

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

UNITED STATES OF AMERICA, )  
)  
and the STATE OF MISSISSIPPI, )  
)  
Plaintiffs, )  
)  
v. )  
)  
THE CITY OF JACKSON, MISSISSIPPI, )  
)  
Defendant. )

Case No. 3:12-cv-790-HTW-LGI  
(Clean Water Act Case)

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. )  
)  
THE CITY OF JACKSON, MISSISSIPPI, )  
)  
Defendant. )

Case No. 3:22-cv-00686-HTW-LGI  
(Safe Drinking Water Act Case)

**ORDER**

THIS MATTER is before the Court on the *ore tenus* motion of the Interim Third-Party Manager, d/b/a JXN Water, Inc. (“JXN Water”), for clarification of this Court’s Interim Stipulated Order [the “ISO,” Case No. 3:22-cv-686 Doc. 6], Amendment to the ISO [Case No. 3:22-cv-686 Doc. 23] and Stipulated Order on the Sewer System [Case No. 3:12-cv-790 Doc. 72] regarding JXN Water’s income.

Under the ISO and Amendment to the ISO, the Interim Third-Party Manager, through JXN Water, is operating and maintaining the City of Jackson, Mississippi’s public drinking water system on an interim basis as an officer and agent of this Court. Under the ISO, the Interim Third-

Party Manager was given oversight and responsibility for the Water Sewer Billing Administration (“WSBA”). Likewise, pursuant to the Stipulated Order on the Sewer System, the Interim Third-Party Manager, again working through JXN Water, has recently been tasked with operating and maintaining the City of Jackson’s sewer system over at least the next four years, as an officer and agent of this Court.

Although, based on the terms of the ISO, the Amendment to the ISO, and the Stipulated Order on the Sewer System, the City of Jackson is cooperating with and assisting JXN Water in the operation and maintenance of the public drinking water system and sewer system, JXN Water exists separately from and is not a part of the City of Jackson. The Interim Third-Party Manager reports that income received by JXN Water from its operation of the public drinking water system, the sewer system, and the WSBA is used entirely to operate and maintain the systems, and therefore no private interest can, has, or will receive distributions from JXN Water’s revenue, now or upon JXN Water’s dissolution. Based on the Interim Third-Party Manager’s representation, all income received by JXN Water, now and forever, accrues solely to the benefit of the City of Jackson as a result of functions performed by JXN Water that otherwise would be performed by the City of Jackson.

For these reasons, the Court finds that the *ore tenus* motion for clarification should be GRANTED.

IT IS, THEREFORE, ORDERED that JXN Water’s income is and shall be used entirely to operate and maintain the systems, and JXN Water’s income shall not be used for any other purpose.<sup>1</sup> IT IS FURTHER ORDERED that nothing in this Order shall be considered a

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<sup>1</sup> This Order is limited to income received by JXN Water and does not concern income received by the Interim Third-Party Manager or his agents as compensation for services and expenses incurred operating and maintaining the City of Jackson’s public drinking water system and sewer system. Moreover, this Order does not modify the ITPM’s liability for any willful misconduct or gross negligence as provided in the ISOs.

determination that any income received by JXN Water constitutes gross income within the meaning of Section 115 of the Internal Revenue Code<sup>2</sup> and that nothing in this Order shall be considered a determination of the tax status of JXN Water under the Internal Revenue Code and further, nothing in this Order shall be considered binding upon the United States or the Internal Revenue Service.

SO ORDERED this the 22nd day of December, 2023.

/s/HENRY T. WINGATE  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> Gross income does not include--

- (1) income derived from any public utility or the exercise of any essential governmental function and accruing to a State or any political subdivision thereof, or the District of Columbia; or
- (2) income accruing to the government of any possession of the United States, or any political subdivision thereof.

26 U.S.C.A. § 115 (West)