BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter Of:

J&M Holdings of Ohio, LLC
7783 Stoneford Drive
Columbus, Ohio 45601

Respondent

Director's Final
Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to J&M Holdings of Ohio, LLC ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Chapters 6111 and 3745.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law.

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the owner of the Cattail Apartment Complex, located at 2789 Cattail Road, Chillicothe, Ohio 45601 ("the Facility").

2. Respondent owns and operates a private lift station and sanitary force main to connect the apartments to Pleasant Valley Regional Sewer District.

3. On June 1, 2018, the Ross County Health Department contacted Ohio EPA to notify Ohio EPA the lift station for the apartments was overflowing with raw sewage and onto the ground.

4. Ohio EPA inspected the site and determined the lift station pumps were not operational.
5. Respondent either was not aware or had not contacted Ohio EPA to notify the agency of this issue.

6. June 6, 2018, the pumps at the lift station are repaired or replaced and the lift station overflow is ceased.

7. Pursuant to ORC section 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC sections 6111.01 to 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.

8. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the PTI requirements of ORC §§ 6111.44 and 6111.45 and OAC Chapter 3745-42.

9. 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 purposes of ORC Chapter 6111.

V. ORDERS

1. Within 30 days of the effective date of these Orders, Respondent shall hire, on retainer, a wastewater treatment plant operator certified by Ohio EPA to be available as needed to maintain the lift station. Respondent shall send a copy of the retainer agreement to Ohio EPA.

2. Within 60 days of the effective date of these Orders, Respondent shall submit to Ohio EPA, for review and approval, a manual for operation and maintenance of the lift station including weekly log-book and procedure for emergency response to lift station failure and sanitary overflow.

3. Within 150 days of the effective date of these Orders, Respondent shall pay to the Ohio EPA the amount of $4,000 (Four thousand dollars) which may be assessed pursuant to ORC § 6111.09. Respondent shall pay Ohio EPA $2,000 (two-thousand) dollars within 60 days of the effective date of these Orders and an additional $2,000 (two-thousand) within 150 days of the effective date of these Orders. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the total amount within one hundred and fifty (150) days of the effective date of these Orders. The official checks and a cover letter
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identifying the Respondent shall be submitted to Carol Butler, or her successor at:

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

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

Division of Surface Water  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, OH 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 Respondent. For purposes of these Orders, a responsible official is as 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 the operation of Respondent's waste water treatment system.

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
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
Enforcement Manager
Southeast District Office
Division of Surface Water
2195 Front Street
Logan, Ohio 43138

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 XII 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 of a 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

Laurie A. Stevenson
Director

4/18/19
Date

IT IS SO AGREED:

J&M Holdings of Ohio, LLC

Signature

4/10/19
Date

Michael H. Mulhern
Printed or Typed Name and Title