



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

January 28, 2008

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

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

**CERTIFIED MAIL**  
#7006 3450 0001 9056 2260

Dear Mr. Harris:

On January 17, 2008, 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.

At present, there is no waste removal activity occurring at Biomass. No waste from Biomass has been removed and disposed at a landfill since Thursday, July 26, 2007. I was informed that a total of 13,373.02 tons has been disposed of the Mason County Landfill.

I did observe where the plastic on the roof of the bunker building has been torn. It was raining on this day and rain was entering the bunker building from the roof.

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.

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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 and south entrance on this inspection.

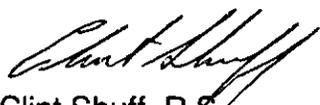
Biomass is in violation of Order # 12.

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: 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 return address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Number

MARK HARRIS, PRESIDENT  
BIOMASS ENERGY  
65 AVE. of CHAMPIONS  
NICHOLASVILLE KY 40356

2. Article Number

(Transfer from service label)

7006 3450 0001 9056 2260

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X 

Agent

Addressee

B. Received by (Printed Name)

Mark Harris

C. Date of Delivery

1/31/08 JM

D. Is delivery restricted from item?  Yes

If restricted, enter delivery address below:  No

3. Service Type

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Express Mail

Registered

Return Receipt for Merchandise

Signature Required

S.M.D.

4. Restricted Delivery? (Extra Fee)

Yes