

**Middleport Community Input Group
Meeting at Masonic Lodge Hall
Sept. 13, 2007 – 5:30 to 8:30 p.m.**

In Attendance:

Village Mayor Julie Maedl	Patrick Conley - Resident
Village Coordinator Dan Dodge	Karen Pollworth - Resident
Village Code Enf. Tom Arlington	Betty Whitney - Resident
Village Trustee Frank Sarchia	Homer Townsend – Resident
MRAG – Dan Watts	Bettina Townsend - Resident
MRAG – Margaret Droman	Nancy Seefeldt - Resident
MRAG – Pat Cousins	Elizabeth Storch - Resident
CAP – Dick Westcott	Jesse Bieber - Resident
CAP – Richard Owen	Jennifer Bieber - Resident
CAP – Christa Lutz	Pauline Murphy - Resident
Geomatrix – Wai Chin Lachell	Robert Maedl - Resident
Geomatrix – Glenn Combes	George Hinkson - Resident
Geomatrix – Debra Overkamp	Rose Marie Morse - Resident
FMC – Brian McGinnis	Ralph Morse - Resident
FMC – Dana Thompson	Bill Jamieson - Resident
Parsons – Ronald Prohaska	Barb Jamieson - Resident
Arcadis – Erin Rankin	Rebecca Schweigert - Resident
DEC (Buffalo) - Mike Hinton	Margaret Thomas - Resident
Sen. Maziarz Rep. – Jim Ward	R. Francis Thomas - Resident
Facilitator – Ann Howard, RIT	Doris Hinkson - Resident
Meeting Notes – Bob Carr, Jim Pasinski	William Arnold - Resident
Carr Marketing Communications	Norma Christiansen - Resident

1. Welcome and Introductions

- ? Mayor Maedl welcomed those in attendance and requested those seated at the table introduce themselves. She asked that the audience not ask specific questions about their own properties during the open discussion portion of the agenda. Individual property issues can be addressed with FMC by contacting the FMC Neighborhood Information Center at 17 Vernon Street.

2. Agenda Review

- ? Ann Howard described her role as facilitator and reviewed the agenda. She mentioned that the meeting time had been extended to 8 p.m. to allow additional time for public comments.

3. 2007 Early Actions Update – Culvert and Coe Property; Residential Remediation

- ? Brian McGinnis thanked everyone for the large attendance and noted that it was approaching one year since the meetings began. He welcomed Wai Chin Lachell back following her medical leave and introduced Jim Pasinski from Carr Marketing Communications, taking meeting notes.

- ? W. Lachell reviewed the 2007 soil remediation projects. She provided an overview of the completed activities and noted that there are three P-Block properties that have not signed access agreements. She then discussed ongoing and upcoming activities which include continued excavation and backfilling of the wooded parcel; topsoil source testing analysis and evaluation; survey work at Culvert 105 and P-Block properties; P-Block clearing; installing storm water management and controls in Culvert 105 and P-Block excavation areas; dust control and air monitoring; and restoration activities. She said that, assuming work begins on or before Oct. 1, it is estimated that the excavation and backfilling work will be completed by Oct. 31, weather permitting. The railroad property construction activities will cease around Dec. 15, weather permitting – it will begin on or before Nov. 1.
- ? R. Prohaska, Parsons construction manager, explained that dust monitoring is taking place daily, except for when it rains. He noted that the contractors have been doing an especially good job with this summer's dry conditions. The site was shut down for one day due to high winds. Thus far, monitoring shows that dust levels have not exceeded standards. The goal is to have no dust and watering has been used to control the dust.
- ? W. Lachell explained that backfill sources have been identified and they are working to find the proper backfill that meets the NYSDEC soil cleanup objectives for DDT, DDD, and DDE. She said that mulch and leaves can be added to the soil to meet the organic content requirements.
- ? W. Lachell noted that surveyors will be in the neighborhoods; meetings with property owners about the projects will continue; clearing at Culvert 105 and P-Block will begin Monday (9/17); and they are moving ahead with excavation. W. Lachell updated communication activities and explained that the next Progress Update will be mailed to the community by the end of the month. They are also having daily communication with affected property owners and their neighbors, and the www.middleport-ny.com Web site will soon be updated.

4. Review of Corrective Measures Study (CMS) Process

- ? A. Howard introduced D. Watts, a technical consultant who was retained to work with the MRAG, who provided an overview of the federal laws and regulations governing the Middleport project.
- ? D. Watts provided definitions and explanations for the Resource Conservation and Recovery Act (RCRA), Facility Investigation Report (RFI), and Corrective Measures Study (CMS). He provided background on RCRA and noted the differences between RCRA and Superfund. In particular he noted that RCRA is typically a company-driven process with plans approved by the agencies. He said Middleport is not the standard RCRA process and the area is breaking new ground since there is not much precedent for this type of work.
- ? D. Watts explained the steps in the RCRA process; a RCRA Facilities Investigation is performed to determine the nature and extent of

contamination; interim actions may take place prior to completion of the investigation process; he cited the Vernon Street work as an example. The RFI is submitted to the regulatory agencies who must determine if additional remedial action is required. The agency will direct the preparation of a Corrective Measure Study (CMS) to evaluate remedial alternatives, considering a number of factors such as the size of the affected areas, background levels of the contaminants, governmental guidance documents, cleanup criteria, human exposure and health risks, the likely effectiveness of each cleanup option, environmental exposure and risks, community interests, costs and feasibility. He said that absent a CMS, any further interim action would require using the default standard of cleaning up to background levels.

- ? D. Watts explained that New York State has a cleanup goal for arsenic, which, as of December 2006 is 13 ppm (parts per million). Rural background levels may place that higher with a default at 16 ppm.
- ? D. Watts said that in a CMS, FMC would work with the agencies; the public has input but no decision-making ability. D. Watts said normally a CMS considers an entire area for contamination but there has been and should be discussion of carving the Air Deposition Area out and then leaving the rest of the smaller areas for other CMS' s. He said that this could result in work in the Air Deposition area being accelerated. He said the options are to continue with using the Interim Actions, or do a CMS.
- ? D. Watts discussed risk, defining it as the probability of suffering harm as the result of a hazard. He then provided a calculation of risk: $\text{risk} = (\text{degree of toxicity}) (\text{exposure})$ noting that one can reduce risk by reducing exposure. Removing the contaminated area can lower the risk. He also provided an overview of risk issues related to exposure and degrees of toxicity along with the toxicity of arsenic. He explained that Corrective Action approaches include: no action; removal; soil washing; incineration; phytoremediation; stabilization and solidification; and capping. Using data from the Agency for Toxic Substances and Disease Registry, part of the U.S. Department of Health and Human Services, D. Watts provided an example of the amount of dirt someone would have to eat to reach dangerous levels of arsenic in their system: a 150 lb. person could eat 85 peas worth of dirt (at 20 ppm of arsenic) each day and be safe under the acute exposure rule. For chronic exposure it would be 5.1 peas.
- ? W. Arnold asked who takes part in a CMS. D. Watts again mentioned that the public can comment, question, review and disagree, but FMC would lead the way with review and approval from the agencies. W. Arnold said he would object to the agencies having approval.
- ? J. Ward stated that after much discussion, Sen. George Maziarz had sent a list of questions to state and federal agencies requesting that they review all of the questions, which were based on community input, and that they reply today (9/13), with definitive answers. He said they received a reply from the DEC noting that they were not able to attend the Sept. 13 meeting but would have answers at the Oct. 1 meeting. W. Arnold said it

is a problem that the agencies can't answer questions that have been asked for six months. Mayor Maedl made arrangements for copies of the senator's questions to be given to those in attendance.

- ? Mayor Maedl said that these are questions that have been asked for the past four or five years. She said that because the CMS has not been done everything being done is an interim corrective measure. She said that, "the thinking is we know we're going to have to do it so we might as well do it." She said one of her concerns since 2003 when Vernon Street was remediated was that there was no forewarning for residents that it was "coming down the pike." They knew their property was tested but didn't know if it would be remediated. She said they have been inviting people in the Air Deposition area to the past two CIG meetings because these "folks need to know what is coming down the pike." She said perhaps it can come down to some common sense, which she believes can only be done through a CMS. She said that FMC has been good to work with. She said high numbers on the Culvert and Tributary may require something to be done but the 200+ properties in the Air Deposition area were tested and results were given two years ago. She said the P-Block residents knew there would be remediation because of their proximity to the Coe property. She encouraged all residents to attend the Oct. 1 meeting – even those not in the Air Deposition area – because this affects the entire village. Mayor Maedl said the issue affects every aspect of the community, especially economically and how Middleport is viewed outside of the community. She said that real estate agents have stated, cleanup or not, there will be a stigma. She said we still have a viable company working under an order of consent to cleanup but it must be done reasonably and she doesn't think that's happening.
- ? A. Howard asked for a clarification on why the timeframe for a CMS would make the process take longer. D. Watts cited cost estimates, individual property situation assessments, and negotiations between FMC and the agencies over what work needs to be done. He said that it takes a year or more for the CMS alone to be completed. He said that FMC could either spend a year working on the CMS or spend another year doing interim actions.
- ? W. Arnold asked why there are so many different cleanup levels for arsenic across the U.S. and asked who determined 13 ppm. W. Lachell said that the NYS Department of Health calculated it based on statistics from across the state. M. Hinton stated that the DOH conducted a study, which went through numerous reviews and public comments. W. Lachell stated that background samples were used, not a risk assessment process. D. Watts added that there is no trigger number in New York State. W. Arnold stated there should be a national level. W. Lachell said it would be difficult to get numbers of 13 ppm due to current levels in the soil.
- ? D. Westcott asked if the school district property would need to be re-done since it was cleaned up to 30 ppm. W. Lachell said the EPA completed a risk assessment for the school property. M. Hinton indicated that a CMS is

final and that it would take into account the schoolyard to determine if it is final.

- ? W. Arnold asked what would be the best way to break the CMS area into different units. D. Watts said that standards can be different by level for geographical areas.

5. Review and Discuss 2008 Activities

- ? B. McGinnis thanked D. Watts for his presentation. He then asked for the public's assistance in determining what direction to take in 2008. He said that decisions need to be made so that work plans and designs can be drawn up. W. Lachell provided a summary from the August MCIG meeting on this discussion. Community comments included: go forward with early actions; no early actions should be done in the air deposition area; and risk assessment questions should be answered.
- ? Mayor Maedl asked if they could start the CMS process for just the air deposition area. W. Lachell said that FMC has raised this question. B. McGinnis said they need to scope out and determine what everyone wants to do. He said that they cannot hop around the Tributary or Culvert. If there is work to be planned for next year, it would be preferable to begin the planning sooner so that construction could be completed during the summer construction season. He cited the school property work and how planning went into the summer months – and they'd need to avoid that.
- ? B. McGinnis discussed early action scoping guidelines. These guidelines included: scoping work should start the year prior to remedy construction; address upstream areas first to avoid potential for recontamination; scope based on ability to complete in one construction season; project-specific soil removal volume relative to available space in the ESI Fill Area; consider exposure/risk reductions; current and future reasonable foreseeable land use to be considered; identify and apply for grants to meet village's economic development needs where feasible; and provide early input on design of the early actions. B. McGinnis cited the Norco property as a destination for grant monies, and mentioned how the roof is falling in at one building. B. McGinnis also reviewed possible remedial options that would be included in a CMS including: excavation (eliminating exposure); covering and paving; deep soil tiling, blending and mixing; phytoremediation; land use restrictions and controls; and beneficial reuse of soil.
- ? B. McGinnis provided a proposed timetable for early actions for 2008 and said FMC welcomes additional input. The timetable includes: getting agreements with the agencies in Oct./Nov. 2007; having detailed work plans and designs from Dec. 2007 to March 2008; procuring a contractor in March-April 2008; and having construction activities ongoing from May to Fall 2008.
- ? B. McGinnis provided an overview of proposed 2008 activities. The first could include a phytoremediation study where ferns could potentially absorb arsenic at a high level. They are looking at other species of plants

- as well. W. Arnold offered several acres of his land as a test site for this. E. Storch said she has conducted research with Cornell University on the subject and said that there is a pilot project ongoing in Geneva, NY.
- ? B. McGinnis said other 2008 proposed activities include: continuing on with the CAMU application process. This would allow soils to be permanently stored at the plant site. Efforts are also continuing to obtain grant money for economic development ventures in the village.
 - ? B. McGinnis stated that, based on community feedback, they are considering proposing that no work take place in the Air Deposition Area. He said they would like to carve the Air Deposition Area out as a separate project and have a CMS prepared just for that area. He said that the best approach would be to break the project off into pieces, due to size. Other 2008 proposed early actions: Culvert 105 remediation between Sleeper St. and Tributary one; and completion of the RFI for Culvert 105 and Tributary One.
 - ? Mayor Maedl asked exactly how you get to a CMS. B. McGinnis said the CMS is written into the consent order. Once an investigation is deemed complete you move to the CMS. The investigation needs to be complete for the entire project and completion is determined by the agencies. Mayor Maedl asked if the agencies are holding up the CMS. W. Lachell indicated that the agencies have to request the CMS from FMC and FMC would like them to request it. B. McGinnis said the agencies have not yet determined the investigations to be complete. D. Westcott asked if one CMS is used for the entire project. B. McGinnis said that FMC proposed to do separate CMS' s for the different FMC study areas (e.g., air deposition area, Culvert 105, groundwater, plant site). The first would be used as a model and the rest tend to go quicker. M. Hinton reiterated that the process is quicker after the first CMS project.
 - ? E. Storch said she has spoken to area residents and they don' t want to be strong-armed. They want to have a choice without being red-flagged. J. Ward said those concerns are addressed in Sen. Maziarz' s list of questions. E. Storch said she has talked to realtors and bankers who said she better get out while she can because the community is going downhill.
 - ? B. McGinnis said that with a CMS being done first, a best case is that they could be planning each property in one year. He said that the agencies sent letters to homeowners in the Air Deposition Area whose property did not need remediation. He said residents who did not get a letter may or may not need work done.
 - ? W. Arnold asked if residents shouldn' t be informed that remediation might still be needed even if they didn' t get a letter. M. Hinton suggested the question be asked again at the Oct. 1 meeting. In answering a question from a resident, B. McGinnis said that FMC would not force remediation on someone who doesn' t want it.
 - ? A. Howard again brought the discussion to the seven proposed 2008 activities (1. Phytoremediation, 2. Continue the CAMU application process, 3. Continue efforts to obtain grant funding to evaluate and

demolish unsound buildings on the former Norco Parcels, 4. In the historic air deposition area, no further interim remediation in 2008 and complete RFI/CMS, 5. Possible interim remediation in 2008 for Culvert 105 north of Sleeper Street, 6. Complete RFI for Culvert 105, 7. Begin and possibly complete RFI for Tributary One south of Pearson Road) and explained that FMC still needs input from the community as to whether they agree. She said their input is beneficial and it can be presented to the agencies at the Oct. 1 meeting. E. Storch said she thought they were good ideas and she appreciated the specificity of it. She also mentioned that the Price Protection Program needs to be extended. B. McGinnis said FMC will decide in June 2008 whether the program will be extended beyond June 2009.

- ? The following is a summary of the community input on the 2008 proposed activities:
 - o Check with Cornell University regarding the phytoremediation study.
 - o Determine what needs to happen for a CMS to start.
 - o Determine whether a separate CMS can be done for the air deposition area, Tributary, and Culvert.
 - o The community and individual property owners want to have a choice in having remediation work completed on their property and do not want red flags on their property deeds.
 - o Property owners want to receive a letter to clarify the status of their property – those owners who did not receive an “all clear” letter
 - o Some residents do not want remediation, while some others do
 - o Looking at options in a scientific manner is a good idea
 - o Interest in holistic evaluation of remedial options in a CMS based on environmental impacts and aesthetics
 - o Property Price Protection Program is needed in the study areas; do not let the PPP expire
- ? D. Westcott asked how close the CAMU application was to being finalized. D. Overkamp said the community input component needs to happen and they also need agency approval; this is expected to be on the November CIG meeting agenda. Mayor Maedl said that she and other village officials toured the ESI fill-in site and asked if public tours could be organized.
- ? B. McGinnis said that senior management in the agencies believes the community wants early action; residents need to tell the agencies at the Oct. 1 meeting if they want a CMS. W. Arnold asked if B. McGinnis was confident the agencies would listen. B. McGinnis said yes and again noted that FMC would prefer to break the entire project into several smaller units and separate CMS’ s for each area. W. Lachell reiterated that the residents can voice their opinion on this as well, but it is up to the agencies to approve. R. Owen stated that he believes losing plants and trees is going backwards. Mayor Maedl said that things have changed since the consent order was signed in 1991 and the residents need to tell the agencies what

they think. D. Dodge asked how to move forward. B. McGinnis said that they believe FMC should be allowed to do smaller CMS' s.

6. Grant Funding Update

- ? D. Dodge said a public hearing on the RESTORE NY grant program application is scheduled for 9/17. The deadline to apply is 9/28. Village officials met with the program manager of RESTORE NY in August. If the application is not approved, D. Dodge believes they have a good start for next year. D. Dodge cautioned about a recent news article about Lyndonville that mentioned 100 homes need to be in distress to qualify for RESTORE NY funds and Middleport would not meet that requirement.

7. Announcements

- ? A. Howard said two agendas items are being prepared for the Oct. 1 meeting. There will be presentations by experts on the biomonitoring, bioavailability and arsenic background studies. In addition, the agencies have been asked to respond to specific questions. J. Ward said that the planned length of meeting from 6-8 p.m. might need to be expanded. Mayor Maedl said that they want each expert to go over what was done in Middleport and to go over the results, plus Q&A time. J. Ward said that only the DEC has committed to answering the 10 questions from Sen. Maziarz at the meeting. M. Hinton said that DOH will be there but he was not sure of their plans to address the questions.
- ? Mayor Maedl said that all homeowners (about 250) whose property was tested will get a flyer inviting them to the Oct. 1 meeting and it will be mentioned in local media. W. Lachell mentioned that they might want to consider recording the meeting. Mayor Maedl said she would prefer a stenographer. D. Dodge will make arrangements for a sound system to be set up at fire hall.
- ? M. Hinton said that the bioavailability study has yet to be forwarded. B. McGinnis noted that he would send it.
- ? A. Howard mentioned that the agenda is being worked on for the Nov. 5 meeting as well.
- ? D. Overkamp announced that tours of the ESI area, where the proposed CAMU will be located, will be offered Oct. 3 and Oct. 13. The tours will begin at the Neighborhood House. On Oct. 27th there will be a tour of homes in the Price Protection Program.
- ? It was noted that FMC is storing four vintage railroad coaches for the Medina Railroad.

8. Open Discussion & Community Concerns

- ? Resident W. Arnold read from a prepared statement. He talked about the farm he owns east of the school property and west of the FMC property. He said his grandfather, as a farmer, “lived in the soil” on the property and he died at the age of 93. He said that despite dry conditions this summer, he has had his best garden in many years. He indicated that 40% of the

land is either wooded or brush covered. He feels that the state needs to reevaluate the situation. He has arsenic levels on his property that range from less than 20 ppm to more than 200 ppm. He has no problems with remediation being done in the areas above 200 ppm but he will not allow a full-scale project to take place. He said he would seek legal advice if an attempt to force remediation were made. He said that he does not believe the arsenic in the soil is hazardous and does not think it is necessary to destroy the environment. He understands and supports those who want remediation on their own properties, but he will not allow it and feels it is unnecessary to be coerced into it by the government.

- ? Resident B. Townsend read from a prepared statement. She said she is refusing remediation and encourages her fellow residents to do the same. She said she has done her own scientific research. She also believes that the current processes taking place in Middleport contain an absence of compliance with federal laws. She said there appears to be no project description and emergency actions cannot be justified when conditions have existed for 100 years. She feels the project is plowing ahead haphazardly and is ill planned. She would like to see proof that the project is even needed. She feels breaking up the project into smaller, separate projects is illegal. She feels that historic, aesthetic and air quality issues need to be taken into account. Her property is certified historic and dates back to the 1850s. She said a loss of trees would be unforgivable and sees this as a knee-jerk reaction to getting rid of poison in the soil. She feels the goals of the project will damage the appearance of the area beyond repair. She said that the people of Middleport have every right to expect that they' ll be listened to and act within the legal requirements of the law.
- ? Resident E. Storch of State Street read from a prepared statement. She said she moved into town in the fall of 1972 and into her current home in 1979. She called the community her extended family. She said that if the DEC and EPA do not realign their actions she may become a social criminal. Her property is due for remediation, she said, because the arsenic levels in the soil were slightly higher. She has heard nothing about the issue since July 2005. She said the community is “being subjected to an unnecessary and unscientific holocaust of the greenspaces here.” She asked elected officials to bring sanity to this issue to avoid a desecration of the community. She also said she is in favor of a CMS.
- ? E. Storch said that many scare tactics have been used with the residents. W. Arnold said the arsenic levels are not harmful and he will not be scared into having work done at his property. J. Ward recommended that the residents bring their statements on Oct. 1 and read them; he also suggested bringing copies for each agency.
- ? Mayor Maedl was asked if the village has authority regarding the remediation issues. She said that up until recently the village played no part until it asked what it could do. They received EPA guidance and part of their role is to hold public meetings with citizens. She said that they were working with FMC, and village engineers have provided rights-of-

way and access agreements, but in the end the village has no authority to override the agencies decisions. D. Dodge said they have no say in the agencies involvement with private property, only village property.

- ? J. Ward said that Mayor Maedl has done an excellent job looking out for the best interests of the community and praised residents in attendance for their diligent efforts to inform themselves. He urged everyone to get together and force the agencies to give them answers on Oct. 1.

9. Tentative Agenda for Next Meeting: 6 p.m.

Monday, Oct. 1, 2007 – Middleport Fire Hall

- ? Presentations: Bioavailability, Biomonitoring, Arsenic Background Study
- ? Responses to community questions to agencies as presented by New York State Sen. George Maziarz
- ? Next Steps

10. Additional Scheduled Meetings

- ? Monday, November 5