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March 13, 2024

The Honorable Tom Carper and Shelley Moore Capito  
Senate Committee on Environment and Public Works  
410 Dirksen Senate Office Building  
Washington, DC 20510

**RE: Support for S. 1430 – Water Systems Per- and Polyfluoroalkyl Substances (PFAS) Liability Protection Act**

Dear Chair Carper and Ranking Member Capito,

On behalf of Western Municipal Water District (Western Water) and the nearly 1 million customers we serve in Riverside County, California, I request your support of S. 1430, the “Water Systems PFAS Liability Protection Act.”

Western Water is one of the largest public agencies in western Riverside County, California, providing drinking water, wastewater (sewer), and recycled water services to wholesale and retail customers across 527 square miles. While initially formed in 1954 to provide imported water supplies to the region, Western Water has moved from 100% reliance on imported water to only 60% through significant investments to diversify our water portfolio with local supplies while also adding wastewater and recycled water services.

Public health is always our top priority. This is the case for all public agencies, many of whom are going above and beyond to make the necessary investments to prevent PFAS from entering the environment through potable and nonpotable water sources. However, we are concerned that the U.S. Environmental Protection Agency’s (EPA) proposed designation of perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) as hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). This potential designation by the EPA, which is now in final review at the U.S. Office of Management and Budget (OMB), will cause public agencies and our customers to incur environmental cleanup liability instead of the polluters introducing the substances into the environment.

CERCLA upholds a “polluter pays” principle, envisioned initially to hold companies that produce and profit from hazardous substances discharged into the environment to be responsible for their cleanup. While the polluter pays principle is laudable and something we strongly agree with, there is an unintended consequence when regulating per- and polyfluoroalkyl substances (PFAS). Drinking

water and wastewater systems passively receive these substances into their systems, and even though we do not create or add PFAS in our processes, agencies like ours could face CERCLA cleanup liability.

To make matters worse, a CERCLA designation for PFAS exposes drinking water and wastewater utilities, like Western Water, to potential litigation from the actual polluters. PFAS users and producers can abuse this designation through litigation to reduce their cleanup costs and increase costs on public utilities, which we would be forced to pass along to our customers. Even when our agencies can successfully defend themselves in court against CERCLA claims, the cost of that litigation alone could contribute to the ongoing water affordability challenge.

With this proposed rule under final review this spring, it is critical that Congress move quickly to ensure that water and wastewater systems and their customers are not unfairly punished for PFAS contamination, for which they bear zero responsibility for introducing into the environment. Without this exemption, liability costs could be significant. These costs will need to be paid for by public agencies, resulting in a high cost of living for all Americans due to increased utility rates.

As stated earlier, public agencies are invested in public health, and we understand we have a crucial role in stopping the proliferation of PFAS. An exemption from CERCLA will not stop us from being part of the solution to the proliferation of PFAS in the environment. I would encourage the EPA and other key stakeholders to work with drinking water and wastewater agencies to help develop and fund solutions that will benefit both the environment and public health.

For all the reasons stated above, I urge you to support S. 1430, the Water Systems PFAS Liability Protection Act, introduced by Sen. Cynthia Lummis. This bill would preserve the “polluter pays” principle under CERCLA and ensure that water utilities can continue focusing on maintaining water quality. If you or your staff have any questions, please don’t hesitate to contact me at [cmiller@wmwd.com](mailto:cmiller@wmwd.com) or 951.571.7242.

Very Respectfully,



CRAIG D. MILLER, P.E.  
General Manager

Cc: The Honorable Alex Padilla, U.S. Senator, California  
The Honorable Laphonza Butler, U.S. Senator, California  
The Honorable Cynthia Lummis, U.S. Senator, Wyoming  
Ian Lyle, Director of Federal Relations, Association of California Water Agencies  
Jessica Gauger, Director of Legislative Advocacy & Public Affairs, California Association of Sanitation Agencies