

**Middleport Community Input Group  
Meeting at Masonic Lodge Hall – Meeting Part I Summary  
September 11, 2008 – 5:30 to 6:30 p.m.**

**In Attendance:**

Bill Arnold – CIG Chairman	Brian McGinnis - FMC
Liz Storch – Resident	Glen Wilson - FMC
Dick Owen – Resident	Deb Overkamp – AMEC/GMX
Christa Lutz – Resident	Erin Rankin - Arcadis
Jennifer Bieber – Town of Royalton	Sue Tauro – Arcadis
Dan Dodge – Resident	Wai Chin Lachell – AMEC/GMX
Lynn Andrews – Resident	Meeting Notes – Jim Pasinski,
Mary Cedeno - Resident	Carr Marketing Communications
Ann Howard, RIT – Facilitator	
Dan Watts, NJIT – Technical Advisor	

**1. Welcome and Introductions**

- A. Howard began the meeting, reviewed the agenda, and led introductions.
- B. Arnold noted that a number of handouts were made available. Those handouts consisted of: an article from *Environmental Health Perspectives* which discusses developing residential areas on old orchards; a summary of that article; and a report from Sen. George Maziarz’s office regarding NYS brownfields remediation litigation.

**2. FMC Update/CMS Workplan Status**

- G. Wilson stated that FMC Middleport Plant Manager Dana Thompson was going on medical leave effective 9/12/08 and that he would be interim plant manager. He noted that D. Thompson plans to again attend CIG meetings when she returns to work.
- G. Wilson stated that the Middleport plant currently has 51 employees. They are currently interviewing candidates for three packer positions and have just hired three packers. The plant is also looking to hire two engineers, which would bring total plant employment to 57. The Middleport plant has acquired new work from the closing of a plant in Jacksonville, Florida.
- G. Wilson noted that plant tours will be available at 11 a.m. on Saturday, Oct. 11.
- E. Rankin stated that work on 2008 remediation projects began in mid-August. She stated that work on two properties at 46 and 48 Park Avenue began on Sept. 5. She stated that vegetation has been cleared and excavation is ongoing. She stated that soil 18” below the surface is being removed from 48 Park Avenue.

- E. Rankin stated that work continues on the north railroad property. She stated that the liner material has been placed and the area has been graded and is now being filled. She noted that work was ahead of schedule.
- E. Rankin noted that DVDs of the Aug. 26 dust monitoring demonstration are now available at the FMC Neighborhood House.
- A resident asked what the arsenic levels are at the Park Avenue properties being worked on. W. Lachell stated that Park Avenue averages about 40 ppm. The resident asked if dust monitoring was taking place at the residential work sites. W. Lachell stated that FMC is required to monitor both the work site and the ESI site where the soil is being hauled. E. Rankin noted that several different types of monitoring are taking place, including dust and air monitoring and monitoring by workers. She also noted that many dust control measures are in place. It was further noted that two health and safety officers are on-site during all periods of work and daily air test results are supplied to the Agencies.
- E. Rankin noted that FMC has received the Agencies comments on RFI Volume I and FMC is reviewing those comments and making revisions to the document. FMC has requested a meeting with the Agencies to discuss the comments.
- E. Rankin noted that FMC has submitted RFI Volume II to the Agencies and they are currently reviewing it.
- E. Rankin noted that RFI Volume IV is due to the Agencies on Oct. 9 and RFI Volume V is due to the Agencies on Dec. 8. There are six additional volumes to be submitted at a schedule to be determined.
- E. Rankin noted that a schedule for soil sampling north of the canal and east of the county line is due to the Agencies on Nov. 8.
- E. Rankin noted that two residents in the air deposition area have requested soil sampling on their property. These requests came as a result of letters sent regarding the Home Value Assurance Program; FMC had previously been denied access to sample. A sampling date has not yet been scheduled.
- A. Howard requested a description of the significance of Agencies comments. E. Rankin noted that the Administrative Order of Consent calls for FMC to distribute documents to the Agencies, the Agencies then review and provide comments to FMC, and FMC can either adjust the document to meet the request of the Agencies or request a meeting to discuss the comments. She noted that Agencies comments can range from minor to significant.
- D. Watts noted that since the CMS workplan is for the air deposition area is being discussed between FMC and the agencies, the next step is to reach an agreement and then perform the work.
- A resident asked why sampling will be done east of the county line and north of the canal and if it would slow progress of the CMS. B. McGinnis noted that the sampling would not delay any work in the air deposition area and those areas are part of a separate RFI.

- A resident asked if any additional steps will be taken to contact the 20 resident property owners who have refused soil sampling. B. McGinnis noted that both FMC and the Agencies have repeatedly asked for access permission to sample the property without success.
- A. Howard noted that only 20 out of approximately 250 homeowners have denied access to sample. W. Lachell noted that the 20 properties are located throughout the area, not in one section. She further noted that the property owners would again be asked for permission to access their property to collect soil samples.
- B. Arnold noted that there may be a precedent set with the action taken at 48 Park Avenue, because he feels the NYSDEC forced remediation. He questioned whether legislation could be referenced to force remediation on other properties. W. Lachell stated that the DEC issued a 10-day notice letter and no one claimed ownership of the vacant property. She stated that FMC has data on 48 Park Avenue whereas no data exists on the 20 properties that have not allowed access to sample. B. Arnold stated that he was concerned about a precedent being set for someone who has data but refuses remediation to have remediation forced by the DEC. A. Howard stated that there would need to be an urgency or imminent threat to public health for the DEC to force remediation. W. Lachell noted that FMC and the Agencies agree that there are no soil arsenic levels in Middleport that present an imminent threat to public health.
- W. Lachell noted that FMC sent a draft response to the Agencies comments on the CMS workplan in an attempt to resolve the points of disagreement.
- W. Lachell noted that FMC is proposing to proceed with some actions in Middleport without formal approval of the CMS workplan for the air deposition area because the community wants continued progress. FMC would like to work on: 1) determining the areas to include in the CMS; 2) a proposed soil tilling/blending pilot study (workplan submitted); 3) a feasibility study for soil removal under trees; and, 4) prepare and submit a technical memo on exposure.
- W. Lachell stated that FMC has proposed to meet with the Agencies to discuss issues. The intent prior to that meeting is to boil down to key issues and then have senior management from FMC and the Agencies meet to discuss them. A handout of a letter to the agencies with FMC responses to Agency concerns was available.
- A. Howard questioned comments from FMC relating to community involvement. W. Lachell stated that FMC felt the Agencies comment about the lack of community input was unfair. She stated that FMC wanted to clarify that the CMS workplan was developed with the community in mind in an effort to allow community input early in the process and that the Agencies may have misinterpreted FMC's intentions. She noted that the Agencies comments make multiple references to the need for community comments to be considered without acknowledging

FMC's method of developing the workplan. W. Lachell noted that the cover letter to FMC's response to Agency comments summarizes the major issues and reinforces that FMC wants a community driven CMS.

- A. Howard asked if there were other major issues. W. Lachell stated that the Agencies want an arsenic cleanup number identified with each cleanup alternative. She noted that this would set a big precedent in New York State that would not be realistic. She stated that every cleanup number above 20 ppm would be rejected. W. Lachell stated that including a variable number for each cleanup alternative would be a setup to fail. She stated that it would set a precedent if a cleanup number cannot be lower than 16 or 20 ppm. She stated that FMC proposed a risk based approach to select and identify alternatives. B. McGinnis noted that the schoolyard directive letter stated that FMC was to dig down two feet and remove soil, which was done and that the area the Agencies chose for that cleanup was selected via risk assessment. W. Lachell stated that FMC is suggesting a similar approach now.
- W. Lachell noted that the Agency comment process is going to take some time, which is why FMC has proposed starting some tasks without workplan approval. B. McGinnis stated that the meeting between the Agencies and FMC senior management should take place in early October; therefore, more details should be available in time for the October CIG meeting.

### **3. Brownfields Remediation Standards Discussion**

- A. Howard suggested that this topic be moved to the October meeting due to time constraints. The group concurred.

### **4. Update on Grant Applications and Economic Development Funding**

- D. Dodge noted that Middleport has received an \$89,500 grant award from the NY Main Street program, which provides matching grants to assist eligible business district property owners with up to 50% of the cost of renovating buildings and facades in the target area. He stated that renderings of some of the properties in the central business district are on display during the CIG meeting.
- D. Dodge noted that Middleport has received \$250,000 from the Community Project Fund thanks to the work of Sen. George Maziarz. The money does not require matching funds and is designed to improve the Basket Factory marina, open it to public access, and create a trail from the marina to downtown.
- D. Dodge noted that Sen. Maziarz also secured \$40,000 through the NYS Economic Development Program, which will help with administrative costs associated with setting design standards and economic development planning.

- D. Dodge noted that nine properties have now been included in the Niagara County environmental site assessment program, many of which are former petroleum sites that could become eligible for cleanup funding. He noted that the county manages the assessment program and hires consultants to investigate the sites and the program is funded through the EPA. The nine Middleport sites are: 1) Former Dunn & Schoolcraft Building (this is the former FMC Research and Development building and the history of the use of the site after FMC sold it is unknown); 2) Former Diane's Café at 14 State Street; 3) Five properties at the NORCO site; 4) 83 Telegraph Road; and, 5) 1 Vernon Street.
- D. Dodge stated that they are awaiting word on the next round of Restore NY grants. They are in the process of preparing a pre-application for the USDA Rural Development grant program for upgrades to the village sewer treatment plan. They are also researching funding opportunities for grants and low interest loans for storm sewer projects.
- D. Dodge noted that the village is looking into shared services grants with the Town of Royalton to help with equipment purchases. J. Bieber noted that the Town council is supportive of the idea.
- A. Howard asked if the village remediation situation provides any leverage for grants. S. Tauro stated that Restore NY does and some infrastructure programs do not require matching funds.

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

- The October meeting is scheduled for Oct. 23.
- The November meeting was scheduled for Nov. 10. However due to the availability of the Hall, had to be changed to Nov, 6.
- The December meeting was scheduled for Dec. 4. The December meeting is tentative based on the need for a meeting, and may be canceled.

**THE NEXT MEETING OF THE CIG IS SCHEDULED FOR OCTOBER 23. ALL MEETINGS WILL BE HELD AT 5:30 PM AT THE MASONIC LODGE.**