BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Wilkerson Enterprises LLC
202 Old State Rd S
Norwalk, OH 44857-9365

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: 1-9-2020

PREAMBLE

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Wilkerson Enterprises, LLC ("Respondent"), at the address indicated above, pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Revised Code ("R.C.") 6111.03(H) 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 ownership of the property or the wastewater treatment plant ("WWTP") situated thereon, as both are identified below, 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 R.C. Chapter 6111 and the rules adopted thereunder.

IV. FINDINGS

The Director makes the following findings:

1. Respondent, an active Ohio domestic limited liability company with assigned entity number 1244960, is a “person” as defined in R.C. 6111.01(I) and 1.59(C).

2. Respondent's statutory agent is Robert Wilkerson, 202 Old State Rd S, Norwalk, OH 44857.
3. Respondent is the owner of properties located at 6056 U.S. Route 20, Wakeman, Huron County, Ohio, Parcel No. 490020040120000 and 6080 U.S. Route 20, Wakeman, Huron County, Ohio Parcel No. 490020040130000, (hereinafter collectively referred to as "property"), on which is situated the Traicoff Trailer Court.

4. On January 16, 2018, pursuant to an administrative search warrant, Ohio EPA inspected the property and observed or found the following:

   a. Twenty-four mobile homes, one home and an unoccupied restaurant, all served by the WWTP;

   b. The final discharge from the WWTP’s pump station had a green yellow tint, a musty odor and contained some solids; and

   c. During the inspection, a green fluorescent dye ("dye") was added to the WWTP’s final settling tank’s effluent weir, after which, the Wakeman District Fire Department pumped approximately 1,000 to 1,500 gallons of water into said effluent weir. It was observed that the lift station pump switched on and continued to cycle, discharging the additional flow to the final discharge pipe. Approximately 42 minutes later, the dye and large chunks of solids were observed discharging from a pipe located northeast of the WWTP into an unnamed tributary to the Frakenburg Creek watershed.

5. During the inspection, E. Coli samples were collected from the final pump station and the discharge pipe to an unnamed tributary to the Frakenburg Creek watershed. Analysis of the sampling showed E. Coli values greater than 24,000 MPN/100ml.

6. The results of the dye test and the E. coli sampling showed that the WWTP was discharging pollution into an unnamed tributary to the Frakenburg Creek watershed.

7. The unnamed tributary to the Frakenburg Creek watershed is a water of the state.

8. The discharge of pollutions into a water of the state was not authorized or permitted.

9. R.C. 6111.04(A)(1) provides that no person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state.

10. R.C. 6111.04(A)(2) provides that the action prohibited under R.C. 6111.04(A)(1) is declared to be a public nuisance.
11. Ohio Adm.Code 3745-33-02 (A) provides that no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant without applying for and obtaining a National Pollutant Discharge Elimination System permit ("permit").

12. R.C. 6111.07(A) provides that no person shall violate or fail to perform any duty imposed by R.C. 6111.01 to R.C. 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director. Each day of violation is a separate offense.

13. The unauthorized and unpermitted discharge from the WWTP of pollution into waters of the state is and continues to be, a violation of R.C. 6111.07(A).

14. On February 8, 2017, September 1, 2017 and January 26, 2018, Notice of Violation letters were sent to Respondent stating the violations and requesting that within 30 days, Respondent provide documentation of the actions taken and/or will be taken to resolve the violations of unauthorized and unpermitted discharge into waters of the state.

15. Respondent did not respond to the Notice of Violation letters.

16. A complete permit application was received on June 26, 2019 and updated on July 29, 2019.

17. Ohio EPA thoroughly reviewed Respondent’s submittal of information regarding an inability to pay a proposed civil penalty settlement amount of $27,589.00 and has determined that Respondent does not currently have the ability to pay a civil penalty settlement amount.

18. The Director considered and based her 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 their relation to the benefits to the people of the state to be derived from such compliance in accomplishing the purposes of R.C. Chapter 6111.

V. ORDERS

1. Respondent shall comply with R.C. Chapter 6111, the rules adopted thereunder, these Orders; and any permit that may be issued by the Ohio EPA

2. Pursuant to R.C. 6111.05, Ohio Adm.Code 3745-33-08(A)(7), and any permit that may be issued, Respondent shall allow the Director or an authorized representative to enter upon the property; have access to any records required to be kept under the terms of any permit and may copy any such records; have access to any monitoring
equipment or wastewater treatment facilities for the purpose of inspecting such equipment or method required in any permit; and shall have access to point sources for the purposes of sampling the discharge.

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.” The certification shall be signed by Respondent and submitted to Ohio EPA.

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 property or the structures located thereon.

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
Northwest District Office
Division of Surface Water
Attn: DSW Enforcement Unit Supervisor
347 N Dunbridge Road
Bowling Green, Ohio 43402

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

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 person 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 in the 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

1/9/20
Date

IT IS SO AGREED:
Wilkerson Enterprises, LLC

Robert Wilkerson, [signature]

12/12/19
Date