ACLU Michigan

State Headquarters
2966 Woodward Avenue
Detroit, MI 48201
Phone 313.578.6800
Fax 313.578.6811
E-mail aclu@aclumich.org
www.aclumich.org

Legislative Office
115 West Allegan Street
Lansing, MI 48933
Phone 517.372.8503
Fax 517.372.5121
E-mail aclu@aclumich.org
www.aclumich.org

West Michigan Regional Office
1514 Wealthy St. SE, Suite 242
Grand Rapids, MI 49506
Phone 616.301.0930
Fax 616.301.0640
Email aclu@aclumich.org
www.aclumich.org

April 7, 2020

Governor Gretchen Whitmer
P.O. Box 30013
Lansing, MI 48909

Dear Governor Whitmer:

As representatives of the Civil Rights Legal Coalition who petitioned you in November 2019 requesting your use of the executive authority to issue a moratorium on water shutoffs and restore water services in the City of Detroit, we were extremely encouraged to see your March 9, 2020 announcement with Detroit Mayor Michael Duggan, establishing the "Coronavirus COVID-19 Water Restart Plan" ("Restart Plan") and your subsequent issuance of Executive Order 2020-28 on March 29, 2020, mandating statewide restoration of water. The executive order will provide baseline data across the state that should help ensure a crisis like the one facing Detroit doesn't happen again.

Unfortunately, despite the steps you took to get water turned back on, we have serious concerns about the process implemented by the City of Detroit and Detroit Water and Sewerage Department (DWSD) and the results produced thus far. The restoration of water services to date under the Restart Plan is approximately 1,100 occupied residences, which is far short of the actual numbers of water deprived homes. Data submitted by DWSD through a Freedom of Information Act (FOIA) to Bridge Magazine shows that as of January 2020, the number of occupied homes without water service was approximately 9,500, a number that reflected ONLY 2019 service terminations. We urge you to act immediately to understand why this vast discrepancy exists and to ameliorate it. Under the Restart Plan, you can obtain the list of the 9,500 occupied homes and have water restored to those residents now.

We commend your efforts through the Environmental, Great Lakes & Energy (EGLE) to respond to residents unable to get water restored through their local water authority and the advocacy you do on behalf of individual customers. It's critical that Detroit residents without water can now take steps to get water turned on at their home. But unfortunately, the gap is still not closing fast enough. We ask that you make the availability of this process more public by advertising it broadly in Detroit. We stand ready to help you do that. And while this effort is commendable, it along with the Restart Plan places the burden of self-identification on each occupant/customer rather than emphasizing the responsibility and expertise of DWSD to identify occupied homes

without running water. Currently a resident is required to call a third-party contractor to determine their eligibility, wait on the phone for hours potentially, and then start the application process/. This administrative process by application has not produced the water restoration numbers consistent with DWSD's own reported water shutoffs. DWSD went house-to-house to turn the water off, they should now go turn it back on.

This situation illustrates the special need for a community-based task force to oversee Detroit restorations. With both the rates of infection and deaths from Coronavirus increasing daily in Detroit, the urgency to promptly identify all occupied homes where water service remains terminated is critical. Once the homes are identified, we must immediately restore clean and safe water and sanitation, benchmark the work, and maintain the ongoing transparency required going forward. A community-based task force can assist you in making sure DWSD does what it's required to do by your executive order.

We want to assist you to expeditiously implement your Executive Order 2020-28 as it pertains to the "Coronavirus COVID-19 Water Restart Plan" in Detroit and restore water to every customer in need. Enclosed is a citizen's proposal for a "DETROIT WATER RESTORATION TASK FORCE FOR COMMUNITY AND GOVERNMENTAL PLANNING AND OVERSIGHT" which we urge you to consider and adopt. As this public health crisis escalates and as near- and long-term future medical and epidemiology predictions cannot be forecast with any certainty, the need for ongoing, localized citizen input into governmental water services and sanitation continuity planning becomes even more acute. While this proposal focuses on the City of Detroit, we believe it can serve as a template for localized input of joint citizen and governmental cooperation in other cities and municipalities in Michigan charged with implementing Executive Order 2020-28, mandating a statewide Michigan restoration and shutoff cessation of water services.

Due to the exponential growth of this health pandemic, which has so physically and emotionally impacted Detroit, we request that you or your representative meet with representatives of us this week for the purpose of adopting and assigning follow-up steps for this community Task Force proposal.

Sincerely,

Alice Jennings, Esq.
Edwards & Jennings P.C.

Lori Lutz, Esq.
Attorney in Private Practice

Jerome D. Goldberg, Esq.
Attorney
Moratorium Now

Mark Fancher, Esq.
Staff Attorney for the Racial Justice Project
ACLU of Michigan

Bonsitu Kitaba-Gaviglio, Esq.
Deputy Legal Director
ACLU of Michigan

Desiree Ferguson, Esq.
Legal Director
Detroit Justice Center

Anthony Adams, Esq.
Marine-Adams Law, P.C.

Erin Mette, Esq.
Equal Justice Works Fellow
Great Lakes Environmental Law Center

William Goodman, Esq.
Goodman Hurwitz & James, P.C.

Thomas Stephens, Esq.
Detroit City Council Legislative Policy Division

John Philo, Esq.
Executive and Legal Director
Sugar Law Center for Economic & Social Justice

Kurt Thornbladh, Esq.
Thornbladh Legal Group PLLC

Jeremy Orr, Esq.
Staff Attorney
Safe Waters Initiative, National Resources Defense Council

Lorray Brown, Esq.
Co-Managing Attorney
Michigan Poverty Law Program

Cc: Mark Totten, *Chief Legal Counsel to the Governor*
Kara Cook, *Environmental Policy Advisor to the Governor*
Ninah Sasy, *Clean Water Public Advocate, EGLE*
Regina Strong, *Environmental Justice Public Advocate, EGLE*
James Clift, *Deputy Director, EGLE*
Amy Epkey, *Senior Deputy Director, EGLE*