

**Middleport Community Input Group
Meeting at Masonic Lodge Hall – Part I Meeting Summary
August 11, 2009 – 5:30 to 7 p.m.**

In Attendance:

Bill Arnold – CIG Chairman	Dan Watts, NJIT – Technical Consultant
Elizabeth Storch – Resident	Debra Overkamp – AMEC
Elizabeth Bateman – Resident	Wai Chin Lachell – AMEC
Dori Green – Resident	Erin Rankin – Arcadis
Dick Westcott – Resident	Andy Twarowski – FMC
Christa Lutz – Resident	Brian McGinnis – FMC
Margaret Droman – MRAG/Resident	Bob Forbes – FMC
Betty Whitney – Resident	Mike Hinton – NYSDEC
Pat Cousins – MRAG/Resident	Steve Whipple – U.S. Rep Chris Lee
RoseMarie Morse – Resident	Ann Howard, RIT – Facilitator
Ralph Morse – Resident	Jim Pasinski, Carr Marketing Communications – Meeting Notes

1. Welcome and Introductions; Agenda Review

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

2. FMC Update

- B. Forbes stated that FMC is very appreciative of the work that the CIG does. He thanked the group for all of their dedication and stated that they are making a difference in the project.
- D. Overkamp stated that FMC has had two summer interns at the plant. She reminded residents that the FMC Neighborhood House at 17 Vernon St. is open Thursdays from 9 a.m. to 4 p.m. or by appointment. She stated that the next FMC community newsletter will be mailed to residents in September, a memorial stone for Robert Maedl has been placed in Margaret Droman Park and the winners of the FMC Middleport sesquicentennial contest will be named Labor Day weekend.
- D. Overkamp stated that FMC is working on deed restrictions for the Coe property. She stated that FMC’s purchase of the former Mill Pond property has been completed. She also stated that FMC sold 91 N. Hartland St. and an easement exists on the portion of the property traversed by Tributary 1 in the event that FMC needs to access the property in the future for remediation purposes. She stated that the easement can be terminated if/when corrective actions take place or it is determined that remediation of the property is not necessary.
- E. Rankin stated that some additional surface water and sediment sampling and monitoring activities are required (consistent with Agency-approved work plans) in Culvert 105 within the 2007 Early Action areas. W. Lachell stated that they are monitoring the Coe property, Margaret Droman Park and the FMC plant site near the railroad property. B.

McGinnis stated that the monitoring validates previously conducted remedial work.

3. Review of CMS Process

- B. McGinnis stated that FMC wanted to use their time during the meeting to provide the CIG with a review of the upcoming Corrective Measures Study (CMS). He stated that FMC believes it is important to have a dialog with the group to ensure everyone understands what is in the CMS work plan.
- B. McGinnis stated that FMC has been able to reach an agreement with the Agencies on several issues related to the CMS work plan and FMC would like CIG input on those issues.
- W. Lachell stated that FMC has prepared a presentation for the CIG on the CMS process and its current status. She reminded residents that FMC is under an Administrative Order of Consent (AOC) with the government Agencies, which is a very lengthy document that spells out the process for addressing arsenic contamination in Middleport.
- W. Lachell stated that the CMS work plan describes the CMS purpose, general approach, tasks and deliverables. She stated that in order to proceed the Agencies must approve the CMS work plan and CMS areas in RFI Volumes II and IV before the actual CMS can start.
- W. Lachell stated that the Agencies targeted approval date of the CMS work plan is August 31, 2009 and FMC has already received verbal approval as of August 11, 2009.
- W. Lachell stated that the CMS would identify areas that require cleanup and identify how the cleanup will be performed. She stated that a range of Corrective Measures alternatives will be identified and evaluated and will range from doing no remediation to taking the most conservative approach.
- W. Lachell stated that FMC then performs the CMS (with input from stakeholders) and submits a preliminary draft CMS report to the Agencies. The Agencies then comment on the draft and request modifications of that report. From there, FMC then revises and issues an updated draft report that the Agencies then review and approve for public comment. W. Lachell stated that this is usually the point where the community has input on the CMS draft but FMC is proposing more community input than this. She stated that FMC would like the CIG, as the community stakeholder group, to review and comment on the draft CMS report as it moves along in its development. She stated that the Agencies typically then hold a public comment period and a public meeting and respond to comments and finally determine the final corrective measures alternatives after public input. FMC will revise and issues a final CMS report after public comment.
- W. Lachell stated that residents have the right to refuse remediation of their property. A resident stated that FMC and the Agencies must make that point clear to all residents.

- A. Howard stated that the CIG felt the process was changing and that some revisions to documents read differently than what had been discussed with the CIG and the tone of some of the documents related to the CMS had changed.
- B. Forbes stated that the CIG has a key role in the CMS process. B. Arnold stated that the CIG is concerned that while they might have comments on a particular topic, the Agencies have the final say regardless and might not address the CIG's concerns. B. McGinnis noted that the CMS is different from the RFI process because the CMS has a community acceptance factor. W. Lachell stated that the CIG would have opportunities to comment on the CMS process as it plays out.
- In response to a resident question, M. Hinton stated in the RCRA process the company – in this case FMC – makes recommendations on how to proceed but in the end it is the Agencies who have the final decision. B. Arnold stated that the process should be different in Middleport because it is not a typical RCRA site. He said Middleport is a site with off-site contamination and the prospect of potentially destroying private residential property.
- M. Hinton stated that the Agencies review of the CMS work plan document is complete. W. Lachell stated that FMC can't move forward with the CMS until the Agencies approve RFI Report Volumes 2 and 4 and the CMS Work Plan.
- B. Arnold stated that there should be a better process than back-and-forth document exchanges between FMC and the Agencies. B. McGinnis stated that the process has improved over time and both parties can trade drafts via email, which allows for faster reviews. In response to a resident question, M. Hinton stated that numerous Agency representatives have to review documents, which takes time. W. Lachell stated that FMC must follow the AOC requirements. She stated that meetings between FMC and the Agencies are beneficial as it helps each side understand what the other is thinking. In response to a resident's question, B. Forbes stated that the AOC has penalties for FMC if deadlines or requirements are missed. A resident stated that the Agencies have yet to adequately or scientifically explain why they have certain stances on the Middleport project. B. Arnold noted that any public communications from FMC have to be cleared by the Agencies.
- W. Lachell continued with her presentation. She listed the five CMS tasks, which are 1. Community Participation, 2. Risk Assessments, 3. Identification and Development of Corrective Measures Alternatives, 4. Evaluation of Corrective Measures Alternatives, and 5. Justification and Recommendation of the Corrective Measures.
- W. Lachell stated that Task 1 provides information, obtains feedback and provides opportunities for stakeholder involvement. She stated that FMC wants early input from the community and has written that into the CMS work plan. B. McGinnis stated that lessons were learned from the Vernon Street remediation where residents did not have an opportunity to

comment. He stated that FMC is going to be open and honest with all details throughout the CMS process. W. Lachell stated that it is a regulatory requirement to obtain public comments on the final draft CMS report and the recommended corrective measures alternative. She stated that the Agencies might change the recommended corrective measures alternative based on public comments.

- W. Lachell stated that Task 2 deals with human health risk assessments and helps to identify and evaluate alternatives. She stated that FMC is trying to define the risks associated with property data, both cancer and non-cancer health risks. She stated that they would evaluate risks associated with background conditions, current property conditions and post remediation conditions associated with each alternative.
- W. Lachell stated that FMC is recommending the evaluation of site-specific human risk assessments using both probabilistic and deterministic methods. She stated that the probabilistic risk assessment is more complex but FMC wants to examine both and will spell out the rationale for both. B. Forbes stated that a deterministic risk assessment drives a lower risk number and can lead to an extremely conservative cleanup number. M. Hinton stated that it would be tough for FMC to convince the Agencies that a probabilistic risk assessment is the best solution.
- W. Lachell stated that site-specific ecological and human health risks are two of several criteria used to compare the Corrective Measures alternatives. She stated that the risk assessments will evaluate risks associated with background conditions (using existing Gasport data), risks associated with the current conditions in the CMS areas, risks associated with post remediation arsenic soil data for each identified corrective measure alternative and risk reduction associated with each corrective measure alternative.
- W. Lachell stated that deterministic risk assessments use one or two sets of possible exposure factors/values while the probabilistic approach uses ranges of possible exposure factors/values along with estimated probabilities of occurrence. She stated that a CMS risk management approach document will be drafted to describe how the risk assessment will be performed and FMC would solicit input from stakeholders and the Agencies on the risk approach document. B. McGinnis stated that FMC's approach provides an opportunity for the CIG to comment. A resident stated that the Agencies would not listen to the CIG, especially on this topic.
- W. Lachell stated that Task 3 deals with the identification and development of Corrective Measures Alternatives (CMA). She stated that the CMA's to be identified range from no action/no further action required to the most conservative option -- cleanup to 20 ppm on a point-by-point basis, such as what was done in 2003 on Vernon Street. The alternatives also look at soil removal/disposal options. W. Lachell stated that activities related to task 3 include the identification of reasonably anticipated future land uses, arsenic phytoremediation pilot study, an optional soil

tilling/blending pilot study or paper study and identification and evaluation of tree preservation measures. She stated that the alternatives would be evaluated and compared on seven criteria.

- W. Lachell stated that Task 4 deals with the evaluation of corrective measures alternatives. The seven criteria that each alternative is evaluated and compared are community/property owner acceptance, technical effectiveness, performance, reliability, implementability and safety, potential post-remediation environmental risks, potential post-remediation human health risks, effects of federal, state and local environmental and public health standards, regulations, and guidance on the design, operation and timing, and consistency with green remediation practices.
- W. Lachell stated that Task 5 deals with the justification and recommendation of the Corrective Measures Alternative. The task consists of a draft CMS report to justify and recommend a corrective measure alternative or alternatives, the public opportunity to comment on the final draft CMS report and recommend alternatives, the Agencies potential modification of the CMS report and recommended alternatives based on public comments and the Agencies final determination of corrective measures.
- B. Forbes stated that it is important for local residents and CIG members to make public comments on all documents. He stated that the local community has to be heard since non-local parties will comment because these projects may help set state policy.
- W. Lachell stated that a list of proposed stakeholder participation activities for the CMS has been distributed and requested that the CIG review and provide input of the proposed activities during the September CIG meeting.
- W. Lachell indicated that a slide with the preliminary CMS schedule has been provided.
- B. Arnold stated that, based on Agency comments, the CIG is concerned about past pesticide use by residents on properties will be addressed. He stated that the Agencies would need to explain small areas on residential properties where there are “hot spots”.
- B. Arnold stated that the CIG feels some language in the CMS work plan should be changed that deals with impacted soils under buildings. W. Lachell stated that the properties would be evaluated in the CMS. She stated that the Agencies want each property evaluated on a case-by-case basis and FMC wants any soils under structures to be excluded from evaluation.
- It was noted that the Agencies are currently reviewing FMC’s 2009 soil sampling that occurred east of the Niagara/Orleans County line.

4. Meeting Schedule

- The September meeting is scheduled for Tuesday, Sept. 15
- The October meeting is scheduled for Thursday, Oct. 22.
- The November meeting is scheduled for Thursday, Nov. 12.

**THE NEXT MEETING OF THE CIG IS SCHEDULED FOR SEPTEMBER 15.
ALL REGULAR MEETINGS WILL BE HELD FROM 5:30 to 8 P.M. AT THE
MASONIC LODGE.**