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March 15, 2024

ELECTRONIC MAIL

The Honorable Chuck Schumer

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

The Honorable Mitch McConnell

Senate Minority 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 Shelley Moore
Capito**

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

**SUBJECT: Elsinore Valley Municipal Water District Requests Support for
Passive Receiver PFAS Liability Protection**

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

Elsinore Valley Municipal Water District (EVMWD) 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. EVMWD is located in Southwest Riverside County, California. We provide total water management to 159,000 people in the region with more than 1/3 being in disadvantaged and severely disadvantaged communities. EVMWD has groundwater, wastewater, recycled water, and the only surface body reservoir in at least California that has PFAS. Potential liability from a proposed CERCLA hazardous substance designation for PFOA and PFOS, and the associated costs, is a serious concern for our agency because we are facing millions of dollars in treatment and in purchasing replacement water.

In September 2022, EPA published a proposed rule to designate PFOA and PFOS as CERCLA hazardous substances. That rule is now in the final stages, currently at the Office of Management and Budget for review and is expected to be finalized before the end of this month. Congress intended CERCLA to be a statute that would allow for the remediation of contaminated sites and ensure the polluters are financially responsible for the cleanup through the “polluter pays” model. EVMWD strongly supports ensuring the CERCLA “polluter pays” principle remains intact. Unfortunately, under current federal efforts, water

agencies and their customers will be facing a “community pays” outcome that unfairly shifts the clean-up and liability costs onto water agencies and the public they serve.

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 for merely fulfilling their 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 potentially 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. Additionally, to mitigate the emergence of PFAS in our water supply EVMWD is having to rely on more imported water as we incorporate treatment to remove harmful PFAS contaminants from EVMWD’s drinking water supply. For EVMWD the estimated cost for treating our groundwater supplies is over \$50 million and the upgrades and treatment for our Canyon Lake Water Treatment Plant is over \$85 million and these costs will ultimately be passed to our customers.

We ask that the Senate consider and pass legislation that would protect water systems and uphold CERCLA’s polluter pays principle. We support legislation that would protect water systems, as CERCLA intends, and put the burden solely on polluters – not customers. This will allow water systems to focus on and allocate resources to accomplish their most important goal: providing safe, reliable, and affordable water service to ratepayers. EVMWD 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. Please contact Erin Sasse, Government Relations Officer at esasse@evmwd.net or 951-674-3146 with any questions about our position.

Sincerely,



Greg Thomas
General Manager

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CC:

Senator Cynthia Lummis
Senator Alex Padilla
Senator Laphonza Butler