BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

HPI Gateway Lakes, LLC
2 Huntley Road
Old Lyme, CT 60371

Respondent

Director's Final Findings and Orders
I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: [Signature]
Date: 11-5-18

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to HPI Gateway Lakes, LLC ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") 6111.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in the composition of Respondent shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapters 6111 and 3745, and the rules promulgated thereunder.

IV. FINDINGS

1. Respondent owns and operates a private sanitary sewer system (sewer system) at the Gateway Lakes Apartment complex ("Site") which is located at 3799 Gateway Lakes Drive, Grove City, Ohio 43207. Respondent acquired the site on December 1, 2017.

2. The sewer system consists of a gravity collection system, private pump station, and a force main. The pump station and force main convey sanitary wastewater from the site into the City of Grove City's sanitary sewer system.

3. During the installation of the sewer system, which occurred in 2000, an extension to the sewer system, including a manhole, was installed in a field adjacent to the
south of the Site to accommodate future expansion. To date, there has been no expansion and the area remains undeveloped.

4. On December 9, 2017, Ohio EPA received a complaint of raw sewage being discharged to the stream to the south of the Site due to the pump station failing. The stream to the south of the Site is an unnamed tributary to the Scioto River. During a subsequent inspection on December 11, 2017, Ohio EPA confirmed that a sanitary sewer overflow (SSO) had occurred from the manhole south of the Site. The cause of the SSO was confirmed to be from a pump station failure.

5. The unnamed tributary to the Scioto River is considered a “waters of the state” as defined by R.C. Section 6111.01.

6. ORC Section 6111.04(A) prohibits any person from causing pollution or causing any sewage, industrial waste, or other waste to be placed in any location where they cause pollution to waters of the state, except if such discharges occur in accordance with a valid, unexpired NPDES permit issued by the Director or if an application for renewal of such permit is pending.

7. Pursuant to Ohio Administrative Code (“OAC”) Section 3745-33-02(A), no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant without applying for and obtaining an Ohio NPDES permit in accordance with the requirements of this chapter.

8. On December 13, 2017, Ohio EPA met with the Site’s property manager to discuss the history of the problems and possible corrective actions.

9. On December 21, 2017, Ohio EPA issued Respondent a Notice ofViolation (NOV) as a result of the SSO which occurred on December 9, 2018. The Respondent was requested to submit a plan on how SSOs would be permanently eliminated within thirty (30) days. Respondent did not submit a response within 30 days.

10. Ohio EPA contacted the property manager via email on February 8, 2018 to inquire about their response to the December 21, 2017 NOV. The property manager responded on the same day stating they are exploring the possibility of a back-up generator. Ohio EPA responded to the property manager with the approved PTI to help facilitate identifying location for placement of plug in the sewer extension to eliminate SSOs occurring in this area.

11. Ohio EPA contacted the property manager again via email on March 28, 2018 to inquire about their response to the December 21, 2017 NOV. The property manager again responded on April 4, 2018 that they are exploring the possibility of a back-up generator.
12. On April 12, 2018, Ohio EPA received a complaint of the pump station failing resulting in raw sewage being discharged to the stream to the south of the site. During an inspection the same day, Ohio EPA confirmed that an SSO had occurred from the manhole (#6) south of the site. Ohio EPA notified the Respondent of the pump station failure and SSO.

13. On May 2, 2018, Ohio EPA Central District Office upper management met with the property manager and another representative for the Respondent. During this meeting, Ohio EPA explained that additional SSOs would lead to escalated enforcement. An agreement was reached for Respondent to submit a plan by May 16, 2018 outlining how existing violations would be resolved. The agreement was memorialized in an email sent to the Respondent on May 2, 2018.

14. On May 7, 2018, Ohio EPA issued Respondent an NOV as a result of the SSO which occurred on April 12, 2018. The Respondent was requested to submit a plan on how SSOs would be permanently eliminated within 30 days. Ohio EPA received a response on May 15, 2018 stating they have a signed contract to install a back-up generator.

15. On June 4, 2018, Ohio EPA received a complaint of the pump station failing resulting in raw sewage being discharged to the stream to the south of the site. During a subsequent inspection the same day, Ohio EPA confirmed that an SSO had occurred from the manhole (#6) south of the site. Ohio EPA notified the Respondent of the pump station failure and SSO.

16. On June 14, 2018, Ohio EPA issued Respondent an NOV as a result of the SSO which occurred on June 4, 2018. The Respondent was requested to submit a plan on how SSOs would be permanently eliminated within 30 days. To date, Respondent has not responded.

17. On August 7, Ohio EPA visited the site to verify if actions had been taken to install the requested upgrades to the sewer system. No upgrades were observed to have been installed.

18. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purpose of ORC Chapter 6111.
V. ORDERS

1. Within sixty (60) days after the effective date of these Orders, Respondent shall perform the following upgrades to the pump station in order to eliminate SSOs from occurring in the future, and submit confirmation to the Ohio EPA:
   a. Ensure all pumps are functional;
   b. Install a back-up generator to ensure continuous power to the pump station in the case of a power outage;
   c. Install functional audible and visual alarms; and
   d. Install a functional auto-dialer system.

2. Within sixty (60) days after the effective date of these Orders, Respondent shall install a plug in the unused section of the gravity line, located on the south side of the site, in order to eliminate SSOs from occurring in this area. Respondent shall submit confirmation of the plug installation to the Ohio EPA.

3. Respondent shall pay the amount of five thousand dollars ($5,000) in settlement of Ohio EPA’s claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to “Treasurer, State of Ohio”. The official check shall be submitted to Carol Butler, or her successor, together with a letter identify the Respondent, to:

   Office of Fiscal Administration
   Ohio Environmental Protection Agency
   P.O. Box 1049
   Columbus, Ohio 43216-1049

   A copy of the check shall be sent to Larry Reeder, Environmental Manager, Enforcement Section, or his successor, at the following address:

   Ohio EPA
   Division of Surface Water
   P.O. Box 1049
   Columbus, Ohio 43216-1049
VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of the Respondent. For purposes of these Orders, a responsible official is defined in OAC Rule 3745-33-03(F).

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to activities occurring on or at the site.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.
X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Central District Office
Division of Surface Water
ATTN: DSW Enforcement Unit Supervisor
50 W. Town Street, Suite 700
Columbus, Ohio 43215

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XI of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent’s liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.
XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative or party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Craig W. Butler, Director

November 5, 2018

Date

IT IS SO AGREED:

HPI Gateway Lakes, LLC

[Signature]

Printed or Typed Name

Title