



State of Ohio Environmental Protection Agency

**Southeast District Office**

2195 Front Street  
Logan, Ohio 43138

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www.epa.state.oh.us

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

July 16, 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 7083

Dear Mr. Harris:

On July 12, 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 this inspection I met with Larry Camp, Supervisor with Biomass. I was informed by Mr. Camp that approximately 8 trucks a day are removing waste. The trucks are hauling approximately 25 tons a truck or 200 tons a day. I contacted the Maysville Landfill on July 13, 2007, and was informed that as of this day 12,073.15 tons of waste has been disposed of at the Mason County 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.

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,

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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 June 28, 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 some of the water is evaporating and that coke waste is mixed in with the water and the slurry is loaded on the trucks and sent to the landfill.

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.

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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

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1. Addressee's name

DOMINION ENERGY  
BREN MARIE HARRIS  
65 AVE. OF CHAMPIONS  
NICHOLLSVILLE KY 40356

2. ZIP Code

(Print from sender's label)

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PS Form 3800, February 2004

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