

November 1, 2017

Fellow Michiganders,

Water comprises 70 percent of the human body. It is fundamental to human life. And though Michigan is home to more fresh water than any other state, Michigan is also home to several water-related disasters, including the Flint Water Crisis, Detroit's Water Shutoffs Crisis, and the impending failure of Enbridge's Line 5.

**Water equity is central to building a just, equitable, and sustainable future in Michigan.**

No Michigander should go without the clean water they need to drink, bathe, cook, and clean. And yet, in Michigan, families in places like Flint are forced to bathe their kids with bottled water – and thousands of families in Detroit do not have access to water at all. Whether you are a family with lead-poisoned water or a worker who depends on Lake Erie remaining clear of toxic algae blooms, water is central to living a dignified life and driving a sustainable economy. Corporate politicians have failed their responsibility to steward our state's water, choosing corporate bribes over healthy people. Our state has failed to invest in water infrastructure, which has led to a lead crisis in Flint and an affordability crisis in Detroit. We have failed to protect our Great Lakes from corporate abuses, which have led to algae blooms, the threat of Asian carp invasions, and the possibility of mass oil spills.

We have a responsibility to ensure that every Michigander has the means to clean water in a state with 21 percent of the world's fresh water. Our water policy seeks to guarantee that every protected, and that we are reinvesting in our water infrastructure. I am standing up for our state. I hope you will stand with me – for our future.

I appreciate you,



Abdul El-Sayed

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## Water affordability

Access to clean water to drink, bathe, cook and clean should be a fundamental human right. But Michigan's poorest residents disproportionately lack access to safe and clean drinking water. The situation is particularly dire in Detroit, where an estimated 80,000 families faced a water shutoff during 2014-2016 with another 18,000 families expected to have their water shutoff during 2017.<sup>i</sup> Flint also faces a water shutoff crisis, with 9,000 families past due on their water bills as of last April.<sup>ii</sup> Recently, a preliminary study from Henry Ford Health System demonstrated that "patients who live on blocks that experienced water shutoffs were 1.55 times more likely to be diagnosed with a water-associated illness."<sup>iii</sup>

Addressing the structural issues that limit access to clean, affordable water requires a complex array of legislative and programmatic solutions, many of which could take years to fully implement. Nevertheless, immediate action is necessary to address the crisis threatening the public's health.

The El-Sayed administration would support the following policies, all of which pursue at least one of three goals: 1) end water shutoffs, 2) ensure universal access to water at affordable rates, so that low-income families have the means to access clean water; and 3) increase fresh water conservation by reinvesting in our state's failing water infrastructure.

### **1. Upon inauguration, the Michigan Department of Health & Human Services and the State Health Director will review the immediate health consequences of shutoffs and act accordingly.**

Within the Public Health Code (PA 368 of 1978), there exists ample grounds under which MDHHS and the Michigan Health Director can intervene "for the protection of the health, safety, and welfare of the people of this state" (MCL 333.1111). Beginning on the first day of the El-Sayed administration, the Health Director would be immediately engaged to consider necessary interventions toward this end. This includes, but is not limited to a review of the available evidence, a commissioned public health study of the effects of water shutoffs with respect to overall health as well as racial or ethnic disparities in health (Under MCL 333.2227, MDHHS has a duty to address racial and ethnic health disparities in health<sup>iv</sup>), and/or an immediate moratorium on shutoffs.<sup>v</sup>

### **2. The El-Sayed administration will support the passage of bills to ensure access to water.**

For too long, the Republican-led legislature in Lansing have sat on their hands, allowing opportunities to address the water shutoff crisis to pass by without acting. Since 2015, House and Senate Democrats have introduced a slate of bills related to water shutoffs. None of these bills have proceeded to a vote. The El-Sayed Administration would lobby for the immediate passage of these bills, particularly those that 1) make access to water a right (HB5101/SB643); 2) that restrict the use of water shutoffs (HB5110 and HB5122/SB655);



and 3) that require access to clean water for residents targeted for a shutoff (HB5177).

In addition to limiting the legality of water shutoffs, these bills would establish a legal framework that supports state regulation of water utilities. HB5101 would empower all state departments “to employ all reasonable means” to assure an individual’s right to safe, clean, and affordable drinking water. It would also require all departments and agencies to establish water affordability criteria.<sup>vi</sup> Passing HB5101 and similar bills would reinforce legal grounds – and, in some cases, create new grounds – for the creation of a statewide policy that mandates affordable pricing structures for water.

In addition, the El-Sayed administration would amend this package to include registration requiring regional and municipal water authorities to use a tiered (“increasing block”) pricing structure that guarantees access to affordable water and promotes water conservation.

Currently, the City of Detroit and DWSD hold that the Headlee Amendment and *Bolt v. Lansing* prevent the use of income-based affordability plans, like those used in other large cities nationwide. However, even under this conservative interpretation, tiered (or increasing block) rate structures are permissible, as long as *all customers within a given class are charged the same rate* (and by extension, are discounted at the same rate). Legislation that requires regional and municipal water authorities to use tiered rate structures offers the best opportunity to assure affordability in the current legal environment.

The structure should be similar to the increasing block structure the Blue Ribbon Panel on Affordability endorsed in their 2016 report. However, instead of charging for minimal usage, a “living standard” of water – defined as the amount of water needed to drink, bathe, cook, and clean by a family of four – should be provided free of charge. Above this threshold, rates should be charged within predefined ranges (“blocks”) of consumption, with the rate exponentially increasing with consumption. Such a pricing structure not only ensures universal access to clean water; it also allocates the recovery of cost to those who use the most water, providing a progressive system of payment for water infrastructure maintenance.

The described rate structure will be limited to residential customers and to qualifying community organizations (ex. churches, daycares).<sup>vii</sup> Commercial and industrial customers—including high-volume water bottlers—will be subject to the current volumetric pricing structure, wherein a flat fee is charged per CCF.<sup>viii</sup> Water authorities will be allowed to define consumption blocks and set the prices for each consumption block; however, prices for the first blocks after the living standard must be priced at a level that is affordable, such that it does not exceed 10% of the household income for a low-income household of four.

Any state regulation of water pricing – much less one that nominally limits prices – is likely to face legal challenges, particularly from those that allege that such legislation usurps municipal control. However, only policy at the state level can ensure equitable water pricing for all Michiganders. Furthermore, the Municipal Sewage and Water Supply Systems Act grants water authorities the power to “adopt bylaws for the regulation of its affairs and the conduct



of its business”; it does not explicitly give municipal or regional water authorities the power to set prices. Thus, the proposed legislation cannot be construed to undermine the powers granted by the Act insofar as the proposed rate structure does not prevent authorities from collecting revenue sufficient to meet their financial obligations.

The proposed legislation should be complimented by water conservation initiatives – including education, and home repairs – that make it possible for all customers to reduce their water bills by reducing water usage.

## Water Infrastructure

Michigan’s water pipe infrastructure is crumbling and has unsafe amounts of lead and copper, putting Michigan families at continuous risk for another drinking water crisis.<sup>ix</sup> It is estimated to cost between \$731 million and \$1.01 billion *per year* to bring the infrastructure up to modern standards between now and 2030.<sup>x</sup> Annually investing a conservative amount of these funds -- \$690 million -- would ensure clean drinking water for residents and create over 13,800 jobs a year.<sup>xi</sup>

The El-Sayed Administration will implement a two-fold funding strategy to repair and upgrade drinking water infrastructure. First, we will capitalize a Clean Water Infrastructure Bank – within the Pure Michigan Infrastructure Bank. The Clean Water Infrastructure Bank will fund both public repairs and incentivize private sector infrastructure construction through a low-interest loans and other targeted financing products. Second, the El-Sayed Administration will make reinstating state revenue sharing an executive priority. Municipal water utilities are funded by ratepayer fees as well as state and local tax revenue. However, since 2001, the state has taken over \$6 billion of revenue it is legally obligated to share with municipalities, stripping cities and counties of the money they need to upgrade aging pipes and sewer systems. The El-Sayed administration will reinstate revenue sharing through executive channels; reverse the appointment of emergency managers; work to repeal the Emergency Manager laws; and push for an exception to the Headlee Amendment that allows municipalities to raise property taxes at a rate that accounts for post-recession valuation.

In addition to funding water infrastructure investments, the El-Sayed Administration will advocate for higher standards for water quality. This includes reducing the Lead Action Level for drinking water from 15 ppb to 5ppb by 2020; creating a water quality testing program for all schools and child care centers; and pushing for legislation prohibiting partial lead pipe replacements, which are the largest cause of drinking water contamination.<sup>xii</sup> The El-Sayed Administration will also merge the Department of Environmental Quality back into the Department of Natural Resources to ensure that both departments are funded at adequate levels (\$900-\$950 million per year) and aim to restore the budget of the Office of Drinking Water and Municipal Assistance back to its 2006 funding levels (around \$16 million).<sup>xiii</sup>

The Clean Water Infrastructure Bank could – and should – be supported by federal funds, but this requires federal action, which is currently



laggard. That is why the El-Sayed Administration will lobby the Trump Administration to provide federal infrastructure funding, as President Trump has repeatedly promised.

## **Great Lakes Protection**

As the steward of nearly 85 percent of the nation's fresh water, it is Michigan's responsibility to ensure the health of our Great Lakes. Yet we have fallen behind other states in adopting smart, proactive policies to protect our water resources. As a result, the health of our water and our people have been put at risk. Our state needs strong, decisive action to ensure that our Great Lakes are here to stay. Below are the policies the El-Sayed Administration would pursue to address the most significant issues facing the Great Lakes.

*Algae blooms* – Excess phosphorus from runoff pollution is fueling the growth of massive, toxic algal blooms that threaten Lake Erie and the Michiganders who rely on it for water and work. To curb algal growth, the El-Sayed Administration would support legislation that regulates the two primary sources of phosphorus pollution – farm fertilizer and untreated sewage – with the aim of speeding up progress towards the state's goal of reducing phosphorus pollution into western Lake Erie by 40 percent. This includes legislation to:

- Ban the application of manure, biosolid, and fertilizer application on frozen, snow, or saturated ground;
- Sponsor a statewide, uniform septic code and septic inspection requirements;
- Require farm operations and Confined Animal Feeding Operations (CAFOs) to develop and implement nutrient and manure management plans and fund proper enforcement of these plans;
- Fund conditional grants for soil monitoring and improvement programs for farmers who take Michigan extension soil management classes;
- Monitor and cleanup phosphorus runoff at the water-basin scale
- Create a municipally targeted incentive for nutrient reduction and monitoring
- Prohibit net-pen fish farms within the Great Lakes and any flow-through systems in inland lakes and rivers

*Asian carp* – Asian (Silver and Bighead) Carp pose a large threat to the environmental and economic health of the Great Lakes. If they enter, they are projected to have severe impacts on the state's \$7 billion fishing industry and hurting lakes tourism. When these invasive fish get into lakes, they overeat the ecosystem's resources, killing local and game fish. Because of their size (50 to 100lbs) and tendency to jump at the sound of boat motors, they pose a serious threat to boaters. They have *not yet* reached the Great Lakes, but DNA from silver and bighead carp has been detected within 6 miles of Lake Michigan past the Chicago Ship and Sanitary Canal barrier (designed to prevent the spread of carp from the Mississippi to Great Lakes Basins). This is 20 miles closer to the Great Lakes than previously thought. Many scientists advise using all possible measures to prevent the introduction of the carp into the Great Lakes because of its devastating impact.



The El-Sayed Administration would pursue the following actions:

- Lobbying the city of Chicago and State of Illinois to pursue more stringent canal and hull cleaning policies to prevent Asian carp entering the Great Lakes, this could include shutting down or starkly limiting traffic through the Chicago Ship and Sanitary Canal.
- Working through the Department of Natural Resources to establish an ‘Ice bucket rule’ requiring that bait be stored on ice buckets to kill Asian Carp with temperature shocks.
- Take strides to implement the policy recommendations developed by the MDNR’s current Great Lakes Invasive Carp challenge.<sup>xiv</sup>

**Line 5** – The El-Sayed Administration would work to immediately revoke the easement with Enbridge and decommission Line 5. Additionally, we would work with the state legislature to adopt legislation that increases state oversight of oil and gas pipelines; implements minimum safety standards and inspection requirements; prohibit running any future pipelines through the Great Lakes; and requires current operators to undergo a full risk analysis by a qualified third party. Most importantly, using the \$150 million slated for cleanup in case of Line 5’s rupture, we would capitalize the Pure Michigan Infrastructure Bank, a “green bank” that pairs public and private capital to fund investment in clean energy and infrastructure.

In addition to these targeted policies, the El-Sayed administration would lobby the federal government increase funding for the Great Lakes Restoration Initiative (GLRI) and invest the \$275 million needed to prevent the migration of Asian carp into the Great Lakes.

## Freshwater and Groundwater Protection

There are a number of threats facing Michigan’s groundwater quality. Michigan is home to 65 of the XX superfund sites (the EPA’s designation for the most contaminated land) on the National Priority List, making it the fifth worst state in the nation in this regard.<sup>xv</sup> Only 250 of Michigan’s 8,000 leaky underground petroleum storage tanks are being annually tested to determine if they pose public health risks. Additionally, rural Michigan has a high proportion of groundwater that is contaminated with nitrogen above safe levels (10mg/L ;figure 4),<sup>xvi</sup> and runoff from concentrated animal feeding operations (CAFOs) pollutes wells and waterways. Between 1996 and 2014, 15% of the state’s CAFOs were found to be in violation of federal clean water laws.<sup>xvii</sup> Yet, despite these persistent challenges, the state’s main funding mechanism to cleanup polluted waterways, the Clean Michigan Initiative, is set to expire this year. This, in concert with loosening regulations and lowered enforcement, poses a significant threat to public health.

The El-Sayed Administration will pursue a renewal of the bond that funds the Clean Michigan Initiative. Such an investment will not only benefit the health of Michiganders – particularly those who live in near the Great Lakes – it could generate up to a 2:1 return (\$1.2 billion).<sup>xviii</sup> Additionally, the Administration will capitalize a Pure Michigan Infrastructure Bank to maximize the effectiveness of the Clean Michigan Initiative. Rather than solely funding cleanup as currently done,



the Pure Michigan Bank will instead use CMI funds to directly finance cleanup, provide loans (for private sector investment), and aggregate existing projects, the combinations of which have been proven to increase returns on public investment in other states.

Additionally, the Administration will seek to end subsidies for businesses that pollute and exploit our water resources. First, the El-Sayed Administration will work with the state legislature to establish policies that 1) require companies that bottle water to pay a fair price for the water they extract; and 2) limit extraction if it harms water quality. These policies include, but are not limited to, a per gallon extraction fee for water bottlers (similar to the tax proposed by HB 5313); a water export fee; and increased requirements for the approval and renewal of bottling licenses by the DEQ.

Second, The El-Sayed Administration will create a task force charged with limiting taxpayer subsidies to CAFOs that violate clean water laws and reinvest this money into programs that value smaller and less polluting farms and farmers. Policies examined for implementation, through both joint administrative rulemaking between the Department of Natural Resources and Department of Agriculture and Rural Development, would include:

- Requiring all 283 CAFOs in Michigan to list any violation of health or environment related laws;
- Requiring all CAFOs in the state to document compliance with state and federal environment and health laws, including keeping up to date records and Comprehensive Nutrient Management Plans;
- Instituting accountability by requiring independent verification, withholding funds until compliance is documented, requiring the effectiveness of subsidized practices to be evaluated and eliminating funding for those which are shown to be ineffective;
- Streamlining the paperwork for organic and small-scale farmers to receive funds to improve management practices.<sup>xix</sup>

*Fracking Regulations* – Fracking has occurred in Northern Michigan since the 1980s, but the extensive use of High Volume Hydraulic Fracturing (HVHF) — in which millions of gallons of water and chemicals are pumped deep into the ground — only began in 2008. We need to end this. While all oil and gas drilling poses risks, high volume hydraulic fracturing has been shown to have unique and severe risks to the environment and to public health and safety. The most exhaustive review of the available evidence of public health impacts on HVHF, conducted by the New York State Department of Public Health over a period of two years, ultimately concluded that the extensive public health impacts from high volume hydraulic fracturing cannot at this time be mitigated even with regulation or oversight. As governor, Abdul will heed this evidence and prohibit all high volume hydraulic fracturing in Michigan until new and overwhelming evidence is available to demonstrate its safety. As Detroit Health Director, Abdul stood up to a company wanting to store and process low-level radioactive fracking waste within the city limits, ultimately negotiating a contract that prevented this waste from being stored and processed in Detroit.

Learn more about Abdul & his positions at [www.AbdulforMichigan.com](http://www.AbdulforMichigan.com).



<sup>i</sup> <http://www.freep.com/story/news/local/michigan/detroit/2017/07/26/detroit-water-shutoffs/512243001/>

<sup>ii</sup> [http://www.mlive.com/news/flint/index.ssf/2017/04/flint\\_residents\\_facing\\_shut-of.html](http://www.mlive.com/news/flint/index.ssf/2017/04/flint_residents_facing_shut-of.html)

<sup>iii</sup> <http://wethepeopleofdetroit.com/wp-content/uploads/2017/07/Water-ShutoffsIllnesses-Report.pdf>

<sup>iv</sup> MCL 333.2227:

[http://www.legislature.mi.gov/\(S\(bpmuylecvnecni041l3skotr\)\)/mileg.aspx?page=getObject&objectName=mcl-333-2227](http://www.legislature.mi.gov/(S(bpmuylecvnecni041l3skotr))/mileg.aspx?page=getObject&objectName=mcl-333-2227)

<sup>v</sup> It should be noted that under MCL 124.284e, water authorities have the right to discontinue service to a user if “the authority determines that discontinuance of service to that user is necessary to protect the integrity of the affected system.” Thus, it would be the responsibility of the state to either: 1) prove that the danger that water shutoffs to health outweighs the danger that shutoffs pose to the water system, in either scale or immediacy; or 2) prove that halting water shutoffs will not negatively impact the integrity of the water system (presumably by preventing the authority from earning the revenue they need to upkeep the system.) The latter argument could be strengthened by allocating state funds – permissible under the Health Code – to help GLWA and DWSD recoup the costs of the moratorium *after* an agreement is reached regarding an affordable pricing structure.

<sup>vi</sup> HB5101: <http://www.legislature.mi.gov/documents/2015-2016/billintroduced/House/pdf/2015-HIB-5101.pdf>

<sup>vii</sup> This concession to community organizations is intended to respond to complaints about rising water bills from churches in Detroit.

<sup>viii</sup> In Michigan, high-volume commercial bottlers are currently charged on \$200 per year in administrative fees. There is no usage of licensing fee.

<sup>ix</sup> [https://www.michigan.gov/documents/snyder/21st\\_Century\\_Infrastructure\\_Commission\\_Final\\_Report\\_1\\_544276\\_7.pdf](https://www.michigan.gov/documents/snyder/21st_Century_Infrastructure_Commission_Final_Report_1_544276_7.pdf)

<sup>x</sup> : <http://www.publicsectorconsultants.com/wp-content/uploads/2016/12/MI-Water-Infrastructure-Investment-Needs-FINAL-1.pdf>. The Snyder Administration’s 21st century infrastructure commission’s report estimated an \$880 million shortfall in water infrastructure spending.

<sup>xi</sup> <http://www.bluegreenalliance.org/wp-content/uploads/2016/08/Repair-Michigan-Full-Report.pdf> Investing \$185 million in wastewater treatment would create over 3,700 jobs a year.

<sup>xii</sup> This rule would follow a guidance letter written by the DEQ following Flint.

[http://www.mlive.com/news/index.ssf/2016/04/michigan\\_lead\\_service\\_lines.html](http://www.mlive.com/news/index.ssf/2016/04/michigan_lead_service_lines.html)

<sup>xiii</sup> [http://www.michigan.gov/documents/snyder/Overview\\_Final\\_1\\_481117\\_7.pdf](http://www.michigan.gov/documents/snyder/Overview_Final_1_481117_7.pdf)

<sup>xiv</sup> [http://www.michigan.gov/dnr/0,4570,7-153-10387\\_78792---,00.html](http://www.michigan.gov/dnr/0,4570,7-153-10387_78792---,00.html)

<sup>xv</sup> [http://www.mlive.com/news/index.ssf/2016/05/toxic\\_sites\\_in\\_michigan\\_tell\\_t.html](http://www.mlive.com/news/index.ssf/2016/05/toxic_sites_in_michigan_tell_t.html)

<sup>xvi</sup> [http://www.michigan.gov/deq/0,4561,7-135-3313\\_3675\\_3690-76500--,,00.html](http://www.michigan.gov/deq/0,4561,7-135-3313_3675_3690-76500--,,00.html)

<sup>xvii</sup> [http://www.senate.michigan.gov/committees/files/2014-SCT-AG\\_-05-15-1-03.PDF](http://www.senate.michigan.gov/committees/files/2014-SCT-AG_-05-15-1-03.PDF)

<sup>xviii</sup> <https://www.brookings.edu/research/the-broad-benefits-of-restoring-the-great-lakes/>

<sup>xix</sup> [http://www.senate.michigan.gov/committees/files/2014-SCT-AG\\_-05-15-1-03.PDF](http://www.senate.michigan.gov/committees/files/2014-SCT-AG_-05-15-1-03.PDF)

