BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Bowerston Hills Health & Rehabilitation Center
9076 Cumberland Road
Bowerston, Ohio 44695

Respondent

I, JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Bowerston Hills Health & Rehabilitation Center ("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 wastewater treatment plant ("WWTP") located at 9076 Cumberland Road, Carroll County, Ohio 44695.

2. Respondent holds a valid, unexpired National Pollutant Discharge Elimination System ("NPDES") permit, number 3GS00156*BG, for the discharges from the WWTP.

3. Respondent discharges to "waters of the state" as defined by ORC Section 6111.01.
4. This document does not modify NPDES Permit No. 3GS00156. The purpose of this document is to correct a condition of noncompliance with NPDES Permit No. 3GS00156 and not to alter said permit.

5. Ohio Administrative Code ("OAC") Rule 3745-7-02 requires each person owning or operating a treatment works to designate one or more operators of record to oversee the technical operation of the treatment works and supply notification on a form acceptable to the Director.

6. OAC Rule 3745-33-08 (A)(9) requires the Respondent provide adequately trained and qualified personnel as required in Chapter 3745-7 of the Administrative Code to operate such wastewater treatment facilities.

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. On January 5, 2018, Ohio EPA sent Respondent a letter stating the operator of record notification form had not been received as required by OAC 3745-7-02. The letter requested submittal of the form by January 31, 2018. The form was not received by Ohio EPA.

9. On March 1, 2018, Ohio EPA sent Respondent a Notice of Violation Letter ("NOV") in an effort to address the failure to supply the operator of record notification form identified in Finding #5 above. Attachment I is Respondent's NOV letter. Attachment I is hereby incorporated into these Findings and Orders as if fully stated herein. To date, an Operator of Record Form has not been received.

10. 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 fourteen (14) days after the effective date of these Orders, Respondent shall submit the Operator of Record form under Chapter 3745-7-02 (A)(2) of the Ohio Administrative Code to the following address: Ohio EPA, Division of Surface Water, P.O. Box 1049, Columbus, Ohio 43215-1049 attn. Aleks Yakhnitskiy.

2. Respondent shall pay the amount of five hundred dollars ($500) 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 43215-1049

   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 43215-1049

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
Northeast District Office
Division of Surface Water
ATTN: DSW Enforcement Unit Supervisor
2110 E. Aurora Road
Twinsburg, Ohio 44087

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 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

December 14, 2018
Date

IT IS SO AGREED:

Bowerston Hills Health & Rehabilitation Center

Matthew L. DePort

Signature

Printed or Typed Name

COO

Date

Title