

**BEFORE THE ARKANSAS POLLUTION
CONTROL AND ECOLOGY COMMISSION**

In re matter of:

CITY OF DECATUR

Applicant.

CITY OF TULSA; and TULSA

METROPOLITAN UTILITY AUTHORITY,

Commentors/Objectors

)

) **NPDES PERMIT NO. AR0022292**

) **AFIN 04-00052**

) **Date of Decision October 30, 2025**

)

) **Docket No. _____**

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REQUEST FOR ADMINISTRATIVE HEARING

We represent the City of Tulsa and the Tulsa Metropolitan Utility Authority (collectively “**Tulsa**”). Pursuant to Arkansas code, we issued our comments and objections to the Draft Permit issued to Decatur, Permit #AR0022292. Those comments and objections are attached hereto as **Exhibit 1** and expressly made a part of this Request for Hearing. In addition to that, we appeared at the public comment hearing and again voiced our objections and comments, including our arguments in our previous letter about the issuance of the permit to the City of Decatur.

Please let this letter serve as the City of Tulsa and the Tulsa Metropolitan Utility Authority’s formal request for administrative hearing to appeal the Director’s decision to grant permit #AR0022292 issued to the City of Decatur on October 30, 2025, signed by Stacie R. Wassell, Deputy Director of the Office of Water Quality Arkansas Department of Energy and Environment Division of Environmental Quality.

Specific Contentions:

Tulsa objects to the issuance of Permit #AR0022292. In addition to our objection to the issuance of the permit as a whole, specifically, Tulsa believes the Director erred as follows:

1. The increase of flow into the plant to 5.36 MGD which will result in additional phosphorus into the watershed;
2. Allowance of unlimited flow from the city of Centerton for profit without requirement for significant pre-treatment;
3. Allowance of flow from the Simmons Food plant without requirement for significant pre-treatment;
4. The inadequate monitoring frequency for phosphorus and nitrate/nitrite monitoring at only 2 times per week;
5. The inability of the proposed design and modified permit to address Decatur’s long history of numerous violations of the Settlement Agreement between Tulsa and Decatur, the TMDL for the Eucha-Spavinaw watershed, the terms

- and restrictions in Decatur's existing Permit, and ADEQ's own water quality standards; and
6. The inability of the Decatur WWTP's headworks and technical operations to process the added flow capacity, without numerous exceedances of permitted limits

Relief Requested & Stay:

Tulsa requests a formal hearing and review process regarding the issuance of Permit #AR0022292 issued to the City of Decatur. Additionally, Tulsa requests that the effectiveness of the new permit and conditions created by its issuance be stayed until a formal decision regarding the permit has been reached after review. [Pursuant to Arkansas Regulation 8.612(A)(2), "The issuance, modification, or revocation of a permit or that part of a permit which is the subject of the appeal *shall* be stayed, unless otherwise required by state or federal law."]

Injury:

Tulsa is directly and negatively impacted by the issuance of Permit #AR0022292. In Tulsa's view, increased flow into the Waste Water Treatment Plant ("WWTP") and discharge from the Decatur WWTP will only result in greater pollution to the watershed Tulsa utilizes for clean water and result in damage to the people of Oklahoma and Northwest Arkansas.

Additionally, the issuance of this permit is in violation of the settlement agreement reached through protracted and expensive litigation against the City of Decatur and several chicken producers, in the United States District Court for the Northern District of Oklahoma in *The City of Tulsa, et. al., v. Tyson Foods, et. al.*, Case No. 01-CV-0900-CVE, to which certain terms of the settlement of the Litigation are incorporated into Oklahoma and Arkansas law. For greater description of the background, the settlement, and why the issuance of this permit will be detrimental to Tulsa and its patrons, please see our letter to Guy Lester dated October 13, 2025, regarding an extensive list of our comments attached as Exhibit 1.

The Response by ADEQ to Tulsa's comments on the draft permit are simply in error and not well taken.

Reply to ADEQ Regarding Comment 1: ADEQ does not explain in Response to Comment 1 how additional phosphorus in the watershed which is the direct result of additional flow will not negatively impact water quality. ADEQ further does not acknowledge that the Settlement Agreement purposefully allowed the 1 mg/l limit of phosphorus to be reduced over time by ADEQ and EPA's increased water quality standards. This did occur as contemplated by the settlement. Accordingly, while the settlement originally envisioned a 1 mg/l limit, that was always subject to reduction based upon increased standards.

Reply to ADEQ Regarding Comment 2: Tulsa disagrees and anticipates providing expert evidence that the exceptions are not met.

Reply to ADEQ Regarding Comment 3: Decatur is not actively working to address any of its exceedances or deficiencies. The Consent Administrative Order entered into on May 20, 2024, came only after years of ignoring exceedances and Decatur has yet to reach compliance. Furthermore, it confounds logic to increase the flow into the plant without the existing plant coming into full compliance.

Reply to ADEQ Regarding Comment 4: Tulsa disagrees and anticipates presenting expert evidence that the planned construction permits obtained by Decatur will not address the existing deficiencies and increased flow.

Reply to ADEQ Regarding Comment 5: Tulsa disagrees that ADEQ should approve increased flow unless and until Decatur submits and obtains approval of plans with address the choke points and design deficiencies within the water treatment plant. ADEQ suggests that Decatur will revise its plans yet issues its permit before the Arkansas Department of Health has received or approved any new plans for permit AR0022292C1.

Reply to ADEQ Regarding Comment 6: See Reply to Response to Comment 1 above.

Reply to ADEQ Regarding Comment 7: Tulsa anticipates that it will provide expert evidence and monitoring data for Columbia Hollow. ADEQ merely states that Tulsa did not provide data in its written comments. Tulsa certainly would provide any information requested by ADEQ and will be pleased to do so in a hearing.

Reply to ADEQ Regarding Comment 8: See Reply to Comment 6.

Reply to ADEQ Regarding Comment 9: See Reply to Comment 2 and 6.

Reply to ADEQ Regarding Comment 10: Tulsa anticipates that it will provide expert evidence that ADEQ and EPA's subsequent letters are in error. The date of the TMDL for the watershed is also obsolete.

Reply to ADEQ Regarding Comment 11: The industrial survey requirement is new to the permit, however, the survey should be completed and analyzed for pretreatment requirements prior to approving additional effluent flow. It is illogical to require a survey, the results and recommendations of which are unknown, while simultaneously approving additional effluent flow that would be detrimental to the watershed. Any increase in flow should be approved only after the results of an industrial survey are completed.

Reply to ADEQ Comment 12: Tulsa explained in its comments that Decatur's testing and reporting is inadequate in part due to its lack of staffing. Decatur does not even sample on the weekends when overflows may occur, thereby rendering such exceedances an unreported event for Decatur. ADEQ should have required additional testing, which with additional flow, will improve ADEQ's ability to monitor Decatur's compliance (or lack thereof) and take corrective actions on a more expedited basis. Moreover, requiring only two phosphorus samples per week encourages Decatur to select desirable data rather than truly representative data. ADEQ's own data shows that Decatur regularly exceeded limitations for several years before ADEQ took any action resulting in the May 2024 Consent Administrative Order.

Reply to ADEQ Comment 13: Tulsa anticipates that it will present evidence of inadequate staffing by the City of Decatur. ADEQ notes that the permit and regulations require adequate staffing without defining what adequate staffing is. Tulsa notes that under this definition, Decatur presently fails, not simply because it does not have 24-hour staffing, but also because exceedances and reporting deficiencies would obviously be remedied by more staffing than exist at the moment. Decatur's flow should not be increased until it can assure ADEQ and the public that it will adequately staff its treatment plant and testing operations.

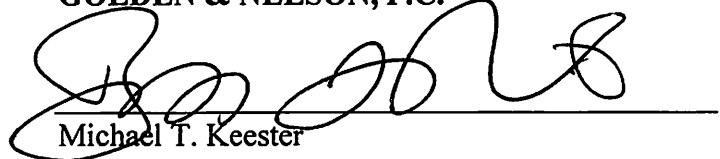
Tulsa formally requests an adjudicative hearing and oral argument and that the Commission find as follows:

1. Find that ADEQ acted arbitrarily and capriciously and contrary to law in granting; modifying NPDES Permit #AR0022292 to the City of Decatur;

2. Vacate NPDES Permit #AR0022292 as modified;
3. Stay effectiveness of NPDES Permit #AR0022292 pending final resolution of this appeal;
4. Assign all costs in this matter to ADEQ; and
5. Grant any other relief to Tulsa which the Commission finds just and equitable.

Respectfully submitted,

**HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.**



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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Request for Hearing has been served on all appropriate parties as required by Regulation 8.601 as of November 26, 2025, via U.S. mail, postage prepaid, and electronically as noted below

Arkansas Pollution Control and Ecology Commission

Attn: Secretary of the Commission, Patricia Goff

3800 Richards Rd.

North Little Rock, AR 72118

Patricia.Goff@arkansas.gov

Pce-filings@adeq.state.ar.us

And Via Hand Delivery

Hon. Robert Tharp

Mayor, City of Decatur

PO Box 247

Decatur, AR 72722

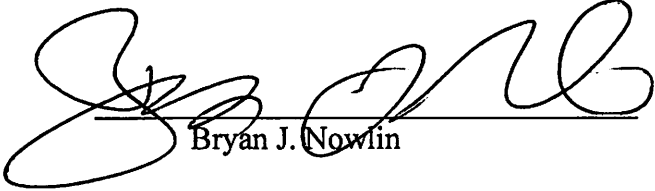
Via Certified Mail

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Bryan J. Nowlin

October 13, 2025

VIA E-MAIL & OVERNIGHT DELIVERY:

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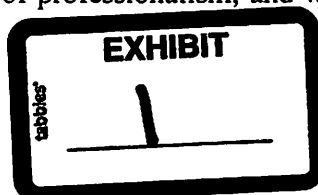
Re: **Comments and Objections to Draft Permit
NPDES Permit #AR0022292 - City of Decatur**

Dear Mr. Lester:

We represent the City of Tulsa and the Tulsa Metropolitan Utility Authority (collectively “Tulsa”). Tulsa is the largest provider of potable water in Northeast Oklahoma. Tulsa utilizes raw water from the Eucha-Spavinaw watershed which will be negatively and dramatically impacted by the City of Decatur’s recent application NPDES Permit #AR0022292. We submit these comments in response to the draft permitting decision published by ADEQ. These comments are made in compliance with PC&EC Rule 8, codified at 8 CAR Part 11.

Introduction:

The Eucha-Spavinaw watershed is of vital importance to the people of Tulsa, Northeast Oklahoma and Northwest Arkansas. Tulsa engaged in protracted and expensive litigation against the City of Decatur and several chicken producers, in the United States District Court for the Northern District of Oklahoma in *The City of Tulsa, et. al., v. Tyson Foods, et. al., Case No. 01-CV-0900-CVE*, that resulted in a monitored settlement agreement with certain restrictions imposed upon the City of Decatur and the chicken producers in the watershed (“the Litigation”). The terms of the settlement of the Litigation are incorporated into Oklahoma and Arkansas law. The issue then, as now, is water quality and as to Decatur, was and remains its inability to appropriately treat wastewater which is discharged into the watershed, and Decatur’s continued violation of the settlement terms in the Litigation. Given Decatur’s lack of robust compliance, a large error rate within its own data, seeming lack of professionalism, and willingness to take on more flow for



compensation without first addressing its lack of existing compliance, Tulsa believes that any expansion in the flow rate will adversely impact water quality by polluting the watershed with additional phosphorus. There are other alternatives which may allow for greater flow into the City's WWTP, but Decatur would be required to substantially improve its threshold and target for treatment. Decatur's planned construction will not and does not address the existing issues. It should be axiomatic that prior to increasing flow rates, Decatur's WWTP should be capable of operating without regular violations. That is not the case. In Tulsa's view, increased flow into the WWTP and discharge from the Decatur WWTP will only result in greater pollution to the watershed, damage to the people of Oklahoma and Northwest Arkansas, and violation of the Litigation's settlement agreement.

History of Violations:

The Decatur WWTP has a long history of multiple violations of its Permit terms from December 2020 through the present, including multiple Consent Orders finding violations. As of July 2025, the Decatur WWTP has 8 instances of exceeding Dissolved Oxygen limits; 47 instances of exceeding Ammonia limits; 18 instances of exceeding Phosphorus limits; and 5 instances of Nitrate/Nitrite violations. In total, the Decatur WWTP has exceeded Arkansas law's limitations on allowable pollution a total of 78 times that are documented since December 2020. These significant violations are evidence of Decatur's inability to competently operate its currently configured WWTP at the lower flow rate set forth in the current permit. Any increase in flow will simply result in additional and more severe violations and damage to the watershed. The anticipated upgrades of the WWTP do not address these operational issues. On a more current time scale, the Decatur WWTP reported 50 permit violations in 2024 and 20 permit violations through July of 2025.

The following is a table of exceedances for only a short time period:

Decatur WWTP Exceedances of Permit Limits for Total; Phosphorus Parameters for the Period January 2024 – July 2025						
DATE	TP MO AVG MG/L	TP MO AVG PMT RQ MG/L	TP MAX 7DA AVG MG/L	TP MAX 7DA AVG PMT RQ MG/L	TP MO AVG LB/DY	TP MO AVG PMT RQ LB/DY
Jan-24	0.05	0.50	0.07	0.80	1.6	15.8
Feb-24	0.09	0.50	0.14	0.80	2.90	15.8
Mar-24	0.20	0.50	0.35	0.80	6.30	15.8
Apr-24	0.14	0.50	0.47	0.80	4.10	15.8
May-24	0.25	0.50	0.75	0.80	6.68	15.8
Jun-24	0.80	0.50	2.50	0.80	24.10	15.8
Jul-24	0.17	0.50	0.27	0.80	5.32	15.8

Decatur WWTP Exceedances of Permit Limits for Total; Phosphorus Parameters for the Period January 2024 – July 2025						
DATE	TP MO AVG MG/L	TP MO AVG PMT RQ MG/L	TP MAX 7DA AVG MG/L	TP MAX 7DA AVG PMT RQ MG/L	TP MO AVG LB/DY	TP MO AVG PMT RQ LB/DY
Aug-24	0.40	0.50	0.48	0.80	13.30	15.8
Sep-24	0.08	0.50	0.18	0.80	2.31	15.8
Oct-24	0.16	0.50	0.37	0.80	5.10	15.8
Nov-24	1.10*	0.50	4.80	0.80	35.30	15.8
Dec-24	2.46*	0.50	4.90	0.80	66.50	15.8
Jan-25	0.71	0.50	3.20	0.80	21.90	15.8
Feb-25	1.16*	0.50	3.80	0.80	32.80	15.8
Mar-25	0.23	0.50	0.47	0.80	6.60	15.8
Apr-25	0.15	0.50	0.27	0.80	4.80	15.8
May-25	0.29	0.50	0.56	0.80	9.90	15.8
Jun-25	0.15	0.50	0.21	0.80	5.10	15.8
Jul-25	0.31	0.05	0.73	0.80	9.90	15.8

The pattern of severe and regular violations from the WWTP in 2024 and 2025 present questions why Decatur was not required to take steps towards compliance. It appears that DEQ performed the required review of each known violation to an insufficient level. DEQ should perform an in-depth and appropriate review of Decatur's violation history before issuing a modification to increase flow. The Arkansas Department of Health has issued several letters showing their concern with the WWTP capacity and do not recommend any additional capacity. Moreover, Tulsa explicitly inquired of Decatur in writing on October 1, 2024 and March 12, 2025 regarding its recent history of violations and plans to prevent future violations. [Ex. "1," E. Lee to J. Boston 3/12/25]. Decatur never provided a response to Tulsa's inquiry.

Decatur's Headworks and Technical Operations cannot accept additional flow:

The WWTP headworks and technical operations cannot process the added flow capacity. The Arkansas Department of Health ("ADH") itself has asked this question. In a letter from ADH to Decatur dated December 19, 2024, ADH stated "Based on the information that we currently have, there is no available capacity for additional flows to the Decatur WWTP." On May 29, 2025, Noah Wheeldon, District Engineer for ADH wrote to Decatur's consulting engineers at Allgeier Martin & Associates and asked, "If the current WWTP is capable of handling higher flow and loading rates, explain why ammonia, nitrogen, and phosphorus exceedances have occurred within the last year, and what will be done to prevent future exceedances?" [Ex. "2", Wheeldon to Allgeier 5/29/25]. On September 24, 2025, the Department of Health wrote to Allgeier regarding their

concerns about the proposed UV system. The Department of Health raised specific questions regarding the IPS and found it "questionable" that two pumps running at the same time could achieve the proposed 5.35 MGD permitted plant capacity because of friction loss.

The draft permit should not contain any additional flow until ADH's concerns are properly addressed and Decatur shows how its pattern of continued permit violations will be rectified. Decatur (and ADEQ) should investigate and report on the reasons for the significant discrepancies between the influent flow data and effluent flow data and take action to obtain accurate flow data. Decatur should commence continuous flow monitoring of all WWTP influent and effluent flows with taking and recording readings at 15 minutes or more frequent intervals. Finally, the choke points such as the UV system and pump capacities cannot handle the draft permit's 5.36 MGD of flow and should be significantly expanded.

Violation of 2003 Settlement with Tulsa and Federal Court Order:

Decatur is a party to a settlement agreement approved and enforced by Order of the United States District Court for the Northern District of Oklahoma in *The City of Tulsa, et. al., v. Tyson Foods, et al.*, 01-CV-0900-CVE and incorporated in part into Arkansas law in Title XXII by the Arkansas Legislature. The intent of the settlement is to reduce the total amount of phosphorus in the watershed by setting and enforcing limits and requiring the adoption of best practices and compliance with regulations which require even more stringent limits. The 2003 Order approving settlement states in pertinent part the purpose of the settlement is to, "*achieve the least amount of total phosphorus loading reasonably attainable from each application site to the water supply while meeting agronomic requirements*" and "*to reduce the risk of harm to the City Water Supply....due to City of Decatur WWTP Discharge..*" An increase from 3.8 MGD to 5.36 MGD of flow will result in more phosphorus in the watershed in violation of the intent of the 2003 settlement. The total amount of phosphorus allowed on the present permit is 0.5 mg/l or 15.6 lbs per day. If the flow rate is increased, the total amount of pounds of phosphorus placed into the watershed will increase by approximately 38%. When the settlement was entered into in 2003, the flow into Decatur's WWTP was only approximately 1.6MGD, and Decatur did not accept or treat wastewater from Centerton or from Simmons Foods. Now it does, and with apparently no limits as to the amount of wastewater either entity can convey to Decatur for treatment and discharge into the Eucha-Spavinaw watershed. Moreover, the growth surveys show that Decatur/Centerton will quickly outpace even the expanded permit. Decatur's contracts with Centerton and Simmons Foods do not provide for limitations on the volume of water which those entities may provide to Decatur's WWTP. Under Section 303(d) of the Clean Water Act, both Eucha lake (Upper Spavinaw) and Spavinaw Lake are listed as impaired because of elevated total phosphorus, low dissolved oxygen and excessive algal growth, and Eucha-Spavinaw cannot tolerate added flows to Decatur and added effluent. Granting the permit as written will absolutely result in more phosphorus in the Eucha-Spavinaw watershed, a greatly enhanced risk of harm to the City Water Supply and will also result in litigation with Decatur and ADEQ. Granting this permit modification will violate the intent and the terms of the 2003 settlement agreement and the Order of the Federal Court.

Overflows, Bypassing and Complaints:

Decatur's WWTP is the culprit behind a number of complaints related to overflows for which the additional permitted inflow will only exacerbate future overflows. There have been numerous overflows at the WWTP influent pump station and MBR Unit overflows. Decatur has admitted to ADEQ that there are multiple overflows from treatment tank #3 and at the influent pump station and that during heavy rains the WWTP operates at over 100% capacity. Decatur does not operate its present plant in accord with best practices and the proposed design does nothing to ensure that overflows will occur less frequently. The December 19, 2024 ADH letter to Decatur points out that not only is there no available capacity for additional flows, but also that "Per Decatur staff and Allgeier, Martin and Associates staff, the WWTP can and has been operated at flow rates up to a maximum of 5.0MGD...". Further, that during calendar year 2023, there were multiple reported overflows at the WWTP...some noted as due to the flows coming into the WWTP exceeding the capacity of the WWTP to treat and the EQ basin to store. ADH also points out that there are many areas with no flow measurement, inability to measure continuous flow rates, an average daily flow to Decatur WWTP from 2020 through June 2024 of 4.41MGD and an average daily flow for June 2024 of 6.15 MGD (both in violation of the existing permit). Importantly, ADH points out in this letter that there is no answer to what happened to the other 64.5MG of wastewater received by Decatur WWTP during the month of June 2024. Where, how and by what means is Decatur WWTP bypassing the reporting and DMRs for its wastewater? This bypassing is a regular practice at Decatur and an intentional violation of the permit, as well as a violation of the federal case settlement and Order.

The numerous citizen complaints investigated and verified by DEQ indicate that the Decatur WWTP has discharged sludge in the watershed resulting in upstream bacteria and downstream phosphorus exceedances. In testing performed by the Arkansas Water Resources Center Water Quality Lab in July and August 2023, the AWRC found Total Phosphorus in Columbia Hollow Creek at 29.323 mg/L. Total phosphorus in Columbia Hollow water has greatly increased downstream from the Decatur WWTP outfall. Data from Columbia Hollow collected by the City of Tulsa from April 10, 2025 through September 11, 2025 shows a substantial increase in the concentration of total phosphorus and the abundance of E. coli in samples. The phosphorus concentrations from Columbia Hollow Creek indicate there is an *unaddressed* phosphorus problem coming from the Decatur WWTP.

Expert Evidence:

Tulsa engaged Dr. Bert Fisher, a geoscientist who served as an expert to Tulsa during the Litigation, to review the draft permit and associated documents regarding the Decatur WWTP. Dr. Fisher does not believe that the modification is in compliance with the settlement or Federal Court Order, Arkansas regulations, or in the best interests of Decatur and the Eucha-Spavinaw watershed.

Over the last three years the annual load of total phosphorus discharged by the Decatur WWTP has increased by more than a factor of 6 between 2022 and 2024. Analysis of the annual load of

Total Phosphorus discharged by the Decatur WWTP for those years with complete DMR records (2000 to 2024) showed a general decrease in the annual load of total phosphorus discharged from 2000 to 2009. After 2009, however, the annual load of total phosphorus discharged showed a trending increase with a distinct increase from 2022 to 2024 with the discharged load of total phosphorus massively increasing by nearly a factor of 6 from 928 lb/yr to 5310 lb/yr.

Phosphorus Load Discharged from the Decatur WWTP for the period 2020 through 2024 Determined from Review of DMRs	
Year	Annual Total Phosphorus Discharge (lb/yr)
2020	3,178
2021	2,481
2022	9,28
2023	2,839
2024	5,310

The load of phosphorus discharged is simply the concentration of phosphorus multiplied by the total volume discharged. Assuming the mean concentration of phosphorus in the discharged water remains constant, the projected phosphorus load from an increased volume of discharge can be estimated by multiplying the historic load by the percentage increase in discharge and adding that amount to the historic load. An increase in discharge capacity from 3.80 mgd to 5.25 mgd would be expected to increase phosphorus load by 38%. The average annual load of total phosphorus determined from the DMR reports for the 5- year period 2020 to 2024 is 2,812 lb/yr, and the average annual load of total phosphorus determined from the DMR reports for the 10-year period 2015-2024 is 2,888 lb/yr, thus a 38% increase in discharge volume would produce an annual total phosphorus load of 3,900 lb/yr. Given the nutrient compromised circumstances in the Eucha-Spavinaw watershed, any increase in the total phosphorus load is anticipated to have a severe adverse impact. In addition, the EPA stated that the proposed design flow increase would not comply with the conditions of the TMDL.

The EPA acknowledges the total maximum daily load (TMDL) "TMDL Development for Lakes Eucha and Spavinaw in Oklahoma", August 2010. However, based on our review of monitoring data for the cities of Decatur and Gravette it appears that the proposed design flow increase will not comply with the conditions of the TMDL.

[Ex. "3", Letter from Mark Hayes, EPA to ADEQ 8/18/25]. Consequently, additional phosphorus removal from the Decatur WWTP effluent at least equivalent to the increase in annual discharged total phosphorus mass would be required to offset the increase in design capacity for the plant. In other words, ADEQ should require additional removal of phosphorus through design changes, best practices management or additional pre-treatment requirements to ensure that the total mass of phosphorus discharged from the Decatur WWTP does not increase from its present levels.

Violation of TMDL for Eucha-Spavinaw:

We understand that the EPA issued a subsequent letter contradicting its August 18, 2025, letter and finding it unlikely that the proposed permit with additional flow will violate the existing TMDL. Tulsa believes this assertion to be in error. The Eucha-Spavinaw TMDL was issued in 2010. The TMDL is in need of updating over the past 16 years. The TMDL accepted a 1.0 mg/l amount of phosphorus from Decatur but included provisions to update best management practices. Most importantly, the TMDL provided, “After implementation of these reductions the lake water quality should be evaluated to see what impact these reductions have had.” No such study has been conducted by the EPA. Furthermore, given the increased amount of phosphorus from an increase in flow, additions to Decatur of a Simmons plant and the City of Centerton wastewater, and the existence of far better alternatives such as pre-treatment, it is highly unlikely that EPA would re-authorize the TMDL in its 2010 form.

The EPA’s initial statement that the proposed flow increase violates the TMDL for Eucha-Spavinaw is correct. The annual phosphorus load delivered to the Eucha/Spavinaw System from point sources is dominated by the Decatur WWTP. The 2010 TMDL report¹ only considered the Decatur WWTP and based on discharge monitoring data determined that the Decatur WWTP contributed 5,278 kg of P to the Eucha/Spavinaw system. The Phase I Clean Lakes Project Diagnostic and Feasibility Study of Lake Eucha² produced in 1997 determined from 1993-1994 data that the Decatur WWTF discharge was responsible for up to 27% of the phosphorus loading to Lake Eucha. More recent data for the period 2020 through 2024³ show that the Gravette WWTP discharge is a much smaller contributor to the total phosphorus load to the Eucha/Spavinaw watershed. Over the period 2020 through 2024, the average annual phosphorus load to the Eucha/Spavinaw watershed from the Gravette WWTP was 249 lb/year (7.8% of the combined annual point source P load) while that from the Decatur WWTP was 2,947 lb/year (~92.2% of the combined annual point source P load).

The phosphorus criteria for Lake Eucha and Lake Spavinaw from the TMDL are set forth in the Oklahoma Administrative Code (OAC) at § 785:45-5-10 (8):

Phosphorus numerical criterion applicable to certain waters. The long-term average total phosphorus concentration at a depth of 0.5 meters below the surface shall not exceed 0.0168 milligrams per liter in Eucha Lake (Upper Spavinaw) and 0.0141 milligrams per liter in Spavinaw Lake.

The TMDL report concluded that achieving pristine conditions in Lake Eucha and Lake Spavinaw would require a 95% reduction in phosphorus load to Lake Eucha. However, the total phosphorus

¹ EPA, Region 6 and Oklahoma Department of Environmental Quality (2010). TMDL Development for Lakes Eucha and Spavinaw in Oklahoma. Available at <https://attains.epa.gov/attains-public/api/documents/actions/OKDEQ/38667/106779> ;

² Wagner, K. and S. Woodruff. (1997). Phase I Clean Lakes Project Diagnostic and Feasibility Study of Lake Eucha. Available at <https://conservation.ok.gov/wp-content/uploads/2021/07/Lake-Eucha-Clean-Lakes-Phase-I-Study-1997.pdf>

³ See Loading Data Enforcement and Compliance History Online (ECHO) (<https://echo.epa.gov/tools/data-downloads>)

requirements set out in OAC § 785:45-5-10 (8) would be achieved by a 70.4% reduction in the phosphorus load to Lake Eucha. This translated to a total maximum daily load of phosphorus to Lake Eucha of 30.39 kg/day (or 70 lbs/day). Clearly, any increase in actual P load from Decatur will adversely impact compliance with the TMDL and will violate the TMDL. Decatur is not proposing a reduction in its output of phosphorus; its permit modification requests an increase.

Monitoring:

Monitoring frequency for most analytes in the draft permit increased from 3 to 5 times per week. However, phosphorus and nitrate/nitrite monitoring remains at only 2 time per week. Tulsa suggests that all monitoring increase to 5 times per week until there are at least 2 years with no violations as coincides with Part II , Section 9 of the NPDES permit.

Conclusion:

Tulsa objects to the amended permit on the basis that the contemplated discharge will negatively impact water quality relied upon by the people of Tulsa. In addition, modification of the permit as currently requested does not comply with the settlement terms ordered by the United States District Court for the Northern District of Oklahoma. The Arkansas Department of Health has expressed concerns that show the project is marginal on a good day, and at worst presents a potential for environmental disaster for the people of Northwest Arkansas and Northeast Oklahoma.

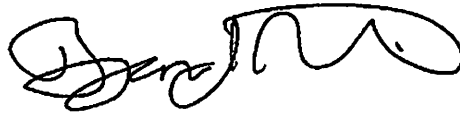
The Decatur WWTP exceeded acceptable amounts of ammonia, nitrogen, and phosphorus many times during 2024 and 2025. The exceedances strongly suggest the Decatur WWTP is incapable of handling higher flow and loading rates. The design and draft permit do nothing to address the operational and professional deficiencies which exist at Decatur. The design and draft permit do nothing to require additional pre-treatment of wastewater which Decatur voluntarily accepts (for remuneration) from Simmons Foods and Centerton. The wastewater sent from Simmons to Decatur is high in biochemical oxygen demand, ammonia, phosphorus, total Kjeldahl nitrogen, total suspended solids and oil and grease. The permit modification should only be granted if the Decatur WWTP makes substantial improvements, or reduces the intake of high-strength wastewater from Simmons Processing, such as through a more robust pre-treatment program.

The increase in flow which will increase the total amount of phosphorus in the watershed is antithetical to the settlement agreement and the best interest of those who rely upon the watershed for clean drinking water. Decatur does not staff its water treatment plant twenty-four hours a day. Decatur does not even staff its plant seven days a week. Decatur has no plans to increase pre-treatment or reduce the amount of wastewater which it takes from sources outside of Decatur. The increase in flow via the permit modification should be denied until such time as Decatur can increase flow while also *decreasing* the total amount of phosphorus which Decatur discharges into the watershed.

October 13, 2025
Page 9

Should you have any questions or if Tulsa can provide additional information, please do not hesitate to contact us.

Best regards,

A handwritten signature in black ink, appearing to read 'Bryan J. Nowlin', with a stylized, cursive script.

Bryan J. Nowlin

BJN

CC: Mike Keester
Brian Keester
Client



WATER AND SEWER

DATE:
March 12, 2025

James Boston, Public Works Director
City of Decatur
P.O. Box 247
Decatur, AR 72722

I'm following up on my October 1, 2024, correspondence which is attached. As previously noted, I have been provided with the Discharge Monitoring Reports for Decatur Wastewater Treatment Plant for calendar year 2024. I have reviewed the data and have found there to be 43 permit violations reported to and confirmed by Arkansas Department of Environmental Quality (ADEQ).

Ammonia Nitrogen (NH₃-N) exceeded the monthly average concentration and monthly average loading from February to September 2024 (8 out of 12 months). Ammonia Nitrogen (NH₃-N) maximum 7-day average concentration also was in exceedance for this 8-month span, as well as in December (9 out of 12 months). Nitrite + Nitrate instantaneous maximum concentration exceeded the permit limit in May, August and September. Total Phosphorus exceeded the monthly average concentration, monthly average loading and 7-day maximum concentration in June, November and December.

Total Phosphorus monthly average concentrations for November (1.10 mg/L) and December (2.46 mg/L) exceeded the permit limit of 0.5 mg/L but additionally exceeded the limit of 1.0 mg/L, set forth by the settlement agreement between City of Tulsa and the City of Decatur (Case No. 01 CV 0900EA(C)).

The City of Decatur wastewater treatment plant discharges into the Eucha/Spavinaw watershed which provides source water for the City of Tulsa to treat and provide safe drinking water to over 550,000 individuals in Northeastern Oklahoma.

I have not yet received a response to my letter, dated October 1, 2024, about these concerns and significant issues. I request that a response is furnished within 30 calendar days from your receipt of this letter detailing how the City of Decatur, with approval oversight from ADEQ, plan to end the pattern and magnitude of these exceedances.





WATER AND SEWER

A handwritten signature in black ink, appearing to read "Eric Lee", written over a circular stamp or seal.

**Eric Lee, Director
City of Tulsa Water & Sewer Department**

**Cc: Judge Eagan, United States District Court, Northern District of Oklahoma
Shellie Chard, Water Quality Division Manager, Oklahoma Department of
Environmental Quality
Thomas Harrison, Compliance Analyst, OWQ, ADEQ
Richard Sevenoaks, Chair, Tulsa Metropolitan Utility Authority
Bob Tharp, Mayor of Decatur, AR**

Reference: Permit No. AR0022292

1836 * 1836

TUL * USA



Arkansas Department of Health

4815 West Markham Street • Little Rock, Arkansas 72205-3867 • Telephone (501) 661-2000

Governor Sarah Huckabee Sanders

Renee Mallory, RN, BSN, Secretary of Health

Jennifer Dillaha, MD, Director

Engineering Section, Slot 37
www.healthy.arkansas.gov

Ph (501) 661-2623

Fax (501) 661-2032

After Hours Emergency (501) 661-2136

May 29th, 2025

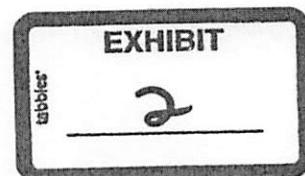
ALLGEIER MARTIN AND ASSOCIATES
7231 East 24th Street
JOPLIN, MO 64804

RE: Decatur WWTP Capacity Report/Improvements
Decatur Waterworks – Benton County
Project 137704

Attn: J. Eric DeGruson, P.E.

The above-referenced report, received on May 15th, 2025, has been reviewed and we have the following comments:

1. On Page 7, Part B.2, is this permit application and report for the current conditions or the future conditions after construction of the headworks project? It is our understanding that Decatur has pressure sewer flows separate from the current gravity flow which will be combined after the headworks project is finished.
2. Note that while the Arkansas Department of Energy and Environment, Division of Environmental Quality, Office of Water Quality (DEQ) permits and regulates Waste Water Treatment Plants, the Arkansas Department of Health Engineering Section regulations require an approved means of waste water treatment and disposal.
 - a. Page 7 of the report indicates combined Simmons Foods, Decatur, and Centerton wastewater influent quality. It is likely that Simmons Foods influent has higher pollutant loadings than the primarily household wastewater from Decatur and Centerton. Provide Peak and Average influent values for Simmons Foods separately from the influent values for the remaining flows.
 - b. Based on the page 7 influent quality, the loading on the BioWin model is too low. Also, the influent pollutant loading and flows from Simmons Foods needs to be separated from the Decatur and Centerton influent pollutant loading and flows and loading re-combined proportionally to the projected higher flows. Provide a copy of the influent loading calculations for each proposed WWTP flow rate and provide a run of the BioWin model with those parameters.
 - c. If the flow modeling indicates the existing WWTP cannot meet discharge parameters at 5.25 MGD, please run the model at 5.14 MGD, the proposed firm influent pumping rate.
 - d. In the report (page 53 and 109 of the pdf) under the "Album page – Summary" the Anaerobic, Pre-Anoxic, Aerobic, and MBR (U) are stated to have flow rates well above the capacity of the plant. Pre-Anoxic is stated to have a flow of 61.27 MGD is this what the model was ran with? If so, please revise the numbers and run the model again with corrected flows.
 - e. If the current WWTP is capable of handling higher flow and loading rates, explain why ammonia nitrogen and phosphorus exceedances have occurred within the last year and what will be done to prevent future exceedances?
 - f. Please provide actual UVT measurements.
 - g. Address back up for the UV disinfection system at the proposed flow rates.



h. Is Columbia Hollow Creek a losing stream?

3. Has DEQ agreed with the effluent quality and loading within the report?

We will continue to review this project when we have your response. Please use our project identification number 137704 when submitting further correspondence.

Sincerely,



Noah Wheeldon
District Engineer
Engineering Section - ADH

LAJ:CSC:DBG:NW:nw

Enclosures: Exceedances over the past year

Cc: Decatur Waterworks
Centerton Waterworks
Highfill Water Department

ATTN: Richard Healey, ADEE, DEQ, Office of Water Quality

Benton County EHS

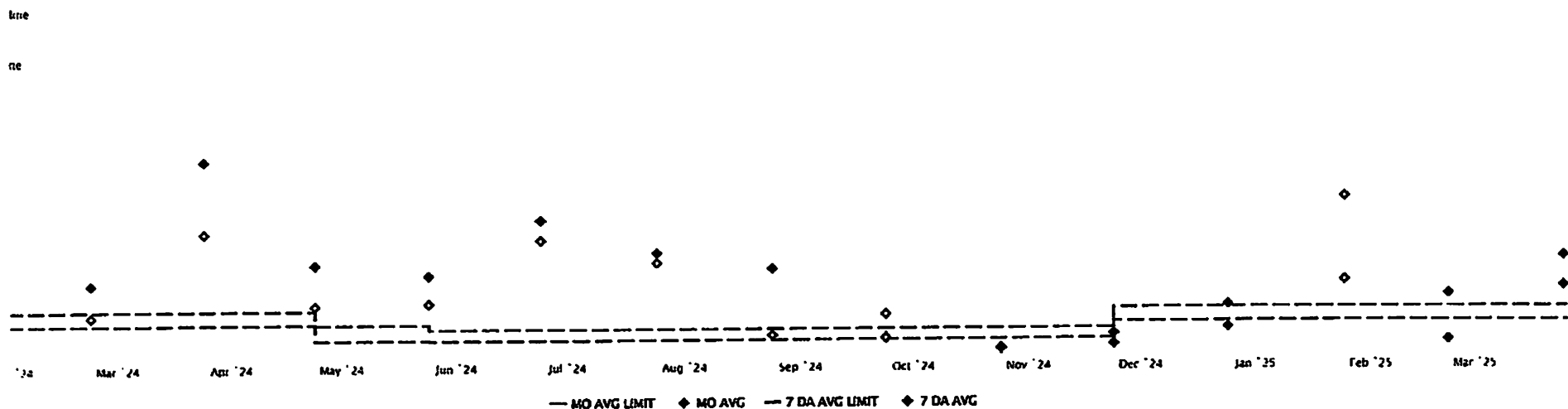
Washington County Health Unit
3270 Wimberly Dr.
Fayetteville, AR 72703

Attn: Marty Harris, State Plumbing Inspector

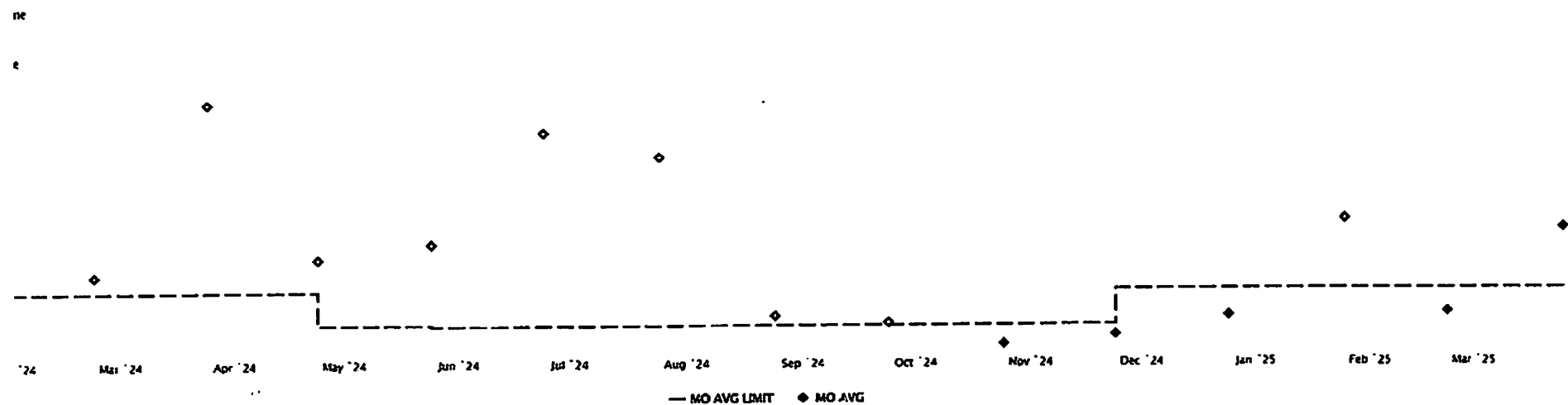
001 - External Outfall
Nitrogen, ammonia total (as N)
Effluent Gross

[Download Data](#)

Concentration



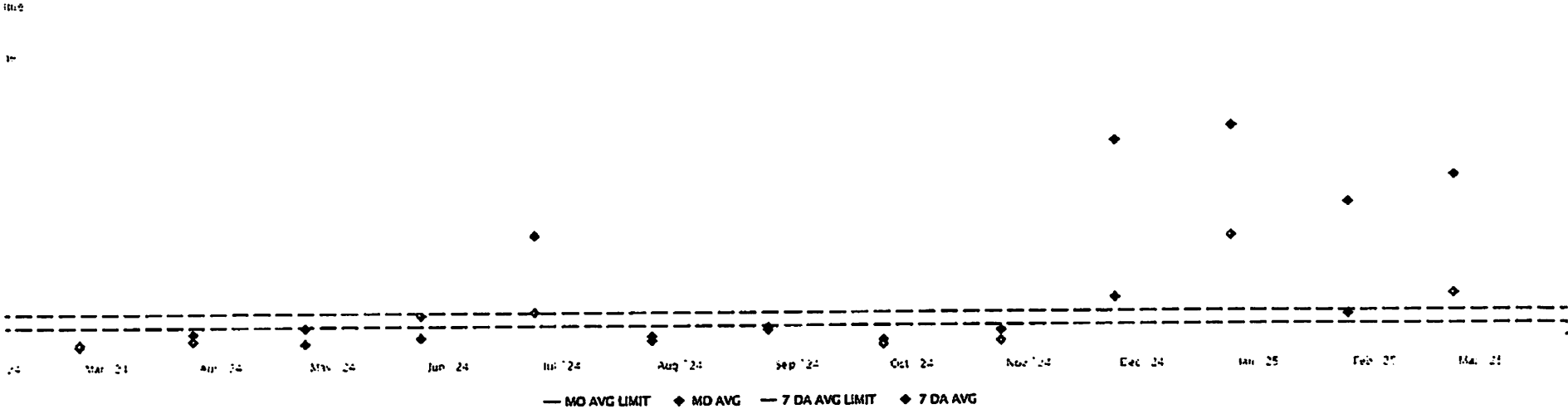
Quantity



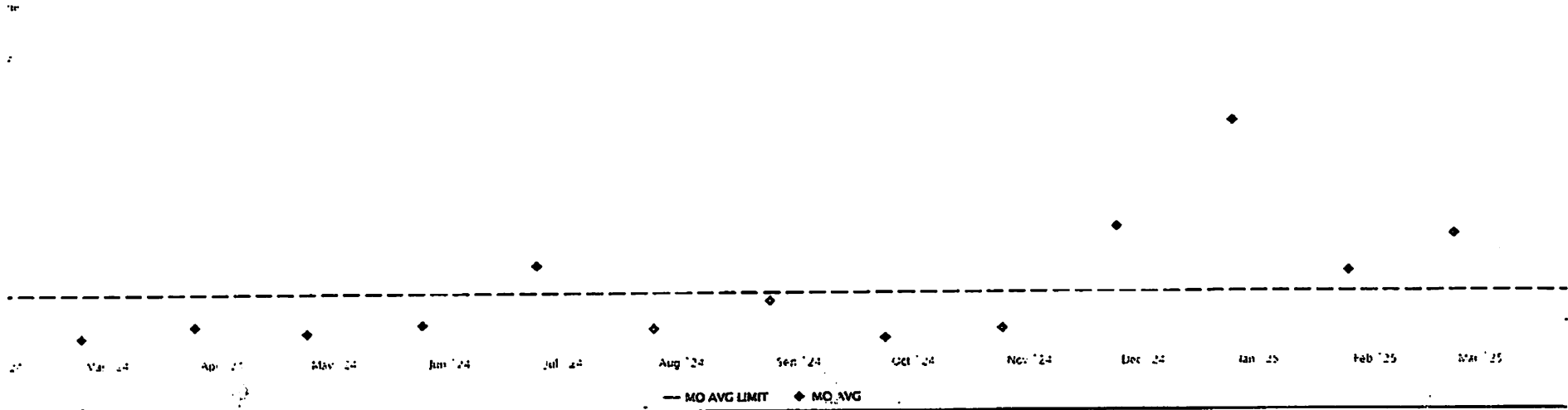
001 - External Outfall
Phosphorus, total [as P]
Effluent Gross

[Download Data](#)

Concentration



Quantity



Tanya Ester (adpce.ad)

From: Zachary Carroll (adpce.ad)
Sent: Monday, August 18, 2025 4:11 PM
To: Guy Lester (adpce.ad); Tanya Ester (adpce.ad); Shane Byrum (adpce.ad)
Subject: FW: City of Decatur Wastewater Treatment Plant- AR0022292
Attachments: AR0022292 Response_8_18_2025.pdf

From: Huff, Juanita <Huff.Juanita@epa.gov>
Sent: Monday, August 18, 2025 4:09 PM
To: Jessica Sears (adpce.ad) <Jessica.Sears@arkansas.gov>
Cc: Stacie Wassell (adpce.ad) <stacie.wassell@arkansas.gov>; Zachary Carroll (adpce.ad) <Zachary.Carroll@arkansas.gov>; brie.lusk@adeq.state.ar.us
Subject: City of Decatur Wastewater Treatment Plant- AR0022292

Jessica,

Attached is the NPDES oversight review response and technical review response for the water quality management plan (WQMP) for the city of Decatur, which was received by this office July 30, 2025. Please let me know if you have any questions.

Thank you,
Juanita Huff, Ph.D.
Physical Scientist
EPA Region 6
NPDES Oversight Section (WD-PN)
1201 Elm St.
Dallas, TX 75270
Phone: (214) 665-2794
Email: Huff.Juanita@epa.gov





REGION 6
DALLAS, TX 75270

August 18, 2025

TRANSMITTED VIA EMAIL

Ms. Jessica Sears
Senior Operations Manager
Division of Environmental Quality
5301 North Shore Drive
North Little Rock, Arkansas 72118-5317
Jessica.sears@arkansas.gov

Re: City of Decatur Wastewater Treatment Plant- AR0022292

Dear Ms. Sears:

Thank you for the opportunity to review the draft modification for the City of Decatur Wastewater Treatment Plant (AR0022292) permit, which was received by this office July 30, 2025. Based on our review of the above referenced modification, the U.S. Environmental Protection Agency (EPA) has the following comment.

- The EPA acknowledges the total maximum daily load (TMDL) "TMDL Development for Lakes Eucha and Spavinaw in Oklahoma", August 2010. However, based on our review of monitoring data for the cities of Decatur and Gravette it appears that the proposed design flow increase will not comply with the conditions of the TMDL.

The water quality management plan (WQMP) was submitted to the EPA for technical acceptance concurrent with the draft modification. Upon review the WQMP is consistent with the conditions of the TMDL. The EPA technically accepts the proposed WQMP update for the city of Decatur.

The EPA spoke with technical staff from Arkansas's Division of Environmental Quality (DEQ) and recommended for them to revise section 12.B of the factsheet to clarify how the proposed design flow increase will subsequently increase the mass load limits. The EPA recommended this revision for transparency and to be consistent with DEQ's other permit conditions. The increase in the mass load meets the exemptions allowed under the Clean Water Act (CWA) § 402(o)(2).

Thank you for your continued cooperation in administering the CWA permitting program. Under the CWA, the DEQ as the primary National Pollutant Discharge Elimination System (NPDES) permitting authority in the state, and the EPA, in its oversight role, share responsibility for ensuring that all NPDES

permits issued within the state comply with the CWA and federal regulations. If you have any questions or concerns, please call me at (214) 665-2705 or reply directly to Juanita Huff at (214) 665-2794 (e-mail: huff.juanita@epa.gov).

Sincerely,

**MARK
HAYES**

Digitally signed by
MARK HAYES
Date: 2025.08.18
15:56:33 -05'00'

Mark Hayes
Supervisor
NPDES Review Section

cc (electronic): Stacie Wassell wassell@adeq.state.ar.us
Zachary Carroll Zachary.carroll@arkansas.gov
Brie Lusk brie.lusk@arkansas.gov