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[Previous Case](#) [Top Of Index](#) [This Point in Index](#) [Citationize](#) [Next Case](#) [Print Only](#)

Question Submitted by: Mr. John Shannon, Administrator, Oklahoma Scenic Rivers Commission

1981 OK AG 289

Decided: 12/30/1981

Oklahoma Attorney General

Cite as: 1981 OK AG 289, __ __

¶0 The Attorney General is in receipt of your request for an opinion wherein you ask, in effect, the following question:

What legal authority, if any, authorizes an Oklahoma Scenic Rivers Commission to seek abatement of a public or private nuisance, specifically pollution of a designated "scenic river."

¶1 An Oklahoma Scenic Rivers Commission, hereafter "OSRC," is created by Oklahoma statute, 82 O.S. 1461 (1980). The territorial jurisdiction for each Commission is created in accordance with the provisions of the "Scenic Rivers Act," 82 O.S. ch. 21 (1971), as amended.

¶2 This opinion assumes that OSRC is created under and in full compliance with the Scenic Rivers Act, supra. Title 82 O.S. 1461(F)(12) (1980), states in pertinent part:

"F. Each Commission *shall have the following* specified powers and *responsibilities*:

* * *

"12. Identify public and private nuisances which are adverse to the purposes of this act and *take such action as permitted by law to remove such public nuisances....*" (Emphasis added)

¶3 Accordingly, the OSRC is statutorily mandated to seek appropriate legal relief to abate nuisances which are "adverse to the purposes of" the Scenic Rivers Act. The purpose(s) of the Scenic Rivers Act, stated by the Legislature at 82 O.S. 1460 (1977), includes the "protection of the ecosystem and the environment of scenic river areas from pollution," unless the complained cause of the nuisance is statutorily exempt. Waste water discharge, which causes pollution of the river ecosystem and environment, is not exempted. Accordingly, the OSRC has standing to seek legal redress to abate the nuisance (pollution) in the appropriate forum of law.

¶4 The appropriate forum of law in which to seek abatement of such pollution must be determined on a case-by-case basis and depends upon the application of both federal *and* state law to the facts of each case.

¶5 Before any legal action is commenced, however, OSRC should specifically note the provisions of 25 O.S. 305 (1977) and *Berry v. Bd. of Governors of Reg. Dentists*, 611 P.2d 628, 632 (Okla. 1980).

¶6 It is, therefore, the official opinion of the Attorney General that an Oklahoma Scenic River Commission, created in full compliance with the Scenic Rivers Act, may seek legal redress to abate the pollution of a river or waterway within its jurisdiction.

JAN ERIC CARTWRIGHT
 ATTORNEY GENERAL OF OKLAHOMA
 GARY W. GARDENHIRE
 ASSISTANT ATTORNEY GENERAL
 CHIEF, CIVIL DIVISION

Citationizer® Summary of Documents Citing This Document

Cite Name Level

None Found.

Citationizer: Table of Authority

Cite Name	Level	
Title 25. Definitions and General Provisions		
Cite	Name	Level
<u>25 O.S. 305,</u>	<u>Recording of Votes</u>	Cited
Title 82. Waters and Water Rights		
Cite	Name	Level
<u>82 O.S. 1451,</u>	<u>Short Title.</u>	Cited
<u>82 O.S. 896.11,</u>	<u>Scenic Rivers - Statement of Purpose</u>	Cited
<u>82 O.S. 1461,</u>	<u>Scenic Rivers Commissions - Creation - Funding - Jurisdiction - Membership</u>	Discussed
	<u>- Organization - Powers and Duties</u>	

