

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SIXTH DIVISION**

**BANK OF THE OZARKS
As Trustee for the Bondholders**

PLAINTIFF

vs.

CASE No.: 60CV-14-4479

OZARK MOUNTAIN SOLID WASTE DISTRICT

DEFENDANT

**ARKANSAS DEPARTMENT OF ENVIRONMENTAL
QUALITY**

INTERVENOR

**RECEIVER'S REPORT AND RECOMMENDATIONS AND MOTION
FOR APPROVAL AND IMPLEMENTATION OF RECOMMENDATIONS**

Geoffrey B. Treece, Receiver ("Receiver"), by and through his attorneys, Quattlebaum, Grooms & Tull PLLC, for his Report and Recommendations and Motion for Approval and Implementation of Recommendations, states:

1. This Court entered its Consent Order Appointing Receiver (the "Order") on May 15, 2015.

2. Since his appointment, the Receiver has consulted with and interviewed representatives of each of the parties and examined and reviewed financial statements and other documents pertaining to the operations and financial affairs and condition of the Ozark Mountain Solid Waste District (the "District"). The Receiver has also traveled to and viewed each of the District's real properties, though the visit to the Nabors Landfill (defined below) consisted primarily of a drive-by since the property gate was locked. The Receiver was also able to view the hauling equipment discussed more particularly herein. Additionally, the Receiver has interviewed officials of two other districts (Boston Mountain and South Central) and examined and reviewed documents and data provided

by the Arkansas Department of Environmental Quality (“ADEQ”) pertaining to, among other things, the operations and revenue sources generated by the other districts located throughout the State of Arkansas. Finally, the Receiver has consulted with each of the Assessors and most of the Collectors for the counties comprising the District and reviewed data supplied from these sources.

3. Background on the District and Civil Proceedings. The pleadings and orders filed in the instant case and the ADEQ Suit (defined herein) and referenced herein contain extensive factual detail on the background of the District and the financial transactions and events which gave rise to the filing of this proceeding and the appointment of the Receiver. For purposes of brevity, the Receiver has limited his narrative on the background and has incorporated various pleadings and court orders when deemed appropriate.

The District is a regional solid waste management district created by the Arkansas General Assembly in 1989. Ark. Code Ann. § 8-6-701 *et seq.* The District is comprised of Baxter, Boone, Carroll, Marion, Newton and Searcy Counties. A map of the District containing each of the cities, towns, and locations of permitted landfills, transfer stations, recycling facilities and composting sites is attached hereto as Exhibit “1” and incorporated by reference.

The District is presently governed by a fifteen (15) member regional solid waste management board (the “Board”) which is comprised of mayors and county judges from each of the six counties. The District’s responsibilities include handling of illegal dump complaints, hauler licensing, overseeing of grant programs, recycling programs (including electronic waste), public awareness and waste tire programs.

The District purchased an existing landfill located in Baxter County, Arkansas (the “Nabors Landfill”) and related equipment and assets in 2005. The acquisition was funded with a bond issue in the amount of \$12,340,000.00. The District defaulted on its payment obligations under the bond issue in 2012. The District also failed to comply with various performance covenants of the Trust Indenture relating to the Nabors Landfill, including but not limited to, compliance with applicable environmental laws and related financial assurances. The Nabors Landfill was ultimately closed by the District in 2012.

On February 12, 2013, ADEQ filed an action styled *Arkansas Department of Environmental Quality v Ozark Mountain Solid Waste Management District*, Circuit Court of Baxter County, Arkansas, Case No. CV2013-32-4 (the “ADEQ Suit”). ADEQ was subsequently granted a summary judgment whereby ADEQ was authorized, *inter alia*, to take possession of certain reserve accounts and other financial instruments and expend the proceeds to address the environmental issues present at the District’s Nabors Landfill. A copy of the ADEQ Brief in Support of Motion for Summary Judgment (detailing the various environmental issues with the District and the Nabors Landfill) and the Order Granting Summary Judgment are attached hereto as Exhibits “2” and “3”, respectively, and incorporated by reference.

On January 6, 2014, the District filed a voluntary petition for Chapter 9 bankruptcy. The Chapter 9 bankruptcy was dismissed on the motion of the Bank of the Ozarks, as Trustee for the Bondholders (“Trustee”) pursuant to the order of U.S. Bankruptcy Judge Ben Barry dated August 5, 2014, a copy of which is attached hereto as Exhibit “4” and incorporated by reference.

On December 2, 2014, the Trustee filed a Complaint for Appointment of Receiver commencing the instant proceeding. A copy of the Trustee's Complaint is attached hereto as Exhibit "5" and incorporated by reference. The Court entered its Consent Order Appointing Receiver ("Consent Order") on May 15, 2015.

The Nabors Landfill is presently closed for business and is being monitored by ADEQ. ADEQ contracted with Inland Waste Solutions, LLC ("Inland") to maintain the landfill roads, haul leachate from the landfill and to provide a temporary cover at the landfill but, upon information and belief, ADEQ terminated Inland on or about August 26, 2016. The landfill will soon undergo closure by a third party contractor under the supervision of ADEQ. A recent ADEQ Solid Waste Management Site Summary ("Site Summary") with background on the Nabors Landfill is attached hereto as Exhibit "6" and incorporated by reference.

Though it no longer operates a landfill or waste hauling business, the District continues to operate and provides numerous other services. Generally speaking, the District is responsible for developing and implementing solid waste management activities throughout the District in conformity with directives from the Board and as required by applicable federal, state and local laws and regulations. This includes responsibility for monitoring and administering services related to projects within the District and ensuring compliance with applicable laws and regulations. More specifically, the District's responsibilities include the development, maintenance and administration of the District Solid Waste Plan, licensing of waste haulers, collection of tipping fees, administration of recycling grants, administration of the waste tire and electronic waste programs, administration of the Certificate of Need process (for entities seeking to open a

transfer station, landfill or expansion of an existing landfill), handling of illegal dump complaints, education and community outreach.

4. Summary of Management and Operations of the District. A listing of each member of the Board, the governmental entity they represent and their term is listed on Exhibit “7” attached hereto and incorporated by reference.

The District has no employees. All administrative and management functions of the District are handled through independent contractors. The day to day operations of the District are handled by Ms. Melinda Caldwell, Executive Director for the District. Ms. Caldwell is the principal of Via Recyclables, LLC which is under contract to manage the affairs of the District. Ms. Amanda Herd provides some electronic waste public education services on behalf of the District and is compensated from an electronic waste grant.

Various professionals are also contracted with to handle legal, accounting and financial auditing services. John Verkamp, Esq., an attorney from Charleston, Arkansas, serves as general counsel to the District. J. Timothy Fulmer, CPA, P.A., a certified public accountant from Rogers, Arkansas, provides auditing services to the District. Mr. Luke Feighert, CPA, Finance Director for the City of Harrison, Arkansas is responsible for the routine accounting and financial functions of the District. Mr. Feighert’s responsibilities include handling of the District bank accounts, accounts payable and receivable and preparation of periodic financial reports for the District.

5. Inventory of District Assets. According to the records of the Baxter County Assessor, the assets of the District include twenty parcels of real property. Eighteen parcels are located in rural Baxter County with a physical address of 1194 RLH Landfill Road, Mountain Home, Arkansas. These rural parcels are contiguous, aggregate

792.69 acres and include the site of the Nabors Landfill. Most of the acreage is wooded except for the landfill site.

There are two real estate parcels with improvements located on Rossi Road, Mountain Home, Arkansas. The first parcel is located at 1305 Rossi Road and consists of a 4 acre parcel containing a 2,745 square foot office building and a 2,864 square foot service/repair garage. The parcel also includes a substantial amount of asphalt and concrete paving. Upon information furnished by the District, the office building is in a state of disrepair and will require a new roof among other repairs. The remaining parcel is nearby at 1206 Rossi Road and consists of a .79 acre parcel containing a 1,920 square foot metal building which serves as a service/repair garage. There is no paving on the premises.

The Receiver has not obtained appraisals or other valuations on any the real properties. Moreover, each of the properties are tax exempt given the District's quasi-governmental status so there is no valuation information available from the Baxter County Assessor.

The District owns multiple items of tangible personal property which can be divided into two separate groups. One group consists of the personal property related to the landfill and hauling operation. The other group consists of the personal property relating to the District's ongoing operation.

The landfill and hauling personal property includes various kinds of equipment, furniture, fixtures, rolling stock, containers, tools, tires, parts and other miscellaneous items. All of these items are located either at the landfill or at the Rossi Road locations.

The lion's share of this personal property is in poor to fair condition since it has been sitting in open weather conditions for the last several years.

The personal property presently used in connection with the District's ongoing operations consists primarily of waste tire trailers and miscellaneous office equipment, furniture and supplies.

The District also maintains two (2) bank accounts at Community First Bank consisting of an operating account for the District with a balance of \$89,520.60 as of July 31, 2016¹ and a separate account holding all other funds generated by the District with a balance of \$438,588.98 as of July 31, 2016². The District also maintains an operating account for the Nabors Landfill at Arvest Bank with a balance of \$528.16 as of June 30, 2016.

6. Balance Sheet – The assets and liabilities of the District are summarized in the Balance Sheets prepared by Mr. Feighert for the District for the period ending June 30, 2016 and attached hereto as Exhibit “8” and incorporated by reference.³

7. Profit and Loss Statements. A Profit and Loss Statement prepared by Mr. Feighert for the District for the period commencing July 1, 2015 and ending July 30, 2016 is attached hereto as Exhibit “9” and incorporated by reference.

8. Audited Financial Statements. The District's financial statements are audited by an independent auditor, J. Timothy Fulmer, Certified Public Accountant, P.A.

¹ Consists of the \$7,500 monthly set aside per the Consent Order.

² This account consists of the remaining \$2 per ton fees and some restricted grant funds, the latter of which may be used by the District per the Consent Order.

³ The balance sheet does not include the hauling and landfill personal property or the real property in the assets. Likewise, none of the liabilities owed by the District to the Trustee or to ADEQ are listed in the liabilities.

A copy of the most recent audited financial statements for the fiscal year ending June 30, 2015 is attached hereto as Exhibit “10” and incorporated by reference.⁴

9. Sources of District Revenues. The Arkansas legislature empowered the district boards to “fix, charge and collect rents, fees, and charges of no more than two dollars (\$2.00) per ton of solid waste related to the movement or disposal of solid waste within the district” Ark. Code Ann. § 8-6-714(a)(1)(A). This first type of fee is commonly referred to as a “tipping fee” and the District presently imposes the maximum amount of fee allowed under the statute. The board is also authorized to charge and collect fees for solid waste disposal of within the district irrespective of whether the waste was generated in the district. Ark. Code Ann. § 8-6-714(a)(2). Additionally, the board “may levy a service fee on each residence or business for which the board makes solid waste collection or disposal services available.” Ark. Code Ann. § 8-6-714(d) [Emphasis supplied]. With a majority vote, the board may “require fees or delinquent fees to be collected with the real and personal property taxes of any county within the district.” Ark. Code Ann. § 8-6-714(e)(1)(A).

Judge Barry’s opinion granting the Trustee’s motion to dismiss the Chapter 9 proceeding states as follows:

District board member Tim McKinney testified that the District experienced problems with ADEQ immediately upon purchasing the Nabors Landfill because older parts of the landfill were improperly constructed, resulting in the risk that leachate would contaminate the groundwater if the District did not undertake remedial measures. McKinney further testified that grants received by the District, as well as the \$2.00 per ton tipping fee collected by the District, were exhausted on a

⁴ The balance sheet does not include the hauling and landfill personal property or the real property in the assets. There is likewise no reference to the District’s liabilities owed to the Trustee though there is a reference in Note 8 pertaining to contingencies in favor of ADEQ arising from the District’s obligation to pump leachate at the landfill and cleanup of the District’s waste tire site.

monthly basis by the District's efforts to remedy the leachate problem. As a result, the District operated at a deficit each month. Compounding the financial difficulties created by the leachate, many of the District's member counties opted to transport their solid waste to less expensive landfills located in other parts of Arkansas or out of state. Despite the District's financial problems, McKinney testified that the board never seriously considered levying the service fee authorized by Arkansas Code Annotated section 8-6-714(d). McKinney testified that there was some concern that the statutorily authorized service fee might be considered an illegal exaction, but that the fee was discarded as a source of revenue primarily because the board considered it a "politically unacceptable solution" that would likely result in District board members not being reelected to the offices that they held in their respective counties [Footnotes omitted].⁵

In addition to the tipping fees, the District's present sources of revenue consist primarily of grants for electronic waste, recycling and waste tires. There is also minimal revenue generated from other sources such as hauler licensing. The electronic waste and waste tire grant proceeds are restricted to the express purposes of those specific programs. The recycling grant money is not restricted and can be used for general operations.

The June 30, 2015 audited financial statements reflect that the District's total operating revenues decreased by \$45,862 or 7.2% from the prior year due to a decrease in recycling and waste tire grants.⁶ This decrease in total operating revenues followed a 4.9% decrease for the year ended June 30, 2014 which was likewise primarily attributable to a decrease in recycling and waste tire grants.

10. Claim of Trustee. A detailed narrative and documents describing the claim of the Trustee is more fully described in the Trustee's Complaint which includes the Trust Indenture. See Exhibit 5. As of August 5, 2016, the District was indebted to the

⁵ See Exhibit 4, pgs. 2-3.

⁶ See Exhibit 10, pg. 2.

Bondholders under the Trust Indenture in the amount of \$13,276,296.30, including principal in the amount of \$11,090,000.00 and accrued interest in the amount of \$2,186,296.27. Pursuant to the Trust Indenture, the Trustee claims that the bond indebtedness is secured by blanket security interest in the assets of the District.

As more particularly stated in the Trustee’s Complaint and the Trust Indenture, the bond issue was divided into 2005A and 2005B bond categories. The original amounts and maturities of the bonds are summarized as follows:

SERIES 2005A BONDS

| <u>YEAR</u> | <u>AMOUNT</u> |
|-------------|---------------|
| 2017 | \$90,000.00 |
| 2018 | 350,000.00 |
| 2019 | 365,000.00 |
| 2020 | 380,000.00 |
| 2021 | 400,000.00 |
| 2025 | 1,800,000.00 |
| 2030 | 2,810,000.00 |
| 2035 | 3,605,000.00 |

SERIES 2005B BONDS

| | |
|------|--------------|
| 2010 | \$745,000.00 |
| 2013 | 705,000.00 |
| 2017 | 1,090,000.00 |

The District has partially satisfied the Series 2005B bonds. The 2010B bonds have been fully satisfied by the District. The 2013B and 2017B bonds have a remaining principal balance of \$250,000.00 and \$1,040,000.00, respectively. There has been no payment on the Series 2005A bonds with a principal balance totaling \$9,800,000.00.

11. Claims of ADEQ. A narrative and documents describing the claim of ADEQ relating to Nabors Landfill is more fully described in the ADEQ Brief in Support

of Motion for Summary Judgment, the Order Granting Summary Judgment and Site Summary. See Exhibits “2”, “3” and “6”. In addition, ADEQ is statutorily obligated to pursue recovery of all amounts expended in connection with the imminent closure and remediation of the Nabors Landfill. The most recent estimate of the cost of ADEQ’s closing and remediation effort provided to the Receiver exceeds \$16,000,000.00.

On August 14, 2016, the Arkansas Building Authority gave notice for request for bids to address the closure and related needs at the Nabors Landfill. Bids were submitted and opened in September, 2016 but no contract was awarded due to a required design change to the landfill. The State will seek new bids upon approval of the design change.

12. Other Claims Against the District. There are no other creditors of the District other than the Trustee and ADEQ. The District’s liabilities primarily consist of short term liabilities incurred and paid in the ordinary course of business.

13. Needs of the District. The District’s needs falls into two categories. The first category consists of those needs arising from the ongoing, ordinary operations of the District. The latter category consists of the District’s post-closure maintenance obligations at the Nabors Landfill.

In the course of his investigation, the Receiver requested that Ms. Caldwell provide a listing of District’s needs arising from or relating to the ongoing operations of the District and its associated responsibilities. Ms. Caldwell responded with a prioritized listing of several needs. On the administrative side, Ms. Caldwell identified that the District has a need for a full time education coordinator and a full time abatement and outreach coordinator. While education and community outreach is a significant responsibility of the District, the latter position is especially significant given the

substantial increase in illegal dumping. The District presently relies on turning over illegal dumping complaints to local law enforcement agencies. The illegal dumping complaints are, understandably, subordinate in priority to the other matters law enforcement normally deals with.

Ms. Caldwell also identified needs specific to the counties comprising the District. All of the identified needs except for one consisted of various items of equipment. The exception was a new recycling center for Carroll County with an estimated cost of \$500,000.00. The current recycling center is located in Eureka Springs on a hillside and is not large enough to keep up with demand. As a result, the Carroll County Solid Waste Authority desires to construct a new center in Berryville. Ms. Caldwell notes that each of the needs can likely be addressed with un-restricted recycling grant money over a period of time if the recycling funds aren't needed for other costs of the District.

The post-closure maintenance obligations at the Nabors Landfill will not arise until the closing and remediation of the landfill has been concluded by ADEQ which the Receiver anticipates should occur sometime in 2018. A cost estimate prepared by ADEQ specifically describing the District's post-closure maintenance obligations and related costs is attached hereto as Exhibit "11" and incorporated by reference. The cost estimate projects the total cost of post-closure maintenance obligations to cost \$1,535,000.00. Costs in year one are projected at \$83,550.00 while the cost in subsequent years is projected at \$50,050.00. The difference in the cost estimates for year one and ensuing years is solely attributable to plugging and replacing defective groundwater monitoring wells and final plugging of groundwater monitoring wells.

The ADEQ cost estimate is based on a thirty (30) year period of monitoring and maintenance at the site. The estimate assumes that third parties will be contracted to manage the required activities. In its submission to the Receiver, ADEQ suggested the District might be able to reduce the costs of post-closure maintenance through in kind work by the counties. ADEQ also reported that it often sees groundwater monitoring expenses reduced over time as a result of observed data. Moreover, ADEQ noted that regulations allow owners the ability to seek reduced frequencies of monitoring and, in some cases, to seek suspension of monitoring based on stabilized groundwater data observations over time where appropriate.

14. Recommendations of the Receiver. The Receiver makes the following recommendations:

(a) Private Sale of Landfill and Hauling Personal Property; Payment of Account Proceeds. The Receiver recently retained the services of Cecil Phillips of Springdale, Arkansas to evaluate the landfill and hauling personal property for either auction or private sale. Mr. Phillips is a long time auctioneer, well-known to Northwest Arkansas bankruptcy judges and trustees, who has conducted many bankruptcy and Article 9 sales. In addition to his expertise, Mr. Phillips was retained for his particular knowledge and experience with the subject equipment having been employed by the District to auction the personal property in the bankruptcy proceeding. The proposed sale was never conducted when the District's bankruptcy proceeding was dismissed.

Based on his recent inspection of the hauling and landfill personal property and discussions with several prospective purchasers, Mr. Phillips advised the Receiver that a private sale is the most feasible means of disposition. As a result of Mr. Phillips' efforts,

the Receiver has obtained an offer from 4 DLLC of Huntsville, Arkansas to purchase all of the landfill and hauling personal property for a purchase price of \$461,000.00 (the “Dotson Offer”). A copy of the Dotson Offer is attached hereto as Exhibit “12”.

After discussion with Mr. Phillips, the Receiver is of the opinion that the Dotson Offer is the best and highest bid that is likely to be received for the property and that the District should move forward expeditiously with the proposed sale. The Receiver intends to file a separate Motion with the Court seeking authorization of the Court to accept the Dotson offer sell the property, where-is, as-is, with all faults, free and clear of liens and claims on an expedited basis. The Motion will include a request for approval of the payment of a ten (10%) commission to Mr. Phillips for his services. Mr. Phillips has agreed to waive any request for reimbursement of costs and expenses.

The Trustee claims a security interest in the subject personal property. Assuming approval of the sale by the Court and closing of the sale, the Receiver proposes that projected net sales proceeds of \$414,900.00 be paid to the Trustee.

In addition, the \$438,588.90 (as of July 31, 2016) held in the separate account of the District at Community First Bank should be paid to the Trustee net of any costs and expenses of the receivership.

(b) Private Sale of Real Property. The Receiver proposes that the all of the District’s real property assets be sold as soon as is reasonable practicable. A commercial real estate broker in the Baxter County area should be immediately retained to market and sell the Rossi Road properties. The sale of the rural acreage at the landfill needs to be further studied but, in any event, it is not likely that any of the property can be sold until the closure and remediation of the landfill has been remediated.

The Receiver proposes that all net sales proceeds of the District's real properties be paid to the Trustee.

(c) Means of Generating and Collecting New Revenue. The District lacks the necessary financial resources to operate in the ordinary course of business, to address the post-closure maintenance obligations at the Nabors Landfill and the other District needs described by Ms. Caldwell, and to service its debt to the Trustee and ADEQ. Assuming the implementation of the Trustee and ADEQ repayment scenarios described herein, new revenues of \$1,000,000.00 annually will be needed in order to service the debt. Additional revenue will be necessary for the District to address its post-closure maintenance obligations. The District therefor requires an additional stream of revenue without further delay.

As cited above, the Board is statutorily authorized to levy a service fee on each residence or business for which the board makes solid waste collection or disposal services available. The legislative history on the act creating the waste districts states that the "terms and obligations of this subchapter shall be liberally construed so as to achieve remedial intent." Ark. Code Ann. § 8-6-701[Emphasis supplied]. The District affords multiple solid waste collection and disposal services to the residents and businesses within the District thereby providing the legal basis for the levy of the service fee. Accordingly, the Court should order the levy of an annual service fee in an appropriate amount for each residence and business located within the District.

According to data procured from the county assessors throughout the District, the Receiver estimates there are approximately 72,612 residences and businesses throughout the District. That number includes assessments for 66,961 residential parcels (compared

to a July 1, 2015 U.S. Census estimate of 71,987 housing units in the District) and 5,651 businesses. Tax delinquencies fluctuated over the counties comprising the District from 2-5%. For purposes of this discussion, the Receiver has assumed a 5% delinquency rate or 3,630 assessments. While this delinquency rate is likely high (and most delinquencies will ultimately be collected), it is prudent to err on the safe side in projecting revenue to ensure the District is provided with sufficient revenues. A deduction for 5% delinquencies results in 68,982 assessments.

The Receiver proposes that the District be ordered to assess an annual service fee of \$18.00 commencing in 2017 and continuing for the life of the repayment plan set forth herein. The District would generate annual gross service fees in the amount of \$1,241,676.00 based on a service fee of \$18.00 and 68,982 assessments. The first \$1,000,000.00 of service fees would be earmarked for and paid to the Trustee and ADEQ to satisfy their debt, as more particularly specified in paragraphs 14(d) and (e). The next \$100,000.00 in service fees would be earmarked for and paid to the District for its needs; provided, however, that the funds would be first applied to the full satisfaction of the particular year's post-closure maintenance obligations prior to any other need. Finally, service fees collected over and above \$1,100,000.00, if any, would be earmarked for and paid to ADEQ in further satisfaction of its claim.

The amount of the service fee would automatically be reduced to \$2.00 annually in the years following satisfaction of the ADEQ claim to ensure that the District can meet its post-closure maintenance and other needs. The District would have the ability to terminate the service fee at its sole discretion once the District has fully complied with its

post-closure maintenance obligations at the landfill and contingent upon having paid all amounts owed to the Trustee as ordered by the Court herein.

The Receiver further proposes that the service fee be billed on the property tax bill of each residence and business throughout the six county district. Any order adopting these recommendations should provide that the Receiver is authorized to immediately contact and direct the respective county assessors, collectors and/or treasurers to set up the appropriate mechanisms for assessment and collection of the service fee from the affected property owners. All service fees collected would be promptly transmitted by the county collectors and/or treasurers on an annual basis to the Bank of the Ozarks Trust Department (“BOZ”) which would act as payment agent free of charge and be responsible for paying the proceeds to the intended recipients under these recommendations. BOZ should be determined to be exempt from any requirement to post bond for their services.

(d) Treatment of Claim of Trustee. The Receiver proposes that the claim of the Trustee be capped at the remaining principal balance of the bonds in the amount of \$11,090,000.00. The Trustee’s claim would bear no interest over the life of the payment plan as described herein and be satisfied by nineteen (19) annual installments commencing in 2017 and continuing through 2035, which is the last scheduled maturity of the original bond issue. The Trustee would be paid annual installments in the amounts and applied to the bonds as more particularly set forth on the Excel spreadsheet attached as Exhibit “11” which is incorporated by reference. Payments to the Trustee from the service fee as described in paragraphs 14(c) and (d) shall be reduced by the net amount received by the Trustee from the sale of the District’s personal property, real property and

the payment of the separate account balance. From the proceeds collected by the service fee, an amount equal to the net amount received by the Trustee from sale of the real and personal property and the separate account shall be paid to the District.

The Receiver notes that the foregoing proposed payment plan to the Trustee represents a substantial discount in favor of the District, it likewise benefits the Trustee by fully satisfying the original principal amount of the bonds by the final maturity date of the original bond issue.

(e) Treatment of Claim of ADEQ. The Receiver proposes that the claim of ADEQ consist of the actual cost of the Nabors Landfill remediation and closure (net of any proceeds seized and/or recovered from the District under the ADEQ Order or other applicable authority). The ADEQ is not authorized to claim any interest due on the amounts advanced by for closing and remediation of the landfill. Accordingly, the Receiver does not propose to pay interest on the ADEQ claim over the life of the payment plan. The ADEQ claim would be satisfied by annual payments commencing in 2017 and continuing until the claim was paid in full. ADEQ would be paid the difference between \$1,000,000.00 and the amounts paid to the Trustee and all of the proceeds exceeding \$1,100,000 through the maturity of the Trustee's claim in 2035. After the Trustee's claim is satisfied in full in 2035, ADEQ would be paid all proceeds of the service fee up to \$1,000,000.00 and all of the proceeds exceeding \$1,100,000 in ensuing years until the ADEQ claim is paid in full. A projection of the payment of the ADEQ claim in the estimated amount of \$16,500,000.00 is included in the Excel spreadsheet attached as Exhibit 11 based on the repayment terms and revenue projections contained herein.

(f) Management of the District. Since the board is a creature of statute and will change periodically based on election results, the Receiver has formed no recommendation with regard to the board. The Receiver has had extensive discussions, including a face to face meeting, with Ms. Caldwell and Mr. Feighert and has found both to be very knowledgeable, courteous and prompt. The District is well represented by very capable and knowledgeable counsel in Mr. John Verkamp. The District's acute financial issues stem from prior management of the District and electoral politics. The Receiver does not believe any change is necessary in the management of the District at this time.

(g) Receivership Costs. Notwithstanding anything contained herein, all legal fees, costs and expenses related to the receivership should be paid from funds held by the District.

15. Amendment. The Receiver reserves the right to amend or supplement this report as the case proceeds.

16. Request for Court Approval and Implementation of Recommendations. The Receiver requests that the Court approve and order the implementation of the recommendations contained herein after notice to the parties and opportunity for a hearing.

WHEREFORE, Geoffrey B. Treece, Receiver prays that this Court enter its order approving and ordering the implementation of his recommendations contained herein and for all other just and proper relief to which he is entitled.

Respectfully submitted,

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By: /s/ Geoffrey B. Treece
Geoffrey B. Treece (84146)

Attorneys for Geoffrey B. Treece, Receiver

CERTIFICATE OF SERVICE

I, Geoffrey B. Treece, 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:

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on this 15th day of November, 2016.

/s/ Geoffrey B. Treece
Geoffrey B. Treece