

Arkansas/Oklahoma Memorandum of Agreement Announced: Illinois River Watershed Collaboration



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The states of Arkansas and Oklahoma announced on November 14th the execution of a document titled:

Memorandum of Agreement by and Between the Oklahoma Secretary of Energy and Environment, the Oklahoma Secretary of Agriculture, the Arkansas Department of Environmental Quality, and the Arkansas Natural Resources Commission, or Successor Agencies ("MOA")

The MOA was executed by the referenced agencies.

The Arkansas Department of Environmental Quality ("ADEQ") notes in a news release that the MOA:

... charts a path forward on science-based regulatory actions and permitting, and that jointly commits the parties to collaborative efforts in developing a watershed improvement plan. The parties also commit to coordinate in making data and other information about water quality improvements more readily available.

The Illinois River Watershed ("Watershed") has been described as a trans-boundary watershed situated in the Ozark Plateaus. Its headwaters originate in Northwest Arkansas, and the Watershed includes three of the designated Oklahoma Scenic Rivers which are:

- Illinois River
- Flint Creek
- Barren Fork

The focus of efforts in this Watershed for years has been elevated phosphorus concentrations.

Formal collaboration between the two states originated in 2003 when they signed the first Joint Statement of Principles and Action stating a goal of achieving effluent total phosphorus limits of 1mg/L -1 on municipal facilities with a design capacity of greater than one million gallons per day. Further, the Arkansas General Assembly enacted legislation addressing poultry litter management.

The two states executed a second statement of Joint Principles and Action in 2013 which provided a three-year extension of the prior commitments. Further, it required that the two Governors appoint six individuals to a Joint Study Committee to reach agreement on the procurement, execution and conduct of a Joint Study which would address relevant issues.

A Final Report was subsequently issued by the Joint Study Committee. They provided specific recommendations as to:

. . . what phosphorus levels and what frequency and duration components of measure are necessary to protect the aesthetics beneficial use and scenic river designation (Outstanding Resource Water) assigned to the designated Scenic Rivers, and based on overall stream health that included evaluating the relationship, if any, between phosphorus concentrations in the designated Scenic Rivers and biotic indicators of water quality, including primarily algal taxonomic composition and periphyton biomass.

Its Final Report to the Governors included recommendations regarding phosphorus levels and that the states develop monitoring and assessment programs and other scientific information to determine attainment of the total phosphorus criterion.

Issues addressed in the *MOA* include:

- Joint Study Committee Total Phosphorus Criterion Recommendation
- Promulgation of Criterion Duration and Frequency
- Processing and Issuance of Permit Applications for Facilities with a Design Flow of Greater than One Million Gallons per Day
- Regulatory Flexibility
- Monitoring and Assessment
- Watershed Improvement Plan
- Steering Committee
- Data Sharing
- Communications
- Amendment and Termination

A Covenant Not to Sue is also included.

Arkansas Natural Resources Commission Executive Directive Bruce Holland is quoted as stating:

. . . It is important for us to recognize the progress that has been made in the Illinois River Watershed and to praise all who have taken part in that progress. . . It is also important to acknowledge the work of the study group and their findings to set the stage for progress yet to come. This agreement is necessary and appropriate and makes it clear to all that we are committed to many more years of protecting and improving the water quality in the Illinois River Watershed.

A copy of the news release can be found [here](#) and the *MOA* [here](#).