EXHIBIT C

THURSTON INVESTIGATIVE AGENCY
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Summary Report of Investigation:
TIA # 09-626

By: Thomas M. Thurston, LPI
Date: January 5, 2010

Gary W. Foersch, 1567 Greenwood Terrace, Marilla, New York 14102, telephone # (716) 655-0625 was contacted at his residence. After being advised of the official identity of the interviewing Private investigator (PI) and of the nature of interview, Foersch provided the following information:

Foersch retired on 11/10/09 from the New York State Department of Environmental Conservation (NYS DEC) at 58 years old after 40 years of service. He is very familiar with both the Tonawanda Coke Corporation (TCC), located on River Road in Tonawanda, New York and more specifically, with Mark Kamholz – a Manager of Environmental Control at TCC.

According to Foersch, he had professional dealings with Mark Kamholz for upwards of 30-35 years. He stated that with little exception, all NYS DEC dealings with Mark Kamholz over the years were handled on a professional basis and cooperative attitude. Foersch gave several examples of instances when consumer complaints were made to NYS DEC about TCC operations and the matters were always handled with "just a phone call to Mark".

Upon initial questioning with regard to familiarity with 2 "quench towers" operating at TCC, Foersch stated, "one was used only occasionally – without any baffles". Discussion followed with regard to Foersch's recollection of a request in the late 1990's from Mark Kamholz to NYS DEC requesting permission to remove the upper portion of "Quench Tower #2" due to deterioration, etc. Foersch readily recalled the matter and advised that there were letters exchanged with regard to that tower.

Foersch was advised that Kamholz firmly believes that Foersch was fully aware of the fact that Quench Tower #2 had been operated and continued to operate without a baffle system installed. Foersch was specifically asked if that statement was accurate. Following some discussion concerning a "common sense" approach to his duties as an Environmental Engineering Technician, Foersch was again specifically asked if Mark Kamholz' belief that he (Foersch) was aware that Quench Tower #2 was operating without any baffle system was an accurate belief … Foersch replied, "yes, it is accurate".

Foersch advised that the baffles are designed to only catch the "big stuff" – referring to particulates rising from the quench towers. He stated that those bigger particulates don't go very far and then fall onto the nearby property – it is easy to determine their flight because they will generally "hit you" when standing nearby a

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quench tower. Foersch advised that the lack of baffles on the TCC quench "towers" is a "cut and dry paperwork violation … easy to prove". At this point, Foersch was specifically asked is he had been aware of the fact that "both" of the TCC quench towers – Quench Tower #2 and Quench Tower #1 – were operating on an ongoing basis without baffle systems in place. Foersch confirmed, by answering "yes" to the question posed, that he was aware of that fact.

The interview then focused on some of the "solid waste" aspects with regard to 'coal tar sludge'. Foersch was asked if during the course of his normal duties and inspections at TCC – he had observed the old, rusted, dilapidated tanks that contain solidified coal tar sludge. After viewing a black and white photo of the tanks, Foersch stated that he is familiar with the tanks and the sludge … and stated that he agrees with the assumption that the tar sludge is solidified to the point that it would likely not "migrate into the ground", however, there is a possibility that the addition of water could cause some *residual effect* of contaminates "seeping" into the immediate area. At this point, Foersch stated, "You can always find something – if you want to nail somebody". According to Foersch, DEC inspections are generally handled by the field Engineering Technician in both a practical and "common sense" manner. He advised that any aspect "could be" part of an inspection process but "there are no strict guidelines to inspect this, this or this" … the various permits generally give a summary of what to look for.

Foersch advised that he is aware that "a few years ago", Bethlehem Steel was undergoing a major site cleanup and is known to have transported old coal tar sludge from their location to the TCC site for recycling. Foersch stated that NYS DEC was aware of Bethlehem's actions, however, took no action against Bethlehem Steel for having "stored" large concentrated amounts of coal tar sludge for years past.

Foersch advised that he is available to answer additional questions, if required.

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Report of Investigation:
TIA # 09-626

By: Thomas M. Thurston, LPI
Date: January 14, 2010

Gary W. Foersch, 1567 Greenwood Terrace, Marilla, New York 14102, telephone # (716) 655-0625 was contacted at his residence. After being advised of the nature of interview, Foersch provided the following information:

Foersch advised that after speaking with the interviewing Private Investigator (PI) last week, Foersch had called his former Supervisor at the New York State Department of Environmental Conservation (NYS DEC) and told him about that interview. Foersch stated that the Supervisor, Larry Sitzman, suggested to Foersch that he speak with Legal Counsel for NYS DEC concerning that contact.

Pursuant to his prior request, Foersch was provided with a copy of the Criminal Complaint and Supporting Affidavit relating to recent Federal charges that have been filed against Mark L. Kamholz. Foersch was also provided with a 2-page Summary Report of Investigation, dated January 5, 2010 as prepared by the interviewing PI. Following his review of the Complaint and Affidavit, Foersch reviewed the Summary Report of investigation. Upon completion, Foersch was asked if the report accurately depicts what was said during our interview on January 5, 2010. Foersch replied, "I wouldn't say that I was *FULLY* aware of the fact that the Quench Tower was operating without a baffle system in place". He then handed the report back to PI Thurston. PI Thurston then crossed out the word "fully" from paragraph 5; line 1 on the first page of the report. Foersch was asked if the report was now both accurate and true. Foersch shook his head in the affirmative to acknowledge that the report is both true and accurate. Foersch then stated that he would *like to include* a statement to the effect that "Tower #2 was always in dis-repair". PI Thurston asked if Foersch would be willing to initial the report if the statement concerning that "dis-repair" was included. He replied, "I would rather have the DEC Lawyers take a look at the wording first".

Foersch then volunteered, "DEC is going to take a black eye and bloody lip on that one (referring to Quench Tower #2) ... for allowing it to operate without a baffle system". Foersch suggested that he would arrange a meeting with the NYS DEC Legal Counsel to meet with himself and PI Thurston to again review the Summary Report of Investigation. He suggested that such a meeting could likely be arranged for next Wednesday, January 20, 2010.

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Foersch advised that another 'retired" NYS DEC official who may have information of value regarding this matter is, Henry Sandonato - who resides in Lewiston, New York and retired about 6 years ago. Further, that Sandonato had been

Foersch's Supervisor prior to Larry Sitzman being promoted to that position. Sandonato transferred to the New York City area for the 3 years immediately prior to his retirement.