

RESOLUTION NO. 2021-081

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SANTA ANA SUPPORTING FEDERAL PFAS
LEGISLATION THAT PROTECTS RATEPAYERS AND
WASTE/WASTEWATER AGENCIES

WHEREAS, Per- and Polyfluoroalkyl Substances (“PFAS”) are a group of man-made chemicals created by chemical manufacturers and despite playing no role in releasing PFAS into the environment, cities and water agencies must find ways to remove them from local water supplies; and

WHEREAS, PFAS have been detected in the Orange County Groundwater Basin, managed by Orange County Water District, and are estimated to cost Orange County more than \$1 billion, over 30 years—a cost that will likely increase; and

WHEREAS, ratepayers are at risk from pending PFAS legislation and associated PFAS costs, and water agencies and stakeholders must take action to inform members of Congress of these devastating impacts; and

WHEREAS, all PFAS related legislation must therefore exempt water and wastewater agencies from any liability for PFAS cleanup costs; and

WHEREAS, a water utility 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; and

WHEREAS, given the potential for federal legislation, such as the PFAS Action Act of 2021 (H.R. 2467), to expose water agencies that simply receive and treat water supplies, with across-the-board liability for PFAS-related cleanups when they have no responsibility for the presence of PFAS, an explicit exemption from Superfund clean-up liability must be made for water and wastewater agencies; and

WHEREAS, under existing law, the U.S. Environmental Protection Agency ensures that public health benefits of new drinking water standards are reasonably balanced with the compliance costs that water system ratepayers will ultimately incur, and eliminating this analysis would burden ratepayers of all income levels with astronomical costs to comply with drinking water standards; and

WHEREAS, amendments to the Safe Drinking Water Act should not delete the longstanding cost-benefit analysis; and

WHEREAS, the Orange County Water District supports providing direct grant funding for PFAS remediation to water and wastewater agencies as provided in the Senate-passed Infrastructure Investment and Jobs Act (H.R. 3684).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Ana as follows:

Section 1. The City Council of the City of Santa Ana hereby supports these federal PFAS policy principles to protect water/wastewater agencies and their ratepayers.

Section 2. The Orange County Congressional Delegation and California Senatorial Delegation are called upon to cast votes implementing these public policy positions.

Section 3. This Resolution shall take effect immediately upon its adoption by the City Council, and the Clerk of the Council shall attest to and certify the vote adopting this Resolution.

ADOPTED this 21st day of December, 2021.

Vicente Sarmiento
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney


By: John M. Funk
John M. Funk
Sr. Assistant City Attorney

AYES:	Councilmembers	<u>Hernandez, Lopez, Mendoza, Penaloza, Phan, Bacerra, Sarmiento (7)</u>
NOES:	Councilmembers	<u>None (0)</u>
ABSTAIN:	Councilmembers	<u>None (0)</u>
NOT PRESENT:	Councilmembers	<u>None (0)</u>

CERTIFICATION OF ATTESTATION AND ORIGINALITY

I, DAISY GOMEZ, Clerk of the Council, do hereby attest to and certify the attached Resolution No. 2021-081 to be the original resolution adopted by the City Council of the City of Santa Ana on December 21, 2021.

Date: 12-23-2021



Daisy Gomez
Clerk of the Council
City of Santa Ana



CITY OF SANTA ANA

December 30, 2021

Sent Via E-mail

The Honorable Congressman Correa
2301 Rayburn House Office Building
Washington, D.C. 20515
(email: Ngoc.Nguyen@mail.house.gov)

The Honorable Congresswoman Kim
1306 Longworth House Office Building
Washington, D.C. 20515
(email: Colin.Timmerman@mail.house.gov)

The Honorable Congressman Lowenthal
108 Cannon House Office Building
Washington, D.C. 20515
(email: Shane.Trimmer@mail.house.gov)

The Honorable Congresswoman Porter
1117 Longworth House Office Building
Washington, D.C. 20515
(email: Jacob.Marx@mail.house.gov)

The Honorable Congresswoman Steel
1113 Longworth House Office Building
Washington, D.C. 20515
(email: Jonathan.Kuperman@mail.house.gov)

Dear Representatives Correa, Kim, Lowenthal, Porter, and Steel:

Orange County is a national leader in water recycling with the Groundwater Replenishment System, stormwater capture behind Prado Dam and most recently regarding extraction of PFAS from our drinking water. These landmark projects are environmentally superior and have saved Orange County ratepayers billions of dollars from not purchasing expensive, imported water.

It has come to our attention that the House passed federal legislation, PFAS Action Act of 2021 (H.R. 2467), would result, if enacted, in exposing the Orange County Water District (OCWD) to CERCLA's liability standard as OCWD works to remove PFAS from drinking water. OCWD has no responsibility for the presence of PFAS and the concept of imposing CERCLA liability on water districts runs contrary to the "polluter pays" public policy. We respectfully request that you work in support of OCWD's efforts in garnering an exemption from CERCLA liability for water and wastewater agencies as they properly remove PFAS from drinking water as Congress continues to consider legislative responses to protect our drinking water supplies.

Additionally, under current law (Safe Drinking Water Act), the USEPA ensures that public health benefits of new drinking water standards are balanced with the compliance costs that water system

CITY ATTORNEY
Sonia R. Carvalho

CITY MANAGER
Kristine Ridge

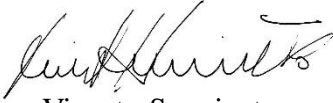
CLERK OF THE COUNCIL
Daisy Gomez

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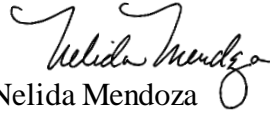
Letter to Representatives Correa, Kim, Lowenthal, Porter, and Steel
December 30, 2021

ratepayers will ultimately incur. When setting drinking water standards for PFOA and PFOS, we advocate for the USEPA to use this longstanding methodology.

Sincerely,



Vicente Sarmiento
Mayor



Nelida Mendoza
Councilmember, OCWD Board Member

C: Steve Sheldon, Board President (ssheldon@ocwd.com)



CITY OF SANTA ANA

December 30, 2021

Sent Via E-mail

The Honorable Senator Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

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

Dear Senator Feinstein and Senator Padilla:

PFAS are a group of man-made chemicals created by chemical manufacturers and despite playing no role in releasing PFAS into the environment, cities and water agencies must find ways to remove them from local water supplies, find alternative water supply, and conduct expensive monitoring. PFAS have been detected in the Orange County Groundwater Basin, managed by Orange County Water District (OCWD), and are estimated to cost Orange County communities more than \$1 billion, over 30 years—a cost that could increase. Complicating this cleanup burden, ratepayers are at additional risk from pending PFAS legislation that would effectively abandon the “polluter pays” principle and create a new separate drinking water standard setting process for PFAS chemicals.

We ask as you consider legislation to address PFAS and other contaminants of emerging concern, that you ensure such legislation provides an explicit exemption from liability for water and wastewater agencies related to PFAS cleanup costs. A water utility 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. We are especially concerned that the House has approved the PFAS Action Act of 2021 (H.R. 2467). This bill creates liability for water agencies that simply receive and treat water supplies with across-the-board CERCLA liability for PFAS-related cleanups. This pending legislation provides an exemption for the nations’ airports, and it is vital that you secure an exemption to also include water and wastewater agencies. Water agencies have no responsibility for the presence of PFAS and the concept of imposing CERCLA liability is bad public policy.

Also, under existing law (Safe Drinking Water Act), the USEPA ensures that public health benefits of new drinking water standards are reasonably balanced with the compliance costs. We advocate for the USEPA to use this current methodology when setting drinking water standards for PFOA and PFOS. This is a longstanding method that has been used and its elimination would burden ratepayers of all income levels with higher costs.

CITY ATTORNEY
Sonia R. Carvalho

CITY MANAGER
Kristine Ridge

CLERK OF THE COUNCIL
Daisy Gomez

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Letter to Senator Feinstein and Senator Padilla

December 30, 2021

We call upon California's Senators to cast votes implementing these public policy positions. If further information is needed, feel free to contact our office at 714-647-6900.

Sincerely,



Vicente Sarmiento
Mayor



Nelida Mendoza
Councilmember,
OCWD Board Member

C: Steve Sheldon, Board President (ssheldon@ocwd.com)