

November 21, 2022

Ms. Tiffany Moore  
Chief Clerk  
Benton Harbor City Hall  
200 E. Wall Street  
Benton Harbor, MI 49022

***VIA ELECTRONIC MAIL***

RE: Immediate Request for Extension of Comment Period and for a Public Hearing  
Regarding the City of Benton Harbor Water System Alternatives Analysis

Dear Ms. Moore:

We, the community leaders and residents of Benton Harbor, in partnership with the other undersigned organizations (collectively, the “Signatories”), request an immediate extension of the public comment period for the City of Benton Harbor (the “City”) Water System Alternatives Analysis (the “Report”) and request a public hearing to ensure that the residents of Benton Harbor both fully understand the Report and have an opportunity to have their voices heard.<sup>1</sup>

The Unilateral Administrative Order (the “Order”) dated November 2, 2022, very clearly mandates that the City provide a substantial public comment period that lasts *at least* 30 days, and requires receipt, review, and acknowledgement of all public comments.<sup>2</sup> The minimal 30-day review period chosen by the City includes the Thanksgiving holiday, ultimately reducing the amount of available time for the public to review and respond to the 156-page Report. Furthermore, the City failed to schedule a public meeting to explain the contents of this complex and lengthy Report. The proposed comment period and comment process do not provide sufficient notice or opportunity for the public to understand, let alone meaningfully comment, on the Report. Sadly, this approach is consistent with the City’s past processes of failing to provide the residents of Benton Harbor with accurate and up-to-date information about the quality of their water and the potential future of their water system. Indeed, we understand that as of November 2022, City officials are currently telling residents that the water is safe to drink when, in fact, filters are still required for a minimum of six months to ensure that the drinking water is free from lead contamination.

The Signatories also request additional information relating to the public water systems’s existing debt and corresponding cost calculations. Similar to the lack of transparency of the public comment period and process, there is also a lack of transparency regarding the cost estimates in Table ES-1 in the Report. Table ES-1 is premised on a certain amount of debt that the City claims to have; yet this information is not included in the Report. This is a key piece of information that

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<sup>1</sup> The Signatories reserve the right to submit comments to this City in addition to this letter.

<sup>2</sup> Environmental Protection Agency Region 5, Unilateral Administrative Order, ¶ 111 (Nov. 2, 2021).

would help residents of Benton Harbor understand the financial analysis in the Report. We strongly request the City make this information publicly available during the comment period and prior to a public hearing.

Hosting public hearings is standard procedure when local agencies seek public comment. Hearings give the public the opportunity to share their opinion, ask questions, and make their voices heard. They enable comments to be submitted in both a written and oral format. Not all residents may have the time or technology to submit a formal written comment and may instead choose to give comments orally, on the record.<sup>3</sup> Given the complexity of this particular report, and the need for accessibility for submitting public comments, the residents should have the opportunity to submit comments orally at a public hearing. During the hearing, the City should take the time to clearly outline the contents of the Report and accept all oral public comments. These public comments should become part of the record of comments that the City is required to review and address under Paragraph 111 of the Order before submission of the comments to EPA.

For the reasons described above, it is imperative that the City extend the public comment period by at least another 30 days, to January 2, 2022, to give the public time to review, understand, and provide meaningful comments - both written and oral - on the Report. We also strongly request that the City host a formal public hearing in advance of the due date of public comments to both: (1) further describe the contents of the Report to the public; and (2) give Benton Harbor residents an opportunity to provide oral comments on the Report. The Signatories reserve the right to submit any additional comments and requests, as necessary.

Given the very tight deadlines and impending Thanksgiving holiday, we request a response before November 23, 2022 on these requests. Please reach out to Reverend Edward Pinkney at (269) 369-8257 with any questions, and please provide your response in writing by email.

Sincerely,

Reverend Edward Pinkney, President, Benton Harbor Community Water Council  
Gwen Swanigan, Founder/CEO, S.H.A.R.P. Foundation  
Dr. Donald Tynes, Public Health Director, Benton Harbor Health Center  
Emma Kinnard, President & Marvin Heywood, Vice President, Fresh Start Children's Garden  
Alvin Gray, President, Black is Beautiful and Save Our Children,  
Blake William, President, Get Out the Vote  
Elnora Gavin, We the People Michigan  
People's Choice, Doris Mitchell, President

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<sup>3</sup> Not all residents are able to submit a written comment for various reasons, such as limited access to the internet, limited written English proficiency, or simply that they prefer oral communication to written communication.

**Supporting partners:**

Clean Water Action, Mary Brady-Enerson, Michigan Director  
Ecology Center, Rebecca Meuninck, Deputy Director  
Environmental Transformation Movement of Flint, Mona Monroe-Younis, Executive Director  
Flint Rising, Nayyirah Shariff, Executive Director  
For Love of Water (FLOW), Liz Kirkwood, Executive Director  
Great Lakes Environmental Law Center, Nicholas Leonard, Executive Director  
Lawyers for Good Government, Jillian Blanchard, Director Climate Change Program & Lauren Thomson, Staff Attorney  
Michigan Environmental Council, Conan Smith, President and CEO  
Michigan Welfare Rights Organization, Sylvia Orduño, Organizer  
Natural Resources Defense Council, Cyndi Roper, Senior Policy Advocate  
People's Water Board Coalition, Nicole Hill, Vice President  
Safe Water Engineering, Elin Betanzo, Principal  
Water You Fighting For, Melissa Mays, Founder

cc: Debra Shore, Regional Administrator, United States Environmental Protection Agency ("USEPA") Region 5  
Radhika Fox, Assistant Administrator, Office of Water, USEPA  
Tera Fong, Director, Water Division, USEPA Region 5  
Candice Bauer, Water Division, Chief, Ground Water and Drinking Water, USEPA Region 5  
Robert Kaplan, Regional Counsel, USEPA Region 5  
Cheryl Newton, Assistant Regional Administrator, USEPA Region 5  
Alan Walts, Director, Tribal and Multi-media Program Office, USEPA Region 5  
Bruno Pigott, Deputy Assistant Administrator, USEPA  
Liesl Clark, Director, Department of Environment, Great Lakes, and Energy, Department of Environment, Great Lakes, and Energy ("EGLE")  
Aaron B. Keatley, Chief Deputy Director, EGLE  
James Clift, Deputy Director, EGLE  
Eric Oswald, Director of the Drinking Water and Environmental Health Division, EGLE  
Regina Strong, Environmental Justice Public Advocate, EGLE  
Kristina Donaldson, Clean Water Public Advocate, EGLE