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Avenal Landfill

March 14, 2024

Dear Chairman Carper and Ranking Member Capito:

Avenal Landfill plays a crucial role in ensuring public health and environmental protection through various essential services, waste disposal, construction and demolition processing and recycling in California. We urge the U.S. Senate Committee on Environment and Public Works (EPW) to include provisions in any legislation concerning per- and polyfluoroalkyl substances (PFAS) that explicitly recognize organizations like ours as "passive receivers" of PFAS. This recognition is essential to grant us a narrow exemption from liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Without such relief, designating certain PFAS as CERCLA hazardous substances would shift the burden of compliance and cleanup onto ratepayers and the public, contrary to the "polluter pays" principle. While the U.S. Environmental Protection Agency (EPA) has indicated its discretionary authority in CERCLA enforcement, this offers limited reassurance to our sectors due to the potential for contribution litigation against passive receiver groups. This litigation would impose significant costs on lawful operations, ultimately leading to increased expenses for essential public services and the communities they serve. Avenal Landfill provides critical services unrelated to PFAS manufacture or use, yet we passively receive PFAS through various media, including water and waste streams. Designating PFAS as hazardous substances under CERCLA, without relief, would disrupt this interdependence and hinder our ability to manage waste streams effectively, potentially impacting public health and the environment.

While we recognize our responsibility in addressing PFAS management and holding accountable primary contaminators, any legislation designating PFAS compounds as hazardous substances must ensure relief for passive receiver facilities. We urge the Committee to provide statutory relief from CERCLA liability for owners and operators of such facilities, safeguarding the affordability and continuity of essential public services.

Sincerely,

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