

Benjamin McPherson
New York State Department of Environmental Conservation
270 Michigan Ave.,
Buffalo, NY 14203

Re: Clean Air Coalition of Western New York Comments on 3821 River Road site ID #C915003

Dear Mr McPherson,

Please accept the following comments submitted on behalf of Clean Air Coalition of Western New York and our Membership for the Brownfield Cleanup Program Application and the Remedial Investigation Work Plan submitted by Inventum on behalf of 3398 River Road Inc. Please add chris@cacwny.org and info@cacwny.org to the contact list for this site.

1. Community Impact and Area History

Clean Air Coalition of Western New York (Clean Air) is a non-profit membership organization that builds power by developing grassroots leaders who organize their communities to run and win environmental justice and public health campaigns in Western New York. Over 10 years ago our members, many who lived with cancers such as leukemia, lung cancer and other rare respiratory illnesses, organized to hold Tonawanda Coke accountable for environmental violations that put their health at risk.

The media coverage and public pressure generated by Clean Air members resulted in a December 2009, raid of Tonawanda Coke by the U.S. Department of Justice, the U.S. EPA, NYS DEC and U.S. Coast Guard. Less than a week later Mark Kamholz, Tonawanda Coke's Environmental Control Manager was arrested. Our member's advocacy resulted in an EPA enforcement action and criminal trial. Tonawanda Coke was found guilty in March 2013 of breaking 14 federal laws under the Clean Air Act and the Resource Conservation and Recovery Act. Mark Kamholz was found guilty on the same counts and an additional count of obstruction of justice.

Since the EPA's enforcement action, there was a reported 92% reduction in benzene from the continuous air monitor at Grand Island Blvd. and a 68% reduction at the air monitor on Brookside Terrace. The company was fined \$12.5 million in fines, 5 years of probation, and to pay nearly \$12 million for future health and environmental studies. Mark Kamholz was sentenced to 1 year and 1 day in prison, and a \$20,000 fine and a supervised release after serving the term.

In May 2018, Clean Air was notified that a waste heat tunnel at Tonawanda Coke collapsed, and publicly called on the DEC and EPA to examine potential toxic emissions being released into the surrounding community. Clean Air members documented black smoke coming from the facility, and submitted hundreds of complaints to the DEC and EPA which drew further attention to the

gravity of the situation. In July 2018, DEC and EPA inspections at Tonawanda Coke revealed 176 violations of environmental regulations, and a cease and desist letter was issued.

When court proceedings began in September 2018, Clean Air members filled the court chambers for 2 weeks. The U.S. Court ruled the company was in violation of their probation after hearing the U.S. Government referencing many instances where the company violated the probation order, including numerous compliance issues brought forth by the NYS DEC and the U.S. EPA; specifically citing daily opacity violations, an inspection revealing a giant hole in the company's ammonia tank resulting in a chemical leak, and structural damage at the facility.

In October 2018, Tonawanda Coke revealed that it would close and reorganize under Chapter 11 bankruptcy. Members immediately began calling for a worker transition plan, and for a site classification for the full property. Between October 2018 and March 2020, the U.S. Environmental Protection Agency conducted emergency response activities to remove gases from pipes and tanks, treat wastewater, and manage stormwater.

At the request of Clean Air members, in July of 2020, the Erie County Legislature unanimously approved a resolution introduced by Legislator Hardwick and Legislator Chimera that proclaimed the County's support for the establishment of a Community Advisory Group for the Brownfield Cleanup led by RITC along with the associated Superfund sites 108, 110, and 109. The group known currently as the Tonawanda Coke Working Group (TCWG) has been meeting regularly and is attended by Clean Air Staff and members. Staff share updates learned in the group to our broader community.

Clean Air is disappointed that there was no mention of the potential BCP Application pending submission for 3821 River Road Site in any of the previous TWGM meetings or when Clean Air Staff and Board members were on site for a tour on October 26, 2022 and no mention of the pending submissions were made. This site's close proximity and association with the former Tonawanda Coke Company makes it an important topic to brief the TCWG on to ensure appropriate time to gather community input on an application of this nature. In a spirit of transparency, we would suggest that the group is kept abreast of new developments that are closely linked to the larger RITC complex.

2. General Comments

1. Why did NYSDEC allow the comment of a Work Plan for the site prior to the approval of the Brownfield Cleanup Program (BCP) Application?

We believe that NYSDEC should review public comments and accept the site into the BCP prior to releasing the Work Plan for Public Comment.

2. Why wasn't an ASTM compliant Phase I ESA finished and submitted prior to the development of the Work Plan?

We recognize that specific work completed on previously identified AOCs. Short of site reconnaissance, interviews and certain other restrictions, Clean Air intends to submit an ASTM

E1527 Phase I Environmental Site Assessment (ESA) that will formally identify additional information and data gaps. Clean Air requests that NYSDEC follow its public comment guidance regarding the approval of the BCP application prior to the release of the Work Plan for public comment. Clean Air further requests that DEC review site-specific comments provided below, as well as additional comments that may follow once the ESA has been completed and the Work Plan has been released for Public Comment.

3. We understand that Interim Remedial Measures are a necessary approach to the management of complex sites. However, at the Tonawanda Coke site, we continue to experience, through the Tonawanda Community Working Group, the issue of having no visibility on or ability to comment on the conduct of such measures. This includes dozens of NYSDEC-approved IRMs and some supplemental work plans. A number of IRMs are already anticipated at this site.

TCWG should develop a mechanism for the sharing and review of IRM work plans to invite public comment in some way prior to their approval.

3. Interim Work Plan Specific Comments

Although not technically required by the BCP Applicant, the industry standard approach to site characterization using the ASTM Standard allows for the systematic discovery of site history and the specification of Recognized Environmental Conditions. Specific comments are provided below:

1. Clean Air has performed a cursory review of the documents contained in the NYSDEC InfoLocator system, however, other important documents are missing from the file. For instance, the Parsons 2017 study could not locate boring logs for Wells MW-01 through MW-08. In addition, the following documents could not be located:

CRA. 1997. Remedial Investigation Summary Report Tonawanda Coke Corporation. Conestoga-Rovers and Associates, May 1997.

CRA. 2008. Final Supplemental Report, Revision 1 and Feasibility Study, Tonawanda Coke Corporation. ConestogaRovers and Associates, January 2008.

O'Brien and Gere, 2002. Additional Investigation/IRM Activities – Former Allied Specialty Chemical Site, Tonawanda, New York, February 2002.

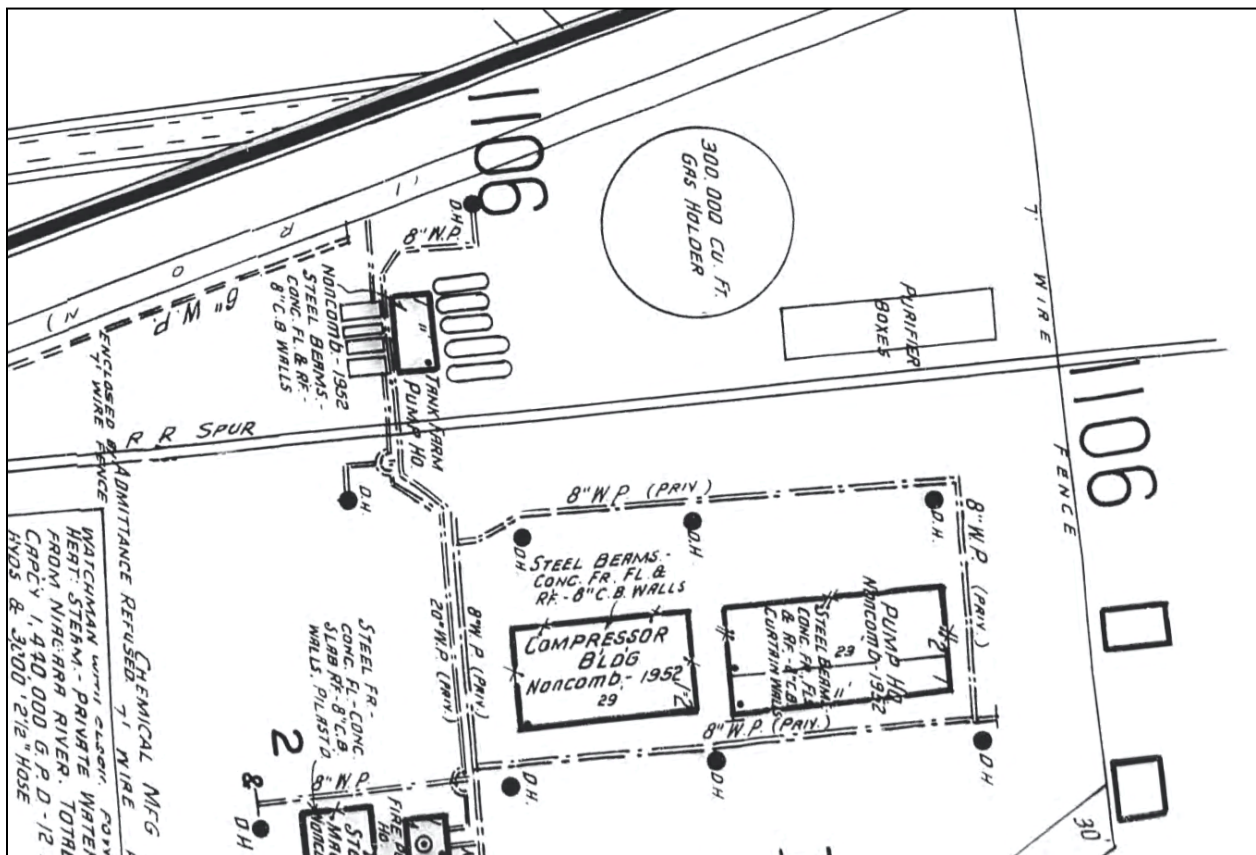
Clean Air requests that these documents be provided for review prior to Public Comment on the BCP Work Plan.

2. Site operations should consider the processing of byproducts from coal gas generated at Tonawanda Coke.

The EDR Radius Report indicates that the RCRA reported NAICS for the location as 325211 Plastics Material and Resin Manufacturing. A May 1947 article on the future of the plastics

industry in the journal Scientific American discussed the source materials for plastics. The article reports “ The greatest sources are the coal tars and light oils that are hydrocarbon by-products of the coking process. As reported in the nygeology 2020 TCC Phase I ESA, the "light oil" byproduct stored in large tanks and shipped off-site as a chemical product by rail consisted of such benzol, with at least 77% benzene, toluene, ethylbenzene and xylene. Merriam-Webster also defines cresylic acid as a mixture of phenols, such as cresols and xylenols, obtained from coal tar, a main product of coking operations and defines xylenols as any of six crystalline isomeric phenols C₈H₁₀O or a mixture of them derived from the xylenes found in coal tar and used in the manufacture of phenolic resins.

Specifically, the 2020 nygeology Phase 1 for the Tonawanda Coke BCP Site contains a Sanborn Map clearly showing the presence of a Gas Holder in the Northeast corner of the Allied parcel. Further the map shows the presence of Gas Purifier Boxes and a Tank Farm adjacent to the Gas Holder. Gas purification is known to generate Cyanide waste products, which have been detected at the Site, however, no Cyanide sampling has been conducted at the location of the former Gas Purification Boxes.



The above Sanborn map of the north portion of the 3821 River Road BCP Application Site clearly shows a tank farm, a 300,000 cubic foot gas holder, and gas purifier boxes.

Further, the 2022 BCP Work Plan (pdf Page 58/147) Figure 2 shows a building 20 labeled Coke Building, suggesting that off-gassing from the nearby coking operations was the source of the byproducts received in the coke building, further suggesting that the complete range of

by-products generated would be similar to Tonawanda coke operations, including wastes later listed as hazardous such as the seven K-listed wastes. In the same figure, location 16 is labeled as "Allied Pumphouse Product Pumping." For many years following the construction of the Site, these tanks were likely used to store benzol-type "light oil" byproducts and have not been investigated. Ethylene Tanks to the south in the Central area of the site that would likely be used for latter manufacturing, appear later in the site history, somewhat consistent with the disappearance of the light oil tanks at the Tonawanda Coke site. This is substantiated by the RCRA waste listing referring to still bottoms as further presented below.

These areas need to be specifically investigated for the release of petroleum and other hazardous substances.

3. A 1936 US Government document shows plastic chemistry product raw materials that included Fufural, a derivative of Furan, leading into the period of construction of the Site.

Some sampling for Dioxins and Furans should be added to the sample analysis in historic areas and in monitoring wells.

4. Why wasn't the information in the EDR radius Report presented by the applicant in historic fashion in the work plan presented as it would have been if a proper ESA had been conducted?

A review of the information contained in the EDR report discussed various cleanup actions taken under RCRA and under the supervision of NYSDEC revealed the site was listed as a RCRA storage facility on June 12, 2000 and reported the following wastes:

Waste Code: D001 IGNITABLE WASTE
Waste Code: D002 CORROSIVE WASTE
Waste Code: D003 REACTIVE WASTE

Waste Description:

THE FOLLOWING SPENT NON HALOGENATED SOLVENTS:

- XYLENE, ACETONE, ETHYL ACETATE, ETHYL BENZENE, ETHYL ETHER, METHYL ISOBUTYL KETONE, N-BUTYL ALCOHOL, CYCLOHEXANONE, AND METHANOL
- ALL SPENT SOLVENT MIXTURES/BLENDS CONTAINING, BEFORE USE, ONLY THE ABOVE SPENT NONHALOGENATED SOLVENTS
- ALL SPENT SOLVENT MIXTURES/BLENDS CONTAINING, BEFORE USE, ONE OR MORE OF THE ABOVE NONHALOGENATED SOLVENTS, AND A TOTAL OF TEN PERCENT OR MORE (BY VOLUME) OF ONE OR MORE OF THOSE SOLVENTS LISTED IN F001, F002, F004, AND F005

- STILL BOTTOMS FROM THE RECOVERY OF THESE SPENT SOLVENTS AND SPENT SOLVENT MIXTURES.
- SPENT NONHALOGENATED SOLVENTS: TOLUENE, METHYL ETHYL KETONE, CARBON DISULFIDE, ISOBUTANOL, PYRIDINE, BENZENE, 2-ETHOXYETHANOL, AND 2-NITROPROPANE
- ALL SPENT SOLVENT MIXTURES/BLENDS CONTAINING, BEFORE USE, A TOTAL OF TEN PERCENT OR MORE (BY VOLUME) OF ONE OR MORE OF THE ABOVE NONHALOGENATED SOLVENTS OR THOSE SOLVENTS LISTED IN F001, F002, OR F004
- STILL BOTTOMS FROM THE RECOVERY OF THESE SPENT SOLVENTS AND SPENT SOLVENT MIXTURES.

The following P- and U- listed wastes were also included:

Waste Code	Waste Description
P005	2-PROPEN-1-OL (OR) ALLYL ALCOHOL
P022	CARBON DISULFIDE
P028	BENZENE, (CHLOROMETHYL)- (OR) BENZYL CHLORIDE
P098	POTASSIUM CYANIDE (OR) POTASSIUM CYANIDE K(CN)
P105	SODIUM AZIDE
P106	SODIUM CYANIDE (OR) SODIUM CYANIDE NA(CN)
U002	2-PROPANONE (I) (OR) ACETONE (I)
U003	ACETONITRILE (I,T)
U008	2-PROPENOIC ACID (I) (OR) ACRYLIC ACID (I)
U012	ANILINE (I,T) (OR) BENZENAMINE (I,T)
U019	BENZENE (I,T)
U029	METHANE, BROMO- (OR) METHYL BROMIDE
U031	1-BUTANOL (I) (OR) N-BUTYL ALCOHOL (I)
U037	BENZENE, CHLORO- (OR) CHLOROBENZENE

U044	CHLOROFORM (OR) METHANE, TRICHLORO-
U052	CRESOL (CRESYLIC ACID) (OR) PHENOL, METHYL-
U055	BENZENE, (1-METHYLETHYL)- (I) (OR) CUMENE (I)
U056	BENZENE, HEXAHYDRO- (I) (OR) CYCLOHEXANE (I)
U057	CYCLOHEXANONE (I)
U069	1,2-BENZENEDICARBOXYLIC ACID, DIBUTYL ESTER (OR) DIBUTYL PHTHALATE
U091	[1,1'-BIPHENYL]-4,4'-DIAMINE, 3,3'-DIMETHOXY- (OR) 3,3'-DIMETHOXYBENZIDINE
U108	1,4-DIETHYLENEOXIDE (OR) 1,4-DIOXANE
U123	FORMIC ACID (C,T)
U132	HEXACHLOROPHENE (OR) PHENOL, 2,2'-METHYLENEBIS[3,4,6-TRICHLORO-
U134	HYDROFLUORIC ACID (C,T) (OR) HYDROGEN FLUORIDE (C,T)
U140	1-PROPANOL, 2-METHYL- (I,T) (OR) ISOBUTYL ALCOHOL (I,T)
U144	ACETIC ACID, LEAD(2+) SALT (OR) LEAD ACETATE
U151	MERCURY
U154	METHANOL (I) (OR) METHYL ALCOHOL (I)
U165	NAPHTHALENE
U169	BENZENE, NITRO- (OR) NITROBENZENE (I,T)
U171	2-NITROPROPANE (I,T) (OR) PROPANE, 2-NITRO- (I,T)
U188	PHENOL
U196	PYRIDINE
U210	ETHENE, TETRACHLORO- (OR) TETRACHLOROETHYLENE
U211	CARBON TETRACHLORIDE (OR) METHANE, TETRACHLORO-

U220	BENZENE, METHYL- (OR) TOLUENE
U239	BENZENE, DIMETHYL- (I,T) (OR) XYLENE (I)

Sampling and analysis at the site should be checked to be sure that any of these compounds contained in NYSDEC cleanup guidance have been addressed in the BCP Work Plan.

5. Given the density of well nests on the western border of the property south of MW-12R and the proposed well nest at MW-PBCP-05ABC in the north corner of the property indicates that at least one other well nest should be installed in this area.

6. Unusually, no spills were reported to have occurred at the Site, However, work on the nygeology Tonawanda Coke ESA revealed that NYSDEC kept no spill records prior to the late 1970s, and, that dozens of spills were reported at that site beginning in the mid-1990s, suggesting that spills may have been rampant during the time operations were conducted at this Site.

At least some sampling and analysis in high traffic areas should be conducted for Volatile and Semi-volatile organics sampling to consider the likelihood of undocumented spills.

7. Vapor Encroachment was considered by Parsons to be of possible concern in the future. It does not appear that such an analysis has yet been conducted.

Include an ASTM 2600-15 Vapor Encroachment Screen into the BCP Work Plan.

Sincerely

Chris Murawski
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