

**ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF
ENVIRONMENTAL QUALITY**

IN THE MATTER OF:

**Ozark Mountain Solid Waste District Board of Directors
P.O. Box 1669
Harrison, Arkansas 72602**

LIS No. 23- 052
AFIN 05-00462

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority of the Solid Waste Management and Recycling Fund Act, Ark. Code Ann. § 8-6-601 *et seq.*, Ark. Code Ann. § 8-6-704, and the Arkansas Pollution Control and Ecology Commission (APC&EC) Rules 8 and 11.

The issues herein having been settled by the agreement of Ozark Mountain Solid Waste District Board of Directors (Respondent) and the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ or Division), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

1. Ark. Code Ann. § 8-6-605(a) establishes the Solid Waste Management and Recycling Fund.
2. DEQ administers and authorizes distributions from the Solid Waste Management and Recycling Fund pursuant to Ark. Code Ann. § 8-6-605(b) and APC&EC Rule 11.401.
3. Pursuant to Ark. Code Ann. § 8-1-202(b)(2)(A), the Director of DEQ shall initiate and settle civil or administrative enforcement actions to compel compliance with laws, orders, rules, and federal regulations charged to the responsibility of DEQ.
4. Ark. Code Ann. § 8-6-704(d) states in part:

...

(1) Each regional solid waste management board shall procure an annual financial audit of the district. Such audits shall be conducted following each board's fiscal year end...

(4) Copies of each audit report of a district shall be filed with the Division and with Arkansas Legislative Audit. In addition, one (1) copy of the audit report shall be kept for public inspection with the books and records of the district.

(5) Failure to provide a full and complete audit report, as required by this subchapter, shall prohibit future distribution of revenue from funding programs that are administered by the Division unless otherwise authorized by the Director.

5. Pursuant to APC&EC Rule 11.407(G)(8), failure to provide the DEQ and Arkansas Legislative Audit with a full and complete annual audit report within nine (9) months of the District's fiscal year ending date shall be cause to suspend or terminate any and all revenue from funding programs that are administered by the DEQ unless otherwise authorized by the Director.

6. Respondent is a regional solid waste management district (District) in North Central Arkansas. The District is comprised of Baxter, Boone, Marion, Newton, and Searcy counties. The governing board of the District is comprised of each county judge and the mayors of all Class 1 cities within the District.

7. Respondent failed to provide a full and complete audit report for fiscal year (FY) 2020 to DEQ and the Arkansas Legislative Audit. Failure to provide a full and complete audit report for Fiscal Year 2020 by March 31, 2021, violates Ark. Code Ann. § 8-6-704(d)(4) and APC&EC Rule 11.407(G)(8).

8. Respondent failed to provide a full and complete audit report for FY 2021 to DEQ and the Arkansas Legislative Audit. Failure to provide a full and complete audit report for Fiscal Year

2021 by March 31, 2022, violates Ark. Code Ann. § 8-6-704(d)(4) and APC&EC Rule 11.407(G)(8).

9. Respondent failed to provide a full and complete audit report for FY 2022 to DEQ and the Arkansas Legislative Audit. Failure to provide a full and complete audit report for Fiscal Year 2022 by March 31, 2023, violates Ark. Code Ann. § 8-6-704(d)(4) and APC&EC Rule 11.407(G)(8).

10. On Friday, June 2, 2023, Respondent sent DEQ an email confirming the accounting firm of John Langham & Co. will begin “audits for June 30, 2020 through June 30, 2022...and will have the audited financials...before September 30, 2023.”

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. On or before September 30, 2023, Respondent shall provide DEQ and the Arkansas Legislative Audit with full and complete audit reports for FYs 2020, 2021, and 2022.
2. All documents required by this CAO to be submitted to DEQ shall be emailed to olrenforcement@adeq.state.ar.us, submitted by Certified Mail, or hand delivered to Office of Land Resources, Enforcement Branch, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.
3. All requirements of this CAO are subject to approval by DEQ. In the event of any deficiencies, Respondent shall submit any additional information or changes requested, or take additional actions specified by DEQ to correct any such deficiencies within the timeframe specified by DEQ. Failure to respond adequately in writing within the timeframe specified by DEQ constitutes a failure to meet the requirements established by this CAO.

4. If Respondent fails to meet any requirement of this CAO within the deadline established by the CAO, DEQ may assess stipulated penalties for the delay in the following amounts:

- a. First day through the fourteenth day: \$100.00 per day
- b. Fifteenth day through the thirtieth day: \$500.00 per day
- c. Each day beyond the thirtieth day: \$1,000.00 per day

These stipulated penalties for delay in performance shall be in addition to any other remedies or sanctions that may be available to DEQ by reason of Respondent's failure to comply with this CAO.

5. Respondent shall notify DEQ in writing within five (5) calendar days of knowledge of any delay or potential delay in complying with any provision of this CAO, specifying in detail the anticipated length of delay, the precise cause of delay, and the measures being taken to correct and minimize the delay.

6. DEQ may grant an extension of any provision of this CAO, provided that Respondent requests such an extension in writing and provided that the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of Respondent. The time for performance may be extended for a reasonable period but in no event longer than the period of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances beyond the control of and without the fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Failure to notify the DEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

7. Nothing contained in this CAO shall be construed as a waiver by DEQ of its authority over alleged violations not specifically addressed herein. This CAO does not purport in any way to

relieve Respondent of its responsibilities for obtaining any necessary permits or licenses, nor does it relieve Respondent of any other obligations imposed by any local, state, or federal laws. This CAO does not exonerate any past, present, or future conduct not expressly addressed herein.

8. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule 8 and shall be effective upon the Director's signature. DEQ retains the right to rescind this CAO based upon the comments received within the thirty (30) day public comment period.

9. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately. The publication of this CAO shall occur on or about the 10th or 25th day of the month following the date this CAO is executed. As provided by APC&EC Rule 8, this matter is subject to being reopened upon APC&EC initiative or in the event a petition to set aside this CAO is granted by the APC&EC.

10. This CAO has been reviewed and approved by the Ozark Mountain Solid Waste Management Board of Directors in a duly convened meeting with a quorum present. It is the intention of the Ozark Mountain Solid Waste Management Board of Directors to be bound by the terms appearing in the CAO. See meeting minutes or resolution attached as exhibit A.

11. The Ozark Mountain Solid Waste Management Board of Directors has authorized the Board member named below to sign this CAO on behalf of the Board. See Exhibit A.

SO ORDERED THIS 5th DAY OF July, 2023

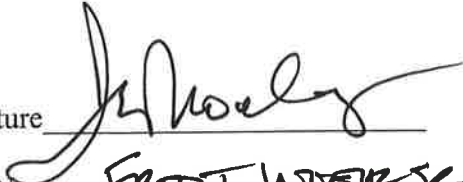


CALEB J. OSBORNE
DIVISION OF ENVIRONMENTAL QUALITY, DIRECTOR
CHIEF ADMINISTRATOR, ENVIRONMENT
ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:
OZARK MOUNTAIN SOLID WASTE DISTRICT BOARD OF DIRECTORS

BY:

Signature



Print Name

FREDT WOENZE

Title

Chairman of OMSWD

Date

26 June 2023

RESOLUTION # 1-2023



A RESOLUTION OF THE OZARK MOUNTAIN SOLID WASTE MANAGEMENT DISTRICT BOARD AUTHORIZING THE CHAIRMAN TO ENTER INTO A CONSENT ADMINISTRATIVE ORDER WITH DEQ OF ARKANSAS REGARDING PAST AND FUTURE AUDITS OF THE BOOKS OF THE SOLID WASTE MANAGEMENT DISTRICT.

WHEREAS, The Ozark Mountain Solid Waste Management District has a legal obligation to obtain annual audits of the books and records of the district and to submit those audits to Arkansas Department of Energy, Division of Environmental Quality, (hereinafter "DEQ") and;

WHEREAS, the Solid Waste Management District has not submitted annual audits for the years 2020, 2021, and 2022 and;

WHEREAS, the supplier of audits and audit reviews for the district has not completed those audits and has not presented them to DEQ and;

WHEREAS, the Solid Waste Management District has engaged an auditing firm in Crawford County, Arkansas to perform the past audits as required, and;

WHEREAS, DEQ has proposed that the Solid Waste Management District enter into a Consent Administrative Order, and;

WHEREAS, the Solid Waste Management District has considered the language in the CAO and does hereby pass this resolution.

THEREFORE, BE IT RESOLVED THAT:

The Ozark Mountain Solid Waste Management District by a vote of the Board hereby authorizes the Chairman of the Board to enter into the Consent Administrative Order presented by DEQ and with the terms and conditions of the CAO draft attached to this document. The signature of the chairman being affixed to the final copy of the CAO shall be presented to DEQ for final entry.

Approved this 27th day of June, 2023

A handwritten signature in dark ink, appearing to read "Fred Woehl", written over a horizontal line.

FRED WOehl, CHAIRMAN

JPV: kif