



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
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VIA ELECTRONIC MAIL

Edward "Ted" Henifin, ted@jxnwater.com
Interim Third-Party Manager
JXN Water
c/o Paul Calamita, Esq., paul@aqualaw.com
c/o Malissa Wilson, Esq., Malissa.Wilson@formanwatkins.com

Re: United States v. City of Jackson, Case No. 3:22-cv-00686 – HTW-LGI
(S.D. Miss.), Safe Drinking Water Act Case
Comments on Consolidated Report of Activities for the Quarter Ended
June 30, 2023

Dear Mr. Henifin:

The U.S. Environmental Protection Agency has had an opportunity to review JXN Water's Consolidated Report of Activities for the Quarter ended June 30, 2023 (Q2'23 Report), prepared in accordance with the Interim Stipulated Order (ISO) for the above-referenced matter. The EPA does not intend to raise these items with the Court at this time but, rather, would like to discuss them with you first, and believes that many, most, or all of the items raised below can be worked out through further discussions amongst the parties.

The EPA also notes that these comments are not inclusive of any comments that the Agency may have in regard to quarterly reporting for Safe Drinking Water Act Section 1442(b) Grant Nos. 84054501-0 and 84060101-0. The Agency reserves its right to provide such comments in separate correspondence.

1. **Data Availability/Public Transparency.**

Pursuant to Paragraph 17.b of the ISO, any contract requests for proposals should be made available on the JXN Water website. On page 30 of the Q2'23 Report, the ITPM indicates that it has received responses to the request for proposals for the Alternative Water Supply Plan (AWSP). Therefore, the ITPM should make the AWSP request for proposals available on its website, consistent with the ISO requirement.

The EPA also believes that increased data availability and transparency will increase public confidence in the System and the ITPM's efforts. Members of the public have also expressed to the EPA a desire to review water quality data and the ITPM's System contracts. Consistent with

Paragraph 17.b of the ISO, the EPA believes that there may be opportunities for improving availability of data of interest to the public, which could include posting monthly operating reports (MORs), lead and copper sampling results, water quality parameter testing, or other pertinent information submitted to the Mississippi State Department of Health (MSDH) on the JXN Water website, to facilitate public access to such data and continue to build trust in the quality of the City's drinking water.

2. **Alternative Water Supply Plan.** Development of a durable and comprehensive AWSP continues to be a high priority for the EPA. Members of the public have also expressed concerns to the EPA regarding the continued need for an AWSP. In the Q1'23 Report, the ITPM projected that "Negotiations complete with vendor and draft plan submitted to parties for review and comment," would be completed by June 30, 2023. The ITPM had previously committed to full implementation of the AWSP by October 2023, to which the EPA had agreed. The Q2'23 Report now indicates that proposals are still being evaluated, and that the ITPM anticipates submitting an AWSP to the EPA in early Q3'2023. The EPA accepts the ITPM's recent request to meet and discuss the AWSP further; however, pursuant to Paragraph 18 of the ISO, to the extent that the ITPM anticipates further delay in full AWSP implementation past October 2023, the EPA requests clarification and reserves its right to object to such delay. Moreover, the EPA strongly encourages the ITPM to expedite development and full implementation of that Plan to the greatest extent possible. If certain portions of the AWSP are currently implementable, the EPA requests that the ITPM begin such implementation immediately.

The EPA also offers the following comments and questions regarding the AWSP:

- Figure 5, page 8, indicates that JXN Water has spent \$48,146.16 on "Emergency Water Supply." What, specifically, does "Emergency Water Supply" entail? Can the ITPM provide a detailed accounting of these costs? If this was being used to procure drinking water, please provide the number of units procured and to how many customers these units were supplied.
- The ITPM previously indicated that the City had a large stockpile of bottled water. Does that stockpile still exist? If so, how many units remain?
- On page 30 of the Q2'23 Report, the ITPM indicates that alternative water would be provided for BWNs at a large scale (20,000+ customers). To the extent that the ITPM plans only to provide for alternative water for events impacting more than 20,000 customers, the EPA disagrees that provision of emergency water is dependent upon the number of impacted customers. The AWSP should adequately address the provision of alternative water for any number of impacted customers, whether on a small- or large-scale. Please clarify the intent of differentiating between small- and large-scale BWNs in the Q2'23 Report.
- The AWSP is not included in Table M of the Q2'23 Report. Please ensure that the AWSP is included in this Table in future Reports.

3. **Precautionary Boil Water Notices.** The EPA appreciates the list of Boil Water Notices (BWNs) included in the Q2'23 Report. The EPA believes that there are additional opportunities to increase transparency around BWN events, which may include posting BWN lift dates (to demonstrate to the public which BWNs may still be in effect and/or how quickly BWNs are being lifted); maintaining a list of historical (i.e., past, lifted BWNs) and current BWNs on the JXN Water website to facilitate public awareness; and utilizing broader and/or more varied means for alerting the public about BWNs so that all affected customers (including those without reliable internet access) have timely and accurate information regarding the status of their drinking water.

The EPA also offers the following comments and questions regarding BWNs:

- On the list of BWNs issued, at page 19 of the Q2'23 Report, there appears to be a double BWN entry on May 4, 2023, for Meadows Circle. Please clarify if this was two separate BWNs, or an extraneous entry.
- The EPA did not receive notice of the surface water BWNs issued on April 6, 2023, and April 28, 2023. Please ensure that the EPA receives timely notices of all BWNs in the future.

4. **Distribution Study and Analysis Plan (Priority Project No. 5(a)).** On page 39 of the Q2'23 Report, the ITPM indicates that the Distribution Study and Analysis Plan will be submitted to the EPA for review and approval in July 2023. On page 49 of the Q2'23 Report, the ITPM indicates that the Plan will be submitted to the EPA in the quarter ending in September 2023. Can you please clarify the approximate date on which the EPA should expect to receive this Plan for review?

5. **Winterization of System (Priority Project No. 2).** On page 38 of the Q2'23 Report, the ITPM indicates that a plan for longer-term winterization measures will be completed in July 2023. As of the date of this letter, the EPA has not received a copy of this plan. Please provide the plan to the EPA.

6. **System Stabilization and Sustainability Plan (Priority Project No. 6).** In the Q1'23 Report, and in the EPA's subsequent correspondence with ITPM on it (dated May 16, May 18 and May 31, 2023), the ITPM indicated a new due date for this Plan of December 31, 2023. The Q2'23 Report now shows a new due date of October 31, 2023. See page 40. Please explain this change and update your website to inform the public of the correct schedule.

7. **GIS Mapping and Information & Asset Management Support (Priority Projects No. 5(a)(iii) and (v)).** The EPA appreciates this effort and encourages the ITPM to consider sharing relevant mapping and asset information on its publicly-facing website to increase transparency about the System as a whole.

8. **Purchase of Building.** On page 13 of the Q2'23 Report, the ITPM indicates that it has purchased a building at 1054 Greymont Avenue. Please clarify who or what entity purchased the administrative building.

9. **Summary of Delays, page 20.** This section is misleading. The ITPM provides that no delays should impact the achievement of the objectives, but there is a column in Table M that outlines delays for specific projects. Please clarify whether and to what extent the ITPM expects delays of Priority Projects, and ensure the accuracy of summaries of delays in future reports.

10. **Metering, page 16.** The ITPM indicates that installed meters are reporting nearly 97% successfully and that once issues are resolved with two collectors, successful reads will “increase significantly.” Does this mean that the 97% will increase significantly or that the correct readings from the beginning of the ISO will be significantly increased?

The EPA also notes that the ITPM intends to propose schedule modifications to several Priority Projects, including Optimal Corrosion Control Treatment (Priority Project No. 3), Chemical Feed Replacement (Priority Project No. 8), and Chlorine System Replacement (Priority Project No. 9). The EPA looks forward to receiving these proposed schedule modifications for our review, pursuant to Paragraph 18 of the ISO.

The EPA looks forward to discussing these issues with you. Please contact me at (404) 562-9701 or via email at Armor.Suzanne@epa.gov to schedule such a call. Thank you for your attention to this matter.

Sincerely,

Suzanne K. Armor
Attorney-Advisor

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