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ORANGE COUNTY WATER DISTRICT
ORANGE COUNTY'S GROUNDWATER AUTHORITY

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March 6, 2023

The Honorable Tom Carper
Chairman
Committee on Environment and Public Works
Washington, DC 20510

The Honorable Shelley Moore Capito
Ranking Member
Committee on Environment and Public Works
Washington, DC 20510

Dear Chairman Carper and Ranking Member Capito:

On behalf of the Orange County Water District (OCWD), I write regarding PFAS contamination and the U.S. Environmental Protection Agency's (USEPA) proposed rule to impose CERCLA liability through the designation of this family of chemicals as hazardous substances, which is scheduled to be finalized this spring. Per our May 23, 2023 letter, we again ask that you support the intent of S.1430 by Senator Cynthia Lummis (R-WY) "The Water Systems PFAS Liability Protection Act" to advance an exemption for water and wastewater entities.

The entities responsible for the PFAS pollution could attempt to unfairly shift the liability for the cost of contamination from themselves onto innocent water agencies like OCWD—and ultimately citizen ratepayers—in contravention of the spirit of CERCLA. Water systems need Congress's help to prevent this.

In OCWD's service area 62 drinking water wells need treatment, which is enough water for nearly 800,000 individuals per year, and additional wells are likely to be taken offline when testing is expanded. 11 cities and retail water agencies are impacted and ten are in disadvantaged communities. For example, the City of Anaheim requires approximately \$140 million for the capital cost alone of treatment of its 19 impacted wells, while the City of Santa Ana faces around \$75 million in capital treatment costs for its 12 wells. Orange County water agencies, and ultimately ratepayers, are facing a cost of over \$1.8 billion for interim replacement water, capital and operations and maintenance costs over 30 years to address PFAS.

The swift nature of our response and the extensive scope of the PFAS contamination have significantly strained our financial resources and impacted local ratepayers. In FY

The Honorable Tom Carper and Honorable Shelley Moore Capito
March 6, 2023
Page 2 of 2

2022-23, OCWD increased its Replenishment Assessment (the per-acre-foot fee charged to cities and retail water districts for groundwater pumping) by 10%. This rate was further increased by 12% in FY 2023-24. We foresee the necessity of additional rate increases of at least 10% annually over the next three years which could contribute to the ongoing water affordability challenge.

As passive receivers of these ubiquitous chemicals, our request to protect against frivolous lawsuits is buttressed by past CERCLA liability exemptions, like the exemption from liability for Brownfields developers.

Again, we urge you to support passage of a water sector CERCLA liability exemption to protect our ratepayers and preserve the decades long polluter pays principle. Please contact us should you need additional information. Legislative Affairs Liaison Alicia Harasty may be reached at (714) 477-3750 or aharasty@ocwd.com to help facilitate your requests.

Sincerely,



Cathy Green
OCWD Board President

cc:

Senator Alex Padilla, CA
Senator Laphonza Butler, CA