



State of Ohio Environmental Protection Agency

Southeast District Office

2195 Front Street
Logan, Ohio 43138

TELE: (740) 385-8501 FAX: (740) 385-6490
www.epa.state.oh.us

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Laura H. Powell, Acting Director

January 22, 2007

**RE: LAWRENCE COUNTY
SITE - BIOMASS ENERGY**

Biomass Energy, LLC
65 Avenue of Champions
Nicholasville, KY 40356

**CERTIFIED MAIL
#7006 0100 0003 5620 0019**

Attention: Mr. Mark Harris, President, Biomass

Dear Mr. Harris:

On January 16, 2007, and again on January 18, 2007, I conducted inspections of the Biomass property located in South Point, Lawrence County. The purpose of my inspections was to evaluate compliance with the Consent Orders issued by the Lawrence County Common Pleas Court on December 27, 2006, and to determine if the coke waste is in the process of being removed.

The coke waste material was generated by Allied Signal (Honeywell) in 1999 and 2000. The coal and coke wastes is an unwanted waste from Allied Signal, (Honeywell). In April 1999, Allied Signal contracted with Biomass to receive and process (burn as fuel) these waste materials. The boilers at Biomass are inoperable and the wastes were never burned for fuel. Legitimate disposal of these waste materials remains to be accomplished.

The Order - Part 7 Injunctive Relief. Defendants are immediately enjoined from further scrapping or salvage activity at the Biomass facility until the performance penalty bond is in place.

I observed on January 16, 2007, and again on January 18, 2007, that the truck that belongs to Mr. Jack Hager and that had scrap metal in the bed of the truck was removed from the property. The truck was observed and photographed on December 28, 2006. This was the day after the court order of December 27, 2006. I also observed on January 18, 2007, that additional scrap metal has been removed from the property. The scrap metal was in a pile to the northeast side of the bunker building.

This removed activity is a violation of the order.

The Order- Part 11 Injunctive Relief. Within fourteen (14) days, Defendants shall temporarily or permanently secure the coal storage bunker sufficient to prevent the infiltration of rain through the roof or the entrance ways of the coal/coke waste storage bunker.

I observed on January 16, 2007, that the tarp at the south entrance of the Biomass bunker building and the plastic over the opening at the west side of the bunker building were torn. Rain events occurred over the past days of January 12th through 15th 2007. I observed water in the bunker building. The pooled water was located to the northwest portion of the bunker building near the north entrance. The plastic covering that was placed on the openings in the roof could not be observed.

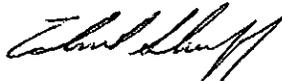
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Failure to secure the building sufficient to prevent the infiltration of rain is in violation of the order.

I observed that the coke waste remains in the bunker building and that no removal activity has been initiated.

Should you have any questions, please contact me at (740) 380-5246 or Steve Rine at (740) 380-5213.

Sincerely,



Clint Shuff, R.S.
Environmental Specialist
Division of Solid and Infectious Waste Management

CAS/jg

cc: Frank J. McCown, Judge, Lawrence County Court of Common Pleas
cc: Phil Thompson, Portsmouth Local Air Authority
cc: Kevin O'Hara, Division of Emergency and Remedial Response, SEDO
cc: Lawrence County Health Department
cc: Dan Palmer, Lawrence and Scioto County Solid Waste Management District
cc: Barry Chapman, DSIWM, CO
cc: Robert Eubanks, Office of the Ohio Attorney General
cc: Anthony Giuliani, Vorys, Sater, Seymour, and Pease LLP, 52 East Gay St. P.O. Box 1008, Columbus, Ohio 43216-1008