



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

July 30, 2007

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

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

CERTIFIED MAIL
#7006 3450 0001 9054 7434

Dear Mr. Harris:

On July 19, 2007, and again on July 26, 2007, 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.

On the July 19, 2007, inspection I met with Tyler Harris and Larry Camp, Supervisor with Biomass. I was informed by Mr. Camp that approximately 6 to 8 trucks a day are removing waste. The trucks are hauling approximately 25 tons a truck or 150 to 200 tons a day.

On July 26, 2007, I met with the operator of the front end loader and observed him load two trucks. Later that day I spoke with Larry Camp and confirmed that 6 truck loads a day of waste are being removed from the bunker building to the landfill.

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.

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 #10.

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The Order- Part 10 Injunctive Relief, Defendants shall provide the State of Ohio with their financial records including, but not limited to, annual financial statements or reports, including balance sheets, statements of income, cash flow statements, statements in financial positions, statements of investments, records of distributions to shareholders, members or partners, and all attached schedules and notes thereto; tax returns with all schedules filed therewith; all documents submitted to financial institutions for the purpose of applying for loans or other lending or financing arrangements; and personal statements of net worth for both Defendants covering at least from June 2004 to present.

OEPA has not received this information nor has the Office of the Ohio Attorney General.

Please submit this information to Barry Chapman at the Ohio EPA Central Office.

1. Annual financial statement or report
2. Statements of changes in financial position
3. Statements of investments
4. No records of distributions to shareholders, members or partners
5. A balance sheet, statement of income, and cash flow statement were submitted but they are all un-audited, for only part of the year and do NOT include the notes to the financials
6. Personal tax returns
7. Documents to financial institutions
8. The orders say documents should be given up to present - we only have 2004 and 2005 tax returns from the business, none from Mr. Harris, and partial financial statements as of 9/30/2006- should have as of 12/31/06.

Please submit all information required by the orders to Barry Chapman at the Ohio EPA Central Office.

Biomass is in violation of Order # 11. 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.

Water was observed in the bunker building at the north entrance on this inspection and on the July 19 and 26, 2007, inspection. The tarps that are over the entrances and the top of the bunker building are torn allowing storm water to enter the bunker building. In the evening after the trucking is completed for the day, the tarps are not secured over the entrances to help prevent storm water from entering the bunker building. Mr. Camp informed me that most of the water in the bunker building is evaporating and that no water is leaving the building. Coke waste that is mixed in with the water is spread back on top of the waste to dry before it is loaded on the trucks and sent to the landfill.

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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

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BIO MASS ENERGY
MR. MARK HARRIS
65 AVE. OF CHAMPIONS
NICHOLASVILLE KY 40356

COMPLETE THIS SECTION ON DELIVERY

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Mark Harris
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