



REGION 3

PHILADELPHIA, PA 19103



In the Matter of:	:	
	:	ADMINISTRATIVE ORDER
	:	ON CONSENT PURSUANT TO
Patuxent MHC, LLC	:	33. U.S.C. § 1319(a)
5380 Sands Road	:	
Lothian, MD 20711	:	Dkt. No. CWA-03-2024-0009DN
	:	
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.
5. Respondents, Patuxent MHC, LLC (“Patuxent”), and Horizon Land Management, LLC (“Horizon”) have agreed to the issuance of this Consent Order.

II. STATUTORY AND REGULATORY BACKGROUND

6. 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.
7. “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.
8. 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.
9. 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.
10. 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

11. Patuxent MHC, LLC was formed on August 4, 2017 with the address c/o Horizon Land Co., LLC, 2138 Espey Court, Suite 1, Crofton, Maryland 21114.
12. Patuxent acquired a manufactured home community located at 5380 Sands Road, Lothian, Anne Arundel County, MD 20711, on September 9, 2017.
13. Horizon is a property management company that serves as Patuxent’s managing agent for the manufactured home community. Horizon reviews, evaluates, negotiates and executes on Patuxent’s behalf all service contracts, including the service contract with a third party to operate and manage the Wastewater Treatment Plant (“WWTP”) for

Patuxent at its mobile home community in Lothian, Maryland.

14. 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. (“Prostart”) 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.
15. 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.”
16. Patuxent 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).
17. 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. MD0024694 (“Permit”) to the WWTP at Patuxent on June 1, 2019 for its WWTP that expires on May 31, 2024.
18. The Permit authorizes the terms for the discharge of wastewater from the WWTP in accordance with the provisions of the permit. The Permit require a permittee to comply with all conditions in the Permit. Horizon is not and has never been a permittee under the Permit.
19. The WWTP is a package style sewage treatment plant with activated sludge and extended aeration. The influent flow enters the wastewater plant through the bar screen to the aeration tank. The wastewater then flows to the clarifier with return lines at the bottom of the clarifier and off of the clarifier’s skimmer to send back to the aeration tank. Flow goes into the weir of clarifier into a concrete holding tank and then to the pre-UV circular chamber that is aerated. From the chamber, wastewater flows through the UVs and then is discharged through the outfall. The clarifier also has wasting capabilities to send solids back to the sludge tanks onsite. The sludge tanks have the ability to decant water back to the aeration tank. There are no sand filers or any other filtration systems on site. Wasted sludge goes to a sludge holding tank, and then is hauled off-site.
20. The Permit authorizes the WWTP to discharge wastewater from its operations through Outfall 001 to 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.
21. 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.
 22. MDE inspected the WWTP on March 10, 2017, March 23, 2017, May 12, 2017, and January 23, 2020.
 23. On July 1, 2020, EPA sent an Information Request pursuant to CWA Section 308 to Horizon regarding Patuxent mobile home community in Lothian, Maryland, and received a response from Patuxent on August 31, 2020.
 24. 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.
 25. Based on observations made by MDE during its March 10, 2017, March 23, 2017, May 12, 2017, and January 23, 2020 inspections, and the responses Patuxent 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 and owners and/or operators of the WWTP.

Count 1
Effluent Exceedances

26. The allegations in the preceding paragraphs are incorporated by reference.
27. The Permit set effluent limits for discharges from Outfall 001A for: five-day biochemical oxygen demand ("BOD₅"), Total Suspended Solids ("TSS"), Phosphorus, Nitrogen, *E. Coli*, Total Residual Chlorine, pH, and Dissolved Oxygen in Part 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.
28. From October 2019 through October 2023, the WWTP recorded thirty-eight (38) effluent exceedances for BOD, pH, TSS, *E. coli* and DO as follows:

Table 1: Effluent Exceedances

Monitoring Period End Date	Parameter Name	Discharge Monitoring Report Value	Permit Limit	Units	Limit Type
10/31/2019	Oxygen, dissolved [DO]	3.8	5	mg/L	Minimum
11/30/2019	Oxygen, dissolved [DO]	3.1	5	mg/L	Minimum
11/30/2019	Oxygen, dissolved [DO]	5.2	5.5	mg/L	Minimum Monthly Average
11/30/2019	pH	6.3	6.5	SU	Minimum
12/31/2019	Oxygen, dissolved [DO]	3.7	5	mg/L	Minimum
02/29/2020	<i>E. coli</i>	200.5	126.	MPN/100mL	Monthly Geometric Maximum
03/31/2020	BOD, 5-day, 20 deg. C	49.4	45.	mg/L	Maximum Weekly Average
03/31/2020	<i>E. coli</i>	200.5	126.	MPN/100mL	Monthly Geometric Maximum
04/30/2020	BOD, 5-day, 20 deg. C	66.7	45.	mg/L	Maximum Weekly Average
04/30/2020	pH	6.37	6.5	SU	Minimum
04/30/2020	Solids, total suspended	20.94	13.	lb/d	Maximum Weekly Average
04/30/2020	Solids, total suspended	42.	30.	mg/L	Maximum Monthly Average
04/30/2020	Solids, total suspended	155.	45.	mg/L	Maximum Weekly Average
04/30/2020	<i>E. coli</i>	168.12	126.	MPN/100mL	Monthly Geometric Maximum
05/31/2020	<i>E. coli</i>	200.5	126.	MPN/100mL	Monthly Geometric Maximum
08/31/2020	Solids, total suspended	44.08	30.	mg/L	Maximum Monthly Average
08/31/2020	Solids, total suspended	78.	45.	mg/L	Maximum Weekly Average
08/31/2020	<i>E. coli</i>	574.53	126.	MPN/100mL	Monthly Geometric Maximum
11/30/2020	<i>E. coli</i>	132.3	126	MPN/100mL	Monthly Geometric Maximum
06/30/2021	BOD, 5-day, 20 deg. C	123	45	mg/L	Maximum Weekly Average
06/30/2021	Solids, total suspended	53	45	mg/L	Maximum Weekly Average
07/31/2021	<i>E. coli</i>	535.18	126	MPN/100mL	Monthly Geometric Maximum
08/31/2021	<i>E. coli</i>	370.88	126	MPN/100mL	Monthly Geometric Maximum
09/30/2021	<i>E. coli</i>	454.09	126	MPN/100mL	Monthly Geometric Maximum
11/30/2021	Oxygen, dissolved [DO]	2.65	5	mg/L	Minimum
11/30/2021	BOD, 5-day, 20 deg. C	71.6	45	mg/L	Maximum Weekly Average
11/30/2021	Solids, total suspended	9.85	8.8	lb/d	Maximum Monthly Average
11/30/2021	Solids, total suspended	43.01	13	lb/d	Maximum Weekly Average
11/30/2021	Solids, total suspended	82.6	30	mg/L	Maximum Monthly Average
11/30/2021	Solids, total suspended	363	45	mg/L	Maximum Weekly Average
11/30/2021	<i>E. coli</i>	769.71	126	MPN/100mL	Monthly Geometric Maximum
03/31/2022	<i>E. coli</i>	175.99	126	MPN/100mL	Monthly Geometric Maximum
4/31/2023	<i>E. coli</i>	211.08	126	MPN/100mL	Monthly Geometric Maximum
05/31/2023	BOD, 5-day, 20 deg. C	55	45	mg/L	Maximum Weekly Average
05/31/2023	<i>E. coli</i>	189.16	126	MPN/100mL	Monthly Geometric Maximum
06/30/2023	<i>E. coli</i>	667.03	126	MPN/100mL	Monthly Geometric Maximum
07/31/2023	<i>E. coli</i>	234.54	126	MPN/100mL	Monthly Geometric Maximum
10/31/2023	<i>E. coli</i>	182.67	126	MPN/100mL	Monthly Geometric Maximum

29. 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 October 31, 2019 to October 31, 2023.

Count 2
Insufficient or Lacking Flow Reporting

30. The allegations in the preceding paragraphs are incorporated by reference.

31. The design capacity for the WWTP is 0.035 million gallons per day (“mgd”). Special Condition II.A. of the Permit states that, “[a]n annual average flow of 0.035 million gallons per day (mgd) was used in waste load allocation calculations” for the WWTP, and it requires Patuxent to notify MDE “at least 180 days before the annual average flow is expected to exceed this flow level.”

32. **Total Cumulative Flow Reporting:** Part II.C of the Permit state 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.”

33. Respondents did not submit an annual total cumulative flow reports in 2019, 2020, or 2021 by the January 28 deadline in the following year. Patuxent provided the total annual cumulative flows for 2020, 2021 and 2022 on March 13, 2023.

34. Respondents’ failure to timely submit annual total cumulative flow reports is a violation 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

35. The allegations in the preceding paragraphs are incorporated by reference.

36. General conditions of the Permit require the WWTP to “be operated efficiently to minimize upsets and discharges of excessive pollutants.” Permit Part III.B.3(a).

37. During MDE’s January 23, 2020 inspection, the inspector observed that the WWTP operator Prostart was unable to control return flow to the aeration tank due to

continuous high flows at the treatment plant.

38. During MDE's January 23, 2020 inspection, the inspector observed a thick blanket of sludge floating on the clarifier.
39. The WWTP does not have a filter. In addition, Patuxent's operator SOS has reported that it believes the system was modified prior to current ownership, because the clarifier appears to have been designed as a two-chamber clarifier with two weirs, but it is now only one clarifier and one weir. The WWTP operator SOS, believes that re-configuring the clarifier to its original design would improve operation of the WWTP. Patuxent's engineer proposed alterations at the system for the clarifier to have additional detention time, in order to return the plant to its original design. These alternations are expected to be completed by December 31, 2023.
40. Patuxent installed a new sludge tank in 2020 and plans to install a 10,000-gallon sludge holding tank by November 15, 2023. Patuxent plans to revert the current sludge holding tank back to an equalization tank.
41. Patuxent added a pump to the concrete tank to send solids back to the aeration tank.
42. Patuxent reported that in August 2021 and September 2021, exceedances of *E. Coli* were attributable to issues with the UV bank. Patuxent replaced bulbs, sleeves and casings.
43. Patuxent reported that an ineffective tank at the bottom of the EQ concrete tank was the cause of BOD, TSS, DO and *E. Coli* exceedances. Patuxent replaced the pump and adjusted equipment to assist the treatment process. Patuxent also reported a blower malfunction in the aeration tank.
44. Patuxent replaced tubing for the composite sampler in December 2021.
45. As of January 3, 2022, Patuxent reported that it needed to repair the air header and blower #3. Repairs to the blower controls took place on May 31, 2023, and the blower is currently functioning. Any applicable aeration/blower concerns, if any, will be further evaluated in 2024.
46. The WWTP still has outstanding repairs and upgrades to make to the WWTP to fix non-operational or malfunctioning equipment and infrastructure.
47. Respondents' failure to operate efficiently and minimize upsets and discharges of excessive pollutants by fixing non-operational or malfunctioning equipment and

infrastructure, to the extent such non-operational or malfunctioning equipment is formally referenced in the Permits, since January 23, 2020 is a violation of the Permit and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

IV. COMPLIANCE ORDER

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

48. **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.
49. 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.

50. **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.

51. 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.

52. **Corrective Action Plan:** Within 30 days of receiving written notification of EPA’s determination of completeness for 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:

- i. A plan and schedule for implementing corrective actions to address effluent violations for the following parameters: 1) BOD; 2) pH; 3) TSS; 4) *E. coli* and 5) DO.
- ii. **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
Manage aeration controls	May 31, 2023
Motor and blower upgrades	April 2024
Rehabilitate/reconfigure clarifier	February 28, 2024
Retrofit pre-EQ for FOG	November 30, 2023
Sludge holding tank/decant	November 30, 2023
I & I study	Within 2 years of the Effective Date of this Order

- iii. **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.

53. 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.

54. 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.

55. 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.

56. 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 Anne Arundel WWTP municipal wastewater system;
- d. Updates, if any, on efforts to connect to the County.

V. PROCEDURES FOR SUBMISSIONS

57. 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 _____

58. 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-03-2024-0009DN]

59. 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.
60. 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

61. 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.
62. 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).
63. 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.
64. 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.

65. 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.
66. 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.
67. Respondents shall bear its own costs and attorney's fees in connection with this Order.
68. 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.
69. 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.
70. 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

71. 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**

72. 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.
73. 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.
74. EPA reserves the right to unilaterally terminate this Order in its unreviewable discretion.

IX. MODIFICATIONS

75. 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

76. 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.
77. Respondents shall condition any sale or transfer of ownership 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).
78. 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

79. "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 exercises "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.
80. 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.

81. 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.

82. 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.

83. 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.

84. 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

85. 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

PATUXENT 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

In the Matter of: Patuxent MHC, LLC

EPA Docket No. CWA-03-2024-0009DN

SO ORDERED:

[digitally signed and dated]

Karen Melvin

Director, Enforcement & Compliance Assurance Division

U.S. EPA Region 3

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103**

In the Matter of:	:	
	:	ADMINISTRATIVE ORDER
Patuxent MHC, LLC	:	ON CONSENT PURSUANT TO
5380 Sands Road	:	33. U.S.C. § 1319(a)
Lothian, MD 20711	:	
	:	Dkt. No. CWA-03-2024-0009DN
and	:	
	:	
Horizon Land Management, LLC	:	
2151 Priest Bridge Drive, Suite 7	:	
Crofton, MD 21114	:	
	:	
Respondents.	:	

CERTIFICATE OF SERVICE

I certify that the foregoing Administrative Order on Consent was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the Administrative Order on Consent. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing Administrative Order on Consent to each of the following persons, in the manner specified below, at the following addresses:

Copies served **via UPS** and email to:

Andrew Odabashian
Patuxent MHC, LLC
Horizon Land Management, LLC
2151 Priest Bridge Drive, Suite 7
Crofton, MD 21114
dodabashian@horizonlandco.com

Robert Tyson, Esq.
Bond, Schoeneck & King PLLC
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110 West Fayette St.
Syracuse, NY 13202-1355
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Copies served via email to:

Kaitlin McLaughlin
Enforcement & Compliance Assurance Division
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Mclaughlin.kaitlin@epa.gov

Aviva H. Reinfeld, Esq.
Assistant Regional Counsel
U.S. EPA, Region 3
Reinfeld.aviva@epa.gov

[Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 3