



March 12, 2024

The Honorable Chuck Schumer

Senate Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Tom Carper

Senate Environment and Public Works Committee Chair
United States Senate
Washington, D.C. 20510

The Honorable Mitch McConnell

Senate Minority Leader
United States Senate
Washington, D.C. 20510

The Honorable Shelley Moore Capito

Senate Environment and Public Works Committee Ranking Member
United States Senate
Washington, D.C. 20510

SUBJECT: Rancho California Water District Requests Support for Passive Receiver PFAS Liability Protection

Dear Majority Leader Schumer, Minority Leader McConnell, Chair Carper, and Ranking Member Capito:

The Rancho California Water District (Rancho Water) respectfully requests your support for PFAS liability protections for water and wastewater agencies under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) that follow all applicable law and regulations for PFAS. Rancho Water is a retail water and wastewater agency located in Southwest Riverside County. We serve a population of over 150,000 customers across our 150 square-mile service area. Our agricultural sector provides over \$1.2 billion of economic activity yearly. Potential liability from a proposed CERCLA hazardous substance designation for PFOA and PFOS, and the associated costs, is a serious concern for Rancho Water.

In September 2022, EPA published a proposed rule to designate PFOA and PFOS as CERCLA hazardous substances. That rule is currently at the Office of Management and Budget for review, and is expected to be finalized before the end of this month. The legislative intent of CERCLA was to allow for the remediation of contaminated sites and ensure that polluters are financially responsible for cleanup through the “polluter pays” model. Rancho Water strongly supports ensuring the CERCLA “polluter pays” principle remains intact.

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Unfortunately, under current federal efforts, water agencies and their ratepayers will be facing a “community pays” outcome that unfairly shifts clean-up and liability costs. **Public water and wastewater agencies are passive receivers of PFAS from a vast array of domestic, commercial, and industrial sources.** Water systems, and the public, do not have control over PFAS in the environment given the overwhelming presence of this family of chemicals in the chain of commerce and in our homes.

Without an explicit exemption from liability under CERCLA, water systems could be held financially liable for the cleanup of Superfund sites contaminated with PFAS merely for fulfilling our responsibilities under the Safe Drinking Water Act to treat and dispose of these chemicals to protect public health. While we appreciated that EPA has shared that it does not intend to pursue water systems for cleanup costs, the CERCLA statute leaves those same systems vulnerable to litigation by the polluters themselves through potential responsible party (PRP) suits. Cleanup costs alone are daunting for many water systems; adding the financial implications of litigation would be overly burdensome for ratepayers.

We ask that the Senate consider and pass legislation that would protect water systems and uphold CERCLA’s polluter pays principle. We are deeply concerned by the fact that PFAS manufacturers and consumer protection attorneys would benefit from the approach currently being pursued, and that small water and wastewater systems continue to be left vulnerable to PRP suits, as they are the least able to afford such costly legal challenges. It is not appropriate to make this effort rest on the backs of small systems. Facilitating the passage of legislation to exempt water and wastewater agencies is necessary and will allow water systems to focus on and allocate their limited resources to accomplish their most important goal: providing safe, reliable, and affordable water service to ratepayers.

Rancho Water urges you to uphold CERCLA’s “polluter pays” principle and protect water systems and the ratepayers they serve by supporting a tailored legislative exemption from PFAS liability.

Thank you for your attention to this request. If you have any further questions, please do not hesitate to contact Danielle Coats, Senior Government Affairs Manager at 951-526-6961, or by email at coatsd@ranchowater.com.

Sincerely,

RANCHO CALIFORNIA WATER DISTRICT



Robert S. Grantham
General Manager

cc: Senator Cynthia Lummis
Senator Alex Padilla
Senator Laphonza Butler

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