



U.S. Department of Justice

Environment and Natural Resources Division

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September 26, 2022

The Honorable Chokwe A. Lumumba
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Re: Safe Drinking Water Act Matter Regarding Jackson, Mississippi

Dear Mayor Lumumba, Ms. Martin, and Mr. Williamson:

The United States Department of Justice, on behalf of the Environmental Protection Agency, invites the City of Jackson to engage in immediate negotiations relating to the City's recent drinking water crisis. We are prepared to file an action against the City under the Safe Drinking Water Act but would hope this matter could be resolved with an enforceable agreement that is in the best interest of both the City and the United States.

A judicially enforceable settlement would have to address the violations of the Safe Drinking Water Act (SDWA) related to the City's public water system described below. The United States also believes that an imminent and substantial endangerment to human health exists, as evidenced by the roughly 300 boil water notices that have been issued over the past two years, the multiple line breaks during that same time period, and the recent drinking water crisis where most City residents did not have access to running water for many days.

The United States intends to seek appropriate relief pursuant to Sections 1414 and 1431 of the SDWA, 42 U.S.C. §§ 300g-3 and 300i, to remedy these violations. Specifically, we intend to seek a comprehensive plan for remedying the violations and a schedule for implementing that plan. Negotiations would include discussion of accountability mechanisms such as temporary third-party management of the system. We invite the City to negotiate that plan with the United States and request that an initial meeting occur later this week.

Violations

As noted, the Justice Department believes that contaminants are in or likely to enter the City's public water system that may present an imminent and substantial endangerment to public health. The Justice Department further believes that State and local authorities have not acted to protect public health, pursuant to Section 1431 of the SDWA, 42 U.S.C. § 300i. The claims to be resolved also include the following violations of Section 1414 of the SDWA, 42 U.S.C. § 300g-3, including (i) National Primary Drinking Water Regulations; (ii) Mississippi Primary Drinking Water Regulations; and (iii) an Administrative Compliance Order on Consent pursuant to Section 1414(g) of the SDWA, effective July 1, 2021, Docket No. SDWA-04-2020-2301 ("AOC"), entered into between the City and EPA, and violations of EPA's Emergency Administrative Order pursuant to Section 1431 of the SDWA, effective April 2, 2020, Docket No. SDWA-04-2020-2300 (amended by Docket No. SDWA-04-020-2300) ("Emergency Order"):

- 1) Failure to adequately staff water treatment plants with Class A operators (Miss. Admin. Code § 15-20-72.2.2.1(5));
- 2) Failure to implement an Alternative Water Supply Plan pursuant to EPA's Emergency Order;
- 3) Failure to comply with the timeline for general filter rehabilitation pursuant to the AOC;
- 4) Failure to install corrosion control pursuant to the Lead and Copper Rule (40 C.F.R. §§ 141.80(e) and 141.83; Miss. Admin. Code § 15-20-72.1.3.2);
- 5) Exceedance of the haloacetic acids five (HAA5) maximum contaminant level (40 C.F.R. § 141.64(b)(2) and Miss. Admin. Code § 15-20-72.1.2.6);
- 6) Exceedance of single turbidity limits (40 C.F.R. § 141.173(a)(2) and Miss. Admin. Code § 15-20-72.1.7.4) and monthly turbidity limits (40 C.F.R. § 141.173(a)(1) and Miss. Admin. Code § 15-20-72.1.7.4).

There may be other violations, claims, or matters not listed above that might be addressed in comprehensive negotiations, or that the United States might pursue in litigation absent a negotiated settlement.

In addition, the City must also address Clean Water Act (CWA) violations at its wastewater system and violations of the consent decree entered in *United States and State of Mississippi v. City of Jackson, Mississippi*, Case No. 3:12-CV-790 (S.D. Miss.). Negotiations could therefore address any overlap in the appropriate resolution of the CWA matter with the SDWA claims. The terms of a negotiated settlement would be subject to approval of the appropriate officials at the Department of Justice and Environmental Protection Agency.

* * *

We hope you will join us to discuss the path forward in our shared goal of ensuring reliable delivery of safe drinking water to the people of Jackson and Hinds County. If you would like to pursue settlement discussions, please respond as soon as you can, and no later than Wednesday, September 28, so we can attempt to schedule an initial meeting this week. If you have any questions, please do not hesitate to contact me at any time.

Sincerely,



TODD KIM
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Environment and Natural Resources Division

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