



Daily reports submitted by the Emerald Defendants, as required under the COPI, and site visits conducted by the Ohio Environmental Protection Agency (“Ohio EPA”) in June, July, and August 2022 confirmed that the Emerald Defendants violated this Court’s COPI. The Emerald Defendants violated the COPI by improperly storing nearly 1.5 million gallons of untreated feedstock material in over 80 frac tanks at the Emerald Facility. The Emerald Defendants’ mismanagement of feedstock by improperly storing it within frac tanks poses a threat of harm to the environment. The frac tanks currently store more than six-times the amount of untreated feedstock than the Emerald Defendants are permitted to store at the Emerald Facility. Ohio EPA has received numerous citizen complaints regarding the frac tanks, which have been left open and are quickly accumulating at the Facility. Even under the Emerald Defendants’ best-case scenario plan for increasing treatment through the digester, these frac tanks and untreated feedstock will continue to sit at the Facility for months.

Pursuant to R.C. 2705.03 and 2705.05 and Civ.R. 65(D), the State respectfully requests that this Court issue an Order compelling the Emerald Defendants to show cause why they should not be held in contempt and brought before this Court to answer why they have not complied with the lawful COPI of this Court entered on June 21, 2022. The State respectfully requests that this Court hold a hearing on this Motion. In support of its Motion, the State submits to the Court the following charges in contempt:

**GENERAL ALLEGATIONS**

1. The Emerald Defendants are the owners, operators, and/or persons responsible for the anaerobic digester facility located across several properties in Morrow County, Ohio—collectively referred to as the Emerald Facility.
2. On June 10, 2022, the State filed its Complaint in this case against the Renergy

Defendants and others alleging the Renergy Defendants violated R.C. Chapters 3704 and 6111 and the rules promulgated thereunder at the Emerald Facility and other Renergy facilities.

3. In addition to the Complaint, on June 10, 2022, the State also submitted a Consent Order for Preliminary Injunction (“COPI”) agreed to and executed by the State and the Renergy Defendants. On June 21, 2022, this Court entered the COPI.

4. The COPI required the Renergy Defendants to implement preliminary-injunctive relief including to operate and maintain the Emerald Facility in compliance with R.C. Chapter 6111 and the rules under Ohio Adm.Code Chapter 3745-40.

5. The COPI ordered the Emerald Defendants to treat three times more volume of material from Ponds L7, L1, L2, and L3 than the amount of outside feedstock accepted into the Emerald digester receiving system, which is defined as the feedstock tank, solids receiving hopper, or the digester itself. Renergy employees must also maintain a credit and debit spreadsheet on a daily basis to help ensure compliance with this 3:1 ratio requirement. At no times shall the Emerald Defendants exceed this 3:1 ratio.

6. The COPI ordered the Emerald Defendants to comply with all permits issued to the Emerald Facility, including the National Pollutant Discharge Elimination System Permit No. 4IN00204\*BD (“Emerald 2021 NPDES Permit”). The Emerald 2021 NPDES Permit Part II.V prohibits the Emerald Defendants from storing feedstocks at the Facility outside of treatment processes or permitted storage locations.

7. Feedstock material authorized for anaerobic digestion by the Emerald 2021 NPDES Permit are animal wastes, biosolids, energy crops, fats, oils, and greases, food scraps, food waste, glycerin byproducts from bio-diesel production, sewage sludge, stillage byproducts from ethanol production, and yard waste.

8. The COPI ordered the Emerald Defendants to submit daily reports to Ohio EPA that contain, among other things, the volume and source of material (feedstock type) fed into the Emerald feedstock tank and the location where the load was delivered at the Emerald Facility (liquids or solids receiving station, biomass equalization tank (i.e. the feedstock tank), or digester).

9. Ohio EPA went on site visits to the Emerald Facility on June 23, July 13, and August 22, 2022. During those site visits, Ohio EPA discovered and documented ongoing violations of the preliminary-injunctive relief requirements set forth in Section IV of the COPI as applicable to the Emerald Facility.

10. The allegations in the Paragraphs above are hereby incorporated into each charge below as if fully stated therein.

### **CHARGES IN CONTEMPT**

#### **FIRST CHARGE IN CONTEMPT**

#### **Acceptance of outside feedstock material at the Emerald Facility in exceedance of the 3:1 ratio**

11. Pursuant to Paragraph 6(c) of the COPI, the Emerald Defendants are enjoined from accepting outside feedstock into the Emerald digester receiving system unless three times more volume of material has first been removed and treated from Ponds L7, L1, L2, and L3.

12. The COPI identifies the Emerald digester receiving system as the feedstock tank, solids receiving hopper, or the digester itself.

13. A feedstock tank is designed to hold feedstock material before it enters the digester and to provide consistent dosing of feedstock into the digester.

14. The frac tanks accumulating at the Emerald Facility are part of the Emerald digester receiving system because they function as feedstock tanks, holding untreated feedstock before it enters the digester for treatment.

15. The purpose of the 3:1 ratio requirement in the COPI was to ensure that the Emerald Defendants did not accept more feedstock material than they could treat. All untreated feedstock material that is brought onsite is to be considered within the 3:1 ratio—including material stored in frac tanks.

16. Paragraph 6(c) of the COPI requires that the volume of treated material must have already been removed from the Ponds and be three times more volume than the volume of outside feedstocks accepted into the Emerald digester system.

17. On April 26, 2022, Ohio EPA observed eight (8) frac tanks at the Emerald Facility.

18. On June 23, 2022, Ohio EPA observed forty-four (44) frac tanks at the Emerald Facility.

19. On July 13, 2022, Ohio EPA observed fifty-seven (57) frac tanks at the Emerald Facility.

20. On August 22, 2022, Ohio EPA observed seventy-seven (77) frac tanks at the Emerald Facility.

21. Within their daily reports, the Emerald Defendants identify 83 frac tanks at the Emerald Facility. The Emerald Defendants add roughly one new frac tank every day. The daily reporting also shows that the Emerald Defendants placed roughly 16,500 gallons of untreated feedstock in each 21,000-gallon frac tank and approximately 1.5 million gallons of untreated feedstock total in the frac tanks at the Emerald Facility.

22. To date, the Emerald Defendants have treated and removed just over 1 million gallons of material from Ponds L7, L1, L2, and L3.

23. The Emerald Defendants have treated and removed less material from Ponds L7, L1, L2, and L3 (1 million gallons) than what the Emerald Defendants accepted into the frac tanks

(1.5 million gallons). Thus, the Emerald Defendants failed to treat three times more material from Ponds L7, L1, L2, and L3, which if the Emerald Defendants had complied, would amount to nearly 4.5 million gallons.

24. The Emerald Defendants' actions and/or omissions constitute violations of Paragraph 6(c) of the Consent Order for Preliminary Injunction for which the Emerald Defendants should be held in Contempt of Court.

**SECOND CHARGE IN CONTEMPT**  
**Emerald Defendants' failure to comply with the Emerald 2021 NPDES Permit**

25. Pursuant to Paragraph 5 of the COPI, the Emerald Defendants are enjoined to fully comply with all permits issued to the Emerald Facility, including the Emerald 2021 NPDES Permit.

26. The Emerald 2021 NPDES Permit Part II.V prohibits feedstocks from being stored at the Emerald Facility outside of treatment processes or permitted storage locations.

27. The frac tanks are not part of the treatment process at the Facility because no treatment of the feedstock occurs while it is stored within the frac tanks.

28. While the frac tanks act as storage locations because they achieve the same function as a feedstock tank (i.e. storing untreated feedstock), the biomass equalization tank is the only permitted feedstock tank at the Emerald Facility. The frac tanks are not permitted storage locations and the Emerald Defendants' use of such frac tanks is in violation of the Emerald 2021 NPDES Permit.

29. On April 26, 2022, Ohio EPA observed eight (8) frac tanks at the Emerald Facility.

30. On June 23, 2022, Ohio EPA observed forty-four (44) frac tanks at the Emerald Facility.

31. On July 13, 2022, Ohio EPA observed fifty-seven (57) frac tanks at the Emerald

Facility.

32. On August 22, 2022, Ohio EPA observed seventy-seven (77) frac tanks at the Emerald Facility.

33. Within their daily reports, the Emerald Defendants identify 83 frac tanks at the Emerald Facility. The Emerald Defendants add roughly one new frac tank every day. The daily reporting also shows that the Emerald Defendants placed roughly 16,500 gallons of untreated feedstock in each 21,000-gallon frac tank and approximately 1.5 million gallons of untreated feedstock total in the frac tanks at the Emerald Facility.

34. The Emerald Defendants' actions and/or omissions constitute violations of the Emerald 2021 NPDES Permit and Paragraph 5 of the Consent Order for Preliminary Injunction for which the Emerald Defendants should be held in Contempt of Court.

#### **PRAYER FOR RELIEF**

WHEREFORE, in accordance with R.C. Chapters 2705, 2727, 6111, and the inherent power of this Court to coerce compliance and punish contemptuous conduct, and Ohio Civ.R. 65(D), the State respectfully move this Court to convene a show cause hearing and order the Emerald Defendants as follows:

A. Order the Emerald Defendants to immediately operate and maintain the Emerald Facility in accordance with R.C. Chapter 6111 and the rules promulgated thereunder and the Emerald 2021 NPDES Permit;

B. Order the Emerald Defendants to immediately cease placing additional frac tanks or mobile storage tanks at the Emerald Facility;

C. Order the Emerald Defendants to refrain from placing frac tanks or mobile storage tanks at the anaerobic digester facility in Greene County (the "Dovetail Facility") and the anaerobic

treatment lagoon facility in Morrow County (the “Steamtown Facility”) and on any property owned by the Emerald Defendants;

D. Order the Emerald Defendants to remove all material from the frac tanks (i.e. empty the frac tanks properly and lawfully in accordance with applicable laws, rules, and permits) at the Emerald Facility as soon as possible, but no later than December 31, 2022;

E. Order the Emerald Defendants to remove the frac tanks from the Emerald Facility as they are emptied and to remove all emptied frac tanks no later than December 31, 2022;

F. Order the Emerald Defendants to immediately cease accepting outside feedstock material into frac tanks;

G. Order the Emerald Defendants to immediately cease accepting outside feedstock material at the Emerald Facility until the frac tanks are removed from the Emerald Facility;

H. Order the Emerald Defendants to pay the applicable stipulated penalties pursuant to Paragraph 37 of the Consent Order for Preliminary Injunction entered by the Court on June 21, 2022;

I. Order the Emerald Defendants to pay the applicable stipulated penalties pursuant to Paragraph 36 of the Consent Order for Preliminary Injunction entered by the Court on June 21, 2022;

J. Order the Emerald Defendants to provide financial assurance as security for the remediation, restoration, and/or closing of the Emerald Facility in the event that the Emerald Defendants fail to take appropriate action;

K. Order the Emerald Defendants to comply with the injunctive relief required by Section IV of the Consent Order for Preliminary Injunction entered by the Court on June 21, 2022;

L. Order the Emerald Defendants to pay all court costs associated with this case,

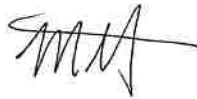


including witness fees, extraordinary enforcement and litigation costs and attorney fees for prosecution of this contempt action; and

M. Order such other relief, as the Court deems necessary and appropriate.

Respectfully submitted,

**DAVID YOST**  
**OHIO ATTORNEY GENERAL**



---

**CATHERINE A. ENGLISH (0096910)**  
**MORGAN STARIC (0098185)**  
**REBECCA KANZ (100091)**  
**JOHN K. MCMANUS (0037140)**  
Assistant Attorneys General  
Environmental Enforcement Section  
30 East Broad Street, 25th Floor  
Columbus, Ohio 43215  
Telephone: (614) 466-2766/Fax: (614) 644-1926  
Catherine.English@OhioAGO. gov  
Morgan.Staric@OhioAGO. gov  
Rebecca.Kanz@OhioAGO. gov  
Jack.McManus@OhioAGO. gov

*Attorneys for Plaintiff State of Ohio*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing *Plaintiff State of Ohio's First Written Charges in Contempt, Motion to Show Cause, and Request for a Hearing* has been served by electronic mail and/or U.S. Regular Mail on this the 6th day of September 2022, to:

REED W. SIRAK  
KEVIN MARGOLIS  
Benesch, Friedlander, Coplan & Aronoff LLP  
200 Public Square, Suite 2300  
Cleveland, OH 44114-2378  
Telephone: (216) 363-6256  
RSirak@beneschlaw.com  
KMargolis@beneschlaw.com

NICHOLAS P. LACEY  
Benesch, Friedlander, Coplan & Aronoff LLP  
41 South High Street, Suite 2600  
Columbus, Ohio 43215  
NLacey@beneschlaw.com

TERRANCE S. FINN  
Roetzel & Andress, LPA  
222 South Main Street  
Akron, OH 44308  
Telephone: (330) 376-2700  
tfinn@ralaw.com

*Counsel for Defendants Renergy Inc.,  
Emerald Bioenergy, LLC, Renergy Soil and  
Water, LLC, Dovetail Energy, LLC, and  
Alexander Ringler*

RINGLER LIVESTOCK, LLC  
c/o William D. Short- Statutory Agent  
PO Box 246  
7 North Man Street  
Marengo, Ohio 43334  
*Defendant*

RINGLER ENERGY, LLC  
c/o Alexander Ringler - Statutory Agent  
1297 County Road 159  
Ashley, Ohio 43303  
*Defendant*

RINGLER FEEDLOTS, LLC  
c/o B&L Agent Services- Statutory Agent  
475 Metro Place South, Suite 150  
Dublin, Ohio 43017  
*Defendant*

JACK A. VAN KLEY  
Van Kley & Walker LLC  
132 Northwoods Blvd, Suite C-1  
Columbus, Ohio 43235  
jvankley@vankleywalker.com  
*Counsel for Defendant Pitstick Family  
Farms LLC*

APRIL BOTT MOORE (0066463)  
Taft Stettinius & Hollister LLP  
65 East State Street, Suite 1000  
Columbus, OH 43215  
Telephone: (614) 221-2838  
abott@taftlaw.com  
*Counsel for Westfield Township, Morrow  
County, Ohio and City of Fairborn, Ohio*

WILLIAM H. HAAK (0063952)  
Haak Law LLC  
12595 Bentbrook Drive  
Chesterland, OH 44026  
Telephone: (216) 772-3532  
whh@haaklawllc.com  
*Counsel for Westfield Township, Morrow  
County, Ohio and Bath Township, Greene  
County, Ohio*



---

Morgan Staric  
Assistant Attorney General

*Counsel for Plaintiff, State of Ohio*