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April 21, 2026

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

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Re: 60-Day Notice of Intent to Sue for Clean Water Act Violations – Unlawful PFAS Discharges to and from Sumter Pocotaligo Wastewater Treatment Plant

To whom it may concern:

This letter is sent to inform the City of Sumter, SC, Giant Resource Recovery – Sumter, Inc. ("Giant"), Phibro-Tech, Inc. ("Phibro"), and Carolina Filters, Inc. ("Carolina Filters," together with Giant and Phibro, the "Industrial Plants") that Winyah Rivers Alliance has identified serious and ongoing violations of the federal Clean Water Act by each entity stemming from: (i) the Industrial Plants' unlawful discharges of toxic per- and poly-fluoroalkyl substances ("PFAS") to Sumter's Pocotaligo River Wastewater Treatment Plant ("Sumter WWTP"), and (ii) the Sumter WWTP's unlawful and unpermitted discharges of PFAS into the Pocotaligo River.

Winyah Rivers Alliance hereby notifies you that, if these violations are not resolved within 60 days from the date of this letter, Winyah Rivers Alliance is prepared to file a citizen suit against you in the United States District Court for the District of South Carolina pursuant to Section 505 of the Clean Water Act, 33 U.S.C. § 1365(a)(1). The suit will seek declaratory and injunctive relief requiring Sumter and the Industrial Plants to abate their unlawful PFAS pollution, the payment of civil penalties of up to $68,445 per day for each Clean Water Act violation, the payment of litigation costs and attorneys' fees, and other appropriate relief.

I. THE SUMTER WWTP AND THE INDUSTRIAL PLANTS

The City of Sumter operates the Pocotaligo River Wastewater Treatment Plant (the "Sumter WWTP") located at or near 600 Justin Lane in Sumter, SC 29153. The Sumter WWTP operates pursuant to the terms and conditions of a National Pollutant Discharge Elimination System ("NPDES") Permit that authorizes the WWTP to discharge certain pollutants into the Pocotaligo River subject to effluent limitations and other requirements. Ex. 1 (NPDES Permit No. SC0027707, hereinafter the "NPDES Permit"). Relevant here, the NPDES Permit does not authorize the Sumter WWTP to discharge any PFAS into the Pocotaligo River, and Sumter did not disclose discharges of any PFAS in its application for the NPDES Permit. *See* Ex. 2.

The Sumter WWTP accepts wastewater from multiple industrial facilities, including Giant, which is located at or near 755 Industrial Road, Sumter, SC 29154; Phibro, which is located at or near 2395 Cains Mill Road, Sumter, SC 29154; and Carolina Filters, which is located at or near 109 E. Newberry Ave., Sumter, SC 29151. Discharges from the Industrial Plants to the Sumter WWTP are governed by state and federal "pretreatment" regulations, Sumter's Sewer Use Ordinance, *see* Sumter Code of Ordinances Ch. 98, Art. III, and the terms and conditions of "Pretreatment Permits" issued by Sumter to each of the Industrial Plants. *See* Ex. 3 ("Giant's Permit"); Ex. 4 ("Phibro's Permit"); Ex. 5 ("Carolina Filters' Permit") (together, the "Pretreatment Permits"). The Pretreatment Permits authorize the Industrial Plants to discharge certain pollutants at certain levels to the Sumter WWTP. Relevant here, none of these Pretreatment Permits authorize the Industrial Plants to discharge PFAS to the Sumter WWTP.

II. PFAS ARE TOXIC INDUSTRIAL CHEMICALS

PFAS are a class of industrial chemicals that pose major threats to human health and the environment at extremely low levels. PFAS exposure has been linked to multiple types of cancer, cardiovascular disease, developmental effects in fetuses and infants, liver malfunction, hypothyroidism, high cholesterol, ulcerative colitis, obesity, reduced hormone levels, delayed puberty, lower birth weight and size, and other serious illnesses. PFAS are highly persistent in the environment and "bioaccumulative," meaning the chemicals build up in the bodies of people and animals. PFAS also "biomagnify"—i.e. increase up the food chain in exposed animals such as fish, meaning even more intense impacts for the people who eat them. As one recent study concluded, eating one serving of fish tainted with PFAS could be equivalent to drinking contaminated water every day for a month.[1] PFAS can contaminate wild game, farm animals, fruits, and vegetables, potentially harming the hunters and consumers who eat contaminated plants or animals. PFAS are also highly mobile; once released into rivers, PFAS can travel many dozens of miles downstream.

[1] *See* Tom Perkins, *Freshwater fish more contaminated with 'forever chemicals' than in oceans*, THE GUARDIAN (Jan. 18, 2023), https://perma.cc/Q837-DA76 (permanent link); Nadia Barbo et al., *Locally Caught freshwater fish across the United States are likely a significant source of exposure to PFOS and other perfluorinated compounds*, 220 ENV'TL RES. 115165 (2023).

Given these harms, the United States Environmental Protection Agency has set health advisories for certain PFAS in drinking water as low as 0.004 parts per trillion ("ppt").[2] EPA has also established enforceable maximum contaminant levels for PFAS in drinking water as low as 4 ppt.[3] For reference, 4 parts per trillion is equal to a single drop of water in 5 Olympic-sized swimming pools, underscoring the high toxicity of PFAS chemicals. EPA has also set maximum contaminant level goals of zero for two common types of PFAS, 89 Fed. Reg. at 32,532, indicating that *no amount* of these chemicals is known to be safe. *See* 42 U.S.C. § 300g-1(b)(4)(A) (maximum contaminant level goals "shall be set at the level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety.").

III. THE SUMTER WWTP IS DISCHARGING SUBSTANTIAL AMOUNTS OF PFAS INTO THE POCOTALIGO RIVER

The Sumter WWTP is discharging substantial amounts of toxic PFAS into the East Branch of the Pocotaligo River through the Outfall designated "001" in its NPDES Permit. The Sumter WWTP uses a conventional wastewater treatment process that is not designed or intended to remove PFAS. As a result, industrial discharges of PFAS pass through the WWTP and are discharged into the Pocotaligo River, contaminating that River and the Black River downstream with high levels of PFAS. This contamination is confirmed by robust sampling data from multiple sources.

The City's Sampling. Between April 25, 2024 and September 3, 2025, Sumter collected multiple samples of the influent, effluent, and sludge of the Sumter WWTP, all of which showed high levels of numerous types of PFAS. *See* Exs. 6–11 (lab reports). Sumter's effluent samples show discharges of 494.9 ppt total PFAS to the Pocotaligo River on April 26, 2024, Ex. 6; 431.4 ppt total PFAS to the Pocotaligo on May 16, 2024, Ex. 7; and 286.14 ppt total PFAS to the Pocotaligo on August 19, 2025, Ex. 8. Sumter's discharges of PFAS to the Pocotaligo River are routine and ongoing and are not isolated to the specific dates of its effluent samples, as evidenced by the consistently high levels of PFAS in Sumter's influent and sludge samples

[2] EPA's health advisories are as follows: 0.004 ppt for perfluorooctanoic acid (PFOA), 0.02 ppt for perfluorooctane sulfonic acid (PFOS), 10 ppt for hexafluoropropylene oxide dimer acid and its ammonium salt (GenX), and 2,000 ppt perfluorobutane sulfonic acid and its related compound potassium perfluorobutane sulfonate (PFBS). *See* Lifetime Drinking Water Health Advisories for Four Perfluoroalkyl Substances, 87 Fed. Reg. 36,848, 36,848 (June 21, 2022).

[3] The maximum contaminant levels are: 4 ppt each for PFOA and PFOS, 10 ppt for Perfluorohexane sulfonic acid (PFHxS), 10 ppt for Perfluorononanoic acid (PFNA), 10 ppt for GenX, and a hazard index formula for mixtures of different types of PFAS. 89 Fed. Reg. 32,532 (Apr. 26, 2024).

collected before, during, and after the dates of its effluent samples.[4] With discharge flow regularly exceeding 10 million gallons per day, the Sumter WWTP is a major source of PFAS loading to the Pocotaligo.

DES's Sampling. Shortly downstream of the Sumter WWTP, the South Carolina Department of Environmental Services ("DES") collected ten samples in the Pocotaligo River at the Twelve Bridge Road crossing between January 18, 2023 and August 19, 2025, all showing high levels of PFAS, with levels ranging between 163 and 604.17 ppt total PFAS and averaging 366.575 ppt total PFAS.[5] Further downstream at the North Brewington Road crossing, DES collected 14 samples from the Pocotaligo River between August 4, 2022 and August 19, 2025, all showing high levels of PFAS, with levels ranging between 100.4 and 7663.94 ppt total PFAS and averaging 839.137 ppt total PFAS.[6] At the same location, DES collected PFAS samples from multiple fish species, including Bowfin, Largemouth Bass, Warmouth, and Spotted Sunfish—all of which were contaminated with PFAS.[7] PFAS levels in the Pocotaligo River were the highest observed in DES's sampling statewide, the second highest for PFAS in fish, and several magnitudes higher than EPA's standards and health advisories. Due to this severe PFAS

[4] Influent sampling occurred on the following dates: 4/26/2024 (802.9 ppt total PFAS); 5/16/2024 (315.6 ppt total PFAS); and 9/3/2025 (110 ppt total PFAS). Exs. 6–7, 9. Sludge sampling occurred on: 4/25/2024 (823.94 ug/kg total PFAS in biosolids, 98.93 ug/kg total PFAS in sludge cake); 3/12/2025 (118.37 ng/g total PFAS in biosolids, 312.10 ng/g total PFAS in sludge cake); and 8/19/2025 (111.74 ng/g total PFAS in biosolids, 2883 ng/L total PFAS in sludge cake). Exs. 8, 10–11.

[5] Sampling occurred on the following dates at this location, labeled "PD-721" by DES: 1/18/2023 (373.68 ppt total PFAS); 4/27/2023 (332.17 ppt total PFAS); 8/24/2023 (534.73 ppt total PFAS); 2/21/2024 (163 ppt total PFAS); 4/30/2024 (219.55 ppt total PFAS); 9/3/2024 (182.97 ppt total PFAS); 11/12/2024 (604.17 ppt total PFAS); 2/25/2025 (363.48 ppt total PFAS); 5/20/2025 (491.9 ppt total PFAS); 8/19/2025 (400.1 ppt total PFAS). *See* https://gis.des.sc.gov/pfas/.

[6] Sampling occurred on the following dates this location, labeled "PD-043" by DES: 8/4/2022 (7663.94 ppt total PFAS); 12/7/2022 (975.62 ppt total PFAS); 1/18/2023 (218.42 ppt total PFAS); 3/1/2023 (401.07 ppt total PFAS); 4/27/2023 (298.34 ppt total PFAS); 5/4/2023 (275.59 ppt total PFAS); 8/24/2023 (291.13 ppt total PFAS); 2/21/2024 (100.4 ppt total PFAS); 4/30/2024 (202.29 ppt total PFAS); 9/3/2024 (283.72 PPT total PFAS); 11/12/2024 (255.6 ppt total PFAS); 2/25/2025 (167.7 ppt total PFAS); 5/20/2025 (289 ppt total PFAS); 8/19/2025 (325.1 ppt total PFAS). *See* https://gis.des.sc.gov/pfas/.

[7] Fish tissue sampling occurred at the Brewington Road/PD-043 site on June 15, 2023, with Bowfin fillet containing 11.45 ng/g total PFAS, Largemouth Bass fillet containing 111.95 ng/g total PFAS, Warmouth fillet containing 37.22 ng/g total PFAS, and Spotted Sunfish whole tissue composite containing 276.74 ng/g total PFAS. *See* https://gis.des.sc.gov/pfas/.

pollution, the Pocotaligo River has been rendered toxic, with major health concerns for anyone who continues to eat fish caught in these waters.

The Riverkeeper's Sampling. A national report issued by the Waterkeeper Alliance in 2025 found that the Pocotaligo River immediately downstream of the Sumter WWTP was "the most contaminated" with PFAS out of 32 rivers across the United States that were sampled as part of the study. Ex. 12 at 13, 53. To collect these data, the Black-Sampit Riverkeeper installed passive sampling devices in the East Branch of the Pocotaligo River immediately upstream and downstream of Outfall 001 of the Sumter WWTP. The sampling devices were designed to measure average levels of PFAS in river water over time, with data collected from August 23 to September 25, 2024. Over this period, PFAS levels increased nearly 107% from the upstream to the downstream sampling devices, to a significantly elevated 228.39 ppt as an average in-stream concentration of total PFAS immediately downstream of the Sumter WWTP. *Id.* at 54. These results were the highest levels of PFAS observed nationally in the study by a large margin. *Id.* at 37. With no other dischargers between the upstream and downstream sampling locations, Sumter is clearly and routinely discharging significant amounts of PFAS into the Pocotaligo River.

Downstream of Sumter, the Pocotaligo River flows into the Black River, a state-designated Scenic River widely used by recreators, fishers, hunters, and paddlers. These scenic waters are well within the distance PFAS can travel from the Sumter WWTP. Indeed, the Black-Sampit Riverkeeper has consistently detected PFAS in the Black River—at levels of up to 128 ppt in Kingstree, SC, which is the head of the Black River Water Trail at the center of the new Black River State Park.

The Industrial Plants' Sampling. It is no mystery where this PFAS contamination originates. The Sumter WWTP has numerous industrial users that send their wastewater to the WWTP, several of whom have sampled their own effluent for PFAS—including Giant, Phibro, and Carolina Filters. In September 2025, Carolina Filters sampled its effluent discharge to the WWTP, which showed total PFAS of 25.65 ppt, including over 10 ppt PFOA. Ex. 13. In October 2025, Giant sampled its effluent discharge to the Sumter WWTP, with total PFAS levels of 627.1 ppt, including 360 ppt GenX. Ex. 14. In October 2025, Phibro sampled its discharge to the Sumter WWTP, which showed total PFAS levels of 57.18 ppt, including 32 ppt PFOA. Ex. 15. Other industrial users may also be discharging PFAS to the WWTP, but Sumter has not required them to sample.

Sumter's Refusal to Address its Known PFAS Pollution. On July 7, 2025, Sumter's Superintendent of Wastewater, Patrick Kelly, wrote a memorandum to the City's Director of Public Services, Michael Geddings, acknowledging the "elevated levels of PFAS that have been detected in the wastewater effluent," and the "concerning levels" of "PFAS contamination in the Pocotaligo River [identified] downstream of our wastewater treatment facility." Ex. 16. The Director stated that "[t]his contamination poses not only an **environmental and public health concern**, but also a serious reputational risk to the City of Sumter and its industrial community,

potentially affecting economic development, public trust, and future infrastructure investment." *Id.* (emphasis added).

As explained below, Sumter has clear legal authority—indeed, a mandate—to control PFAS discharges from its industrial users. Despite this, Sumter has refused to impose any controls whatsoever on industrial discharges of PFAS to the WWTP, or to eliminate its discharges of PFAS to the Pocotaligo River.

IV. LEGAL FRAMEWORK: THE CLEAN WATER ACT

In 1972, Congress passed the Clean Water Act "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a). The Act set "the national goal that the discharge of pollutants into navigable waters be eliminated." *Id.* § 1251(a)(1).

a. NPDES Permits

To achieve these objectives, the Clean Water Act prohibits the discharge of "any pollutant" from a point source to "waters of the United States," *id.* §§ 1311(a), 1362(7), (12), except in compliance with, among other conditions, a NPDES permit issued under Section 402 of the Act, *id.* § 1342. Any violation of a NPDES permit is a violation of the Act itself. 33 U.S.C. 1365(f).

Once issued, a NPDES permit holder may only discharge those pollutants that were disclosed in its application for a NPDES permit *and* were within the reasonable contemplation of the permitting agency at the time the NPDES permit was issued. "[T]o the extent that a permit holder discharges a pollutant that it did not disclose, it violates the NPDES permit and the CWA." *Piney Run Preservation Ass'n v. Cty Comm'rs*, 268 F.3d 255, 268 (4th Cir. 2001); *accord S. Appalachian Mtn. Stewards v. A&G Coal Corp.*, 758 F.3d 560, 565–68 (4th Cir. 2014).

b. The Pretreatment Program

Recognizing that many industrial plants do not discharge directly into rivers and instead send their wastewater to publicly owned treatment works ("POTWs"), the Clean Water Act established a pretreatment program "to prevent the discharge of any pollutant through [such] treatment works" that "interferes with, passes through, or otherwise is incompatible with such works." 33 U.S.C. § 1317(b)(1). The Clean Water Act's pretreatment program "assures the public that [industrial] dischargers cannot contravene the [Clean Water Act's] statutory objectives of eliminating or at least minimizing discharges of toxic and other pollutants simply by discharging indirectly through POTWs rather than directly to receiving waters." 52 Fed. Reg. 1586, 1590 (Jan. 14, 1987). The Clean Water Act's "[p]retreatment standards are intended to prevent these problems from occurring by requiring non-domestic users of publicly owned treatment works to pretreat their wastes before discharging them to the POTW." *Id.* at 1586.

Most publicly owned treatment works "were designed and built to treat domestic sewage and other similar biological waste. However, industrial users of POTWs may discharge wastes in concentrations or volumes that cannot be adequately treated by the receiving POTW." *Ark. Poultry Fed'n v. U.S. Env'tl Protection Agency*, 852 F.2d 324, 326 (8th Cir. 1988). Accordingly, the Clean Water Act prohibits industrial users of publicly owned treatment plants from discharging "any pollutant(s)" into such plants which cause "Pass Through," 40 C.F.R. §

403.5(a)(1); 33 U.S.C. § 1317(b)–(d), defined as "a Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation)." 40 C.F.R. § 403.3(p). The Act also prohibits discharging any pollutant(s) to a POTW which cause "Interference," 40 C.F.R. § 403.5(a)(1); 33 U.S.C. § 1317(b)–(d), defined as a discharge which:

> alone or in conjunction with a discharge or discharges from other sources, both:
>
> > (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
> >
> > (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

40 C.F.R. § 403.3(k).

To further control discharges into publicly owned treatment works, the Clean Water Act tasks localities with developing their own pretreatment programs, which may be established via local ordinance and enforced through pretreatment permits issued by a municipality to industrial users of the public treatment plant. *See* 40 C.F.R. § 403.8(a), (f). When a public treatment plant establishes such "local limits"—i.e., "specific prohibitions or limits on pollutants or pollutant parameters"—"such limits shall be deemed Pretreatment Standards for the purposes of section 307(d) of the Act." *Id.* § 403.5(d). As a result, violating local pretreatment standards constitutes a violation of the Clean Water Act. *Id.*; 33 U.S.C. § 1317(d). NPDES permits for publicly owned treatment plants require these plants to enforce their pretreatment programs. 40 C.F.R. 403.8(c).

The City of Sumter has a state-approved pretreatment program detailed in the City's Sewer Use Ordinance, *see* Sumter Code of Ordinances Ch. 98, Art. III, which Sumter enforces through, among other things, pretreatment permits issued to industrial users of the Sumter WWTP. *See, e.g.*, Exs. 3–5. Sumter's NPDES Permit mandates that the City enforce the federal pretreatment program and Sumter's pretreatment program against all industrial users of the WWTP, Ex. 1 at 35 (NPDES Permit Pt. V(F)(1)(c)), with any failure to do so constituting a violation of Sumter's NPDES Permit and the Clean Water Act. *See id.* at 6 (NPDES Permit Pt. II(A)).

Like federal law, Sumter's Sewer Use Ordinance prohibits the "discharge of any pollutant which may cause interference with or pass through of the POTW." § 98-257. The Ordinance further prohibits discharging to the WWTP "[a]ny waters or wastes containing toxic or poisonous solids, liquids, or gasses in sufficient form or quantity, to . . . constitute a hazard in the receiving waters." *Id.* § 98-254. It also prohibits the discharge of any waters or wastes that, in

Sumter's opinion, "hav[e] an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance," including "waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment process employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of the receiving stream standards." *Id.* § 98-255. Sumter has a clear duty to prohibit or limit discharges of such wastes to the WWTP. *E.g.*, *id.* §§ 98-258, 98-268, 98-361.

c. Citizen Suits

Section 505(a)(1) of the Clean Water Act empowers citizens to sue in federal court for violations of the Act. 33 U.S.C. § 1365(a)(1). "'[T]he primary function of the provision for citizen suits is to enable private parties to assist in enforcement efforts where Federal and State authorities appear unwilling to act.'" *Lockett v. E.P.A.*, 319 F.3d 678, 684 (5th Cir. 2003) (quoting *N. & S. Rivers Watershed Ass'n. v. Town of Scituate,* 949 F.2d 552, 555 (1st Cir.1992)).

The Act provides that "any citizen may commence a civil action on his own behalf . . . against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of [] an effluent standard or limitation under this chapter." 33 U.S.C. § 1365(a)(1). The Act defines "effluent standard or limitation" enforceable via citizen suit to include, among other things: (i) "an unlawful act under subsection (a) of section 1311 of this title"—i.e., the unpermitted discharge of any pollutant, *id.* §§ 1365(f), 1311(a); (ii) the violation of "a permit or condition of a permit issued under section 1342 of this title,"—i.e., a NPDES permit, *id.*§§ 1365(f), 1342; and (iii) the violation of "pretreatment standards under section 1317 of this title," *id.* §§ 1365(f), 1317, including local pretreatment programs. 40 C.F.R. § 403.5(d).

Each discharge of a pollutant that is not authorized by a NPDES permit or pretreatment program constitutes a separate violation of the Clean Water Act. *See* 33 U.S.C. § 1319(d). In a citizen suit, violators are subject to a civil penalty of up to $68,445 per day for each violation, *id.*; 40 C.F.R. § 19.4, in addition to declaratory and injunctive relief and litigation costs. *See* 33 U.S.C. § 1365.

V. CLEAN WATER ACT VIOLATIONS

As a result of the significant and unpermitted discharges of PFAS to and from the Sumter WWTP, the City of Sumter and the Industrial Plants have violated and continue to violate the Clean Water Act.

a. Violations by the Sumter WWTP

Unpermitted Discharges of PFAS. *First*, the Sumter WWTP's discharges of PFAS from Outfall 001 into the East Branch of the Pocotaligo River violate Sumter's NPDES Permit and the Clean Water Act because Sumter did not disclose any discharges of PFAS in its application for an NPDES permit, *see* Ex. 2, and no discharges of PFAS were within the reasonable contemplation of DES at the time the NPDES Permit was issued. *See Piney Run*, 268 F.3d at 268 ("[T]o the extent that a permit holder discharges a pollutant that it did not disclose, it violates the NPDES permit and the CWA."); *Parris v. 3M Co.*, 595 F. Supp. 3d 1288, 1318–20 (N.D. Ga. 2022) (no permit shield for PFAS discharges not disclosed by POTW in its application for a

NPDES permit). Sumter's unpermitted discharges of PFAS violate Section 1311(a) of the Act, 33 U.S.C. § 1311(a).[8]

Violations of NPDES Permit Part V(F)(1)(c). *Second*, Sumter is violating Part V(F)(1)(c) of its NPDES Permit—stating Sumter "shall require" all industrial users to comply with pretreatment standards—by allowing industrial users to violate multiple pretreatment standards, including:

i. Allowing industrial users, including but not limited to Giant, Phibro, and Carolina Filters, to discharge PFAS into the Sumter WWTP causing "pass through." Sumter Code of Ordinances § 98-257 ("No person shall discharge any pollutant which may cause . . . pass through of the POTW."); 40 C.F.R. §§ 403.5(a)(1) ("A User may not introduce into a POTW any pollutant(s) which cause Pass Through"), 403.1(a) (establishing "responsibilities of . . . local government[s] . . . to implement National Pretreatment Standards to control pollutants which pass through . . . Publicly Owned Treatment Works."). Industrial PFAS discharges pass through the Sumter WWTP because Sumter utilizes a conventional treatment process that is not designed or intended to remove PFAS, causing Sumter to make unauthorized discharges of PFAS into the Pocotaligo River in violation of its NPDES Permit (see above). Industrial discharges of PFAS to the Sumter WWTP thus constitute pass through because the PFAS "exits the POTW and enters the waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit." Sumter Code of Ordinances § 98-175 (defining pass through); 40 C.F.R. 403.3(p) (same). Sumter is allowing such pass through to occur in violation of federal and local pretreatment standards and Part V(F)(1)(c) of its NPDES Permit. *See* Ex. 1 at 35. "Any permit noncompliance constitutes a violation of the Clean Water Act." *Id.* at 6 (NPDES Permit Pt. II(A)); *accord* 33 U.S.C. 1365(a)(1), (f) (authorizing citizen suit for the violation of a NPDES permit).

ii. Allowing industrial users, including but not limited to Giant, Phibro, and Carolina Filters, to discharge PFAS to the Sumter WWTP causing pass through without

[8] Further, Sumter's NPDES Permit authorizes discharges to the West Branch of the Pocotaligo River (Outfall 002) or the Wateree River (Outfall 003) if certain flow thresholds are exceeded in the discharge to the East Branch of the Pocotaligo River (Outfall 001). Ex. 1 at 20–25, 29–30. Like Outfall 001, the NPDES Permit does not authorize discharges of PFAS from Outfall 002 or Outfall 003, and Sumter did not disclose discharges of any PFAS from any outfall in its application for a NPDES Permit. Ex. 2. As a result, if and when Sumter diverts its' PFAS-contaminated effluent from Outfall 001 into either Outfall 002 or Outfall 003, it will also "violate[] the NPDES permit and the CWA." *Piney Run Preservation Ass'n*, 268 F.3d at 268.

"develop[ing] or enforc[ing] specific limits to implement the prohibition[]" on pass through, in violation of 40 C.F.R. § 403.5(c)(1). The Sumter WWTP's allowance of such pass through without developing specific limits on PFAS to prevent the pass through is a violation of federal pretreatment standards, Part V(F)(1)(c) of its NPDES Permit, and Section 307(d) of the Clean Water Act, 33 U.S.C. 1317(d).

iii. Allowing industrial users, including but not limited to Giant, Phibro, and Carolina Filters, to discharge PFAS to the Sumter WWTP causing "interference." Sumter Code of Ordinances §§ 98-257 ("No person shall discharge any pollutant which may cause interference with . . . the POTW."), 98-254 (prohibiting discharges of any pollutant to the POTW "which, either alone or by interaction with other pollutants, will cause interference with the POTW."); 40 C.F.R. §§ 403.5(a)(1) ("A User may not introduce into a POTW any pollutant(s) which cause . . . Interference"), 403.1(a) (establishing "responsibilities of . . . local government[s] . . . to implement National Pretreatment Standards to control pollutants which. . . interfere with treatment processes in Publicly Owned Treatment Works **or which may contaminate sewage sludge**" (emphasis added)). Industrial discharges of PFAS to the Sumter WWTP cause interference because they: (1) inhibit and disrupt Sumter's treatment processes, operations, and its sludge processes, use and disposal; and (2) cause a violation of Sumter's NPDES Permit and prevent the use and disposal of sewage sludge in compliance with the NPDES Permit. *See* 40 C.F.R. § 403.3(k) (defining "Interference"); Sumter Code of Ordinances § 98-175 (same). Industrial PFAS discharges to the Sumter WWTP have contaminated Sumter's sewage sludge with high levels of toxic PFAS. *See* Exs. 8, 10–11. The Sumter WWTP generates nearly 800 tons of sludge per year, transferring all of it to a Florida-based company, Howard Fertilizer, which blends the sludge into fertilizer that it sells to customers for a wide variety of uses, including potential use on agricultural crops. Sumter does not appear to have informed Howard Fertilizer that Sumter's sludge contains high levels of toxic PFAS, which can leach into surface water, groundwater, crops, and animals. Sumter's failure to notify Howard Fertilizer of known toxic PFAS in Sumter's sewage sludge violates Part C(6) of Sumter's Land Application and Beneficial Use of Sludge Program Approval (incorporated by reference as an enforceable condition of Sumter's NPDES Permit), which requires Sumter to "take reasonable steps to prevent or minimize discharge or misuse of sludge in violation of this approval which may possibly adversely affect human health or the environment." Ex. 1 at 48; *id* at 28, 43. Industrial discharges of PFAS to the WWTP thus satisfy both conditions for "interference." Sumter is allowing such interference to occur in violation of pretreatment standards and Part V(F)(1)(c) of its NPDES Permit. "Any permit noncompliance constitutes a violation of the Clean Water Act." Ex. 1 at 6 (NPDES

Permit Pt. II(A)); 33 U.S.C. 1365(a)(1), (f) (authorizing citizen suit for the violation of a NPDES permit).

iv. Allowing industrial users, including but not limited to Giant, Phibro, and Carolina Filters, to violate § 98-254(2) of Sumter's Sewer Use Ordinance, which prohibits any discharges to the Sumter WWTP "containing toxic or poisonous solids, liquids, or gasses in sufficient form or quantity, to . . . constitute a hazard in the receiving waters." As noted above, PFAS are highly toxic at extremely low levels. Industrial users are discharging high levels of PFAS to the Sumter WWTP, with PFAS passing through the WWTP and contaminating the Pocotaligo River at levels so high that the River itself is has been rendered toxic and effectively unfishable. Sumter has acknowledged the "concerning levels" of PFAS in its effluent and the Pocotaligo River, which "poses . . . an environmental and public health concern." Ex. 16. Industrial discharges of PFAS to the WWTP are causing a hazard in the receiving waters, and Sumter is allowing such discharges to occur in violation of pretreatment standards and Part V(F)(1)(c) of its NPDES Permit. "Any permit noncompliance constitutes a violation of the Clean Water Act." Ex. 1 at 6 (NPDES Permit Pt. II(A)); *accord* 33 U.S.C. 1365(a)(1), (f) (authorizing citizen suit for the violation of a NPDES permit).

v. Allowing industrial users, including but not limited to Giant, Phibro, and Carolina Filters, to violate § 98-255 of Sumter's Sewer Use Ordinance, which prohibits discharges to the WWTP that, in the opinion of the City, appear likely to "hav[e] an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance," including "[w]aters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment process employed, or are amendable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of the receiving stream standards." First, Sumter is clearly of the (correct) opinion that industrial discharges of PFAS have an 'adverse effect on the receiving stream,' with Sumter noting "elevated" and "concerning" levels of PFAS in its effluent and the Pocotaligo River, which "poses . . . an environmental and public health concern." Ex. 16. Second, industrial discharges of PFAS are 'not amenable to treatment or reduction by the wastewater treatment process employed,' as the Sumter WWTP is not designed or intended to remove PFAS. Lastly, to the extent Sumter's WWTP incidentally removes any PFAS received from industrial users, the City's effluent still 'cannot meet the requirements of the receiving stream standards.' Under South Carolina's Water Quality Standards, freshwaters such as the Pocotaligo River must be "suitable . . . as a source for drinking water supply after conventional treatment," and "[s]uitable for fishing." S.C. Code Ann. Reg. § 61-68(G)(10). Due to Sumter's

discharges, which have heavily contaminated the Pocotaligo River with PFAS, the Pocotaligo River is not: (i) suitable as a source for drinking water supply after conventional treatment, which cannot remove PFAS, or (ii) suitable for fishing or consuming fish. In sum, industrial discharges of PFAS to the Sumter WWTP are having an adverse effect on the receiving stream, are not amenable to the treatment process employed, and are violating water quality standards in the Pocotaligo River. Sumter is allowing such discharges to occur in violation of pretreatment standards and Part V(F)(1)(c) of its NPDES Permit. "Any permit noncompliance constitutes a violation of the Clean Water Act." Ex. 1 at 6 (NPDES Permit Pt. II(A)); *see also* 33 U.S.C. 1365(a)(1), (f) (authorizing citizen suit for the violation of a NPDES permit).

Violations of Part C(6) of Sumter's Land Application and Beneficial Use of Sludge Program Approval. *Third*, as explained above, Sumter's failure to notify Howard Fertilizer that the sludge Sumter provides to Howard is heavily contaminated with toxic PFAS violates Part C(6) of Sumter's Land Application and Beneficial Use of Sludge Program Approval. Ex. 1 at 47 (requiring Sumter to "take reasonable steps to prevent or minimize discharge or misuse of sludge in violation of this approval which may possibly adversely affect human health or the environment."). Not only does this violate Sumter's obligation to prevent "interference," *see supra* at 10–11, it also constitutes a stand-alone violation of this enforceable condition of Sumter's NPDES Permit. *See* Ex. 1 at 47 (Part C(6) of sludge program approval); *id*. at 28 (sludge program approval "shall be incorporated into and become an enforceable part of this permit. All conditions included in the approval shall be a requirement of this NPDES permit."); *id.* at 43 (same). "Any permit noncompliance constitutes a violation of the Clean Water Act." *Id.* at 6 (NPDES Permit Pt. II(A)); 33 U.S.C. 1365(a)(1), (f) (authorizing citizen suit for the violation of a NPDES permit).

Each of the violations by the Sumter WWTP noted above constitutes the violation of an "effluent standard or limitation" within the meaning of the Clean Water Act and is thus enforceable via a citizen suit. *See* 33 U.S.C. §§ 1365(a)(1), (f); 40 C.F.R. § 403.5(d). These violations have occurred each day since at least April 21, 2021 and are continuing, including but not limited to the following dates for which PFAS data are publicly available (see Section III):

- 8/4/2022 (PD-043 site)
- 12/7/2022 (PD-043 site)
- 1/18/2023 (PD-043 site; PD-721 site)
- 3/1/2023 (PD-043 site)
- 4/27/2023 (PD-043 site; PD-721 site)
- 5/4/2023 (PD-043 site)
- 8/24/2023 (PD-043 site; PD-721 site)
- 2/21/2024 (PD-043 site; PD-721 site)
- 4/25/2024 (Sumter biosolids and sludge cake)
- 4/26/2024 (Sumter influent and effluent)

- 4/30/2024 (PD-043 site; PD-721 site)
- 5/16/2024 (Sumter influent and effluent)
- 8/23/2024–9/25/2024 (Waterkeeper Report)
- 9/3/2024 (PD-043 site; PD-721 site)
- 11/12/2024 (PD-043 site; PD-721 site)
- 2/25/2025 (PD-043 site; PD-721 site)
- 3/12/2025 (Sumter biosolids and sludge cake)
- 5/20/2025 (PD-043 site; PD-721 site)
- 8/19/2025 (PD-043 site; PD-721 site; Sumter effluent, biosolids and sludge cake)
- 9/3/2025 (Sumter influent)

b. Violations by the Industrial Plants

As noted above, Giant, Phibro, and Carolina Filters conducted sampling in September–October 2025 confirming that each is discharging PFAS to the Sumter WWTP. Exs. 13–15. These discharges are ongoing, as confirmed by the high levels of PFAS consistently detected in Sumter's influent, effluent, and sludge and in the Pocotaligo River. By discharging PFAS to Sumter, the Industrial Plants are violating multiple requirements of the Act's pretreatment program, including:

i. **Pass Through Violations.** Giant, Phibro, and Carolina Filters' discharges of PFAS to the Sumter WWTP cause "pass through" in violation of federal and local pretreatment standards, *see* 40 C.F.R. §§ 403.5(a)(1); Sumter Code of Ordinances § 98-257, and Section 1317 of the Clean Water Act, 33 U.S.C. 1317(b), (d); 40 C.F.R. § 403.5(d). PFAS discharges by the Industrial Plants pass through the Sumter WWTP, which is not designed or intended to treat PFAS, and are discharged into the Pocotaligo River, causing Sumter to discharge PFAS in violation of its NPDES Permit, as explained above. The Industrial Plants' PFAS discharges constitute "pass through" because the PFAS "exits the POTW and enters the waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit." 40 C.F.R. 403.3(q) (defining pass through); *accord* Sumter Code of Ordinances § 98-175 (same).

ii. **Interference Violations.** Giant, Phibro, and Carolina Filters' discharges of PFAS to the Sumter WWTP cause "interference" in violation of federal and local pretreatment standards, *see* 40 C.F.R. §§ 403.5(a)(1); Sumter Code of Ordinances § 98-257, and Section 1317 of the Clean Water Act, 33 U.S.C. 1317(b), (d); 40 C.F.R. § 403.5(d). For the reasons noted above, *supra* at 10–11, PFAS discharges by the Industrial Plants contaminate Sumter's sewage sludge with high levels of toxic PFAS, causing interference by: (1) inhibiting and disrupting Sumter's treatment process, operations, and its sludge process, use and disposal, and (2) causing a violation of Sumter's

NPDES Permit. *See* 40 C.F.R. § 403.3(k) (defining "Interference"); Sumter Code of Ordinances § 98-175 (same).

iii. **Other Sewer Use Ordinance Violations.** Giant, Phibro, and Carolina Filters' discharges of PFAS to the Sumter WWTP violate Section 98-254(2) and Section 98-255 of Sumter's Sewer Use Ordinance, both of which constitute pretreatment standards enforceable under Section 1317(d) of the Clean Water Act, 33 U.S.C. 1317(d). *See* 40 C.F.R. § 403.5(d).

1. Section 98-254(2) prohibits any discharges to the Sumter WWTP "containing toxic or poisonous solids, liquids, or gasses in sufficient form or quantity, to . . constitute a hazard in the receiving waters." As noted above, Giant has discharged at least 627.1 ppt total PFAS to the Sumter WWTP, including 360 ppt GenX; Phibro has discharged at least 57.18 ppt total PFAS to Sumter, including 32 ppt PFOA; and Carolina Filters has discharged at least 25.65 ppt total PFAS to Sumter, including over 10 ppt PFOA. *Supra* at 5. This toxic PFAS passes largely or entirely through the Sumter WWTP, contaminating the Pocotaligo River with levels of PFAS greatly exceeding EPA's standards and health advisories; rendering the Pocotaligo River toxic and effectively unfishable; and raising "an environmental and public health concern." Ex. 16. The Industrial Plants' PFAS discharges to the Sumter WWTP constitute a 'hazard in the receiving waters' in violation of § 98-254(2) of Sumter's Sewer Use Ordinance and Section 1317(d) of the Clean Water Act, 33 U.S.C. § 1317(d).

2. Section 98-255 prohibits discharges to the Sumter WWTP that, in the opinion of the City, appear likely to "hav[e] an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance," including "[w]aters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment process employed, or are amendable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of the receiving stream standards." For the reasons noted above, *supra* at 11–12, the Industrial Plants' PFAS discharges to the Sumter WWTP are having an 'adverse effect on the receiving stream,' are not 'amenable to treatment or reduction by the wastewater process employed,' and leave Sumter's effluent so contaminated with PFAS that it 'cannot meet the requirements of the receiving stream standards.' The Industrial Plants' discharges of PFAS to the Sumter WWTP thus violate § 98-255 of Sumter's Sewer Use Ordinance and Section 1317(d) of the Clean Water Act, 33 U.S.C. § 1317(d).

iv. **Pretreatment Permit Violations.** Giant, Phibro, and Carolina Filters are each violating two conditions of their respective Pretreatment Permits, *see* Exs. 3–5, which constitute pretreatment standards enforceable under Section 1317(d) of the Clean Water Act, 33 U.S.C. § 1317(d); 40 C.F.R. § 403.5(d). First, the Industrial Plants are violating Part II, Clause 7 of their Permits, which requires compliance with the City of Sumter's Sewer Use Ordinance. As noted above, the Industrial Plants are violating Sumter's Sewer Use Ordinance by discharging PFAS that causes 'pass through,' 'interference,' creates a 'hazard in the receiving waters,' and has an 'adverse effect on the receiving stream.' Second, the Industrial Plants are liable for a "Significant Violation" and "Significant Non-Compliance" under Part III, Clause 10(A)(4) of their Permits because their PFAS discharges have "caused imminent endangerment to human Health, welfare or to the environment." As noted above, the Pocotaligo River has been rendered toxic and effectively unfishable as a result of the significant PFAS pollution, creating an imminent endangerment to human health, welfare, and the environment. The Industrial Plants' violations of their Pretreatment Permits also "constitute[] a violation of the Sewer Use Ordinance," Ex. 3 § II, cl. 9 (Giant's Permit); Ex. 4 § II, cl. 9 (Phibro's Permit); Ex. 5 § II, cl. 9 (Carolina Filters' Permit), which is a pretreatment standard enforceable under Section 1317(d) of the Clean Water Act, 33 U.S.C. 1317(d); 40 C.F.R. § 403.5(d).[9]

Each of the violations by the Industrial Plants noted above constitutes the violation of an "effluent standard or limitation" within the meaning of the Clean Water Act and is thus enforceable via a citizen suit. *See* 33 U.S.C. §§ 1365(a)(1), (f); 40 C.F.R. § 403.5(d). These violations have occurred each day since at least April 21, 2021 and are continuing, including but not limited to the following dates for which PFAS data are publicly available (see Section III):

- 8/4/2022 (PD-043 site)
- 12/7/2022 (PD-043 site)
- 1/18/2023 (PD-043 site; PD-721 site)
- 3/1/2023 (PD-043 site)
- 4/27/2023 (PD-043 site; PD-721 site)
- 5/4/2023 (PD-043 site)
- 8/24/2023 (PD-043 site; PD-721 site)
- 2/21/2024 (PD-043 site; PD-721 site)
- 4/25/2024 (Sumter biosolids and sludge cake)
- 4/26/2024 (Sumter influent and effluent)

[9] To the extent any Pretreatment Permit(s) has/have been renewed or reissued, Winyah Rivers Alliance alleges violations of the same or materially similar terms of such renewed or reissued Permit(s) as noted above.

- 4/30/2024 (PD-043 site; PD-721 site)
- 5/16/2024 (Sumter influent and effluent)
- 8/23/2024–9/25/2024 (Waterkeeper Report)
- 9/3/2024 (PD-043 site; PD-721 site)
- 11/12/2024 (PD-043 site; PD-721 site)
- 2/25/2025 (PD-043 site; PD-721 site)
- 3/12/2025 (Sumter biosolids and sludge cake)
- 5/20/2025 (PD-043 site; PD-721 site)
- 8/19/2025 (PD-043 site; PD-721 site; Sumter effluent, biosolids and sludge cake)
- 9/3/2025 (Sumter influent)
- As to Carolina Filters, 9/22/2025 (Carolina Filters effluent to Sumter)
- As to Giant, 10/22/25 (Giant effluent to Sumter)
- As to Phibro, 10/27/2025 (Phibro effluent to Sumter)

VI. PERSONS RESPONSIBLE FOR VIOLATIONS

Pursuant to 40 C.F.R. § 135.3, the following persons are identified as being responsible for the alleged violation at the following locations:

1. The City of Sumter, South Carolina
   Pocotaligo River Wastewater Treatment Plant
   600 Justin Lane
   Sumter, SC 29153

2. Giant Resource Recovery – Sumter, Inc.
   755 Industrial Road
   Sumter, SC 29151

3. Phibro-Tech, Inc.
   2395 Cains Mill Road
   Sumter, SC 29154

4. Carolina Filters, Inc.
   109 E. Newberry Ave.
   Sumter, SC 29151

In addition, the Industrial Plants' violations detailed above are also occurring in relevant part at the Sumter WWTP (e.g., as to pass through, interference). The violations by Sumter and the Industrial Plants noted above are also occurring in relevant part in the Pocotaligo River and Black River (e.g., as to the hazard, adverse affects, and endangerment of PFAS contamination).

VII. PERSONS GIVING NOTICE AND LEGAL COUNSEL

In accordance with 40 C.F.R. § 135.3, Winyah Rivers Alliance provides the name, address, and telephone number of the persons giving notice:

Winyah Rivers Alliance
P.O. Box 554
Conway, SC 29528
(843) 349-4007
winyahrivers@winyahrivers.org

The Southern Environmental Law Center is legal counsel for Winyah Rivers Alliance in this matter and can be contacted at the mail and email addresses and phone number listed below.

VIII. CONCLUSION

As set forth in this letter, the Sumter WWTP, Giant, Phibro, and Carolina Filters are violating the Clean Water Act as a result of unlawful and unpermitted discharges of PFAS to and from the Sumter WWTP and into the Pocotaligo River. If such violations are not adequately addressed within the applicable notice period, Winyah Rivers Alliance intends to file a citizen suit against you under the Clean Water Act seeking the maximum remedies authorized by law.

Though prepared to initiate a civil action, Winyah Rivers Alliance would welcome working with you to address the violations described in this letter. If you wish to discuss such remedies in lieu of protracted litigation, please contact the undersigned counsel promptly.

Sincerely,

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