in addition to wastewater effluent delivered by a pipe. Typical of urban rivers the city's stormwater system discharges bacteria from pets, geese, and people (including illegal sanitary sewer connections). ODEQ should use the National Pollutant Discharge Elimination System authority delegated by it by EPA to require the refineries and the City of Tulsa to sample the river.

DEQ Response: *Please see the response to Comment 7.*

11)(SC) The 7.32 miles of the Arkansas River flowing through Tulsa must be tested since the projects underway will encourage the public to come into contact with it. This river segment includes hundreds of major and minor storm sewer outfalls which are covered by the City's MS4 permit. It includes two contaminated RCRA permitted sites (HF Sinclair east and west) that leak oil and soluble chemicals to the river. And two OPDES discharges from the refineries. Groundwater flowing under the refineries leak oil and chemicals to the river in addition to wastewater effluent delivered by a pipe. Typical of urban rivers the city's stormwater system discharges bacteria from pets, geese, and people (including illegal sanitary sewer connections). ODEQ should use the National Pollutant Discharge Elimination System authority delegated by it by EPA to require the refineries and the City of Tulsa to sample the river. Thank you for your attention in this important matter.

DEQ Response: *Please see the response to Comment 7.*

12)(EIB) I am a resident of Tulsa County who lives by the Arkansas River. I submit the following comments for inclusion in the 2022 Oklahoma Draft Integrated Report to EPA. The 7.32 miles of the Arkansas River flowing through Tulsa must be tested since the projects underway will encourage the public to come into contact with it. This river segment includes hundreds of major and minor storm sewer outfalls which are covered by the City's MS4 permit. It includes two contaminated RCRA permitted sites (HF Sinclair east and west) that leak oil and soluble chemicals to the river. And two OPDES discharges from the refineries. Groundwater flowing under the refineries leak oil and chemicals to the river in addition to wastewater effluent delivered by a pipe. Typical of urban rivers the city's stormwater system discharges bacteria from pets, geese, and people (including illegal sanitary sewer connections). ODEQ should use the National Pollutant Discharge Elimination System authority delegated by it by EPA to require the refineries and the City of Tulsa to sample the river.

DEQ Response: *Please see the response to Comment 7.*

13)(DEQ) During the public comment period, DEQ staff found the following waterbody assessment needing corrections:

Harlow Creek (OK120420010170_00)

Bacteria data from City of Tulsa was received for Harlow Creek during development of a TMDL. The data shows Harlow Creek should be listed for Enterococcus and delisted for *E. coli*.

DEQ Response: *These changes have been made to the final version of the 2022 Integrated Report.*