OhioEPA

State of Ohio Environmental Protection Agency

Southeast District Office

2195 Front Street
Logan, Ohio 43138

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

June 18, 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
#7005 1820 0008 1262 1087

Attention: Mr. Mark Harris, President, Biomass

Dear Mr. Harris:

On June 14, 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 Tyler Harris at Biomass. We discussed the Consent Order dated December 27, 2006. I observed that coke waste still exists in the bunker building. I observed that the removal of the waste is continuing. The process is trucks enter the bunker building from the north side and are loaded by a front end loader and exit on the south entrance of the bunker building. I was informed that approximately 400 truck loads of waste have left the Biomass property for the Mason County Landfill in Maysville, Kentucky for proper disposal. I was informed that each truck contains approximately 20 tons of waste.

Tyler Harris informed me that on Monday, June 11, 38 trucks hauled waste to the landfill, on Tuesday, June 12, 25 trucks transported waste to the landfill, on Wednesday, June 13, 18trucks hauled waste to the landfill; and on Thursday, June 14, as of 9:00 a.m., 12 trucks had hauled waste to the landfill.

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, 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.

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/cb

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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1. Article Addressed to:

Energy, LLC
Attn: Mark Harris, Pres
65 Avenue of Champions
Nicholasville KY 40356

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☐ Addressee

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