

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

**Walcott MHPS LLC, Boavida Homes,
LLC, dba BoaVida Communities and
Boa Vida Mobil Home Parks**

**NPDES Permit #8200601
Scott County, Iowa**

**ADMINISTRATIVE CONSENT
ORDER**

NO. 2023-WW-34

TO: Jonathan Meppelink Boa Vida MHPs
1910 Terracina Drive,
Sacramento, CA
95834

Walcott MHPS LLC, RA
315 E. 5th STE 202
Waterloo, IA 50703

Boavida Homes, LLC
1910 Terricina Dr
Sacramento, CA
95834

Boavida Homes, LLC RA
315 E. 5th St. STE 202
Waterloo, IA
50703

Ken Bennett
3923 East State St
Rockford, IL 61108

I. SUMMARY

This administrative consent order (Order) is entered into between the Walcott MHPS LLC, Boavida Homes, LLC, dba BoaVida Communities and Boa Vida Mobil Home Parks (collectively referred to as Boa Vida) and the Iowa Department of Natural Resources (Department) for the purpose of addressing violation of its NPDES permit and operation of a waste water treatment facility (WWTF) without an NPDES permit.

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ISSUED TO: Walcott MHPS LLC

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Ben Hucka, NPDES Municipal/Pretreatment
Coordinator
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, Iowa 50319
Phone: 515-537-3015

Relating to legal requirements:

Carrie Schoenebaum, Attorney for the DNR
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, Iowa 50319
Phone: 515-444-8165

II. JURISDICTION

This Order is issued pursuant to the provisions of Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code Chapter 455B, Division III, Part 1 (wastewater) and the rules adopted or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) Chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

The Department and Boa Vida agree to the following statement of facts:

1. The Boa Vida operates a WWTF located at Section 7, T80N, R04E in Pocahontas County, Iowa. This location is locally known as 30980 Scott Park Road Long Grove, Iowa. This WWTF was operated pursuant to NPDES permit No. 8200601, which was issued on September 1, 2018. This permit expired on August 31, 2023. To date a NPDES renewal application has not been submitted to the Department.
2. The owner identified in the NPDES permit is Ken Bennett and the facility name is Country Estates Mobile Home Park.
3. On May 4, 2023, a Notice of Violation (NOV) was sent to Mr. Bennett for failure to submit a renewal application for the above referenced NPDES permit by March 4, 2023, as required by the permit.
4. On May 8, 2023, Mr. Bennett responded to the Department and stated that Country Estates Mobile Home Park was sold on September 26, 2022, to Walcott MHPS LLC, a Delaware limited liability company located at 1910 Terracina Drive, Sacramento, CA 9583. Mr. Bennet also stated that the local contact was Jonathan Meppelink.

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5. On May 8, 2023, Mr. Meppelink sent the Department an e-mail stating that he has worked on permits for Timberline Estates with the Department. He also stated that he had "included Scott on this email as well, we will reach out to you to ensure we comply with any needed permits." To date the Department has not received any additional response from Mr. Meppelink.

6. On October 16, 2023, Boa Vida submitted a Discharge Monitoring Report to the Department.

IV. CONCLUSIONS OF LAW

The Department and Boa Vida agree that the following conclusions of law are applicable in this case:

1. Iowa Code section 455B.173(3) authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems, the discharge of pollutants into waters of the state, and the issuance of permits to waste disposal systems. The Commission has done so at 567 IAC 60 through 69. 567 IAC 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit. The above stated facts demonstrate noncompliance with these provisions.

2. NPDES permit No. 8200601 Standard Condition No. 7 requires that the Director of the Department be notified in writing within 30 days of a transfer of ownership of this WWTF. Further when the address of the owner changes the Department is to be notified in writing within 30 days of the address change. The above stated facts demonstrate noncompliance with these provisions of law.

V. ORDER

By the execution of this Order, the Department orders and the Boa Vida agree to do the following:

1. Boa Vida shall submit an NPDES permit application no later than 30 days following the Director's signature of this Order; and
2. Boa Vida shall pay a penalty in the amount of \$2,000.00 within 30 days of the date the Director signs this Order.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of

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penalties at 567 IAC Chapter 10. Pursuant to this chapter, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative order with an administrative penalty. The administrative penalty is determined as follows:

a. Economic Benefit. 567 IAC chapter 10 requires that the Department consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that "where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit." 567 IAC 10.2(1) further states, "reasonable estimates of economic benefit should be made where clear data are not available." An economic benefit was obtained by continuing to operate a wastewater disposal system beyond the expiration of their NPDES permit. Therefore, \$500.00 is assessed for this factor.

b. Gravity of the Violation. One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. As indicated above, substantial civil penalties are authorized by statute. Failure to timely renew an NPDES permit thwarts the integrity of the NPDES permit and water quality program. Therefore, the amount of \$500.00 is assessed for this factor.

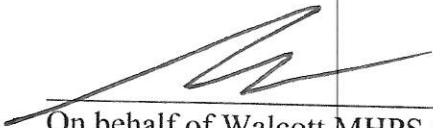
c. Culpability. Boa Vida operates a WWTF. This is a highly regulated activity and therefore the Boa Vida has an obligation to be aware of the applicable regulations and comply with those regulations. The Department communicated the need to comply with Boa Vida's NPDES permit. Nevertheless, the permit was not complied with and illegal discharges have occurred. Therefore, the amount of \$1000.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This Order is entered into knowingly by and with the consent of the Boa Vida. For that reason, it waives its right to appeal this Order or any part thereof.

III. NONCOMPLIANCE

Compliance with Section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.


On behalf of Walcott MHPS LLC, Boavida Homes, LLC, dba BoaVida Communities and
Boa Vida Mobil Home Parks

Dated this 21st day of
DECEMBER, 2023

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Kayla Lyon, DIRECTOR
Iowa Department of Natural Resources

NPDES #**8200601**; Field Office #6; Carrie Schoenebaum; EPA; Water Quality Bureau; I.B.2.c.C.1