



ORGANIZING *for* HEALTH and JUSTICE

May 25, 2017

Dear Commissioner Seggos,

The New York State Department of Environmental Conservation (NYSDEC) is proposing an expedited cleanup for the Tonawanda Coke site located at 3875 River Road, Tonawanda. While our organization is in favor of remediation of toxic sites, and appreciates the NYSDEC's prioritization of this site, we have significant concerns regarding the public process of this proposal, how the remediation will be monitored, and what type of oversight NYSDEC will provide to ensure the public's quality of life and health is protected during the remediation.

The draft work plan describes the proposed cleanup activities for a portion of the site located between River Road and the Niagara River. These activities include excavation and removal of coal tar and other hazardous materials. Tonawanda Coke Corporation (TCC) has proposed to recycle the removed coal tar and certain coal tar impacted material by incorporating the materials into their existing coking operations. While Clean Air is encouraged that the NYSDEC is acting to remediate a hazardous site, we have concerns regarding the monitoring and oversight of the company adding hazardous waste to their coking process, the potential health and safety risk to workers digging the material up and disposing it in the coke ovens, the potential impact to residents living near the site, and overall lack of community notification and clarity regarding the details of this cleanup. Part of our concern is based on the experience a few years ago, when similar wastes from Bethlehem Steel were trucked in and incorporated into TCC's coking operations, resulting in reports of higher emission levels, and dark smoke coming from the plant, from residents living near TCC.

Clean Air is a membership-based nonprofit organization whose members live and work primarily in the Town and City of Tonawanda, Grand Island and the City of Buffalo. Clean Air works to pass and enforce policies that protect public health and the environment in our region.

Tonawanda, where the Tonawanda Coke facility is located, is home to the highest concentration of major industrial facilities in New York State, with over 50 air-permitted facilities inside a three-mile radius. In 2013, the New York State Department of Health (DOH) released the Tonawanda Community Health Study. The DOH study found elevated levels of certain cancers, including leukemia, pre-term births and heart defects in newborn children in the neighborhoods near the Tonawanda Coke facility.

Tonawanda Coke has a long history of breaking the law, which affects the lives of workers and residents living near the plant. In 2013 Tonawanda Coke was found guilty in criminal court of breaking 14 federal laws under the Clean Air Act and the Resource Conservation and Recovery Act. Mark Kamholz, the environmental control manager, was found guilty on the same counts and an additional count of obstruction of justice. The company was sentenced to \$12.4 million in fines for criminal violations plus a \$12 million civil settlement, and the environmental control manager was sentenced to a year and a day in prison.



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In 2016 the US Department of Labor's Occupational Safety and Health Administration (USOSHA) levied fines against the company for being found at fault for the death of Richard Wade, a 60 year old employee after he was pulled into the rotating shaft of a coal elevator. This was not the first time the company faced workplace violations. In 2014 the company faced fines from USOSHA following an explosion that occurred and exposed employees to asphyxiation from the release of coke oven gas. USOSHA found that the company failed to inspect and maintain proper safety systems.

The Tonawanda Coke facility is located in an environmental justice area. The health impacts of hazardous air pollutants emitted in this area, not only by the Tonawanda Coke facility, but by others in the area, are documented. Due to the long track record of the company, we request that the NYSDEC:

- Delay the expedited clean up until public comment process is initiated, including a public meeting where residents' questions and concerns can be addressed.
- Release specifics to the public of the plan, including details on how the company is required to demonstrate compliance regarding remediation, how the NYSDEC will be monitoring the levels of volatile organic compounds (VOCs) and other chemicals released into the air during the remediation process, and a complete timeline on when the work will begin, end, and how the project will be evaluated throughout. As discussed in more detail below, there are serious technical questions and uncertainties that need to be resolved and explained to the public beforehand. The project should not go forward without a good understanding of the expected emissions and how any excessive emissions would be detected and promptly brought into compliance.
- A NYSDEC inspector be onsite at all times when hazardous materials are being processed in the coke ovens.
- Currently Coal Tar and other hazardous materials that are targeted for remediation are classified as raw materials under this measure. We request the materials be classified as hazardous waste, and managed appropriately.

One of the major technical concerns is that coking is an oxygen-limited process which does not provide suitable conditions for burning or combustion of coal tar. On the contrary, the coking process *produces* coal tar and other byproducts by destructive distillation of the raw material, primarily coal, with which the ovens are charged. Putting waste coal tar into the charge, as proposed, will simply add to the normal amount of coal tar that is driven off the coal during coking. The likely result will be higher-than-usual concentrations of coal tar in the offgas stream, which in turn is likely to make pollution control more difficult than usual, resulting in unacceptably high exposures to nearby residents. How would TCC and NYSDEC adjust the oxygen-limited process to achieve a different outcome, and how would NYSDEC be able to detect and correct any deviations from the intended process?



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Another concern involves the soil materials such as sand, clay, etc., that are intermixed with the waste coal tar. Such materials may result in interference in the coke oven door seals, allowing a direct release of hazardous materials into the atmosphere without passing through pollution control equipment. Leakage from coke-oven doors is a well-known problem that is difficult to control under the best of circumstances, and it should not be aggravated by introducing a poorly characterized mix of soil materials that can interfere with the door seals. How would TCC and NYSDEC avoid this problem, and how could any deviations be promptly detected and corrected?

We appreciate your cooperation in addressing these issues and requests, and look forward to working with your office to ensure these concerns are addressed. We look forward to hearing from your office soon.

Sincerely,

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