

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

IN RE: REQUEST BY TYSON FOODS, INC. –)
WALDRON PLANT TO INITIATE) DOCKET NO. 13-005-R
RULEMAKING TO AMEND REGULATION)
NO.2)

TYSON FOODS, INC – WALDRON PLANT’S RESPONSIVE SUMMARY

Tyson Foods, Inc. – Waldron Plant provides this Responsive Summary as required under Arkansas Pollution Control and Ecology Commission Regulation No. 8.815:

On May 9, 2013 Tyson-Waldron filed a Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2. On May 20, 2013, Tyson-Waldron filed an Amended Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2 (the “First Amended Petition”). The Arkansas Pollution Control & Ecology Commission granted Tyson-Waldron’s First Amended Petition. A public hearing was held on July 22, 2013, in Waldron, Arkansas, and the public comment period ended on August 5, 2013. ADEQ and EPA commented and expressed concerns the methods and procedures utilized in the 2012 Poteau River Section 2.306 Site Specific Water Quality Study, which supported the First Amended Petition.

Following the public comment period Tyson-Waldron worked cooperatively with the Arkansas Department of Environmental Quality to address each of the identified concerns with the site specific study. Tyson-Waldron prepared an entirely new report that utilized a different background flow, replaced default background mineral conditions with measured in-stream conditions, and relied on a different percentile to calculate proposed site specific criteria. Tyson-Waldron also commissioned an additional year of water quality and biological data collection for the Poteau River. Ultimately, after nearly five years, Tyson Waldron submitted to ADEQ a completely revised report entitled Poteau River Section 2.306 Site Specific Water Quality Study (Rev. 3 December 2018).

Based on the revised 2018 report, Tyson-Waldron filed with the Commission a Second Amended Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2. The Second Amended Petition diverged significantly from the 2013 proposal and included a completely revised proposal for water quality criteria for chlorides, sulfates and TDS, and revised stream segments for the new criteria. Tyson-Waldron requested the Commission order a new public hearing and comment period for the public to review and comment on the entirely different regulatory amendments proposed in Second Amended Petition. A public hearing was held on April 2, 2019, in Waldron, Arkansas, and the public comment period ended on April 16, 2019.

No comments were submitted during the comment period for the amendments proposed in the Second Amended Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2. Moreover, it is not clear that comments submitted during the 2013 public comment period

remain relevant to the regulatory changes proposed in the Second Amended Petition, particularly because the commenters in the 2013 comment period did not submit comments concerning the 2018 proposal. Out of an abundance of caution, however, Tyson-Waldron noted two comments from the 2013 comment period that may be relevant the new regulatory proposal in the Second Amended Petition:

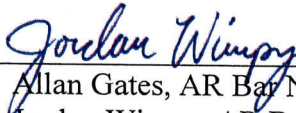
Comment No. 1 (Mary Cameron): Commenter inquired whether federal regulations allow for water quality standards as stated in the proposed amendments.

Response: Yes. Federal Regulations authorize States to establish site-specific water quality criteria. 40 CFR Part 131; APCEC Regulation No. 2, Reg. 2.306.

Comment No. 2 (Arkansas Natural Heritage Commission): Commenter noted the possible occurrence of several state species of concern in the Poteau River and stated that it would be appropriate to consider the implications of the proposed amendments to the species.

Response: The Poteau River Section 2.306 Site Specific Water Quality Study (Rev. 3 December 2018) evaluated the impact of elevated dissolved minerals on the aquatic life in the Poteau River. The 2018 report documents (i) that the Poteau River, downstream of the Tyson-Waldron facility, supports the Aquatic Life (Fishery) use and (ii) that concentrations of dissolved minerals are not adversely affecting the relevant aquatic life community in the Poteau River.

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