



State of Ohio Environmental Protection Agency

Southeast District Office

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

April 9, 2007

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

Biomass Energy, LLC
65 Avenue of Champions
Nicholasville, KY 40356

**CERTIFIED MAIL
#7006 3450 0001 9054 5102**

Attention: Mr. Mark Harris, President, Biomass

Dear Mr. Harris:

On March 15, 2007, and March 22, 2007, I conducted inspections of the Biomass property located in South Point, Lawrence County. The purpose of my inspections 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) these waste materials. The boilers at Biomass are inoperable and the wastes were never burned for fuel. Legitimate disposal of these waste materials remains to be accomplished.

The Order- Part 11 Injunctive Relief. Within fourteen (14) days, Defendants shall temporarily or permanently secure the storage bunker sufficient to prevent the infiltration of rain through the roof or the entrance ways of the waste storage bunker.

I observed on March 15, 2007, that the tarp at the south entrance of the Biomass bunker building and the plastic over the opening at the west side of the bunker building were torn. I observed standing water in the bunker building. The pooled water was located to the northwest portion of the bunker building near the north entrance.

Failure to secure the building sufficient to prevent the infiltration of rain is in violation of the order.

I observed that the coke waste remains in the bunker building and I observed an area where it appears that coke waste was removed. The coke waste that I observed removed was at the southwest end of the bunker building. Please provide to me waste receipts where you are taking the coke waste.

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It has come to my attention that Biomass sent approximately 1,000 tons of this coke waste to Waterloo Coal in Jackson County, Ohio a couple of years ago. This coke waste was sent to Waterloo Coal during the period of the first consent order of June 22, 2004. The coke waste material was washed and a portion was recovered and stockpiled for potential sale. Another portion was not recovered and has been disposed at the Waterloo site. Disposal of any waste at the Waterloo site is open dumping in violation of Ohio Administrative Code (OAC) 3745-27-05(C). All waste located at Waterloo Coal that is not sold for use in energy recovery needs to be disposed of at a licensed solid waste facility.

The open dumping of solid waste occurring at the Waterloo property is in violation of the following provisions of ORC Chapter 3734 and OAC Chapter 3745-27:

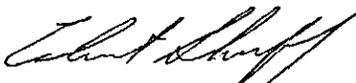
ORC Section 3734.03 - No person shall dispose of solid wastes by open dumping or open burning.

OAC Rule 3745-27-05(C) - No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person responsible for the open dumping, the owner of the property, or the person who allows or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734, of the Revised Code, and shall submit verification that the solid waste has been properly managed.

These violations will continue to accrue until all of the solid wastes are removed and properly disposed at a solid waste landfill.

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: Frank J. McCown, Judge, 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, DSIWM, 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