

Lawrence, Myrl

From: Lawrence, Myrl
Sent: Monday, March 15, 2021 1:01 PM
To: Rick Elumbaugh
Cc: Craig Hardin; James Ulmer; Chris Hall; 'Damon Johnson' (cityengineer@cityofbatesville.com)
Subject: Proposed Amendment to CAO 08-083, City of Batesville, AR0020702
Attachments: AR0020702_Batesville CAO Amendment 003 Final_20210315.pdf



ARKANSAS
ENERGY & ENVIRONMENT

March 15, 2021

Honorable Rick Elumbaugh
Mayor, City of Batesville-WWTF
500 East Main
Batesville, AR 72501

RE: NPDES Permit Number: AR0020702, AFIN: 32-0044
PROPOSED CONSENT ADMINISTRATIVE ORDER ADMENDMENT

Dear Mayor Elumbaugh:

On July 29, 2008, the Division of Environmental Quality (DEQ) and the City of Batesville entered into Consent Administrative Order (CAO) LIS 08-083. This order was amended in 2015, and in 2018. Pursuant to the Order and Agreement of CAO LIS 08-083, and its amendments, the City of Batesville agreed to achieve final compliance no later than July 31, 2024. On October 19, 2020, the City of Batesville requested changes to the milestone schedule and an extension of the final compliance date to July 31, 2026. After careful consideration, DEQ is willing to accept this request.

Enclosed is a copy of the CAO Amendment in this matter. If you choose to accept the terms of the CAO Amendment, please sign, date, and **return by email, or by submission of the signed document** to the address below within **twenty (20) calendar days** of receipt of this letter. A City Council Resolution that approves the CAO and authorizes the Mayor and Clerk/Treasurer to sign the CAO Amendment on behalf of the City of Batesville must also be submitted. Subsequently, the Director of DEQ will sign the CAO Amendment and the City of Batesville will be provided a copy, including information on the public notice process and the effective date of the CAO Amendment.

Should you wish to discuss this matter further, you may contact me at (501) 682-0699, or you may e-mail myrl.lawrence@adeq.state.ar.us.

Sincerely,



Myrl V Lawrence Jr
Enforcement Analyst, Office of Water Quality
5301 Northshore Drive, North Little Rock, AR 72118

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Batesville
500 East Main
Batesville, AR 72501

LIS No. 08-083-003
Permit No. AR0020702
AFIN 32-00044

AMENDMENT NO. 003 TO CONSENT ADMINISTRATIVE ORDER

By mutual agreement of the City of Batesville (Respondent) and the Division of Environmental Quality¹ (DEQ), the Consent Administrative Order (CAO) LIS 08-083, as amended by CAO LIS 08-083-001 and CAO LIS 08-083-002, is hereby amended as follows:

1. Respondent and DEQ have agreed to amend the Findings of Fact Section of CAO LIS 08-083, as amended by CAO LIS 08-083-001 and CAO LIS 08-083-002, by adding the following Paragraphs:

9. On October 15, 2020, Respondent submitted an update to the milestone schedule as follows:

<u>Description of Work</u>	<u>Date of Work Completion</u>
Sewer System Rehabilitation by City Forces	Complete
Rehabilitation of Private Service Lines	April 2022
Mainline Construction	May 2023
Sewer System Rehabilitation by Contract	August 2024

¹ Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiencies Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the newly-created Department of Energy and Environment.

Sewer System Effectiveness
Evaluation

November 2025

Assess Remedial Action/Additional to
Facility Contained Peak Flows

July 2026

10. On November 19, 2020, a videoconference was conducted with DEQ, Respondent, and Olsson Engineering to discuss the previous amendments to CAO LIS 08-083, the delays in completing the previously approved milestone schedule events, and the revised milestone schedule submitted on October 15, 2020. Respondent requested that DEQ amend CAO LIS 08-083, as amended by CAO LIS 08-083-001 and CAO LIS 08-083-002, to incorporate the revised milestone schedule with a new final date of compliance of July 31, 2026.

2. Respondent and DEQ have further agreed to amend the Order and Agreement Section of CAO LIS 08-083, as amended by CAO LIS 08-083-001 and CAO LIS 08-083-002, by deleting the addition to paragraph 3 b enacted by amendment CAO LIS 08-083-001 and replacing it with the following addition to paragraph 3 b:

Respondent shall follow the updated milestone schedule submitted on October 19, 2020, and submit semi-annual progress reports on or before June 30, and December 31, of each year to DEQ. The progress reports shall detail the work performed to eliminate SSOs, progress on the milestones, and achieving final compliance. Progress reports shall be submitted until final compliance is achieved, and a final compliance report stamped by a Professional

Engineer licensed by the state of Arkansas is submitted to DEQ, and deemed adequate by DEQ. The final compliance report shall be submitted on or before July 31, 2026, and detail the work performed to eliminate SSOs, certify completion of all milestones, and certify compliance with the effluent limits of the Permit.

3. All provisions of CAO LIS 08-083, as amended by CAO LIS 08-083-001 and CAO LIS 08-083-002, not explicitly modified by this Amended CAO LIS 08-083-003 shall remain in full force and effect and are hereby incorporated by reference.

4. This Amended CAO LIS 08-083-003, is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule 8. This Amendment is effective upon the Director's Signature. DEQ retains the right for thirty (30) days following the close of the public comment period to rescind this Amendment based upon the comments received within the thirty (30) day public comment period notwithstanding the public notice requirements.

5. Nothing in this Amended CAO LIS 08-083-003 shall be construed as a waiver by DEQ of its enforcement authority over alleged violations not specifically addressed in CAO LIS 08-083, as amended by CAO LIS 08-083-001, CAO LIS 08-083-002, and CAO LIS 08-083-003. Also, this Amended CAO does not exonerate Respondent from any past, present, or future conduct that is not expressly addressed in CAO LIS 08-083, as amended by CAO LIS 08-083-001, CAO LIS 08-083-002, and CAO LIS 08-083-003, nor does it relieve Respondent of its responsibilities for obtaining any necessary permits.

6. Other than as set forth herein, this Amended CAO may not be altered, amended, or terminated except by written agreement signed by DEQ and by Respondent, or by action of DEQ exercising the right of rescission pursuant to Paragraph 4 above.

7. This Amended CAO has been reviewed and approved by the City Council of Respondent in a duly convened meeting with a quorum present. See copy of meeting minutes or resolution attached as Exhibit A.

8. The City Council of Respondent has authorized the Mayor and City Clerk/Treasurer to sign this Amended CAO on behalf of Respondent. See Exhibit A.

9. The City Council of Respondent has authorized the Mayor and City Clerk/Treasurer to expend funds for compliance activities required by this Amended CAO including but not limited to the payment of a civil penalty. See Exhibit A.

SO ORDERED THIS _____ DAY OF _____, 2021.

BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

City of Batesville

BY: _____
(Signature)

(Typed or printed name)

TITLE: _____

DATE: _____