



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 Korleski, Director

December 10, 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 2192**

Dear Mr. Harris:

On November 29, 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 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. Mr. Camp informed me that a utility company in Indiana has indicated that they would accept the coke waste as a fuel source to be burned with the coal that they receive from a mine in Colorado. Mr. Camp stated that he is in the process of determining the cost efficiency of barging the coke waste on the Ohio River to the utility company in Indiana. Mr. Camp stated he has contacted two barging companies McGinnis of Coal Grove, Ohio and KRT in West Virginia about barging costs. Mr. Camp stated that he was hopeful that the trucking and barging operation would begin in January of 2008.

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.

**LAWRENCE COUNTY  
SITE - BIOMASS ENERGY  
DECEMBER 10, 2007  
PAGE 2**

Biomass is in violation of Order # 8.

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.

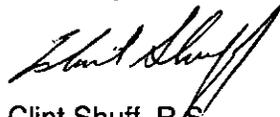
Should defendants fail to complete the removal and/or proper disposal of the coal/coke wastes, including failure to provide the documentation of such disposal as required herein, then the Defendants shall pay stipulated penalties in the amount of one hundred and nine thousand dollars (\$109,000) in full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

Please provide to me information on the utility company located in Indiana and a contact person that has indicated that they would accept the coke waste to be burned as a fuel source.

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 applicable. Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MARK HARRIS, PRESIDENT  
1510 MASS  
65<sup>th</sup> AVE. OF CHAMPIONS  
NICHOLASVILLE KY 40356

2. Article Number

(Transfer from service label)

7006 3450 0001 9056 2192

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

Agent  
 Addressee

B. Recipient's (Printed Name)

Mark Harris

C. Date of Delivery

12/12/02

D. Do you wish to receive item 1?

Yes  No

If YES, please provide address below:  No

3. Service Type

- Certified Mail
- Registered
- Insured Mail
- Express Mail
- Return Receipt for Merchandise
- C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

7006 3450 0001 9056 2192

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

Postage	\$ 41
Postage and Fees	\$ 2.65
Postage and Fees	\$ 2.15
Postage and Fees	\$ 5.91

Postman  
Signature Here

MARK HARRIS, PRESIDENT  
1510 MASS  
65<sup>th</sup> AVE. OF CHAMPIONS  
NICHOLASVILLE KY 40356