



Monday June 4, 2018

Michael Teague  
Oklahoma Secretary of Energy & Environment  
204 N. Robinson Suite 1010  
Oklahoma City, OK 73102

Dear Secretary Teague,

One year ago, the Conservation Coalition of Oklahoma and other partners submitted the attached letter to the Oklahoma Department of Environmental Quality and the Environmental Protection Agency. That letter cited the .037 mg/L Oklahoma Scenic Rivers phosphorus standard that has since been proven accurate in a scientific study. The letter we submitted was signed by the following organizations: The Conservation Coalition of Oklahoma (CCO), Save the Illinois River (STIR), the Greater Tenkiller Area Association (GTAA), Trout Unlimited Tulsa Chapter (TU), Oklahomans for Responsible Water Policy and the Oklahoma Chapter of the Sierra Club. Members of these organizations are very concerned about the future of Oklahoma Scenic Rivers and Tenkiller Lake.

After adopting the .037 phosphorus standard, the next step was understood to be the completion and enforcement of Total Maximum Daily Loads (TMDLs) for the Illinois River and Lake Tenkiller. Since our first letter, there have been new developments involving EPA's approval of the Arkansas 303d list of impaired waters and the announcement by EPA that it had completed watershed modeling for TMDLs but not the actual TMDLs. Our members are concerned about next steps, particularly considering these new developments

We seek assurance that Oklahoma will honor the spirit and intent of the Clean Water Act and Oklahoma Scenic Rivers Act and will enforce rules designed to protect and preserve Oklahoma Scenic Rivers. These rivers and Lake Tenkiller are among the most precious and economically valuable natural resources Oklahoma has.

As advocates for conservation of Oklahoma Scenic Rivers and Lake Tenkiller, we are concerned about the next steps Oklahoma will pursue following release of the EPA's watershed models. We would like to know how agencies will proceed with TMDLs for the Illinois River watershed: who will do the TMDLs and how long it will take to do them. If definitive steps are not taken now, it could stall enforcement of scenic river water quality regulations for years.

It is clear that TMDLs for the watershed are not discretionary and are required by the federal Clean Water Act. The long history of Oklahoma's struggles to do so, and the resulting lack of any TMDLs in the watershed do not inspire any confidence that the State-based approach suggested by EPA will lead to anything meaningful. Indeed, that was the reason this project was begun. The best path forward would be for EPA to complete the job as they have said they would.

**We believe EPA should provide more than watershed modeling and that EPA has a legal responsibility to provide completed TMDLs for the Illinois River and Lake Tenkiller. We believe Oklahoma should insist that EPA provide completed TMDLs. However, if EPA will not do so, and if Arkansas chooses not to cooperate with Oklahoma on completing the TMDLs, then Oklahoma should do the TMDLs for the Oklahoma portion of the Illinois River watershed using EPA's modeling. Further, we wish for assurance that the TMDL process will proceed in a timely and pragmatic manner, without interference by sideline politics and by entities who are contributing to watershed pollution. Additionally, we wish to know what steps will be taken by Oklahoma to enforce our water quality standard at the state line in the absence of a TMDL for the Arkansas portion of the watershed.**

We are also quite concerned at the apparent lack of any involvement by Oklahoma in the recent EPA decisions regarding the Arkansas 303(d) list. We wish to know who or which agency is charged with reviewing these proposals and why Oklahoma failed to provide any input into the decision to remove the Arkansas portion of the watershed from the list. We urge the State to take whatever actions are available to re-visit and reverse that decision.

Members of our coalition have worked for the adoption of the Oklahoma Scenic Rivers protections beginning with passage of the Oklahoma Scenic Rivers Act in 1970. Our members have litigated for scenic river protection and we have worked with the State of Oklahoma for the adoption of strong, innovative water quality rules including Oklahoma's 0.037 mg/L phosphorus limit for scenic rivers. We also championed the highest water quality standards for Lake Tenkiller.

We believe that Oklahoma possesses the regulations, case law and scientific studies that will support aggressive, proactive enforcement of Oklahoma Scenic River protections. Very important is the U.S. Supreme Court ruling (Oklahoma and STIR vs. EPA) that upstream states must meet the water quality standards of downstream states.

The most current report to the Arkansas-Oklahoma Arkansas River Compact Commission states that Oklahoma's phosphorus limit for the Illinois River is violated by more than 90-percent at our border with Arkansas and nearly 80-percent at Tahlequah. This water quality rule was adopted by Oklahoma in 2003 but has experienced numerous delays and concessions to Arkansas opponents of Oklahoma's phosphorus limit.

NPDES permits for sewage treatment plants in the watershed have been on hold for more than a decade as TMDL models were being developed and the .037 phosphorus limit was challenged. Cities in the watershed including Tahlequah may be preparing to build new or expanded wastewater treatment plants and need to know what is expected of them.

**We strongly recommend that wastewater treatment facilities in the Illinois River watershed receive new NPDES discharge permits having a phosphorus limit sufficient to comply with the water quality standard for total phosphorus. The technology for phosphorus removal has advanced and we pledge to work with Oklahoma and cities to help find funding for newer and better WWTPs.**

It is important to also note that Oklahoma's phosphorus limit for scenic rivers was proven correct by the Joint Scenic Rivers Study conducted by Baylor University. To our knowledge, the Baylor University scientific study of phosphorus and nuisance algae in scenic rivers has yet to be formally recognized by Arkansas or Oklahoma even though both states pledged to abide by the study results.

**We urge Oklahoma to formerly recognize the final report of the Scenic River Joint Study Committee and the recommendations in the report. Formal adoption will demonstrate Oklahoma's continued commitment to scenic rivers protection.**

New poultry farms are being licensed by Oklahoma with no provision for objections by private property owners at public hearings or during the permitting process. Poultry manure land application is on the increase in the Illinois River watershed according to the Oklahoma Agriculture Department reports. Poultry waste removed from the Illinois River watershed may be damaging other major watersheds including Grand Lake of the Cherokees.

**We believe Oklahoma must do more than it currently is doing toward management of nonpoint pollution, especially water pollution caused by animal waste. We feel that Oklahoma should give citizens and private property owners the right to object to new and expanding poultry farms adjoining their property or located next to nutrient sensitive waterways before permits are approved.**

A decade has passed since Oklahoma sued Tyson and other Arkansas poultry corporations in federal court for Illinois River watershed pollution. However, there has been no decision and apparently Oklahoma has taken no action to pursue the lawsuit.

**We would like to know how we might assist the state in asking the court for a decision in the Tyson lawsuit.**

Thank you for meeting with us today. We would be very pleased to continue working with the State of Oklahoma to accomplish greater scenic rivers protections.

In this statement, Conservation Coalition of Oklahoma member organizations and other partners, speaking on behalf of their members, have expressed our concerns for the future of Oklahoma Scenic Rivers and Lake Tenkiller. We bring these concerns to your attention in the spirit of 50<sup>th</sup> Anniversary of the National Scenic Rivers Act and passage of the Oklahoma Scenic Rivers Act two years later. \*

Sincerely,



Ron Suttles  
Board Chair, Conservation Coalition of Oklahoma

Cc:

Save the Illinois River  
Trout Unlimited Chapter 420/Tulsa Fly Fishers  
Greater Tenkiller Area Association  
Sierra Club, Oklahoma Chapter  
Oklahomans for Responsible Water Policy

***\*(Title 82 Oklahoma Statutes, § 1451. Short title Sections 1452 through 1471 of this title shall be known and may be cited as the "Scenic Rivers Act".)***