

Monitoring Pollution in our Communities: The Clean Air Coalition of Western New York

Kathleen Gabel



CACWNY's Erin Heaney speaks to media at a demonstration outside the Tonawanda Coke Plant in 2009.¹

What is the Clean Air Coalition of Western New York?

The Clean Air Coalition of Western New York (CACWNY) is a community health and advocacy group working to ensure local residents' right to a healthy environment.² The group organizes media campaigns, provides resources, and designs programs to help reduce pollution in local communities.

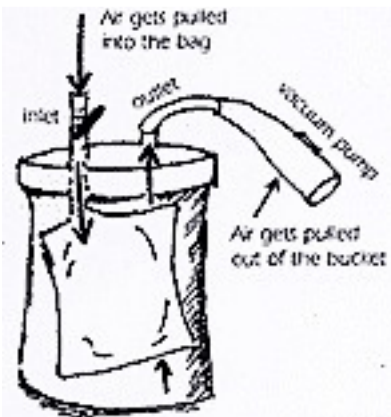
CACWNY emerged from a number of grassroots movements in the town of Tonawanda and the Black Rock and Creekside neighborhoods of Buffalo, organized by residents who believed they were getting sick from pollution from nearby industries.³ After hearing that their neighborhoods had been cleared as safe by state and federal agencies, members of the early coalitions organized to collect their own air samples and send them to the Environmental Protection Agency (EPA) for analysis. The EPA returned the samples with a report that they contained extremely high levels of benzene, a known human carcinogen linked to a number of cancers, including leukemia and other chronic illnesses. Members of the CACWNY took the results to the state, and along with the EPA, the state conducted a comprehensive study from 2007-2008. The study found benzene and five other hazardous air pollutants in high levels.

How did the CACWNY use state and EPA reports?

The CACWNY used these reports to focus on one major polluter: Tonawanda Coke. The CACWNY went into the local community and encouraged people to purchase special air quality testing buckets (pictured below). The residents organized “bucket brigades” to test air quality at their homes.⁴ Physical evidence of pollution in the buckets helped lend an urgency to the work of getting the factory to reduce its emissions of benzene and other toxic matter.

What are these buckets and how do they work?

CACWNY uses buckets similar to the one pictured below to allow citizens to collect samples of air for further testing. The bucket takes an air sample by vacuuming and trapping a few liters of air in a plastic or Teflon bag. The sample is then sealed and sent to a laboratory for analysis. The laboratories follow EPA standard techniques to test the samples and provide results for a fee.⁵



Graphic illustration of an air sample bucket.

The buckets can only monitor some pollutants; for example, they cannot measure particulate matter or toxins, such as dioxins, that normally attach themselves to particles.⁷ Combined with a margin of general user error, this means that the bucket brigades may be more useful in getting a message of concern out to community residents, companies, governments, and agencies, rather than in providing scientifically accurate results.

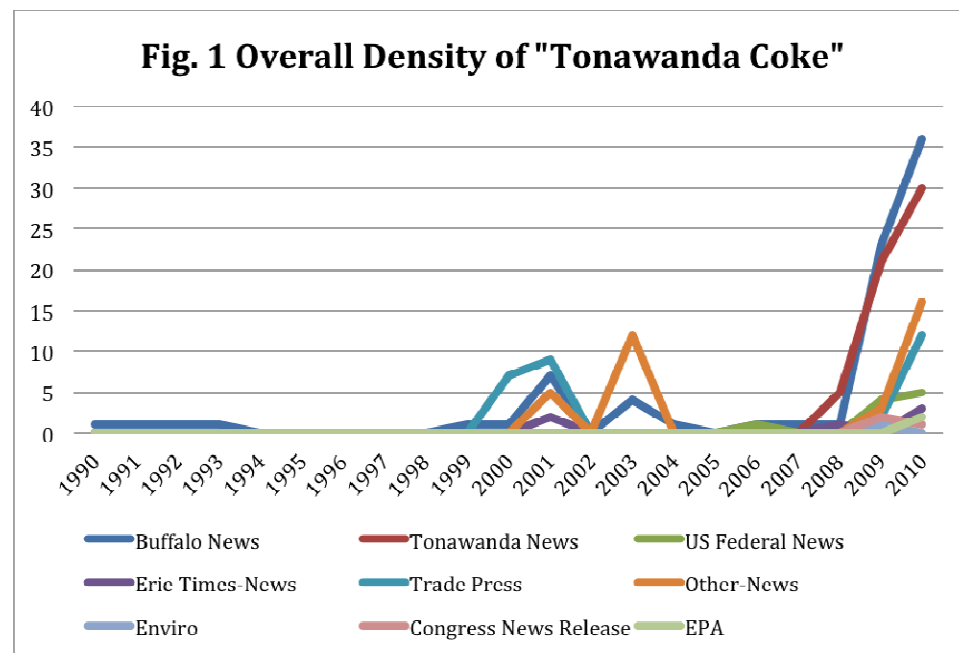
Costs and usage in Buffalo

The buckets cost about \$100 dollars each, while the sample bags inside them cost about \$10 a piece.⁸ It costs approximately \$500 to have one air sample bag tested at the EPA.⁹ Because bucket samples are still pricey for grassroots organizations like the CACWNY, the group only has three. CACWNY uses its buckets sparingly—either when they are looking for evidence about a more generalized problem of air pollution, such as research into the potential causes of asthma on Buffalo’s West Side, or following a specific event, such as a large-scale industrial fire.¹⁰

It takes only three minutes to vacuum and store an air sample in a bucket. This speed and convenience is a boon to local grassroots organizers because they do not have to explain a complicated processes to their members; however, the downside is that a three minute sample is an extremely narrow snapshot view of the air at the time it is taken.¹¹

Media reports

The CACWNY has been very successful in getting its message to local media—at least in regard to Tonawanda Coke. A study of local media found massively increased coverage from 2008 onwards (see figure below). However, some questions remain as to whether the Tonawanda Coke story has unwittingly eclipsed stories about smaller local polluters, or stories from other nearby communities.



12

Regulatory response and lawsuits

The New York State Department of Environmental Conservation (DEC) is now monitoring the community on a regular basis, and the EPA is providing follow-up reports on progress after their major report was released.¹³ In addition, many residents have joined in two class action lawsuits filed in September 2010.¹⁴ One group of about 260 individuals is suing for damages to health and property under the auspices of another community action group called Citizens United for Justice.¹⁵

Criminal liability for polluters

Mark L. Kamholz, the environmental control manager for the Tonawanda Coke plant, was arrested and criminally indicted for fifteen counts of violating the federal Clean Air Act, including five offenses

relating to releasing coke oven gas containing benzene.¹⁶ The gas was allegedly leaked through an unreported pressure relief valve.¹⁷ 10 more counts are related to operating two towers without baffles, which are required by Title V of the Clean Air Act to reduce particulate matter. Kamholz could face up to five years imprisonment and a fine of \$250,000. The company itself could be fined up to \$500,000.

Grant money

In July 2011, the EPA announced that it will provide a \$130,000 grant to the New York State Pollution Prevention Institute to help Tonawanda businesses conduct their own assessments of environmental impacts of their manufacturing processes.¹⁸ Whether this will result in positive changes remains to be seen: this is an area where the CACWNY will keep vigilant to help assess progress towards real environmental improvements instead of just better publicity for industry. The EPA also awarded a \$100,000 grant to the CACWNY to help the Tonawanda community ensure that its particular environmental needs are heard and considered by government and agencies.¹⁹

What is the CACWNY working on now?

The CACWNY is working with the EPA, DEC, and local government on continued monitoring of Tonawanda Coke.²⁰ More recently, though, the CACWNY has become involved in monitoring the air around the sites of industrial fires. Most notably, after a major industrial fire at Niagara Lubricants in Buffalo in summer 2011, the CACWNY noticed that local agencies were not monitoring air pollution in the neighborhood immediately after the incident.²¹ They took to the press and worked to distribute buckets and information as they did with Tonawanda Coke, and are now working with the residents to demand better emergency response systems from state and local agencies.²²



Gary Castanik, a 20-year employee of Niagara Lubricant, left, and his friend Mark Nagowski, a former employee, express shock at the extent of damage to the facility after the Niagara Lubricants fire.²³

The group is also organizing community meetings to gather preliminary information based on neighborhood complaints in the Camden Avenue area of pollution from school busses. The group believes that idling school busses might be contributing to rising asthma rates in the neighborhood.²⁴ They plan to take air samples using the buckets. In the meantime, they are working on an advocacy campaign to stop idling for long periods in the winter, including alternative battery-powered or electric warming devices and the enforcement of current statutory bans on idling for more than five minutes.²⁵

CACWYN has also organized citizens in West Side neighborhoods to take photographs of pollution and alleged polluters in their neighborhoods.²⁶ The photographs were displayed in a public exhibition, to which public officials, including the mayor, were invited.²⁷ The photography project is ongoing and may serve as an awareness-raising tool for neighborhoods and government.²⁸ The photographs could potentially serve an evidentiary purpose in an adversarial context.

Aiding citizens through Internet communication

The CACWNY provides space on its website for citizens to write to DEC with their concerns. They can fill out and send in forms reporting pollution from the site. While the forms are on the site, they require information in some detail: times and places of specific incidents, for example, or results from home monitoring. The website provides phone numbers and contacts for local officials, as well as emergency hotlines. This information can help ordinary citizens who might not have the kind of detailed information necessary to fill out EPA or DEC reports.

¹ David Kowalski, Re-Energize Buffalo, <http://thegoodneighborhood.com/2011/02/09/clean-air-coalition-picking-up-steam-staff-a-chat-with-erin-heaney/>.

² "About us," Clean Air Coalition of Western New York, <http://www.cacwny.org/about/our-mission/> (accessed Oct. 12, 2011).

³ Seamus Gallivan, "Clean Air Coalition Picking up Steam & Staff – A Chat with Erin Heaney," The Good Neighborhood, Feb. 9, 2011.

⁴ Emma D. Sapong, "Two plants accused of air pollution," Buffalo News, Feb. 17th, 2005, available at <http://www.gcmonitor.org/article.php?id=187>.

⁵ "POV: Fenceline: A Company Town Divided," PBS, July 23, 2002, http://www.pbs.org/pov/fenceline/getinvolved_article02.php (accessed Oct. 12, 2011).

⁶ *Id.*

⁷ *Id.*

⁸ Personal communication, Oct. 13, 2011.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Lawrence W. Gallick, news assessment from Lexis Nexis in “Media and Advocacy: Lessons Learned in Coverage of the Tonawanda Coke Controversy”, prepared for Media Law and Policy at the University at Buffalo Law School, Feb. 2, 2011.

¹³ *See* Tonawanda Community Air Quality Study Fact Sheet - October 2009, available at <http://www.dec.ny.gov/chemical/59464.html>.

¹⁴ Class Action Suit Filed on Coke Plant, Tonawanda News, Sept. 28, 2010, available at <http://tonawanda-news.com/local/x535471788/Class-action-suit-filed-on-coke-plant>

¹⁵ Al Vaughters, “Over 200 people suing Tonawanda Coke,” WIVB, Jun. 7, 2011, available at <http://www.wivb.com/dpp/news/erie/Over-200-people-suing-Tonawanda-Coke>.

¹⁶ *See* Press Release, United States Department of Justice, http://www.justice.gov/usao/nyw/press/press_releases/TonawandaCokeIndictment.pdf.

¹⁷ *Id.*

¹⁸ Air News Release (Region 2): EPA and DEC Report Progress at Tonawanda Coke Corporation; Announce New Commitments in Tonawanda Community Environmental Protection Agency Documents and Publications July 20, 2011.

¹⁹ *Id.*

²⁰ *Newsletter*, CACWNY, April 2011, available at <http://www.cacwny.org/docs/april2011.pdf>.

²¹ Joyce Kryszak, “WNY Coalition Calls for Public Health Response to Industrial Fires, Sept. 9, 2011, WBFO, available at <http://www.publicbroadcasting.net/wbfo/news.newsmain/article/6601/0/1854370/Environment/WNY.Coalition.calls.for.public.health.response.to.industrial.fires>.

²² *Id.*

²³ Derek Gee, Buffalo News, Aug. 21, 2011, <http://www.buffalonews.com/city/communities/west-side/article487077.ece>.

²⁴ Personal communication, Oct. 13, 2011.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

Partnership for the Public Good

www.ppgbuffalo.org

237 Main St., Suite 1200, Buffalo NY 14203
