

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

<b>In the Matter of:</b>	:	
	:	
<b>Patuxent MHC, LLC</b>	:	<b>U.S. EPA Docket No. CWA-03-2024-0013</b>
<b>5380 Sands 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”), Patuxent 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.

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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

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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. Patuxent MHC, LLC (“Patuxent”) was formed on August 4, 2017 with the address c/o Horizon Land Co., LLC, 2138 Espey Court, Suite 1, Crofton, Maryland 21114.
20. Patuxent 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. Patuxent acquired the manufactured home community located at 5380 Sands Road, Lothian, Anne Arundel County, MD 20711, on September 9, 2017
22. Horizon Land Management, LLC (“Horizon”) is a Maryland limited liability company.
23. 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 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.

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25. 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.”
26. 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).
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. MD0024694 (“Permit”) to the WWTP at Patuxent on June 1, 2019 for its WWTP that expires on May 31, 2024.
28. 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.
29. 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.
30. 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.
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 March 10, 2017, March 23, 2017, May 12, 2017, and January 23, 2020.
33. 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.

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34. 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.
35. 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 I Effluent Exceedances

36. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
37. The Permit set effluent limits for discharges from Outfall 001A for: five-day biochemical oxygen demand ("BOD<sub>5</sub>"), 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.
38. 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

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Monitoring Period End Date	Parameter Name	Discharge Monitoring Report Value	Permit Limit	Units	Limit Type
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

39. Based on the above assertions and allegations, EPA concludes that from at least October 31, 2019 to October 31, 2023, Respondents failed to comply with the 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 multiple parameters in excess of effluent limitations in the Permits as set forth in Table 1 (Effluent Exceedances).
40. In failing to comply with the effluent limitations contained in the Permit, 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 Flow Reporting**

41. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

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42. **Total Cumulative Flow Reporting:** Part II.C of the Permit states that “[t]he permittee shall report the total cumulative flow for 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 28<sup>th</sup> of the following year.”
43. Respondents did not submit annual total cumulative flow reports in 2019, 2020, or 2021 by the January 28 deadlines in the following years.
44. Patuxent provided the total annual cumulative flows for 2020 and 2021 on March 13, 2023.
45. Based on the above assertions and allegations, EPA concludes that Respondents failed to comply with the 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 failing to submit an annual total cumulative flow reports for 2019, and failing to timely submit annual total cumulative flow reports for 2020 and 2021.
46. By failing to comply with the terms of the 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 3**

#### **Non-Operational and Malfunctioning Equipment and Infrastructure**

47. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
48. 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).
49. 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.
50. During MDE’s January 23, 2020 inspection, the inspector observed a thick blanket of sludge floating on the clarifier.
51. 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

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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.

52. 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.
53. 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.
54. Patuxent replaced tubing for the composite sampler in December 2021.
55. 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.
56. The WWTP still has outstanding repairs and upgrades to make to the WWTP to fix non-operational or malfunctioning equipment and infrastructure pursuant to the Administrative Order on Consent between Respondents and EPA, Docket No. CWA-03-2024-0009DN.
57. Based on the above assertions and allegations, EPA concludes that Respondents failed to comply with the 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 failing to operate the WWTP efficiently to minimize upsets and discharges of excessive pollutants by fixing non-operational or malfunctioning equipment and infrastructure from January 23, 2022 to present.
58. By failing to comply with the terms of the Permit, 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).

#### **CIVIL PENALTY**

59. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondents consent to the assessment of a civil penalty in the amount of **Two-Hundred Eighty Thousand dollars (\$280,000)**, which Respondents shall be jointly and severally liable to pay in accordance with the terms set forth below.



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60. 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.
61. Respondents agree that, within 30 days of the effective date of this Consent Agreement and Final Order, Respondents shall make a payment of **\$280,000** to "**United States Treasury**" with the case name, address, and docket number of this Consent Agreement and Final Order (**CWA-03-2024-0013**), 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>.
62. 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).
63. 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.
64. 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

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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).

65. 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).
66. 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.
67. 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).
68. Respondents agree not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
69. **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).**
70. 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

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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 77; 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**

71. 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.
72. 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

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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.

73. 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-03-2024-0009DN, which addresses the violations alleged herein.

#### **OTHER APPLICABLE LAWS**

74. 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**

75. 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.

#### **EXECUTION /PARTIES BOUND**

76. 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

*In the Matter of: Patuxent MHC, LLC*

*EPA Docket No. CWA-03-2024-0013*

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**

77. 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**


78. 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: Patuxent MHC, LLC*

*EPA Docket No. CWA-03-2024-0013*

For Respondent: Patuxent MHC, LLC

Date: 1/16/2024

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

DocuSigned by:

987A1F784A7C488

Andrew Odabashian

Vice 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

*In the Matter of: Patuxent MHC, LLC*

*EPA Docket No. CWA-03-2024-0013*

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

Date: 1/16/2024

By:   
Andrew Odabashian  
President

*In the Matter of: Patuxent MHC, LLC*

*EPA Docket No. CWA-03-2024-0013*

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>Patuxent MHC, LLC</b>	:	<b>U.S. EPA Docket No. CWA-03-2024-0013</b>
<b>5380 Sands 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>	:	

**FINAL ORDER**

Complainant, the Director of the Enforcement Compliance and Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondents, Patuxent 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 ***TWO-HUNDRED AND EIGHTY THOUSAND DOLLARS (\$280,000)***, 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: Patuxent MHC, LLC*

*EPA Docket No. CWA 03-2024-0013*

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>Patuxent MHC, LLC</b>	:	<b>U.S. EPA Docket No. CWA-03-2024-0013</b>
<b>5380 Sands 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>	:	

**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  
Patuxent 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