

FMC suing state agency

BY JOE OLENICK

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FMC Corp. is suing the state Department of Environmental Conservation and the U.S. Environmental Protection Agency in an attempt to allow the company to go with a less expensive and less intrusive way of cleaning up arsenic in the soil near the Middleport plant.

Filed in New York State Supreme Court in Albany, the DEC suit states FMC wants to go with a \$27 million remediation plan that calls for less excavating than what the DEC's \$70 million plan calls for. The DEC rejected FMC's choice.

Announced in 2013, the DEC's plan calls for removal of contaminated soil at all locations and depths from at least 180 residential, commercial and farmland properties, including property of the Royalton-Hartland School District.

The properties, mostly residential, are centered around the Middleport plant just south of the Erie Canal and west of the county line. The targeted area also includes properties along the "Culvert 105" ditch that runs north of the village and east of a Jeddo Creek tributary.

The goal is to get those properties' average arsenic level in the soil down to a reading of 20 parts per million, the average reading of properties in Middleport outside the remediation area.

FMC believes it can meet the goal with its own plan, which calls for far less soil removal and replacement in the apparently remediation-weary village.

"It is less disruptive to the community than the agencies' selected remedy," said Robert Forbes, FMC's director of environment, health and safety, remediation/governance. "FMC has always been committed to implementing a cleanup that's appropriate for this town and one that will minimize its impact on the town."

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 agricultural products company. Forbes said FMC is hopeful the suits will be successful. There's no telling when the court decisions will be handed down.

Forbes said the EPA decided not to grant the company's request for it to intervene and settle 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.

Residents have repeatedly said they're tired of the cleanups that have led to the loss of trees and shrubs in some areas. A majority have made it clear in public meetings that they don't want any more work done. Many speakers at meetings last year said they've seen no negative health impact from the arsenic in the soil, so they don't agree that the cleanups are necessary.

The DEC announced previously it would allow residents to opt out of the latest cleanup phase.

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