

**Middleport Community Input Group  
Meeting at Masonic Lodge Hall – FMC/Agency Meeting Summary  
September 15, 2009 – 6 p.m. to 7:15 p.m.**

**In Attendance:**

Bill Arnold – CIG Chairman	Dan Watts, NJIT – Technical Consultant
Elizabeth Storch – Resident	Debra Overkamp – AMEC
Dick Westcott – Resident	Wai Chin Lachell – AMEC
Christa Lutz – Resident	Erin Rankin – Arcadis
Larry Lutz – Resident	Andy Twarowski – FMC
Betty Whitney – Resident	Brian McGinnis – FMC
Harold Mufford – Resident	Mike Infurna - USEPA
Jennifer Bieber – Town of Royalton	Matt Mortefolio – NYSDEC
Dick Owen - Resident	Ann Howard, RIT – Facilitator
	Jim Pasinski, Carr Marketing Communications – Meeting Notes

**1. Welcome and Introductions; Agenda Review**

- A. Howard began the meeting and reviewed the agenda.

**2. Feedback on FMC’s Proposed Public Participation Activities**

- B. Arnold stated that the CIG feels that if FMC believes their proposed approach is good, the CIG will participate as a separate group in any meetings that FMC holds. He stated that the CIG would like to have their own meetings with FMC in relation to the CMS process in addition to what FMC hosts for the community.
- A. Howard stated that the CIG feels that their outreach efforts do not result in enough feedback. She stated that the CIG wants to be actively involved in the process and that satisfies the group’s level of interest in participating in what FMC has proposed.
- W. Lachell stated that FMC can provide the CIG with additional detail beyond what they provide to other residents. She stated that the CIG is up to speed on the technical topics and is prepared to have a detailed discussion on the technical issues. She stated that FMC needs to strike a balance between presenting the information in more technical and more general means, and FMC will have meetings for both audiences to achieve that balance.
- In response to a resident question, B. McGinnis stated that the Town of Royalton is a recognized stakeholder and FMC will seek to solicit input from the town officials.
- It was noted that the Middleport village board also feels that they need additional information and would like to hear from FMC soon, and FMC agreed that there will also be outreach soon to the Village board
- B. Arnold noted that FMC cannot rely on email and the Internet in their outreach activities. W. Lachell stated that FMC is planning events to allow

residents to submit comments either in writing or online and noted that FMC plans to provide various opportunities for residents to comment on each step in the CMS process. She further noted that FMC's Coffeehouse events in the past have worked quite well.

- A resident stated that no matter how much FMC or the CIG attempts to gather input from residents, the reaction from the community will be low until people hear that work is needed on their property. B. McGinnis stated that while the number of responses from the community may be low, FMC will still do what they can to gather as much input as possible, with FMC undertaking a combination of outreach activities and providing multiple opportunities for input. W. Lachell stated that FMC's outreach efforts would be aggressive.
- A resident stated that the CIG might be a victim of its own success, noting that community members are relying on the CIG alone to be the representative of the community. Another resident stated that the CIG would maintain its independence from FMC and the Agencies in the CMS process.
- W. Lachell stated that one of the first initiatives that FMC is planning deals with identifying reasonable anticipated future land uses. She stated that FMC is planning to gather information on the air deposition area, Tributary One, and Culvert 105 at the same time. She stated that FMC would review existing planning and zoning documents and meet with local planning officials to help draft a figure depicting reasonable future land uses, which is a requirement in the CMS. She stated that FMC would share a draft of that figure with the CIG.

### **3. FMC Update**

- W. Lachell referenced FMC's Keeping You Posted document, which was provided to those in attendance.
- W. Lachell stated that the 2007 Early Actions paperwork is essentially completed. Mike Hinton of the NYSDEC is reviewing FMC's construction report. W. Lachell stated that the Coe property is still owned by Mrs. Coe. She stated that FMC needs to notify the property owner if any excavation work will need to take place on the property and FMC would need to be prepared to address the cover system on the property if any work is needed. A deed restriction exists on the property. B. McGinnis stated that FMC has previously planted shrubs on the edge of the property near the railroad.
- W. Lachell stated that RFI Volumes I, II and IV are approved/conditionally approved. She stated that FMC would be making some minor revisions to Volume II by Oct. 9.
- W. Lachell stated that FMC and the Agencies are currently working through revisions to RFI Volume V. M. Mortefolio stated that the Agencies are hoping a public information session on Volume V will be held prior to Thanksgiving, noting that the holiday season is not an ideal time for a public comment period. W. Lachell stated that FMC would try

to meet the schedule presented by the Agencies for Volume V completion, but felt the schedule was overly optimistic in terms of having a November informational meeting. She stated that they are having conference calls to try to resolve the outstanding issues. She noted that other Agencies are involved with Volume V including NYSDEC Fish & Wildlife.

- B. Arnold stated that there are many opinions in the village and within the CIG about the length of the project. He stated that the CIG is very sensitive to dates that are presented by FMC and the Agencies. He asked that both the Agencies and FMC work hard to meet original target dates that are presented.
- A resident stated that in future public information sessions the Agencies should not just take comments from residents but should directly respond to questions and comments at the meeting. M. Mortefolio stated that the Agencies would look into the possibility.
- B. McGinnis noted that soil vapor intrusion studies have been performed over the past two heating seasons on the FMC plant site. He stated that the outcome was that no action is required. Brian reminded folks that the outcome was the same as the conclusion previously reached for the two seasons of vapor intrusion studies at Roy-Hart school – no action is required.
- W. Lachell stated that 2009 Soil Sampling data were sent to property owners. She stated that some discussions on the sufficiency of the data between FMC and the Agencies are needed. M. Mortefolio stated that this process would not slow down the CMS for area 1 of the air deposition area. He stated that air deposition was divided into two areas. The area where the recent soil samples were taken is north of the canal and east of the county line, and this area is not included in the recently approved CMS work plan scope.
- W. Lachell stated that FMC received approval from the Agencies on the CMS work plan on Sept. 14. FMC will now proceed with the Corrective Measures Study. She stated that the first document to be drafted as part of the CMS is in regards to risk management. She stated that a draft is due in October and FMC is hoping to have meetings with residents in November.
- W. Lachell stated that FMC is also in the process of evaluating the practicality of a soil tilling/blending study to determine its potential as an alternative in Middleport. She stated that some states recommend or use soil tilling for agricultural or orchard land but it requires the right equipment and the right conditions to blend the soil.
- W. Lachell stated that the Agencies are working on comments to FMC's CAMU proposal.
- W. Lachell stated that FMC plans to harvest the plans used in the 2009 phytoremediation study after the first frost of the season.

#### **4. Other Discussion**

- A resident stated that they have lived on their property for 30 years. The resident stated that they have 30 years of hard work on their property. The

resident asked the Agencies and FMC to please consider the time, effort and dedicated that residents have made to their land when they make decisions about how to proceed with any cleanup in the village.

- M. Mortefolio stated that the Agencies currently plan to send letters to property owners this fall, which will explain whether or not their property is included in the CMS. B. Arnold stated that the CIG plans to have a discussion during the CIG-only portion of the meeting regarding residents who provided access to their property and now have sampling data but are excluded from the CMS. He stated that the residents were cooperative and provided access and now they are stuck with data that they have to disclose if they are going to sell their home.
- Two residents stated that the Agencies cannot leave these property owners hanging.
- M. Mortefolio stated that the Agencies have previously sent 46 No Further Action letters to residents. He stated that now that the properties included in the CMS for area one of the air deposition area and the culvert are defined, the Agencies believe it is appropriate to inform residents who are not in the study area of their status. M. Mortefolio stated that the Agencies have no regulatory obligation to send the letter and that they will either send letters to all the residents in the study area or none of the residents. He stated that residents have no obligation to keep the letter that the Agencies provide. He stated that residents do have to disclose their sampling data if they are going to sell. He also stated that the Agencies couldn't require anyone to remediate their property.
- B. Arnold stated that the issue is very important to CIG members and the community. He stated that many residents have lived on their properties for a long time and they are healthy people who are not affected by arsenic. He stated that in good faith residents allowed sampling because they were asked to do so and now some of them are stuck with sampling data and no outlet to clean up their properties.
- M. Mortefolio stated that the Agencies in good faith cannot not tell people that they have elevated levels of arsenic on their property. He stated that the Agencies could try to put in as much detail as possible into the letter. M. Infurna stated that the letter would contain recommendations for addressing the contamination. M. Mortefolio stated that any letter would recommend the property owner contact the Agencies since it is best to discuss the situation in a one-on-one basis.
- A resident stated that the Agency representatives have emotionally distanced themselves from the impact that they have made on peoples lives.
- B. Arnold stated that the Agencies came into Middleport more than 20 years ago and held many seminars and gave speeches that many residents found to be threatening. He stated that many people felt the Agencies were arm-twisting and attempting to scare people into thinking that there was a big problem in Middleport. He stated that the Agencies have a very bad reputation in Middleport and they need to do something to rectify it. He

stated that the Agencies need to come up with a way to cover the remediation of those properties that have sampling data but are not included in the CMS.

- M. Infurna stated that the Agencies are under the impression that the Middleport village government is going to want every property remediated. D. Westcott stated that if properties are contaminated the village will want it remediated. He stated that it makes no sense to do scattered properties. He stated that property owners could still refuse remediation.
- B. McGinnis stated that in reference to both properties excluded from and included in the CMS it is important to remember that just because those properties have elevated levels of arsenic does not necessarily mean that they would need to be remediated.
- In response to a resident question, M. Mortefolio stated that if the NYSDEC or NYSDOH is called, they give their interpretation of the data. He stated that he consistently receives Freedom of Information Act requests from other project sites and it is the law to disclose the information.
- A resident asked that, based on all of the information and data that exists, is there any possible way to project a possible end date to the Middleport RCRA project. M. Mortefolio stated that the Agencies would be working on a 2010 schedule. He stated that he believes it is likely there will be a decision point in 2010. He stated that it would indicate what properties will need remediation and what properties will not. He stated that potential project end dates would be a lot clearer after that 2010 decision point.
- B. McGinnis stated that once the CMS is final an end date could be projected but noted that the end date would be dependant on many factors.
- In response to a residents question, M. Mortefolio stated that the Roy-Hart school campus has remediated and non-remediated areas. He said a final determination on the school campus would be made in the CMS. He stated that the Agencies prior statement is still relevant. As a schoolyard it is an acceptable health risk scenario. He stated that the determination will not change except for a change in the potential future land use of the school property and noted the example of it the property were to become residential.

#### **5. Meeting Schedule**

- The October meeting is scheduled for Thursday, Oct. 22.
- The November meeting is scheduled for Thursday, Nov. 12.

**THE NEXT MEETING OF THE CIG IS SCHEDULED FOR OCTOBER 22. ALL REGULAR MEETINGS WILL BE HELD FROM 5:30 to 8 P.M. AT THE MASONIC LODGE.**