

US EPA ARCHIVE DOCUMENT

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September 3, 2010

FEDERAL EXPRESS

Erick R. Ihlenburg  
U. S. Environmental Protection Agency - Region 2  
Office of Regional Counsel - Air Branch  
290 Broadway - 16th Floor  
New York, NY 10007-1866

Kenneth Eng, Chief  
Air Compliance Branch  
U. S. Environmental Protection Agency - Region 2  
290 Broadway - 21st Floor  
New York, NY 10007-1866

Dear Mr. Ihlenburg and Mr. Eng:

Re: Clean Air Act Compliance Order CAA-02-2010-1001

On January 7, 2010, the United States Environmental Protection Agency (USEPA) issued an administrative consent order (ACO) to Tonawanda Coke Corporation (TCC) pursuant to Section 113(a) of the Clean Air Act. Among other things, the ACO directed TCC to submit a fugitive benzene emission test (DIAL test) protocol as required by and in accordance with a letter dated June 16, 2009 issued by USEPA to TCC pursuant to Section 114 of the Clean Air Act.

TCC submitted a revised DIAL test protocol on April 19, 2010. By letter dated May 12, 2010, USEPA conditionally approved that protocol.

Field testing was performed in accordance with the protocol over the period from May 25 – May 28, 2010.

The approved protocol calls for a Draft Final Project Report to be submitted to USEPA within sixty (60) days of completion of the field monitoring. In a letter dated July 27, 2010, TCC submitted a draft Final Project Report for the fugitive benzene emissions testing project in accordance with the schedule set forth in the approved protocol.

USEPA and NYSDEC issued joint comments on the draft report on August 19, 2010 (received by TCC on August 20). The agencies' comments were the subject of technical

Erick Ihlenburg  
Kenneth Eng  
September 3, 2010  
Page 2



conference calls on August 23, 26, and 27. USEPA and NYSDEC amended their comments in a letter dated August 30, 2010.

The approved protocol calls for the Final Project Report to be submitted within two (2) weeks of receiving agency comments. Accordingly, I have enclosed the Final Project Report for the fugitive benzene emissions testing project

In making this submission, TCC does not admit or accept any of the factual allegations, findings, legal conclusions or other assertions contained in the ACO; TCC expressly reserves all of its rights, defenses and opportunities to contest the factual allegations, findings, legal conclusions and assertions set forth in the ACO.

Notwithstanding TCC's reservation of rights, the Company and its representatives are committed to continue to work with the agencies on the matters covered by the ACO and, specifically, any technical issues that may remain with this DIAL testing program.

If you have any questions concerning today's submission, or any other aspect of this matter, please contact me directly.

Very truly yours,

A handwritten signature in black ink, appearing to read "RK" followed by a large, stylized flourish.

Rick W. Kennedy

RK/ajt  
Enclosure

cc: Mr. Robert Stanton, Director  
New York State Department of Environmental Conservation  
Division of Air Resources  
Bureau of Stationary Sources  
625 Broadway, 2<sup>nd</sup> Floor  
Albany, NY 12233

Ms. Colleen McCarthy, Senior Counsel  
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Erick Ihlenburg  
Kenneth Eng  
September 3, 2010  
Page 3



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Ms. Maureen Brady, Associate Counsel, Legal Affairs  
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Mr. Tom Gentile  
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