

**Middleport Community Input Group
Meeting at Masonic Lodge Hall – Meeting Part I
June 18, 2008 – 5:30 to 7:30 p.m.**

In Attendance:

Dan Dodge - Village Coordinator	Elizabeth Storch – Resident
John Swick - Village Police Chief	Karen Pollworth – Resident
Dan Seaman - Village Attorney	Betty Whitney – Resident
Jennifer Bieber – Town of Royalton	Dori Green - Resident
Elizabeth Bateman – Village Board	Bill Arnold – CIG Chairman
Pat Cousins - MRAG	Geomatrix – Wai Chin Lachell
Lisa Allen - CAP	Jim Ward – Sen. Maziarz Office
Margaret Droman - CAP	Mike Infurna - EPA
Christa Lutz - CAP	Mike Hinton - NYSDEC
Dick Westcott - CAP	NYSDEC - Matt Mortefolio
Dick Owen - CAP	Tamara Girard – NYSDOH
Dan Watts – MRAG	Facilitator – Ann Howard, RIT
	Meeting Notes – Jim Pasinski, Carr Marketing Communications

1. Welcome and Introductions

- A. Howard reviewed the agenda for the meeting.
- A. Howard asked all in attendance to introduce themselves.
- A. Howard explained this meeting is dedicated to a review of the Agencies responses to the CIG's questions.
- A. Howard noted that the July CIG meeting is scheduled for July 8th and the group will be scheduling future meetings today.

2. Review Agency Responses to MCIG Questions

- B. Arnold noted that the Agencies June 18th Meeting Topics, MCIG Questions and Agencies' Responses and a document with his comments on the Agencies answers to the CIG questions have been handed out. He stated that they would like to focus on the specific questions and answers rather than going through each question and answer on the Agencies' document.
- B. Arnold stated that when he met with the Agency leadership (Mike Infurna, Matt Mortefolio and Tamara Girard) one month ago, he thought that they had made progress, but now it seems like they have taken a step back and it is almost similar to the situation leading up to the Oct. 1, 2007 public meeting.
- B. Arnold noted that he had gone through the Agency responses to the questions and highlighted his concerns and disagreements with the Agency responses. He noted that he had prepared a document listing his concerns with the Agency responses.

- A. Howard noted that it would probably not be productive to go through each response one by one. She stated that it would be best to address the most significant issues people have.
- J. Ward stated that he thought it would be efficient for B. Arnold to lead the discussion.
- A. Howard stated that it would be fine to use B. Arnold's document as a guide but they need to be sure not to exclude anyone's comments.
- M. Infurna made an initial statement and said that a lot of the questions the Agencies responded to have been answered previously and by word of mouth the answers seem to get twisted. He stated that the community has contact information for the Agency representatives and encouraged anyone to contact the Agencies with questions and they will get back to them as quickly as possible. He stated that the misconceptions can be based on what some perceive to be the truth. M. Infurna stated that the Agencies may not have not a good job of explaining the issues to the community and invited people to email him, Matt Mortefolio, or Tamara Girard with any questions.
- J. Ward stated that a good portion of the questions have been asked by Senator Maziarz previously and they were not answered.
- A. Howard noted that the number of people involved in the CIG has grown and it is important to keep those individuals on pace with the same set of information that everyone else has.
- B. Arnold started the question and answer review with topic #1. There were no immediate comments on that topic.
- B. Arnold continued by addressing topic #2. B. Arnold's written comments read as follows: "The agencies stated different remedial techniques may be used on similar properties but the outcome will be the same level of arsenic for all. How can similar properties have the same final soil cleanup levels since each technique will have different efficiencies? The phrase "different approaches to confirmatory sampling" used in this answer requires an explanation. How will this affect the outcome?"
- B. Arnold stated that he was concerned about how to get each property with the same outcome using different remediation techniques.
- M. Mortefolio stated that a CMS process selects a cleanup goal and then looks at different techniques used on one property to achieve the goal.
- B. Arnold asked if all properties would be cleaned up to the same level.
- T. Girard stated that each property type will have the same remedial goal, but that different methods may be used to achieve the goal based on the specific property characteristics.
- M. Infurna stated that they can use a combination of remediation types to reach the goal, whether it is using one method or four methods.
- B. Arnold stated that he'd be concerned that they would keep working on a property with different techniques until the goal level is reached.
- It was noted that this topic is also connected with topic #4. M. Mortefolio stated that in the past, ICM's are done before the CMS has been evaluated.

He stated that Middleport has not yet gone through the CMS process. In the past, either the Agencies or FMC have decided that something needs to be done in one area and it would be taken care of using excavation. He stated that this process ensures once work is done via an ICM, they don't have to go back to those properties. He stated that the Agencies have been more conservative in ICM's than what may happen in the CMS.

- M. Infurna stated that they want to do away with ICM's in Middleport.
- B. Arnold noted that the CMS process has started in the Air Deposition Area.
- M. Infurna stated that the main goal is to go through the CMS for the Air Deposition Area.
- A resident asked what about properties that have not been tested, such as the NORCO property.
- M. Mortefolio stated that they do have some data on the NORCO property, and the numbers are not as bad as the Coe property.
- A resident asked if the NORCO property could fit into a brownfields area.
- B. Arnold stated that what is on the NORCO property is stable and he'd be concerned about disturbing it.
- T. Girard stated that arsenic sits tightly to soil.
- A resident asked if there would be a problem if someone burned the property.
- M. Mortefolio stated that there would be no issues since the arsenic is in the soil, not the building.
- A resident asked if there would be a concern planting in her garden area.
- B. Arnold noted that one resident in attendance lives in the mobile home park where there is 100-500 ppm contamination and no one told her about it prior to her moving in.
- M. Mortefolio stated that the Agencies and FMC give property owners information about arsenic levels.
- B. Arnold noted that most vegetables do not uptake arsenic.
- J. Ward asked for the Agencies opinion on areas that are contained and capped by concrete.
- T. Girard stated that covering and paving reduces exposure but it still requires ongoing maintenance.
- B. Arnold asked about confirmatory sampling.
- M. Mortefolio stated that there are different ways and sampling confirms that you meet your goals. He stated that it is something to look into in the CMS to determine the best method. He stated that it was too early to tell if there would be just one method and the CMS process would determine that.
- B. Arnold asked about the use of the term "hotspots." He asked if the Agencies are looking to make sure the goal is met using different sampling and remediation approaches.
- A resident stated that it would be reassuring to know that the Agencies won't keep using different methods until they get the answer that they want.

- A resident stated appreciation in hearing some flexibility and willingness to work with property owners and treat them with respect.
- A resident stated that another way of looking at the data in the air deposition area is needed since not all of the arsenic is clearly from air deposition from FMC. He suggested using averages. M. Infurna said that data on individual properties will be evaluated to identify locations that are clearly not related to air deposition from FMC.
- M. Infurna stated that the P-Block remediation should be a model for what is done in the future and have the entire property evaluated. He stated that the Vernon Street work should be considered the bottom of the barrel.
- M. Mortefolio stated that the CMS will need to have flexibility for each property owner built into it.
- T. Girard stated that the work on the P-Block went well and it wouldn't make sense to have one method that applies to all.
- B. Arnold stated that the residents of P-Block took the brunt of being in the shadow of FMC's plant.
- M. Infurna stated that the P-Block residents wanted their contamination removed.
- M. Mortefolio stated that because of the close proximity to FMC, Vernon Street and the P-Block had elevated levels of arsenic. He stated that as they go out further from the plant there will be more of a range in properties with elevated levels.
- A resident stated their belief that there is no danger on their property and stated that it would be frivolous to decontaminate. The resident asked if the Agencies will do everything they can to retain landscapes and trees.
- T. Girard stated that the CMS will determine practical ways to work around landscaping and trees using other methods of cleanup (i.e., removing soil from around half of the tree in year one and then from the next half in the next year).
- M. Infurna stated that the Agencies cannot guarantee future property owners would be comfortable with the work that was done on their land in the past.
- T. Girard stated that they have to consider future generations when remediating properties.
- A resident stated that the ground is frozen in this area for four months out of the year and the Agencies are basing their calculations on the land ground being accessible 365 days of the year.
- B. Arnold stated that the calculations are based on New York City, which has a different climate than Middleport.
- T. Girard stated that the data is time weighted on 217 days.
- A. Howard stated that it appears the issues raised in topic #3 have been addressed.
- B. Arnold moved on to topic #4. His written comments read as follows: "The remediation along Vernon St., Park Ave. and the culvert south of Sleeper St. are the only examples of residential property remediation that exists in Middleport. There were very few trees left standing. A

comparison of property appearance between the east and west sides of South Vernon St. clearly shows the result. This is what concerns many residents. It makes no difference whether its from an ICM or a CMS. There are no assurances that after all that will be done during the CMS, the outcome will be different then an ICM.”

- B. Arnold stated that the CIG is concerned about what happened on Vernon Street happening again.
- M. Infurna stated that Vernon Street was a mistake, they did a bad job, and the decision was made too quickly and didn't involve the community. He stated that what happened on Vernon Street will not happen again. He stated that studies and alternatives are being looked at to see that it doesn't happen again.
- J. Ward stated that it was encouraging to hear the Agencies say that they made a mistake on Vernon Street.
- M. Infurna stated that the Agencies realize that trees are the number one issue for residents in the village and they want to save them.
- M. Mortefolio stated that there may be property owners who want excavation and property owners that want other methods used such as phytoremediation.
- M. Infurna stated that they want to have options for each property owner.
- B. Arnold transitioned to topic #5. His written comments read as follows: “What is the definition of “elevated arsenic”? At what point does arsenic become elevated to a level of concern or danger? The comment: **“The Agencies believe that a presentation of all the facts and information to the community in an uncomplicated manner, along with a frank discussion of remedial options with community members, is the best way to gain substantial community acceptance of the final remedial outcome.”** causes concern. Past performances by the agencies where they have explained “the facts” were nothing more than self serving monologues filled with one sided truths and statements meant to scare residents. This type of discussion needs to be balanced. The difference of levels of arsenic in soil needs to be taken into account during the discussion. How elevated does arsenic need to be to become a serious hazard? It is doubted 30 PPM reduced to 20 PPM is a significant reduction in risk. Also, residents should not be threatened. Several people on Vernon St. believe they were coerced into having their properties remediated. It is agreed many of the residents on Park Ave. welcomed the remediation of their properties. It is not clear how the dangers of arsenic was explained to them (the above paragraph). They also live in the shadows of FMC and probably the closest to the plant which may have caused a higher level of concern. From what has been said, it is doubtful the residents of Vernon St. feel the same about their cleanup.” He stated that when the Agencies talk to the public, they shouldn't threaten or scare them. They need to put the arsenic health issues in perspective.
- B. Arnold stated that in discussion with the community and with property owners there is a fear that it will not be well-balanced and residents will

get scared and intimidated, such as what happened on Vernon Street. He stated that the residents will be scared about what could happen to their property.

- M. Infurna stated that the Agencies will not condemn any properties in Middleport.
- B. Arnold stated that part of the problem is when the Agencies talk to residents they shouldn't start the conversation by talking about carcinogens, which can scare the residents.
- M. Infurna stated that the Agencies present all property owners with data and they decide what they want to do.
- T. Girard stated that in the end, each property owner needs to decide their own conclusion.
- M. Mortfolio stated that the amount of exposure is the key. He stated that the Agencies have to consider the exposure for a zero to six year-old child.
- B. Arnold stated that a six year-old child will not be playing in a yard for their entire life.
- T. Girard stated that New York State legislation mandates that they consider that exposure.
- J. Ward stated that he would like to see that legislation in writing.
- T. Girard stated that in risk assessment they have to look at the worst case.
- A resident stated that he would like to see a two year-old that can dig 18 inches.
- T. Girard stated that the Agencies have to determine where there is arsenic, determine the impact from FMC, and get the problem resolved.
- B. Arnold stated that the risk is flawed because children do not spend their lifetime in soil.
- M. Mortefolio stated that the theory is that children six years old and under ingest more soil than others.
- T. Girard stated that the Agencies do not create the risk guidelines.
- M. Infurna stated that risk assessment has so many variables and you look at the worst case. He stated that there is such a wide range and they try to be more conservative.
- B. Arnold asked J. Ward to have Senator Maziarz look into the issue.
- J. Ward stated that he would like the Agencies to show the legislation they are referring to.
- M. Mortefolio stated that they are referencing the brownfields legislation. He stated that if the assessment of risk falls below and background is above, they refer to background.
- T. Girard stated that while FMC is not a brownfield, they feel the legislation is applicable. She stated that FMC is not legally mandated to follow the 10^{-6} target cancer risk level, but that the Agencies interpret the law that the 10^{-6} target cancer risk level will apply to other cleanups. Therefore, the Agencies believe that arsenic soil background will be used for the cleanup level.
- B. Arnold handed out a document from the DEC Web site.

- B. Arnold asked how Middleport falls under brownfield. He pointed out details from the DEC Web site.
- B. Arnold stated that if the soil is not hazardous in the CAMU, it should not be considered hazardous in soil.
- B. Arnold stated that he would like the Senator's office to verify how brownfield regulations apply to Middleport.
- J. Ward stated that they have found legislation regarding brownfields to be very general and open to interpretation by the Agencies.
- B. Arnold transitioned to topic #6. His written comments read as follows: "The answer to this question is incorrect. Mr. Walter Mugden of the EPA, stated in a seminar at the Middleport High School during a discussion of the remediation on Vernon St., "red letters" would be attached to deeds for properties whose owners would not allow remediation. The agencies may be in denial it was said but an auditorium full of residents heard it. If "red letters" or some other method will not be used, then either a public statement needs to be made by the agencies that the policy has changed or an admittance that the statement made by Mr. Mugden was incorrect. The agencies have misunderstood the "stigma" in Middleport. The ill feeling may not be from what FMC did with past practices but what the agencies are doing now by continuing a project for over 20 years the residents regard as questionable. The presence of the agencies and this forever on going project is what may be affecting property values. From what has been said by some residents, the "perceived character of the community" is a concern because of the results of past remediation, the loss of landscape (trees), and the potential results of future remediation. It's not the slight elevation of arsenic levels in residential soils. The Agencies may believe any perceived stigma can be removed through the cleanup by FMC of all affected properties which require remediation. They may be mistaken."
- B. Arnold stated that he heard directly from Walter Mugdan that a red flag would be posted on the deed of property owners who opt not to remediate.
- B. Arnold stated that if Mr. Mugdan is mistaken or if he misspoke, a statement needs to be made.
- M. Infurna stated that the Agencies cannot compel any property owner to have remediation and the Agencies cannot place deed restrictions.
- T. Girard stated that the Agencies mandate is to put the data on a property into perspective. She stated that a property owner could get a letter that recommends what they can do to lower the risk on their property.
- M. Infurna stated that on the real estate questionnaire you complete when you sell your home there is a question about any testing that has taken place on your property.
- J. Ward stated that this was the first time in the 20 years that the village has been going through this that they have ever heard anything about no red flags on property owners' deeds.
- B. Arnold stated that Mr. Mugdan said that there are red flags.

- M. Infurna stated that if Mr. Mugdan said that, he is wrong or someone misheard him.
- A resident asked who determined Middleport would be a RCRA site.
- M. Mortefolio stated that RCRA starts from the main contamination site and if releases go beyond the site there are no legal limitations.
- A resident asked how the Agencies factor what is FMC's arsenic and what is from other sources.
- M. Mortefolio stated that they look at what can be directly attributed to FMC, what can be attributed to both FMC and historical land use, and what can be directly attributed to historical land use. He stated that all three scenarios are probably in play.
- M. Infurna stated that nothing is cut and dry and nothing is an exact science.
- B. Arnold stated that as long as every property has to be cleaned to 20 ppm, they are going to continue to have a problem.
- A. Howard noted that it was time for a break.
- After the break, A. Howard noted that FMC representative W. Lachell required no time in the meeting, so that time allotted for FMC would be used to continue the CIG discussion with the Agencies.
- B. Arnold continued the discussion on topic #6.
- B. Arnold stated that he believes the Agencies have missed the point in terms of the stigma about Middleport. He stated that the problem might not necessarily have to do with FMC but with more than 20 years of little progress in Middleport.
- M. Infurna stated that he wrote the Agencies' response about that topic. He stated that the Agencies have received a lot of calls over the past year. He stated that they have received comments that there is a stigma that the village is contaminated, and that no one wants to live in Middleport, that it is another Love Canal.
- B. Arnold stated that he does not believe FMC's past practices is the only reason for a stigma.
- M. Infurna stated that he felt one can reasonably say that FMC is mainly responsible for the stigma. He stated that by looking at concentrations of arsenic on the plant site, in the P-Block and Vernon Street, and along the tributary and culvert, there is a stigma that people are living in a contaminated village.
- M. Mortefolio stated that it might not be a correct perception, but the Agencies have certainly heard it.
- B. Arnold stated that he has heard that there is a stigma about a project that has been ongoing for 20 years with no end in sight and no idea what will happen.
- A resident stated that they frequently receives mail from realtors trying to get her to sell their home, but they want to stay in Middleport.
- M. Infurna stated that every block in the village has five or six homes with "for sale" signs and it causes people to ask what is wrong with the community. He stated that the Agencies are just as frustrated as anyone

and they do not want to spend another 20 years on the site. He stated that RCRA is a slow process and that FMC is not a typical RCRA site.

- B. Arnold stated that there are areas of the village that need to be remediated, but if the Agencies believe that the only way to remove the stigma is to cleanup the entire village they may be mistaken.
- M. Infurna stated that if the Agencies left Middleport now, the residents would be left with a contaminated plant site in the middle of the village. He stated that the public will have significant input as they go through the CMS and they will be dealing with a lot of people who have many different opinions.
- J. Ward stated that this meeting was the most he had heard M. Infurna speak in 10 years. He stated that the residents have been asking these types of questions for years.
- M. Infurna stated that he believes they are in the home stretch of the Middleport project in certain areas and now the public involvement will increase.
- M. Infurna stated that certain areas of the village are of more concern to the Agencies and they are trying to address those areas first.
- B. Arnold stated that the CIG has commented on what they feel is the highest priority, which is the culvert, and the tributary is medium priority.
- A resident asked why a CMS in the Air Deposition Area is starting now when ppm levels and risk are not the highest in that area.
- M. Mortefolio stated that the Agencies are trying to prioritize in terms of what the community wants addressed first.
- B. Arnold stated that the community wants the areas with the highest arsenic levels cleaned up, including the tributary and culvert. He asked if those areas can be cleaned via ICM's.
- A resident stated that the Agencies should rephrase the use of the term "contaminated" in Middleport since only sections of the village are a real concern.
- A resident stated that it has taken 22 years to clean two streets and a school. He stated that ICM's should continue to be used.
- J. Ward stated that the Erie Canal was built in less time than it has taken to complete these environmental studies.
- M. Infurna stated that the Agencies believed the community wanted to get away from ICM's.
- A resident stated that no one told the community that a CMS was required before additional ICM's could be completed. He stated that suddenly 2 and ½ years later they are told they have to do a CMS.
- M. Infurna stated that when the Agencies or FMC decide to do an ICM, the work has to be completed so that nothing more would ever have to be done on that property in the future. He stated that they believe the CMS is the right track for Middleport and it gives the community the opportunity to be a part of decision making.
- B. Arnold transition to topic #7. His written comments read as follows: "The answer given for this question says little. If the decision making is

done in Albany and New York, then representatives from those offices need to attend the monthly meetings to have a meaningful discussion. Although Mr. Mike Hinton of the DEC Region 9 does attend, he cannot make decisions for the DEC but can only give opinions on what decisions may be made. It was believed a better dialog with the agencies could be had if Region 9 was given more authority. Two months ago, in a discussion on this subject, it was mentioned Region 9 may be given this higher authority for decision making. Has this idea been abandoned?"

- B. Arnold stated that when he met with the Agencies in May, he was under the impression that they were going to give more decision-making authority to Mike Hinton of DEC Region 9. He stated that the answer from the Agencies now seems to indicate that it won't be considered.
- M. Infurna stated that what the Agencies meant was if someone were to play out a scenario, Mike Hinton would be able to give an idea of what the Agency response would be.
- J. Ward asked who overall is leading the project.
- M. Mortefolio stated that from a legal perspective, EPA is the lead agency.
- M. Infurna stated that decisions are made from all three Agencies and that health related decisions are lead by the Department of Health.
- B. Arnold asked who makes decisions on cleanup levels.
- M. Infurna stated that for a CMS, it is a joint decision from all three Agencies and the DOH approaches it from a public health perspective. He stated that the Agencies make a unanimous decision.
- B. Arnold transitioned to topic #8. His written comments read as follows: "The answer given for this question refers to the **New York State Brownfield Cleanup Program (BCP)**. This regulation seems to have a more strict criteria in regards to cancer rates than the **EPA Soil Cleanup Objectives**. When reviewing the Summary of the BCP on the NYSDEC web site, it is not clear this regulation applies to Middleport. We are not addressing a brownfield site were redevelopment or reuse is anticipated nor are we talking about a hazardous waste or petroleum contamination. It is known .11 PPM of arsenic in soil is impossible to attain in New York State because typical background levels are much higher. So why is this level even part of the discussion? The "**New York State Brownfield Cleanup Program Development of Soil Cleanup Objectives Technical Support Document**" states as much. That's why the various sampling programs were done to establish a background level for the state. Bringing in this argument does little but toemphasize the agencies desire to cleanup every spec of arsenic with the result of the entire community looking like Vernon St. Just because the agencies were not involved in FMC's bioavailability study shouldn't mean that study should be ignored. If the agencies do not believe urine analysis is a good test, what do they suggest as an alternative?"
- B. Arnold stated that he wanted to talk about why .11 ppm is even part of the discussion, why the EPA has a number of .4, and why there is a difference.

- T. Girard stated that it is a mathematical issue. She stated that they look at risk and exposure, assumptions are tweaked, and that leads to different numbers. She stated that the EPA's numbers are guidelines, not standards.
- M. Infurna stated that the Agencies always go with the most conservative route, which is .4.
- A resident asked what happens then. Is the community stuck with the lowest number?
- M. Infurna stated that he would not look at it as being stuck with the number.
- M. Mortefolio stated that a site specific number for Middleport has not yet been generated.
- T. Girard stated that when the Agencies talk about a risk calculation, exposure assumptions are included.
- M. Infurna stated that depending on what the variables are, the cleanup numbers can change.
- W. Lachell stated that in the CMS, FMC is proposing a probabilistic risk assessment, which looks at the most and the least health protective assumptions rather than using a single set of assumptions.
- M. Infurna stated that there are EPA guidelines on what FMC is proposing.
- M. Mortefolio stated that such an approach has not been used in New York State, as of yet.
- M. Infurna stated that the Agencies have to be on the conservative side to protect the health and the environment. He stated that FMC does not.
- T. Girard stated that the Agencies have to be protective of generations in the future so it leads to being more conservative.
- B. Arnold transitioned to topic #9. His written comments read as follows: "The agencies need to point out where in the New York State Brownfield Cleanup Program (BCP) it was stated using the 98th percentile for calculations of background level was not for orchards or areas near a hazardous waste site. There is a difference between stated and implied criteria. It appears there may be a conflicting definition of "background level". It was believed the purpose of this project was to have an end result which would leave Middleport with arsenic levels as if FMC was never here. However orchard areas would still have existed and property owners would still have sprayed trees and fertilized lawns. The statistical results of the background level expected in Middleport using Gasport data indicated the level could be higher than 20 PPM."
- B. Arnold stated that he and the Agencies have a fundamental disagreement on the difference in using the 95th and the 98th percentile and there is no use in talking about it anymore.
- B. Arnold transitioned to topic #10. His written comments read as follows: "It appears the agencies are ignoring a major point by looking at only historic orchards as the only alternate source of arsenic in soil. This community had residents who worked for FMC. They had trees in their yards which they sprayed with products brought home. Yards may have

also been sprayed for insects and fertilized. To blame FMC for this is inappropriate. These products could have been obtained through other means, for example: store shelves. It is not clear what proof or evidence the agencies are looking for that orchards were sprayed and what they were sprayed with. If a property owner used a part of their land and their time to establish an orchard, they would have used the recognized product of the day for insect and disease control. They would not have consumed their land and time to grow an orchard then try to sell wormy, diseased fruit. The conclusion by the agencies that historic orchard spraying has little effect on elevated soil arsenic needs more detail explanation. The data from Gasport seems to indicate otherwise and common sense does as well.”

- B. Arnold stated that he found the Agencies response astonishing. He stated that if a person planted an orchard, he wasn't going to sell diseased apples. He stated that the person would be spraying with arsenic-laced pesticides.
- M. Mortefolio stated that it takes more than just the presence of an orchard to determine if a piece of property is contaminated. He stated that the Agencies have to work at determining proof of the contamination source. He stated that there is indirect evidence that some orchards contaminated the soil.
- B. Arnold asked if the Agencies believe contamination north of Pearson Road was brought in because FMC used the tributary as a ditch or because the land was historically used as an orchard.
- M. Mortefolio stated that there is pretty conclusive evidence in streams that elevated levels of arsenic follow directly from FMC. He stated that the Agencies have no way of knowing if orchards were sprayed.
- M. Infurna stated that aerial photos show the orchards were there for a short period of time. He stated that no one knows about the spraying of orchards from 70 or 80 years ago.
- A resident stated that it sounds as if the Agencies are making the assumption that all arsenic came from FMC.
- M. Mortefolio stated that they did not see anything in areas that are not in the pathway from the FMC plant. He stated that if orchards were sprayed north of the tributary, the arsenic would still be there.
- A. Howard noted that a number of the topics the Agencies and the CIG were to discuss have overrun each other. She transitioned to topic #11 in the interest of time.
- B. Arnold's written comments on topic #11 read as follows: “The 0.11 PPM reference level for arsenic appears to be in conflict with the level from the EPA Soil Cleanup Objectives document: cancer rates of 1 in 1,000,000 at .4 PPM, 1 in 100,000 at 4 PPM and 1 in 10,000 at 40 PPM. Why the difference? With the data given in the referenced EPA document, soil with a level of 20 PPM will have a risk of cancer at 5 in 100,000 and 40 PPM a risk at 10 in 100,000. Since there are less than 2000 people on all of Middleport, there is a risk of 0.1 residents having cancer at 20 PPM

and 0.2 at 40 PPM over a life time. If only the air deposition area is considered with about 138 homes not getting an all clear and assuming there are 5 people per home, the rate of cancer would be expected to be 0.0345 and 0.069 people respectively. Compare these numbers with other cancer risks. It serves no useful purpose to keep referencing the 1 in a million cancer rate target since that is not attainable. A soil arsenic level of 0.11 as referenced earlier in the Q&A's or 0.4 as referenced in the EPA Soil Cleanup Objectives are well below typical background levels in this state.”

- B. Arnold stated that the Agencies are referencing a one in one million cancer risk, but the problem is that it related to an arsenic level lower than the state level.
- T. Girard noted that the table included in the Agencies response to the CIG, was to give a comparison.
- B. Arnold asked how reducing the arsenic level from 40 ppm to 20 ppm is a benefit to health.
- T. Girard stated that you will reduce the risk by reducing the arsenic levels.
- A resident stated that the entire environment is polluted, and there is no escaping it.
- M. Infurna stated that while that may be true there are some things that can be controlled.
- A resident stated that their property has levels of 25 ppm. The resident stated that the Agencies should not be bothering such homeowners and that they are overextending themselves.
- A. Howard noted that it was 7:30 p.m. and time for discussion between the Agencies and the CIG has elapsed.
- B. Arnold asked the Agencies to respond in writing to the comments he provided to them.
- M. Infurna stated that the Agencies would try to have responses prior to the next CIG meeting.
- Agency and FMC members were excused.

4. CIG Only Session

- The CIG only session commenced.
- Next CIG meetings were scheduled for July 8, August 27, September 24, and October 23.