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Carroll County Solid Waste Authority Request to Become an Arkansas Regional Solid Waste District: Arkansas Pollution Control and Ecology Commission Minute Order (Decision)

10/24/2019

The Arkansas Pollution Control and Ecology Commission (“Commission”) issued a Minute Order on October 11th in the proceeding styled In the Matter of Carroll County Solid Waste Authority. See Docket No. 19-001-MISC.

The Minute Order addressed the Carroll County Solid Waste Authority’s (“Authority”) Petition to the Commission to be designated the Carroll County Solid Waste District.

The Petition was submitted pursuant to Ark. Code Ann. 8-6-707 which provides the Commission the authority to designate a county or counties within each district or counties within two or more counties as a new regional solid waste management district. The Authority is currently a part of the Ozark Mountain Regional Solid Waste Management District (“District”).

The Commission approval of a regional solid waste management district must be undertaken pursuant to rules promulgated by that body. Counties and municipalities included in the new regional solid waste management district shall cease to be members of any other district.

Subsequent to the Authority’s submission of the Petition to the Commission, the Receiver (Geoffrey B. Treece) for the District filed a Petition to intervene in the proceedings (which was granted). The Receiver for the District argued that the departure of the Authority would negatively impact the financial condition of the District. As a result, it requested that the Authority not be permitted to withdraw from the District.

Commission Administrative Law Judge (“ALJ”) Charles Moulton held a hearing, and after hearing witnesses and arguments, issued a Recommended Decision (to the Commission) that the Petition be granted.

The Commission in its October 11th Minute Order reversed and remanded the ALJ’s decision.

The Commission’s Minute Order states that although Carroll County met the requirements of the Arkansas Code to become a single-county solid waste management district, granting the Petition is not mandatory.

The Commission states in support of its decision that:

Currently, Carroll County is part of the Ozark Mountain Solid Waste District, which is subject to the Order Approving the Receiver's Report and Recommendations (the "Order") entered by the Honorable Judge Timothy D. Fox in the case styled as Bank of the Ozarks, as Trustee for the Bondholders v. Ozark Mountain Solid Waste District, filed in the Circuit Court of Pulaski County, Arkansas, as Case Number 60CV-14-4479. Per the terms of the Order, the receiver for the Ozark Mountain Solid Waste District "shall cause an annual service fee of \$18.00 (the 'Service Fee') to be assessed against each residence and business parcel located within the [Ozark Mountain Solid Waste District]." In the event Carroll County is permitted to leave the Ozark Mountain Solid Waste District, it will no longer be subject to the Order and the receiver will have no authority to cause the assessment and collection of the Service Fee on parcels located in Carroll County. Given that the Service Fee is a critical source of funds needed to pay for certain post-closing monitoring obligations of the Ozark Mountain Solid Waste District, as well as substantial claims of the Arkansas Department of Environmental Quality for remediation costs, the Commission, in its discretion, finds Carroll County Solid Waste Authority's petition should be, and is hereby, denied.

A copy of the Minute Order can be downloaded [here](#).