

Exhibit 5



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County of Erie

EDWARD J. RUTKOWSKI
COUNTY EXECUTIVE

DEPARTMENT OF ENVIRONMENT AND PLANNING

JOAN E. LORING
COMMISSIONER

June 27, 1984

ANTHONY T. VOELL
DEPUTY COMMISSIONER
ENVIRONMENTAL CONTROL

Tonawanda Coke Corporation
3875 River Road
Tonawanda, New York 14150

Attn: J. D. Crane, Pres.

Dear Mr. Crane:

On June 11, 1984, I inspected your coal storage area with your Mr. Mark Kamholz in response to continuing dust fallout complaints from the Riverview Heights area in the City of Tonawanda (northeast of your plant). On this date, I saw no dust blowing from the piles or from the roads as we drove through the coal storage area. However, on two separate prior occasions during strong wind conditions our inspectors have seen dust blowing from your storage coal piles.

The first observation was on April 30, 1984 at approximately 3:15 P.M. when opacity was estimated at 30% to 40% for dust blowing off the storage piles. The other occurrence was on June 7, 1984 from approximately 11:30 A.M. to 12:30 P.M. when one of our engineers was investigating the possibility of an acid spill just south of the coal storage area. The observation was similar to the April 30, 1984 occurrence - strong wind and dust entrainment, etc.

Prior to my leaving your firm's property, I discussed the problem with Mr. Kamholtz and requested that voluntary steps be undertaken to control windborne dust. Mr. Kamholtz said that there were no problems at the time and no commitment would be made until a problem has been documented. Therefore, please be advised that conditions present on the dates I have mentioned are considered a violation of Title 6 Chapter III Part 211.2 of New York State Compilation of Rules and Regulations which limit air pollution nuisance conditions.

Please submit a written reply by July 10, 1984 which outlines what steps will be taken to control windborne dust generated from your property (material stockpiles and roads, etc.) and a time frame for completion. Your reply should be sent directly to

Tonawanda Coke Corp.

J. D. Crane, Pres.

June 27, 1984

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Mr. Henry Sandonato, Department of Environmental Conservation (DEC), 600 Delaware Avenue with a copy to this office. Failure to reply will result in the referral of any further excessive fugitive emissions to New York State DEC for possible legal action.

In a related matter, because of complaints in the Tonawanda area, the department is involved with an air monitoring project intended to identify possible source of particulates. We are requesting certain companies in the River Road area to submit representative samples of particulates leaving their property. We would like you to furnish us with dust sample of high volatile coal a low volatile coal sample and coke. Participation is voluntary at this time. Participating firms will be informed of the results as they become available.

why?



I will be contacting you to arrange pick up of the requested samples. If you have any questions, please call me at 846-7762.

Very truly yours,

Jack Hausrath

JACK HAUSRATH

Prin. Env. Quality Technician

Div. of Environmental Control

JH:lp

enc.

cc: H. Sandonato, DEC
A. Voell/L. Clare
E. Sciascia/G. Kotas

NYSDJC
JUL 4 1984