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March 11, 2024

The Honorable Tom Carper, Chairman  
The Honorable Shelley Moore Capito, Ranking Member  
Committee on Environment and Public Works  
United States Senate  
Washington, DC 20510

**Subject: Senate Environment and Public Works – CERCLA**

Dear Chairman Carper and Ranking Member Capito:

As the Committee on Environment and Public Works plans to consider the issue of passive receiver liability for PFAS cleanups under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Contra Costa Water District wishes to let you know how important this issue is for our utility, and many other drinking water and wastewater systems across the country.

While we agree that the EPA should take steps to eliminate and cleanup sites contaminated by Perfluorooctanoic Acid (PFOA), Perfluorooctane Sulfonate (PFOS), and other PFAS, water utilities do not use, manufacture, or sell these compounds. Rather, water utilities are subject to receiving them from waters polluted by manufactured products or waste discharges. In the course of purifying our water, agencies concentrate these and other impurities, and then appropriately dispose of the solids or sludge from the water treatment process consistent with all applicable laws.

EPA has stated that it intends to employ “enforcement discretion” and not pursue CERCLA cleanup liability against drinking water and wastewater systems related to PFAS. However, this does not protect water systems against CERCLA claims filed by polluters themselves, which can use the courts to attempt to offload some of their cleanup responsibility onto water systems or other passive receivers that had no role in introducing PFAS into the environment.

Subjecting water system ratepayers to CERCLA litigation filed by polluters is in direct contrast with the “polluter pays” principle at the core of CERCLA and will only result in increased water and wastewater rates nationwide. Congress must protect water systems and their ratepayers against these frivolous claims.

On behalf of Contra Costa Water District, we urge you to protect water and wastewater system ratepayers nationwide by providing clear and targeted liability protections for passive receivers like water systems that appropriately handle and dispose of PFAS. We support S. 1430, the Water Systems PFAS Liability

Committee on Environment and Public Works

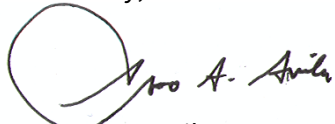
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Protection Act, introduced by Sen. Cynthia Lummis, and urge the committee to act on this critical legislation.

Thank you for your attention to this important issue. Please contact Jennifer Allen, Director of Public Affairs, with any questions at (925) 688-8041 or [jallen@ccwater.com](mailto:jallen@ccwater.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Ernesto A. Avila". The signature is written in a cursive style and is positioned to the right of a large, empty circular stamp.

Ernesto A. Avila  
Board President

EA/JA:nm

cc: CCWD Board of Directors