



June 25, 2007

Subject: Reject CERCLA Animal Waste Exemption

Dear Members of the Senate:

Once again, efforts are underway in Congress to eliminate existing authorities from the Superfund statute that have been used by community water systems to protect local watersheds and the very sources of drinking water for communities, towns, and cities. The 109th Congress declined to adopt such legislation last year, and we strongly urge Congress to reject it again.

During Senate consideration of H.R. 6, the CLEAN Energy Act of 2007, an amendment was offered to provide blanket exemptions from the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) for animal wastes. While consideration of the amendment was blocked, the measure has been introduced as a stand-alone bill (S. 807), and we understand there is a possibility it may also be offered as an amendment to the Farm Bill later this year.

The measure would preclude manure from being considered a "hazardous substance" under Section 101(14) and from the definition of a "pollutant or contaminant" under Section 101(33) of CERCLA.

This change is unnecessary and unwise for several reasons. Manure is NOT considered a hazardous substance, pollutant or contaminant under CERCLA. Further, CERCLA already has an exemption for the normal application of fertilizer that would include manure.

However, phosphorus IS a hazardous substance under CERCLA, is a constituent present in manure, and it pollutes the drinking water sources that are downstream from animal feeding operations. Enactment of this measure would result in the increased discharge of phosphorus and other CERCLA-regulated contaminants into water supplies, compromising the quality of communities' drinking water. Furthermore, if a broad exemption for manure were to be added to CERCLA, communities would be precluded from cost recovery for pollution beyond the normal application of fertilizer currently permitted under CERCLA. This would unfairly shift the burden of clean up from the polluter to local ratepayers.

We strongly urge that this bill not be enacted nor the provisions of the bill be incorporated into any other legislation in either the House or Senate.

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The American Water Works Association (AWWA) is the nation's oldest and largest organization of drinking water professionals. Our utility members provide safe and affordable water to more than 80 percent of the American people.

The Association of Metropolitan Water Agencies (AMWA) is an organization of the largest publicly owned drinking water systems in the United States. Our membership serves more than 127 million Americans with drinking water from Alaska to Puerto Rico.

If you need more information, please don't hesitate to contact us at 202-628-8303 (AWWA) or 202-331-2820 (AMWA).

Sincerely,

A handwritten signature in black ink that reads "Tom Curtis". The signature is written in a cursive style with a long horizontal stroke at the end.

Tom Curtis
Deputy Executive Director
American Water Works Association

A handwritten signature in black ink that reads "Diane VanDe Hei". The signature is written in a cursive style with a long horizontal stroke at the end.

Diane VanDe Hei
Executive Director
Association of Metropolitan Water Agencies