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Nathan "Burl" Cain
Commissioner
Mississippi Department of
Corrections
Central Office
301 North Lamar Street
Jackson, MS 39201

Chris Wells
Executive Director
Mississippi Department of Environmental
Quality
P. O. Box 2261
Jackson, MS 39225

Timothy Morris
Superintendent
Mississippi State Penitentiary
Hwy 49 West
Parchman, MS 38738

Dr. Thomas Dobbs
State Health Officer
Mississippi State Department of Health
570 East Woodrow Wilson Drive
Jackson, MS 39216

We write on behalf of the Southern Poverty Law Center (SPLC) and Natural Resources Defense Council (NRDC), organizations working to ensure safe and humane conditions for incarcerated individuals, to notify you of persistent and continuing violations of the federal Clean Water Act and Safe Drinking Water Act at Mississippi State Penitentiary in Parchman, Mississippi (Parchman).

People incarcerated at Parchman have for years reported a host of longstanding problems relating to drinking water and sewage. Parchman's drinking water

Located about 100 miles south of Memphis in rural Sunflower County, Parchman is the largest and oldest of Mississippi's adult prisons. It consists of some 18,000 acres, with eighteen housing units and a population of around 2,000.² Since its opening in 1904, Parchman has been infamous for brutal conditions of confinement and exploitation. Parchman was designed to mirror the plantation slavery system of prior centuries, profiting off the free labor of incarcerated people on Parchman farm and through convict leasing. The institution symbolizes the racist foundations of mass incarceration, including the disproportionate incarceration of Black men.³

Over one hundred years later, derelict conditions remain the reality for people confined at Parchman. The systemic and widespread deterioration of Parchman's units includes crumbling infrastructure; understaffing; a lack of light and power; frequent flooding and leaks; showers that are inoperable for weeks, if not months; inoperable toilets that are not cleaned, forcing people to resort to defecating in used food trays and plastic bags; exposed live electrical wires; black mold; and vermin infestations, among other inhumane conditions.⁴ During record cold weather this past winter, at least one Parchman unit lost heat entirely.⁵ Violence and deaths in recent years have laid bare these chronically unlivable conditions; since late 2019, at least 50 people have died while detained at Parchman, many

unconstitutional conditions of confinement at Parchman); *Conditions at Four Mississippi Prisons*, U.S. Dep't of Justice (Feb. 5, 2020), <https://www.justice.gov/opa/pr/justice-department-announces-investigation-conditions-four-mississippi-prisons#> (announcing investigation into Parchman, among other state prisons, concerning violence, suicide prevention, and mental health issues); Exhibit 2: *Wallace v. MDOC*, No. 3:21-cv-00516 (S.D. Miss. filed Aug. 9, 2021) (alleging MDOC-wide violations of the Eighth Amendment, the Americans with Disabilities Act, and the Rehabilitation Act).

² See MDOC Monthly Fact Sheet, August 2021, <https://www.mdoc.ms.gov/Admin-Finance/MonthlyFacts/2021-08%20Fact%20Sheet.pdf> (last accessed Aug. 26, 2021).

³ See generally David Oshinsky, *Worse Than Slavery: Parchman Farm and The Ordeal of Jim Crow Justice* (Simon & Schuster 1996).

⁴ Mississippi Today, "Leaked Mississippi prison photos of skimpy meals, moldy showers and exposed wiring prompts call for investigation" (May 29, 2019), <https://mississippitoday.org/2019/05/29/leaked-mississippi-prison-photos-of-skimpy-meals-moldy-showers-and-exposed-wiring->

violently.⁶ The COVID-19 pandemic has

experience chronic medical conditions and worry that long-term exposure to Parchman's water has worsened their health problems.

A.

demand (BOD₅)

Forming Units (CFU)/100mL for both the weekly and monthly averages for the May-Oct season--over three times the weekly and six times the monthly permit limits.

inspect the screen several times a day to determine whether or not it requires cleaning and to arrive at a regular cleaning schedule.”⁴¹ Photographs of the site compiled by MDEQ and Parchman’s consultants indicate that these daily inspections have not occurred. Parchman’s inability to maintain the screens clear of debris has contributed to malfunctions of Lift Station 4 (discussed below), which caused raw sewage to drain into downstream waterways.

Second, on information and belief, Parchman has no timers and flow meters on the system’s overland flow pumps. Parchman’s operations manual instructs the operator to record the “total volume of wastewater applied each day” to the spray fields based on run time meters on the pumps.⁴² Available information indicates that several of Parchman’s overland flow pumps are not functional and that none have working

pumps simply run manually 24 hours per day, which leads to costly and unnecessary repairs.⁴⁷

MDOC's lack of maintenance and the system's operational issues reflect chronic neglect and show MDOC's indifference towards proper maintenance and operation at Parchman. MDOC and MDEQ have been on notice of basic operational and maintenance issues for v h5,26.1. In March 2015, an independent contr

do not work, one pump runs continuously, the standby emergency generator is missing, and there is no alarm system to notify operators of pump failure or high water levels.

Documents from public records requests show that Lift Station 4 malfunctioned on December 6, 2016, for an unknown period of time, again on December 26, 2016, and again on March 18, 2017. Thus, untreated, raw sewage was pumped into the Black Bayou for up to 71 days. MDEQ reported in its May 2017 inspection report that Parchman did not have chlorine tablets on hand to even minimally disinfect, and thereby mitigate, the impacts of the raw sewage discharge on the receiving stream.

MDOC has acknowledged that Lift Station 4 is likely to fail again and that recurrent malfunctions are "highly likely." Lift Station 4 will get fixed and "work for a short period of time until another failure occurs." MDEQ sampling during its 2017 inspection showed that

at all prior to September 2016. In 2017, Parchman reported no monitoring data on its

had not received any bypass reports for Lift Station 4,

3. *Monitoring.* Within 30 days, develop, document, and publish a schedule for weekly effluent flow and chlorine monitoring, and quarterly monitoring for all other permit effluent limitations.
4. *Transparency.* Within 90 days, make available to the public all quarterly monitoring data, any notices of violation and correspondence about the violations, and any updates on compliance plan progress via a public website.

Parchman sources its drinking water from groundwater through four active wells that draw from the Meridian Upper Wilcox Aquifer.⁵⁹ The drinking water system also has three elevated storage tanks at Unit 32, Well 2 Camp 4, and Unit 12 (although only two of the tanks may be in use), and four active treatment plants.⁶⁰ As a water system that regularly serves over 2,000 year-round residents, Parchman is subject to the requirements of the federal Safe Drinking Water Act (SDWA).⁶¹ MDOC operates Parchman's water system and thus is responsible for complying with applicable regulations to ensure the safety of drinking water supplied to incarcerated people.⁶²

Since at least 2016, on information and belief, MDOC has been and in some cases continues to be in violation of SDWA regulations, including (1) requirements to correct an inoperable control system for Parchman's water wells and tanks; (2) requirements to monitor Parchman's tap water to ensure proper disinfection; and (3) requirements to timely notify water consumers about MDOC's violations of drinking water rules. These SDWA violations may be contributing to contamination of Parchman's drinking water, threatening the health of those confined at Parchman.⁶³

Adding to these concerns, as noted in detail above, incarcerated people have consistently reported for years that Parchman's water is discolored and foul smelling and tasting, indicating possible systemic contamination. However, documents received from public records requests do not adequately explain all of the problems that people have repeatedly experienced with drinking water quality at Parchman. Further investigation is

⁵⁹ MSDH Drinking Water System Details, MS0670014, MS State Penitentiary-MN LN, available at: https://apps.msdh.ms.gov/DWW/JSP/WaterSystemDetail.jsp?tinwsys_is_number=946&tinwsys_st_code=MS&wsnumber=MS0670014.

⁶⁰ See MSDH Water System Facilities, MS0670014, available at: https://apps.msdh.ms.gov/DWW/JSP/WaterSystemFacilities.jsp?tinwsys_is_number=946&tinwsys_st_code=MS.

⁶¹ 42 U.S.C. § 300f(15); see 40 C.F.R. § 141.2; MS Dep't of Health, Drinking Water Watch, https://apps.msdh.ms.gov/DWW/JSP/WaterSystemDetail.jsp?tinwsys_is_number=946&tinwsys_st_code=MS&wsnumber=MS0670014.

needed to identify the cause of and remedy the odor, color, and taste problems with the water.

MSDH and MDOC must act immediately to correct the violations described below, implement systems to ensure ongoing compliance, and investigate complaints about the aesthetic qualities of the water to ensure the basic human rights of the men incarcerated at Parchman, including their right to clean drinking water.

Because Parchman sources its drinking water from groundwater, it is subject to the Ground Water Rule, a set of regulations promulgated under the Safe Drinking Water Act to safeguard public health by reducing the risk of waterborne illnesses.⁶⁴ The Rule protects

electronic pressure-level controls at elevated tanks.⁷⁰ On November 20, 2018, MSDH approved MDOC's proposal, with the condition that MDOC initiate construction of the project within one year of MSDH's approval.⁷¹ MDOC failed to meet the one-year deadline and instead entered into an agreement with MSDH to complete corrective action by March 31, 2020.⁷² On January 6, 2020, MSDH issued another formal notice that MDOC was in violation of the Rule for failing to address the significant deficiency.⁷³

Available information indicates that MDOC may have finally remedied this deficiency: MSDH appears to have conducted an inspection in October 2020 that found no significant deficiencies.⁷⁴ Even assuming MDOC has finally installed the required automatic controls, MDOC's extraordinary delay in addressing this issue is egregious: MSDH and MDOC let Parchman's inoperable control system linger unfixed for close to four years—twelve times the period generally permitted under SDWA.⁷⁵ The delay in fixing this deficiency threatened the condition of Parchman's drinking water and the health of Parchman's residents.

The Ground Water Rule also requires MDOC to monitor Parchman's chlorine levels because the water system uses chlorine as a chemical disinfectant.⁷⁶ Chlorine is used to treat and remove viruses and bacterial pathogens in drinking water sourced from groundwater.⁷⁷ Monitoring ensures that the chemical disinfection is effective.⁷⁸

Because Parchman's drinking water system serves fewer than 3,300 people, MDOC must monitor for chlorine residuals each day, during the hour of peak flow, or at another time specified by MSDH.⁷⁹ Chlorine residual measures how much chlorine remains present

⁷⁰ *Id.* at 7.

⁷¹ Exhibit 21: Nov. 20, 2018 letter re significant deficiency.

⁷² Exhibit 22: 2018 Consumer Confidence Report at 3.

⁷³ Violation detail available at https://apps.msdh.ms.gov/DWW/JSP/Violation.jsp?tinwsys_is_number=946&tinwsys_st_code=MS&tmnviol_is_number=206555&tmnviol_st_code=MS. MSDH's issuance of this notice of violation is in tension with statements by John Sprayberry, Deputy Administrator of Facility Planning, Construction, and Maintenance at MDOC, that Parchman installed a new water control system with automatic operation of wells and pumps in December 2019. *See* Exhibit 23: Decl. of John Sprayberry at 5, *Amos v. Taylor*, No. 4:20-cv-00007 (N.D. Miss. July 13, 2020), ECF No. 118-2 at 5.

⁷⁴ *See* https://apps.msdh.ms.gov/DWW/JSP/SiteVisits.jsp?tinwsys_is_number=946&tinwsys_st_code=MS&begin_date=&end_date=&counter=0.

⁷⁵ *See* 40 C.F.R. § 141.403(a)(5) (120 days to take corrective action or comply with state-approved action plan and schedule).

⁷⁶ *See generally* 40 C.F.R. § 141.403(b). These monitoring requirements were additionally triggered when Parchman's water system had an unresolved significant deficiency, i.e., an inoperable control system. *See* 40 C.F.R. § 141.403(a)(1); *supra* pp. 15-16.

⁷⁷ 71 Fed. Reg. at 65,578.

⁷⁸ *Id.*

⁷⁹ 40 C.F.R. § 141.403(b)(3)(i)(B).

in the water as it flows through the distribution system. If any sample shows residual disinfectant below a minimum concentration determined by the State, the system must also " take follow-up samples every four hours until the residual disinfectant concentration is restored to the State-determined level." ⁸⁰ Failure to take required routine samples in a compliance period is a monitoring violation.⁸¹

On information and belief, MDOC is persistently violating chlorine monitoring requirements at Parchman. For example, from July 2018 through March 2019, Parchman failed to conduct daily sampling for chlorine and failed to take samples during the hour of

Information available indicates that MDOC is failing to meet its annual monitoring requirement for disinfection byproducts. In February 2019, MSDH found that MDOC violated routine monitoring requirements for disinfection byproducts (HAA5 and TTHMs) in Parchman's water, likely for failing to monitor in 2018.⁸⁹ In August 2018, MSDH notified

by the water system.⁹⁵ Additionally, water systems must deliver to consumers annual

Until these actions are taken, Parchman will continue to violate federal environmental laws and put the health of incarcerated people and surrounding communities at risk.

Respectfully,

/s/ Michelle A. Newman

Michelle A. Newman
Sara E. Imperiale
Natural Resources Defense Council
40 West 20th Street, 11th Floor
New York, NY 10010
(212) 727-2700
mnewman@nrdc.org
simperiale@nrdc.org

Sarah C. Tallman
Natural Resources Defense Council
20 North Wacker Drive, Suite 1600
Chicago, IL 60606
(312) 651-7918
stallman@nrdc.org

Natalia Ospina
Natural Resources Defense Council
1314 Second Street
Santa Monica, CA 90401
(310) 434-2300
nospina@nrdc.org

/s/ Benjamin Salk

Benjamin Salk
Vidhi Bamzai
Southern Poverty Law Center
111 East Capitol Street, Suite 280
Jackson, MS 39201
(769) 524-2741
benjamin.salk@splcenter.org
vidhi.bamzai@splcenter.org

cc:

Michael S. Regan
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Mail Code: 1101A
Washington, DC 20460

Mary S. Walker
Regional Administrator, Region IV
U.S. Environmental Protection Agency
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303

1. All exhibits to this letter are located here:
https://drive.google.com/drive/folders/15_lzxsjBY4nISrSK2fBnTeKfC7FEgj0J?usp=sharing
2. A more expansive archive of documents concerning environmental issues at Parchman that SPLC and NRDC received through public records requests is here:
https://drive.google.com/drive/folders/1J6pnagFIIef13NF4_1U2a_7Paw1OLI8R?usp=sharing