



## ORGANIZING *for* HEALTH *and* JUSTICE

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Dear Mr. McPherson and Ms. Martin,

The Clean Air Coalition of WNY respectfully submits the following comments regarding the Remedy Proposed for Brownfield Site Contamination at Site C915353, a portion of what is also known as the former Tonawanda Coke site located at 3875 River Road in the Town of Tonawanda and currently under remediation by Riverview Innovation & Technology Campus (RITC.) In addition to this letter, our Board Chair Jim Jones, P.E. as well as Thomas Morahan P.G. are also submitting related comments.

Our key concerns with the proposed remedy are as follows -

### GREENHOUSE GAS EMISSION ANALYSIS

We appreciate that the analysis completed by Inventum includes potential Greenhouse Gas emissions and impacts. However, we would like to urge further analysis for methods outside of traditional diesel trucking for removal of materials - for example, unless the rail spurs were removed at some point during the ongoing removal of contaminated materials, the site should retain a rail spur, which could be used for materials removal, greatly reducing potential greenhouse gas emissions.



## ORGANIZING *for* HEALTH *and* JUSTICE

Similarly, Viridi Parente USA, a Buffalo manufacturer which shares leadership with RITC, builds lithium ion battery systems for construction equipment<sup>1</sup>. This remediation project would seem to us to be an ideal showcase project for the use of some of this equipment, which would not only reduce the GHG emissions from the site, but also a way to show off what it is capable of.

On the topic of air emissions, we also wish to flag that Heritage Thermal Systems in East Liverpool, Ohio, a vendor that has been used for incinerating some of the hazardous waste materials from former Tonawanda Coke sites, is very problematic in nature, and has been linked to environmental injustices in the Ohio River Valley<sup>2</sup>. We urge NYS DEC, Inventum and other remediation parties to steer away from this vendor in the future to not perpetuate environmental injustices in other disadvantaged communities.

### GROUNDWATER AND STORMWATER MANAGEMENT

We have numerous questions and concerns about plans for groundwater and stormwater management with the preferred Alternative. For a detailed analysis, please see Technical Memorandum prepared on our behalf by Thomas J. Morahan, P.G. which will be submitted separately from this letter.

Far more information and analysis are needed for the retention or “bioretention” basin in the northwest portion of the site. Nothing in the draft Alternatives Analysis Report explains how it’s supposed to work in preventing contamination migration, or who will own and maintain the basin and be responsible for its performance.

Is the basin intended to be pumped out and treated periodically, or is it designed to be self-discharging during or immediately after storms? If it’s truly a retention basin, does it hold all the water it receives until its contents have been tested and determined to be acceptable for release to waters of the U.S.? Alternatively, if it’s a detention basin, does it have a drain at the bottom that automatically releases the water at a slow rate without any testing for contaminants?

Part of what’s needed, but not yet provided in the alternatives analysis, is a series of water budgets for the basin. These should cover several different rainfall rates, including a 100-year or larger storm as currently defined (NOAA Atlas 14) and as enhanced by climate change.

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<sup>1</sup> <https://viridiparente.com/buffalo-startup-raises-100-million-for-green-idea-plug-in-excavators/>

<sup>2</sup> <https://www.nbcnews.com/news/us-news/ohio-derailment-waste-prompts-health-concerns-far-away-rcna72987>



## ORGANIZING *for* HEALTH *and* JUSTICE

The purpose of the basin is evidently to catch contamination carried by surface water, and perhaps groundwater as well, during storm events. Note 2 in Fig. 7-12 (p. 179) of the draft Alternatives Analysis Report says “The stormwater retention basin will receive runoff from the majority of the site after the capping and cover systems are in place.” Some of the other Figures show the flow pathways that are intended to carry surface runoff to the basin.

For groundwater, the depth of the basin (<580 feet as shown in Fig. 7-12) will intercept some of the groundwater horizons that are shown in Figs. 2-6 through 2-9. Existing groundwater flow directions at these horizons are generally from the North Rail and Production Area toward the basin (i.e., generally westward). These flow directions are indicated by the groundwater contours in Figs. 2-6 through 2-9, combined with the fact that flow direction is generally perpendicular to groundwater contours.

When the basin was discussed at the June 25th public meeting in Kenmore, one of the answers offered by a knowledgeable audience member was “MS4,” meaning a municipal separate storm sewer system. MS4s are generally municipally owned -- so would the town become the owner of the basin and be responsible for the quality of the water it discharges?

In addition to addressing this specific question, the alternatives analysis needs to recognize that water management at the site involves not only stormwater management but also management of waterborne contamination. Future site use will require a Stormwater Pollution Prevention Plan (SWPPP) which will be complicated by this contamination management and the inconsistencies arising from impervious surfaces and stormwater flow paths. Please also see our comments further in this letter concerning Long Term Site Management.

We are also very concerned overall that the proposed Alternative does not fully account for the increased precipitation our regions predicted to receive over the next 50 years due to climate change, or even known and documented historic events. In September 1996, the Town of Tonawanda received 7” of rain within 24 hours<sup>3</sup>, and more recently, in July 2021, 3.5” of rain fell within 24 hours<sup>4</sup>. The NYS Climate Impacts

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<sup>3</sup> [https://buffalonews.com/news/article\\_16e0a9ae-14a1-572c-ab8b-feccec36d7ee6.html](https://buffalonews.com/news/article_16e0a9ae-14a1-572c-ab8b-feccec36d7ee6.html)

<sup>4</sup>

[buffalonews.com/news/local/road-flooding-subsides-after-deluge-dumps-4-inches-of-rain-on-region/article\\_d5981d0c-e801-11eb-9cd9-0f01e75a62ba.html](https://buffalonews.com/news/local/road-flooding-subsides-after-deluge-dumps-4-inches-of-rain-on-region/article_d5981d0c-e801-11eb-9cd9-0f01e75a62ba.html)



## ORGANIZING *for* HEALTH *and* JUSTICE

Assessment projects that the Great Lakes region of NY will see an annual increase in precipitation by 29% by 2080. <sup>5,6</sup>

This projected increase in annual precipitation further complicates stormwater management, raising concerns of overtopping of the proposed retention/detention pond and other related concerns. More troublingly, it will also cause the groundwater table to rise, which risks complications for proposed in-place treatment of contaminants, possibly even risking spreading of contaminants through the groundwater in the near future. The NYSCIA references a very similar issue regarding the American Axle site in the City of Buffalo, which has a major municipal combined stormwater pipe running underground<sup>7</sup>. We urge further analysis that examines this issue of a rising groundwater table and its potential impacts on the proposed remedy, with proposed strategies to address this concern.

### LONG TERM SITE MANAGEMENT

Our greatest concerns regard the long term management of the site. 3875 River Road went through numerous site owners before Tonawanda Coke ultimately purchased the site, and every one of these developers added additional contaminants that we are now dealing with. To prevent similar issues for future generations, we need a plan that will serve to provide sufficient oversight not only of the existing site developer but for any future ones as well.

As such, we strongly recommend that NYSDEC require annual unannounced site inspections to ensure that all institutional and engineering controls set in the selected method are being followed, and at least annual reporting on data such as groundwater monitoring, paid for by the site owner of 3875 River Road.

We also urge binding contracts that will ensure that any future financial implications from a change to or bankruptcy of site ownership does not mean NYS or local municipalities like the Town of Tonawanda or Erie County are left footing the bill for site maintenance and management, and, in an instance such as site owner bankruptcy, that Honeywell or other Potentially Responsible Parties instead are linked to those future costs. This is especially true for groundwater and stormwater management and treatment costs and logistics, including any contamination

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<sup>5</sup> <https://nysclimateimpacts.org/explore-the-assessment/new-york-states-changing-climate/nysc-precipitation/>

<sup>6</sup> <https://nysclimateimpacts.org/explore-by-region/the-great-lakes-region/>

<sup>7</sup> <https://nysclimateimpacts.org/explore-the-assessment/case-studies/adaptation-and-equitable-site-remediation/>



## ORGANIZING *for* HEALTH *and* JUSTICE

stemming from the site that might escape and be detected outside the site's boundaries.

Clean Air has also been urging a new Environmental Justice overlay for residential areas adjacent to the River Road industrial corridor - while our focus on this topic is primarily aimed at the Town of Tonawanda, there are some ideas from this proposal that could be voluntarily opted in by RITC's site management team. For example, RITC could opt into a higher standard for public notices, such as paying for postcards to area residents, or stronger communications with area residents about plans for industrial emergencies like fires.

### FURTHER CONCERNS

While this is partially outside of the scope of this discussion, we additionally wish to add that one of the future proposed uses of the site that we have heard from the developer is as an Industrial Data Center. We strongly feel that this is not the highest and best use of the site, and would in fact create new issues of environmental injustice. While this Industrial use would be consistent with the Town's current zoning, the redevelopment of the land for industrial use does not respect the long-term value of the waterfront, and we encourage the developer to seek a higher remediation standard and better use of the site. At the very least, we urge a widening of the proposed Buffer Zone, where an unrestricted use level of remediation is planned. We would also appreciate a clearer explanation for how the current proposed boundaries for this buffer zone were selected.

Even if the site does remain industrial in nature, a Data Center is of much less benefit to the public than other industrial uses, such as a large scale solar farm, which would also allow for reuse of the existing power infrastructure in this corridor from the former Huntley Power facility, and would add to the employment and taxbase for the Town. The residents who live adjacent to the former Tonawanda Coke site would also be much less impacted by a relatively passive project like a solar farm as opposed to a Data Center, which at the very least would generate significant noise pollution and could cause grid instability due to the related high power consumption. Along the same thread, if GHG emission reduction is a goal of the remediation of this site, it would be a terrible shame to see that work undone by a non-productive high energy use such as cryptocurrency mining (a common use for data centers), gobbling up the limited grid power generated by renewable sources, forcing us to continue to use fossil fuels to make up the difference.



## ORGANIZING *for* HEALTH *and* JUSTICE

We also wish to voice our objection to the excessive use of Interim Remedial Measures to date - over 40 Interim Remedial Measures conducted during the course of the investigation. While we understand the reality of the need to use IRMs in decommissioning a site as complex as Tonawanda Coke, we believe the practice of using many IRMs as a part of a final remedy should be discouraged as a general practice mainly because the investigators failed to properly characterize the site prior to the design of the investigation as presented in the 2020 New York State Professional Geological Services Phase I Environmental Site Assessment of Tonawanda Coke and Related Parcels and the 2020 Clean Air Coalition of Western New York Tonawanda Coke Remedial Investigation Work Plan Comments.

We also wish to voice to NYS DEC staff that in the future the practice of splitting a complex manufacturing facility into distinct parcels subject to different enforcement regimes should be discouraged. This practice blatantly provides the BCP applicant with tax credits when the remediation is clearly being funded by the responsible party means that the responsible party is the entity who is getting the tax break.

**In summation, based on our concerns and from the feedback we have received from our members and from the general public of the Town of Tonawanda, we recommend pursuing Alternative Eight, or to take as many steps as feasible to achieve Unrestricted Use clean up standard for, at a minimum, the majority of the parcel.**

Respectfully submitted,

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