



REGION 3
PHILADELPHIA, PA 19103



In the Matter of:	:	
	:	ADMINISTRATIVE ORDER
	:	ON CONSENT PURSUANT TO
Lyons Creek MHC, LLC	:	33. U.S.C. § 1319(a)
1007 Lower Pindell Road	:	
Lothian, MD 20711	:	Dkt. No. CWA-03-2024-0007DN
	:	
and	:	
	:	
Horizon Land Management, LLC	:	
2151 Priest Bridge Drive, Suite 7	:	
Crofton, MD 21114	:	
	:	
Respondents.	:	

I. STATUTORY AUTHORITY AND JURISDICTION

1. The United States Environmental Protection Agency, Region 3 (“EPA”) makes the following findings of fact and conclusions of law below and thus issues this Administrative Compliance Order on Consent (“Order”) pursuant to the authority vested in the Administrator of EPA under Section 309(a) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1319(a). The Administrator delegated this authority to the Regional Administrator of EPA Region 3, who further delegated it to the Director, Enforcement & Compliance Assurance Division, Region 3.
2. Section 309(a) of the Act, 33 U.S.C. § 1319(a), provides, *inter alia*, that whenever on the basis of any information available, the Administrator finds that any person is in violation of any permit condition or limitation implementing certain CWA sections in a permit issued under Section 402 of the Act, 33 U.S.C. § 1342, the Administrator shall issue an order requiring such person to comply with such section or requirement.
3. EPA has jurisdiction over the above-captioned matter.
4. EPA has consulted with the Maryland Department of the Environment (“MDE”) regarding this action and, subsequent to the Effective Date of this Order, EPA will mail a copy of this fully executed Order to the appropriate MDE official.

Respondents, Lyons Creek MHC, LLC (“Lyons Creek”), and Horizon Land Management, LLC (“Horizon”) have agreed to the issuance of this Order.

II. STATUTORY AND REGULATORY BACKGROUND

5. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant (other than dredged or fill material) from a point source into waters of the United States except in compliance with a permit issued pursuant to the National Pollutant Discharge Elimination System (“NPDES”) program under Section 402 of the Act, 33 U.S.C. § 1342.
6. “Discharge of a pollutant” means “[a]ny addition of any ‘pollutant’ or combination of pollutants to ‘waters of the United States’ from any ‘point source.’” 40 C.F.R. § 122.2.
7. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States, to ensure compliance with the requirements of the CWA. The discharges are subject to specific terms and conditions, as prescribed in the permit. *See also* 33 U.S.C. § 1311.
8. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA authorized MDE to administer the NPDES program in the State of Maryland beginning in September 1974.
9. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), EPA retains its authority to take enforcement action within Maryland for NPDES permit violations.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

10. Lyons Creek MHC, LLC was formed on August 12, 2015 with the address 2131 Espey Court, Suite 1, Crofton, Maryland 21114.
11. Lyons Creek acquired a manufactured home community, located at 1007 Lower Pindell Road, Lothian, Anne Arundel County, MD 20711, on September 18, 2015.
12. Horizon is a property management company that serves as Lyons Creek’s managing agent for the manufactured home community. Horizon reviews, evaluates, negotiates and executes on Lyons Creek’s behalf all service contracts, including the service contract with a third party to operate and manage the Wastewater Treatment Plant (“WWTP”) for Lyons Creek manufactured home community in Lothian, Maryland. The WWTP services approximately 900 people from 250 mobile homes.
13. The WWTP was operated by a contract wastewater treatment operator, Water Services, Inc. until July 15, 2019. Then, effective July 16, 2019, the contract operator for the WWTP changed to Professional Startup & Operational Services, Inc. until Horizon terminated the contract on March 31, 2020 as a result of performance concerns. Horizon hired Singh Operational Services, Inc. (“SOS”) to operate the WWTP on April 1,

2020 and SOS continues to be the contract operator of the WWTP.

14. Section 502(5) of the Act, 33 U.S.C. §1362, provides: “The term ‘person’ means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State or any interstate body.”
15. Lyons Creek and Horizon are Limited Liability Companies in the State of Maryland and each is therefore a “person” within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).
16. Pursuant to the authority of the Act, the NPDES program approval, and Title 9 of the Environment Article, Annotated Code of Maryland, the MDE issued Maryland National Pollutant Discharge Elimination System Permit No. MD0053511 on January 1, 2017 to Lyons Creek for the WWTP for the Manufactured home community in Lothian, Maryland. The Permit expired on December 31, 2021 and is administratively extended.
17. The Permit authorizes the terms for the discharge of wastewater from the WWTP in accordance with the provisions of the permit. The Permit requires a permittee to comply with all conditions in the Permit. Horizon is not and has never been a permittee under the Permit.
18. The WWTP is a package style sewage treatment plant with activated sludge and extended aeration. The flow of the influent goes through a bar screen to the aeration tank. Flow from the aeration tank then goes to the clarifier with return lines at the bottom of the clarifier and off of the clarifier’s skimmer to send flow back to the aeration tank. Flow goes over the weir of the clarifier and then to the effluent lift station and to the UV. After UV disinfection, the flow passes through equipment comprised of a green box which has not been operable since before Lyons acquired the MHC and which the current contract operator believes was a charcoal filter. Flow then travels to the flow box and then out to the outfall. The clarifier also has wasting capabilities to send solids back to the sludge tank onsite. The sludge transfer tank has decanting ability to send water back through the treatment process.
19. The Permit authorizes the WWTP to discharge wastewater from its operations through Outfall 001A to Lyons Creek, a tributary of the Patuxent River, a “navigable water” as that term is defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), which qualifies as waters of the United States.
20. The Patuxent River is protected for water contact and recreation, and non-tidal warm water aquatic life. It is also a part of the Chesapeake Bay Watershed.
21. MDE inspected the WWTP on October 6, 2016 and January 9, 2020.
22. On December 1, 2020, EPA conducted an Inspection of the WWTP. EPA sent an Inspection Report to Horizon concerning the WWTP on February 3, 2021, and received a

response back on February 17, 2021, from Lyons Creek.

- 23. On October 29, 2021, EPA sent a Second Information Request pursuant to CWA Section 308 to Respondents. On January 3, 2022, Respondents sent a response to the Second Information Request.
- 24. Based on observations made by MDE during its October 6, 2016 and January 9, 2020 inspections, EPA’s December 1, 2020 inspection and the responses Respondents submitted to EPA’s two Information Requests, EPA has identified the following violations of the Permit and Section 301 of the Clean Water Act by Respondents as owners and/or operators of the WWTP.

**Count 1
Effluent Exceedances**

- 25. The information and allegations in the preceding paragraphs of this Administrative Order on Consent are incorporated herein by reference.
- 26. The Permit sets effluent limits for discharges from Outfall 001A for: five-day biochemical oxygen demand (“BOD₅”), Total Suspended Solids (“TSS”), Total Ammonia/Nitrogen, *E. Coli*, Total Residual Chlorine, pH, and Dissolved Oxygen in Section II.A. The Permit was issued in conformance with the Chesapeake Bay Total Maximum Daily Load for Nitrogen, Phosphorus and Sediment established on December 29, 2010.
- 27. From January 2019 through September 2023, the WWTP recorded fifty (50) effluent exceedances for BOD, pH, TSS, DO, Nitrogen and *E. coli* as follows:

Table 1: Effluent Exceedances

Monitoring Period End Date	Parameter Name	Discharge Monitoring Report Value	Permit Limit	Units	Limit Type
01/31/2019	Solids, total suspended	6.2	5.8	lb/d	Maximum Monthly Average
01/31/2019	Solids, total suspended	12.6	8.8	lb/d	Maximum Weekly Average
11/30/2019	pH	9.1	8.5	SU	Maximum
04/30/2020	Oxygen, dissolved [DO]	4.75	5	mg/L	Minimum
04/30/2020	Solids, total suspended	12.77	8.8	lb/d	Maximum Weekly Average
04/30/2020	Solids, total suspended	18	15	mg/L	Maximum Weekly Average
05/31/2020	Solids, total suspended	12.2	8.8	lb/d	Maximum Weekly Average
06/30/2020	Solids, total suspended	11	10	mg/L	Maximum Monthly Average
06/30/2020	Solids, total suspended	20	15	mg/L	Maximum Weekly Average
07/31/2020	pH	6.24	6.5	SU	Minimum
07/31/2020	Solids, total suspended	13.18	8.8	lb/d	Maximum Weekly Average
07/31/2020	Solids, total suspended	22	15	mg/L	Maximum Weekly Average

Monitoring Period End Date	Parameter Name	Discharge Monitoring Report Value	Permit Limit	Units	Limit Type
08/31/2020	Solids, total suspended	9.48	8.8	lb/d	Maximum Weekly Average
08/31/2020	Solids, total suspended	12.05	10	mg/L	Maximum Monthly Average
08/31/2020	Solids, total suspended	17.6	15	mg/L	Maximum Weekly Average
09/30/2020	Solids, total suspended	12.42	8.8	lb/d	Maximum Weekly Average
09/30/2020	Solids, total suspended	12.5	10	mg/L	Maximum Monthly Average
09/30/2020	Solids, total suspended	33	15	mg/L	Maximum Weekly Average
10/31/2020	Solids, total suspended	7.12	5.8	lb/d	Maximum Monthly Average
10/31/2020	Solids, total suspended	19.46	8.8	lb/d	Maximum Weekly Average
10/31/2020	Solids, total suspended	11.8	10	mg/L	Maximum Monthly Average
10/31/2020	Solids, total suspended	30.4	15	mg/L	Maximum Weekly Average
11/30/2020	Solids, total suspended	9.04	8.8	lb/d	Maximum Weekly Average
11/30/2020	Solids, total suspended	17.2	15	mg/L	Maximum Weekly Average
04/30/2021	Oxygen, dissolved [DO]	4.66	5	mg/L	Minimum
04/30/2021	pH	6.26	6.5	SU	Minimum
04/30/2021	Solids, total suspended	11.41	8.8	lb/d	Maximum Weekly Average
04/30/2021	Solids, total suspended	17	15	mg/L	Maximum Weekly Average
06/30/2021	BOD, 5-day, 20 deg. C	10.82	8.8	lb/d	Maximum Weekly Average
06/30/2021	BOD, 5-day, 20 deg. C	19.4	15	mg/L	Maximum Weekly Average
01/31/2022	Solids, total suspended	17.86	5.8	lb/d	Maximum Monthly Average
01/31/2022	Solids, total suspended	55.13	8.8	lb/d	Maximum Weekly Average
01/31/2022	Solids, total suspended	22.65	10	mg/L	Maximum Monthly Average
01/31/2022	Solids, total suspended	60	15	mg/L	Maximum Weekly Average
03/31/2022	Solids, total suspended	16	15	mg/L	Maximum Weekly Average
07/31/2022	Solids, total suspended	6.53	5.8	lb/d	Maximum Monthly Average
07/31/2022	Solids, total suspended	12.96	8.8	lb/d	Maximum Weekly Average
07/31/2022	Solids, total suspended	11.68	10	mg/L	Maximum Monthly Average
07/31/2022	Solids, total suspended	25	15	mg/L	Maximum Weekly Average
8/31/2022	Solids, total suspended	13.02	8.8	lb/d	Maximum Weekly Average
8/31/2022	Solids, total suspended	10.08	10	mg/L	Maximum Monthly Average
8/31/2022	Solids, total suspended	19	15	mg/L	Maximum Weekly Average
9/30/2022	Solids, total suspended	9.76	8.8	lb/d	Maximum Weekly Average
9/30/2022	Solids, total suspended	18	15	mg/L	Maximum Weekly Average
1/31/2023	Nitrogen, ammonia total [as N]	2.23	1.8	lb/d	Maximum Monthly Average
1/31/2023	Nitrogen, ammonia total [as N]	4.1	3	mg/L	Maximum Monthly Average
3/31/2023	pH	9.11	8.5	SU	Maximum
6/30/2023	<i>E. coli</i>	268	126	MPN/100mL	Monthly Geometric Maximum
7/31/2023	<i>E. coli</i>	438.19	126	MPN/100mL	Monthly Geometric Maximum
08/31/2023	<i>E. coli</i>	353.2	126	MPN/100mL	Monthly Geometric Maximum

28. The discharge exceedances in Table 1 reported by Respondents are violations of the Permit. By failing to comply with the terms of the Permits, Respondents have violated Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, for the periods set forth

in Table 1, from January 1, 2019 to September 30, 2023.

Count 2

Insufficient or Lacking Wastewater Capacity and Flow Reporting

29. The allegations in the preceding paragraphs are incorporated by reference.
30. **Total Cumulative Flow:** The design capacity for the WWTP is 0.070 million gallons per day (“mgd”). Part II.A. of the Permit states that, “[a]n annual average flow of 0.070 million gallons per day (mgd) was used in waste load allocation calculations” for the WWTP, and it requires Lyons Creek to notify MDE “at least 180 days before the annual average flow is expected to exceed this flow level.”
31. **Total Cumulative Flow Reporting:** Part II.C of the Permit states that “[t]he permittee shall report the total cumulative flow for [sic] each calendar year for the above referenced facility. The total cumulative flow should be reported in million gallons for the entire calendar year to the nearest ten thousand gallons. The annual total cumulative flow determination shall be provided to [MDE] using NetDMR no later than January 28th of the following year.”
32. Respondents did not submit an annual total cumulative flow reports in 2019, 2020, or 2021 by the January 28 deadline for each prior year. They provided the annual total cumulative flow for these years to EPA on March 13, 2023.
33. Monthly average flow data recorded in EPA’s Integrated Compliance Information System (“ICIS”) shows that the WWTP averaged within 80 percent of the design flow (i.e., 56,000 GPD) 29 times during the Permit term and higher than the design flow 10 times during the Permit term. Based on the average monthly flow data in ICIS, the WWTP has averaged 63,000 GPD (i.e., 90 percent of the design flow) between January 2017 and October 2020 (46 months).
34. **Waste Capacity Management Plans:** The Permit contains Special Conditions, including at Part II.C, which requires Lyons Creek to report “the total cumulative flow” for each calendar year for the WWTP. If the most recent three-year average flow is over 80% of its design capacity or if it is anticipated to exceed 80% in the following year, a Wastewater Capacity Management Plan (“WCMP”) (including a “Wastewater Flow Capacity Report (WFCR)” and worksheet for WFCR) must be submitted to MDE no later than January 28 of the following year.
35. Lyons Creek had exceeded 80% of its flow capacity for its three-year average for each year from 2019 to the present.
36. Respondents did not submit its 2019 or 2020 WCMPs (no later than January 28 of the following year).

37. Respondents did not timely submit its 2021 WCMP. They provided the annual total cumulative flow for these years to EPA on March 13, 2023.
38. Respondents also failed to submit WFCRs by the deadline (no later than January 28 of the following year) for 2020.
39. Respondents' failure to submit and late submittal of annual total cumulative flow reports and WCMPs are violations of the Permit and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342 from 2019 to 2021.
40. Respondents' failure to submit annual total cumulative flow reports, WCMPs, and WFCRs by the dates listed above are violations of the Permit and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342 from 2019 to 2021.

Count 3

Non-Operational and Malfunctioning Equipment and Infrastructure

41. The allegations in the preceding paragraphs are incorporated by reference.
42. Part III.B.3(a) of the Permit requires the WWTP to "be operated efficiently to minimize upsets and discharges of excessive pollutants."
43. During its January 9, 2020 Inspection, MDE observed that the sand filter was bypassed in the WWTP.
44. During MDE's January 9, 2020 inspection, the MDE inspector observed cracks in the walls of the influent manhole, and that the skimmer arm to the clarifier was not working, and that wastewater from the clarifier was leaking into the wasting tank. The effluent pumps near the clarifier wetwell had failed, causing an overflow from the clarifier wetwell to backup into the clarifier/aeration tank and to eventually overflow on to the ground and into a tributary of the Patuxent River.
45. During MDE's January 9, 2020 inspection, the MDE inspector observed that the WWTP did not have a composite sampler on-site.
46. During EPA's December 1, 2020 inspection, the inspectors observed that the rotary cloth filter unit was not in operation, and that the filter was positioned immediately upstream of the UV disinfection banks. The filter unit was not in operation when Lyons acquired the MHC. The contract operator SOS at the WWTP stated that the unit had been out of service for decades. At the time of the inspection, effluent was being channeled through the non-functioning rotary cloth filters to the UV banks.
47. In its February 1, 2021 Response to EPA's Inspection Report, Lyons Creek responded that the cloth filter unit is obsolete and has not been functional.

48. During EPA's December 2020 Inspection, the inspectors also observed a tall green rectangular filter unit downstream of the UV system, prior to the final effluent channel and discharge location. At the time of the inspection, the contract operators from SOS were unsure of the type of filter media in use or why the filter was installed downstream of disinfection. The filter unit is not described in the Permit fact sheet.
49. During EPA's December 1, 2020 inspection, the inspectors observed that "[t]he influent bar screen was full of sewage material (rags and solids) at the time of the [EPA] inspection. WWTP representatives stated that the screen is cleaned daily . . . and stated the condition observed was typical."
50. During EPA's December 1, 2020 inspection, the inspectors observed that the clarifier skimmer arm was still not in operation. The skimmer arm was placed against a chain link fence on the outer perimeter of the WWTP. The contract operator SOS stated that the skimmer arm had been removed for more than two years.
51. During EPA's December 1, 2020 inspection, the inspectors observed bulking solids floating in the clarifier, solids on the clarifier weirs, and solids and scum in the clarifier effluent wet well. One of the two clarifier pumps were not present at the time of the inspection, and it was unclear why it was removed.
52. In its February 1, 2021 Response to EPA's Inspection Report, Lyons Creek responded that the clarifier skimmer arm was beyond repair and would require custom fabrication to replace. In its March 13, 2023 response, Lyons indicated that its engineers evaluated the clarifier and fabrication and installation of new upper and lower rake arms in the clarifier are scheduled to be completed in 2023.
53. During MDE's January 9, 2020 inspection, the MDE inspector observed that the UV intensity panel was not working, and it was unclear if the UV bulbs were in proper working condition. The UV transmittance indicator was flashing at the time of the EPA inspection. Lyons Creek solicited quotes for repair work on the UV transmittance indicator on December 4, 2020.
54. On September 28, 2020, operator of the WWTP, SOS reported to MDE that the system was having problems with the return, causing sludge to float to the top of the clarifier.
55. On October 20, 2020, SOS reported to MDE that the "Operator on site is continuing to work on the foam issue at the plant. Foam on the clarifier surface caused minor carryover of solids during sampling period."
56. In the Response to the October 2021 Information Request, Lyons Creek reported that "The UV system was inspected by the manufacturer in 2020 and sensors and

sleeves/ballasts were replaced in early 2020. UV bulbs were replaced in January 2021.”

57. Lyons Creek also reported in its January 2022 Response to the October 2021 Information Request that it had taken other actions, including: implementation of a wasting schedule and preparation of waste guides for operators to use, repairing the composite samplers and sludge tanks in 2020, adding a new sludge tank in 2020, began use of Foam 40 to address heaving foaming issues, replaced effluent pump 1 that sends flow to the UV, repaired bar screen for influent rags and trash trapping, and repaired the outfall pipe.
58. The WWTP has outstanding repairs and upgrades to make to the WWTP as detailed in the paragraphs above to fix non-operational or malfunctioning equipment and infrastructure.
59. Respondents’ failure to operate efficiently to minimize upsets and discharges of excessive pollutants by fixing non-operational or malfunctioning equipment and infrastructure from at least January 9, 2020 to present is a violation of the Permit and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

Count 4

Visible Foam/Scum in Process and Effluent

60. The allegations in the preceding paragraphs are incorporated by reference.
61. Section II.A of the Permit sets out the effluent limitations in the Permit. Footnote 2 states, “There shall be no discharge of floating solids or visible foam other than trace amounts.”
62. During EPA’s December 2020 inspection, the inspectors observed foam in the aeration chamber, bulking solids floating in the clarifier, solids in the clarifier weirs, and solids/scum in the clarifier effluent wetwell, which the WWTP representatives attributed to microorganisms and old sludge. The inspectors observed light brown solids and scum on the water surface at the effluent end of the UV channel.
63. Respondents discharge of excessive floating solids and visible foam on December 1, 2020, is a violation of the Permit and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

Count 5

Unauthorized Discharge Point

64. The allegations in the preceding paragraphs are incorporated by reference.
65. Part III.B.3(a) of the Permit requires that “All waste collection, control, treatment and disposal facilities shall be operated in a manner consistent with the following: (a)

Facilities shall be operated efficiently to minimize upsets and discharges of excessive pollutants.

66. During EPA's December 2020 inspection, the inspectors observed that the WWTP's discharge was going into a pipe located in a hole in the ground upstream of Outfall 001A. The pipe was lower than the surrounding grade and the ground surface in the vicinity was mostly dirt and gravel. It appeared that sediment would be able to enter the pipe during a wet weather event and ultimately be discharged to Lyons Creek through Outfall 001A although this condition was not observed at the time of inspection.
67. In the Response to the October 2021 Information Request, Lyons Creek stated that the "outfall pipe was repaired."
68. Respondents' failure to operate the WWTP efficiently to minimize upsets and discharges of excessive pollutants by using an unauthorized discharge point as alleged above on at least December 1, 2020, is a violation of the Permit and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

Count 6

Failure to Operate Plant Efficiently and Minimize Discharge of Pollutants

69. The allegations in the preceding paragraphs are incorporated by reference.
70. Part III.B.3(a) and (b) of the Permit requires that "[a]ll waste collection, control, treatment and disposal facilities shall be operated in a manner consistent with the following: (a) Facilities shall be operated efficiently to minimize upsets and discharges of excessive pollutants. (b) The permittee shall provide an adequate operating staff qualified to carry out operation, maintenance and testing functions required to ensure compliance with this permit . . .".
71. During EPA's December 2020 inspection, the inspectors observed:
 - a. The influent bar screen was full of sewage material (rags and solids) at the time of the inspection;
 - b. Foam was in the aeration chamber;
 - c. Bulking solids were observed floating in the clarifier and solids were observed on the clarifier weirs;
 - d. The clarifier skimmer arm was not in operation at the time of the inspection. The January 9, 2020 MDE inspection report recommended that repairs be made to the skimmer arm immediately, but the repairs were not made at the time of the December 1, 2020 inspection. Inspectors observed the skimmer arm placed against a chain link fence on the outer perimeter of the WWTP. The skimmer arm had not been utilized at the WWTP for a number of years and was beyond repair at the time of MDE's January 9, 2020 inspection. Replacement of the bottom and top clarifier skimmer arms are scheduled for December 2023;

- e. One of the two clarifier effluent pumps was not present at the time of the inspection;
 - f. The outer ring of the WWTP, which could be used for additional capacity or emergency storage, was filled with solids and vegetation; and
 - g. Light brown solids and scum were observed on the water surface at the effluent end of the UV channel; and
 - h. The WWTP did not have an operation and maintenance manual on site that outlines the proper operation and maintenance of the WWTP.
72. On February 17, 2021, Lyons Creek wrote that it was in the process of drafting an Operations and Maintenance (“O&M”) manual for the WWTP.
73. On January 3, 2022, Lyons Creek reported that SOS would be contacting manufacturers of the components at the WWTP to compile information for and complete an O&M manual.
74. On March 13, 2023, Lyons Creek reported that it still did not have an O&M Manual, and incorporated developing the manual into a compliance schedule with a deadline of June 1, 2023. Lyons Creek completed the O&M Manual on May 31, 2023.
75. Respondents’ failure to operate efficiently to minimize upsets and discharges of excessive pollutants is a violation of the Permit. By failing to comply with the terms of the Permits, Respondents have violated Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342 from at least December 1, 2020 to present.

IV. COMPLIANCE ORDER

AND NOW, pursuant to Section 309(a) of the Act, 33 U.S.C. § 1319(a), Respondents are hereby ORDERED to do the following:

76. **Operations and Maintenance:** Within 30 days of the Effective Date of this Order, submit to EPA for review and comment an Operations and Maintenance (“O&M”) Manual for the WWTP that includes the following elements:
- a. Design Concept of the WWTP;
 - b. Standard Operating Procedures for items including but not limited to:
 - i. Wasting Operation and Techniques;
 - ii. Cleaning the UV disinfection system;
 - iii. Sludge hauling frequency; and
 - iv. Calibration of equipment.
 - c. Schedules for Wasting Sludge;
 - d. Emergency Preparedness measures; and
 - e. Training schedules with recordkeeping of training attendees.

- f. **Preventative Maintenance Plan** (“PMP”) that includes regular inspections of equipment at the plant geared to proactively identify any equipment that needs to be repaired or replaced. This PMP will detail the specific preventative maintenance requirements for each primary treatment, secondary treatment, and disinfection process or other equipment critical for optimal plant operation. As part of the preventative maintenance for each treatment process, include daily, weekly, or monthly schedules to be followed by the plant operator that prescribe Preventative Maintenance procedures, including, at a minimum, calibration, lubrication, cleaning and replacement of equipment, and wasting schedules. Each item identified in the Corrective Action Plan (described below) shall have a corresponding preventative action described in the PMP. The PMP shall also include a process for regularly inspecting and correcting any issues identified at the outfall for any prohibited characteristics which may be present due to the facility’s discharges.
77. EPA will review the O&M Manual and PMP and make a determination of completeness. Upon a determination of completeness as provided in writing by EPA to the Respondents, Respondents will begin implementation of the O&M Manual and PMP.
78. **Engineering Evaluation:** Within 60 days of the Effective Date of this Order, the Respondents shall provide to EPA for review an **Engineering Evaluation** of the WWTP. The Engineering Evaluation must be completed by a certified Professional Engineer. This evaluation must include an analysis of the cause of Permit effluent limitation violations, and responsive recommendations to comply with the Permit effluent limitations and monitoring requirements, including any and all repairs and upgrades to the WWTP that are needed to achieve compliance with the Permit effluent limitations and monitoring requirements.
79. EPA will review the Engineering Evaluation and make a determination of completeness. If EPA determines that the Engineering Evaluation is not complete or adequate, EPA shall notify Respondents in writing and Respondents shall resubmit an updated Engineering Evaluation within 30 of Respondents’ receipt of EPA’s notice.
80. **Corrective Action Plan:** Within 30 days of receiving written notification of EPA’s determination of completeness for the Engineering Evaluation, the Respondents shall provide to EPA for review a **Corrective Action Plan** (“CAP”), which meets the requirements set forth below in this Order. The CAP shall include, at a minimum, plans and a schedule for implementing corrective actions to address the following:
 - a. A plan and schedule for implementing corrective actions to address effluent violations for the following parameters: 1) BOD; 2) pH; 3) TSS; 4) DO and 5) Nitrogen.

- b. **Repair and Replacement:** A plan and schedule for repairing and upgrading parts of the WWTP in accordance with the following deadlines:

Table 2: Repair and Replacement Schedule

Component	Deadline
Clarifier rake arm	December 20, 2023
Add filter system	October 31, 2023
Temporary Filter bags	Completed on March 17, 2023
Complete Collection System Repairs to mitigate I & I	Completed May 11, 2023
Increase size of sludge tank	10,000-gallon sludge tank installed in April 2020
I&I	August 1, 2022 (I&I Study) & May 11, 2023 (23 manholes received manhole rim inserts/pans)
Motor and blower upgrades	April 2024

- c. **Repair and Replacement Completion Notifications:** For each item identified in Table 2, Respondents shall submit to EPA a notification of completion of such replace and/or replacement within 10 days of completion. Each notification of completion shall include sufficient information to document compliance with this Order.
- d. The schedule to implement the corrective actions identified in the CAP shall not exceed 180 days from the Effective Date of this Order.

81. CAP Review: After review of the CAP:

- a. EPA will, in writing: (a) accept the submission; (b) accept the submission upon specified conditions; (c) accept part of the submission and request resubmission of the remainder; or (d) request a new submission.
- b. If the submission is accepted, Respondents shall take all actions required by the CAP, in accordance with the schedule and requirements of the CAP, as approved. If the CAP is conditionally accepted or accepted only in part, Respondents shall, upon written direction from EPA, take all actions required by the accepted CAP that EPA determines are technically severable from any unacceptable portions.
- c. If the CAP is unacceptable in whole or in part, Respondents shall, within 15 days or such other time as the Parties agree to in writing, correct all deficiencies and resubmit the CAP, or any unacceptable portion thereof, for approval, in accordance with the preceding Paragraphs. If the resubmission is accepted in

whole or in part, Respondents shall proceed in accordance with the preceding Paragraph.

82. CAP Deadlines and Notification:

- a. No later than 10 days from EPA's acceptance of the CAP, Respondents shall submit to EPA for review a list of deadlines included in the CAP. The list shall be submitted in an electronic format (e.g., unlocked spreadsheet or similar format agreed to by the Parties). Within 10 days of modification of any deadline under the CAP, Respondents shall provide an updated list reflecting changes to the future schedule.
- b. Respondents shall submit a notice to EPA within 10 days of completing a scheduled event in the CAP until all work as identified in and required by the CAP has been completed.

83. Wastewater Capacity and Flow Reporting: Comply with the terms of any applicable NPDES Permit for the WWTP to timely submit annual total cumulative flow reports and Wastewater Capacity Management Plans as applicable and submit directly to EPA and MDE.

- 84. Quarterly Progress Reports:** Submit within 10 days of the end of each calendar quarter (December 31, March 31, June 30, September 30) a quarterly progress report that includes:
- a. A description of any effluent limit exceedances, and for each, its cause, and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance;
 - b. Preventative maintenance measures taken to prevent effluent exceedances and/or unauthorized discharges;
 - c. Any repairs, rehabilitation or upgrades to the WWTP;
 - d. Updates, if any, on efforts to connect to the Anne Arundel County municipal wastewater system.

V. PROCEDURES FOR SUBMISSIONS

85. Respondents shall include with all documents required to be submitted by this Order and any Request for Termination a certification signed by a responsible officer, as defined in 40 C.F.R. § 122.22, that reads as follows:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate,

and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signed _____

Title _____

Date _____

86. Any submission or communication relating to this Order shall be submitted via electronic transmission) to:

Kaitlin McLaughlin (3ED32)
Enforcement and Compliance Assurance Division
U.S. EPA, Region 3
Philadelphia, PA 19103
Mclaughlin.kaitlin@epa.gov

and

Aviva Reinfeld (3RC40)
Assistant Regional Counsel
U.S. EPA, Region 3
Philadelphia, PA 19103
reinfeld.aviva@epa.gov; and
R3_ORC_mailbox@epa.gov [sent with subject line attn: Aviva Reinfeld, Dkt. No. CWA-03-2024-0007DN]

87. For each submission required pursuant to this Order EPA may review the submission and provide comments. If EPA comments on a submission, Respondents agrees to respond in writing within 30 calendar days.

88. Respondents may assert a business confidentiality claim covering part or all of the information which this Order requires it to submit to EPA, but only to the extent and only in the manner described in Part 2 Subpart B of Title 40 of the C.F.R. The EPA will disclose information submitted under a confidentiality claim only as provided in Part 2 Subpart B of Title 40 of the C.F.R. If Respondents do not assert a confidentiality claim, EPA may make the submitted information available to the public without further notice to Respondents.

VI. GENERAL PROVISIONS

89. The intent of this Order is to address the violations described herein. EPA reserves the right to commence action against any person, including Respondents, in response to any

condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment.

90. EPA reserves any existing rights and remedies available to it under the CWA, 33 U.S.C. Chapter 26, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction. Further, EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provision of this Order, following its Effective Date (as defined below).
91. This Order does not constitute a waiver or modification of the terms or conditions of the Respondent's Permit. Compliance with the terms and conditions of this Order does not relieve Respondents of their obligations to comply with any applicable federal, state, or local law, regulation or permit.
92. Respondents waive any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondents may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
EPA reserves all existing inspection authority otherwise available to EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, or pursuant to any other statute or law.
93. For the purpose of this proceeding only, Respondents admit each jurisdictional allegation set forth in this Order and agrees not to contest the jurisdiction of EPA with respect to the execution or enforcement of this Order.
94. Respondents shall bear their own costs and attorney's fees in connection with this Order.
95. By signing this Order, Respondents acknowledge that this Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Order does not contain any confidential business information or personally identifiable information from Respondents.
96. Respondents certify that any information or representation they have supplied or made to EPA concerning this matter at the time of submission was, true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondents to the EPA regarding matters relevant to this Order, including information about Respondents' ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondents and their officers, directors and agents are aware that the submission of false or misleading information to the

United States government may subject a person to separate civil and/or criminal liability.

97. This Order shall apply to and be binding upon the Respondents and their successors and assigns. By his or her signature below, the person or persons who sign this Order on behalf of Respondents are acknowledging that they are fully authorized by the Respondents to execute this Order and to legally bind Respondents to the terms and conditions of this Order.

VII. TAX IDENTIFICATION

98. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Section IV (Compliance Order), Section V (Procedures for Submissions) and Section VIII (Certification of Compliance and Request for Termination of Order) is restitution, remediation, or required to come into compliance with the law.

VIII. CERTIFICATION OF COMPLIANCE AND REQUEST FOR TERMINATION OF ORDER

99. The provisions of this Order shall be deemed satisfied when Respondents receive written notice from EPA that Respondents have demonstrated, to the satisfaction of EPA, that the terms of this Order have been satisfactorily completed and the written notice will state that this Order is terminated.
100. Respondents may submit to EPA a Certification of Compliance and Request for Termination of this Order, including documentation to demonstrate that they have met all requirements of this Order. If, following review of any Certification of Compliance and Request for Termination of this Order, EPA agrees that Respondents have adequately complied with all requirements of this Order, EPA shall provide written notification of termination of this Order, as described in the above preceding paragraph.
101. EPA reserves the right to unilaterally terminate this Order in its unreviewable discretion.

IX. MODIFICATIONS

102. Any request to modify the terms of, or parties to, this Order shall be submitted, in writing, by the Respondents to EPA and shall be subject to review and approval by EPA, in its sole and unreviewable discretion. Respondents' submission of a written request for modification of this Order shall not relieve Respondents of any obligation under this Order and shall have no effect on EPA's statutory or regulatory authority to enforce the terms of this Order, in its sole and unreviewable discretion.

X. CHANGE OF OWNERSHIP OR OPERATION OF THE WWTP

103. At least 90 days prior to any transfer of ownership or operation of the WWTP, Respondents shall submit a written notification to EPA of any such anticipated change in ownership or operation which shall include, at a minimum, a detailed summary of the anticipated change in ownership or operation, contact information for the proposed new owner or operator of the WWTP and a schedule for such anticipated change.
104. Respondents shall condition any sale or transfer of ownerships or operation of the WWTP, in whole or in part, upon the execution by such Prospective Third-Party Purchaser, or Transferee, of an agreement, which creates an obligation that shall survive the close of such sale or transfer of the WWTP, whereby:
- a. Such Prospective Third-Party Purchaser or Transferee agrees to comply with and be bound by the terms of this Order; or
 - b. Such Prospective Third-Party Purchaser or Transferee agrees to provide Respondents (or Respondents' contractors) unlimited access to the WWTP to complete any and all outstanding obligations that remain in this Order in Section IV (Compliance).
105. Until or unless this Order is modified or terminated, in accordance with the terms of this Order, or until a Transferee assumes responsibility upon written agreement of the parties, Respondents shall remain responsible for compliance with the terms of this Order following any transfer of ownership or operation of the WWTP.

XI. EXTENSION OF TIME REQUEST BASED ON FORCE MAJEURE EVENT

106. "Force Majeure Event," for purposes of this Order, is defined as any event arising from causes beyond the control of either Respondents, of any entity controlled by either Respondent or any contractor of either Respondents, that delays or prevents the performance of any obligation under this Order subsequent to Respondents exercising best efforts to fulfill the obligation(s) at issue. The requirement that Respondents exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any Force Majeure Event and best efforts to address the effects of any such event: (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay. Unanticipated or increased costs or expenses associated with the performance of Respondents' obligations under this Order or Respondents' financial inability to perform any obligation under this Order shall not constitute circumstances beyond Respondents' control nor serve as the basis for an extension of time under this Order.
107. If at any time during the implementation of this Order, any Force Majeure Event occurs that may delay the performance of any obligation under this Order, including implementation of an EPA-approved plan or schedule, Respondents shall, within 7 calendar days of determining that such event may delay the performance of such obligation, provide to EPA a written request for an extension of time to comply with any

such obligation (Force Majeure Extension of Time Request). Such Extension of Time Request shall include, at a minimum, the following information for each specific obligation(s) for which an extension of time is sought.

- a. The specific obligation(s) for which an extension of time is sought, including each applicable deadline.
 - b. A detailed explanation and description of the Force Majeure Event at issue and the reasons for the requested extension of time, including all supporting documentation.
 - c. The amount of time for which an extension of time is sought.
 - d. A detailed description of all actions taken to prevent or minimize the amount of time for which an extension of time is sought, including a detailed description of each Respondent's best efforts to fulfill the obligation.
 - e. A detailed description, including a schedule for implementation, of all actions to be taken to prevent or mitigate the amount of time for which an extension is sought and the effect of any delay on any other obligation pursuant to this Order.
 - f. A statement as to whether, in the opinion of each Respondent, the Force Majeure Event at issue may cause or contribute to an endangerment to public health, welfare, or the environment.
108. Respondents shall be deemed to know of the occurrence of, or reasonable likelihood of an occurrence of, any circumstance or event that may delay the performance of any obligation under this Order of which either Respondents, any entity controlled by either Respondents, or any contractor of either Respondents knew or reasonably should have known.
109. Any Force Majeure Extension of Time Request shall be submitted in accordance with this Order and EPA may, in its unreviewable discretion, approve or disapprove any Extension of Time Request.
110. EPA's approval, including conditional approval, of any Force Majeure Extension of Time Request shall not, of itself extend the time for performance of any other obligation not explicitly addressed in such approval.
111. Failure to comply with the above requirements may preclude Respondents from asserting any claim of Force Majeure or other related defense for non-compliance with the terms of this Order for the time period such non-compliance is related to a reportable event.

XII. EFFECTIVE DATE

112. This ORDER is effective after receipt by Respondents, or Respondents' counsel, of a fully executed document.

AGREED TO FOR THE RESPONDENTS:

HORIZON LAND MANAGEMENT, LLC,
a Maryland limited liability company

Date: 11.14.2023

By: 
Name: Andrew Odabashian
Title: President

LYONS CREEK MHC, LLC,
a Maryland limited liability company

By: HORIZON MH COMMUNITIES FUND I, LP,
a Delaware limited liability company,
its Sole Member

By: Horizon MH Fund I GP, LLC,
a Delaware limited liability company,
its General Partner

Date: 11.14.2023

By: 
Name: Andrew R. Odabashian
Title: Vice President

SO ORDERED:

[digitally signed and dated]

Karen Melvin

Director, Enforcement & Compliance Assurance Division

U.S. EPA Region 3

