

Department of Environmental Quality (DEQ) Response to Comments regarding the Public Notice for an Amendment to Federal Energy Regulatory Commission (FERC) License No. 1494 for Activities in the Grand Neosho River and the Grand Lake O' The Cherokees in Mayes County.

There was one (1) comment received in response to the May 9, 2016 public notice:

1. Comment from The Miami Tribe of Oklahoma:

The summarized comment is as follows:

The Miami Tribe of Oklahoma (Miami Tribe) requested DEQ delay Water Quality Certification (WQC) under Clean Water Act (CWA) §401 for the proposed amendment to the Pensacola Dam License (FERC Project No. 1494). The Miami Tribe is concerned the proposed rule curve amendment may cause the area surrounding the dam to be more susceptible to flooding. The Tribe, through its representative at the Jacobsen Law Group, requested DEQ delay CWA §401 certification until the Miami Tribe has a formal consultation with GRDA and other relevant stakeholders to address any potential flooding concerns.

Response: We appreciate the comments and concerns outlined in the letter. However, DEQ certification is limited to verifying that a permit application is administratively complete in accordance with Clean Water Act § 401. The purpose of DEQ review and certification is to verify whether the applicant's proposed activity will comply with Oklahoma Water Quality Standards (Title 785, Chapter 45 of the Oklahoma Administrative Code). The applicant's project design meets these requirements. Issues such as increased flooding, property damage, property loss, or business impacts are not within the jurisdiction of the DEQ Water Quality Division (WQD). WQC issuance or denial cannot be based upon issues outside the scope of the Water Quality Standards or WQD jurisdiction. Therefore, no change has been made as a result of this comment.