

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF: )

) DOCKET NO. RCRA-05-2008-0006

John A. Biewer Company of Toledo, 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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JUN 15 2009

REGIONAL HEARING CLERK  
USEPA  
REGION 5

**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, P.E.  
Chief, RCRA Branch  
Land and Chemicals Division

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

7001 0220 0000 9000 0185 5084

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



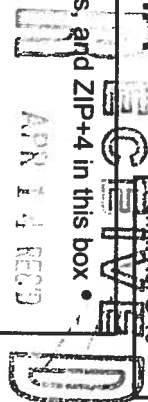
Sent To Harry Sarvis  
 Street, Apt. No. or PO Box No. P.O. Box 1049  
 City, State, ZIP+4 Columbus, OH 43216-1049

PS Form 3800, January 2001 See Reverse for Instructions



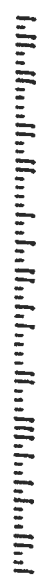
First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

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



U.S. EPA  
77 W. Jackson  
Chicago, IL 60604  
U.S. EPA - REGION 5

Attn: Michael 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:

Heath Carvis, Manager  
Insurance Section  
Division of Hazardous Waste  
EPA  
P.O. Box 1049  
Campus, IL 63216 1049

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly)	B. Date of Delivery
DEE WERCHOWSKI	4-10-08
C. Signature	
X Dee Werchowski	
<input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
D. Is delivery address different from item 1?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If YES, enter delivery address below:	
OHIO EPA	
APR 10 2008	
DIV. OF HAZARDOUS	
3. Service Type WASTE MGT.	
<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
4. Restricted Delivery? (Extra Fee)	
<input type="checkbox"/> Yes	

2. Article Number (Transfer from service label) **7001 0320 0006 0185 5084**

**In Re John A. Biewer Company of Toledo, Inc.**  
**No. RCRA-05-2008-0006**

**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

June 15, 2009

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

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