

TERMINATED 11:53

IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO

STATE OF OHIO, ex rel.
JIM PETRO,
ATTORNEY GENERAL OF OHIO
Environmental Enforcement Section
30 E. Broad Street, 25th Floor
Columbus, Ohio 43215

Plaintiff,

v.

THE TIMKEN COMPANY
Harrison Steel Plant
1835 Ducher Avenue, S.W.
Canton, Ohio 44706-0928

Defendant.

CASE NO.

2006 CV 02694

JUDGE

BROWN

CONSENT ORDER

2006 JUL 25 AM 8:53

FILED & ENTERED
CLERK OF COURTS
STARK COUNTY, OHIO

The Complaint in the above-captioned matter having been filed herein, and the Plaintiff State of Ohio by its Attorney General Jim Petro (hereinafter "Plaintiff") and Defendant The Timken Company (hereinafter "Defendant") having consented to the entry of this Order,

NOW, THEREFORE, upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

I. DEFINITIONS

1. As used in this Order, the following terms are defined as follows:
 - a. "Air contaminant source" or "source" has the same meaning as set forth in R.C. 3704.01(C) and Ohio Adm. Code rules 3745-31 01.
 - b. "Consent Order" or "Order" means this Order and Final Judgment.
 - c. "Facility" means Defendant's steel mill located at 1835 Ducher Avenue, S.W., Canton, Ohio.

- d. "Ohio EPA" means the Ohio Environmental Protection Agency.
- e. "Permit to Install" or "PTI" has the same meaning as set forth in Ohio Adm. Code Chapter 3745-31.
- f. "Title V Permit" has the same meaning as set forth in Ohio Adm. Code Chapter 3745-77.

II. JURISDICTION AND VENUE

2. The Court has jurisdiction over the parties and the subject matter of this case. The Complaint states a claim upon which relief can be granted against Defendant under Chapter 3704 of the Ohio Revised Code ("R.C."), and venue is proper in this Court.

III. PARTIES

3. The provisions of this Consent Order shall apply to and be binding upon the parties to this action and, in accordance with Rule 65(D) of the Ohio Rules of Civil Procedure, their agents, officers, employees, assigns, successors in interest and, any person in active concert or participation with them who receives actual notice of this Consent Order whether by personal service or otherwise. Defendant shall provide a copy of this Consent Order to each such person who will provide work or services related to this Consent Order on behalf of Defendant.

IV. SATISFACTION OF LAWSUIT

4. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Defendant for all violations alleged in the Complaint and for the alleged violations cited in Ohio EPA's December 12, 2005 Notice of Violation issued to Timken. Nothing in this Order shall be construed to limit the authority of the State of Ohio to seek relief for violations not specifically alleged in the Complaint or Ohio

EPA's December 12, 2005 Notice of Violation, including any violations that occur after the filing of this Consent Order.

V. INJUNCTIVE RELIEF

5. Defendant agrees and is hereby enjoined and ordered to comply with R.C. 3704 and the regulations adopted thereunder at the Facility, including all terms and conditions of all Permits to Install, Title V Permits, and any subsequent renewals or modifications thereafter. Specifically, Defendant agrees and is hereby enjoined from installing, modifying, or operating any air contaminant source at the Facility without first complying with the requirements of Ohio Adm. Code Chapters 3745-31 and/or 3745-77, as applicable. Defendant is ordered and enjoined to comply with all particulate emission limits in the Facility's Title V Permit and PTIs.

6. By no later than December 15, 2006, Timken will conduct compliance stack testing of Emissions Unit P292 (EAF No.2) and Emission Unit P258 (EAF No. 9) for PM (Method 5) and PM 10 (Methods 201 and 202 (condensibles)) in accordance with the PTT 15-01475. The completion of the stack testing in accordance with PTT 15-01475 shall also satisfy the PM/PM 10 stack testing requirements under A.V.2.a "within 6 months prior to permit expiration" of the Title V permit issued April 24, 2002.

VI. CIVIL PENALTY

7. Pursuant to and in accordance with R.C. 3704.06, Defendant is enjoined and ordered to pay a total civil penalty of two hundred thousand dollars (\$200,000.00). This amount shall be paid by cashier's or certified check payable to the order of "Treasurer, State of Ohio" and delivered within thirty (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, shall include a reference to "A.G. EAGO No. 234170."

VII. BUS FUND SUPPLEMENTAL ENVIRONMENTAL PROJECT

8. In lieu of paying forty thousand dollars (\$40,000) of the civil penalty imposed by Section VI, Defendant shall, within thirty (30) days of entry of this Consent Order, fund a supplemental environmental project ("SEP") by making a contribution in the amount of forty thousand dollars (\$40,000) to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD). Defendant shall tender a cashier's or certified check to the order of the "Treasurer, State of Ohio" for forty thousand dollars (\$40,000). The cashier's or certified check shall specify that such monies are to be deposited in Fund 5CD established by Ohio EPA for the Clean Diesel Bus Program. The cashier's or certified check together with a letter identifying the Defendant, shall be delivered to J. 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. 234170."

VIII. OTHER SUPPLEMENTAL PROJECTS

9. Plaintiff, in its sole and unreviewable discretion, may delay up to one hundred ten thousand dollars (\$110,000) of the total civil penalty imposed by Section VI, if within thirty (30) days of entry of this Order, Defendant submits to Plaintiff, one or more approvable supplemental environmental projects (SEPs) that Plaintiff agrees comports with the requirements for supplemental environmental projects and agrees that this amount or

any lesser amount of the penalty may be reduced as a result of the SEP(s). Ohio EPA retains the sole discretion to determine whether the SEP is approvable and as to what amount of the one hundred ten thousand dollars (\$110,000) of the total civil penalty qualifies under the SEP(s) to be deducted from the civil penalty. Ohio EPA retains the sole discretion to impose conditions on any approved SEP(s) before any part of the SEP(s) is or are used as a deduction from the civil penalty. The additional conditions that Ohio EPA may impose, include, but are not limited to, requiring by letter that the SEP(s) be implemented in accordance with a time schedule, that certain emission reductions be achieved, and that the project be completed. Ohio EPA's determinations, conditions, approval or disapproval, and amount of credit given for one or more SEPs are not reviewable or appealable.

10. In the event that Ohio EPA so informs Defendant in writing that the SEP(s), or part thereof, is or are not approvable, the one hundred ten thousand dollars (\$110,000) or lesser amount for which payment was delayed pursuant to paragraph nine of this Consent Order, shall become due and paid within seven (7) days by cashier's or certified check to the Order of "Treasurer, State of Ohio" and immediately delivered to J. 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. 234170."

11. In the event that the SEP(s) is or are not implemented, in whole or in part, with all conditions of the SEP(s) approval being achieved, the Defendant shall pay within seven (7) days of written Ohio EPA notice, the amount of the one hundred ten thousand

dollars (\$110,000) for which payment was delayed under paragraph nine of this Consent Order, that Ohio EPA determines to be appropriate. Ohio EPA's determination as to the amount of the one hundred ten thousand dollars (\$110,000), if any, to be deducted from the civil penalty is not reviewable. Within seven (7) days of written Ohio EPA notice, the payment of the civil penalty amount owed shall be paid by cashier's or certified check to the Order of "Treasurer, State of Ohio" and immediately delivered to J. 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. 234170." Notwithstanding the above, stipulated penalties during a potential force majeure situation properly noticed under paragraph 20 of this Consent Order shall not become due and payable until a demand is made by the State of Ohio. Upon such demand by the State of Ohio the payment becomes immediately due and owing.

12. There shall be no delay in paying the School Bus Program Fund SEP identified in Section VII of this Consent Order as a result of this section pertaining to other potential SEPs.

IX. STIPULATED PENALTIES

13. In the event that Defendant fails to comply with any requirement or deadline contained in Section V (Injunctive Relief) of this Consent Order, Defendant is liable for and shall pay stipulated penalties in accordance with the following schedule for each failure to comply:

- A. For each day of each failure to comply with a requirement or deadline of this Consent Order, up to and including thirty (30) days -- two hundred fifty Dollars (\$250.00) per day for each requirement or deadline not met.
- B. For each day of each failure to comply with a requirement or deadline of this Consent Order, from thirty-one (31) to sixty (60) days -- five hundred dollars (\$500.00) per day for each requirement or deadline not met.
- C. For each day of each failure to comply with a requirement or deadline of this Consent Order, over sixty (60) days -- one thousand dollars (\$1000.00) per day for each requirement or deadline not met.

14. In the event Defendant fails to meet any of the requirements of this Consent Order, the Defendant shall immediately be liable for payment of stipulated penalties imposed by this Consent Order without prior demand by the State of Ohio. Payment of all stipulated penalties shall be made immediately upon the occurrence of the violation giving rise to the penalty and a company check made payable to the order of "Treasurer, State of Ohio" shall be delivered to Plaintiff at the address stated in paragraph 7 of this Consent Order.

15. The imposition, payment, and collection of stipulated penalties pursuant to violations of this Consent Order shall not prevent the State of Ohio from pursuing additional remedies, civil, criminal or administrative, for additional violations of applicable laws.

X. RETENTION OF JURISDICTION

16. The court will retain jurisdiction of this action for the purpose of enforcing this Consent Order. Defendant waives service of the complaint and summons.

XI. COSTS

17. Defendant is hereby ordered to pay the court costs of this action.

XII. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

18. Upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal. Within three 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.

XIII. TERMINATION OF CONSENT ORDER

19. No earlier than two (2) years after the entry of this Consent Order, and after Defendants paid all civil and/or stipulated penalties due, Defendants may move the Court, pursuant to Rule 60(B) of the Ohio Rules of Civil Procedure, to terminate this Consent Order. Plaintiff takes no position with regard to such motion at this time, and reserves its rights to oppose the motion. Termination of any or all of the provisions of this Consent Order may also be granted upon joint motion of the parties.

XIV. POTENTIAL FORCE MAJEURE

20. If any event occurs that causes or may cause a delay in Defendant's compliance with any requirement of this Order, Defendants shall notify Ohio RPA, in writing, within ten (10) days of the event, describing in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by

Defendant to prevent or minimize the delay and the timetable by which measures will be implemented. Defendant will adopt all reasonable measures to avoid or minimize any such delay.

21. In any action by Plaintiff to enforce any of the provisions of this Order including but not limited to the collection of stipulated penalties pursuant to Section IX of this Consent Order, Defendant may raise that it is entitled to a defense that its conduct was caused by reasons entirely beyond its control such as, by way of example and not limitation, acts of God, acts of war or civil disturbances. While Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by the parties that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time that an action to enforce the terms and conditions of this Order, if any, is commenced by Plaintiff. At that time, the burden of proving that any delay was or will be caused by circumstances entirely beyond the control of Defendant shall rest with Defendant. Unanticipated or increased costs associated with the implementation of any action required by this Order, or changed financial circumstances, shall not constitute circumstances entirely beyond the control of Defendant or serve as a basis for an extension of time under this Consent Order. Failure by Defendant to comply with the notice requirements of the previous paragraph shall render this paragraph void and of no force and effect as to the particular incident involved and shall constitute a waiver of Defendant's right to request an extension of its obligations under this Order based on such incident. An extension of one compliance date based on a particular incident does not mean that Defendant qualifies for an extension of a subsequent compliance date or dates. Defendant must make an individual showing of proof regarding

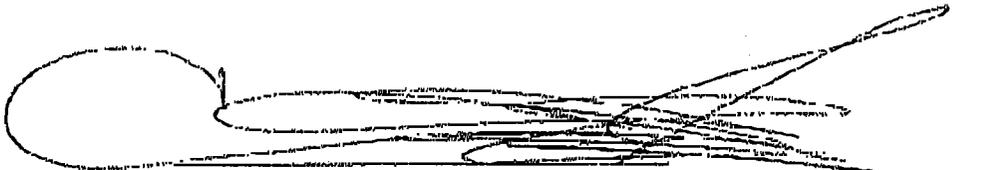
each incremental step or other requirement for which an extension is sought.

XV. AUTHORITY TO ENTER INTO THE CONSENT ORDER

22. The signatory for the Defendant 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

24 July 2008
DATE



**JUDGE, STARK COUNTY
COURT OF COMMON PLEAS
CHARLES E. BROWN, JR.
APPROVED:**

**JIM PETRO
ATTORNEY GENERAL OF OHIO**

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