

# EPA ORGANIZATION

Internal deliberative pre-decisional - FOR USE BY 2024 PRESIDENT-ELECT TRANSITION TEAM MEMBERS ONLY

## ISSUE SUMMARY:

After major flooding exacerbated ongoing operational and maintenance issues with the Jackson, Mississippi, drinking water system causing a systemwide shutdown, in November 2022, the EPA, Department of Justice (DOJ), and the Mississippi State Department of Health (MSDH) entered into a civil judicial Interim Stipulated Order (Drinking Water ISO) under the Safe Drinking Water Act (SDWA) with the City of Jackson (City). The Drinking Water ISO replaced a SDWA Administrative Order and an Emergency Order that were previously issued by the EPA Region 4. It also put operations of the City's drinking water system and water and sewer billing administration under the control of an interim third-party manager (ITPM). Additionally, after years of noncompliance with a Clean Water Act (CWA) Consent Decree, in September 2023, the EPA, DOJ, and the Mississippi Department of Environmental Quality (MDEQ) entered into a Stipulated Order (Wastewater SO) with the City which placed the City's wastewater system under the control of the ITPM. With the EPA's financial, technical, and legal support, the ITPM's work has improved the City's drinking water, wastewater, and billing and collection systems. The ITPM, through the corporation he established, JXN Water, has completed infrastructure projects and managed the drinking water system, which has improved water reliability and safety for Jackson residents. JXN Water has also addressed over 200 sewer failures to address sanitary sewer overflows. Other needed rehabilitation work of the City's drinking water and wastewater system continues.

## KEY POINTS:

### Background - City of Jackson Drinking Water System:

- The City of Jackson, MS owns two public water systems that, together, serve approximately 160,000 people, with over 77,000 service connections. The surface water system includes two surface water treatment plants, J.H. Fewell and O.B. Curtis, as well as a groundwater system. For ease of reference, these two systems – surface water and groundwater – are collectively referred to as Jackson's "public water system."
- In February 2020, the EPA and MSDH inspected Jackson's public water system and found serious operational and maintenance concerns. Shortly thereafter, MSDH referred the public water system to the EPA for federal enforcement.
- In March 2020, the EPA issued an emergency administrative order to the City under the authority of Section 1431 of the SDWA to address the concerns presenting imminent and substantial endangerment to public health in the public water system.
- In 2021, the EPA issued an Administrative Order on Consent to the City under the authority of Section 1414(g) of the SDWA. The administrative order required the city to properly repair, operate, and staff its surface water treatment plants.
- During the August 2022, flood event, multiple raw water intake pumps failed at the O.B. Curtis water treatment plant, impacting its ability to produce adequate quantities of water, and causing a loss of pressure in the distribution system. In the same month, flooding exacerbated the pre-existing problems at O.B. Curtis by disturbing the water treatment process, clogging filters, and preventing O.B. Curtis from producing any drinking water. Reduced water output from both O.B. Curtis and J.H. Fewell created a water outage throughout the city. For several weeks, the city lacked sufficient pressure in some areas to sustain water service, suppress fires, flush toilets, and maintain optimal drinking water disinfection. At the same time, the city was under a weeks-long,

system-wide boil water advisory, which impacted residents, school openings, and businesses operations. Both O.B. Curtis and J.H. Fewell also lacked sufficient management, Class A Operators, and maintenance staff.

- As a result of the water outage in late August 2022, the Mayor, the Governor, and President Biden all made emergency declarations. Thereafter, a unified command consisting of the Mississippi Emergency Management Agency, MSDH, the city, EPA, FEMA, and the USACE deployed to Jackson to take actions to restore and sustain water service to the city's customers. These actions included, but were not limited to: reestablishing raw water flow; restoring water tank levels and produced water volumes; integrating temporary operators from other states to assist with plant operations; repairing or procuring critical treatment equipment; increasing facility maintenance capabilities; sourcing parts; and evaluating the winterization needs of the public water system.
- On or around September 6, 2022, water service to customers was restored but work to further stabilize the public water system continued.
- In November 2022, because of the disruption of the system after the drinking water emergency and the city's inability to comply with the emergency order and administrative order, the EPA, DOJ, and MSDH entered into the Drinking Water ISO with the city.
- Under the Drinking Water ISO, the U.S District Court for the Southern District of MS (Court) appointed an ITPM to manage, operate and stabilize the city's public water system and to manage the city's Water and Sewer Billing Administration.
- The ITPM created the JXN Water corporation to carry out the duties specified in the ISO, including implementation of a set of priority projects. The priority projects include: ensuring the water treatment plants have certified operators on-site at all times, key system repairs and upgrades, and an evaluation of future system needs.
- The EPA, DOJ, MSDH and the city are negotiating a longer-term agreement which will outline the work needed to put the drinking water system on a path to sustained compliance.

#### Funding to support Drinking Water System:

- On December 29, 2022, Congress provided \$600 million in funding for the Jackson drinking water system. Of the total, \$450 million was appropriated for the Drinking Water State Revolving Loan Fund (DWSRF) and \$150 million was appropriated under the emergency authority of SDWA 1442(b) for grants to the drinking water system. This is the first time the EPA used its emergency grant authority under SDWA Section 1442(b).
- In August 2023, the EPA awarded a capitalization grant of \$449 million to the MSDH DWSRF. The EPA was authorized to retain up to \$1 million for administrative management and oversight. The ITPM has identified \$359 million in projects to date, including water treatment plant and distribution system upgrades, forgiveness of active DWSRF loans, and refinancing of non-SRF municipal debt related to the public water system.
- All SRF projects must be approved in the MSDH DWSRF Intended Use Plan (IUP). MSDH issued an amendment to the IUP in September 2024, to include the ITPM's expanded set of projects. The amendment is subject to a public comment period and, thereafter, must be approved by the State of Mississippi Local Governments and Rural Water Systems Improvement Board. Once approved, the EPA will consider increasing the payment ceiling on the associated capitalization grant accordingly.
- As of September 2024, the EPA had awarded \$145.96 million under the 1442(b) grant. As of September 2024, the ITPM has spent \$136.87 million under the grant. The EPA continues to work with the ITPM to ensure appropriate use of federal funds.
- The Financial Management Plan, developed by the ITPM per the ISO, highlights that existing debt burdens the financial capacity of the utility and presents options for retiring debt, including the use of federal resources. The amendment to the MS DWSRF IUP described above, includes \$35 million in funding to retire non-SRF municipal debt for a previously completed water meter project, and \$33 million in funding to retire active DWSRF loans.

#### Current Status Drinking Water System

- JXN Water has made significant progress on critical equipment projects such as filter repair, corrosion control optimization, and winterization of the plants. Production capacity at both water treatment plants has increased and stabilized.

- Repairs to the distribution system have improved system reliability and resulted in a 25% decrease in average daily demand. System recovery can be attributed to work in the distribution system including line repairs, valve identification, and the addition of pressure sensors.
- Since the ITPM started, maintenance in both the distribution system and the water treatment plants have greatly improved. The system now has Class A operators as required by Mississippi regulation, and operators to provide training, laboratory technicians, and maintenance personnel.
- JXN Water improved its financial operations by replacing customer meters and increasing billing and collection rates, but it remains dependent on federal funding for operation of and repairs to the drinking water system.

#### Background – Wastewater System:

- In 2013, the EPA, DOJ and MDEQ entered into a CWA Consent Decree (CWA CD) with the city to address violations in the wastewater system, including wastewater treatment plants and the sewer system. The CWA CD also required the city to develop and implement management, operations, and maintenance programs (“MOM programs”). Due to its financial condition, the City was unable to implement the MOM programs and was unable to prevent further decay of the sewage treatment systems. Consequently, the court entered the Wastewater SO on September 30, 2023 and placed control of the sewer system in the hands of the ITPM through JXN Water.
- The Wastewater SO established a list of 11 wastewater priority projects.
- The Wastewater SO stayed the CWA CD while the ITPM rehabilitates the wastewater system. The Wastewater SO remains in place until a superseding CWA CD is entered, substantial compliance with the priority projects is achieved, or four years from the date of entry, unless the court approves an extension.
- As of July 31, 2024, JXN Water had completed approximately 75.8 miles (400,600 linear feet) of cleaning and closed-circuit television of the sewer lines. Of the 215 emergency sewer failure locations in the Wastewater SO, repairs have been completed or work has started or been assigned at 210 locations. The total number of repaired sewer failure locations to date is 368.

#### Funding to support Wastewater System:

- There are limited funding options to implement the Wastewater SO. Severe financial difficulties affected the City’s ability to comply with the CWA CD and the ITPM expressed similar difficulties with the Wastewater SO. Contributing factors include ineffective water and wastewater billing collections, the downgrading in 2018 of the City’s bond rating, and a continuing declining income level of the ratepayers.
  - o The ITPM's efforts to increase the revenue from the billing system continue, but even full collection is not expected to cover the implementation cost of the Wastewater SO.
  - o The ITPM has not been able to identify a funding source for the matching funds needed for the \$125 million of USACE funding that can be used for wastewater infrastructure improvements.

#### ONGOING/UPCOMING REVIEWS FOR FY2025:

- The EPA will continue to review drinking water and wastewater Quarterly Reports and revised MOM Programs.

#### KEY EXTERNAL STAKEHOLDERS:

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| <input checked="" type="checkbox"/> Congress | <input type="checkbox"/> Industry                     | <input checked="" type="checkbox"/> States | <input type="checkbox"/> Tribes | <input checked="" type="checkbox"/> Media | <input checked="" type="checkbox"/> Other Federal Agency |
| <input checked="" type="checkbox"/> NGO      | <input checked="" type="checkbox"/> Local Governments | <input checked="" type="checkbox"/> Public |                                 |   |  |

#### MOVING FORWARD:

- EPA, MSDH and DOJ are negotiating a longer-term partial SDWA Consent Decree with the City that will outline the work needed to put the drinking water system on a path to sustained compliance.
- The EPA, DOJ, and MDEQ continue monitoring the implementation of the Wastewater SO.

