



February 3, 2022

The Honorable Alex Padilla  
United States Senate  
112 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Padilla:

On behalf of the City of Santa Rosa, I am writing to express our concerns about ongoing efforts to address threats posed by per- and polyfluoroalkyl substances (PFAS) and, specifically, proposals to designate PFAS as a hazardous substance under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). As the Senate considers legislation to address PFAS contamination and liability for cleanups, we urge that you explicitly exempt clean water agencies (POTWs) from CERCLA liability and ensure that the polluter pays principle remains the foundation of CERCLA for the reasons discussed below.

The City of Santa Rosa, located approximately 50 miles north of San Francisco, California, operates a Regional Water Reuse System that serves approximately 230,000 residents in Santa Rosa, Rohnert Park, Cotati, Sebastopol, and unincorporated portions of Sonoma County. The hub of the Water Reuse System is the Laguna Treatment Plant, which cleans and recycles approximately 7 billion gallons of wastewater each year from homes, businesses, and industry in the region. During dry to normal years nearly 100% of our tertiary recycled water is beneficially reused for agricultural and urban irrigation, as well as to recharge the Geysers steamfields to produce clean and renewable energy. Our state accredited environmental laboratory, located at the Plant, analyzes drinking water, sewage, and industrial waste to ensure it complies with all applicable federal, state, and local regulations, and to protect public health, the environment, and our watershed.

PFAS are a group of man-made chemicals used in a plethora of everyday commercial products, including cookware, food packaging, carpets, textiles, and cosmetics to name a few. POTWs provide essential public health and environmental services through the treatment of wastewater, which allows water and biosolids to be safely recycled and returned to the environment. POTWs receive and reflect what is used in society. As a result, POTWs are passive recipients of PFAS: we neither produce nor use them.

In October, the U.S. Environmental Protection Agency (USEPA) published the Strategic PFAS Roadmap, elements of which were included in the PFAS Action Act of 2021 (H.R. 2467). We note that the House passed the PFAS Action Act in August, and the Senate has yet to act on the legislation. We strongly support addressing PFAS through source control and sound science as articulated in some of the elements of H.R. 2467. This includes the disclosure of the introduction of PFAS into a POTW by owners and operators of industrial sources. Unfortunately, H.R. 2467 also includes a mandate to designate PFAS chemicals as hazardous substances under CERCLA. We are concerned that this could have a range of

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potentially serious consequences for agencies that recycle their wastewater, discharge their effluent, and/or land apply biosolids that are a beneficial byproduct of the wastewater treatment process.

It is uncertain how many groundwater basins or surface water bodies receiving wastewater effluent or recycled water could be deemed a Superfund site. However, it remains a very real possibility that CERCLA designation of this family of chemicals would impose significant and unwarranted liability on local wastewater agencies and their ratepayers. Designating PFAS chemicals as hazardous substances under CERCLA would trigger strict, joint and several joint liability for those entities that contribute any PFAS to a particular site. Even if the contribution by the POTW is de minimis and entirely unavoidable, as is generally the case of clean water agencies, that agency could potentially be subject to being included in litigation to clean up the site or to pay for any damages.

As such, we strongly request an exemption from CERCLA liability for clean water agencies be provided to safeguard POTWs and biosolids managers from unreasonable and unwarranted liability simply because these agencies are receivers of PFAS while delivering critical public health services.

Additionally, we endorse recent congressional actions that would provide federal assistance to clean water agencies to implement pretreatment programs related to PFAS management and discharge. Source control of these chemicals is the most appropriate and effective approach to protect public health and the environment. A clean water agency that complies with applicable and appropriate federal management and treatment standards must not be responsible for current and future costs associated with PFAS cleanup.

It is vital that you secure an exemption for these agencies from CERCLA, no less than that contemplated in H.R. 2467 for our nation's airports. Assigning liability and responsibility to the City of Santa Rosa, our ratepayers and similar agencies is simply not good public policy.

Sincerely,

A handwritten signature in black ink that reads "Chris Rogers". The signature is fluid and cursive, with a long horizontal stroke at the end.

Chris Rogers  
Mayor

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