

## FMC STATEMENT

October 26, 2016

In May 2014, FMC filed a petition with New York State Supreme Court, Albany County, to challenge the New York State Department of Conservation's (NYSDEC) ability to unilaterally implement a cleanup remedy it selected to address arsenic contamination in Middleport, NY.

In 1991, FMC, NYSDEC and the U.S. Environmental Protection Agency signed an Administrative Order on Consent (AOC) to guide development of all of the remedial studies and action for the Village of Middleport. FMC is ready to implement a cleanup plan under the AOC and proposed one that protects human health and the environment consistent with local community input. However, NYSDEC rejected that proposal, selected a different remedy and began implementation without giving FMC a hearing.

The New York Supreme Court, Appellate Division, on October 20, 2016, ruled unanimously that FMC had a right to a hearing prior to NYSDEC's unilateral decision to implement its remedy.

FMC is grateful that the New York Supreme Court ruled on the merits of this case in a manner that ensures FMC's due process rights. FMC now hopes to engage NYSDEC in discussions concerning an appropriate remedy which best serves the Village of Middleport.

FMC looks forward to an ongoing dialogue with NYDEC and will keep the public informed.

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