

Federal and State Governments Reach Legal Agreement with Tonawanda Coke to Reduce Pollution; Company to Pay \$12 million to Address Violations of Environmental Laws

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(New York, N.Y.) Under a \$12 million settlement with the United States and the state of New York, Tonawanda Coke Corporation will pay \$2.75 million in civil penalties, spend approximately \$7.9 million to reduce air pollution and enhance air and water quality, and spend an additional \$1.3 million for environmental projects in the area of Tonawanda, New York. The agreement was announced jointly by U.S. Environmental Protection Agency Regional Administrator Judith A. Enck, U.S. Assistant Attorney General John C. Cruden, New York State Department of Environmental Conservation (NYSDEC) Commissioner Joseph Martens and New York State Attorney General Eric T. Schneiderman.

Under the consent decree lodged today in federal court in the Western District of New York, Tonawanda Coke must improve its processes, operations and monitoring for coke oven gas leaks, assess key equipment, repair or replace equipment, install new pollution controls, and take many additional measures under a prescribed schedule. This work, estimated to cost approximately \$7.9 million, will secure significant reductions of benzene, ammonia and particulate matter emissions from the plant, improving air quality in Tonawanda and protecting public health. Benzene is a carcinogen.

The settlement also requires Tonawanda Coke to pay a \$1.75 million civil penalty to the United States to resolve violations of the Clean Air Act, the Clean Water Act, and the Emergency Planning and Community Right-to-know Act, and pay a \$1 million civil penalty to the State of New York, which is a co-plaintiff with the United States. In addition to the state penalty, Tonawanda Coke will pay another \$1 million to fund projects that will benefit the environment and the residents of Tonawanda. Additionally, \$357,000 will be provided to Ducks Unlimited, a not for profit organization, to acquire and preserve wetlands. In addition to protecting and enhancing water quality, wetlands reduce flooding, filter pollutants, and provide habitat for fish and wildlife.

"Tonawanda Coke has been an environmental outlaw for too long," said Judith Enck, EPA Regional Administrator. "Today's legal settlement will provide greater public health protections for the people of Western New York. I particularly want to thank the residents of Tonawanda, their elected officials, the Clean Air Coalition of Western New York and the Citizen Science Community Resources who all shined a spotlight on these pollution problems. The community did their own air toxic monitoring, which revealed high levels of pollution. This fine example of citizen science spurred government action to protect the community."

"The community that is home to the Tonawanda facility is finally receiving the protections it deserves

from its neighbor," said John C. Cruden, Assistant Attorney General for the Environment and Natural Resources Division. "This settlement holds Tonawanda accountable for its numerous violations of federal and state environmental laws, and requires measures to achieve significant reductions in air and water pollution that will benefit Tonawanda residents for years to come."

"I would like to acknowledge the good work done by everyone involved in this joint state and federal enforcement action that has resulted in significant operational changes at the Tonawanda Coke facility, and will continue to improve the air quality in the Tonawanda community," said DEC Commissioner Joe Martens. "Importantly, a portion of the civil penalty assessed under the Consent Decree will be used fund environmental benefit projects that will further improve public health and the environment in Tonawanda."

"For years, Tonawanda Coke recklessly ignored clean air, clean water, and community right laws," Attorney General Schneiderman said. "In doing so, the company ignored both its legal responsibilities, and its responsibilities to the health and safety of the residents of the surrounding communities. With this settlement -- which requires the company to clean up its operations, and pay New York \$2 million for penalties and local environment improvement projects -- we are holding Tonawanda Coke accountable for its actions."

Clean Air Act Violations

The company's violations of the Clean Air Act resulted in releases of coke oven gas, which contains benzene and other harmful chemicals. Tonawanda failed to install air pollution controls on its coke ovens, failed to properly monitor equipment for coke oven gas leaks, failed to conduct required annual maintenance inspections of emission controls and proper operations and maintenance, and failed to complete multiple required reports among other violations. Exposure to benzene and other hazardous air pollutants found in coke oven gas can significantly harm human health, and excessive exposure to benzene is a known cause of cancer.

Under the terms of the settlement, Tonawanda Coke is currently installing coke oven battery pollution controls to limit coke oven gas emissions from the battery. These controls are known as "pushing controls," and are estimated to reduce particulate matter by up to 162 tons per year once fully operational.

Among the other actions that Tonawanda Coke is required to take are:

- Repair or replace equipment in the by-products area
- Install and operate pushing controls at the coke oven battery by the end of 2015
- Install a continuous monitoring system on the battery stack
- Comply with the particulate emission limits at the bag house stack
- Improve coke battery work practices, operations and maintenance
- Expand and improve the facility's leak detection and repair program
- Adopt a plan to control dust that is generated by its operations at the facility and reduce particulate emissions.
- Undergo a comprehensive evaluation by a third-party to assess its furnace coke production, coke oven walls and other key elements.

In addition, TCC will conduct additional auditing of its operations to implement necessary and appropriate changes that may arise from the third party audit.

Clean Water Act Violations

Tonawanda Coke's Clean Water Act violations include discharging wastewater and other prohibited pollutants in its stormwater discharges to the Niagara River, discharging excessive amounts of cyanide, ammonia and naphthalene in its process wastewater, and allowing process water holding tanks to decay, pipes to leak, and spill containment structures to become ineffective. Tonawanda Coke's illegal discharges and other Clean Water Act violations threatened human health and the ecology and economy of the Niagara River and Lake Ontario.

While Tonawanda Coke has largely resolved the Clean Water Act violations identified in the complaint, under the settlement, Tonawanda Coke's facility will be subject to an independent, third-party audit of its Clean Water Act compliance and will be required to implement all necessary recommendations for improving facility operations. EPA's oversight of the facility's Clean Water Act compliance will be ongoing.

Emergency Planning and Community Right-to-know Act Violations

Under the Emergency Planning and Community Right-to-know Act, Tonawanda failed to report that it manufactured benzene and ammonia in quantities that exceeded the 25,000 pound per year reporting threshold. Companies that manufacture, process, import or otherwise use chemicals above a certain amount must annually submit chemical inventory information to local authorities and to the state, giving detailed information about the chemicals they have on location. Tonawanda Coke has agreed to submit several years' worth of information about its use and emissions of ammonia and benzene under this law.

The proposed consent decree was filed in federal court in the Western District of New York and will be subject to a 30 day public comment period following its publication in the federal registry. The consent decree will be available at http://www.justice.gov/enrd/Consent_Decrees.html.

For more information about EPA's actions at Tonawanda Coke and related legal documents, visit <http://www.epa.gov/region02/capp/tonawanda.html>.

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