



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
Chris Korteski, Director

October 15, 2007

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

Biomass Energy, LLC
Attn.: Mr. Mark Harris, President, Biomass
Avenue of Champions
Nicholasville, KY 40356

CERTIFIED MAIL
#7006 3450 0001 9056 0020

Dear Mr. Harris:

On October 11, I conducted an inspection of the Biomass property located in South Point, Lawrence County. The purpose of my inspection 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 coke waste is an unwanted waste from Allied Signal, (Honeywell). In April 1999, Allied Signal contracted with Biomass to receive and process (burn as fuel) this waste material. The boilers at Biomass are inoperable and the waste was never burned for fuel. Legitimate disposal of this waste material remains to be accomplished.

I met with Tyler Harris and Larry Camp representing Biomass on this day. At present, there is no waste removal activity occurring at Biomass. No waste from Biomass has been removed and disposed at a landfill since Thursday July 26, 2007. I was informed that a total of 13,373.02 tons has been disposed of the Mason County Landfill.

I did observe where the plastic on the bunker building has been replaced. Mr. Camp informed me that the bunker building will be inspected weekly to insure the building is secure and to monitor for precipitation infiltration.

Currently, Ohio EPA has not received the Performance Penalty Bond of \$522,000. The bond company, Evergreen, is determining the efficiency of contracting for the removal and disposal of the waste.

Biomass is in violation of the Orders issued on December 27, 2006. Until all of the wastes are removed from the Biomass property, violations will continue to accrue.

Biomass is in violation of Order # 8.

**LAWRENCE COUNTY
SITE - BIOMASS ENERGY
OCTOBER 15, 2007
PAGE 2**

The Order- Part 8 Injunctive Relief, Defendants shall complete removal and proper disposal of the coal/coke wastes as ordered in the June 22, 2004, Consent Order or removal to a licensed facility for commercial utilization on or before May 30, 2007.

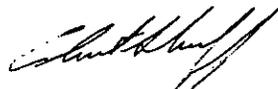
Biomass is in violation of Order # 12.

Should defendants fail to complete the removal and/or proper disposal of the coal/coke wastes, including failure to provide the documentation of such disposal as required herein, then the Defendants shall pay stipulated penalties in the amount of one hundred and nine thousand dollars (\$109,000) in full to the State of Ohio on or before June 30, 2007.

As of this date, the stipulated penalty has not been paid, this is a violation.

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: 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, OEPA, DSIWM, CO
cc: Michael Wood, OEPA, 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

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print or name and address on the reverse so that we can return the card to you.
- Return to address on the back of the mailpiece, or other address if space permits.

1. Return Address

MARK HARRIS
BIOMASS ENERGY
AVG. of CHAMPIONS
NICHOLASVILLE KY 40356

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X  Agent Addressee

B. Recipient's Name and Address Date of Delivery

Mark Harris 1/18/07

D. Restricted Delivery Yes No

3. Service Type

Registered Mail Registered Mail Restricted Registered Mail Signature Required Registered Mail Signature Restricted Registered Mail Signature Restricted with Insurance Registered Mail Signature Restricted with Insurance and Return Receipt Registered Mail Signature Restricted with Insurance and Return Receipt and Restricted Delivery Registered Mail Signature Restricted with Insurance and Return Receipt and Restricted Delivery and Restricted Delivery Registered Mail Signature Restricted with Insurance and Return Receipt and Restricted Delivery and Restricted Delivery and Restricted Delivery

4. Restricted Delivery Yes No

2. Article Number (Transfer from sender's label) 7006 3450 0001 9056 0020