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September 4, 2024

**VIA REGULAR & CERTIFIED MAIL
RETURN RECEIPT REQUESTED:**

W.L. Gore & Associates, Inc.
2401 Singerly Road
Elkton, Maryland 21921
Michael Regan
United States Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Adam Ortiz
United States Environmental Protection Agency
Region 3
1650 Arch Street
Philadelphia, Pennsylvania 19103

Secretary Serena McIlwain
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

The Corporation Trust, Incorporated
Registered Agent for W.L. Gore & Associates, Inc.
2405 York Road, Suite 201
Lutherville Timonium, Maryland 21093

**RE: 90 DAY NOTICE OF INTENT TO SUE PURSUANT TO THE RESOURCE
CONSERVATION AND RECOVERY ACT**

Dear W.L. Gore & Associates:

Pursuant to the citizen suit provisions of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6972(b)(1)(A), this letter serves as notice that Stephen and Cheryl Martin (collectively “the Citizens”) intend to sue W.L. Gore & Associates (“Gore”), which owns and operates a manufacturing plant located at 2401 Singerly Road, Elkton, Maryland 21921 (“Cherry Hill Plant”), in the federal District Court for the Northern District of Maryland regarding its

emissions, discharge, release and disposal of perfluorinated alkyl (“PFAS”) chemicals and their precursors, which have contaminated the area’s groundwater.

Gore’s actions present or may present an imminent and substantial endangerment to health or the environment, in violation of RCRA § 6972(a)(1)(B). Further, with its unpermitted release and disposal of these substances, Gore has violated the RCRA prohibition against Open Dumping established in 42 USC 6945, Subtitle D of RCRA.

W.L. Gore's Release and Disposal of PFAS and Forever Chemicals

W.L. Gore & Associates, Inc. (“Gore”) owns and operates the Cherry Hill Plant (“Cherry Hill Plant”) in Elkton, Cecil County, Maryland. It began operations in 1972 and continues to the present. Elkton has a population of about 16,000 residents. Upon information and belief, many of Cherry Hill’s manufacturing processes utilized polytetrafluoroethylene (“PTFE”), as well as dispersions of Ammonium Perfluorooctanoate (APFO) which is the ammonium salt of perfluorooctanoic acid (PFOA), and an unwanted byproduct of this process was the conversion and release of per- and polyfluoroalkyl substances (PFAS) including APFO and PFOA. Upon information and belief, APFO and PFOA were released into the environment with air emissions and discharged or disposed of in wastewater. Nearly every day some of the APFO escaped the Gore plant in contaminated air from the production process that was vented through the facility’s roof stacks into the ambient air. Most of that was subsequently dissolved by rain and migrated into the groundwater, contaminating nearby streams and groundwater. That portion of APFO that left Cherry Hill in the contaminated process wastewater was carried to the Wastewater Treatment Plant (WWTP) for the City of Elkton, from which it flowed into a local stream with the treated municipal sewage.

APFO falls under the perfluorinated alkyl (PFAS) class of “forever” chemicals that are inert and thermally stable and do not biodegrade in the environment. They are also carcinogenic. USEPA proposed in February 2024 to list PFAS as a hazardous waste under RCRA. *See Proposal to List Nine Per- and Polyfluoroalkyl Compounds as Resource Conservation and Recovery Act Hazardous Constituents*, United States Environmental Protection Agency, [Proposal to List Nine Per- and Polyfluoroalkyl Compounds as Resource Conservation and Recovery Act Hazardous Constituents | US EPA](#). As a consequence of these manufacturing activities, large amounts of PFAS—forever chemicals—were released by Gore’s Cherry Hill plant into the surrounding area over a period of more than 20 years.

Conversion of APFO emissions to PFOA and Groundwater Migration

Upon release of APFO from the Cherry Hill Plant to the air, APFO formed fine particulates in the ambient environment as a wind-driven contaminant before depositing onto the land surface via wet (rainfall-driven) or dry (gravity-driven) deposition. Once the APFO particles were deposited on the land surface and encountered water in streams or during rainfall events, they dissolved in water, forming perfluorooctanoate (PFO-) and ammonium (NH₄⁺) or perfluorooctanoic acid (PFOA). The term “PFOA” refers to the dissociated, aqueous form of APFO. PFOA leaches through the soil profile during precipitation events until it reaches the water table (Davis et al., 2007). Once PFOA has entered the aquifer, it migrates with groundwater. The

APFO emitted into the air from Gore's Cherry Hill facility dissolved in precipitation and became PFOA and migrated into the subsurface through the unsaturated (vadose) zone, and into the water-bearing zone tapped by the drinking water supply wells.

Surface water, residential well, and public water system samples collected in 2022 and 2023 in the Cherry Hill area show widespread PFOA and other PFAS contamination that is greatest closest to the Gore Cherry Hill Plant and decreases with distance from the plant. This contamination is dominated by PFOA, with subordinate amounts of PFHxA and PFHpA, all of which have been documented in materials used at the Cherry Hill Plant.

USEPA has recently established a national primary drinking water regulation (Maximum Contaminant Level or MCL) for PFOA at 4 parts per trillion (ppt). 40 C.F.R. 141.903. The highest concentrations of PFOA in groundwater are associated with residential wells east and southeast (downgradient) of the Gore facility along Singerly and Cherry Hill Roads, where in 2022-2023, the maximum concentration in well samples exceeded 700 ppt.

The highest concentrations of PFOA in surface water (>700 ppt) are also associated with the headwaters of a tributary to Little Elk Creek east and southeast (downgradient) of the Gore facility along Singerly and Cherry Hill Roads.

Multiple private wells of community members, as well as community water systems have been impacted over the years. The Manchester Park neighborhood is located approximately 5,000 feet, or less than 1 mile, south-southeast of the Cherry Hill Plant. Drinking water for residents in the subdivision was supplied by groundwater production wells owned by CECO Utilities, Inc. (MDE, 2005). Six wells were installed between 1963 and 2002. A seventh well was installed in 2003. The neighborhood was not connected to a public water main until November 2012, when CECO transferred their water utility assets to Artesian Water Maryland. Because wells serving the Manchester Park neighborhood obtained their water from an unconfined aquifer for the period from 1980 to 2003, these wells were infiltrated by rainwater contaminated with PFOA from the Cherry Hill Plant. Upon information and belief, the soil in this area continues to have PFAS present.

Gore's On-Site Release and Disposal

For 20 years, Gore pumped their APFO-laden industrial wastewater into the City of Cherry Hill's sewer system untreated, even though for most or all that time, upon information and belief, they knew that APFO is non-biodegradable and toxic, and thus would merely flow unaffected through the City's wastewater treatment plant and be discharged to the receiving stream at very high concentration.

Upon information and belief, Gore did not have an industrial wastewater treatment system until 1997. Further upon information and belief, when Gore did finally obtain an industrial wastewater treatment system in 1997, its capabilities were not sufficient to filter out the high levels of APFO in its wastewater. As a result, Gore is alleged to have discharged APFO in outgoing treated wastewater into the city sewer system. As a result of this, the city's discharge and its receiving stream contain PFAS, including, but not limited to PFOA. Additionally, on information

and belief, washdown from W.L. Gore's Cherry Hill Facility containing PFOA, traveled into nearby ground, groundwater and surface water.

Under natural conditions, groundwater under the W.L. Gore Cherry Hill Plant would be expected to migrate eastward and southeastward, consistent with topography. Investigations of groundwater contamination have documented that shallow groundwater from under the plant does migrate as expected, which is in the direction of a cluster of homes on the east side of Singerly Road and then discharges to a tributary of Little Elk Creek. The highest concentrations of PFOA observed in residential wells (700 ppt+) are associated with these homes across Singerly Road, east and southeast (downgradient) of the Gore plant. The source of this groundwater contamination is likely deposition of plant air emissions to the ground near the plant as well as discharge of waters containing forever chemicals to drain fields on the Gore property.

Health Effects

The substances that are collectively categorized as PFAS are highly toxic "forever chemicals" that can cause different types of cancers, reproductive and developmental issues, thyroid disease, and changes in the immune system. Once PFAS enters the body, it remains for a long period of time. Its half-life in the body is estimated to be at least 7 years. It is not naturally occurring in the environment and has no natural background level.

Short-term exposure of humans to PFAS may result in increases in cholesterol levels and changes to liver enzymes. Long-term exposure is linked to lower antibody response to some vaccines, pregnancy-induced hypertension and preeclampsia, developmental delays, and certain types of cancers.

Chronic exposure to PFAS is still being studied but chronic exposure to lab animals has resulted in low birth weight, birth defects, delayed development, and newborn deaths. It has also resulted in liver and pancreatic tumors.

PFAS causes damage and injury to person and property upon entering the environment, continuously causes and threatens injury as a result of its presence, and continuously causes damage and injury due to its persistence in the environment once present.

EPA reviewed data for these chemicals and determined that nine PFAS compounds (including those resulting from Gore's manufacturing operations) meet the criteria for listing as a RCRA hazardous waste constituent. To be listed under RCRA, scientific studies must show that the chemical has toxic, carcinogenic, mutagenic, or teratogenic effects on humans or other life forms. 42 U.S.C. § 6903(5).

Citizens

Citizens reside within 3.5 miles of the Cherry Hill Plant. Citizens allege harm to their property and their recreational, aesthetic, and/or commercial interests within the area. Citizens also allege harm to their physical health as they suffer from adverse health effects, including but not limited to, cancers, thyroid disease, and/or high cholesterol as a result of their exposures to PFOA and PFAS discharged from the Cherry Hill Plant. Citizens also suffer harm to their mental well-

being, such as anxiety related to the fear of, and potential actual, adverse health effects resulting from their exposures. Citizens assert actual and/or imminent, concrete, and particularized injuries that have a causal connection to the conduct complained of in this letter, i.e., injuries that are fairly traceable to the challenged actions.

Imminent Endangerment and Open Dumping

As summarized above, Gore's release and disposal of forever chemicals as a result of the manufacturing activities at the Cherry Hill Plant have contaminated the environment surrounding the Cherry Hill facility. Gore's actions in causing the release and disposal of these forever chemicals from its manufacturing facility present or may present an imminent and substantial endangerment to health or the environment, in violation of 40 U.S.C. § 6972(a)(1)(B). Gore's practices of emitting, discharging and/or disposing of PFAS and manufacturing byproducts into the air, on-site and to the City's wastewater treatment system constitutes the disposal of solid waste by discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that such solid waste may enter the environment or be emitted into the air or discharged into any water. Gore's release and disposal of these substances without a permit to do so constitutes Open Dumping in violation of 42 U.S.C. § 6945.

Relief Requested

Pursuant to 42 U.S.C. § 6972(a), Citizens intend to seek legal and equitable relief for Gore's disposal practices and open dumping in violation of RCRA. The relief sought includes but is not limited to:

Orders and all other relief to provide Citizens and all others impacted by Gore's contamination with clean and healthy drinking water;

Orders and all other relief to bear the expense of monitoring and remediating the soil and groundwater in the area of the Cherry Hill plant to ensure that ongoing leakage of constituents of concern and further contamination of the groundwater is prevented, as overseen, and certified by a qualified, independent professional environmental engineer;

Orders and all other relief to bear the expense of containing the migration of all groundwater containing constituents of concern from the Cherry Hill Plant property to the drinking water using groundwater barriers and filters or equivalent technology, as overseen and certified by a qualified, independent professional environmental engineer;

Orders and all other relief to bear the expense of stopping Gore's practice of open dumping and/or emitting manufacturing byproducts into unlined impoundments and removing or otherwise remediating all waste disposal areas that may cause damage and threaten injury to the person and property of third parties, as overseen and certified by a qualified, independent professional environmental engineer;

Orders and all other relief to bear the expense of assessing and remediating the impact of the entry of substances from the Cherry Hill Plant to all impacted public water supply

intakes as overseen and certified by a qualified, independent professional environmental engineer;

Orders and all other relief to bear the expense of testing and remediating all sediments containing constituents of concern in properties adjacent to the Cherry Hill Plant, as overseen and certified by a qualified, independent professional environmental engineer;

Penalties assessable for RCRA violations;

Attorneys' and Expert Witness Fees and Costs;

Other necessary and ongoing relief.

Pursuant to 40 CFR § 54.3, the names and addresses of the persons receiving this notice are as follows:

W.L. Gore & Associates, Inc.
2401 Singerly Road
Elkton, Maryland 21921

Michael Regan
United States Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Adam Ortiz
United States Environmental Protection Agency
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Philadelphia, Pennsylvania 19103

Secretary Serena McIlwain
Maryland Department of the Environment
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The attorneys representing the parties in this notice are:

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Conclusion

For all the above reasons, Gore has violated the Resource Conservation and Recovery Act and is subject to a Citizens' Suit.

Very Truly Yours,



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