

ORDINANCE NO. 2023 - 19

BE IT ENACTED BY THE QUORUM COURT OF BAXTER COUNTY, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE PROHIBITING THE DEVELOPMENT OF A NEW OR REOPENING OF ANY CLOSED SOLID WASTE LANDFILL IN BAXTER COUNTY, ARKANSAS.

NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF BAXTER COUNTY, ARKANSAS THAT:

Article 1: Affirmation. Baxter County is in an area of the State of Arkansas in which the scenic beauty of the Ozark Mountains and water bodies such as Bull Shoals Lake, Norfork Lake and the various streams and rivers of the area contribute in large part to the mental and physical well-being of the citizens of Baxter County, and also are major attractions for people from other parts of the State of Arkansas and the United States to visit Baxter County, and are major contributors to the economy of Baxter County; and

Baxter County, Arkansas is located in a geological area that consists largely of formations of Dolomite and Limestone, both of which are soluble in groundwater. Geologic features (fractures, caverns, crevasses, etc.), also known as "karst", caused by surface and groundwaters are common in the subsurface throughout the county. The solution of such formations is accelerated by the relatively high, near-surface, groundwater flow rates caused by the topographic of the Ozark Mountains. Solution creates channels and cavities along bedding planes, fractures, and joints, and enlarges some open vertical fractures and joints to form deep chasms in the subsurface through which surface waters and groundwaters can easily and quickly flow to aquifers, streams and rivers, transporting contamination from sources on or near the surface of the ground; and

NABORS Landfill ("the Landfill") and its predecessors, located in Baxter County, Arkansas operated for over 40 years until being ordered to close by the Arkansas Department of Environment Quality in or about 2013, during which time of operation it accepted for landfilling large volumes of waste materials from Baxter County and adjoining counties classified as household, commercial and other waste products, some of which may have contained liquid or soluble hazardous wastes; and

During the time of its operation, various parts or "cells" of the NABORS Landfill were filled beyond their design capacity ("overfilled"), and were not properly handled, managed and/or covered, and the Landfill was not properly closed as required by regulatory standards; and

The Arkansas Department of Environmental Quality has taken multiple enforcement actions against the owner/operator of the Landfill to address environmental problems resulting from the operation and management of the Landfill, including the continuous release of leachate into the environment; and

The Landfill is located over karst geology which is known to be capable of allowing groundwater to rapidly migrate for significant distances, thereby presenting a threat to



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COUNTY AND CIRCUIT CLERK
BY: AMANDA SCHILLING
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ORDINANCE

3 Pages

underground sources of water for human consumption, and to streams, rivers and lakes; and

The overfilling and improper placement of waste materials, the inadequate cover of such materials after placement, and the generation of large quantities of leachate or contaminated waters flowing from the Landfill have the potential for contaminating groundwater and surface waters, including Bull Shoals Lake and Norfolk Lake and streams, rivers and other water bodies in Baxter County; and

The reopening of portions of the Landfill for the placement of additional waste materials, would add to the volume of waste materials to be managed, and has the potential for exacerbating the existing problems of leachate generation and management; and

Scientific evidence clearly indicates that locating new or additional landfills or expanding existing landfills in Baxter County would result in many of the same or similar problem that currently exist as a result of the NABORS Landfill due to the features and characteristics of the geology underlying Baxter County; and

Article 2: Designation. The Quorum Court of Baxter County deems the protection of the health, safety, wellbeing, environmental quality and economic prosperity of the citizens of Baxter County to be their primary duty and responsibility;

Article 3: Appropriation. In order to secure the benefits to the public of a coordinated and harmonious development of solid waste management for Baxter County and its environs and to promote the health, safety, economic prosperity, environmental quality and general welfare of the citizens thereof, the Baxter County Quorum Court, in accordance with Rule 22.408(e) of the Rules of Arkansas Pollution Control & Ecology Commission, does hereby prohibit and declare unlawful the following;

- (i) The siting, construction or operation of any landfill in Baxter County, Arkansas, not constructed or in operation as of the date of enactment of this Ordinance;
- (ii) The siting, reopening, expansion, reconstruction or operation of any landfill, or portion, cell or other component of any existing but closed landfill in Baxter County, Arkansas, not constructed or in operation as of the date of enactment of this Ordinance.

Article 4: Emergency Clause: The Quorum Court of Baxter County finds that, due to the previous permitting and siting of landfills in Baxter County and the features and characteristics of the geology underlying Baxter County that are not suitable for the siting of landfills, conditions have been created that cause potential harm to health, safety, economic prosperity, environmental quality and general welfare of the citizens of Baxter County; that an emergency exist in the potential for future landfills or expansion of existing or closed landfills to be developed and operated; and that this Ordinance shall be effective immediately upon its passage by the Quorum Court.

APPROVED:

Kevin Litty

KEVIN LITTY, COUNTY JUDGE

Date Signed: 03/07/2023

ATTEST:

Canda Reese

CANDA J. REESE, COUNTY CLERK

SPONSOR: *Legislative Affairs Committee*

Date Adopted: 03/07/2023

Votes: For: 10 Against: 0

Abstain: 0 Present: 0 Absent: 1