

June 23, 2009

Mr. Pete Grannis
Commissioner, NYSDEC
625 Broadway
Albany, NY 12233-1011

Re: Cutting Health Impacts from Air Pollution in Tonawanda, NY

Dear Commissioner Grannis:

On behalf of the residents of the 60th Senatorial District, I am writing to request that DEC take several steps to address the health impacts of air pollution near the industrial area that includes the Tonawanda Coke Corporation. I appreciate DEC's ongoing monitoring of air pollution in the neighborhoods near Tonawanda Coke, and the recent intensive inspection that EPA and the DEC performed at the plant. I also was very happy to hear last Friday night's announcement of an agreement to cut emissions from the ammonia still at the plant.

However, according to the Clean Air Coalition's analysis of the DEC's air testing results, 4 chemicals were measured at levels more than 10 times the Annual Guideline Concentration at both the Sheridan Park and Brookside Terrace residential neighborhoods.

These were benzene, acrolein, carbon tetrachloride and formaldehyde

These levels are unacceptable to me and I would like to propose 7 steps for the DEC to take to address them, in addition to the ongoing work the DEC is doing. I request that you examine these steps carefully, and either carry them out or respond to me in writing on why you don't believe they would be helpful.

1. DEC has been regulating Tonawanda Coke under the part 214 air regulations. It appears that DEC would have more power to cut emissions and require better control technology if they regulated Tonawanda Coke under part 212. I request you to begin enforcing part 212 if indeed it will be more effective in cutting emissions, and if that is not the case, to given me a written explanation of why 212 wouldn't be more effective. I am told that DEC's hesitancy to invoke part 212 hinges on the interpretation of whether an "emission source" refers to an individual stack or an entire facility. Those who breathe the air coming from the emission source(s) are essentially impacted the same whether one stack or two are involved. In any case I am also told that different DEC regions interpret this question differently. To be holding back from cutting the relatively large emissions of cancer causing compounds due to a less aggressive interpretation of DEC's authority is not acceptable to me or to area residents.
2. I also ask you to examine whether this facility should still be considered a minor source of Hazardous Air Pollutants (HAPs). Erie Coke, in Erie, Pennsylvania, and Tonawanda Coke are both owned by the same individual. The Pennsylvania Department of Environmental Protection is examining whether Erie Coke is a major Hazardous Air

Pollutant source and they believe they would be able to require significant cuts in emissions with that classification. Given recent testing results, should Tonawanda Coke still be considered a minor source? If they were reclassified would this give the DEC a better handle for regulating pollutants from this site? Tonawanda Coke has applied for a renewal of their permit and it is crucial that an effective regime for cutting their emissions is part of the new permit. We need to know if these 2 regulatory steps could be the key to having an effective permit that cuts pollution.

3. I would like to see more emphasis on the other chemicals of concern for this neighborhood. Formaldehyde showed up at 100 times the Annual Guideline Concentration at Grand Island Boulevard and at more than 30 times the AGC in both residential neighborhoods – Brookside Terrace and Sheridan Park. It is important that the industrial sources of formaldehyde, acrolein and carbon tetrachloride are monitored and reduced, and at the same time an action plan needs to be developed for cutting non-industrial sources such as car and truck exhaust. In that regard, I have been actively working to have the tolls removed from the Grand Island Bridge. I request a letter from DEC detailing the impact that air pollution from traffic at the bridge may be having on local pollution levels, particularly in combination with other industrial pollutants prevalent in the area.
4. In Erie, PA, Erie Coke was fined \$6.1 million in June 2008, based partly on opacity violations and sightings of fugitive emissions moving offsite. I understand DEC has looked for opacity violations at this plant and has found relatively few. I request that DEC document any physical or technical barriers to effectively measuring visual violations at Tonawanda Coke. If there are any, what would it take to remove those barriers?
5. Tonawanda Coke has taken in coal tar waste from the Bethlehem Steel plant and used it in their coke process. Coal tar is reportedly made up of over 10,000 chemicals, many of which are quite nasty. If any more coal tar is proposed to be used on site, I request DEC to establish a protocol to test an adequate number of samples to determine if it is advisable to use batches of coal tar as they are brought on site.
6. I ask that DEC examine the possibility of establishing an “Environmental Benefit Program” for Tonawanda Coke, where fines for violations can be used to rectify the impacts of the violation on the community. Fines could be used to pay for health testing, cleaning up soot in the community, or other benefits identified by the community.
7. Lastly it is my understanding that the EPA and the DEC have different thresholds for the concentration level of a dangerous pollutant that triggers action at a site. Given that DEC’s threshold is more protective of public health, I urge you to use DEC’s standard in Tonawanda, and to bring EPA along to a more protective stance, rather than allowing the EPA standard to hold the DEC back from taking action.

Thank you for your consideration of the issues I have raised in this letter. I look forward to your responses and to DEC's continued efforts to clean up what is widely recognized as one of the most polluted and malodorous areas in Western New York.

Sincerely,

Antoine M. Thompson
New York State Senate, 60th District

AMT/wmn

Cc: Ms. Jackie James Creedon, Clean Air Coalition
Mr. J. D. Crane, Owner & CEO, Tonawanda Coke
Ms. Abby Snyder, Region 9 Director, NYSDEC
Ms. Michele M. Iannello, Erie County Legislator
Mr. Anthony Caruana, Supervisor, Town of Tonawanda
Mr. Ronald J. Pilozzi, Mayor, City of Tonawanda

Other addresses on Paterson Tonawanda Air letter

Ms. Abby Snyder
DEC Director, Region 9
270 Michigan Avenue
Buffalo, NY 14203