

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

<b>In the Matter of:</b>	:
	:
<b>Boone’s Estates, MHC, LLC</b>	: <b>U.S. EPA Docket No. CWA-03-2024-0010</b>
<b>1091 Marlboro Road</b>	:
<b>Lothian, MD 20711</b>	: <b>Proceeding under SECTION 309(g) of the Clean</b>
	: <b>Water Act, 33 U.S.C. § 1319(g)</b>
<b>and</b>	:
	:
<b>Horizon Land Management, LLC</b>	:
<b>2151 Priest Bridge Drive, Suite 7</b>	:
<b>Crofton, MD 21114</b>	:
	:
<b>Respondents.</b>	:

**CONSENT AGREEMENT**

**PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 (“Complainant”), Boone’s Estates MHC, LLC, and Horizon Land Management, LLC (“Respondents”) (collectively the “Parties”), pursuant to Section 309(g) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. The CWA authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondents under the CWA (or the “Act”) for the violations alleged herein.
  
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

**JURISDICTION**

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

*In the Matter of: Boone's Estates MHC, LLC*

*EPA Docket No. CWA-03-2024-0010*

4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(6).
5. Pursuant to Section 309(g)(1), 33 U.S.C. § 1319(g)(1), EPA has consulted with the Maryland Department of the Environmental ("MDE") regarding this action and will transmit a copy of this document to the appropriate MDE official.

#### **GENERAL PROVISIONS**

6. For purposes of this proceeding only, Respondents admit the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondents neither admit nor deny the specific factual allegations set forth in this Consent Agreement.
8. Respondents agree not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondents hereby expressly waive their right to contest the allegations set forth in this Consent Agreement and Final Order and waive their right to appeal the accompanying Final Order.
10. Respondents consent to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondents shall bear their own costs and attorney's fees in connection with this proceeding.
12. Public notice of this Consent Agreement is required by section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b)(1). EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

13. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
14. 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

*In the Matter of: Boone's Estates MHC, LLC*

*EPA Docket No. CWA-03-2024-0010*

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.

15. "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.
16. 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.
17. 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.
18. 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.
19. Boone's Estates, MHC, LLC ("Boone's") was formed on December 20, 2016 with the address c/o Horizon Land Co., LLC, 2138 Espey Court, Suite 1, Crofton, Maryland 21114.
20. Boone's is a Maryland limited liability company. Its Sole Member is Horizon MH Communities Fund I, LP, and its General Partner is Horizon MH Fund I GP, LLC.
21. Boone's acquired the Boone's Estates Inc. manufactured home community, located at 1091 Marlboro Road, Lothian, Anne Arundel County, MD 20711, on January 31, 2017.
22. Horizon Land Management, LLC ("Horizon") is a Maryland limited liability company.
23. Horizon is a property management company that serves as the managing agent for Boone's manufactured home community. Horizon reviews, evaluates, negotiates and executes on Boone's' behalf all service contracts, including the service contract with a third party to operate and manage the Wastewater Treatment Plant ("WWTP") for the manufactured home community.
24. 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.
25. Section 502(5) of the Act, 33 U.S.C. §1362, provides: "The term 'person' means an

*In the Matter of: Boone's Estates MHC, LLC*

*EPA Docket No. CWA-03-2024-0010*

individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State or any interstate body.”

26. Boone's 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).
27. 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. MD0050903 (“2012 Permit”) to the WWTP at Boone's Estates, Inc. on July 1, 2012. On March 3, 2017, the permit was transferred to Boone's Estates MHC, LLC. The 2012 Permit expired on June 30, 2017, and was administratively extended. On September 21, 2021, MDE issued NPDES Permit No. MD0050903 to Boone's with an effective date of December 1, 2021 (“2021 Permit”).
28. The 2012 Permit and 2021 Permit (referred to, collectively, as “the Permits”) authorize the terms for the discharge of wastewater from the WWTP in accordance with the provisions of the Permits. The Permits require a permittee to comply with all conditions in the Permits. Horizon is not and has never been a permittee under the Permits.
29. The WWTP is a package style sewage treatment plant with activated sludge and extended aeration. Wastewater is routed to the WWTP through an influent pump station and flows through a manually raked bar screen at the influent end of the package plant and into the aeration chamber. Activated sludge is piped in near this location. From the aeration chamber, flow is routed to a central clarifier chamber, then into a building with a rotary cloth filter unit that is not used for filtration but to channel effluent. After the filter building, effluent is disinfected via ultra-violet light prior to being discharged through Outfall 001. Sludge collects in the plant and is either wasted or a contractor hauls waste solids off-site.
30. The Permits have authorized the WWTP to discharge wastewater from its operations through Outfall 001 into Galloway Creek, a tributary to the Patuxent River. The Patuxent River is a “navigable water” as that term is defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7). Galloway Creek is a water of the United States.
31. 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.
32. MDE inspected the WWTP on August 27, 2019, December 9, 2019, January 9, 2020, and July 21, 2020.
33. On July 1, 2020, EPA sent an Information Request pursuant to CWA Section 308 to Horizon regarding the Boone's WWTP, and received a response from Boone's on August

In the Matter of: Boone's Estates MHC, LLC

EPA Docket No. CWA-03-2024-0010

31, 2020.

34. 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 Boone's.
35. 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.
36. Based on observations made by MDE during its August 27, 2019, December 9, 2019, January 9, 2020, and July 21, 2020 inspections, EPA's December 1, 2020 inspection and the responses Boone's submitted to EPA's two Information Requests, EPA has identified the following violations of the Permits and Section 301 of the Clean Water Act by Respondents as owners and/or operators of the WWTP.

#### Count I Effluent Exceedances

37. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
38. The Permits set effluent limits for discharges from Outfall 001 for: five-day biochemical oxygen demand ("BOD5"), Total Suspended Solids ("TSS"), Ammonia, E. Coli, Total Residual Chlorine, pH, and Dissolved Oxygen in Section II.A. The Permits were issued in conformance with the Chesapeake Bay Total Maximum Daily Load for Nitrogen, Phosphorus and Sediment established on December 29, 2010.
39. From January 2019 through October 2023, the WWTP recorded one hundred and ninety-four (194) effluent exceedances for BOD, pH, TSS, 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	8.2	8	lb/d	Maximum Weekly Average
06/30/2019	Solids, total suspended	8.2	8	lb/d	Maximum Weekly Average
07/31/2019	Solids, total suspended	17.61	5.3	lb/d	Maximum Monthly Average
07/31/2019	Solids, total suspended	34.53	8	lb/d	Maximum Weekly Average
07/31/2019	Solids, total suspended	35.5	8	mg/L	Maximum Monthly Average
07/31/2019	Solids, total suspended	69	12	mg/L	Maximum Weekly Average
08/31/2019	BOD, 5-day, 20 deg. C	9.77	5.3	lb/d	Maximum Monthly Average

In the Matter of: Boone's Estates MHC, LLC

EPA Docket No. CWA-03-2024-0010

Monitoring Period End Date	Parameter Name	Discharge Monitoring Report Value	Permit Limit	Units	Limit Type
08/31/2019	BOD, 5-day, 20 deg. C	18.95	8	lb/d	Maximum Weekly Average
08/31/2019	BOD, 5-day, 20 deg. C	16.5	8	mg/L	Maximum Monthly Average
08/31/2019	BOD, 5-day, 20 deg. C	32	12	mg/L	Maximum Weekly Average
08/31/2019	Solids, total suspended	11.4	5.3	lb/d	Maximum Monthly Average
08/31/2019	Solids, total suspended	37.9	8	lb/d	Maximum Weekly Average
08/31/2019	Solids, total suspended	19.25	8	mg/L	Maximum Monthly Average
08/31/2019	Solids, total suspended	64	12	mg/L	Maximum Weekly Average
10/31/2019	BOD, 5-day, 20 deg. C	14.2	12	mg/L	Maximum Weekly Average
10/31/2019	Solids, total suspended	20.86	5.3	lb/d	Maximum Monthly Average
10/31/2019	Solids, total suspended	99.2	8	lb/d	Maximum Weekly Average
10/31/2019	Solids, total suspended	41	8	mg/L	Maximum Monthly Average
10/31/2019	Solids, total suspended	195	12	mg/L	Maximum Weekly Average
11/30/2019	Solids, total suspended	9.81	5.3	lb/d	Maximum Monthly Average
11/30/2019	Solids, total suspended	12.61	8	lb/d	Maximum Weekly Average
11/30/2019	Solids, total suspended	21	8	mg/L	Maximum Monthly Average
11/30/2019	Solids, total suspended	27	12	mg/L	Maximum Weekly Average
12/31/2019	Solids, total suspended	10.9	8	mg/L	Maximum Monthly Average
12/31/2019	Solids, total suspended	14.7	12	mg/L	Maximum Weekly Average
02/29/2020	BOD, 5-day, 20 deg. C	14.5	12	mg/L	Maximum Weekly Average
02/29/2020	Solids, total suspended	8.72	5.3	lb/d	Maximum Monthly Average
02/29/2020	Solids, total suspended	25.28	8	lb/d	Maximum Weekly Average
02/29/2020	Solids, total suspended	18.6	8	mg/L	Maximum Monthly Average
02/29/2020	Solids, total suspended	54	12	mg/L	Maximum Weekly Average
03/31/2020	Solids, total suspended	13	12	mg/L	Maximum Weekly Average
04/30/2020	pH	6.27	6.5	SU	Minimum
04/30/2020	Solids, total suspended	19.43	5.3	lb/d	Maximum Monthly Average
04/30/2020	Solids, total suspended	87.57	8	lb/d	Maximum Weekly Average
04/30/2020	Solids, total suspended	38.2	8	mg/L	Maximum Monthly Average
04/30/2020	Solids, total suspended	175	12	mg/L	Maximum Weekly Average
05/31/2020	Solids, total suspended	8.49	8	lb/d	Maximum Weekly Average
05/31/2020	Solids, total suspended	13	12	mg/L	Maximum Weekly Average
05/31/2020	Nitrogen, ammonia total [as N]	3.67	1.9	lb/d	Maximum Monthly Average
05/31/2020	Nitrogen, ammonia total [as N]	9.93	2.9	mg/L	Maximum Monthly Average
06/30/2020	Solids, total suspended	12.09	8	lb/d	Maximum Weekly Average
06/30/2020	Solids, total suspended	18	12	mg/L	Maximum Weekly Average
07/31/2020	Solids, total suspended	13.93	5.3	lb/d	Maximum Monthly Average
07/31/2020	Solids, total suspended	24.1	8	lb/d	Maximum Weekly Average
07/31/2020	Solids, total suspended	17	8	mg/L	Maximum Monthly Average
07/31/2020	Solids, total suspended	34	12	mg/L	Maximum Weekly Average
08/31/2020	Solids, total suspended	8.98	8	lb/d	Maximum Weekly Average
08/31/2020	Solids, total suspended	15.5	12	mg/L	Maximum Weekly Average

In the Matter of: Boone's Estates MHC, LLC

EPA Docket No. CWA-03-2024-0010

Monitoring Period End Date	Parameter Name	Discharge Monitoring Report Value	Permit Limit	Units	Limit Type
09/30/2020	Solids, total suspended	15.76	8	lb/d	Maximum Weekly Average
09/30/2020	Solids, total suspended	14.4	12	mg/L	Maximum Weekly Average
11/30/2020	Solids, total suspended	9.03	8	mg/L	Maximum Monthly Average
11/30/2020	Solids, total suspended	16.5	12	mg/L	Maximum Weekly Average
12/31/2020	BOD, 5-day, 20 deg. C	25	12	mg/L	Maximum Weekly Average
01/31/2021	Solids, total suspended	16	12	mg/L	Maximum Weekly Average
02/28/2021	Solids, total suspended	8.12	8	lb/d	Maximum Weekly Average
04/30/2021	Solids, total suspended	12.8	12	mg/L	Maximum Weekly Average
06/30/2021	BOD, 5-day, 20 deg. C	10.23	8	lb/d	Maximum Weekly Average
06/30/2021	BOD, 5-day, 20 deg. C	23.5	12	mg/L	Maximum Weekly Average
06/30/2021	Solids, total suspended	7.66	5.3	lb/d	Maximum Monthly Average
06/30/2021	Solids, total suspended	33.39	8	lb/d	Maximum Weekly Average
06/30/2021	Solids, total suspended	15.07	8	mg/L	Maximum Monthly Average
06/30/2021	Solids, total suspended	76.7	12	mg/L	Maximum Weekly Average
07/31/2021	BOD, 5-day, 20 deg. C	13.06	8	lb/d	Maximum Weekly Average
07/31/2021	BOD, 5-day, 20 deg. C	24.4	12	mg/L	Maximum Weekly Average
07/31/2021	Solids, total suspended	7.88	5.3	lb/d	Maximum Monthly Average
07/31/2021	Solids, total suspended	28.91	8	lb/d	Maximum Weekly Average
07/31/2021	Solids, total suspended	14.75	8	mg/L	Maximum Monthly Average
07/31/2021	Solids, total suspended	54	12	mg/L	Maximum Weekly Average
10/31/2021	Solids, total suspended	8.71	5.3	lb/d	Maximum Monthly Average
10/31/2021	Solids, total suspended	21.3	8	lb/d	Maximum Weekly Average
10/31/2021	Solids, total suspended	14	8	mg/L	Maximum Monthly Average
10/31/2021	Solids, total suspended	33	12	mg/L	Maximum Weekly Average
01/31/2022	Solids, total suspended	15.8	8	lb/d	Maximum Weekly Average
01/31/2022	Solids, total suspended	15	12	mg/L	Maximum Weekly Average
02/28/2022	Solids, total suspended	8.73	8	lb/d	Maximum Weekly Average
03/31/2022	Solids, total suspended	8.95	8	lb/d	Maximum Weekly Average
06/30/2022	Solids, total suspended	13	12	mg/L	Maximum Weekly Average
8/31/2022	Solids, total suspended	16	12	mg/L	Maximum Weekly Average
10/31/2022	pH	5.86	6.5	SU	Minimum
10/31/2022	Solids, total suspended	9.88	8	lb/d	Maximum Weekly Average
10/31/2022	Solids, total suspended	14	12	mg/L	Maximum Weekly Average
11/30/2022	BOD, 5-day, 20 deg. C	8.77	8	lb/d	Maximum Weekly Average
12/31/2022	BOD, 5-day, 20 deg. C	5.94	5.3	lb/d	Maximum Monthly Average
12/31/2022	BOD, 5-day, 20 deg. C	16.06	8	lb/d	Maximum Weekly Average
12/31/2022	BOD, 5-day, 20 deg. C	9.55	8	mg/L	Maximum Monthly Average
12/31/2022	BOD, 5-day, 20 deg. C	26.3	12	mg/L	Maximum Weekly Average
12/31/2022	Solids, total suspended	25.95	5.3	lb/d	Maximum Monthly Average
12/31/2022	Solids, total suspended	85.47	8	lb/d	Maximum Weekly Average
12/31/2022	Solids, total suspended	42.13	8	mg/L	Maximum Monthly Average
12/31/2022	Solids, total suspended	140	12	mg/L	Maximum Weekly Average

In the Matter of: Boone's Estates MHC, LLC

EPA Docket No. CWA-03-2024-0010

Monitoring Period End Date	Parameter Name	Discharge Monitoring Report Value	Permit Limit	Units	Limit Type
12/31/2022	<i>E. coli</i>	311.15	126	MPN/100mL	Monthly Geometric Maximum
1/31/2023	BOD, 5-day, 20 deg. C	12.14	8	lb/d	Maximum Weekly Average
1/31/2023	BOD, 5-day, 20 deg. C	21	12	mg/L	Maximum Weekly Average
1/31/2023	Solids, total suspended	8.37	5.3	lb/d	Maximum Monthly Average
1/31/2023	Solids, total suspended	18.26	8	lb/d	Maximum Weekly Average
1/31/2023	Solids, total suspended	14.8	8	mg/L	Maximum Monthly Average
1/31/2023	Solids, total suspended	31.6	12	mg/L	Maximum Weekly Average
2/28/2023	<i>E. coli</i>	560.6	126	MPN/100mL	Monthly Geometric Maximum
3/31/2023	BOD, 5-day, 20 deg. C	18.17	5.3	lb/d	Maximum Monthly Average
3/31/2023	BOD, 5-day, 20 deg. C	54.66	8	lb/d	Maximum Weekly Average
3/31/2023	BOD, 5-day, 20 deg. C	25.65	8	mg/L	Maximum Monthly Average
3/31/2023	BOD, 5-day, 20 deg. C	77.1	12	mg/L	Maximum Weekly Average
3/31/2023	Solids, total suspended	29.04	5.3	lb/d	Maximum Monthly Average
3/31/2023	Solids, total suspended	107.75	8	lb/d	Maximum Weekly Average
3/31/2023	Solids, total suspended	41.05	8	mg/L	Maximum Monthly Average
3/31/2023	Solids, total suspended	152	12	mg/L	Maximum Weekly Average
3/31/2023	Nitrogen, ammonia total [as N]	14.12	8.7	lb/d	Maximum Monthly Average
3/31/2023	Nitrogen, ammonia total [as N]	20.05	13	mg/L	Maximum Monthly Average
3/31/2023	<i>E. coli</i>	2263.48	126	MPN/100mL	Monthly Geometric Maximum
4/30/2023	BOD, 5-day, 20 deg. C	12.7	12	mg/L	Maximum Weekly Average
4/30/2023	<i>E. coli</i>	354.94	126	MPN/100mL	Monthly Geometric Maximum
05/31/2023	BOD, 5-day, 20 deg. C	8.27	5.3	lb/d	Maximum Monthly Average
05/31/2023	BOD, 5-day, 20 deg. C	27.04	8	lb/d	Maximum Weekly Average
05/31/2023	BOD, 5-day, 20 deg. C	17.28	8	mg/L	Maximum Monthly Average
05/31/2023	BOD, 5-day, 20 deg. C	57.9	12	mg/L	Maximum Weekly Average
05/31/2023	Solids, total suspended	8.41	8	lb/d	Maximum Weekly Average
05/31/2023	Solids, total suspended	8.24	8	mg/L	Maximum Monthly Average
05/31/2023	Solids, total suspended	18	12	mg/L	Maximum Weekly Average
05/31/2023	Nitrogen, ammonia total [as N]	4.95	1.9	lb/d	Maximum Monthly Average
05/31/2023	Nitrogen, ammonia total [as N]	10.37	2.9	mg/L	Maximum Monthly Average
05/31/2023	Nitrogen, ammonia total [as N]	14.76	10	lb/d	Maximum Daily Average
05/31/2023	Nitrogen, ammonia total [as N]	31.6	15	mg/L	Maximum Daily Average
05/31/2023	<i>E. coli</i>	1184.87	126	MPN/100mL	Monthly Geometric Maximum
06/30/2023	BOD, 5-day, 20 deg. C	14.4	5.3	lb/d	Maximum Monthly Average
06/30/2023	BOD, 5-day, 20 deg. C	31	8	lb/d	Maximum Weekly Average
06/30/2023	BOD, 5-day, 20 deg. C	34.2	8	mg/L	Maximum Monthly Average
06/30/2023	BOD, 5-day, 20 deg. C	64.2	12	mg/L	Maximum Weekly Average



In the Matter of: Boone's Estates MHC, LLC

EPA Docket No. CWA-03-2024-0010

Monitoring Period End Date	Parameter Name	Discharge Monitoring Report Value	Permit Limit	Units	Limit Type
06/30/2023	Solids, total suspended	15.9	5.3	lb/d	Maximum Monthly Average
06/30/2023	Solids, total suspended	32.4	8	lb/d	Maximum Weekly Average
06/30/2023	Solids, total suspended	35.78	8	mg/L	Maximum Monthly Average
06/30/2023	Solids, total suspended	67	12	mg/L	Maximum Weekly Average
06/30/2023	Nitrogen, ammonia total [as N]	12.3	1.9	lb/d	Maximum Monthly Average
06/30/2023	Nitrogen, ammonia total [as N]	27.1	2.9	mg/L	Maximum Monthly Average
06/30/2023	Nitrogen, ammonia total [as N]	18	10	lb/d	Maximum Daily Average
06/30/2023	Nitrogen, ammonia total [as N]	37.3	15	mg/L	Maximum Daily Average
06/30/2023	<i>E. coli</i>	1114.1	126	MPN/100mL	Monthly Geometric Maximum
07/31/2023	BOD, 5-day, 20 deg. C	8.59	5.3	lb/d	Maximum Monthly Average
07/31/2023	BOD, 5-day, 20 deg. C	10.93	8	lb/d	Maximum Weekly Average
07/31/2023	BOD, 5-day, 20 deg. C	18.65	8	mg/L	Maximum Monthly Average
07/31/2023	BOD, 5-day, 20 deg. C	21.1	12	mg/L	Maximum Weekly Average
07/31/2023	pH	8.74	8.5	SU	Maximum
07/31/2023	Solids, total suspended	7.71	5.3	lb/d	Maximum Monthly Average
07/31/2023	Solids, total suspended	9.59	8	lb/d	Maximum Weekly Average
07/31/2023	Solids, total suspended	16.78	8	mg/L	Maximum Monthly Average
07/31/2023	Solids, total suspended	19	12	mg/L	Maximum Weekly Average
07/31/2023	Nitrogen, ammonia total [as N]	9.77	1.9	lb/d	Maximum Monthly Average
07/31/2023	Nitrogen, ammonia total [as N]	21.45	2.9	mg/L	Maximum Monthly Average
07/31/2023	Nitrogen, ammonia total [as N]	15.94	10	lb/d	Maximum Daily Average
07/31/2023	Nitrogen, ammonia total [as N]	31.6	15	mg/L	Maximum Daily Average
07/31/2023	<i>E. coli</i>	2115.8	126	MPN/100mL	Monthly Geometric Maximum
08/31/2023	BOD, 5-day, 20 deg. C	9.12	8	mg/L	Maximum Monthly Average
08/31/2023	BOD, 5-day, 20 deg. C	17.2	12	mg/L	Maximum Weekly Average
08/31/2023	Solids, total suspended	6.03	5.3	lb/d	Maximum Monthly Average
08/31/2023	Solids, total suspended	8.28	8	lb/d	Maximum Weekly Average
08/31/2023	Solids, total suspended	12.94	8	mg/L	Maximum Monthly Average
08/31/2023	Solids, total suspended	20	12	mg/L	Maximum Weekly Average
08/31/2023	Nitrogen, ammonia total [as N]	14.87	1.9	lb/d	Maximum Monthly Average
08/31/2023	Nitrogen, ammonia total [as N]	30.16	2.9	mg/L	Maximum Monthly Average
08/31/2023	Nitrogen, ammonia total [as N]	18.44	10	lb/d	Maximum Daily Average

In the Matter of: Boone's Estates MHC, LLC

EPA Docket No. CWA-03-2024-0010

Monitoring Period End Date	Parameter Name	Discharge Monitoring Report Value	Permit Limit	Units	Limit Type
08/31/2023	Nitrogen, ammonia total [as N]	35.8	15	mg/L	Maximum Daily Average
08/31/2023	E. coli	1716.86	126	MPN/100mL	Monthly Geometric Maximum
09/30/2023	Solids, total suspended	8.5	8	mg/L	Maximum Weekly Average
09/30/2023	Solids, total suspended	12.5	12	mg/L	Maximum Weekly Average
09/30/2023	Nitrogen, ammonia total [as N]	15.58	1.9	lb/d	Maximum Monthly Average
09/30/2023	Nitrogen, ammonia total [as N]	28.25	2.9	mg/L	Maximum Monthly Average
09/30/2023	Nitrogen, ammonia total [as N]	21.75	10	lb/d	Maximum Daily Average
09/30/2023	Nitrogen, ammonia total [as N]	28.25	15	mg/L	Maximum Daily Average
09/30/2023	E. coli	530.09	126	MPN/100mL	Monthly Geometric Maximum
10/31/23	BOD, 5-day, 20 deg. C	24.74	8	mg/l	Maximum Monthly Average
10/31/23	BOD, 5-day, 20 deg. C	28.1	12	mg/l	Maximum Weekly Average
10/31/23	BOD, 5-day, 20 deg. C	50.9	12	mg/l	Maximum Weekly Average
10/31/23	BOD, 5-day, 20 deg. C	30.8	12	mg/l	Maximum Weekly Average
10/31/23	BOD, 5-day, 20 deg. C	12.26	8	lb/d	Maximum Weekly Average
10/31/23	BOD, 5-day, 20 deg. C	27.51	8	lb/d	Maximum Weekly Average
10/31/23	BOD, 5-day, 20 deg. C	15.44	8	lb/d	Maximum Weekly Average
10/31/23	BOD, 5-day, 20 deg. C	12.07	5.3	lb/d	Maximum Monthly Average
10/31/23	Solids, total suspended	38	12	mg/l	Maximum Weekly Average
10/31/23	Solids, total suspended	20	12	mg/l	Maximum Weekly Average
10/31/23	Solids, total suspended	14.52	5.3	mg/l	Maximum Monthly Average
10/31/23	Solids, total suspended	38	12	lb/d	Maximum Weekly Average
10/31/23	Solids, total suspended	20	12	lb/d	Maximum Weekly Average
10/31/23	Solids, total suspended	7.56	5.3	lb/d	Maximum Monthly Average
10/31/23	Nitrogen, ammonia total [as N]	31.6	15	mg/l	Maximum Daily Average
10/31/23	Nitrogen, ammonia total [as N]	31.1	15	mg/l	Maximum Daily Average
10/31/23	Nitrogen, ammonia total [as N]	24.3	15	mg/l	Maximum Daily Average
10/31/23	Nitrogen, ammonia total [as N]	25.8	15	mg/l	Maximum Daily Average
10/31/23	Nitrogen, ammonia total [as N]	24.2	15	mg/l	Maximum Daily Average
10/31/23	Nitrogen, ammonia total [as N]	27.4	2.9	mg/l	Maximum Monthly Average
10/31/23	Nitrogen, ammonia total [as N]	13.78	10	lb/d	Maximum Daily Average
10/31/23	Nitrogen, ammonia total [as N]	16.81	10	lb/d	Maximum Daily Average

*In the Matter of: Boone's Estates MHC, LLC**EPA Docket No. CWA-03-2024-0010*

Monitoring Period End Date	Parameter Name	Discharge Monitoring Report Value	Permit Limit	Units	Limit Type
10/31/23	Nitrogen, ammonia total [as N]	12.18	10	lb/d	Maximum Daily Average
10/31/23	Nitrogen, ammonia total [as N]	13.62	10	lb/d	Maximum Daily Average
10/31/23	Nitrogen, ammonia total [as N]	11.53	1.9	lb/d	Maximum Monthly Average
10/31/23	E. coli	636.16	126	MPN/100mL	Monthly Geometric Maximum

40. Based on the above assertions and allegations, EPA concludes that from at least January 1, 2019 to October 31, 2023 Respondents failed to comply with the Permits, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and Section 301 of the CWA, 33 U.S.C. § 1311, by discharging multiple parameters in excess of effluent limitations in the Permits as set forth in Table 1 (Effluent Exceedances).
41. In failing to comply with the effluent limitations contained in the Permits, Respondents violated Section 301 of the CWA, 33 U.S.C. § 1311, and are subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

### Count 2

#### Insufficient or Missing Wastewater Capacity and Flow Reporting

42. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
43. **Total Cumulative Flow Reporting:**
- a. Part II.C of the 2012 Permit requires Boone's to "report the total cumulative flow" for each calendar year for the WWTP no later than January 28th of the following year. "The total cumulative flow should be reported in million gallons for the entire calendar year to the nearest thousand gallons."
  - b. Part II.C of the 2021 Permit requires the WWTP to report total cumulative flow in million gallons for the entire calendar year, but to the nearest ten thousand gallons. "The annual cumulative flow determination shall be provided to [MDE] using NetDMR no later than January 28th of the following year."
44. Respondents did not submit an annual total cumulative flow report for 2019 until October 19, 2020. The annual total cumulative flow report was required to be submitted by January 28, 2020.
45. Respondents did not submit annual total cumulative flow reports for 2020, 2021 or 2022

until March 13, 2023. The annual total cumulative flow reports were required to be submitted by January 28, 2021, January 28, 2022, and January 28, 2023, respectively.

46. **Wastewater Capacity Management Plans:**

- a. The 2012 Permit required Boone's to submit a Wastewater Capacity Management Plan ("WCMP") within 90 days of the issuance date of the Permit, because the most recent three-year average flow for the WWTP was over 80% of its design capacity (0.08 million gallons per day ("mgd")) at the time of Permit issuance. Thereafter, if the most recent three-year average flow is over 80% of the WWTP's design capacity or if it is anticipated to exceed 80% in the following year, Boone's must submit a WCMP to MDE no later than January 28 of the following year.
  - b. The 2021 Permit required Boone's to submit a WCMP as well as a "Wastewater Flow Capacity Report ("WFCR)," because the most recent three-year average flow for the WWTP was over 80% of its design capacity at the time of Permit issuance. "The WCMP must be submitted to [MDE] no later than 90 days [after] the issuance date of this discharge permit." Part II.C(b). "The WCMP shall include details for potential source(s) responsible for the flow surge and any appropriate corrective measures to reduce and stabilize the wastewater flows at facility." Part II.C(b).
47. The three-year average flow exceeded 80% of the WWTP's flow capacity for the 2019 to 2021 timeframe.
48. Respondents were required to submit a WCMP for the 2019 to 2021 timeframe to MDE no later than January 28, 2022
49. Respondents failed to submit a WCMP for the 2019 to 2021 timeframe by January 28, 2022.
50. Based on the above assertions and allegations, EPA concludes that Respondents failed to comply with the Permits, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and Section 301 of the CWA, 33 U.S.C. § 1311, by failing to timely submit annual total cumulative flow reports for 2019, 2020, 2021 and 2022, failing to submit a WCMP for the 2019 to 2021 timeframe.
51. By failing to comply with the terms of the Permits, Respondents have violated Section 301 of the CWA, 33 U.S.C. § 1311, and are subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

**Count 3****Non-Operational and Malfunctioning Equipment and Infrastructure**

52. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
53. Part III.B.3(a) of the Permits require the WWTP to “be operated efficiently to minimize upsets and discharges of excessive pollutants.”
54. Respondents’ stated that the rotary cloth filter at the WWTP was non-operational at the time Boone’s acquired the manufactured home community on January 31, 2017. MDE observed that the rotary cloth filter at the WWTP was broken on August 27, 2019, December 9, 2019, January 9, 2020, June 11, 2020, and July 21, 2020. EPA made the same observation during its December 1, 2020 inspection. Respondents did not replace the rotary cloth filter until October 23, 2023.
55. Prostart, the contract operator at the WWTP, reported in November 2019 that the effluent rotary drum filter was out of service, which contributed to TSS exceedances. Prostart addressed the issue by later increasing sludge wasting and repairing the effluent rotary drum.
56. At MDE’s December 9, 2019 inspection, Prostart was using a portable pump to pump influent to the aeration tank. Afterwards, in December 2019, Boone’s repaired the two influent pumps and modified the control panel to ensure the pumps were fully functional.
57. The WWTP still has outstanding repairs and upgrades to make to the WWTP to fix non-operational or malfunctioning equipment and infrastructure which are being addressed pursuant to the Administrative Order on Consent between Respondents and EPA, Docket No. CWA-03-2024-0006DN.
58. Based on the above assertions and allegations, EPA concludes that Respondents failed to comply with the Permits, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and Section 301 of the CWA, 33 U.S.C. § 1311, by failing to operate the WWTP efficiently to minimize upsets and discharges of excessive pollutants by fixing non-operational or malfunctioning equipment and infrastructure from at least August 27, 2019 to present.
59. By failing to comply with the terms of the Permits, Respondents have violated Section 301, 33 U.S.C. § 1311, and are subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

**Count 4**

**Visible Foam and Scum**

60. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
61. Section II.A of the 2012 Permit sets out the effluent limitations for the WWTP. Footnote 1 states, "There shall be no discharge of floating solids or visible foam other than trace amounts."
62. During EPA's December 1, 2020 Inspection, inspectors observed foam and scum in the immediate vicinity of Outfall 001 and in the receiving water.
63. Based on the above assertions and allegations, EPA concludes that Respondents failed to comply with the 2012 Permit, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and Section 301 of the CWA, 33 U.S.C. § 1311, by discharging floating solids and visible foam on December 1, 2020.
64. By failing to comply with the terms of the 2012 Permit, Respondents have violated Section 301 of the CWA, 33 U.S.C. § 1311, and are subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

**Count 5****Failure to Operate Plant Efficiently and Minimize Discharge of Pollutants**

65. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
66. Part III.B.3(a) and (b) of the Permits require 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 . . .".
67. MDE observed on multiple occasions evidence of the facility not being operated efficiently when inspectors observed excess scum and sludge in the clarifier and filter effluent chamber prior to the UV disinfection on the following dates:
  - a. In its August 27, 2019 inspection, inspectors for MDE observed heavy scum and thick sludge blanket in the clarifier and the filter effluent chamber prior to UV disinfection had scum and sludge to the walls of tank.
  - b. In its December 9, 2019 inspection, inspectors for MDE observed the filter

*In the Matter of: Boone's Estates MHC, LLC*

*EPA Docket No. CWA-03-2024-0010*

effluent chamber prior to UV disinfection had scum and sludge to the walls of tank.

- c. In its January 9, 2020 inspection, inspectors for MDE observed the filter effluent chamber prior to UV disinfection had scum and sludge to the walls of tank.
- d. In its June 11, 2020 inspection, inspectors for MDE observed heavy/thick scum in the center rim of the clarifier. The filter effluent chamber after the rotary drum filter and post aeration tank prior to UV disinfection also had floating scum.
- e. In its July 21, 2020 inspection, inspectors for MDE observed heavy/thick scum in the center rim of the clarifier and floating scum and the filter effluent chamber after the rotary drum filter and post aeration tank prior to UV disinfection had floating scum.

68. During EPA's December 2020 inspection, the inspectors observed:

- a. Solids and leaves in UV light banking house;
- b. Foam in the aeration chamber;
- c. Bulking and floating solids in the clarifier;
- d. Solids in the flow measurement channel upstream of the UV system, at the
- e. influent/effluent ends of the UV channel and on top of the UV bank housing;
- f. The Plant's rotary cloth filter unit was non-operational; and
- g. The WWTP did not have an operation and maintenance manual on site that outlines the proper operation and maintenance of the WWTP.

69. On February 17, 2021, Boone's reported to EPA that SOS was in the process of drafting an Operations and Maintenance ("O&M") manual for the WWTP.

- a. On January 3, 2022, Boone's reported to EPA that it did not have a completed O&M manual and that SOS would be contacting manufacturers of the components at the WWTP to compile information for the O&M manual.
- b. On March 13, 2023, Boone's reported to EPA that it still did not have an O&M manual.
- c. An O&M manual was completed on May 31, 2023.

70. Based on the above assertions and allegations, EPA concludes that Respondents failed to comply with the Permits, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and Section 301 of the CWA, 33 U.S.C. § 1311, by failing to operate the WWTP efficiently to minimize upsets and discharges of excessive pollutants on August 27, 2019, December 9, 2019, December 1, 2020, January 9, 2020, June 11, 2020, and July 21, 2020.
71. By failing to comply with the terms of the Permits, Respondents have violated Section 301 of the CWA, 33 U.S.C. § 1311, and are subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

**Count 6**  
**Mishandling of Sludge**

72. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
73. Part III.B.7 of the Permits contains requirements for Sewage Sludge. It states that:
- The permittee shall comply with all existing State and federal laws and regulations that apply to sewage sludge monitoring requirements and utilization practices, and with any regulations promulgated pursuant to Environment Article, Section 9-230 et seq. or to the Clean Water Act, Section 405(d). The permittee is responsible for ensuring that its sewage sludge is utilized in accordance with a valid sewage sludge utilization permit issued by [MDE]. If the sludge is hauled out of the State for disposal, a transportation permit must be obtained from [MDE].
74. Maryland regulations require that a person may not engage in certain utilization activities of sewage sludge without first obtaining a Sewage Sludge Utilization Permit from MDE. This includes treatment, composting, transportation, storage, distribution, application on agricultural land or marginal land, energy generation or incineration, marketing conducting innovative or research projects, or disposal or alternative utilization at a municipal landfill. See COMAR 26.04.06.09(A).
75. On August 27, 2019, MDE observed heavy scum and a thick sludge blanket in the clarifier and that the sludge holding tank was full. Prostart stated that the WWTP did not have a sludge haul permit and was using a private hauler to haul sludge offsite as needed.
76. On December 28, 2019, in a noncompliance report, Prostart attributed TSS exceedances



*In the Matter of: Boone's Estates MHC, LLC*

*EPA Docket No. CWA-03-2024-0010*

to reduced wasting due to a hauling issue and recommended establishing a sewage sludge utilization permit.

77. On February 21, 2020, MDE issued Sewage Sludge Utilization Permit No. 2020-STR-6096 to Horizon that authorizes it to transport sewage sludge from "The Boone's Mobile Estates, Lyons Creek MHP, Maryland Manor MHP, and Patuxent Mobile Estates Wastewater Treatment Plants" to "The Dorsey Run Advanced WWTP located at 7938 Brock Bridge Road, Jessup in Anne Arundel County, Maryland."
78. On March 23, 2020, Prostart, stated in a noncompliance report that a high solids level (i.e., excess sludge) in the clarifier made the WWTP unable to meet the solid wasting demand due to a volume limitation at the approved discharge site. This caused an increase in BOD and TSS exceedances.
79. On July 21, 2020, MDE observed problems with the way the WWTP was storing sludge, including structural problems with the above-ground sludge holding tank and the use of a temporary holding tank to hold the sludge, before hauling it offsite.
80. The 2021 Permit added a requirement that, "[t]he permittee shall operate and maintain the sludge handling equipment at the facility year-round in a manner that optimizes the removal efficiency of the total suspended solids from its effluent." Part II.A footnote 5b; Part II.B(1) footnote 13b.
81. In its January 3, 2022 response to an EPA Information Request, Respondents attributed effluent violations in part to the WWTP being overloaded with sludge. Respondents stated that they were implementing a wasting schedule and preparing waste guides for operators to use, and starting a sludge hauling schedule for the WWTP.
82. Based on the above assertions and allegations, EPA concludes that Respondents failed to comply with the Permits, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, and Section 301 of the CWA, 33 U.S.C. § 1311, by failing to ensure that its sewage sludge was utilized in accordance with a valid sewage sludge utilization permit issued by MDE prior to February 21, 2020 before hauling sludge off-site, and mishandling the WWTP's sewage sludge on at least August 27, 2019, July 21, 2020, and January 3, 2022 is a violation of the Permits.
83. By failing to comply with the terms of the Permits, Respondents have violated Section 301 of the CWA, 33 U.S.C. § 1311, and are subject to the assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

#### **CIVIL PENALTY**

84. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent

In the Matter of: Boone's Estates MHC, LLC

EPA Docket No. CWA-03-2024-0010

Agreement, Respondents consent to the assessment of a civil penalty in the amount of **Three Hundred Twenty-Three Thousand and Eighty-One dollars (\$323,081)**, which Respondents shall be jointly and severally liable to pay in accordance with the terms set forth below.

85. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g), including, the following: the nature, circumstances, extent and gravity of the violation(s), Respondent's ability to pay, prior history of compliance, degree of culpability, economic benefit or savings resulting from the violations, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Interim Clean Water Act Settlement Penalty Policy* (1995) which reflects the statutory penalty criteria and factors set forth at Section 309(g) of the CWA, 33 U.S.C. § 1319(g), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
86. Respondents agree that, within 30 days of the effective date of this Consent Agreement and Final Order, Respondents shall make a payment of **\$323,081.00** to "**United States Treasury**" with the case name, address, and docket number of this Consent Agreement and Final Order (CWA-03-2024-0010), for the amount specified above. Respondents shall pay the assessed penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
87. A copy of Respondents' check or other documentation of payment of the penalty using the method selected by Respondents for payment shall be sent simultaneously **by email** to:
- Aviva Reinfeld  
Assistant Regional Counsel  
[Reinfeld.aviva@epa.gov](mailto:Reinfeld.aviva@epa.gov)
- and**
- U.S. EPA Region 3 Regional Hearing Clerk  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov).
88. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondents' failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including

interest, penalties and/or administrative costs of handling delinquent debts.

89. Payment of the civil penalty is due and payable immediately upon the effective date of this Consent Agreement and Final Order. Receipt by Respondents or Respondents' legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed as of the effective date of this Consent Agreement and Final Order by Respondents in accordance with 40 C.F.R. § 13.9(a).
90. INTEREST: Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the effective date of this Consent Agreement and Final Order. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the effective date of this Consent Agreement and Final Order. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
91. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). If payment is not received within 30 calendar days of the effective date of this Consent Agreement, EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
92. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
93. Respondents agree not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
94. **The Parties consent to service of the Final Order by e-mail at the following valid email addresses: [reinfeld.aviva@epa.gov](mailto:reinfeld.aviva@epa.gov) (for Complainant), and [dodabashian@horizonlandco.com](mailto:dodabashian@horizonlandco.com) and [tysonr@BSK.com](mailto:tysonr@BSK.com) (for Respondents).**
95. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000

for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at [henderson.jessica@epa.gov](mailto:henderson.jessica@epa.gov), within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the effective date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
  - i. notify EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the effective date of this Order per Paragraph 102; and
  - ii. provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

#### **GENERAL SETTLEMENT CONDITIONS**

96. By signing this Consent Agreement, Respondents acknowledge that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondents' knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondents.

*In the Matter of: Boone's Estates MHC, LLC*

*EPA Docket No. CWA-03-2024-0010*

97. Respondents certify that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission 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 Consent Agreement and Final 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 its 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.
98. Respondents certify to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with the Administrative Order on Consent between Respondents and EPA, Docket No. CWA-03-2024-0006DN, which addresses the violations alleged herein.

#### **OTHER APPLICABLE LAWS**

99. Nothing in this Consent Agreement and Final Order shall relieve Respondents of their obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state, or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension, or modification of the requirements of the CWA, or any regulations promulgated thereunder.

#### **RESERVATION OF RIGHTS**

100. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondents in this Consent Agreement and Final Order. 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. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

*In the Matter of: Boone's Estates MHC, LLC*

*EPA Docket No. CWA-03-2024-0010*

**EXECUTION /PARTIES BOUND**

101. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondents and the officers, directors, employees, contractors, successors, agents and assigns of Respondents. By their signature below, the person who signs this Consent Agreement on behalf of Respondents is acknowledging that they are fully authorized by the Respondents to execute this Consent Agreement and to legally bind Respondents to the terms and conditions of this Consent Agreement and Final Order.

**EFFECTIVE DATE**

102. Pursuant to 40 C.F.R. § 22.45(b), this Consent Agreement and Final Order shall be issued only after a 40-day public notice and comment period is concluded. This Consent Agreement and Final Order will become final and effective thirty (30) days after having been signed by the Regional Administrator or their delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

**ENTIRE AGREEMENT**

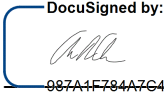
103. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

*In the Matter of: Boone's Estates MHC, LLC*

*EPA Docket No. CWA-03-2024-0010*

For Respondent: Boone's Estates MHC, LLC

Date: 1/16/2024

By:  \_\_\_\_\_  
087A1F784A7C488...

Andrew Odabashian  
Vice President  
Boone's Estates 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

*In the Matter of: Boone's Estates MHC, LLC*

*EPA Docket No. CWA-03-2024-0010*

For Respondent: HORIZON LAND MANAGEMENT, LLC, a Maryland limited liability company

Date: 1/16/2024

By:   
987A1F784A7C488...  
Andrew Odabashian  
President



*In the Matter of: Boone's Estates MHC, LLC*

*EPA Docket No. CWA-03-2024-0010*

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or their designee, the Regional Judicial Officer, issue the attached Final Order.

By: \_\_\_\_\_

*[Digital Signature and Date]*

Karen Melvin, Director

Enforcement & Compliance Assurance Division

U.S. EPA – Region 3

Complainant

Attorney for Complainant:

By: \_\_\_\_\_

*[Digital Signature and Date]*

Aviva Reinfeld

Assistant Regional Counsel

U.S. EPA – Region 3

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

<b>In the Matter of:</b>	:	
	:	
<b>Boone’s Estates MHC, LLC 1091 Marlboro Road Lothian, MD 20711</b>	:	<b>U.S. EPA Docket No. CWA-03-2024-0010</b>
	:	<b>Proceeding under SECTION 309(g) of the Clean</b>
	:	<b>Water Act, 33 U.S.C. § 1319(g)</b>
<b>and</b>	:	
	:	
<b>Horizon Land Management, LLC 2151 Priest Bridge Drive, Suite 7 Crofton, MD 21114</b>	:	
	:	
<b>Respondents.</b>	:	

**FINAL ORDER**

Complainant, the Director of the Enforcement Compliance and Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondents, Boone’s Estates MHC, LLC and Horizon Land Management, LLC, have executed a document entitled “Consent Agreement,” which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to [Sections 22.13(b) and 22.18(b)(2) and (3)]. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s *Interim Clean Water Act Settlement Penalty Policy* (1995) and the statutory factors set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

**NOW, THEREFORE, PURSUANT TO** Section 309(g), 33 U.S.C. § 1319(g) of the CWA and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondents pay a civil penalty in the amount of **THREE-HUNDRED TWENTY-THREE THOUSAND EIGHTY-ONE DOLLARS (\$323,081.00)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final

*In the Matter of: Boone's Estates, MHC LLC*

*EPA Docket No. CWA-03-2024-0010*

Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish, or otherwise affect Respondents' obligation to comply with all applicable provisions of the CWA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is thirty (30) days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

By: \_\_\_\_\_  
[*Digital Signature and Date*]  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA – Region 3

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

<b>In the Matter of:</b>	:	
	:	
<b>Boone’s Estates MHC, LLC 1091 Marlboro Road Lothian, MD 20711</b>	:	<b>U.S. EPA Docket No. CWA-03-2024-0010</b>
	:	
	:	<b>Proceeding under SECTION 309(g) of the Clean</b>
	:	<b>Water Act, 33 U.S.C. § 1319(g)</b>
<b>and</b>	:	
	:	
<b>Horizon Land Management, LLC 2151 Priest Bridge Drive, Suite 7 Crofton, MD 21114</b>	:	
	:	
<b>Respondents.</b>	:	

**CERTIFICATE OF SERVICE**

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

Copies served via email to:

Andrew Odabashian  
Boone’s Estates MHC, LLC  
Horizon Land Management, LLC  
[dodabashian@horizonlandco.com](mailto:dodabashian@horizonlandco.com)  
2151 Priest Bridge Drive, Suite 7  
Crofton, MD 21114

Robert Tyson, Esq.  
Bond, Schoeneck & King PLLC  
[tysonr@BSK.com](mailto:tysonr@BSK.com)  
110 West Fayette St.  
Syracuse, NY 13202-1355  
One Lincoln Center

Aviva Reinfeld, Esq.  
Assistant Regional Counsel  
U.S. EPA, Region 3  
[Reinfeld.aviva@epa.gov](mailto:Reinfeld.aviva@epa.gov)

Kaitlin McLaughlin  
Enforcement & Compliance Assurance Div.  
U.S. EPA, Region 3  
[mclaughlin.kaitlin@epa.gov](mailto:mclaughlin.kaitlin@epa.gov)

By: \_\_\_\_\_  
[Digital Signature and Date]  
Regional Hearing Clerk  
U.S. EPA – Region 3