

**Middleport Community Input Group
Meeting at Masonic Lodge Hall – Part I Meeting Summary
November 13, 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
Larry Banach – Resident	Erin Rankin - Arcadis
Jennifer Bieber – Town of Royalton	Wai Chin Lachell – AMEC
Mary Cedeno – Resident	Mike Hinton – NYSDEC
Lynn Andrews – Resident	Ann Howard, RIT – Facilitator
Pat Cousins – MRAG	Meeting Notes – Jim Pasinski, Carr Marketing Communications
Janet Lyndaker – Resident	
Dick Westcott – Resident	
Margaret Droman - Resident	
Christa Lutz – Resident	
Larry Lutz – Resident	
Karen Pollworth – Resident	
Betty Whitney – Resident	
R. Litchfield – Resident	
Harold Mufford – Resident	
Harold Storms – Resident	
Robin Storms – Resident	

1. Welcome and Introductions

- A. Howard began the meeting, reviewed the agenda, and led introductions.
- B. Arnold requested that those who have email accounts provide their address as the CIG uses email for communications purposes.

2. FMC Update/Report on FMC/Agencies Meeting/Phytoremediation Update

- B. McGinnis stated that FMC representatives met with Agency leadership in New York on Nov. 7. The purpose of the meeting was to discuss Corrective Action Objectives, which will help determine the different technologies used in the CMS.
- B. McGinnis stated that the meeting included FMC representatives along with Agency representation from the USEPA, NYSDOH and NYSDEC. He stated that the meeting went very well and that FMC's Corrective Action Objectives were generally well received by the Agencies. He stated that there was general agreement on the proposal, and that it would be formally accepted following some slight revisions. He stated that the Agencies would provide draft comments to FMC within one week. The Agencies will present the draft Corrective Action Objectives to the CIG

and village government. He stated that the Agencies are hoping to present them to the CIG during the December CIG meeting.

- W. Lachell noted that it was a good meeting. She stated that the Corrective Action Objectives guide the decision-making on what to remediate and how to remediate. She further noted that FMC proposed objectives for all off-site soil and sediment areas.
- In response to a question from B. Arnold concerning why the same objectives would be listed for all areas, W. Lachell responded that they are general objectives that are applicable to all off-site study areas. FMC believes that all of the off-site remediation areas should have the same clean-up goals and objectives. She stated that the overall general goal is to protect human health and the environment using site-specific risk. She stated that reasonably anticipated future land use would also be considered in consultation with village residents. She stated that the objectives also include a goal of minimizing disturbance and disruption to the community and to limit the ecological impact in an effort to maintain the character of the village.
- W. Lachell stated that the EPA's green remediation concept would also be considered. B. McGinnis stated that the concept focuses on the impact of remediation and the types of resources used in the project. E. Rankin stated that the EPA has a Web site that outlines green remediation.
- W. Lachell noted that the most important objective is to continue to inform and engage the community and property owners about the remediation project.
- In response to a resident question regarding the consideration of compounds other than arsenic, B. Arnold stated the Agencies indicated that they do not want additional sampling in order to find other compounds. W. Lachell indicated that the issue was not a part of the discussion with the Agencies.
- B. McGinnis stated that a meeting is scheduled for Dec. 2 and Dec. 3 in Albany to discuss specific details regarding the CMS workplan. That meeting will be with FMC representatives and the Agencies.
- B. McGinnis noted that part of the Nov. 7 meeting included a discussion about a pilot expediter. FMC proposed that a local Agency representative be appointed to oversee the CMS. He stated that FMC proposed the idea so that a local Agency representative would be available to provide more input into how the CMS is being carried out and that the Agencies would have a person who could be in the village more often. B. McGinnis stated that because of the fiscal problems in the state of New York, FMC offered to cover the cost of the salary for the pilot expediter through reimbursement to the Agencies.
- W. Lachell stated that a pilot expediter would help to move the CMS process along at a quicker pace. B. McGinnis stated that the Agencies were taking the proposal under advisement, but he was not sure how they were going to respond. B. Arnold stated that he hoped the Agencies would respond prior to the December CIG meeting.

- A resident asked if the pilot expediter would have decision-making authority. B. McGinnis stated that it is the intention of the proposal to have a local person who can make decisions. W. Lachell noted that the expediter would be used for carrying out the actual CMS. The existing Agencies project manager would still be part of the decision and planning process.
- W. Lachell noted that those in attendance have FMC's Keeping You Posted notes, which provides an update on various projects.
- W. Lachell noted that as part of the phytoremediation study, plants were harvested and sampled during the week of Nov. 3. She stated that they will attempt to mulch over some of the ferns to see if they will survive the winter and re-grow next year. She stated that two plants (the artichoke and turnip plants) selected by Dr. Harman at Cornell University did not uptake any arsenic during a three-month study. She stated that the ferns will uptake arsenic, but they do not know how much as of yet.
- A resident stated that the bioavailability of arsenic in soil and safety to residents in Middleport are reaffirmed because the arsenic in the soil does not move. W. Lachell stated that the Exponent study from four years ago did not show any significant levels of arsenic in vegetables. B. McGinnis stated that the study showed no difference in arsenic levels in tomatoes grown in Middleport and those sold at a local store.
- W. Lachell stated that she did not know how or if the Agencies would comment on the Cornell study results.
- B. Arnold noted that a plan has been submitted for additional soil sampling for east of the county line and north of the canal. B. McGinnis stated that FMC has proposed a 200-foot sampling area and the Agencies have not yet commented on the proposal. The sampling would take place along the canal towpath and 200 feet further north of the canal and 200 feet beyond the Niagara/Orleans county line. E. Rankin stated the data would determine if additional sampling is needed beyond that area.
- B. Arnold noted that he was not sure 200 feet was far enough into Orleans County to find any differential data. B. Arnold also stated he did not believe any further sampling at all is needed. B. McGinnis also stated that FMC believes they are already at the end of where sampling is needed.
- A resident questioned if there was any additional discussion on the differences between FMC and the Agencies regarding historic orchard lands. B. Arnold stated that there has been some communication with Mike Infurna of the EPA. B. McGinnis stated that FMC wants to address FMC-related arsenic and that the difficulty lies with the fact that what FMC had produced was the same thing that people were using on their fields and orchards, in addition to the natural background level of arsenic. M. Hinton noted that delineation is still being worked on. A resident noted that maps show historic orchard land and logic suggests that property owners must have used products containing arsenic.
- B. Arnold noted that he had received a set of maps from the DEC showing contamination levels for the air deposition area. FMC and the Agencies

have different maps. W. Lachell noted that the maps are different ways of looking at the data. B. Arnold stated the agency maps use common calculation to determine averages for each property where FMC used a computer program to draw the maps from the sampling data.

3. Property Restrictions on Deeds

- B. Arnold provided documents from the Niagara County Clerk's online database showing a residential property that FMC recently sold had deed restrictions. He questioned why FMC had placed deed restrictions on the property.
- W. Lachell noted that the property in question was acquired by FMC through the company's Property Price Protection Program. She stated that FMC decided it would be prudent to put restrictions on the deed since part of the property is located in a 100-year flood plain and to ensure FMC can access the property for possible future remedial activities if necessary. She further stated that FMC informed the prospective buyers, including the new property owner of the deed restriction and easement for a portion of the property before it was sold. She stated that the property is subject to possible study and remediation in the future.
- A resident noted that the portion of the property in question that is a part of the flood plain is virtually unusable. B. Arnold noted that he raised the issue because the CIG has voiced concerns about deed restrictions in the past.
- B. McGinnis stated that FMC wanted to make sure they could lock in access to the property in the event that it requires remediation in the future. He stated that they are not permanent deed restrictions and the restrictions were placed in consultation with the new property owner.
- A resident asked if FMC had placed deed restrictions before. W. Lachell stated that this was the first occurrence but noted that FMC owns two additional properties along Tributary One that will undergo the same process.
- A resident stated that they were bothered by the apparent lack of transparency concerning the deed restrictions. Another resident stated that they believe what FMC did was different from the concerns about the Agencies placing deed restrictions on properties and the restrictions are not permanent. M. Hinton stated that the Agencies would not force deed restrictions on property owners.
- B. McGinnis stated that FMC would be more transparent to the CIG about any future deed restrictions.

4. Economic Development Update

- D. Dodge noted that the village continues to work on the administration of funds process of the NY Main Street program. He stated that they would be setting up meetings with the business owners and setting up a selection committee to review the project proposals.

- D. Dodge stated that they are in the pre-application phase for funding with the U.S. Department of Agriculture, which would help offset costs for wastewater treatment plant upgrades.
- D. Dodge stated that the village and Town of Royalton continue to work on an application for the Local Government Efficiency Grant Program, which would allow the municipalities to work together and share equipment purchases at a vast discount.
- D. Dodge stated that Sue Tauro has been to doing regular check on the Restore NY program status. D. Dodge stated that there are no updates on the Restore NY grant program because the program has not been funded by the state.

5. Meeting Schedule

- After discussion, it was determined that the CIG will meet as scheduled on Dec. 4. The January meeting was scheduled for Wednesday, January 14.

THE NEXT MEETING OF THE CIG IS SCHEDULED FOR DECEMBER 4. ALL MEETINGS WILL BE HELD FROM 5:30 to 8 P.M. AT THE MASONIC LODGE.