

DEC plans to move forward with remediation

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The New York State Department of Environmental Conservation announced Friday its intention to move forward with remediation plans in the Village of Middleport despite an ongoing lawsuit against the DEC by Middleport-based chemical plant FMC.

According to a fact sheet released Friday, the DEC plans to use the state's "Superfund" to finance the remediation work. The state would then seek reimbursement from FMC, pending the decision of a lawsuit currently making its way through court, a DEC spokesman said Friday afternoon.

"We would certainly try to get FMC to be responsible for it," the spokesman said.

FMC is suing the DEC and the Environmental Protection Agency in an effort to implement a less invasive, less expensive remediation plan. According to FMC, eight measures were provided under an administrative order on consent, which is an agreement the company came to with the EPA. The DEC chose a ninth plan that was not in accordance with the agreement though, the company said, leading to the lawsuits.

"FMC is disappointed that NYSDEC is moving forward with remediation while FMC and NYSDEC are in litigation over the level of remediation that NYSDEC now intends to impose on the community," the company said in a statement Friday.

Of the corrective measure alternatives, or CMAs, proposed in the village, FMC has argued for option 3, which is considered less intrusive than the costlier option 9 the DEC is moving forward with.

"FMC will not participate in this phase of the remediation and does not support NYSDEC's unilateral action," the company said.

According to FMC, option 3 would meet the requirements the DEC has established for the remediation work with much less disruption to the community.

"FMC remains willing to implement CMA 3," the company said. "CMA 3 was recommended by FMC with community support and is also representative of FMC's long-standing commitment to protect human health, safety, and the environment."

The plan proposed by the DEC would impact more than 180 residential, commercial and farmland properties centered around the plant, south of the Erie Canal and west of the Niagara-Orleans county border. The impacted area also includes the "Culvert 105" ditch and property of the Royalton-Hartland School District.

The DEC plans to roll out the remediation work in phases, the spokesman said.

"It will be 34 properties initially," he said.

Property owners can opt out of the remediation work, the spokesman said.

"No work will be performed without written consent," he said.

Residents whose property has been identified by the DEC for remediation in 2015 will be notified by mail this month. Once permission is secured to work on the property, soil samples will be taken, surveying will be completed and inspections will be done. Individual remedial plans will be given to homeowners at that time. After a plan is agreed on, work will begin.

"It is our goal to start this work in 2015 as soon as the winter weather breaks," the fact sheet said.

Village Mayor Richard J. Westcott said the village intends to work with the DEC on the remediation project.

"They agreed to meet our requirements to protect infrastructure and homes," he said. "We're willing to work with them within the confines of what the village wants."

Westcott said the issue has been going on for years.

"If it'll bring a solution to the problem after 25 years, we have to do it," he said.

Assemblywoman Jane L. Corwin, R-Clarence, said she was disappointed by the decision by the DEC, as well as how the news was delivered. The fact sheet was difficult to find on the DEC's website and seemed to only be available to people who signed up to receive the information.

"Needless to say, I'm aggravated and upset they didn't give me a head's up," she said. "It's embarrassing to me that I have to dig for this."

Corwin said she was going to do everything possible to make sure she had all of the information and that the community is informed, as well.

"They work for the people," she said, referring to the DEC.

The decision by the DEC is not what the people of Middleport want, Corwin added.

"They just don't seem willing to listen to the community," she said.