

DEC 09 2005

LINDA K. FANKHAUSER, CLERK
PORTAGE COUNTY, OHIO

STATE OF OHIO, *ex rel.* JIM PETRO
ATTORNEY GENERAL

CASE NO. **2005 CV 01454**
JUDGE

Plaintiff,

JUDGE JOHN A. ENLOW

SAINT-GOBAIN PERFORMANCE
PLASTICS CORPORATION

Defendant.

CONSENT ORDER AND FINAL JUDGMENT ENTRY

Plaintiff, State of Ohio, *ex rel.* Jim Petro, Attorney General of Ohio ("Plaintiff"), having filed the Complaint in this action against Defendant to enforce Ohio's air pollution control laws found in R.C. Chapter 3704 and rules adopted thereunder; and Plaintiff and Defendant having consented to the entry of this Consent Order and Final Judgment Entry;

WHEREAS, Plaintiff believes that the allegations set forth in the Complaint are supportable and that Defendant is not entitled to any immunity from violations under Ohio law

WHEREAS, Defendant does not admit the allegations of violations set forth in the Complaint and denies any violation of any state or federal statute, or regulation. Defendant alternatively believes it is entitled to immunity from fines and penalties for alleged violations pursuant to the Ohio Audit Privilege Statute set forth in R.C. 3742.72;

THEREFORE, without trial or admission of any issue of law or of fact, and upon the consent of the parties hereto, it is hereby **ORDERED, ADJUDGED** and **DECREED** as follows

I. DEFINITIONS

As used in this Order, the following terms are defined as follows

“Air contaminant source” or “source” has the same meaning as set forth in R.C. 3704.01(C) and Ohio Adm.Code 3745-31-01(I) and 3745-35-01(B)(1).

- b. “Consent Order” or “Order” means this Consent Order and Final Judgment Entry.
- c. “Director” means the Director of Ohio EPA
- d. “Defendant” means Saint-Gobain Performance Plastics Corporation
- e. “Facility” means Defendant Saint-Gobain Performance Plastics Corporation’s facility and all related operations located at 10585 Main Street, Mantua, Ohio 44255.
- f. “Ohio EPA” means the Ohio Environmental Protection Agency
- g. “Permit to Operate” or “PTO” has the same meaning as set forth in Ohio Adm.Code Chapter 3745-35.
- h. “Permit to Install” or “PTI” has the same meaning as set forth in Ohio Adm.Code Chapter 3745-31.

“Title V permit” shall have the same meaning as set forth in Ohio Adm.Code Chapter 3745-77.

II. JURISDICTION AND VENUE

2 This Court has jurisdiction over the subject matter of this action, pursuant to R.C Chapter 3704 and the rules adopted thereunder. This Court has jurisdiction over the parties Venue is proper in this Court The Complaint states a claim upon which relief can be granted

III. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

3 Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Defendant to the Plaintiff for the claims alleged in the Plaintiff's Complaint

4 This Consent Order shall not be construed to limit the authority of the Plaintiff to seek relief for violations not alleged in the Complaint, nor shall this Consent Order bar the State from bringing any action against the Defendant for any violations that occur after the entry of this Order. Nothing in this Consent Order shall be construed to relieve Defendant of its obligations to comply with applicable federal, state or local statutes, regulations, or ordinances

IV. INJUNCTIVE RELIEF

5 Defendant is ordered and enjoined to fully comply with R.C. Chapter 3704 and the regulations promulgated thereunder with respect to all air contaminant sources at the Facility

6 Defendant is ordered and enjoined from "installing" or "modifying" any "air contaminant source," as those terms are defined by Ohio Adm.Code 3745-31-01, at the Facility without first applying for a Permit to Install from the Director in accordance with Ohio Adm.Code 3745-31-02 unless the source is exempted from the requirement to obtain a PTI under state law

7 Defendant is ordered and enjoined from operating any air contaminant source at the Facility without first complying with the requirements of Ohio Adm.Code Chapter 3745-35, unless the source is exempted from the requirement to obtain a PTO under state law

V. CIVIL PENALTY

8 Pursuant to and in accordance with R.C. 3704.06, Defendant is enjoined and ordered to pay a total civil penalty of Sixty Thousand Dollars (\$60,000.00) This amount shall be paid by cashier's or certified check payable to the Order of "Treasurer, State of Ohio" and delivered within 30 days of entry of this Consent Order to Mark Lemmon, Paralegal, or his successor, Paralegal, Office of the Attorney General of Ohio, Environmental Enforcement

Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400. The memo portion of the check, or some other prominent location on the transmittal letter or documentation, include a reference to "A.G. EAGO No. 271670."

VI. SUPPLEMENTAL ENVIRONMENTAL PROJECT

9 In lieu of paying (20% of the civil penalty) Twelve Thousand Dollars (\$12,000) of the civil penalty imposed by the previous section, Defendant shall, within thirty (30) days of the effective date of this Consent Order, fund a supplemental environmental project ("SEP") by making a contribution in the amount of Twelve Thousand Dollars (\$12,000) to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD). Defendant shall tender a certified check to the Order of the "Treasurer, State of Ohio" for Twelve Thousand Dollars (\$12,000). certified check shall specify that such monies are to be deposited in the Fund 5CD established by Ohio EPA for the Clean Diesel Bus Program. The certified check together with a letter identifying the Defendant, shall be delivered to Mark Lemmon, Paralegal, or his successor, Paralegal, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400. The memo portion of the check, or some other prominent location on the transmittal letter or documentation, shall include a reference to "A.G. EAGO No. 271670."

10. In the event that Defendant defaults or otherwise fails to complete any of the project as specified in paragraph 9, the Twelve Thousand Dollars (\$12,000) shall immediately become due and payable by certified check to the Order of "Treasurer, State of Ohio" and immediately delivered to Mark Lemmon, Paralegal, or his successor, Paralegal, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400. The memo portion of the check, or some other prominent

location on the transmittal letter or documentation, shall include a reference to “A.G. EAGO No. 271670.”

VII. COMPLIANCE WITH APPLICABLE LAWS, PERMITS AND APPROVALS

11. All activities undertaken by Defendant pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable federal, state and local laws, rules, regulations and permits. Defendant shall submit timely applications and requests for any such permits and approvals. Where such laws appear to conflict with the other requirements of this Consent Order, Defendant is ordered and enjoined to immediately notify Ohio EPA of the potential conflict. This Consent Order is not a permit issued pursuant to any federal, state or local law or rule.

VIII. RETENTION OF JURISDICTION

12. This Court shall retain jurisdiction of this action for the purpose of enforcing this Consent Order.

IX. COSTS

13. Defendant shall pay the court costs of this action. Court costs, as used in this section, are limited to those costs assessed by the clerk of courts and do not include the costs of attorney fees, copying, telephone charges or any other similar charges or other fees incurred by the parties. The parties understand that the court costs at the time of filing this consent order pertain to the costs related to filing the complaint in this case.

X. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

14. Upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal. Within three (3) days of entering the judgment upon the journal, the clerk is

directed to serve upon all parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

XI. AUTHORITY TO ENTER INTO THE CONSENT ORDER

15. Each signatory for a corporation represents and warrants that he/she has been duly authorized to sign this document and so bind the corporation to all terms and conditions thereof.

IT IS SO ORDERED:



**JUDGE
PORTAGE COUNTY
COURT OF COMMON PLEAS**

Respectfully submitted,

Jim Petro
Attorney General

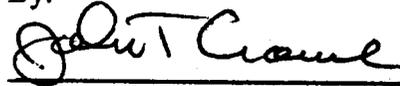
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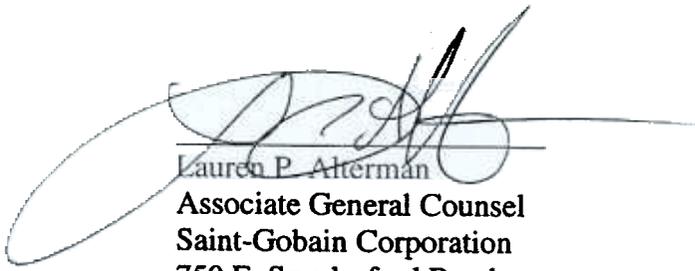
Brett A. Kravitz (00691091)
Michael E. Idzkowski (0062839)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3400
Telephone: (614) 466-2766
Facsimile: (614) 644-1926

Attorneys for Plaintiff
State of Ohio

By:



John Crowe
John Crowe
President
Saint-Gobain Performance Plastics
Corporation
1199 Chillicothe Avenue
Aurora, Ohio 44202



Lauren P. Alterman

Associate General Counsel
Saint-Gobain Corporation
750 E. Swedesford Road
Valley Forge, PA 19482
610-341-7838 (office)
Attorney for Defendant