

**IN THE COURT OF COMMON PLEAS  
PUTNAM COUNTY, OHIO**

**STATE OF OHIO,  
JIM PETRO  
ATTORNEY GENERAL OF OHIO  
Environmental Enforcement Section  
30 East Broad Street  
Columbus, Ohio 43215,**

**Plaintiff,**

**v.**

**CLYMER ACQUISITION, INC.  
c/o Statutory Agent  
CT Corporation System  
1300 East Ninth Street, Suite 1010  
Cleveland, Ohio 44114,**

**and**

**GARY C. CLYMER  
202 Elm Street  
Columbus Grove, Ohio 45830,**

**and**

**GLARRY COMPANY, INC.  
c/o Statutory Agent  
Gary C. Clymer  
202 Elm Street  
Columbus Grove, Ohio 45830,**

**Defendants.**

**CASE NO. 06 CV 143**

**JUDGE BASINGER**

**CONSENT ORDER AND  
FINAL JUDGMENT ENTRY**

COMMON PLEAS COURT  
TERESA J. LAHMER, CLERK  
PUTNAM COUNTY, OHIO  
2006 DEC 19 P 2:03

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

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**

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 3745-31-01(I) and 3745-35-01(B).
  - b. "Consent Order" or "Order" means this Consent Order and Final Judgment Entry.
  - c. "Defendant" means Clymer Acquisition, Inc.
  - d. "Director" means the Director of Ohio EPA.
  - e. "Facility" means Defendant's facility and all related operations located at 407 East Washington Street, Pandora, Putnam County, Ohio 45877.
  - 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.
  - i. "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. PERSONS BOUND**

3. The provisions of this Consent Order shall apply to and be binding upon Plaintiff and Defendant, its agents, officers, employees, assigns, successors-in-interest, any person acting in concert, privity or participation with them and any purchaser of the Facility who receives actual notice of this Consent Order whether by personal service or otherwise.

### **IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS**

4. 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.

5. 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 occurring after Defendant's June 28, 2000 purchase of the Facility.

6. 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.

### **V. INJUNCTIVE RELIEF**

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

8. Defendant is ordered and enjoined to comply with all terms and conditions

of its Permits to Install, Permits to Operate, and Title V permits that have been issued or may be issued in the future, including modifications and renewals thereof.

9. 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(PP), (VV) and (G), 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.

10. Defendant is ordered and enjoined from operating any air contaminant source at the Facility without first complying with the requirements of Ohio Adm.Code Chapters 3745-31 and 3745-35, unless the source is exempted from the requirement to obtain a PTO under state law.

11. Except as provided herein, the Defendant is hereby ordered and enjoined from operating any air contaminant source or emissions unit at a Title V source without the source first complying with the provisions of Ohio Adm.Code Chapter 3745-35 or 3745-77, as applicable, except as otherwise specified by law.

12. Defendant is ordered and enjoined from operating any air contaminant source or emission unit at the Facility without first complying with any emission limitations set forth in the Ohio Administrative Code or applicable permits.

13. Defendant is ordered and enjoined to comply, immediately upon entry of this Consent Order, with all record keeping requirements of Ohio Adm.Code 3745-21-09(B)(3)(h).

14. Defendant is ordered and enjoined to comply, immediately upon entry of this Consent Order, with the volatile organic compound limitation requirements of Ohio Adm.Code 3745-21-09(U)(1).

15. Defendant is ordered and enjoined to submit fee emission reports for the Facility in compliance with O.R.C. 3745.11.

16. Except as provided herein or as otherwise specified by law, the Defendant is hereby ordered and enjoined from operating any air contaminant source or emissions unit at the Facility without first complying with Ohio Adm.Code 3745-31-10 through 3745-31-20.

#### **VI. SUBMITTAL OF DOCUMENTS**

17. All documents required to be submitted to Ohio EPA and the designated local air pollution control agency pursuant to this Consent Order shall be submitted to the following addresses, or to such addresses as Ohio EPA may hereafter designate in writing:

Director  
Ohio Environmental Protection Agency  
Division of Air Pollution Control  
Attn: Jim Orlemann, Enforcement Section  
Lazarus Government Center  
122 South Front Street  
Columbus, Ohio 43215

Don Waltermeyer  
Ohio EPA  
Northwest District Office  
347 North Dunbridge Road  
Bowling Green, Ohio 43402

#### **VII. CIVIL PENALTY**

18. Pursuant to and in accordance with R.C. 3704.06, Defendant is enjoined and ordered to pay a total civil penalty of One Hundred Thousand Five Hundred Dollars (\$100,500). This amount shall be paid in cash by certified check payable to the Order of "Treasurer, State of Ohio" and delivered within 30 days of entry of this Consent Order to

J. Mark Lemmon or his successor, Office of the Attorney General of Ohio,  
Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio  
43215-3400.

#### **VIII. SUPPLEMENTAL ENVIRONMENTAL PROJECT**

19. In lieu of paying the remaining Twenty Thousand One Hundred Dollars (\$20,100.00) of the civil penalty, Defendant shall fund the supplemental environmental project ("SEP") identified in paragraph 19. In the event Defendant defaults or otherwise fails to complete the project as specified in paragraph 19, the \$20,100 for the project shall immediately become due and payable to "Treasurer, State of Ohio", and sent to J. Mark Lemmon or his successor, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio, 43215-3400, within thirty (30) days of the date of entry of this Consent Order.

20. Defendant shall fund a SEP by making a contribution in the amount of \$20,100 to Ohio EPA's fund for the Clean Diesel School Bus Program. Defendant shall make payment within thirty (30) days after the effective date of these Orders by an official check made payable to "Treasurer, State of Ohio" for \$20,100. The official check shall specify that such monies are to be deposited into the fund established by Ohio EPA for the Clean Diesel School Bus Program. The official check shall be submitted to J. Mark Lemmon or his successor, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio, 43215-3400.

#### **IX. STIPULATED PENALTIES**

21. In the event that Defendant fails to comply with the requirements or deadlines contained in paragraphs 7, 11, or 13 of this Consent Order or any requirement

or deadline contained in any document approved in accordance with those paragraphs 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 paragraphs 11 or 13 of this Consent Order --  
Fifty Dollars (\$50.00) per day for each requirement or deadline not met.
- b. For each day of each failure to comply with a requirement or deadline of paragraph 7 of this Consent Order--  
Twenty-Five Dollars (\$25.00) per day for each requirement or deadline not met.

22. Any payment required to be made under the provisions of this Section of the Consent Order shall be made by delivering to Plaintiff, c/o J. Mark Lemmon or his successor, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400, a cashier's or certified check or checks made payable to the order of "Treasurer, State of Ohio," for the appropriate amount within thirty (30) days from the date of the failure to meet the requirement or deadline of this Consent Order. The payment of the stipulated penalty shall be accompanied by a letter briefly describing the type of violation, deadline or requirement not met and the date upon which the violation of this Consent Order occurred.

23. The requirement to pay any stipulated penalty as set forth herein is self-executing and continuing upon the failure of Defendant to meet any requirement or deadline in this Consent Order or any document required by this Consent Order. No

further demand need be made by Plaintiff.

24. The payment of stipulated penalties by Defendant and the acceptance of such stipulated penalties by Plaintiff pursuant to this Section shall not be construed to limit Plaintiff's authority to seek additional relief pursuant to R.C. Chapter 3704, including civil penalties under R.C. 3704.06, or to otherwise seek judicial enforcement of this Consent Order, for the same violation for which a stipulated penalty was paid or for other violations.

#### **X. COMPLIANCE WITH APPLICABLE LAWS, PERMITS AND APPROVALS**

25. 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 or other approvals. 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 notify Ohio EPA of the potential conflict immediately. This Consent Order is not a permit issued pursuant to any federal, state or local law or rule.

#### **XI. RETENTION OF JURISDICTION**

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

#### **XII. TERMINATION**

27. No earlier than two (2) years after the final PTI for K001 and K002 is issued by the Director, Defendants may move the Court, pursuant to Rule 60(B) of the Ohio Rules of Civil Procedure, to terminate this Consent Order provided Defendant has paid all civil penalties and has been in compliance with the terms of 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.

### **XIII. COSTS**

28. Defendant shall pay the court costs of this action.

### **XIV. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK**

29. 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.

### **XV. AUTHORITY TO ENTER INTO THE CONSENT ORDER**

30. 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:

Randall Basinger "signed"

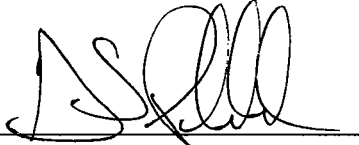
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JUDGE  
PUTNAM COUNTY  
COURT OF COMMON PLEAS

COMMON PLEAS COURT  
TERESA J. LAHMER, CLERK  
PUTNAM COUNTY, OHIO  
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Respectfully submitted,

**JIM PETRO**  
**ATTORNEY GENERAL**

By:

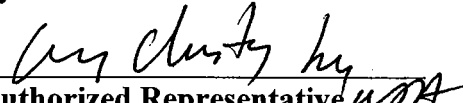


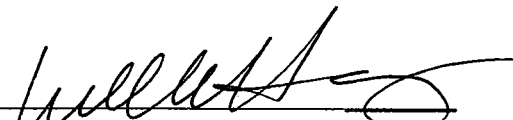
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*Attorney for Plaintiff  
State of Ohio*

**CLYMER ACQUISITION, INC.**

By:

  
**Authorized Representative**  
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*Attorney for Defendant*

COMMON PLEAS COURT  
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