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# Sanitary Sewer Overflow/Clean Water Act Enforcement: Arkansas Department of Environmental Quality and Polk County, Arkansas Municipality Enter into Consent Administrative Order

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The Arkansas Department of Environmental Quality (“ADEQ”) and the City of Mena, Arkansas (“Mena”) entered into a May 24th Consent Administrative Order (“CAO”) addressing alleged violations of a Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permit. See LIS No. 18-046.

Mena is stated to operate a municipal wastewater treatment facility (“Facility”) in Polk County, Arkansas.

The Facility is stated to discharge treated wastewater to an unnamed tributary of Prairie Creek, which eventually flows to the Ouachita River. Such discharge is authorized pursuant to a NPDES permit.

Mena is stated to have undertaken a Sanitary Sewer Evaluation Survey (“SSES”) in 2010 through a Professional Engineer licensed in the State of Arkansas. The SSES was completed on May 14, 2012.

ADEQ is stated to have conducted a review of the sanitary sewer overflows (“SSO”) and treatment bypasses reported by Mena in accordance with the NPDES permit for the period of October 1, 2014, through October 31, 2017.

The CAO identifies:

- 62 SSOs (which are alleged to constitute unpermitted discharges)
- 2 discharges of partially treated wastewater from an unpermitted outfall (which are allegedly unpermitted discharges of waste into the waters of the State)

ADEQ requested a Corrective Action Plan (“CAP”) from Mena on May 12, 2016, to address the on-going SSOs.

Mena is stated to have submitted the SSES previously referenced on May 14, 2016. Further, on November 1, 2016, it provided a letter describing the corrective actions taken as part of the SSES and suggested additional actions to be taken to address the SSOs.

ADEQ is stated to have conducted a review of certified Discharge Monitoring Reports (“DMRs”) submitted by Mena in accordance with the NPDES permit. Alleged violations of permitted effluent discharge limits are stated to include:

- 5 violations for Ammonia Nitrogen
- 1 violation of Total Suspended Solids

Mena is stated to have reported a Whole Effluent Toxicity (“WET”) Test failure on May 8, 2017 for fathead minnow survival. The failure was reported as due to excessive inflow and infiltration. Subsequent WET tests are stated to have passed the standard (i.e., retests).

The CAO requires that within 60 days of the effective date of the CAO Mena shall, through a Professional Engineer licensed in the State of Arkansas, submit to ADEQ a Collection System Rehabilitation and Treatment System Evaluation Plan (“Plan”). The Plan is required to at a minimum include an evaluation and summary of the completed actions performed in accordance with the previous SSES, corrective actions necessary to address the collection systems capacity issues, and various other items. A milestone schedule is also required. Upon approval by ADEQ, Mena is required to comply with the Plan. Also required is a six-month progress report. In addition, Mena is required to immediately comply with all permitted limits, unless a CAP is submitted as previously referenced and approved by ADEQ.

If unable to immediately comply with all permitted effluent limits, Mena is required within 60 days of the effective date of the CAO to submit to ADEQ, for review and approval, a comprehensive CAP developed by a Professional Engineer. It shall include a reasonable milestone schedule and a number of other items. Once approved, the milestone schedule shall be fully enforceable per the terms of the CAO.

The CAO assesses a civil penalty of \$3,000. A copy of the [CAO](#) can be found here.