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Via Electronic Mail – wingate_chambers@mssd.uscourts.gov

Honorable U.S. District Judge Henry T. Wingate
U.S. District Court for the Southern District of Mississippi
501 East Court Street, Suite 6.750
Jackson, MS 39201

Re: *United States v. Jackson*, Case No: 3:12-cv-790-HTW-LGI
United States v. Jackson, Case No: 3:22-cv-00686-HTW-LGI

Honorable Judge Wingate,

Per the Court's instructions at the November 13, 2025 hearing, the following is the position of the Interim Third Party Manager (ITPM) to the Intervenor's Motion to Amend the Interim Stipulated Order (ISO). As an initial statement, the ITPM maintains the same position as and agrees with the objections of the United States. In addition, the ITPM provides the following opposition to Intervenor's Motion.

After taking no legal action for many years, while Jackson's water system deteriorated and finally ceased to effectively operate, Intervenor inserted themselves into a case that was already stayed to allow the ITPM to restore the water system pursuant to an order stipulated by the parties who actually took action at the time of need. Intervenor effectively want to litigate the case despite the stay. Intervenor declare the water emergency to be over and want to force the Court to prioritize revisiting the Stipulated Order to address two minor issues (FOIA and Procurement) and one premature issue (transition plan).

Intervenor want this Court to take a piecemeal approach to updating the ISO to deal with their three issues rather than having a comprehensive update once the system is stabilized. For example, the Parties have already discussed with the Court that the Drinking Water ISO should be updated to conform to and reflect certain revisions that the Parties and Court made in the sewer order. Having the ITPM develop a transition plan is already one of those revisions. But there are other issues, which have been pending far longer than Intervenor's requests, including the clarification of liability protection which the ITPM and the ITPM's agents have sought well before Intervenor's raised their issues. The Court should establish an orderly process and timing for the Water ISO update to address the comprehensive set of issues that have been identified by all parties and the ITPM.

We also note that *after* the system failed without taking any legal action, Intervenor's eventually filed their intervention complaint, raising three narrow issues:

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Count 1 – Exceedance of Turbidity Limits

Count 2 – Delay in rehabilitation of the filters at the J.H. Fewell plant

Count 3 – Failure to install corrosion control

These concerns are moot.

Count 1 is now moot as the system is meeting the turbidity limits.

Count 2 is also moot because the filter work at J.H. Fewell is done.

Count 3 is also moot for three reasons.

First, the system has consistently met its lead and copper requirements for several years. Second, the system is now meeting the secondary Water Quality Parameters, which serve as a tripwire to ensure the system meets its lead and copper requirements. Third, the actual construction project to further upgrade corrosion control equipment is underway and is expected to be done around the end of the second quarter next year.

Those are the issues raised in their intervention. Significantly, none of Intervenors' proposed changes to the ISO have any relation to these three issues that they sued over. Extensive information about all three of their substantive issues is contained in the quarterly reports, financial management plan, and the other extensive reporting which the ITPM has been providing. We are not aware that we have received a single question from the Intervenors about the quarterly reports.

Moving to the new issues raised in their Motion, at bottom, the ITPM disagrees vigorously that the emergency is over. He cannot pay the water and sewer systems' bills, and needed significant assistance from Congress to keep the water system financially viable into 2026. Stated simply, over the objections of the Mayor and City Council (along with the Intervenors), a rate increase is desperately needed to ensure the water system does not backslide to the state of disrepair that necessitated the ITPM's appointment and years of work. Beyond the water system, we no longer have the funds to fix the daily flow of raw sewage into the City of Jackson's streets and streams.

Indeed, the Intervenors' contention that the emergency is over is not only at odds with the ITPM's opinion, it is contradicted by both Congress and the Jackson City Council. Section 154 of the Senate legislation to reopen the Government includes a provision expressly stating that the \$54 million lifeline being transferred for operations and maintenance use is "designated as being for an emergency requirement." This congressional designation reaffirms that this situation remains an ongoing emergency, supplementing the continuing City Council emergency declarations.

The ITPM disagrees with the suggested revisions to the ISO *at this time*. The continued need for the exemption from FOIA is evidenced by the Intervenors' own unfocused demands for information that is already available to them in the numerous reports, including audited financial statements and rate reports, as well as other information they have been provided. While they continue to complain about the procurement exemption, no one has identified a single contract

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that reflects even the slightest impropriety. In fact, most of the ITPM's contracting is done using federal grant and loan funds, for which public procurement is followed.

The Intervenors have been unhelpful from the start. Despite receiving significant amounts of information, they have provided no substantive input on the issues that are critical to the system's future. Their public opposition to the rate increase and necessary shutoffs, while simultaneously complaining about the collection rate, has made it more difficult to stabilize the systems and minimize the costs on future ratepayers. Additionally, their silence on the SNAP rate litigation was notable.

The ITPM agrees (as previously discussed in open court) that the transition plan outlined in the sewer order will also cover the water system. He is also open to discussing exemptions from FOIA and procurement (noting that most or all the loan and grant money followed public procurement), along with the other issues identified by the parties prior to the Intervenors' participation.

In closing, we disagree that now is the time to let the Intervenors modify the Water ISO with their two minor and one premature issues – none of which relate to the claims on which the Court granted them intervention. We think the best course of action is for the parties to meet during the first quarter of 2026 to discuss a joint stipulated update to the water (and, if warranted, sewer) order for the Court's consideration.

Sincerely,

FORMAN WATKINS & KRUTZ LLP



Malissa Wilson