

**NPDES PERMIT NO. OK0044733  
RESPONSE TO COMMENTS**

RECEIVED ON THE SUBJECT DRAFT NATIONAL POLLUTANT DISCHARGE  
ELIMINATION SYSTEM(NPDES) PERMIT IN ACCORDANCE WITH REGULATIONS  
LISTED AT 40CFR124.17

APPLICANT: New Gaming Enterprise  
Kickapoo Casino Harrah Wastewater Treatment Plant  
25230 E. Highway 62  
Harrah, OK 73045

ISSUING OFFICE: U.S. Environmental Protection Agency  
Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102

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PERMIT ACTION: Final permit decision and response to comments received on the  
draft NPDES permit publicly noticed on March 25, 2023

DATE PREPARED: April 24, 2023

Unless otherwise stated, citations to 40CFR refer to promulgated regulations listed at Title 40,  
Code of Federal Regulations, revised as of July 31, 2006.

## SUBSTANTIAL CHANGES FROM DRAFT PERMIT

N/A

### Response to Comments Letter/Emails

Letter from Shellie R. Chard, Director, Water Quality Division, Oklahoma Department of Environmental Quality, to Stephanie Abbott, dated April 21, 2023.

Email from Randall Dougan, Kickapoo Utility Superintendent, New Gaming Enterprise Kickapoo Casino Harrah Wastewater Treatment Plant, to Stephanie Abbott, dated April 6, 2023.

### Response to Comments

Comment 1: The header on Pages 2 through 21 cites Permit No. NM0044733 instead of OK0044733.

Response: Comment is noted. The EPA revised the header on Pages 2 through 21 (see below) and made no changes to final permit.

PERMIT NO. OK0044733

FACT SHEET

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Comment 2: Pages 7, 12, 13, and 17 cite Oklahoma's 2020 Integrated Report and related 303(d) list. The permit and fact sheet were prepared on January 18, 2023, which is after the date of EPA's approval of Oklahoma's 2022 Integrated Report (August 18, 2022). This is significant mainly because the 2022 303(d) List contains a turbidity impairment for the receiving stream (Quapaw Creek - Canadian River Basin, WBID 520700040260) which did not appear in the 2020 303(d) List.

Response: Comment is noted. The EPA revised pages 7, 12, 13, and 17 in the fact sheet. The 2022 303(d) lists the receiving stream (Quapaw Creek - Canadian River Basin, WBID 520700040260) is impaired for turbidity. If there is a TMDL developed for the receiving stream segment, EPA would need to establish effluent limitations for the parameter(s) (i.e., Total Suspended Solids) to be consistent with that TMDL. Since no TMDL has been developed and approved by EPA for this stream segment, EPA did not make any changes to the final permit. However, if either the State and/or Tribe develops a TMDL, this permit may be reopened to establish effluent limitations for the parameter(s) to be consistent with that TMDL. Modification of the permit is subject to the provisions of 40 CFR §124.5.

Comment 3: Page 7 states that EPA used a 2007 WLA to derive the water quality-based limitations in the permit. ODEQ's records include the 2007 public notice documents, including the draft WLA pending EPA approval, but we do not have record of EPA's final approval of this WLA. If you have record of EPA's final approval of the WLA, ODEQ would appreciate a copy for our records.

Response: In March 2007, EPA public noticed a proposed permit for Kickapoo Casino Harrah Wastewater Treatment Plant (WWTP). During the comment period, ODEQ provided several comments on the proposed permit and the EPA Region 6's DO water quality modeling used to support development of the proposed permit limits. The ODEQ used the DO water quality

modeling conducted by Mr. Bob Bednar, ODEQ staff, in late August 2006 as a basis to comment on the EPA's DO water quality modeling. Our records show that EPA Region 6 collaborated with ODEQ thru meetings, emails, and correspondence exchanges to establish a WLA for Quapaw Creek. Thus, this WLA has been implemented in the past couple Kickapoo Casino Harrah WWTP permit cycles. The EPA Region 6 has moved to a new office building and made couple reorgs since 2007. Some of the records could have been misplaced during the transitions. The EPA, to date, has not been able to find any records of EPA's final approval of the WLA to share with ODEQ. However, EPA continues to search for the record and will provide the record to ODEQ if it is found.

Comment 4: The first line on Page 13 states that the receiving stream is an unnamed tributary on Cherokee Nation tribal trust lands, instead of Kickapoo Tribal trust lands.

Response: Comment is noted. The EPA revised the fact sheet (see below) and made no changes to final permit.

The receiving stream, an unnamed tributary on Kickapoo Tribal trust lands, is not listed on the 303(d) list. The facility has a low design flow of 0.05 MGD. ....

Comment 5: I have looked over the Draft of the new NPDES Permit and it looks good to me. However, in the Fact Sheet section, only the title page has the correct NPDES Number, pages 2 – 21, have a New Mexico NPDES Number, NM0044733....

Response: Please see response to comment 1 above.