

Oklahoma AG Threatens To Sue Poultry Firms Companies Say Reasonable Offer Rejected

Saturday, Sep 11, 2004

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NW Arkansas Morning News

Two water quality deals reached between Arkansas and Oklahoma last year apparently aren't good enough for Oklahoma Attorney General Drew Edmondson because he's hired lawyers to sue Northwest Arkansas poultry companies.

"Our attorneys are preparing to file a petition as soon as its ready," Edmondson said in a telephone interview Friday.

"(Poultry companies) are responsible for massive pollution not only in Arkansas, but also in Oklahoma. They are making millions of dollars and they have been poor stewards of the environment. They have for years been blaming it on the growers and that's just not going to fly anymore," Edmondson said.

Five poultry companies -- Tyson Foods, Peterson Farms, Cargill, George's and Simmons -- released the terms of the latest settlement offer, which Edmondson rejected Thursday.

The offer would reduce phosphorus and improve water quality in northeast Oklahoma's scenic waterways and cost the poultry industry millions each year to implement, poultry officials said.

"The industry has agreed to do the very things he's asking for," said Janet Wilkerson, vice president for Peterson Farms and spokesman for the companies.

"We'd much rather spend our money on solutions than trial lawyers. In a lawsuit, nobody wins," she said.

Other poultry officials said Friday they are frustrated because Edmondson's office keeps changing the deal, asking for more concessions, and won't negotiate in good faith. They also question whether Edmondson really wants to improve water quality or punish the poultry industry for political gain.

Edmondson said he's still willing to negotiate, but any deal must involve the poultry companies paying monetary damages and taking ownership responsibility for excess poultry litter. He would not say how much he wants in punitive damages.

Edmondson said he hired independent, outside attorneys because he's been "getting nowhere (negotiating) with the industry."

Morril Harriman, executive director of the Poultry Federation, said company officials remain hopeful a deal can still be reached to avoid litigation.

"We certainly feel like we have made some very good faith offers that are a big step toward improving water quality," Harriman said.

"We feel like that there are reasonable long-term solutions to the nutrient issues, which will improve water quality and at the same time allow the poultry farmers and other farmers in Oklahoma to remain economically viable," he said.

The industry's current offer is similar to a deal reached in July 2003 to settle a lawsuit filed by Tulsa over phosphorus pollution in the Eucha and Spavinaw watersheds. The current offer goes further because it also applies to Oklahoma's six scenic streams, including the Illinois river and its tributaries. The companies have offered to pay more of the cost of implementing farm plans and removing excess litter, officials said.

Companies also offered to fund a nonprofit organization to acquire land and easements along streams to protect against runoff and erosion and to pay for alternative uses of litter.

"We feel we are taking it to another level and doing the very things he's asking for," Wilkerson said.

Earlier Deals

These same five companies paid \$7.5 million in July last year to settle a lawsuit filed by Tulsa and its water utility over high phosphorus levels in Eucha and Spavinaw watersheds, which serve as Tulsa's water supply. Almost all of this money went to pay Tulsa's attorney's fees.

The companies agreed to stop spreading litter until a phosphorus index could be developed to determine application rates that would protect water quality. The companies also agreed to remove excess litter and other measures.

Tulsa filed the lawsuit in Dec. 2001, after Edmondson's office issued an attorney general's opinion saying the companies could be found liable for damages caused by phosphorus pollution. Even though the companies do not own the litter and had not broken any laws, they could be forced to pay damages, the opinion concluded.

Arkansas and Oklahoma officials in December reached a deal to target phosphorus reduction in shared streams in an effort to meet Oklahoma water quality standards. High levels of phosphorus cause excessive algae blooms and cause the water to turn green and can cause taste and odor problems for reservoirs used for drinking water.

Those standards included a phosphorus limit of 0.037 part per million, which Arkansas officials say is not attainable. Current phosphorus levels at the state line average about six times higher than the limit, studies show.

The states' deal included implementation of laws that restricted spreading of poultry litter and other measures, but focused mainly on reducing phosphorus from Northwest Arkansas municipal sewer plants.

Harriman and Edmondson both made comments in December indicating that the poultry industry needed to reach another deal with Oklahoma.

"The cities appear to be willing to take real steps to reducing their impact. We look forward to a similar commitment from the poultry industry," Edmondson said.

"It won't wrap up everything ... We hope to do that fairly soon," Harriman said.

Other Sources

Poultry officials ask why Oklahoma officials focus only on the poultry industry and aren't looking at commercial fertilizer, cattle operations, nurseries, septic tanks and other phosphorus sources.

"We'd love to see everyone at the (negotiating) table that's a contributor," Wilkerson said.

Randy Young, executive director of the Arkansas Soil and Water Conservation Commission, has consistently argued that Oklahoma should regulate commercial fertilizer, as Arkansas has agreed to do, if Oklahomans are really concerned about water quality. Studies show fertilizer dissolves quicker than litter and also causes water quality problems.

Poultry officials also argue that rules restricting spreading litter cause farmers to use more fertilizer, so fertilizer should be regulated too.

"We'd like to have the answer to that," Wilkerson said.

"That's none of their business ... what we do with other (pollution sources) ... they are the biggest polluters ... they are the ones we are going to make accountable," Edmondson said.