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Arkansas Regional Solid Waste Management Districts: Benton County District Files Circuit Court Civil Complaint Against Boston Mountain District

Arkansas Environmental, Energy, and Water Law Blog

05/09/2016

The Benton County Regional Solid Waste Management District ("Benton County") filed a civil Complaint in the Circuit Court of Benton County on April 28th against the Boston Mountain Regional Solid Waste Management District ("Boston Mountain"). See NO. 04CV-2016-629-5.

Act 852 of 1991 enabled Arkansas Planning Districts to become Regional Solid Waste Management Districts which possess various authorities and responsibilities in regards to solid waste management and recycling. See Ark. Code Ann. § 8-6-701 (e) *et seq.*

The Benton County Complaint states that Regional Solid Waste Management Districts ("Districts") may both fix, charge, or collect fees for solid waste generated within or without the District and that Districts may:

... determine by interlocal agreement how to divide fees for, among other things, solid waste generated within one district and delivered to another district.

Benton County and Boston Mountain are stated to have executed an Interlocal Agreement ("Agreement") in 2011 addressing the division of certain waste assessment fees.

Arkansas statutory authority allows "public agencies" to exercise their governmental powers, privileges, or authority jointly with any other public agency of the state.

The Benton County Complaint alleges that pursuant to the Agreement, each District agreed to charge \$1.50 per ton ("Waste Assessment Fee") on all solid waste generated within their respective district, or solid waste brought into their district from another district. They are also alleged to have further agreed to divide the Waste Assessment Fee between the two districts when waste is generated in one of the districts and deposited in the other district further stating:

... in such circumstance, the entirety of the Waste Assessment Fee is paid to the generating district.

Benton County describes a withdrawal from the Agreement by Boston Mountain in 2013 and its filing of a lawsuit to recover monies lost as a result of the alleged breach of the Agreement. The Circuit Court in Benton County, Arkansas is stated to have entered an Order in 2014 making certain findings in regards to the Agreement and ordering Boston Mountain to "... specifically perform the terms of the Agreement

through the termination date of May 1, 2016, and further ordered Boston Mountain District to pay to Benton County District fees being held in escrow at that time.”

The Director of the Boston Mountain is alleged to have notified Benton County on February 22, 2016 that it would not renew the Agreement and would instead provide Benton County with a new Agreement. Further, it is alleged that Boston Mountain provided the Benton County a proposed Agreement regarding division of the assessment fee for waste delivered from Benton County to a landfill located in Boston Mountain referencing a proposed Interlocal Agreement.

Benton County argues that the Interlocal Agreement proposed by Boston Mountain proposes a fee which has not been agreed to by Benton County and that it will be damaged:

... as a result of Boston Mountain District’s proposed Interlocal Agreement in that Boston Mountain District will collect fees for which no services has been provided and such fees should be paid to Benton County District.

The Complaint contains two Counts which include requests for Declaratory Judgment and Injunctive Relief.

[Click here to download a copy of the Complaint.](#)