



City Council
311 Vernon Street
Roseville, California 95678

March 14, 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

Dear Chairman Carper and Ranking Member Capito:

As Mayor of the City of Roseville (Roseville), I write to urge that as the Committee on Environment and Public Works considers the critical need to address passive receiver liability for Perfluorooctanoic Acid (PFOA), Perfluorooctane Sulfonate (PFOS), and other PFAS (PFAS) cleanups under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the committee amend CERCLA to ensure water and wastewater agencies, like the City of Roseville, are provided protections from frivolous and unwarranted litigation stemming from the imminent U.S. EPA rule to designate PFAS as hazardous substance under CERCLA. Our request is made consistent with past congressional actions that delivered such protections to preclude the use of CERCLA liability to cast a net of liability over innocent, passive receivers.

As a full-service city providing water, wastewater, recycled water, solid waste, and electric services to a growing community of over 154,000 individuals and over 3,000 businesses, the City of Roseville is a passive receiver of PFAS. The City is supportive of source control measures, and actions that place the burden of clean up on producers (polluters) of the chemicals versus placing the burden on local water and wastewater utility customers.

Roseville supports U.S. EPA taking steps to eliminate and cleanup sites contaminated by PFAS. However, it must recognize that utilities do not use, manufacture, or sell these compounds. Rather, chemical and product manufacturers create the waste discharges. In the course of purifying wastewater influent, we concentrate these and other impurities, and then appropriately dispose of the solids or biosolids from the treatment process consistent with all applicable laws, including the Clean Water Act.

U.S. EPA has signaled 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 and wastewater systems against CERCLA claims filed by the polluters employing the CERCLA liability regime to attempt to offload their cleanup responsibility onto our local water and wastewater utility customers. To put a finer point on this tactic, CERCLA liability unleashed, without guardrails to protect the public, will divert limited public resources to defend against such litigation.

Subjecting local water and wastewater utility customers to polluter initiated CERCLA litigation directly conflicts with the "polluter pays" principle at the core of CERCLA. It will only result in increased water and wastewater rates nationwide. Congress must develop and pass liability protections to protect water systems and their local water and wastewater utility customers against these frivolous claims.

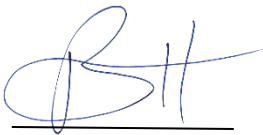
Without an explicit exemption from liability under CERCLA, water and wastewater systems could be held financially liable for the cleanup of Superfund sites contaminated with PFAS for merely fulfilling their responsibilities under the Safe Drinking Water Act to treat and dispose of these chemicals.

While Roseville appreciated that the U.S. EPA has shared that it does not intend to pursue water and wastewater systems for cleanup costs, the CERCLA statute leaves those same systems vulnerable to litigation by the polluters themselves through potentially responsible party (PRP) suits. Cleanup costs alone are daunting for many water and wastewater systems; adding the financial implications of litigation would be overly burdensome for local water and wastewater utility customers.

On behalf of the City of Roseville, we urge you to protect water and wastewater system local water and wastewater utility customers nationwide by providing clear and targeted liability protections for passive receivers that appropriately handle and dispose of PFAS. We ask that the Senate consider and pass legislation that would protect water and wastewater systems and uphold CERCLA's polluter pays principle. One example of this is Senator Cynthia Lummis' legislation, S. 1430, the Water Systems PFAS Liability Protection Act. This legislation would provide the protection that water and wastewater systems desperately need to face the challenge of PFAS pollution with all the resources they can bring to bear. This legislation would protect water and wastewater systems, as well as stormwater discharge permit holders, as CERCLA intends, and put the burden solely on polluters – not local water and wastewater utility customers. This will allow water and wastewater systems to focus on and allocate resources to accomplish their most important goal: providing safe, reliable, and affordable water and wastewater services to local water and wastewater utility customers.

Thank you for your attention to this important issue. Should you have any questions, please contact Utility Government Relations Administrator, Noelle Mattock, at (916) 297-2177 or NCMattock@Roseville.ca.us. We look forward to committee action to meet these concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read 'BH', is written over a horizontal line.

Bruce Houdesheldt, Mayor
City of Roseville