Plant Manager Charged Over Pollution Violations

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BUFFALO, N.Y. (AP) — An industrial plant and its environmental control manager pleaded not guilty Tuesday to criminal charges they knowingly violated federal clean air laws, interfered with inspectors and improperly handled hazardous waste, in some cases burning it.

A 20-count grand jury indictment charges Tonawanda Coke Corp. and Mark Kamholz with allowing the release of toxic gases from the plant along the Niagara River near Buffalo from 2005 through 2009 and operating the plant during that time without required pollution-controlling baffles.

Kamholz also is charged with obstructing justice for allegedly having an employee adjust the setting on a pressure control valve during an April 2009 inspection by the Environmental Protection Agency.

Prosecutor Aaron Mango said the government's case, built around documentary evidence, rose to a criminal level because the defendants knew they were breaking the law.

"There is an element of knowledge and criminal intent that has to be there," Mango said.

Kamholz's attorney anticipated a lengthy legal battle.

"He recognizes this is a serious matter," said attorney Rodney Personius, who said Kamholz, 63, remains with the plant.

The privately held company produces a coal-based additive called coke that is used to make steel. Neighbors have long blamed it for high levels of cancer-causing benzene, an element of coke oven gas.

"They've impacted people's quality of life and compromised their health," said Erin Heaney, executive director of the Clean Air Coalition. "People open their doors, they see heavy smoke that ends up on their houses, ends up on their cars, in their lungs."

An attorney for Tonawanda Coke, which also faces separate state and federal civil actions, said the plant was addressing the allegations. Mango said baffles are now in place to filter emissions.

"The company is ... doing all that is being requested by all of those agencies," Tonawanda Coke attorney Gregory Linsin said.

The indictment accuses Kamholz and Tonawanda Coke of at times disposing of

hazardous waste by spraying it on coal and burning it in the coke ovens, as well as mixing benzene-containing coal tar sludge on the ground.

Each of the indictment's charges carries a potential prison term of five years. The hazardous waste charges can result in fines of $50,000 per day, while the Clean Air Act counts carry potential fines of $250,000 for Kamholz and $500,000 for the corporation.

Heaney said the neighborhood has mixed feelings about what should happen to the plant, which employs about 100 people. Some favor a shutdown, she said, while others would be content with having it operate in compliance with state and federal environmental laws.

The state Health Department plans to study cancer rates, birth weights and other public medical information in the area by 2012.

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