

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)

) DOCKET NO. RCRA-05-2008-0007

John A. Biewer Company of Ohio, Inc.)
300 Oak Street)
St. Clair, Michigan 48079-0497)
(Washington Courthouse Facility))

U.S. EPA ID #: OHD 081 281 412; and)

John A. Biewer Company, Inc.)
812 South Riverside Street)
St. Clair, Michigan 48079; and)

Biewer Lumber LLC)
812 Riverside Street)
St. Clair, Michigan 48079)

Respondents)

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**ADDENDUM TO MEMORANDUM IN SUPPORT OF COMPLAINANT'S
MOTION FOR ACCELERATED DECISION ON LIABILITY AND PENALTY**

On December 12, 2008, on behalf of the Administrator's Delegated Complainant, counsel filed a Motion for Accelerated Decision on Liability and Penalty ("Motion"), with a supporting memorandum ("Memorandum").

At Finding of Fact No. 2, Memorandum, at 12, Complainant states that:

U.S. EPA has provided notice of commencement of this action to the State of Ohio, as required by Section 3008(a)(2) of RCRA, 43 U.S.C. § 6928(a)(2).

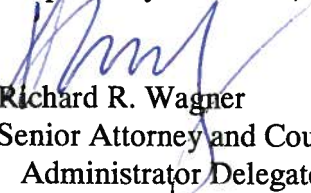
Reference is made to an "Attachment _" to support the Finding of Fact, but Complainant inadvertently failed to specifically identify and include the attachment.

To support Finding of Fact No. 2, Complainant hereby adds to the Memorandum an Attachment Q, which consists of a copy of a letter of April 7, 2008, from Willie H. Harris,

P.E., Chief of the Region 5 RCRA Branch, Land and Chemicals Division, Region 5, U.S. EPA, to Ohio EPA, providing notice to Ohio EPA of the U.S. EPA enforcement action against Respondents.

Respondents will incur no prejudice as a consequence of Attachment Q being added to the Memorandum, as they have not yet filed a response to the Motion, nor has a date been set for them to file a response.

Respectfully submitted,



Richard R. Wagner
Senior Attorney and Counsel for the
Administrator Delegated Complainant

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 5
 77 WEST JACKSON BOULEVARD
 CHICAGO, IL 60604-3590

APR 07 2008

Enforcement Confidential

REPLY TO THE ATTENTION OF: LR-8J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Harry Sarvis, Manager
 Compliance Assurance Section
 Division of Hazardous Waste Management
 Ohio Environmental Protection Agency
 P.O. Box 1049
 Columbus, Ohio 43216-1049

Re: John A Biewer of Toledo, Incorporated
 EPA I.D. No.: OHD 106 483 522

John A Biewer of Ohio, Incorporated
 EPA I.D. No.: OHD 081 281 412

Dear Mr. Sarvis:

Pursuant to Section 3008(a)(2) of the Resource Conservation and Recovery Act (RCRA), as amended, I am providing notice to you that the United States Environmental Protection Agency (U.S. EPA), is preparing to issue formal enforcement actions under Section 3008(a)(1) to: John A Biewer of Toledo, Incorporated, for its facility located at 13010 Eckel Junction Road, Perrysburg, Ohio 43551; and John A Biewer of Ohio, Incorporated, for its facility located at 649 Landmark Boulevard, Washington Court House, Ohio 43160.

The formal enforcement actions are in response to the May 24, 2006, referral from the Ohio Environmental Protection Agency to the U.S. EPA, and addresses violations of the regulations applicable to the closure of drip pads.

If you have any questions regarding this letter, please contact Michael Cunningham of my staff, at (312) 886-4464.

Sincerely,

Willie H. Harris
 Willie H. Harris, P.E.
 Chief, RCRA Branch
 Land and Chemicals Division

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

4905 5910 9000 0260 1001

LR-8J Attn: Michael Cunningham

Postage	\$ 41
Certified Fee	265
Return Receipt Fee (Endorsement Required)	215
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 521



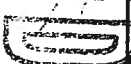
Sent To Harry Sarvis
 Street, Apt. No. or PO Box No. P.O. Box 1049
 City, State, ZIP+4 Columbus, OH 43216-1049

PS Form 3800, January 2001 See Reverse for Instructions



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APR 14 2008



• Sender: Please print your name, address, and ZIP+4 in this box •

U.S. EPA
77 W JACKSON ST
CHICAGO, IL 60604
Attn: Richard Cunningham CR-8



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.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Kathy Jarvis, Manager
Liability Insurance Section
Division of Hazardous Waste
EPA
10. Bay 1049
MEMPHIS, TN 38116 1049

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) DEE WERCHOWSKI B. Date of Delivery 4-10-08
C. Signature X Dee Werchowski Agent Addressee
D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:
RECEIVED
OHIO EPA
APR 10 2008
DIV. OF HAZARDOUS

3. Service Type WASTE MGT.
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7001 0320 0006 0185 5084

In Re John A. Biewer Company of Ohio, Inc.
No. RCRA-05-2008-0007

CERTIFICATE OF SERVICE

I hereby certify that today I filed the original of the **Addendum to Memorandum in Support of Complainant's Motion for Accelerated Decision on Liability and Penalty** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604-3590, with this Certificate of Service.

I further certify that I then caused true and correct copies of the filed documents to be mailed to the following:

Honorable William B. Moran
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Ariel Rios Building, Mailcode: 1900L
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

Douglas A. Donnell
Mika Meyers Beckett & Jones, PLC
900 Monroe Avenue, NW
Grand Rapids, MI 49503-1423

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June 15, 2009



Donald E. Ayres (C-14J)
Paralegal Specialist
77 W. Jackson Blvd.
Chicago, IL 60604
(312) 353-6719