

**BEFORE THE ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

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

DOCKET NO. 19-001-MISC

PETITION TO INTERVENE AND FOR CONTINUANCE OF HEARING

Come now Geoffrey B. Treece, Receiver for the Ozark Mountain Solid Waste District (the “Receiver”), by and through his attorneys, Quattlebaum, Grooms & Tull PLLC, and for his Petition to Intervene and for Continuance of Hearing, states as follows:

1. Receiver is the duly appointed receiver for the Ozark Mountain Solid Waste District (the “District”) by order entered on May 15, 2015 in a case styled as *Bank of the Ozarks, as Trustee for the Bondholders v. Ozark Mountain Solid Waste District*, Pulaski County Circuit Court Case No. 60CV-14-4479 (the “State Court Suit”).

2. The Carroll County Solid Waste Authority (the “Petitioner”) has filed a petition with the Commission requesting authority to leave the six-county District and become a separate, single county district known as the Carroll County Solid Waste District.

3. On April 21, 2017, the court entered an order approving Receiver’s report and recommendations and granting the motion for approval and implementation of recommendations in the State Court Case. On December 19, 2017, the court entered an order approving Receiver’s supplemental report and recommendations (collectively, the “Order”). Pursuant to the terms of the Order, Receiver was authorized to cause an annual service fee of \$18.00 (the “Service Fee”) to be assessed against and collected from each residence and business parcel located within the District (including all such parcels in Carroll County), all as more particularly provided in the Order.

4. The service fee is a critical component of a long-term plan that will permit the District to to pay for certain post-closing monitoring obligations at the Nabors Landfill and to satisfy claims of the Arkansas Department of Environmental Quality (“ADEQ”) and bondholders.

5. The District has a vested interest in the service fee that will be adversely affected if the Commission grants the Petitioner’s request.

6. The District is not participating in this proceeding. Moreover, upon information and belief, the ADEQ is participating in this proceeding solely in a monitoring role and has refrained from taking a position on Petitioner’s request.

7. Absent intervention, the disposition of this petition will, as a practical matter, impair and impede Receiver’s ability to protect the interest of the District in the service fee.

8. The District’s interest is not, and cannot be, adequately represented by the Petitioner or ADEQ.

9. Receiver had no notice of the pendency of this proceeding until very recently when the existence of the proceeding was disclosed to him by counsel for ADEQ. The Receiver has been deprived of the opportunity to participate in this proceeding.

10. Receiver should be permitted to intervene as a matter of right pursuant to Arkansas Rule of Civil Procedure 24(a) and Arkansas Pollution Control and Ecology Commission Reg. No. 8.611.

11. Alternatively, Receiver requests that he be permitted to permissively intervene pursuant to Arkansas Rule of Civil Procedure 24(b) and Arkansas Pollution Control and Ecology Commission Reg. No. 8.604 for the same reasons outlined above.

12. Receiver further requests that the hearing presently scheduled for May 16-17, 2019 be continued for a period of not less than sixty (60) days to permit the Receiver to conduct necessary discovery and preparation for the final hearing.

13. A brief in support of this petition is filed herewith and incorporated by reference.

14. Pursuant to Arkansas Rule of Civil Procedure 24(a), a pleading setting forth the claim or defense on which intervention is sought is attached as Exhibit A.

WHEREFORE, Geoffrey B. Treece, Receiver, requests that the Administrative Hearing Officer grant his intervention, that the hearing presently scheduled for May 16-17, 2019 be continued for a period of not less than sixty (60) days to permit discovery and preparation for a final hearing, reject Petitioner Carroll County Solid Waste Districts' Petition and for all other just and proper relief.

Respectfully submitted,

QUATTLEBAUM, GROOMS & TULL PLLC
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Little Rock, Arkansas 72201
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Facsimile: (501) 379-3842
Email: mthalheimer@qgtlaw.com

By: 
Mary-Tipton Thalheimer (2011268)

*Attorneys for Geoffrey B. Treece, Receiver
for the Ozark Mountain Solid Waste District*

CERTIFICATE OF SERVICE

I, Mary-Tipton Thalheimer, do hereby certify that a true and correct copy of the foregoing was served upon the following parties through U.S. Mail, electronic notification, facsimile, or other to:

Mr. Phil Jackson
Executive Director
Carroll County Solid Waste Authority
706 South Main Street
Berryville, AR 72616

Hon. Tim McKinney
Chairman
Carroll County Solid Waste Authority
305 E. Madison, P.O. Box 227
Berryville, AR 72616

Michael McAlister
Arkansas Department of
Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

on this 10th day of May, 2019.


Mary-Tipton Thalheimer

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RECEIVER’S RESPONSE AND OBJECTION TO PETITION

Come now Geoffrey B. Treece, Receiver for the Ozark Mountain Solid Waste District (the “Receiver”), by and through his attorneys, Quattlebaum, Grooms & Tull PLLC, and for his Response and Objection to Petition, states as follows:

1. The Receiver is the duly appointed receiver for the Ozark Mountain Solid Waste District (the “District”) by order entered on May 15, 2015 in a case styled as *Bank of the Ozarks, as Trustee for the Bondholders v. Ozark Mountain Solid Waste District*, Pulaski County Circuit Court Case No. 60CV-14-4479 (the “State Court Suit”).

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4. The service fee is a critical component of a multi-year plan approved by the Court that will permit the District to pay for certain post-closing monitoring obligations at the Nabors Landfill and to satisfy claims of the Arkansas Department of Environmental Quality and bondholders. The departure of the Petitioner from the District would significantly affect the amount of revenue collections thereby causing additional financial distress to the District, disrupting the court approved plan, requiring further proceedings to modify the plan, and unfairly placing more burden on the affected landowners in the remaining five counties of the District to generate revenue to fund the plan.

5. The Receiver reserves the right to amend or supplement this response and objection following the completion of discovery or other appropriate time.

WHEREFORE, Geoffrey B. Treece, Receiver, requests that the Administrative Hearing Officer reject Petitioner Carroll County Solid Waste Districts' Petition and for all other just and proper relief.

Respectfully submitted,

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Little Rock, Arkansas 72201
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*Attorneys for Geoffrey B. Treece, Receiver
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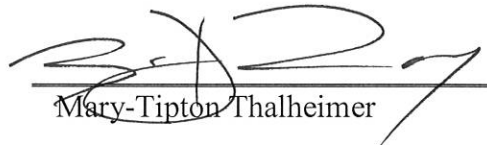
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