

**Middleport Community Input Group
Meeting at Masonic Lodge Hall – Part I Meeting Summary
January 12, 2010 – 5:30 to 7 p.m.**

In Attendance:

Bill Arnold – CIG Chairman	Mike Infurna – USEPA
Elizabeth Storch – Resident	Matt Mortefolio – NYSDEC
Dori Green – Resident	Mike Hinton – NYSDEC
Tom Arlington – Town of Royalton	Dan Watts, NJIT – Technical Consultant
Liz Bateman – Resident	Brian McGinnis – FMC
Joe Szalay – Resident	Andy Twarowski – FMC
Roger Grove – Resident	Erin Rankin – Arcadis
Kim Cain – Resident	Debra Overkamp – AMEC
Steve Cain – Resident	Wai Chin Lachell – AMEC
Michael Miano – Resident – Resident	Bill Arnold, Chairman MCIG
Herb Koenig – Resident	Ann Howard, RIT – Facilitator
Jeff Wells – Resident	Jim Pasinski – Meeting Notes
Hal Mufford – Resident	

1. Welcome and Introductions; Agenda Review

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

2. Update of Scheduled Activities

- M. Mortefolio noted that the Agencies have provided meeting attendees with two documents, the 2009 and 2010 schedule of activities for the Middleport project. He stated that the 2010 schedule sets up established target dates for various activities.
- M. Mortefolio noted that there are two sessions on 1/13/10 regarding RFI Volume 5 to be held at the Middleport Fire Hall.
- M. Mortefolio noted that the Agencies are currently evaluating the results of FMC’s 2009 soil sampling project in the air deposition study area 2.
- M. Mortefolio stated that implementation of FMC’s Corrective Measures Study (CMS) in air deposition area 1 and the Culvert 105 study are underway. He stated that the schedule identifies target dates and lays out the regulatory process.
- M. Mortefolio stated that the schedule for the CMS of Tributary 1 CMS is to be determined.
- M. Mortefolio stated that a timeline for the CAMU application will be determined. He stated the Agencies have provided comments to the application FMC filed.
- B. Arnold questioned if FMC had any issues with the schedule provided by the Agencies. W. Lachell stated that the CMS schedule has changed to include an additional public comment period and that has pushed the

schedule out a bit. She stated that the new public comment period is not required, but provides opportunity for additional public comment. She stated that the Agencies are planning to hold a public comment period on FMC's Draft CMS Report, which will contain FMC's recommended alternative(s). After the Agencies' have considered public comments on FMC's Draft CMS Report and FMC's recommended alternative(s), the Agencies will issue its preliminary corrective measures alternative for public comment. After the Agencies have considered public comments on its preliminary corrective measures alternative, the Agencies will then issue its determination on the final corrective measures alternative.

- M. Mortefolio stated that the Agencies will not provide a recommended alternative or alternatives until the community has provided comments on FMC's Draft CMS Report and recommended alternative. He stated that the Agencies felt the additional public comment period was warranted due to the high amount of interest in the project in the community. M. Mortefolio stated that with this approach the Agencies will provide formal responses to public comments from two public comment periods.
- B. Arnold stated that he likes the idea of the additional public comment period so long as the Agencies listen to the comments made by Middleport residents. W. Lachell stated that the final public comment period ensures that the Agencies will have to formally respond to each public comment. B. Arnold stated that previous reactions to public comments have not given any understanding of the "why" behind the decisions that were made. B. Arnold stated that the CIG was dissatisfied with the RFI Volumes I, II and IV comment/response process and the Agencies responsiveness summary.
- M. Mortefolio stated that previous public comments received during the 2009 RFI public comment period concerning the cleanup alternatives were preliminary and the Agencies did not receive any comments that the Middleport investigation was inadequate. He gave an example of the 2009 RFI public comment period where comments were given about arsenic cleanup levels which did not pertain to the document under review.
- M. Mortefolio stated that public participation is just one factor that the Agencies have to evaluate in determining any alternatives.
- A. Howard asked if the Agencies would revisit comments that they have received and perceived not to pertain to the document under review. M. Infurna said yes. M. Mortefolio stated that once the CMS is laid out people might have the same comment or their comments might change.
- A. Howard stated that the frustration lies in the fact that the community does not often have the opportunity to comment to the Agencies. She asked if the Agencies could provide assurance to the community that any oral comments they receive will be reviewed. M. Mortefolio stated that the Agencies would directly respond to comments relevant to that step in the process.

- M. Infurna stated that some public comments received simply did not apply at the time they were received. He said that those comments will be reviewed again at the appropriate time.
- A resident stated that the Agencies should provide an indication if a question was asked at the wrong time. The resident stated that many community members do not trust communications they receive from the Agencies and are not optimistic that the Agencies will listen to community members.
- M. Mortefolio stated that the Agencies are specific during public comment periods with regards to the documents that they are seeking comments about. A resident stated that the Agencies need to explain if comments do not apply to the document being reviewed. M. Mortefolio stated that if the Agencies receive 50 or 60 comments and have to answer each of those that do not apply it will only drag the process out. He stated that the Agencies receive two types of comments – those that are pertinent to the document under review and those that apply to something in the future or in the past.
- B. Arnold stated that many comments made by community members are simply an outpouring of emotions regarding the project, its progress and status.
- M. Infurna stated that during the 1/13/10 public meeting the Agencies representatives will stay after the meeting to answer any other questions that are not related to RFI Volume 5.
- In response to a question regarding the format of how the Agencies will review FMC’s CMS draft report, M. Mortefolio stated that FMC will submit a draft document to the Agencies, the Agencies will review and provide comments and try to have a document that has all factual information and it will be without their recommendation. He stated once the draft has that (all factual information), it will go to public comment. He stated that the formal process includes getting comments, transcribing and providing a response. He stated that there will likely need to be additional public Q&A sessions as well.
- D. Watts stated that any past question or comment from a resident should be taken into consideration by FMC as they prepare their documents. He stated that both FMC and the Agencies need to be aware of all public comments and all comments should be addressed. He said the Agencies should not have a “clean slate” for public comments on the CMS.
- M. Mortefolio stated that any comments received during the previous RFI documents were complete and that they might revisit other comments that didn’t fit. He stated that if the CIG feels that a response from the Agencies was incomplete or misinterpreted that is one thing, but if it is an actual disagreement over a decision the Agencies made that is another thing.
- B. Arnold asked if a comment can be re-sent. M. Mortefolio stated that anyone can make any comment they want.
- A. Howard stated that the CIG would appreciate it that if a comment is better suited for a different step in the process the Agencies relay that. M.

Infurna stated that they would do that. A. Howard offered that the CIG would be willing to help the Agencies by compiling and providing a listing of concerns to the Agencies.

- M. Mortefolio stated that the Agencies believe a FAQ session should be held before any decision is made so everything can be aired out. He stated that they are project managers for the Middleport project and other management people at the Agencies help to make decisions on the project as well. M. Infurna stated that a lot of external forces go into making a decision. M. Mortefolio stated that the project managers are ears for their management and know the community concerns and they relay those concerns to management and hope that management consider what they say.
- D. Watts asked why there were so many “To Be Determined” items on the Agency schedule. M. Mortefolio stated that TBD is listed because there is no way to tell what will happen. If FMC and the Agencies come to an agreement it would be quick but if not the process will extend out but until they reach a decision point no one really knows. M. Infurna stated that a decision on the CMS could come in 2013 or 2014 if the process drags out. M. Mortefolio stated that if it does not drag out they could have a decision in 2010 or 2011.
- B. Arnold stated that the Agencies might have to give a bit just like FMC has, in order to avoid a legal dispute.
- B. McGinnis stated that if he was a community member he would applaud the Agencies decision to provide two opportunities to comment on the CMS because residents can get comments on record twice before a decision is official.
- M. Mortefolio stated that the Agencies added the second comment period because they did not want to hear any comments such as “a decision has already been made so what good is my comment.”
- A resident stated that many people in the community feel like they are treading water. M. Mortefolio stated that he hopes Middleport residents understand how positively they have impacted the pace of the project and provided tree preservation as an example. He stated that if residents had never mentioned tree preservation it would have little importance but now it will be factored very heavily because residents have expressed it via community input.

3. FMC Update

- W. Lachell stated that FMC’s Keeping You Posted update has been provided at the meeting.
- W. Lachell stated that 2007 Early Actions Construction Report revisions have been issued.
- W. Lachell stated that public meetings on RFI Volume 5 are scheduled for 1/13/10.
- W. Lachell provided a CMS update. She stated that the soil blending/tilling study is complete and a draft report is due in February.

- W. Lachell stated that data from the phytoremediation pilot study is being reviewed and reports are being prepared and should be completed in February.
- W. Lachell stated that meetings were held and comments solicited on the draft reasonably anticipated future land use map. She stated that many comments were received. She stated that the school district would like school property to be considered as future residential land because of the potential that the school property could be used for residential purposes in the future. M. Mortefolio stated that the school board told him that they (the board) will discuss submitting formal comments at their next meeting.
- B. Arnold stated that there are concerns that the draft future land use map does not look at future planning in the Town of Royalton.
- M. Mortefolio stated that some EPA guidance was used to structure the map and much of it was geared towards avoiding scenarios where future land use might lead to institutional controls later. He stated that a lot is also geared towards community considerations, and the Agencies may change their mind based on community input.
- B. Arnold stated that he wrote a letter considering his property because he does not feel it is being looked at realistically.
- M. Mortefolio stated that before they started the CMS process Corrective Action Objectives were created with the goal of unrestricted future land use for residential or potential future residential property.
- B. McGinnis stated that the Middleport village Local Waterfront Redevelopment Plan and Royalton and Hartland master plans were all considered in the development of the map. W. Lachell stated that the government officials attended information sessions to discuss the process and the draft map. She stated that the map is not yet finalized and comments can still be sent.
- M. Mortefolio stated that the Agencies also attended those information sessions and there was very little discussion other than from the school district at the meeting where the draft map was discussed.
- T. Arlington stated that members of the Town Planning Board, Zoning Board and the Town Supervisor attended the October 2009 meeting held by FMC regarding the Land Use map. There were no school board members at that first meeting.
- W. Lachell explained that the first meeting (in October) was held to provide information to town and village officials before the map was released to the community for public comment.
- W. Lachell stated that the Land Use map is needed in late January/early February for the CMS, but that FMC will wait for school district comments. She indicated that the Land Use map that is being completed for the CMS will focus on the air deposition area 1 and Culvert 105.
- W. Lachell stated that FMC is awaiting Agency comments and community comments on the risk assessment approach document. She noted that the

risk assessment process is very complicated and FMC would like to have the Agencies comments before starting the risk assessments.

- W. Lachell stated that the tree preservation process has proven to be much more complicated than anticipated and because of that the original target date for the tree preservation technical memorandum was missed, and FMC hopes to submit draft documents by the end of January/early February. She stated that the public comment period for tree preservation will be pushed back a bit because FMC wants to create a survey to get residents opinions. She stated that it would not be fair to expect residents to read the document and be able to provide meaningful comments. She stated that the document and survey will be released at the same time.
- M. Infurna stated that the survey is important because the Agencies and FMC understand how important of a topic tree preservation is to many people in Middleport. He stated that FMC's survey needs to be carefully worded so the Agencies have an understanding of what each property owner wants.
- W. Lachell stated that a previous survey on exposure to soil proved to be very successful with 100 surveys returned out of 230 distributed.
- W. Lachell stated that FMC received comments from the Agencies on the CAMU application. She stated that FMC has requested a meeting with upper level management at the Agencies to discuss the many issues that both sides have, and that FMC is currently working on preliminary response package on the Agencies comments.
- B. Arnold asked how the CAMU application could affect the progress of the CMS. B. McGinnis stated that he expects the meeting to result in the differences being worked out one way or another because each side realizes that everyone wants to move forward.
- B. Arnold stated that he understands the two biggest issues between FMC and the Agencies are design issues. He said that FMC proposed not using a bottom liner but the Agencies do not feel that soil to on the south side of the Plant property is as contaminated and could be compromised. The other issue is that FMC has proposed not using a top liner but the Agencies feel that soil could leach out in the event of a 100 year storm.
- M. Mortefolio stated that the CMS work plan has three disposal options for Middleport soil: hauling to a landfill as waste, hauling to a landfill as cover material, or the CAMU. He stated that the CMS will determine which option is best. He stated that if the CAMU is chosen then the NYSDEC would have to work with FMC on any CAMU design issues.
- B. Arnold stated that FMC submitted the CAMU application nearly two years ago and the Agencies did nothing with it. He asked if the CMS would be in jeopardy if the CAMU caused delays. M. Mortefolio stated that they determined the need to look at all alternatives as part of the CMS process. M. Infurna stated that they needed to wait to review the disposal options. He stated that there will still be a comment period and regulations call for a separate public process on the CAMU if the CAMU is selected as a remedy. He stated that they need a determination on the CAMU first.

B. McGinnis stated that a delay could put the CMS in jeopardy. W. Lachell stated that FMC feels it is important that the community understands the specifications of the CAMU so residents can make informed comments which is why the CAMU application was submitted in 2008.

- M. Mortefolio stated that part of the issue with the CAMU is bureaucratic. He stated that the CAMU process falls under NYSDEC authority while the CMS is a joint process between the NYDEC, EPA and NYSDOH.
- B. Arnold stated that the CIG as a group did not find a fault with the CAMU but individually residents might have problems with it. He said that some people have concerns about dust migrating to the school property.
- B. McGinnis stated that there are several reasons why FMC would like to utilize the CAMU option. One consideration is cost; a second consideration is rate of production - there are limits on landfill hours and the amount of soil a landfill will accept daily - and a third consideration is the impact of truck traffic on local roads. He stated that by taking the non-hazardous soil back to the plant site FMC would control their own destiny and schedule (for the remediation project) rather than it being at the mercy of a third party. B. McGinnis stated that FMC is required to provide financial assurance for the CAMU in the event that the company was to go out of business. He stated that the costs related to that would be identified and evaluated in the CMS.
- A resident stated that some of the considerations are short-term issues and other issues are long-term issues.
- B. Arnold asked how FMC would prevent future seepage at the property line where a containment pond once was located. B. McGinnis stated that the pond is already gone and the seepage problem no longer exists. W. Lachell stated that arsenic in groundwater does not move well. W. Lachell also stated that runoff is a grading issue, rather than a leaching issue.
- A. Howard stated that the CAMU will be a future CIG meeting topic.

4. CIG Accomplishments

- B. Arnold stated that 2009 was a significant year for the CIG. He stated that things have moved a lot faster in the past year than they have over the past 20 years. M. Mortefolio stated that the schedule and target dates that the CIG requested has helped move the project along.
- A list of the CIG 2009 accomplishments can be found online at: <http://www.middleport-future.com/cig/docs/misc/accomplishments09.pdf>.
- The 2009 CIG accomplishments are:
 - 1. Continued to meet on a monthly basis with FMC representatives and on a quarterly basis with government agency representatives to resolve concerns and provide input.
 - 2. The RFI/CMS process has been accelerated due to constant pressure from the MCIG.

- 3. The MCIG received an EPA Region 2 Environmental Quality Award for their efforts over the past two years. Also received recognition from Congressman Chris Lee.
- 4. Presented MCIG concerns at the open session, June 2009 for RFI's 1, 2 and 4 along with general concerns to agency members. Followed up with comments to the Agencies answers to public comments.
- 5. Insisted that a site based risk assessment approach be included in the CMS. FMC has included two types of risk assessment, probabilistic and deterministic.
- 6. Successfully pressed for target dates for various parts of the project from the Agencies and FMC. Provided input on the format of updates. The CMS for the Air Deposition Area and Culvert 105 has a target date for an end of study draft report of June 2010.
- 7. Provided feedback for the drafting of the Agencies' Corrective Action Objectives.
- 8. Provided feedback to FMC regarding some parts of the CMS work plan which resulted in changes in the document.
- 9. Created a 2009 calendar for public distribution with MCIG related information on the back.
- 10. Provided feedback to FMC on their Home Value Assurance Program.
- 11. Several members of the MCIG met with Assemblywoman Jane Corwin to discuss the RCRA project, it's impact to the community and bring her up to date with community concerns.
- 12. Voiced concerns over FMC selling properties in the village with deed restrictions. FMC has subsequently sold residential properties with easements instead of restrictions.
- 13. Reviewed and commented on FMC's plan of outreach to the community to get citizen involvement in the CMS.
- 14. Urged the Agencies to write formal letters to all property owners in study areas informing them of the status of their properties. This letter was sent in the 4th quarter.
- 15. Requested FMC proceed with the soil tilling evaluation without waiting for Agency approval of the plan. The evaluation was conducted in the 4th quarter while soil conditions were favorable.
- 16. Members attended the formal presentation of the Human Health Risk Assessment by Dr. Schoof. Provided input on how to improve the presentation for subsequent seminars.

5. Meeting Schedule

- The February meeting is scheduled for Thursday, Feb. 11.
- The March meeting is scheduled for Tuesday, March 9.
- The April meeting is scheduled for Wednesday, April 7.

THE NEXT MEETING OF THE CIG IS SCHEDULED FOR FEBRUARY 11, 2010. ALL REGULAR MEETINGS WILL BE HELD FROM 5:30 to 8 P.M. AT THE MASONIC LODGE.