

**Middleport Community Input Group
Meeting at Masonic Lodge Hall – Part I Meeting Summary
February 11, 2010 – 5:30 to 7:20 p.m.**

In Attendance:

Bill Arnold – CIG Chairman	Robin Storms – Resident
Elizabeth Storch – Resident	Harold Storms – Resident
Dori Green – Resident	Janet Lyndaker – Resident
Tom Arlington – Town of Royaltown	Mike Hinton – NYSDEC
Larry Lutz – Resident	Dan Watts, NJIT – Technical Consultant
Christa Lutz – Resident	Bob Carr – Carr Marketing Communications
Lynn Andrews – Resident	Wai Chin Lachell – AMEC
Nina Willing – Resident	Erin Rankin – Arcadis
Rick Willing – Resident	Debra Overkamp – AMEC
Michael Miano – Resident	Ann Howard, RIT – Facilitator
Richard Westcott – Resident	Jim Pasinski – Meeting Notes

1. Welcome and Introductions; Agenda Review

- A. Howard began the meeting and led introductions.
- A. Howard reviewed the agenda. She stated that the group would also have a brief discussion regarding media coverage of the remediation program.

2. FMC Update

- W. Lachell stated that FMC’s Brian McGinnis could not make it to the meeting due to travel problems related to snow in Philadelphia.
- W. Lachell stated that the Keeping You Posted update from FMC has been provided and her update at this meeting is based on that.
- W. Lachell stated that the 2007 Early Actions Construction Report is with the Agencies and awaiting their approval.
- W. Lachell stated that the RFI Vol. 5 public comment period will end on Feb. 15.
- W. Lachell stated that the Agencies have determined that the 2009 soil sampling project yielded sufficient data. She stated that FMC has been directed to provide a schedule for submitting an RFI report by March 1st. B. Arnold stated that the comment letter provided by the Agencies gives the impression that the project is expanding beyond the area where the sampling occurred.
- M. Hinton stated the Agencies have discussed the possibility of adding that soil sampling project to a previous off-site RFI report. B. Arnold stated that it would not rule out additional samples being needed. W. Lachell stated that FMC understands that there is no sampling necessary outside of that area.

- M. Hinton stated that the CIG might be reading more into the Agencies comments than necessary. He stated that there is no intent or desire to sample areas out beyond what has already been sampled. A. Howard asked if further sampling might be required for corrective measures but not for the examination of additional areas. M. Hinton stated that the investigation into that area is done. He stated that there could be more sampling within that area for delineation during the remedy design if remediation is needed.
- D. Watts stated that the Agencies do have the right to ask for additional sampling at any time.
- W. Lachell stated that, with the assumption that a corrective measure or measures are determined for the Air Deposition Area, they might be able to conclude that a CMS for the area where additional sampling occurred is not necessary based upon the results of the Air Deposition CMS. M. Hinton stated that there have been discussions of rolling that area into the Air Deposition Area CMS because the additional sampling area might not warrant its own CMS. He stated that the project expanded when the Agencies required the additional sampling. W. Lachell stated that a discussion would be held about rolling the area into the Air Deposition Area CMS but they would not do it if it were to cause a delay in the CMS.
- B. Arnold stated that the Middleport project has to end at some time. He asked that the Agencies not add additional RFI volumes to the project when there are still eight RFIs to complete.
- W. Lachell stated that FMC would have more clarification on the matter at the March CIG meeting. A. Howard stated that the topic would be added to the March agenda.
- W. Lachell provided an update on the current CMS. She stated that FMC is awaiting comment from the Agencies on the risk management approach document.
- W. Lachell stated that FMC plans to submit reports to the Agencies on the soil tilling/blending study and the phytoremediation study.
- W. Lachell stated that FMC has just submitted a technical memorandum on tree preservation techniques.
- W. Lachell stated that FMC is revising drawings for the reasonably anticipated future land use map based upon comments received from the Agencies, the Roy-Hart School District, the Town of Royalton and residents.

3. CAMU Overview and Update

- W. Lachell stated that FMC is having discussions with the Agencies on the comments the Agencies sent about FMC's CAMU application. She added that they were still attempting to schedule a meeting with the Agencies and FMC has requested that Agency senior management participate in an effort to try to resolve the major issues. She stated that the major issues involve timing and integration of the application into the CMS. She stated that there are logistical and legal issues regarding

administering the process and specifically about who has the authority over the CAMU designation. She stated that the Agencies do not believe the current Administrative Order of Consent governs the CAMU application while FMC feels that it does.

- A. Howard asked if FMC's concerns relate to the final arbiter over the CAMU process. W. Lachell stated that was correct and further explained that the concern is over whether the EPA has authority on the designation process. She stated that the CAMU rules mirror federal rules and the issue is a matter of whose input would be allowed in the process. She said a decision will be made as part of the CMS, which is overseen by both the NYSDEC and the USEPA
- W. Lachell stated that another FMC concern is the number of issues that need to be resolved regarding the detailed technical issues associated with the CAMU and that those issues need to be ironed out for the purposes of the CMS. FMC does not want the CAMU issues to delay the CMS. She stated that the expectation is for some resolution to the major issues related to the CAMU before the CMS is completed.
- W. Lachell gave CIG members a PowerPoint presentation about the CAMU and a Q&A about the CAMU was provided to meeting attendees.
- W. Lachell stated that the intention of the CAMU under RCRA is to expedite remediation programs.
- W. Lachell stated that the area where the CAMU would be is currently known as the ESI Fill Area. She stated that this is the area on the FMC plant site where all soils from previous remediation projects are being temporarily stored. The CAMU application seeks to make that area on the plant site a permanent storage area.
- A resident stated that they would prefer there be a deadline as to when the CAMU would no longer be allowed to accept soils. The resident stated that the Middleport project has the potential to extend to Lake Ontario and they would also like to see a rule where only soils from within the Village of Middleport could be stored on the CAMU. W. Lachell stated that the Agencies could put a time deadline on the CAMU or place restrictions on what soils can go into the CAMU.
- A resident asked if the Roy-Hart school district has commented on FMC's CAMU application. W. Lachell stated that the district has received all CAMU materials that FMC has created but there has not been any public comment period on the CAMU as of yet and FMC has not received any other comments from the district. She stated that FMC has met with the previous and current superintendent and noted that school board members have attended previous CAMU public events.
- W. Lachell stated that FMC's CAMU application proposes three phases of construction because they do not know how much space they will need for the storage of soils. She stated that the proposal could change to two phases based on discussions with the Agencies. She stated that one phase would have a liner and one would not. She stated that the application calls for a maximum height of the CAMU of 35 feet. She stated that no human

health or environmental impacts are expected because of the CAMU. She stated that the soil would be covered, groundwater extraction systems already exist and there would be no surface water impact because of the cover system which would prevent rainwater from impacting the soil.

- A resident stated that no one is considering the psychological impact of the CAMU being in Middleport. B. Arnold asked what impact that a major storm would have and if it could overburden the collection system. W. Lachell stated that they do not feel that storm water requires any treatment because the storm water would not be able to contact the soil placed in the CAMU. She stated that all water from the FMC plant runs into the creek under an existing water discharge permit and half of that water is treated before it is released. She stated that there has been no flooding associated with the FMC plant, including in 2004 when the area was hit with what was considered a 100-year storm. She stated that a drainage ditch system would be constructed around the CAMU to direct the storm water runoff from major rainfall into a new retention pond on the plant site as part of the surface water runoff control system. The water in the pond would eventually be discharged to the creek under the terms and conditions of the Plant's water discharge permit.
- E. Rankin stated that FMC has a high standard of care that they have to adhere to and all processes and procedures would be reviewed by numerous parties and revised as necessary.
- W. Lachell stated that FMC has to provide long-term maintenance and financial assurance in the event that the FMC plant closes. The plant already does this for other areas of the Plant, as required by the regulations.
- W. Lachell stated that there would be no hazardous waste in the CAMU and that soil that would be stored in the CAMU is currently sitting in people's yards.
- A resident stated that there is a psychological problem with permanently storing soil in the village.
- W. Lachell stated that there would be two sets of meetings relating to the CAMU – one dealing with the CAMU as part of the CMS and the other regarding design elements of the CAMU.

4. Tree Preservation Technical Memo

- W. Lachell stated that the tree preservation technical memo was submitted to the Agencies on Feb. 10. She stated that half of the document discusses physiological issues with trees and concerns about the impact on trees from construction. She stated that the majority of tree roots are in the upper two feet of soil and are spread out wide. She stated that there are many factors to consider when evaluating tree protection measures.
- W. Lachell stated that the second half of the document discusses measures to address soil within a root zone of a tree selected for preservation. The executive summary of the report was provided to CIG members. She stated that the preservation of trees will have to be site specific and not all

trees can or should be preserved. She stated that 80% of trees in the Village Right-of Ways are considered mature trees and are in the final third of their life. She stated that an arborist or experienced nursery professional would be used to evaluate trees and to identify trees that can be preserved. .

- The executive summary outlines all of the potential tree preservation measures and also provides seven conclusions. W. Lachell stated that the report concludes that the best way to address soil is to limit excavation to a maximum of six inches and also identifies pneumatic excavation as a potential viable option. She stated that once a remedy is selected and they are ready to go to the design stage they would perform the site specific evaluations.
- W. Lachell stated that public information sessions are scheduled for March 10, 15, 22 and 23, 2010. FMC does not anticipate receiving any comments from the Agencies prior to the March CIG meeting. Comments on the tree preservation document are needed by April 3, 2010.
- B. Arnold questioned what was meant by the final conclusion in FMC's executive summary which states that "Long term maintenance or monitoring of the preserved tree (i.e., watering, fertilizing) and/or subsequent removal of the tree would be the responsibility of the property owner". He asked if any long term assistance will be provided by FMC. W. Lachell stated that when the contractors are done with construction and they demobilize, FMC is done with the project. B. Arnold stated that FMC needs to consider maintenance to make sure steps are taken to ensure trees live. W. Lachell stated that FMC is not contemplating any maintenance of trees but residents should provide comments if they feel strongly about that. She stated that FMC would provide information to residents regarding caring for their trees. A resident stated that it takes three to four years to examine disrupted trees.

5. Media Coverage Discussion

- B. Arnold stated that at the June 2009 Agency public meeting Ch. 4 (WIVB-TV) in Buffalo attended and reported factually inaccurate information that had no resemblance to what actually happened at the meeting. He stated that the same thing happened after the recent January Agency public meeting. He provided handouts of the WIVB Web site coverage.
- A. Howard stated that Bob Carr of Carr Marketing Communications was in attendance at this meeting to give the CIG some feedback on issues with media coverage of the RCRA project.
- B. Carr provided some historical information regarding FMC's past interactions with Ch. 4 and noted that Ch. 4's coverage has outweighed other media coverage by a factor of about eight to one. He stated that they monitor Ch. 4 and other media coverage and they have had contact with Ch. 4 in the past. He stated that the June 2009 and January 2010 reporting

from Ch. 4 were totally erroneous and they withdrew their Web site articles as soon as they were contacted on both occasions.

- B. Carr stated that FMC would like to meet with Ch. 4 prior to the next Agency public meeting. He noted that Ch. 4 has previously done fair reporting on the Middleport project. He stated that they need to work to ensure fair reporting before the next public meeting.
- A resident stated that the community should try to stop the erroneous coverage before it happens and stated that Ch. 4 should have issued a retraction of its last story.
- A. Howard reiterated that the CIG has previously determined that B. Arnold is the only spokesperson for the group and any member approached by the media should refer to B. Arnold.

6. Meeting Schedule

- The March meeting is scheduled for Tuesday, March 9.
- The April meeting is scheduled for Wednesday, April 7.
- Future meeting dates will be determined in March.

**THE NEXT MEETING OF THE CIG IS SCHEDULED FOR MARCH 9, 2010.
ALL REGULAR MEETINGS WILL BE HELD FROM 5:30 to 8 P.M. AT THE
MASONIC LODGE.**