

## National Human Rights to Water and Sanitation Coalition

### **The Federal Government Should Assume a Leadership Role and Take Strong Executive Action to Guarantee Equal, Universal Access to Safe, Affordable, and Adequate Water and Sanitation in the U.S.**

Across the U.S., low-income, indigenous, homeless, and communities of color lack equal access to safe, affordable, and adequate water and sanitation. As the entirely avoidable tragedy in Flint has underscored, there is a clear need for the federal U.S. government to exercise effective leadership and supervision to address this crisis. Given the severity of these problems, the fundamental nature of these services, and the complexity of water and sanitation regulation and delivery in the U.S., the federal government needs to prioritize water and sanitation and assume a leadership role in taking concrete measures to ensure universal, equal access to safe, affordable, and adequate water and sanitation in the U.S. Accordingly, the coalition makes the following requests for federal leadership to ensure that the U.S. has a water future that is not only sustainable, but just.

We respectfully request that the federal government:

1. Issue an **executive order** announcing a federal prioritization of achieving universal, equal access to safe, affordable, and adequate water and sanitation by directing the White House Office of Management and Budget (OMB) to lead an initiative to investigate and address barriers to universal, equal access to safe, affordable, and adequate water and sanitation for vulnerable communities in the U.S.;
2. Take **immediate Executive Branch action** to provide emergency assistance to households that lack safe, affordable water and adequate sanitation; and
3. **Issue guidance** to federal, state, and local agencies to promote achievement of universal, equal access to safe, affordable, and adequate water and sanitation and **make policy** and **allocate resources** to reach this goal as expeditiously as possible.

#### **Core Principles – The U.S. Government should:**

1. Ensure universal, equal access to safe, affordable drinking water and adequate sanitation for everyone, without discrimination;
2. Honor its commitments to **fulfill** the human rights to water and sanitation for all;
3. Prioritize basic human needs as the highest use of water in the U.S.;
4. Undertake targeted measures to **address deficits and inequities** in access to water and sanitation for low-income, indigenous, homeless, and communities of color;
5. Fulfill its constitutional and international legal obligations to ensure nondiscriminatory access to basic public services sufficient for an adequate standard of living, and access to remedies when rights are violated;
6. Suspend (or advise state/local authorities to suspend) activities that deepen this crisis, including water shutoffs against low-income households that cannot afford water bills, closure of public restrooms and water fountains near homeless encampments, criminalization of low-income households who cannot afford water or sanitation service, criminalization of homeless people for their own lack of access to adequate sanitation, removal of children from parental custody for inability to pay for water or sanitation, foreclosure of homes for inability to pay water bills, permitting of activities that pollute drinking water supplies, among others;

7. Protect drinking water supplies, including groundwater, particularly those that low-income, indigenous, homeless and communities of color depend upon;
8. Recognize the different challenges faced by rural, urban, and indigenous communities in achieving universal, equal access to safe, affordable, and adequate water and sanitation;
9. Collect and publish objective data on access to water and sanitation in the U.S., adequacy of water and sanitation infrastructure, drinking water quality, and drinking water and sanitation affordability, including demographic indicators;
10. Consult with civil society and affected communities on these fundamental issues;
11. Ensure consistency between U.S. climate change commitments and domestic water and sanitation policies;
12. Develop and promote a **national action plan** on water and sanitation as well as comprehensive federal guidelines for achieving universal, equal access to safe, affordable, adequate water and sanitation for federal and state agencies; and
13. Fulfill the commitments made by the United States government during the UN Universal Periodic Review to realize the human rights to affordable and safe water and adequate sanitation, as a matter of urgency.

### **Emergency Measures**

We respectfully request that the federal government undertake the following **emergency measures** to address ongoing water and sanitation crises in the U.S. and immediately:

1. Recognize the severity and magnitude of the lack of access to safe, affordable water and sanitation among low-income, indigenous, homeless, and communities of color, and act immediately to coordinate and extend emergency assistance to protect households without safe, affordable water and sanitation services and provide funding for local projects to meet safe, affordable drinking water and sanitation standards, waiving requirements that local communities match federal funds linked to providing these emergency services; and
2. DOJ/EPA: Hold accountable those public officials responsible for the decisions to prioritize economics over people in situations that lead to contaminated drinking water, such as that in Flint, MI, where the decision was made for the local utility to deliver corrosive, untreated river water to the homes of the people, when it would have cost \$100 a day to treat this water and where it has resulted in the irreversible lead poisoning of the city's children.

### **Policy Measures, Guidance, and Allocation of Resources to Specific Agencies**

The Executive Branch should also undertake specific policy measures and provide policy guidance to federal agencies, state and local governments, and the private sector on measures to realize the human rights to water and sanitation. This guidance should be developed in consultation with affected communities and civil society. Specifically, we recommend that the Executive Branch:

With respect to the **affordability** of water and sanitation services:

1. Encourage the adoption of a **national water affordability standard** and provide funding for states and localities to develop affordability plans, including a recognized right to service and shut-off protections for vulnerable groups;
2. Direct the relevant agencies, with oversight by the Office of Management and Budget, to conduct a study of water affordability in the U.S., which should include collection and analysis of data on water and sewer rates, rate increases, water shutoffs, and related information for all major utilities in the country; and an analysis of existing state and federal legal provisions that address water and sanitation affordability, the right of service, and

water shutoffs. The study should provide recommendations for proposed federal policy and guidance to utilities on affordability standards, shutoff protections, and the right of service to bring the U.S. in line with international human rights norms;

3. Develop a funding source to support the development of affordable on-site sanitation technology on behalf of rural communities that cannot afford existing technology; and
4. Collect and publish data on people living without water and sanitation, and require states and localities to collect and publish data about water shutoffs, including the number of shutoffs experienced by low-income households, women, children, the elderly, disabled persons, chronically ill persons, and other vulnerable groups.

With respect to access to **safe** drinking water:

1. Ensure the government provides the requisite funding for necessary **health and public services for those affected by contaminated water**, such as emergency services to ensure adequate medical care, community services, developmental and educational services, and nutrition to at least reduce the irreversible effects of lead poisoning on children.
2. In Flint and other localities suffering from or at risk for lead contamination of municipal drinking water supplies, take immediate steps to guarantee funding for 1) full removal and replacement of all lead water distribution pipes in the city at no cost to low-income residents and 2) long-term health care and services for children affected by lead poisoning;
  - a. Ban the practice of partial lead service line replacement, which leads to increased mobilization of soluble lead and lead particles through the tap for long periods of time, causing unnecessary and severe harm to human health;
1. Direct the Environmental Protection Agency to modify the Lead and Copper Rule to require proactive and **full** replacement of all lead service lines in drinking water systems without delay, public education on the hazards posed by lead in drinking water and the limitations of existing testing programs; improved and mandatory corrosion control treatment where lead service lines remain, as well as in medium and small drinking water systems with substantial available lead plumbing and lead-bearing interior pipes, fixtures, and faucets; and enhanced monitoring and reporting requirements;
  - a. Require EPA to prioritize audits of state Lead and Copper Rule programs and utility practices and procedures and to use its enforcement powers under the Safe Drinking Water Act to address this national public health inequity;
2. **Provide funding and technical assistance** to relieve communities paying for water that does not meet national quality standards and to complete feasibility studies, engineering plans, and to assist communities in meeting funding eligibility requirements;
3. As part of the incorporation of environmental justice into review under the National Environmental Protection Act, ensure that all environmental impact assessments include an assessment of likely impacts to the quality, affordability, and accessibility of drinking water and sanitation on low-income, indigenous, homeless, and communities of color;
4. Direct the EPA to immediately amend its regulations under which it freely issues aquifer exemptions for extractive industries such as uranium mining and oil and gas development which has resulted in widespread contamination of underground sources of drinking water; and
5. Ensure that federal agencies with responsibility to protect water quality have and can mobilize the necessary resources to discharge this responsibility effectively.

With respect to **adequate** drinking water and sanitation **infrastructure**:

1. **Modify the U.S. Census survey and the American Communities Survey** to include questions that reflect whether households have access to safe, affordable drinking water and adequate sanitation. The new questions should also aim to collect information about households living with decentralized wastewater systems and/or septic tanks;
2. Fulfill the 2011 recommendation of the UN Special Rapporteur on the Human Right to Safe Drinking Water and Adequate Sanitation that the United States “devote priority attention to improving aging infrastructure, as well as innovative designs and approaches that promote human rights, are affordable and create more value in terms of public health improvements, community development and sustainability.” Ensure that low-income individuals do not bear the costs for such infrastructure improvements;
3. Add a federal dedicated source of funding to the Drinking Water State Revolving Fund (with funds set aside for disadvantaged communities) and a renewal of the Build America Bonds Program to address aging or absent water and sewerage infrastructure in low-income rural and urban communities; and
4. Increase the capacity of offices that support or regulate decentralized wastewater and septic tanks, including regional offices or to otherwise promote the accessibility of these services for rural communities.

With respect to **equal access** to water and sanitation:

1. Designate the appropriate federal agency [EPA, Census Bureau] to collect and publish information necessary to analyze gaps in access to water and sanitation, discriminatory impacts, and due process violations, including information that would facilitate the identification of disparate impacts on the basis of race, gender, age, disability, chronic or severe illness, and socioeconomic status. To gather this information, the U.S. Census Bureau should add questions regarding access to water and sanitation to the American Communities Survey questionnaire and the U.S. Census survey;
2. Convene a joint meeting of the Universal Periodic Review (UPR) Civil Rights and Discrimination Working Group and the Economic, Social, and Cultural Rights Working Group to follow up on recommendations made to and accepted by the U.S. during the second round of the UN Universal Periodic Review; and
3. Direct the Civil Rights Division of the U.S. Department of Justice to conduct an investigation into the existence of a discriminatory impact to water rights violations and that the Office of Civil Rights of the U.S. Environmental Protection Agency to conduct an investigation into the discriminatory impact of permitting decisions that affect access to affordable, safe drinking water and adequate sanitation.