

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Mena
323 Polk 53
Mena, AR 71953

LIS No. 18-046-002
Permit Number: AR0036692
AFIN 57-00423

AMENDMENT NO. 002 TO CONSENT ADMINISTRATIVE ORDER

By mutual agreement of City of Mena (Respondent) and the Division of Environmental Quality (DEQ), the Consent Administrative Order (CAO) LIS 18-046, as amended by CAO LIS 18-046-001, is hereby amended as follows:

1. Respondent and DEQ have agreed to amend the Findings of Fact Section of CAO LIS 18-046, as amended by CAO LIS 18-046-001, with the addition of the following paragraphs:

27. On December 6, 2019, Respondent and DEQ entered into amended CAO LIS 18-046-001. Per the Order and Agreement of the amended CAO, Respondent was to achieve final compliance with the permitted effluent limitations by December 1, 2023.

28. On June 15, 2022, DEQ conducted a compliance evaluation inspection of the facility. The inspection revealed the following violations:

- a. Seeps observed in the levee of Lagoon 2, in violation of Part III, Section B, Condition 1 of the Permit.
- b. Collection system experiences wet weather overflows due to I/I.

- c. An unpermitted bypass occurred between April 26, 2022 and April 27, 2022. This is a violation of Part III, Section B, Condition 1 of the Permit.
- d. Thermometer was not placed inside the composite sampler to monitor the temperature of the samples being collected. Failure to do so is in violation of Part III, Section C, Condition 3 of the Permit.

29. On June 15, 2022, DEQ also conducted a SSO and collection system evaluation of the facility. The inspection revealed the following:

- a. The collection system continues to experience significant I/I from wet weather.
- b. The Cordle Drive pump station had one inoperable pump, and no contact information was posted.
- c. The Mena School pump station did not have contact information posted and the visual alarm could not be verified.

30. On August 9, 2022, DEQ notified Respondent of the results of the June 15, 2022 inspections. On August 26, 2022, DEQ received the Respondent's response to the violations cited in the inspection report.

31. On August 1, 2023, Respondent submitted a request to DEQ to amend CAO LIS 18-046, as amended by CAO LIS 18-046-001.

The request included a revised milestone schedule to complete construction of a new wastewater treatment facility, and to achieve compliance with the Permit by August 31, 2026.

32. On January 16, 2024, Respondent submitted an annual report detailing progress made towards completing the SSES Collection System Rehabilitation Plan.

33. On May 20, 2024, DEQ conducted a review of the certified Discharge Monitoring Reports (DMRs) submitted by Respondent in accordance with the Permit. The review revealed the following violations of the permitted effluent discharge limits detailed in Part I, Section A of the Permit from September 1, 2019 through April 30, 2024:

- a. Fourteen (14) violations of Dissolved Oxygen;
- b. Thirteen (13) violations of Total Suspended Solids;
- c. Nine (9) violations of pH;
- d. Five (5) violations of Total Residual Chlorine;
- e. Three (3) violations of Peracetic Acid; and
- f. Three (3) violations of Total Recoverable Copper.

34. Each of the forty-seven (47) discharge limit violations listed in Paragraph 33 above constitutes a separate permit violation for a total of forty-seven (47) separation violations of Ark. Code Ann. § 8-4-217(a)(3).

2. Respondent and DEQ have further agreed to amend the Order and Agreement Section of CAO LIS 18-046, as amended by CAO LIS 18-046-001, by deleting Paragraph 4 and replacing the paragraph with the following:

4. On or before the fifteenth (15th) day of the month following the effective date of this Amended Order, and each quarter thereafter for a period lasting until this Amended Order is closed, Respondent shall submit quarterly progress reports detailing the progress that has been made towards compliance with the final permitted effluent limits.

3. Respondent and DEQ have further agreed to amend the Order and Agreement Section of CAO LIS 18-046, as amended by CAO LIS 18-046-001, by adding the following paragraphs:

15. Within sixty (60) calendar days from the effective date of this Amended CAO, Respondent shall submit a revised Corrective Action Plan (RCAP), milestone schedule, and final date of compliance. Upon review and approval by DEQ, Respondent shall comply with the terms, milestone schedule, and final compliance date contained in the approved RCAP. The milestone schedule and final compliance date shall be fully enforceable as terms of this CAO, as amended.

4. All provisions of CAO LIS 18-046, as amended by CAO LIS 18-046-001, not explicitly modified by this Amended CAO LIS 18-046-002 shall remain in full force and effect and are hereby incorporated by reference.

5. This Amended CAO 18-046-002 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 DEQ Director and Chief Administrator of Environment's signature. DEQ retains the right for thirty (30) calendar 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.
6. Nothing in this Amended CAO LIS 18-046-002 shall be construed as a waiver by DEQ of its enforcement authority over alleged violations not specifically addressed in CAO LIS 18-046, as amended by CAO LIS 18-046-001. Also, this Amended CAO does not exonerate Respondent from any past, present, or future conduct that is not expressly addressed in CAO LIS 18-046, as amended by CAO LIS 18-046-001 and 18-046-002, nor does it relieve Respondent of its responsibilities for obtaining any necessary permits.
7. 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 5 above.
8. 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.
9. 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.

10. 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 17 DAY OF JUNE, 2024.

Bailey Taylor

Bailey Taylor
Intaim CALEB J. OSBORNE, DIVISION OF ENVIRONMENTAL QUALITY, DIRECTOR *Intaim*
CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

City of Mena

BY: *Seth F. Smith*
(Signature)

SETH F. SMITH
(Typed or printed name)

TITLE: MAYOR

DATE: 06-11-2024

RESOLUTION NO. 1512

A RESOLUTION AUTHORIZING THE CITY OF Mena TO ENTER INTO A CONSENT ADMINISTRATIVE ORDER WITH THE ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT, DIVISION OF ENVIRONMENTAL QUALITY (DEQ)


WHEREAS, it is in the City's best interest to enter into an agreement with DEQ and resolve the violations of the Arkansas Water and Air Pollution Control Act listed in the proposed Consent Administrative Order.

WHEREAS, the Mayor and Public Works Director or other designated person, working with a Professional Engineer, have developed a plan of action to address the issues listed in the proposed Consent Administrative Order.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF Mena:

- 1. The proposed Consent Administrative Order has been reviewed and approved by the City Council in a duly convened meeting with a quorum present.*
- 2. The City Council of the City of Mena authorizes the Mayor to sign the proposed Consent Administrative Order.*
- 3. The City Council of the City of Mena authorizes the Mayor and treasurer to expend funds for compliance activities required by the proposed Consent Administrative Order including but not limited to the payment of a civil penalty as set forth in the proposed Consent Administrative Order.*

Adopted on this 11 day of June, 2024

APPROVED: 
Mayor

ATTEST: 
City Clerk