

# ADEQ

ARKANSAS  
Department of Environmental Quality

November 15, 2019

**CERTIFIED MAIL: 9489 0090 0027 6060 6299 80**

Honorable Seth Smith, Mayor  
City of Mena  
520 Mena Street  
Mena, AR 71953

email: [smithmayor@sbcglobal.net](mailto:smithmayor@sbcglobal.net)

**RE: NPDES Permit Number: AR0036692, AFIN: 57-00423  
PROPOSED CONSENT ADMINISTRATIVE ORDER ADMENDMENT**


Dear Mayor Smith:

On July 10, 2018, the Division of Environmental Quality (DEQ) and the City of Mena entered into Consent Administrative Order (CAO) LIS 18-046. Pursuant to Order and Agreement Paragraph 4 of CAO LIS 18-046, the City of Mena agreed to achieve compliance with all permitted effluent limitations no later than March 31, 2019. On September 11, 2019, the City of Mena requested extension of final compliance date. 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 the original, embossed copy** 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 Mena must also be submitted. Subsequently, the Director of DEQ will sign the CAO Amendment and the City of Mena 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) 682-0639, or you may e-mail [bailey.taylor@adeq.state.ar.us](mailto:bailey.taylor@adeq.state.ar.us).

Sincerely,



Bailey Taylor  
Enforcement Coordinator  
Office of Water Quality

cc: Aaron Benzing, P.E., Hawkins-Weir Engineers, Inc. ([aaron.benzing@hawkins-weir.com](mailto:aaron.benzing@hawkins-weir.com))  
Jason Haley, P.E., A.L. Franks Engineering ([jhaley@alfranksengineering.com](mailto:jhaley@alfranksengineering.com))

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Mena  
520 Mena Street  
Mena, AR 71953

LIS No. 18-046-001  
Permit No. AR0036692  
AFIN 57-00423

AMENDMENT NO. 001 TO CONSENT ADMINISTRATIVE ORDER

By mutual agreement of the City of Mena (Respondent) and the Division of Environmental Quality<sup>1</sup> (DEQ), the Consent Administrative Order (CAO) LIS 18-046 is hereby amended as follows:

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

20. On February 28, 2019, Respondent submitted a revised Corrective Action Plan (CAP) with a final compliance date of August 1, 2023 that included an Interim Operating Plan.

21. On March 5, 2019, Respondent submitted a request to DEQ to amend CAO LIS 18-046. The request included a revised milestone schedule to evaluate the treatment system and improvement alternatives with a new final date of compliance of August 1, 2023.

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<sup>1</sup> 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.

22. On August 21, 2019, Respondent submitted a Master Plan with a proposed project alternative to construct a new wastewater treatment plant with a final compliance date of December 1, 2023.

23. On August 29, 2019, Respondent submitted a Lagoon Levee Analysis which concluded Respondent's lagoon levees would require extensive remediation if the existing facility is to continue operation.

24. On September 11, 2019, Respondent submitted a request to extend the final compliance date to December 1, 2023, to implement Respondent's decision to construct a new wastewater treatment plant as recommended in the Master Plan, dated August 21, 2019.

25. DEQ conducted a review of the certified DMRs submitted by Respondent in accordance with the Permit. The review revealed the following violations of the permitted effluent discharge limits detailed in Part 1, Section A of the Permit from November 1, 2017 through August 31, 2019.

- a. Eleven (11) violations for Ammonia Nitrogen;
- b. Four (4) violations for Total Suspended Solids;
- c. Three (3) violations for Total Recoverable Copper;
- d. One (1) violation for pH; and
- e. One (1) violation for Dissolved Oxygen.

26. Each of the twenty (20) discharge limitation violations listed in Paragraph 25 above constitutes a separate permit violation for a total of twenty (20) separate 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, by deleting Paragraphs 3 and 4 and replacing the paragraphs with the following:

3. Respondent shall comply with the Interim Operating Plan detailed in the CAP dated February 28, 2019.

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. Respondent shall submit certification of compliance from a Professional Engineer (P.E.) licensed in the state of Arkansas, stating that the corrective actions listed in the Master Plan, dated August 21, 2019, have been completed and that Respondent is in compliance with the effluent limitations of the Permit by December 1, 2023.

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

4. This Amended CAO LIS 18-046-001, is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Regulation No. 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-day public comment period notwithstanding the public notice requirements.

5. Nothing in this Amended CAO LIS 18-046-001 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, 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 \_\_\_\_\_, 2019

\_\_\_\_\_  
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

City of Mena

BY: *Seth Smith*  
(Signature)

SETH F. SMITH  
(Typed or printed name)

TITLE: MAYOR

DATE: 11-26-19

RESOLUTION NO. 1372

**A RESOLUTION APPROVING A PROPOSED CONSENT ADMINISTRATIVE ORDER AMENDMENT WITH THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY REFERENCE ACTIONS NECESSARY TO COMPLETE A COLLECTION SYSTEM REHABILITATION PLAN FOR THE MENA WASTEWATER TREATMENT FACILITY AND AUTHORIZING THE MAYOR AND CITY CLERK/TREASURER TO EXECUTE THE ORDER ON BEHALF OF THE CITY OF MENA**

**WHEREAS**, the City of Mena owns and operates a wastewater treatment facility; and

**WHEREAS**, the Arkansas Department of Environmental Quality (ADEQ) has inspected this facility and noted several violations that need corrective action; and

**WHEREAS**, ADEQ and the City of Mena entered into Consent Administrative Order (CAO) LIS 18-046 on July 10, 2018 in which the City of Mena agreed to achieve compliance with all permitted effluent limitations no later than March 31, 2019; however, on September 11, 2019, the City of Mena requested an extension of the final compliance date to August 1, 2023, and after careful consideration, ADEQ is willing to accept this request.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MENA, ARKANSAS THAT:**

- Section 1:** The Mena City Council approves the Proposed Consent Administrative Order Amendment as submitted by the Arkansas Department of Environmental Quality.
- Section 2:** The Mayor and City Clerk/Treasurer are hereby authorized and directed to execute the Consent Administrative Order Amendment on behalf of the City of Mena.
- Section 3:** The Mayor and City Clerk/Treasurer are hereby authorized to execute any other documents and supporting material necessary and incident to effectuate its purpose and intent.

**PASSED AND APPROVED this 25<sup>th</sup> day of November, 2019.**

  
\_\_\_\_\_  
SETH F. SMITH, MAYOR

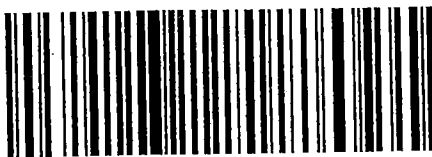
ATTEST:  
  
\_\_\_\_\_  
LINDA REXROAD, CITY CLERK/TREASURER



City of Mena  
520 Mena Street  
Mena, Arkansas 71953

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

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71953  
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R2304M114828-06

**RETURN RECEIPT  
REQUESTED**

Arkansas Department of Environmental Quality  
5301 Northshore Drive  
North Little Rock, Arkansas 72118-5317