

**Middleport Community Input Group
Meeting at Masonic Lodge Hall – Part I Meeting Summary
October 22, 2009 – 5:30 to 7:15 p.m.**

In Attendance:

Bill Arnold – CIG Chairman	Dan Watts, NJIT – Technical Consultant
Elizabeth Storch – Resident	Debra Overkamp – AMEC
Janet Lyndaker – Resident	Wai Chin Lachell – AMEC
Dori Green – Resident	Erin Rankin – Arcadis
Larry Lutz – Resident	Andy Twarowski – FMC
Christa Lutz – Resident	Brian McGinnis – FMC
Margaret Droman – MRAG/Resident	Judy Smeltzer – FMC
Betty Whitney – Resident	Mike Hinton – NYSDEC
Tom Arlington – Town of Royalton	Jim Ward – State Sen. Maziarz’s Office
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.
- B. McGinnis stated that FMC would also like to discuss the future land use meeting held last week between FMC and local planning officials.

2. FMC Update

- W. Lachell noted that FMC’s Keeping You Posted document had been provided and that FMC’s update would coincide with that document.
- W. Lachell noted that FMC had revised and submitted the Phase 2 ICM Construction Report and the Phase 2 ICM OM&M plan to the Agencies. FMC is in the process of revising the 2007 Early Actions Construction Report in accordance with the Agencies’ September 28, 2009 comments. She stated that the report is the final step on the project.
- W. Lachell stated that RFI Volumes I, II and IV have been finalized and formally approved by the Agencies.
- W. Lachell noted that FMC has responded to the Agencies comments on the submittal of RFI Vol. V. She stated that a schedule for revisions has been established and an electronic draft revisions would be sent to the Agencies in November. It is anticipated that the Agencies will schedule a public meeting in January 2010.
- W. Lachell stated that the Agencies need to evaluate the sufficiency of data FMC submitted for the 2009 soil samples collected from suspected air deposition areas north of the canal and east of the county line. She stated that FMC hopes to have final resolution in early 2010.
- W. Lachell stated that implementation of the CMS work plan has begun. She stated that the first activity is identifying reasonably anticipated future land uses in the Middleport study areas. She stated that FMC plans to

submit a draft map in early November. It was noted that the corrective action objectives for the CMS state that corrective action decisions are to be based on both current and future land use and alternatives selected must meet certain criteria for both. W. Lachell stated that as part of the FMC's communications effort, FMC and the Agencies representative (Matt Mortefolio) met with the zoning boards of the towns of Royalton and Hartland and the village of Middleport on Oct. 15th. She stated that during the meeting FMC officials described the process of determining future land use and received feedback from the zoning officials.

- T. Arlington stressed that the future land use process is not meant to change any zoning maps.
- In response to a question, B. McGinnis stated that reasonably anticipated future land use is determined by examining current zoning and how the land is currently used. W. Lachell stated that they also examine the zoning codes and current municipal comprehensive plans (e.g., Middleport LWRP) to determine if a property could possibly include a future residential development. The draft map FMC creates will be provided to the public and the Agencies for review and comments. W. Lachell stated that FMC would present and discuss what is on the map during Nov. 12th MCIG meeting and at coffeehouse meetings on November 17th and December 3rd. She stated that FMC would notify property owners in the study areas of the meeting dates. A copy of the draft map will be available on FMC's CMS website (www.middleportny.com) and the MCIG website.
- W. Lachell and E. Rankin explained that FMC has submitted a draft work plan for a soil tilling/blending study in Middleport. It was stated that FMC hoped to perform the study in November. The work would involve blending and mixing the upper 2-3 feet of soil to mix soil with higher levels of arsenic on top with soil below that has lower levels. W. Lachell stated that the study work plan involves using two different techniques. The study will determine how long the process takes, the cost, how soil arsenic levels change and how the quality of soil is affected. W. Lachell stated that FMC is considering using two plots of land for the study, one on B. Arnold's property and the other on Maedl Lane.
- B. Arnold stated that he would like the organic quality of the soil in the study area to be tested prior to the study taking place. He stated that soil further down might not be of the same quality as the surface soils.
- B. McGinnis stated that the soil tilling/blending approach likely would not be a viable option around trees or on most residential properties due to the size of the equipment used. W. Lachell stated that the option would be limited to larger, vacant fields.
- B. Arnold questioned why FMC needs to wait for Agency approval before performing the study. B. McGinnis stated that without the Agencies approving the work plan, FMC would be performing the study "at risk" and the Agencies could reject the results because of a disagreement about the way the study was performed.

- M. Hinton stated that a soil tilling/blending study would only be a test and not a final remedy. He stated that he does not believe the Agencies would approve the work plan in time for the schedule FMC has submitted for performing the test. He stated that the Agencies would likely inform FMC that they could go ahead with the study without Agency approval. B. Arnold stated that he felt it would be important to perform the study as soon as possible before mud issues arrive with the weather changes. B. McGinnis stated that FMC could go ahead and perform the study “at risk” if the property owners in the study agree and provide access to their property.
- W. Lachell stated that FMC’s next submittal in the CMS process is the risk management approach document. She stated that FMC would submit the document by Oct. 30th to the Agencies and FMC has scheduled four information sessions for residents to learn more and contribute to the process. FMC and Dr. Roz Schoof will explain what is included in the risk assessment approach document. W. Lachell stated that this allows the community an early opportunity to provide comments. Two sessions will be held at the Alternative Grounds Caffee on Nov. 4th at 10 a.m. and 7 p.m. She stated that those sessions might be of more interest to CIG members since more technical information will be presented. More general information will be presented during the two sessions on Nov. 5th at 11 a.m. and 2 p.m. at the FMC House at 17 Vernon St. She stated that FMC also plans to receive input from the CIG during the Nov. 12th meeting. FMC has also scheduled two coffeehouse events to gather community input. Those events will take place on Nov. 17 and Dec. 3. FMC delivered flyers to residents in the CMS study areas for the Nov. 4 and Nov. 5 events.
- W. Lachell stated that FMC needs community input on the risk assessment by Dec. 9th in order to meet the schedule for completion of the draft CMS Report. A. Howard noted that the Agencies had a target date of Dec. 30 for the risk approach document. W. Lachell stated that FMC did not agree with that date and they felt that it was too late of a date to meet the CMS schedule.
- A resident asked what the chances are of the Agencies changing the cleanup number they have in mind. He stated that in the past Dr. Schoof has stated her opinion that 40 ppm is not a human health concern. W. Lachell stated that the CMS is FMC’s opportunity to prove their case of what an acceptable risk is. M. Hinton stated that the cleanup number would be a combination of factors. He stated that the number listed in the law has been argued before. He stated that Middleport is a RCRA project not a Brownfield. He stated that background, risk and other factors all go in to determining a cleanup number, which could be higher than 20 ppm.
- W. Lachell stated that the corrective action objectives list how alternatives will be evaluated and determined. She stated that administrative order on consent specifies the terms and conditions for review and approval of the draft and final CMS report and documents related to pilot studies. The

order does not require submittal of other interim CMS submittals. The approved CMS work plan specifies submittal of interim documents for the purposes of soliciting early input from the Agencies and the community.

- A. Howard stated that ideally FMC and the Agencies schedules should match. W. Lachell stated that with the exception of the risk management approach document the CMS target dates on the schedules are similar. She stated that the Agencies schedule has established target dates for submission of the draft and final CMS reports to be June 15, 2010 and August 16, 2010, respectively. FMC has established other dates for interim tasks in order to meet the Agencies end dates. E. Rankin stated that FMC's schedule is very aggressive.
- In response to a question regarding the phytoremediation study, W. Lachell stated that the plants would be harvested on Oct. 26 and FMC hopes to have the data report in February or March.
- W. Lachell stated that FMC plans to submit a technical memorandum on tree preservation methods on Dec. 14th. E. Rankin stated that a representative from Arcadis viewed the area and met with an arborist and a NYSDEC representative for the Tree City program. She stated that they are gathering additional input on the potential of doing construction and preserving trees. W. Lachell stated that FMC would host information sessions in January 2010 on tree preservation.
- In response to a resident question regarding the NYS budget and the potential for cutbacks to cause delays in Agency work on the Middleport project, J. Ward stated that it would likely only be an issue if Agency expenses were involved in any steps of the process. He stated that they are hearing there might be 10% non-personnel cuts in all department budgets. M. Hinton stated that no one knows anything yet, but there already are travel restrictions. He stated that budget cuts are not supposed to impact delivery of services.
- B. McGinnis stated that the June 2010 date for submission of the draft CMS report was a date given to FMC by the Agencies. W. Lachell stated that FMC has its own target date of late April or early May 2010 to submit a preliminary draft to the Agencies. The Agencies expect the draft CMS to go to public comment in June or July 2010.

3. "Off Spec" Soil Issues from Early ICM's

- E. Rankin stated that "off-spec" soil refers to the physical characteristics of soil brought in.
- E. Rankin stated that soil is a valuable natural resource and they have a series of tests and characteristics for soil that is needed for backfill. She stated that before backfill is selected samples are taken and tested for quality.
- E. Rankin stated that early action excavation areas were backfilled with general fill soils and an overlying layer of topsoil. She stated that the general fill soil is not required to have as high organic quality as topsoil. She stated that the general fill soils had some unexpected issues with large

sized stones used at a few properties as a result of a broken screen (to screen out large materials) at the backfill source. The contractor had to manually remove the stones during placement of the fill soil until the situation was corrected at the fill source. She stated that they believed the specifications were met prior to the fill being brought in but some property owners called the NYSDEC to express frustration with their soil.

- M. Hinton stated that two residents complained about the amount and size of stones in the backfill soil.
- W. Lachell stated that FMC has addressed each issue on a case-by-case basis. M. Hinton stated that the reason “off spec” soil was mentioned was to ensure that any similar problems are addressed in the future.
- B. Arnold stated that he understands now the “off spec” issue was related to rock content and not the chemical content of the soil. B. McGinnis responded that that is not the case, and that the chemical content of backfill soils were tested and met the requirements.
- E. Rankin stated that the term “off-spec” is not quite correct, because the soils actually met all the required specification in the Agency-approved work plan. She said that the Agencies used the term “off-spec” in their letter as a means to simply refer to the oversize material.
- Two residents stated that six inches of topsoil is not enough and they believe 12 inches are needed for planting. A resident stated that residents are being shortchanged if 12 inches are not used. M. Hinton and W. Lachell stated that a six-inch layer of topsoil is the standard. W. Lachell stated that planting beds have been treated differently and have been completely replaced based on discussions with the property owner.
- M. Hinton stated that most properties were fine and residents who were concerned did voice frustration. W. Lachell stated that they learned a lot from the Vernon St. project and the way Park Ave. was handled.

4. CAMU Application Update

- B. Arnold stated that in CIG-only portion of the September CIG meeting the group discussed the Corrective Action Management Unit (CAMU) application since it was noticed on the Agencies schedule. He stated that he asked the Agencies to be prepared at this meeting to present information but M. Infurna sent an email stating that there would be no presentation. B. Arnold stated that he is getting tired of the cavalier attitude that the Agencies are giving the CIG and the CIG’s concerns. He stated that they do not seem to care about what the CIG thinks or what the CIG would like to see. He stated that the Agencies approach that they have made their decisions and are moving on without resolving conflicts is unacceptable.
- M. Hinton stated that the CAMU is a different set of procedures from the norm since it is an application for a permit. He stated that the date that the CIG noticed was only the date in which the Agencies would supply comments to FMC on the application that FMC submitted. He stated that

the comments would be sent to FMC and FMC needs to address those comments before the application is deemed complete.

- T. Arlington stated that the Town of Royalton has the opinion that “they” are going to do what they want to do regardless of the town’s opinion.
- W. Lachell stated that a decision on the CAMU would not come until the CMS is complete. She stated that the application is a description of how FMC would build and use the CAMU. She stated that the Agencies wanted to roll the CAMU decision into the CMS. She stated that each remedy in the CMS would have soil disposal options consisting of the CAMU, a commercial off-site landfill facility or beneficial re-use.
- E. Rankin stated that the Agencies would likely want more detail on the conceptual design that FMC submitted in the application.
- A resident stated that the height of the CAMU is an issue and they do not want “stuff” from another county coming into the village.
- B. McGinnis stated the maximum height of the proposed CAMU is 35 feet. If the CAMU were completely full, FMC would have to haul remaining soils somewhere else. He stated that the size specifications would not change from what was submitted in the application. He stated that it is his belief that FMC will still attempt to get that area on the FMC plant site designated as a CAMU because it already stores soils from previous remediation projects.
- W. Lachell stated that without the CAMU designation FMC could be forced to move all of the soils already stored there to a new location.

5. Other Discussion

- A resident stated frustration that no Village of Middleport elected officials or employees were in attendance at this meeting. The resident also stated that the process is still too slow.
- A. Howard stated that the schedule and recent progress that has been made is because of the CIG. She stated that there is an expedited process because the CIG asked for a timeline. She stated that in most cases it is very difficult for Agencies to agree to a timeline.
- B. McGinnis stated that because of the CIG’s involvement and concern things have dramatically accelerated the process from FMC’s perspective.
- B. Arnold stated that if it were not for the work of the CIG the process would still be pre-RFI. He stated that the CIG gets a better response from FMC on moving the process along but he does not feel that they are making much headway with the Agencies.
- B. Arnold stated that he wrote a strong letter to the Agencies two months ago that dealt with communications issues and he has not heard back.
- J. Ward stated that State Sen. Maziarz’s office would be vocal about the CIG’s concerns and would work on it.
- A. Howard noted that tree preservation is a very important issue to the CIG and needs to be a significant portion of discussion during an upcoming CIG meeting.

- D. Overkamp noted that FMC now has a CMS-specific website at www.middleportny.com, which contains CMS-related documents and a schedule for upcoming CMS-related information sessions. She encouraged residents to visit the site and register their email address to receive meeting notifications and other updates.

6. Meeting Schedule

- The November meeting is scheduled for Thursday, Nov. 12.
- There will be no December meeting.
- The January meeting is scheduled for Tuesday, Jan. 12, 2010.
- The February meeting is scheduled for Thursday, Feb. 11, 2010.

THE NEXT MEETING OF THE CIG IS SCHEDULED FOR NOVEMBER 12. ALL REGULAR MEETINGS WILL BE HELD FROM 5:30 to 8 P.M. AT THE MASONIC LODGE.