

OFFICE OF THE COMMISSIONER

New York State Department of Environmental Conservation
625 Broadway, 14th Floor, Albany, New York 12233-1010
P: (518) 402-8545 | F: (518) 402-8541
www.dec.ny.gov

July 20, 2018

VIA HAND DELIVERY VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Mr. Paul Saffrin
Tonawanda Coke Corporation
3875 River Road
Tonawanda, NY 14150

Dear Mr. Saffrin:

**CEASE AND DESIST
NOTICE OF VIOLATION
NOTICE OF INTENT TO REVOKE
Air Title V Facility Permit
9-1464-00113/00031
Air State Facility Permit
9-1464-00113/00035**

The New York State Department of Environmental Conservation (“DEC”) hereby demands the Tonawanda Coke Corporation to immediately cease and desist ongoing violations of the Environmental Conservation Law and its implementing regulations. DEC finds the condition of the Tonawanda Coke Corporation’s (“TCC”) facility and your company’s seeming disregard for environmental laws, rules and regulations as well as numerous enforcement actions and the impacts unacceptable. TCC’s operations show a blatant disregard for the environment and the health and welfare of the surrounding community. Should TCC fail to comply with this cease and desist demand, we will pursue other available enforcement options, including but not limited to, a preliminary injunction, a summary abatement order and enforcement of the joint state and federal Consent Decree entered into between DEC, New York State Attorney General’s Office, U.S. Department of Justice and U.S. Environmental Protection Agency (“EPA”) (*United States et al. v. Tonawanda Coke Corporation*, 15-cv-00420-WMS) (“Consent Decree”). In addition, TCC is hereby advised that DEC is commencing an action to revoke the Title V and Air State Facility permits associated with this Facility.

DEC inspected TCC's facility, located at 3875 River Road, Tonawanda, New York ("Facility") on July 19, 2018 following numerous reports of excessive black smoke emitting from the Facility. During that inspection, DEC staff documented several opacity violations of Section 214.6 of Title 6 of the New York Codes, Rules and Regulations ("6 NYCRR"), with one reading of 100% opacity. Those violations demonstrate an increased pattern of noncompliance and a failure to adhere to applicable laws and permit conditions. Specifically, DEC staff performed inspections at the Facility on May 2, 2018, May 18, 2018, May 23, 2018, May 31, 2018, June 7, 2018, June 19, 2018, June 20, 2018, June 26, 2018, July 2, 2018, July 11, 2018, and July 19, 2018. The results of those inspections resulted in the issuance of Notices of Violation ("NOV") to TCC (June 5, 2018, June 8, 2018, June 15, 2018, July 3, 2018, July 6, 2018 and July 19, 2018) for opacity violations of 6 NYCRR 214.6, a violation of TCC's New York State Pollutant Discharge Elimination Permit, violations of New York State's petroleum bulk and chemical bulk storage laws and the State's Resource Conservation and Recovery Act regulations. A recent joint inspection by DEC and the EPA detected numerous violations of the Consent Decree. A letter related to noncompliance with the Consent Decree will be forthcoming.

To date, TCC's operational modifications to the battery and related components to abate the opacity have been ineffective and served to exacerbate the opacity violations. TCC has yet to present DEC with a formal solution to stop the opacity. TCC has also verbally advised DEC staff that it will not take certain steps to try to reduce opacity, such as increasing the coking cycle which would assist in having the coke ovens operate under optimal temperature, because doing so would interfere with the company's ability to fulfill customer orders. This course of action is unacceptable and demonstrates TCC's continual intent to operate in contravention of applicable environmental laws and the Consent Decree, and TCC's desire to put profits over environmental compliance and the health and safety of the community in which TCC operates.

As a result of these violations and the potential harm to the public and environment, TCC must immediately cease and desist actions causing violations described herein. TCC is immediately directed to take all steps necessary to safely cease operations associated with the violations to prevent harm to its workers, the surrounding community and the environment.

Please be advised that TCC must continue to perform all work required under the Orders on Consent and Administrative Settlement for the Superfund Site #915055.

In addition, through this letter, DEC is also advising TCC that, pursuant to 6 NYCRR 621.13, the agency has made a determination to revoke your above referenced Air Title V and Air State Facility permits. This determination is made on the basis of newly discovered material information, noncompliance with permit conditions, noncompliance

with provisions of the Environmental Conservation Law, including the violations outlined in the NOVs issued to date, the RCRA violations detected during the June 20, 2018 inspection, TCC's unilateral decision to improperly dispose of approximately 128 yards of hazardous waste from the Superfund remedial project at Site 108 through the battery on from on or about May 8, 2018 through May 12, 2018, and the noncompliance with the Consent Decree.

This revocation will become effective August 4, 2018 unless you submit, within 15 days of the date of this letter, a written statement giving reasons why the permits should not be revoked and/or a request for a hearing.

Please contact Terri Mucha, Esq. at 716-851-7190 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Basil Seggos", with a long horizontal flourish extending to the right.

Basil Seggos
Commissioner