

City & Region

middleport

DEC to start Middleport cleanup despite FMC lawsuit

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Published: January 9, 2015, 08:51 PM

Updated: January 9, 2015, 08:51 PM

MIDDLEPORT – The state Department of Environmental Conservation announced Friday that it will begin removal of arsenic-contaminated soil in a two-block area of the Village of Middleport, despite a lawsuit over the cleanup plan by FMC Corp., the source of the arsenic.

In a nod to widespread public opposition to further cleanup, the DEC pledged to allow any resident in the affected area to opt out of the remediation. No work will be done anywhere without a signed permission form from the owner, the department said.

The DEC said while the FMC lawsuit is pending, it will use Superfund money to pay for the work of digging up soil and hauling it away to be replaced by fresh dirt without elevated levels of arsenic. Work is to begin “as soon as the winter weather breaks,” the agency said.

FMC is committed to pay for further cleanup, but the company, whose agricultural chemical plant is the source of the arsenic, has a work plan for the remediation, which it says would be just as effective as the state’s but far cheaper. The DEC and the state Health Department disagreed, and the U.S. Environmental Protection Agency refused to referee the dispute, so FMC filed suit last June against all three agencies.

The DEC pledged in Friday’s announcement, “Areas that are disturbed during the cleanup will be restored to pre-removal conditions agreed to with the property owner.” It promised to create an individual cleanup plan for each parcel.

FMC issued a statement that said its plan has the public’s support. “Studies show (the DEC plan) will provide no meaningful public health benefit over (FMC’s alternative), while its construction work and truck traffic will be more disruptive to the community.”

The DEC wants to clean up another 202 parcels in what it calls the “air deposition area,” meaning the parts of Middleport where prevailing winds allegedly carried arsenic from FMC’s plant and left it on the ground.

The targeted properties include the entire Royalton-Hartland Central School campus, except for the portions already excavated in prior years. The state has ordered six previous excavations in Middleport since 1996.

The DEC wants to remove enough soil from each of the 202 parcels to ensure that every spot on every parcel has arsenic levels below 20 parts per million, which is the “background level” for naturally occurring arsenic in eastern Niagara County soil.

FMC’s plan calls for digging up only enough soil to bring the average reading on each property below 20 parts per million.

The most recent cost estimates are \$70 million for the state plan and \$27 million for the FMC plan.

The DEC’s announcement Friday said its representatives will begin contacting property owners in the target area this month, asking for permission slips. DEC spokesman Peter Constantakes said the initial work zone is 34 properties on the east side of Alfred Street, the north side of Park Avenue and the south side of Freeman Street.

Middleport Mayor Richard J. Westcott could not be reached to comment Friday.

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