BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:
Falcon Foundry Company
96 Sixth Street
Lowellville, Ohio 44436

: Director's Final
: Findings and Orders

I. JURISDICTION

These Director's Final Findings and Orders (DFFOs) are issued to Falcon Foundry Company ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("R.C.") 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 Falcon Foundry Company, which is located at 96 Sixth Street, Lowellville, Ohio, Mahoning County.

2. Respondent holds a valid, unexpired National Pollutant Discharge Elimination System ("NPDES") permit, number 3IN00362*CD, for the discharges to an unnamed tributary of the Mahoning River.

3. The unnamed tributary to the Mahoning River is considered a "waters of the state" as defined by R.C. Section 6111.01.

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.

[Signature]
Date: 8/14/19
4. This document does not modify NPDES Permit Number 3IN00362*CD. The purpose of this document is to correct a condition of noncompliance with NPDES Permit Number 3IN00362*CD and not to alter said permit.

5. Pursuant to R.C. Section 6111.07(A), no person shall violate or fail to perform any duty imposed by R.C. 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.

6. The NPDES permit Part III.4.C requires that Discharge Monitoring Reports ("DMRs") submitted using e-DMR shall be submitted to Ohio EPA by the 20th day of the month following the month-of-interest.

7. Respondent has failed to submit DMRs for the months of March, April and May 2019. Additionally, timely DMRs were not submitted for the months of January and February 2019. Respondent has failed to monitor a measurable storm event at Outfalls 001, 002 and 003, and downstream sampling at Station 901 has not been conducted. Flow rate has not been reported from January 2019 to the present for Outfalls 001, 002 and 003.

8. On April 9, 2019, Ohio EPA issued Respondent a Non-Submittal Notice letter for the missing January 2019 DMR data. This letter specified that failure to submit required DMR data may result in escalated enforcement.

9. On May 2, 2019, Ohio EPA’s Office of Legal Services contacted Respondent’s attorney to inform them of the missing DMRs for 2019. Ohio EPA Division of Surface Water had previously assisted Respondent in November 2018 regarding the September 2018 Notice of Violation ("NOV") letter that consisted of similar DMR violations for the months of March, May and June 2018. A Resolution of Violation ("ROV") letter was issued for these violations in January 2019.

10. On May 8, 2019, Respondent submitted DMRs for the months of January and February 2019, which indicated that sampling was not conducted at Outfalls 001, 002, 003 and 901, despite precipitation being reported for these months. Comments provided in the DMRs for January and February 2019 state that there was no flow at all three outfalls, minimal flow in the unnamed tributary, and that rainfall began outside of regular work hours.

11. On May 9, 2019, a Preliminary Compliance Review letter was issued to Respondent, identifying DMR compliance issues for the month of February 2019.

12. On May 29, 2019, Ohio EPA’s Office of Legal Services contacted Respondent’s attorney to inform them of the referral for enforcement action.
13. On June 10, 2019, Ohio EPA issued Respondent the most recent Non-Submittal Notice letter for the missing April 2019 DMR data. This letter specified that failure to submit required DMR data may result in escalated enforcement.

14. The Director and Respondent acknowledge that violations other than those specifically listed in Findings #7 may exist and agree that those violations may be subject to future enforcement action. As set forth in Paragraph V, the Director is reserving her rights for enforcement for violations not specifically listed in Findings #7.

15. The Director has given consideration to, 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 its 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. By August 5, 2019, Respondent shall submit the missing DMRs for March, April and May 2019 and begin submitting all required monthly DMRs on time in accordance with its NPDES permit. For post DMR submittal months, if samples were not taken, submission of post DMRs with the use of the proper ‘A’ Code (including comment) is required. For purposes of Part VI, “Termination”, Respondent may seek termination of this Order upon demonstrating twelve months of continuous compliance with this Order.

2. Within sixty (60) days from the date of the letter inviting Respondent to sign these DFFOs, Respondent shall pay to the Ohio EPA the amount of five hundred dollars ($500) in settlement of the Ohio EPA's claim for civil penalties, for the violations specifically set forth in Findings #7, which may be assessed pursuant to Chapter 6111.09 of the Ohio Revised Code. Payment 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 identifying Respondent, at the following address:

Office of Fiscal Administration  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43216-1049
Falcon Foundry Company
Director's Final Findings and Orders
Page 4

A copy of the check shall 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 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. 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.

XI. 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.

XII. EFFECTIVE DATE

The effective date of these DFFOs is the date these DFFOs are entered into the Ohio EPA Director's journal.
XIII. SIGNATORY AUTHORITY

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

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Laurie A. Stevenson, Director

AUG 14 2019

Date

IT IS SO AGREED:

Falcon Foundry Company

Signature

Leon Slaven
Printed or Typed Name

Executive Vice President
Title

8/5/2019

Date