

Political cash flows from Arkansas

Some view as effort to slow protection of scenic rivers

By D.E. Smoot

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Urbanization and industrial- scale agricultural activities have taken a toll on water quality in the Illinois River and its tributaries as pollutants from both flow from northwest Arkansas into the state.

Federal Election Commission records show thousands of dollars of cash have flowed from the political forces driving those interests in Arkansas into the campaign coffers of some Oklahoma politicians. And some of them have sided with their cohorts east of the state line in their ongoing attempt to delay — or maybe halt — efforts to set pollution limits for what many consider the crown jewel of Oklahoma’s scenic rivers and Tenkiller Lake.

U.S. Rep. Markwayne Mullin, who represents Oklahoma’s 2nd Congressional District through which the state’s scenic rivers and streams flow, is a benefactor of some of that money. A year ago Mullin and U.S. Sens. Jim Inhofe and James Lankford joined three of their congressional colleagues from Arkansas, questioning the soundness of model developed by the U.S. Environmental Protection Agency for the purpose of setting pollution limits for those water bodies.

In a letter to federal regulators, the four U.S. senators and two U.S. representatives express concern the EPA models developed for the total maximum daily load “are flawed and unsuitable for the high-stakes decisions that must be made in our respective states.” A copy of the letter was obtained by Save the Illinois River, a Tahlequah-based citizens coalition and clean-water advocacy group, through a Freedom of Information Act request.

Mullin and his cohorts contend in the letter there had been “notable water quality improvements” in the Illinois River “in the absence of TMDLs and additional regulations.” They cited “significant decreases in phosphorus loads” despite the existence of reports published earlier by the Oklahoma Water Resources Board that show phosphorus levels in the Illinois River exceeded state standards more than 92 percent of the time.

Limiting of pollutants

A TMDL is a calculation that establishes the maximum amount of a pollutant a body of water can receive and still meet water quality standards and an allocation of that load among the various sources of that pollutant. Clean-water advocates say Oklahoma’s water- quality standards for its scenic rivers never will be realized without set limits, which the Clean Water Act requires after a body of water is found to be impaired.

Mullin said he opposed federal regulators’ efforts to move forward with establishment of pollution limits at the time because “we did not have an EPA at the time that was friendly to us.” During a recent telephone conference with Oklahoma reporters, Mullin said the agency was one unwilling “to do anything with us” during the eight years of President Barack Obama’s administration.

“We are working with the new EPA now ..., figuring out the best way to move forward,” Mullin said. “We have one now that is willing to work with us, and we’re going to come up with a solution that’s best for both states and the economic development that brings to our states.”

The “new EPA” referenced by Mullin is overseen by Administrator Scott Pruitt, who was serving his second term as Oklahoma’s attorney general before being appointed by President Donald Trump to his present position. Data compiled by the National Institute on Money in State Politics show Pruitt, like Mullin, is a substantial benefactor of campaign contributions from donors in northwest Arkansas and elsewhere who would be impacted by the establishment and enforcement of pollution standards.

STIR President Denise Deason-Toyne said northeast Oklahoma residents “deserve safe, clean drinking

water” and scenic rivers that can be enjoyed for their recreational and economic benefits of clean water. She said Mullin’s “recent actions and inactions indicate” his loyalty lies with what she described as “the dirty-water lobby.”

“This is not a time for delay — Oklahoma and Arkansas, after years of litigation to halt the continued degradation of the Illinois River and Tenkiller Lake ..., have scientifically supportable data on appropriate limits,” Deason-Toyne said, referencing the completion in December of a two-year study validating Oklahoma’s numeric phosphorus standard for scenic rivers. “Rather than represent his Oklahoma constituents and demand the EPA establish TMDLs for the Illinois River and Tenkiller Lake, Mr. Mullin wants EPA to delay.”

Setting the standards

Oklahoma’s numeric phosphorus standard was set in 2003 to address the degradation of water quality within the Illinois River watershed and other scenic rivers. Stream overloading of nutrients such as phosphorus and nitrogen promotes vegetative growth, which subsequently dies, decays and depletes dissolved oxygen levels, reducing water quality.

An agreement struck in 2003 by Arkansas and Oklahoma officials delayed enforcement of the phosphorus standard for 10 years and required an extensive review of the standard before full implementation. A technical advisory group of Arkansas, Oklahoma and tribal representatives spent a year reviewing new scientific and technical evidence and confirmed the validity of the 0.037 mg/L standard in 2012.

A minority report backed by two Arkansas agencies represented on the technical advisory group disputed the findings and opposed the standard, opening the door to protracted litigation.

Pruitt, who according to the National Institute on Money in State Politics received more than \$34,000 in 2010 from northwest Arkansas donors during his first campaign for attorney general, made a deal with his Arkansas counterpart authorizing a second evaluation of the numeric phosphorus standard. About 70 percent, or \$24,000, came from individuals with ties to poultry companies, some of them named defendants in a 2005 lawsuit filed by former Attorney General Drew Edmondson, who is campaigning for the Democratic nomination in the 2018 gubernatorial race.

The lawsuit, filed on behalf of the state of Oklahoma, alleged poultry industry practices, which includes land application of phosphorus-laden wastes as fertilizer, were responsible for deteriorating water quality in the Illinois River. More than seven years after trial, the federal judge who presided over the trial has yet to rule.

The joint study, which was completed in December after an analysis of data collected during the span of two years at three dozen sites within the Illinois River Basin, also ended the threat of future litigation between the two states. But enforcement of the state’s phosphorus standard remains in limbo despite the study’s completion and its validity confirmed again.

Deason-Toyne said that is why it is important that EPA move forward with the establishment of TMDLs for the Illinois River and Tenkiller Lake, a project that has been in the works since 2009. But she expressed doubts about how that can happen when those who are elected to represent Oklahoma’s interests side with those from outside the state.

FEC records show \$11,000 flowed into Mullin’s 2016 campaign from political action committees tied to Tyson Foods, a defendant in Oklahoma’s poultry lawsuit, and Wal-Mart, a primary distributor of its product — both have been drivers of the population boom in northwestern Arkansas. Since 2011, Mullin’s campaigns have received more than \$50,000 from northwest Arkansas entities that have been identified by STIR and others to have attempted to delay efforts to establish, implement or enforce clean-water standards in Oklahoma’s scenic rivers.

Data compiled by the Center for Responsive Politics show Mullin has received campaign contributions totaling more than \$269,500 from the agribusiness sector during his congressional career. Nearly 73 percent

of that was contributed by political action committees with ties to agribusiness.

The bigger picture

Earlier this month the National Oceanic and Atmospheric Administration announced a dead zone that develops each summer in the Gulf of Mexico is the largest ever measured. Researchers say the dead zone, which this year covers 8,776 square miles — an area the size of New Jersey — is the result of nutrient loading fueled by agribusiness and the failure of state and federal governments to regulate pollution resulting from, among other things, land applications of phosphorus and nitrogen to fertilize crops that support the meat industry.

Rain washes those nutrients into streams, like the Barren Fork Creek and the Illinois River, which eventually flow into the Mississippi River and into the Gulf of Mexico, where algae blooms, then dies and decomposes, robbing organisms of oxygen. Researchers attributed the record-breaking size of the dead zone this year to unusually heavy rains in the Mississippi River watershed.

Worth Sparkman, a spokesman for Tyson Foods, said the company always “has supported Oklahoma Rep. Mullin through our political action committee ... because many of the farmers who grow for our company are in his district.” Sparkman said contributions to Pruitt’s 2010 campaign were made by Tyson executives, not the company, which encourages its employees “to participate in the election process of public officials at all levels, and are at liberty to make personal contributions to any campaign they see fit.”

Deason-Toyne, however, said STIR members are putting “Mullin on notice,” and “demand that he represent the interests of Oklahomans.” She said Mullin must make “safe drinking water his highest priority over the next months.”

“STIR and Oklahomans in the 2nd Congressional District demand that Mr. Mullin likewise demand EPA to adopt and enforce scientifically sound TMDLs for the Illinois River and Tenkiller Lake,” Deason- Toyne said. “STIR is and will be watching.”

Mullin said he is part of a group that is working closely on the pollution limits for the Illinois River and Tenkiller Lake. Mullin said he has attended several meetings, and said members recognize the “Illinois River has an economic impact for both states, so I think we see the importance of it.”

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