



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 6, 2009

**RE: LAWRENCE COUNTY
SITE - BIOMASS**

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

**CERTIFIED MAIL
#7006 3450 0001 9055 8553**

Dear Mr. Harris:

On June 4, 11, 18, and 25, 2009, I conducted inspections of the Biomass property located in South Point, Lawrence County, Ohio. The purpose of my inspections was to evaluate compliance with the Consent Orders (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. I met with Tyler Harris of your staff on the June 4, 11, and 25 inspections and Joe Wise of Opel Trucking on the June 18, 2009, inspection.

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.

At present, the coke, coal, and ash is being removed to Big Sandy Resources (BSR) in Louisa, Kentucky. I have spoken to Rod Maze with the Kentucky Department of Environmental Protection and Lenny Howard with the Kentucky Division of Surface Mining. The Division of Surface Mining is the regulatory authority at BSR. I was informed by both Kentucky Agencies that there is no violation in the transportation and the mixing of the coke, coal, and ash at the BSR site. Mr. Howard informed me that the BTU value of the material is approximately 8,500 and this was acceptable as a coal blend.

In May, approximately 1,750 tons of the coke, coal, and ash was taken to Big Run Landfill in Kentucky.

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.

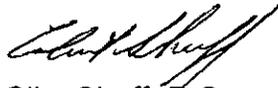
Biomass is in violation of Order # 8.

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. The mixing of the coal, coke, and ash for a coal blend is acceptable as commercial utilization.

LAWRENCE COUNTY
SITE - BIOMASS ENERGY
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Should you have any questions, please contact me at (740) 380-5246.

Sincerely,



Clint Shuff, R.S.
Environmental Specialist
Division of Solid and Infectious Waste Management

CAS/jg

cc: Cindy Charles, 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 Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

MARK HARRIS
BIOMASS
AVENUE of CHAMPIONS
NICHOLASVILLE KY 40356

2. Article Number
(Transfer from service label)

7006 3450 0001 9055 8553

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A. Signature Agent
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Mark Harris 7/2/09
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 Certified Mail Express Mail
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