

middleport

FMC challenges agencies in court over Middleport cleanup

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MIDDLEPORT – FMC Corp. announced Monday that it is suing state and federal environmental agencies in an effort to improve the chances for a less expensive and less intrusive means of cleaning up arsenic in Middleport's soil.

The agricultural chemical company is suing the state Department of Environmental Conservation in an effort to persuade a judge to declare that the DEC can't impose a \$70 million cleanup plan on FMC when the company's \$27 million option is, in its eyes, just as effective.

"It is less disruptive to the community than the agencies' selected remedy," said Robert T. Forbes, remediation director for FMC, "It preserves trees and other important things to the community's character and nature."

Also, FMC filed suit in U.S. District Court in Buffalo against the U.S. Environmental Protection Agency, attempting to force it to intervene in the dispute between the DEC and the company.

Forbes said Monday that the EPA had decided not to grant the company's request for it to referee the disagreement. The lawsuit claims that the EPA is required to do so by terms of a 1991 consent decree signed by the company and both agencies.

The lawsuit against the DEC was filed in State Supreme Court in Albany.

DEC spokeswoman Lisa King said, "DEC is disappointed to learn that FMC chose to litigate after DEC spent a substantial amount of time working with the company to sort out how the cleanup could proceed without disruption to the community. We will prevail in the litigation and will continue to work on protecting public health and the environment."

At stake is how best to remediate 202 properties, most of them homes, in parts of the village where arsenic from FMC's chemical manufacturing processes was allegedly deposited by the wind.

The DEC's preferred option is to have FMC pay to dig up all the properties, including every part of the Royalton-Hartland Central School campus that wasn't excavated in the six previous remediations since 1996.

The company would have to replace the dirt with clean soil that would bring arsenic levels at all excavated locations below the naturally occurring background level of 20 parts per million.

FMC would prefer to excavate only enough soil to bring the average reading on each property below the background level.

Residents, tired of cleanups that destroyed the trees and shrubs in some areas already treated, have made it clear in public meetings called by the environmental agencies that most of them don't want any more work at all. Many speakers at meetings last year said they've seen no negative health impact from the arsenic in the soil.

In response to the public's views, the DEC announced it would allow residents to opt out of the cleanup.

Forbes said, "It's an interesting position, to say something is necessary and then allow people to opt out."

The EPA did not respond to a request for comment Monday.

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