



March 18, 2024

The Honorable Shelley Moore Capito  
Ranking Member, Senate Environment & Public Works Committee  
United States Senate  
170 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senator Capito:

On behalf of El Paso Water, I write to urge your support for an exemption for public water utilities from the Biden Administration's proposed U.S. Environmental Protection Agency (EPA) final rule to designate per- and polyfluoroalkyl substances (PFAS) as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA/"Superfund").

The EPA's proposed rule would hold public water utilities liable for the cleanup of PFAS contamination they neither manufactured nor generated. We support the goal of protecting public health, but we believe the rule would have significant impacts to El Paso Water and other public water utilities in Texas. Actions by the EPA to require public water utilities remediate PFAS contamination should be guided by the fact that we did not introduce the PFAS chemicals into the environment nor create the contamination and pollution challenge the nation is currently facing. It is critical to ensure that polluters are held liable for any PFAS contamination, not passive receivers like the public water utilities.

Without a legislative exemption to the Superfund rule for passive receivers, compliance and cleanup costs will fall on public water utilities, such as El Paso Water, that provide essential services to the public, resulting in increased costs that will ultimately be passed on to the residents and ratepayers we serve, many of whom will be unable to afford an increase. El Paso Water respectfully requests your support to protect public water utilities from liabilities stemming from the PFAS Superfund designation included in the proposed final rule.

Thank you for your leadership in addressing the challenges faced by water utilities and other passive receivers in the State of Texas face. We look forward to continuing to collaborate with you to ensure El Paso Water and other utilities can continue providing drinking water and wastewater services to our communities.

Sincerely,

John E. Balliew, PE  
President/CEO

cc: The Honorable Chuck Schumer, Majority Leader  
The Honorable Mitch McConnell, Minority Leader