

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**IN THE MATTER OF
CARROLL COUNTY SOLID
WASTE AUTHORITY**

DOCKET NO. 19-001-MISC

PAGE 1 OF 2

MINUTE ORDER NO. 19-_____

Electronically
File-Marked
Arkansas
Pollution Control
& Ecology
Commission
10/11/2019

On October 2, 2019, Charles Moulton, Administrative Law Judge (the “ALJ”), issued Order No. 7 (Recommended Decision) in the case styled as *In the Matter of Carroll County Solid Waste Authority*, Docket Number 19-001-MISC.

Order No. 7 grants the Carroll County Solid Waste Authority’s petition to become a single-county solid waste management district. The record compiled in this docket by the ALJ, Order No. 7, and the arguments of counsel for the Carroll County Solid Waste Authority and the Receiver for the Ozark Mountain Solid Waste District came before this Commission at its October 25, 2019 meeting. After considering the matter, the Commission reverses and remands Order No. 7 issued on October 2, 2019, for the reasons stated below.

Arkansas Code Annotated § 8-6-707 provides that this Commission may designate a county as a new regional solid waste management district if the county has a population of at least 25,000 according to the most recent federal decennial census and the county is served by one county sanitation authority under Arkansas Code Annotated § 14-233-104. Although Carroll County meets these requirements, granting the petition is not mandatory.

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.

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PAGE 2 OF 2

COMMISSIONERS:

_____**L. Bengal**
_____**A. Biggers**
_____**C. Colclasure**
_____**J. Fox**
_____**M. Freeze**
_____**M. Goggans**
_____**D. Haak**

_____**B. Holland**
_____**R. McMullen**
_____**S. Moss**
_____**R. Reynolds**
_____**R. Roper**
_____**W. Ward**
_____**B. White**

Doug Melton, Chair

SUBMITTED BY: Mary-Tipton Thalheimer

DATE PASSED: _____