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November 4, 2021

The Honorable Alex Padilla
 U.S. Senate
 Washington, D.C. 20510

Dear Senator Padilla:

Per- and polyfluoroalkyl substances (PFAS/PFOA) are a group of man-made chemicals created by manufacturers and despite playing no role in releasing PFAS into the environment, clean water agencies must find ways to remove them from entering our water treatment systems.

The U.S. Environmental Protection Agency (U.S. EPA) is currently conducting research into the presences of such chemicals in biosolids and appropriate actions to address any scientifically documented findings. We note that the House passed the PFAS Action Act (H.R. 2467) in August and the Senate has yet to act on the legislation. If enacted in its current form, H.R. 2467 would impose drastic liability on clean water agencies like the Orange County Sanitation District (OC San) that have no responsibility for the presence of these chemicals in the environment.

OC San is a passive recipient of PFAS/PFOA. We are not the creators. OC San is unable to discriminate against discharges of PFAS chemicals that have been defined as ubiquitous. These chemicals are part of our daily lives, ranging from the manufacturing of clothing to food to industrial production.

I ask as you consider final legislation to address PFAS and other contaminants of emerging concern that you ensure such legislation explicitly exempts clean water agencies from PFAS cleanup costs. It is vital that responsibility for the control, discharge and treatment of these chemicals should be the sole responsibility of the producers.

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 approach to protect public health and the environment.

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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 a PFAS cleanup. Additionally, H.R. 2467 liability could be imposed for agencies that simply receive and treat water. It is vital that you secure an exemption for these agencies from the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) no less than that provided to our nation's airports. OC San and similar agencies have no responsibility for the presence of PFAS and the concept of imposing CERCLA liability is not good public policy.

I call upon the Orange County Congressional Delegation to cast votes implementing these public policy positions. Please do not hesitate to contact Jennifer Cabral, OC San Administration Manager at (714) 593-7581 or via email at JCabral@ocsan.gov should you have any questions.

Sincerely,

A handwritten signature in blue ink that reads 'John B. Withers'. The signature is written in a cursive style.

John B. Withers
Board Chairman