



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

EP 22 2014

Robert D. Mowrey  
C. Max Zygmunt  
Kazmarek Mowrey Cloud Laseter LLP  
1230 Peachtree Street, Suite 3600  
Atlanta, GA 30309

Dear Mr. Mowrey and Mr. Zygmunt:

This is the response to your March 12, 2013, Information Quality Guidelines (IQG) Request for Correction (RFC) #13001<sup>1</sup> submitted on behalf of Walter Coke, Inc. In your RFC, you requested correction of the Enforcement and Compliance History Online (“ECHO”) page and the Fiscal Year 2012 EPA Enforcement and Compliance Annual Results (“Annual Results Presentation”), stemming from the entry of a September 2012 Administrative Order on Consent<sup>2</sup> relating to Walter Coke’s RCRA corrective action at its facility.

### Background

In your RFC, you assert that:

- The ECHO page and Annual Results Presentation information (“pollution claims”) stemming from the September 2012 Administrative Order on Consent are inaccurate, unclear, incomplete, and unreliable because the remedial action to occur at Walter Coke is not yet known.
- EPA secrecy and incentives render the pollution claims unreliable and biased.
- The pollution claims fail the utility prong because they are of no use to their intended users.
- The pollution claims are influential information but fail to satisfy the applicable heightened data quality requirements for such information

<sup>1</sup> RFC 13001, March 2013 (<http://epa.gov/quality/informationguidelines/documents/13001.pdf>).

<sup>2</sup> September 17, 2012 Resource Conservation and Recovery Act Administrative Order on Consent, Docket No. RCRA-04-2012-4255.

## Discussion and Conclusion

EPA takes very seriously its responsibility for ensuring accurate and reliable information prior to publishing any information on its websites. This was true in this case where, prior to publishing the environmental benefit estimates associated with the enforcement action against Walter Coke, EPA carefully reviewed its environmental benefit calculations for estimates of reduction of pollutants and removal of contaminated media expected to be realized at Walter Coke's Birmingham, Alabama facility. This process of estimating the environmental benefits to be achieved from the Water Coke enforcement action employed referencing relevant site data and maps provided by Walter Coke. Personnel both in EPA's Region 4 offices and in the Office of Enforcement and Compliance Assurance reviewed this information and verified the calculations. Both the process and the detailed calculus for estimating environmental benefits are based on the relevant EPA guidance, "Guide to Calculating Environmental Benefits from EPA Enforcement Cases – FY 2012 Update" (January 10, 2012) ("CCDS Guidance") (<http://www.epa.gov/compliance/resources/publications/data/tools/ccds.pdf>).

In the context of the IQG Request for Correction, EPA has again reviewed the environmental benefit estimates calculated for this case. Based on application of our standard protocols, EPA determined that all of the estimated benefit amounts were sound. However, it should be noted that one area should not have been calculated or reported because this area was not covered by the Administrative Order on Consent. This is an area for which EPA had calculated and reported an anticipated removal of 25,900 cubic yards of contaminated debris. To reflect this correction, EPA is deleting the environmental benefit estimate for this contaminated debris reported in the ICIS (Integrated Compliance Information System) data system (and hence in EPA's ECHO website).

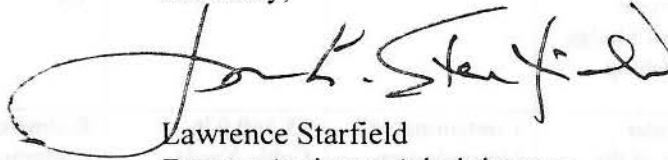
The basis for each of the environmental benefit estimates for the Walter Coke enforcement action, as reported in ECHO/ICIS and EPA's FY 2012 Annual Results, are presented in the following table:

| <b>Material to be Remediated</b>   | <b>Pollutant (as described in ICIS/ECHO)</b> | <b>Estimated Amounts Calculated and Reported<sup>3</sup></b> | <b>Methodology</b>   |
|--|--|--|--|
| Sediment from drainage ditch (Historic Drainage Ditch-SWMU 40)   | Contaminated Soil                            | 8991 Cubic Yards   | Estimated the volume of the contaminated soil using Soil Methodology, CCDS Guidance p. 2-5.  |
| Soil from various locations of the facility (Chemical Plant, Coke Plant, Blast Furnace Emission Control Sludge Piles, BTF, Polishing Pond)   | Contaminated Soil                            | 2,650,541 Cubic Yards  | Estimated the volume of the contaminated soil using Soil Methodology, CCDS Guidance p. 2-5.  |
| Groundwater under various portions of the facility (Chemical Plant, Coke Plant, Blast Furnace Emission Control Sludge Piles, Construction Debris Landfill, Biological Sludge Disposal Area, BTF) | Contaminated Groundwater                     | 35,860,076 Cubic Yards                                       | Estimated the volume of the contaminated aquifer formation using Groundwater Methodology, CCDS Guidance p. 2-5.  |
| Material from landfill and waste piles (Construction Debris Landfill-SWMU 38 and Blast Furnace Emission Control Sludge Waste Pile-SWMU 39)   | Solids, sludge, total dry weight             | 1,442,812,500 Lbs  | Estimated the weight of the waste piles by: 1) using Soil Methodology, CCDS Guidance p. 2-5; and, 2) then converting the volume to lbs as directed in CCDS Guidance p. 2-4 ("For Cleanup actions that involve a non-hazardous or hazardous waste that is not mixed with an environmental media, report the pounds of waste impacted by the action"). |
| Historical Coke Processing Residues  | Contaminated Debris                          | 25,900 Cubic Yards   | As noted, data to be deleted from ICIS/ECHO.   |

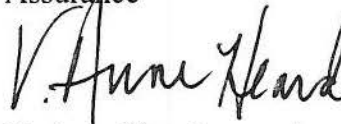
<sup>3</sup> Note that EPA's estimates of environmental benefits, undertaken at the time enforcement actions are concluded, are conservative estimates of the contaminated media or pollutants that are likely to be remediated or reduced as a result of the concluded enforcement action. EPA uses conservative estimates because uncertainties exist at the time an action concludes as to what results will be achieved once the ordered remedy is fully executed. See CCDS Guidance, pp.1-4 and 1-9.

If you are dissatisfied with this response, you may submit a Request for Reconsideration (RFR). The EPA requests that any such RFR be submitted within 90 days of the date of EPA's response. If you choose to submit an RFR, please send a written request referencing the number assigned to the original Request for Correction (RFC#13001) to the EPA Information Quality Guidelines Processing Staff via mail (Information Quality Guidelines Processing Staff, Mail Code 2811T, U.S. EPA, 1200 Pennsylvania Ave., N.W., Washington, D.C. 20460); electronic mail ([quality@epa.gov](mailto:quality@epa.gov)); or fax, (202-566-2104). Additional information about how to submit a RFR can be found on the EPA IQG website ([www.epa.gov/quality/informationguidelines](http://www.epa.gov/quality/informationguidelines)).

Sincerely,



Lawrence Starfield  
Deputy Assistant Administrator  
Office of Enforcement and Compliance  
Assurance



V. Anne Heard  
Acting Deputy Regional Administrator  
Region 4

cc: Renee Wynn, Acting Assistant Administrator and Chief Information Officer  
Office of Environmental Information  
Lisa Lund, Director, Office of Compliance, OECA  
Scott Gordon, Deputy Director,  
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