

**Middleport Community Input Group  
Meeting at Masonic Lodge Hall – Part I Meeting Summary  
March 9, 2009 – 5:30 to 6:30 p.m.**

**In Attendance:**

|                               |  |
|-------------------------------|--|
| Bill Arnold – CIG Chairman    | Julia Maedl – Resident   |
| Elizabeth Storch – Resident   | Dan Watts, NJIT – Technical Consultant                         |
| Larry Lutz – Resident         | Erin Rankin – Arcadis  |
| Christa Lutz – Resident       | Brian McGinnis – FMC   |
| Dick Westcott – Resident      | Wai Chin Lachell – AMEC  |
| Pat Cousins – Resident        | Jim Ward – Sen. Maziarz’s Office                               |
| Betty Whitney – Resident      | Debra Overkamp – AMEC  |
| Harold Mufford – Resident     | Michael Hinton – NYS DEC                                       |
| Lynn Andrews – Resident       | Glen Wilson – FMC  |
| Janet Lyndaker – Resident     | April Strong – FMC   |
| Dick Owen – Resident          | Ann Howard, RIT – Facilitator                                  |
| Norma Christiansen – Resident | Jim Pasinski, Carr Marketing<br>Communications – Meeting Notes |
| John Swick – Resident         |  |

**1. Welcome and Introductions**

- A. Howard began the meeting, reviewed the agenda, and led introductions.

**2. FMC Update**

- B. McGinnis noted that FMC met with the Agencies on March 4<sup>th</sup> and 5<sup>th</sup> in Albany. He noted that the discussion was centered on Agencies’ comments regarding the RFI for the Air Deposition Area and Culvert 105, and the Corrective Measures Study for the Air Deposition Area and Culvert 105.
- B. McGinnis stated that it was a very good meeting and noted that many topics were discussed and they came to agreement on numerous issues. He stated that FMC is working on a summary of the meeting.
- W. Lachell outlined some of the agreed upon items. She stated that FMC agreed to go back to the original outliers of sampled data. She stated that the Agencies agreed to not have FMC estimate concentrations on un-sampled properties. She stated that both sides agreed on which properties will be included and excluded for evaluation as part of the CMS. She stated that 20 ppm of arsenic will be used for delineation purposes only, and it will be clearly noted in the RFI that 20-ppm is not a cleanup number. Altogether, she stated that FMC and the Agencies reviewed more than 100 comments regarding the RFI report volumes for Air Deposition Area 1 and Culvert 105.
- B. Arnold asked if FMC and the Agencies have reached agreement on what property in Middleport is and is not historical orchard land and the associated calculation of background soil arsenic levels. W. Lachell stated

that they do not yet have an agreement on that issue. She noted that it will continue to be discussed, but for the purposes of the RFI there does not yet need to be a resolution on that issue.

- B. McGinnis stated that FMC and the Agencies further discussed the Corrective Action Objectives. He stated that FMC has proposed revisions to the CIG draft. He noted that FMC is concerned about excluding the excess lifetime cancer risk range of  $10^{-4}$  and  $10^{-6}$  and FMC would like it to be spelled out in the Corrective Action Objectives. He stated that including the risk range would make it clear that it is an acceptable range. B. Arnold noted that originally the CIG did not want the risk range listed because there was no definition of what  $10^{-4}$  and  $10^{-6}$  relates to for soil cleanup levels. B. Arnold added that without definition it could lead to a cleanup number as low as 11 ppm. B. Arnold noted that he had discussed the issue with FMC prior to the CIG meeting. It was decided that the a statement be added about the CMS using site-specific risk assessment to determine the range to qualify the use of the  $10^{-4}$  and  $10^{-6}$  range.
- A. Howard noted that item 1-B, bullet point number 1, in the Corrective Action Objectives document would likely be revised on the issue to read “Excess human health carcinogenic risks are reduced such that the lifetime excess cancer risks fall within the ranges of  $1 \times 10^{-4}$  and  $1 \times 10^{-6}$  based on site-specific risk assessment rather than default numbers.” It was noted that the bullet point would read similar to what was in the original Corrective Action Objectives draft. It was noted that the statement “based on site-specific risk assessment rather than default numbers” would be added to the end of item 1-B, bullet point number 2, as well. The justification for the addition of the comment is to assure that a cleanup number is not set in advance of the site-specific risk assessment.
- It was noted that the Village of Middleport and possibly the Town of Royalton have also sent comments on the draft Corrective Action Objectives to the Agencies.
- B. Arnold stated that he would correspond with the Agencies in regards to the CIG’s revised Corrective Action Objectives.
- W. Lachell stated that FMC’s proposed pilot expeditor is no longer an option that the Agencies will consider. She stated that the Agencies decided not to explore it further.
- W. Lachell stated that the final report for the phytoremediation study should be available by March 13<sup>th</sup>. She stated that the report would indicate that phytoremediation is not an effective technology to use in Middleport remediation projects. She noted that among the plants used only the ferns showed signs of arsenic uptake and the uptake levels were much less than what would be needed for it to be an effective alternative.
- A resident noted that the phytoremediation results are likely another indicator that the bioavailability of arsenic in soil is very low.
- W. Lachell noted that FMC is awaiting Agency comment on FMC proposed revisions to the Wooded Parcel Site Management Plan.

- W. Lachell stated that FMC does not have access to the Norco property in Middleport. She stated that there is nothing new to report regarding the Norco property. In response to a question regarding lack of access to the property, W. Lachell reiterated that the Norco property is currently being evaluated through Niagara County's Environmental Brownfields Program to determine if contamination exists inside the buildings. She stated that FMC also cannot perform soil remediation activities because of fears regarding the safety of the structures on that property. B. Arnold noted that there are a number of tax issues with the property.
- J. Maedl noted that Tom Arlington has been working with the county on the Norco property issue. J. Ward suggested that the CIG request the county (Amy Fiske) give a status report on the Norco property.
- B. McGinnis noted that FMC cannot go onto the property to perform soil remediation activities because FMC does not have an access agreement to the property. He added that there is a fear about the safety of the structures on the Norco property because activities could further weaken the structures and risk collapsing on contractors.
- A resident asked if there is a liability or safety problem with the Norco property. J. Swick noted that liability rests with the property owner.
- W. Lachell noted that FMC is not sure what the county will do in regards to the Norco property. She added that soil samples have been gathered on the property for the purposes of FMC's environmental investigation.
- J. Maedl noted that when the village was working with a grant writer, they worked to find a grant to refurbish and demolish some buildings on the Norco property. She stated that the grant writers could never get past all of the hurdles with the ownership and the associated liens on the property.
- B. Arnold noted that maps indicate some soil on the Norco property has arsenic levels between 100 and 250 ppm.
- W. Lachell noted that vapor intrusion testing on the FMC Middleport plant site is taking place this week. W. Lachell noted there is no off-site vapor intrusion sampling planned.
- W. Lachell noted that the timetable provided by the Agencies in the February CIG meeting had been expanded to include additional tasks and estimated completion dates. She stated that the estimated target dates for the RFI for the Air Deposition Area and Culvert 105 have not changed.
- W. Lachell stated that FMC believes the Agencies' target date of August 14, 2009 for approval of draft RFI Vol. 5 (Tributary One South of Pearson/Stone Roads) is optimistic. She noted that they will aim for completion of RFI Vol. 5 in 2009 but that there may be a need to push dates back.
- W. Lachell stated that FMC would include all of Culvert 105 in the upcoming Corrective Measures Study. She noted that the Air Deposition Area and all of Culvert 105 are now a part of one CMS. She stated that the CMS report would likely consist of two volumes since the remediation options could differ. She noted that this development has not changed the

Agencies' target dates for the CMS. FMC is preparing and will submit a revised CMS Work Plan by May 15, 2009.

- W. Lachell stated that the Corrective Action Management Unit (CAMU) would be evaluated as part of the upcoming CMS. She stated that FMC asked the Agencies to make a determination on the CAMU so that the community can take that into consideration when commenting on the CMS. She noted that the CAMU should be on the same track as the CMS.
- D. Watts asked if the CAMU being evaluated as part of the CMS is an indicator that some options in the CMS might include the CAMU. W. Lachell stated that some of the Corrective Measures Alternatives would include the use of the CAMU.
- W. Lachell stated that FMC's expanded schedule for the CMS has been expanded to show various steps in the Corrective Measures Implementation (CMI) process. She stated that they would need agreement from the Agencies on the workplan\design and that would likely be followed by a public comment period.
- B. Arnold stated that he would like the schedule to include more target dates.
- W. Lachell stated that they could guess on construction start dates but they could not guess on a possible end date since it is unknown how many properties will eventually need remediation work.
- A. Howard asked if a July 2009 approval of the CMS Work Plan would make it easier to estimate dates. W. Lachell stated that it would help, but they would still need to know more about the number of properties that would require remediation.
- D. Watts asked if there are still options other than excavation that will be considered in the CMS. W. Lachell stated that there are still other options.
- W. Lachell stated that FMC will add dates to the schedule, as they are able to.

### **3. Home Value Assurance Program Presentation**

- A. Howard welcomed April Strong of FMC's Home Value Assurance Program.
- A. Strong gave a PowerPoint slide presentation on FMC's Home Value Assurance Program. She explained the details of the program and noted that it began Jan. 1, 2009. She also noted that the last day to enter FMC's Property Price Protection Program is June 15, 2009.
- Additional information about the Home Value Assurance Program is available online at the Middleport Web site: <http://www.middleport-ny.com/middleport/index.cfm?module=homevalue>.
- A. Strong showed MLS data for the Middleport zip code. Following concerns raised by a number of residents, A. Strong agreed to provide the CIG with revised MLS data showing only properties sold within the village boundaries, not those in the zip code since that could include properties potentially outside of the village.

- A. Strong noted that she is working with experienced local realtors to help market homes in the program and further noted that she herself is a real estate agent and would provide marketing help to the sellers that enter the programs.
- A resident stated that since the Home Value Assurance Program requires residents to own and live in a home for two years, FMC should consider a provision where a home is eligible that was sold as part of an estate where the beneficiary did own and live in an otherwise eligible property for at least two years. B. McGinnis stated that FMC would discuss that request.
- A resident questioned if the program would possibly be extended beyond December 2011 based on the progress of the environmental program. A. Strong stated that it is possible.
- A resident asked what is being done to deal with the stigma around Middleport and with realtors that won't even show homes in Middleport. A. Strong noted that she has already met with a group of local realtors who are interested in the program and she is working directly with them to market and sell homes in Middleport.

#### **4. Agencies Meetings**

- A. Howard noted that the CIG needs to start thinking about dates for the Agencies to attend a future CIG meeting. It was agreed to invite the agency representatives to the June meeting.
- W. Lachell noted that the Agencies have requested that the CIG provide feedback on the format for the upcoming RFI public meeting this spring. A. Howard suggested that the CIG discuss the request further at their April meeting. B. Arnold will inform the Agencies that the CIG will discuss the issue at their April meeting and provide feedback to the Agencies following that meeting.
- It was noted that the Agencies would like to publish information on the FMC Middleport project on the NYSDEC website and would like to add a link to the CIG Web site with the permission from the CIG. This was approved by the CIG.

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

- The April meeting is scheduled for Tuesday, April 14.
- The May meeting is scheduled for Wednesday, May 6.
- The June meeting is scheduled for Tuesday, June 9.

**THE NEXT MEETING OF THE CIG IS SCHEDULED FOR APRIL 14. ALL MEETINGS WILL BE HELD FROM 5:30 to 8 P.M. AT THE MASONIC LODGE.**