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CORRECTIVE MEASURES STUDY
SUSPECTED AIR DEPOSITION AND
CULVERT 105 STUDY AREAS
FMC CORPORATION
MIDDLEPORT, NEW YORK
JUNE 14, 2011 PUBLIC MEETING

REPORTED BY: DOREEN M. SHARICK, Court Reporter
EDITH E. FORBES COURT REPORTING SERVICE
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Batavia, New York 14020

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APPEARANCES:

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1
2 MR. BASILE: Good evening, my name is
3 Mike Basile. I'm the Community Involvement
4 Coordinator and a Public Affairs Officer with
5 the United States Environmental Protection
6 Agency. I'd like to welcome you this evening
7 to the FMC Middleport meeting. I will serve
8 as a facilitator this evening. I've been with
9 the EPA for 24 years. I have an office out in
10 Buffalo and I work for Region II out of New
11 York City.

12 I would like to introduce a few folks
13 that are in the audience that will not be
14 participating, but I'd like to recognize them
15 at this time before we start. We have Mike
16 Infurna, who is the project person with EPA
17 from Region II, Mike. Right there, Mike.

18 Matt Mortefolio, the project officer,
19 with the DEC out of Albany, Matt.

20 Mike Canton, New York State DEC Region
21 IX, out of Buffalo, Michael, in the back here.

22 And Nathan Freeman with the New York
23 State Department of Health, Nathan.

24 And in the audience this evening is
25 Mr. Jim Ward from Senator Maziarz's office,

1
2 Jim.

3 And the FMC Corporation has submitted for
4 public review and comment a draft report on
5 the Corrective Measure Study, CMS, they
6 conducted for certain areas beyond the
7 boundaries of its Middleport, New York, plant.

8 FMC has undertaken the study as part of
9 the Environmental Investigation Remediation
10 Evaluation Program it's conducting under a
11 consent order with the New York State DEC and
12 EPA relative to the historic operations of the
13 release of the contaminants from its
14 Middleport plant. The Draft CMS Report is
15 FMC's work product. They have conferred with
16 the State and Federal regulatory agencies in
17 preparing the draft and understand that the
18 Agencies still have to review it as well as
19 seek public comment and input as we are doing
20 today and here this evening.

21 The 45 day public comment period began
22 May 17th to allow for feedback and it will run
23 through July the 1st. After public comments
24 have been received, the Agencies will respond
25 to the comments and provide their

1
2 determination of the final corrective measures
3 that should be taken.

4 This evening, FMC and the Agencies will
5 make some brief presentations and then we will
6 open the proceedings to the public for your
7 comments. We have a stenographer present to
8 record the proceedings and her name is Doreen
9 Sharick. I will ask that your comments be
10 held to no more than five minutes each. If
11 you have prepared written comments, they can
12 be handed to Doreen as well.

13 Our formal proceedings will end at 8:30.
14 Agency personnel will be available to
15 informally respond to questions from the
16 public immediately following the completion of
17 the meeting.

18 Once again, the meeting format will have
19 two presentations followed by simply public
20 comment because that's what we are here for
21 this evening, not to answer questions but to
22 solicit public comment.

23 Following today's public meeting and
24 availability session that took place this
25 afternoon, written comments can still be sent

1
2 by e-mail to Mr. Matt Mortefolio.

3 Upon completion of the comment period
4 after July 1st, the Agencies will review all
5 written comments as well as those received
6 during the sessions and issue a responsiveness
7 summary.

8 At this time I'd like to call upon Brian
9 McGinnis with the FMC Corporation for his
10 presentation.

11 MR. MCGINNIS: Thanks, Mike. I really
12 appreciate it. I'm not going to use the
13 microphone. I hope everybody can hear me.
14 I'd like to extend a warm welcome on behalf of
15 the FMC. I appreciate you coming out tonight.
16 I flew in this morning from Philadelphia. It
17 was raining, drizzly and cold. I'm glad I
18 brought a jacket with me. Now, I don't need
19 it. It's a beautiful evening. I appreciate
20 you being here.

21 Tonight, we are going to have just a
22 discussion of our presentation I'm going to
23 give you. We are going to talk about an
24 overview of the Corrective Measure Study. The
25 Corrective Measure Study really is a study we

1
2 put together and presents a lot of different
3 options for remediation in two different areas
4 off our plant site.

5 We'll talk about which two areas. It's
6 really about what are the options going
7 forward. We will talk about which two study
8 areas. We'll give you a brief description of
9 what those options are, those corrective
10 measures alternatives. We will briefly
11 discuss what kind of criteria is used to
12 evaluate the different alternatives. And then
13 a quick comparison of the different
14 alternatives and then FMC's recommendation.

15 We actually made a recommendation in the
16 report, which alternative FMC would like to
17 see selected as a remedy. Like I said, the
18 purpose of this report is to layout the
19 different alternatives and then evaluate them
20 on a set of criteria. Like Michael said, this
21 is FMC's work product. The Agencies I thought
22 really weighed in one way or the other on what
23 they believe is the correct alternative. They
24 will do that after the public comment period.

25 The report was actually submitted in May.

1
2 It's out for public comment. We do request
3 that the public weigh in. If you have
4 questions about the complexity of the report
5 or anything else about the report, we will be
6 available afterwards to talk.

7 That's this part of the criteria that we,
8 the Agencies, use to evaluate the report is
9 the public comments.

10 After the public comments, as Michael
11 said, the Agencies are going to select
12 preliminary statement of basis, which is they
13 are going to have a preliminary opinion about
14 which alternative they think we should
15 implement.

16 Next, there is two different off-site
17 areas we are going to talk about. This report
18 addresses two of the areas off of our plant
19 site. One is the Suspected Air Deposition
20 Area and that's this one. We will talk about
21 that one. The other one is called Culvert
22 105.

23 The areas in green are the areas that
24 would determine -- needed to be evaluated in
25 this report. There is 244 properties,

1
2 individual properties, that were evaluated.
3 The ones in yellow were ruled out as part of a
4 previous report that we did. There is 75
5 properties that were ruled out.

6 Included in those 244 properties, that
7 also includes the properties that were
8 previously remediated on South Vernon Street.
9 It also includes the southwest portion of the
10 school yard and the homes on Park Avenue and
11 then there is one other piece of property
12 right here. It was a vacant lot. Had a
13 burned out building on it. We called it the
14 wooded parcel because it used to be wooded.
15 We remediated that in 2007, also.

16 So those properties are also included in
17 part of this evaluation. We did those as an
18 interim corrective measure. We didn't do
19 those as a final remedy. They still have to
20 be evaluated formally in this report.

21 The next area is called Culvert 105.
22 Here's the little slice of the Erie Canal,
23 right here. Culvert 105 is actually a storm
24 water drainage conveyance that the Village
25 owns. It starts at the railroad tracks just

1
2 north of the FMC property. It actually runs
3 underground south of the canal and then it
4 goes beneath the canal and then goes north and
5 the Middleport Village Water Treatment Plant
6 is right up here. So this is a storm water
7 conveyance right through here. Part of this
8 is open ditch especially up in here. And from
9 Sleeper Street south, it's all piped
10 underground.

11 In 2007, we, also, did some other
12 corrective measures to address a few areas
13 north of the canal as part of Culvert 105, but
14 all those properties, there is 25 of them,
15 those were evaluated as part of this study.

16 So there's actually eight alternatives.
17 6 and 7 were chopped up in two different
18 pieces. So there's really ten. But briefly,
19 one of the things that differentiates the
20 different alternatives is what the remedial
21 goal is. What's our goal for clean up for
22 arsenic? Okay. We always have to evaluate no
23 further action in the regulations. We always
24 look at that, what if you do nothing. Compare
25 that against the evaluation criteria and then

1
2 Alternative 2 is 20 parts per million. So we
3 would remediate to 20 parts per million. No
4 point in any of these properties have anything
5 greater than 20 parts per million. That is
6 actually the standard we use when we did
7 interim corrective measures.

8 If you will see alternatives 3, 6 and 7,
9 see a bunch of different types of property
10 uses. What those alternatives propose is --
11 we will just step through number 3 real quick.
12 For residential property, we are going to
13 clean up to an average of 20 parts per million
14 with a maximum of 40. So no point could be
15 higher than 40, but the average of across an
16 individual piece of property has to be less
17 than 20.

18 For public and institutional, 30 parts
19 per million average, 60 max.

20 And then agricultural, commercial,
21 industrial, railroad utility is 40 parts per
22 million with 80 parts per million maximum.

23 Now, anything except residential would
24 require what we call an institutional control.
25 We did that wooded property I just talked

1
2 about just north of the FMC property on the
3 other side of the tracks. We actually put an
4 institutional control on that piece of
5 property. We excavated two feet off the top
6 and replaced it with clean backfill and
7 replaced the culvert underneath with Culvert
8 105. And with the agreement of the property
9 owner, we were able to put an institutional
10 control on that particular piece of property.
11 We did not clean it up 20 parts per million
12 everywhere. Okay. But the key to that is
13 that on that particular piece of property, we
14 were able to put an institutional control on
15 it. The property owner agreed to it.

16 If someone owns a piece of agricultural
17 property that was in the study area, we said,
18 oh, well, we'd like to clean up your property
19 to 40 on average with an 80 maximum and they
20 said, well, I don't want an institutional
21 control on my property. Well, we are back up
22 to residential. Okay. So if the property
23 owner doesn't want that institutional control,
24 we can't force them to do it. It's really up
25 to them. Now, in the future what would happen

1
2 is that any time, FMC would have to go back on
3 a regular basis and look at those properties.
4 If any of those properties were going to be
5 switched say from agricultural to residential,
6 at that time we have to go back and look at
7 what we did and say, does this really meet,
8 you know, what we did? Does that meet the
9 residential criteria or not? If it doesn't
10 and it's going to switch uses, we are going to
11 have to go back and do more work so that we
12 make sure that it meets this residential
13 standard.

14 You can see Alternative 4 and 5, it's
15 just every property gets cleaned up to the
16 same cleanup goal.

17 6 and 7, you have their various property
18 uses.

19 And then 8, every property gets cleaned
20 up to 20 on average, with a 30 maximum.

21 This slide really kind of lays out what's
22 going to happen with the remainder of the
23 Royalton-Hartland school yard. Okay. Of
24 course, there is no further action. Okay.
25 And then there is a couple of those where if

1
2 it meets the criteria, 1, 4 and 5 actually
3 meet the criteria where you wouldn't have to
4 do anything else. It's fine the way it is
5 based on the clean up goals. Number 2, you
6 still have to excavate out more. 6, 6B, 7B
7 and 8, you have to do more work and then 3, 6A
8 and 7A, we would try and put an institutional
9 control on that piece of property and then if
10 it changed uses in the future, then we'd have
11 to go back and probably do some more work.
12 That's how the school yard is evaluated and
13 the different alternatives. Some of the
14 common elements of each of these alternatives,
15 so this is something we are going to do no
16 matter what. These are the alternatives just
17 to give you an idea.

18 Proposing no further work for that wooded
19 parcel. The 31 properties that we have
20 already cleaned up. South of the canal, Park,
21 Vernon, no further action. We are proposing
22 no further action is going to be required
23 there.

24 The method of clean up. Each of these
25 properties is going to be soil excavation and

1
2 on some particular properties, might use soil
3 tilling or blending. That was a technology
4 that we evaluated as part of this process
5 where soils are mixed, blended and placed down
6 to how many, three feet, four feet?

7 MS. LACHELL: Four feet.

8 MR. MCGINNIS: About four feet and by
9 doing that, we can bring the average value of
10 that soil down below 20 parts per million on
11 some properties. So that is kind of a
12 selected method, but the major method is going
13 to be soil excavation. The only place you can
14 do the soil tilling and blending is on like a
15 large piece of property, say an agricultural
16 piece of property. The equipment is just
17 really too big to get on a residential lot.
18 The other thing is you have to be worried
19 about especially, everybody knows this, it's
20 like you wouldn't want us doing that in your
21 front yard. We'd probably tear up your gas
22 line, water line and your sewer line. So stay
23 away from that.

24 Institutional controls, these particular
25 alternatives and then tree preservation

1
2 wherever possible. We evaluated a couple
3 different techniques of trying to preserve
4 trees. The thing about trees is we found out
5 from other properties that we have done, it
6 really depends on the particular property and
7 then it depends on the individual trees.
8 Whenever we have done this in the past, we
9 have looked individually tree by tree by tree
10 and talked to the property owner and consulted
11 with them about what the best thing might be
12 to do. Some trees are just past their
13 expected life. They are really old. You
14 know, they are rotted out in the middle.
15 Probably best that they come down.

16 Other trees you may be able to save
17 depending on how old they are, how big their
18 roots are and what work we have to do based on
19 whatever cleanup criteria is selected. So we
20 are going to try and work that in when we do
21 our design. It's really going to be on a
22 property specific basis and then really a tree
23 by tree evaluation.

24 So other common things, Alternatives 2
25 through 7. We talk about the buried culvert

1
2 pipe mostly south of the canal. In
3 alternatives 2 through 7, where the sample
4 data indicates, we are going to excavate out
5 the culvert and the soils around it and
6 replace the culvert. If there's no data in a
7 section, we are going to propose to leave that
8 where it is. So if it's not warranted, we are
9 not going to replace it.

10 Alternative 8 though actually
11 contemplates replacing the entire underground
12 culvert all the way through from actually from
13 Park all the way up to the canal.

14 Property restoration is always an element
15 of all the things that we have done. It's
16 hard to say. I can't even generalize. It's
17 really an individual thing. We have always
18 gone to individual property owners and talked
19 about restoration. I can say in general what
20 we have done in the past is try to replace
21 things in kind. Except for if you've got a
22 really nice tree and it's this big around and
23 it's healthy and unfortunately, there's no way
24 around taking it down, we can't give you a
25 tree that big. I have to give you a smaller

1
2 tree that has to grow later. We have been
3 successful in, you know, trying to replace
4 things in kind whether it's fencing or whether
5 it's sheds or other things like that. We sit
6 down and talk to property owners about what
7 the plan is and what works best. We try to be
8 very conscious about that.

9 Soil disposal, for each of the
10 alternatives there's two different soil
11 disposal methods. One of them is off-site
12 disposal. That would be at a commercial
13 landfill. The way we looked at doing that was
14 we said that we assumed, and this is an
15 assumption on our part, that 25 percent of the
16 soil could be used for what's called day
17 cover. Landfills at the end of the day have
18 to put a soil cover over whatever they put in
19 there that day. And then 75 percent of it
20 would be just disposed off in a landfill.

21 I should go back and tell you that from
22 our experience, all of the debris and all the
23 soils that get excavated out, more likely, I
24 can tell you 99 percent sure are going to be
25 nonhazardous. Okay. It's not a hazardous

1
2 waste. It's soil that's got high levels of
3 arsenic in it and the same for the debris. So
4 that the off-site disposal would be at a
5 commercial landfill.

6 The other option is to put the soil back
7 on the FMC plant site in what's called a
8 Corrective Action Management Unit or CAMU. We
9 are proposing to build that to a height of 28
10 feet. It would cover approximately 17 acres
11 on the plant site. We have already placed
12 close to 97,000 cubic yards of material there.
13 We did all these other remediations from the
14 school yard, Park and Vernon. All the
15 material came back to the plant site. It's on
16 the eastern side of the plant and that's where
17 it sits today.

18 And what we are proposing to do is under
19 the rules and regulations of the State and
20 federal guidelines, FMC can apply for what's
21 called a CAMU and that's something that's
22 afforded the company through the rules and
23 regulations. You can see this is a footprint
24 of it right here. That would give us -- if we
25 built it out 28 feet high, that would give us

1
2 a capacity of approximately 230,000 cubic
3 yards of soil that can be brought back and
4 placed in the CAMU.

5 One thing is this CAMU will be, like I
6 said, 28 foot high all the way across. We got
7 a couple over here on the side. A couple of
8 views where I don't know how they photoshopped
9 this. They photoshopped in a 28 foot high
10 CAMU into those photos. You're welcome to
11 come up and take a look and then on this
12 aerial view, they photoshopped in what it
13 would be like. We plant trees and shrubs
14 around it and try and model it a little bit so
15 that it looks nice. And right now, I think
16 the highest spot on there is 25 feet high.
17 Not all of it's 25 feet high. A couple spots
18 that are already 25 feet high. So it would be
19 three feet higher than it already is. It
20 would be a much larger footprint.

21 Just to give you a comparison, here's a
22 few facts and figures about the different
23 alternatives. This first column -- you guys
24 have a copy of the presentation and you do not
25 have to follow along. You can look at it when

1
2 you get home. The number of properties that
3 need to be remediated is in this first column.

4 The second column is the volume of the
5 soil. So if you look at alternative two,
6 which is 20 parts per million maximum, you get
7 228,000 cubic yards.

8 This fourth column is how many feet of
9 culvert pipe have to be replaced.

10 And then this last column is our
11 engineer's best estimate of how many years it
12 would take to implement that particular
13 remedy.

14 So you can see there's a lot of different
15 numbers in there, but it kind of gives you a
16 comparison of some of the important numbers we
17 think that are in the report to use for
18 comparison.

19 Here's another one. Again, number of
20 alternatives, number of properties. This
21 shows the number of properties that require
22 some type of institutional control. Like I
23 said before, those institutional controls FMC
24 might propose them. The property owner has to
25 agree to them.

1
2 This fourth column gives you what the
3 average arsenic concentration will be after
4 the excavation is done. That was a number of
5 particular properties. If you looked at
6 column two of those 181 properties, when we
7 were through excavating, if you looked at the
8 remaining data that still remains, you have an
9 average of seven parts per million.

10 And then the last two columns give the
11 cost. One is to do the remediation putting
12 those materials in the CAMU. The other column
13 is doing the remediation and trucking the
14 soils off-site to a commercial landfill.

15 The evaluation criteria that we have
16 used, it's something that the Agencies have
17 stipulated in the regulations and it's common
18 across not only New York State, but it's
19 common across different programs all across
20 the United States. So these are really common
21 things that we run into all the time.

22 First one up there is community or
23 property owner acceptance. Your opinion
24 counts. So please make sure you voice your
25 opinion tonight or send in a comment card.

1
2 Technical which is how effective is it?
3 Is it reliable? How easy is it implementable?
4 Is it safe to do? The environmental impacts
5 short and long-term, human health impacts
6 short and long-term, institutional costs and
7 what the green remediation practices are
8 incorporated into the alternatives.

9 We always love these little happy charts,
10 the little circles. A blank circle is not
11 favorable. A filled in circle is favorable
12 and then half is moderate. So this shows all
13 the different evaluation criteria and how FMC
14 sees these things stacking up with the cost on
15 the bottom.

16 FMC preferred alternative is Alternative
17 3. I'm going to go through it real quick.
18 Soil removal with soil tilling and blending
19 where it makes sense. Post-remediation
20 arsenic cleanup goals, we already kind of went
21 through those based on land use. No further
22 action on the Roy-Hart School property.
23 Institutional controls on certain properties.

24 No further action on properties we have
25 already remediated. Soil debris would all go

1
2 into the CAMU on the eastern side of the plant
3 site.

4 After the Agencies comes out with their
5 final decision, there are some pre-designed
6 and design activities. We have to figure out
7 how we're going to do this. Depending on
8 which alternative we have got to talk to, we
9 have probably over a 100 property owners and
10 make specific plans for each of the property
11 owners. That will take a while. That's next
12 up.

13 We will do tree preservation wherever
14 possible and then the property restoration.

15 Thank you. Matt Mortefolio is up next.
16 Matt, it's all yours.

17 MR. MORTEFOLIO: I will go through
18 especially the first few slides real quickly.
19 Two reasons, one, I want to get you guys up
20 here to issue your comments. Two, is some of
21 this is because Brian and I prepared our
22 presentations separately, some duplication, so
23 I'm not going to go over things twice, but
24 this slide here is the first. What I'll do is
25 go over the purpose of the CMS and the areas

1
2 that were already covered. Summarizing each
3 of the Agencies' Corrective Action Objectives,
4 which is part of your handouts. To go over a
5 little bit of our perspective on the draft
6 report so far and hit some the important
7 points we see in the report. And go over the
8 public input opportunities and what happens
9 after tonight with regard to that. And then
10 the important next steps, what happens after
11 we get passed the public comment period.

12 Purpose of the CMS, basically, there is
13 two parts of it. As Brian said, evaluating
14 alternatives of cleanup which there are eight
15 as Brian covered and then also evaluating
16 what, you know, some of these will generate.
17 2 through 8 will generate soils that have to
18 be dealt with and the other part of this
19 decide on proper transportation and disposal
20 of that soil.

21 I'll skim right through this. This is
22 the exact same thing as Brian showed you
23 before only we put together the two areas:
24 Air Deposition area here, Culvert 105 here and
25 this same thing Brian had as far as what each

1
2 of these colors means so we will skip through
3 that.

4 Corrective Action Objectives. That's
5 part of your handouts. It kind of looks like
6 this. The Agencies came up with these in 2009
7 before FMC did the CMS. We came up with a
8 version of this in draft. We showed it to
9 FMC. They commented on it. We also shared it
10 with the Middleport Community Group, who
11 commented on it.

12 We eventually finalized it in May of
13 2009, a set of what we call a Corrective
14 Action Objective. What we wanted to see the
15 objective of this corrective action be. It's
16 important to remember that objectives are
17 goals, what we strive for. They are not
18 actual standards that we have to accomplish
19 necessarily, but this is where we are going
20 and they are detailed in the handout. I'll
21 just touch upon them briefly.

22 The first one is, of course, to protect
23 human health in the environment and they had
24 some subgoals and one of the things we hear a
25 lot of in the community, we wanted to achieve

1
2 or try to achieve unrestricted residential use
3 on all the properties that are out there that
4 are part of the CMS. Of course, reduce
5 potential human health risk. One way to do
6 that in the goals was to basically have a
7 corrective measure that took the arsenic
8 levels in the soil back to their original
9 state or background.

10 We also considered, as Brian touched
11 upon, some controls, institutional controls.
12 He touched upon would be considered for
13 nonresidential properties on a limited basis
14 based on owner desires basically. Reduce the
15 ecological impact especially for Culvert 105,
16 which does have some wildlife areas downstream
17 of it. And of course, if there is any
18 contamination left, control its migration to
19 where it's not supposed to go is always the
20 goal.

21 Number 2 is to minimize community
22 disturbance as much as we could and whatever
23 remedy was selected.

24 Third, maximize property owner
25 involvement. Make sure each property owner

1
2 that is involved in this has a good say in
3 what happens on his or her property.

4 And the last thing, the fourth thing,
5 which is, again, employ green remediation
6 practices which are things like trying to
7 conserve land for future use, also boils down
8 to emissions from equipment, how to reduce
9 that during the remediations so there is not a
10 lot of greenhouse gases being emitted, things
11 like that.

12 This is, again, our perspective. This is
13 FMC's report and what we're doing here,
14 basically, at this point we've reviewed the
15 report. We consider it basically complete in
16 terms of what it's supposed to have in it. So
17 we thought this would be a good time to put it
18 before the public before we make any final
19 judgments on it to get your perspective.

20 To give you an idea what we're doing
21 tonight and through this comment period is
22 something additional than we usually do.
23 Usually, the process goes where the report or
24 feasible study is given to us, we review it
25 and then we come out with what we think that

1
2 the Agencies should be done and then we
3 present it to the public and say this is what
4 we plan to do, what do you think. We haven't
5 gotten to that point yet. We are at the point
6 of simply having FMC's report for you to
7 review. We want to know what you think before
8 we start making any even tentative judgments
9 about where we want to go with this. That is
10 the purpose of tonight.

11 Again, I have to state that just because
12 we're presenting the report doesn't mean that
13 you agree with everything in it. We don't
14 basically frankly. We agree with some things
15 but not all things.

16 And again, like I said, we are not at
17 this point making any judgments on corrective
18 measures that are needed or not needed or
19 making any pre-judgments on any of the eight
20 of the alternatives provided to us.

21 This is some of what Brian had a little
22 bit of a comparison on what each of these
23 CMAs, how it's different from the others. One
24 of the important points, again, I won't go all
25 through these. One of the important points I

1
2 want to stress on, this is that CMAs 2 and 8
3 basically result in an unrestricted
4 residential use for all properties. The
5 others aside from, basically, have certain
6 properties where there may be institutional
7 controls involved where we would ask the
8 property owner to do that. Since one of our
9 goals is unrestricted use, there are
10 alternatives in here that address that goal.

11 And as Brian said, the last one here, all
12 CMAs, all the options have varying degrees of
13 ways of preserving trees, some more than
14 others. For example, where we are looking at
15 possibly doing averages as opposed to taking
16 everything on a point by point basically
17 provides us with some flexibility on what
18 parts of the properties may need to be
19 remediated and what properties don't and
20 therefore, that it gives us a little
21 flexibility on tree preservation.

22 Also, there are manual techniques that
23 can be used if a tree is, like Brian said,
24 still viable to remove the soils without
25 having to remove the tree. So those things

1
2 are something that would still be considered
3 probably under any of the CMAs that we pick
4 that will still be a part of the final remedy.

5 The other thing I wanted to clarify is
6 the Roy-Hart school property, the property
7 that has part of it that was not remediated in
8 1999, which would be the part outside of the
9 football field and outside the soccer fields.
10 Just to clarify, the Agency came out and said
11 after that was done, was that it was the
12 arsenic levels left in the school yard were
13 not of concern to us based on the usage of the
14 school as a school property, because we
15 evaluated through a risk analysis kids playing
16 there from ages six to 18, which is basically
17 school age years and we came out with that.

18 So people are saying why do we need to go
19 back. What we didn't look at that time which
20 we said we would look at in the future what if
21 the school property wanted to be developed for
22 residential purposes and that's what these,
23 basically, options 2.

24 Again, 2 and 8 would allow right now if
25 we follow that unrestricted residential use of

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2 the school property, that's the way they
3 wanted it done. The other options have
4 varying degrees of controls and as Brian said,
5 possibly future remediation in an event of the
6 property usage change for the school property.
7 So that's why we are looking at it again.
8 It's not because there's any issues with its
9 current usage. It's looking at what possible
10 future usage might be and see if there's
11 anything we have to worry about in terms of
12 that future usage.

13 Brian did cover, too, the other part of
14 this. The other decision we will have to make
15 with the Agencies besides which of the eight
16 options to pick for corrective measures or a
17 hybrid of some of the options and we don't
18 have to pick exactly one, the other decision
19 we have to make is for the options which
20 generate soil, whether that soil would be
21 disposed of on the plant site as a CAMU, which
22 is here, which would be transported by truck
23 or would it be taken to an off-site commercial
24 facility to be either disposed of either as a
25 solid waste or possibly part it of used for

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beneficial use as a daily cover.

And as far as the transportation routes, as far as the second option here, the report looks at both taking it from the plant site which it would be brought to initially and then either taking it into larger trucks to the final off-site disposal or putting it into rail cars and sending it on its way down the rail line, which is adjacent to the FMC plant and has rail spurs running in.

And again, this is the point in the process where we'll make the on-site/off-site basically decision. So that will be part of what we are going to present the next time as far as what we think it should be, on-site or off-site.

We are getting near the end. Tonight, public input opportunities includes accepting oral comments, which will be transcribed and you also have a comment form which you can use if you just want to write it down and leave it at the desk on the way out or if you want to mail it in later, that's fine.

After tonight, you can e-mail me and once

1
2 I have all the comments, it's my job to make
3 sure I get all of them and make sure all of
4 them get addressed. So use my e-mail address
5 to do that or if you want to use regular mail,
6 that's my mailing address. That is in the
7 back of the fact sheet that is part of your
8 handouts. It's the larger three page thing.
9 All that information is back there for you.

10 Next steps, which is everybody's -- where
11 do we go from here after the end of the
12 comment period. We, of course, review the
13 comments like we said. They have to generate
14 what's called a Responsive Summary, responding
15 to the comments that each person commented on
16 and basically, have access to that
17 Responsiveness Summary.

18 The next thing is a preliminary, like I
19 said, selection what corrective measures we
20 would choose and the transport and disposal
21 options that are in there. Again, let me
22 caution you on these dates. We have got some
23 dates on the slides or time frames. Everybody
24 is concerned how long this will take. I don't
25 know what you want to call them. They are

1
2 anticipated as in what we hope the time frame
3 will be for all of this. May not work out
4 that way. There are various things that could
5 make it longer as we go through. Anyway, we
6 hope to have preliminary selection done by
7 fall/winter of this year, which we would
8 present to the public for their comment. So
9 we would present just like we have done now
10 and that would be our tentative way we think
11 of going forward. We want you guys to take a
12 look at that and comment on it.

13 After we get those comments, again,
14 another responsiveness summary on both the CMA
15 option and disposal options. We'll make our
16 final selection of both of those and we
17 anticipate that winter/spring of 2012. After
18 the final selection, we basically will go
19 through the legal document of the order that
20 FMC signed with us requiring FMC to implement
21 the selective remedy. And that will involve
22 some of the detailed work plans that have to
23 be submitted, schedules that will have to be
24 worked out and we're looking at hopefully to
25 begin the process of actually implementing

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2 this spring/summer of 2012.

3 Let me mention here, Brian showed you a
4 series of durations for each the options.
5 Those durations are each based on kind of a
6 level of effort put forth in other words. And
7 I don't exactly know for sure exactly what
8 level of effort we are talking about here.
9 Let's say if they had assumed that it would
10 take eight years if they have one crew working
11 on a area instead of three or four crews, then
12 it would take eight to ten years. If you have
13 three or four crews, you can obviously see
14 working on various areas of the village
15 simultaneously, we cut those time frames down.
16 So we do hope to cut those time frames down.
17 That's part of scheduling. That will come
18 later. Just to let you know that those time
19 frames are not necessarily carved in stone as
20 far as the duration goes. It all depends on
21 what is agreed upon as far as the schedule.

22 And I think that is it. I'll turn it
23 back over to Mike Basile, who's our moderator
24 and since we kind of ran over a little bit, if
25 you want to go a little passed 8:30, I think

1
2 that's fine with us if there's people that
3 want to speak.

4 MR. BASILE: Thank you. Brian, thank
5 you very much. Matt, again, thank you.

6 Again, just a reminder, as Matt indicated
7 in his presentation, this evening we're
8 soliciting public comments. There will be no
9 questions and answers. If do you have
10 questions for either the FMC representatives,
11 EPA, Department of Health or DEC, we are more
12 than happy to informally answer those after
13 the public comments solicitation is completed
14 at about 8:30.

15 We do have a court stenographer, Doreen
16 Sharick, that is here this evening. I ask
17 that when you come up to the microphone one at
18 time. I know there's a group of you that have
19 comments that are prepared. I'm going to try
20 to keep you to five minutes. Please say your
21 name, spell your name, give your address, and
22 of course, then make your comments. If you do
23 have written comments that you could provide
24 the stenographer, we'd appreciate that. Okay.
25 All set. Thank you.

1
2 MR. ARNOLD: Good evening. My name is
3 Bill Arnold, A-R-N-O-L-D. I live at 10160
4 State Road in Middleport. I'm also chairman
5 of the Middleport Community Input Group. We
6 are a group of residents and property owners
7 who are interested in this remedial project
8 and we are trying to shape the project to run
9 in a way that will be satisfactory in the end
10 to the residents of Middleport. I have
11 several comments that we worked on as a group
12 to read into the record and then there's about
13 five or so other members who also will read in
14 some comments.

15 The Agencies need to identify what has
16 changed or if any new data has been discovered
17 that alters the conclusions of the study on
18 comparative cancer incidences in Middleport
19 performed by Dr. Holley L. Howe for the DEC in
20 1987. This study estimated health risk due to
21 the environment to be about five percent of
22 all other risks with smoking and diet being
23 the highest risk. Hereditary factors were not
24 mentioned in the study but today, it is known
25 that this is a significant factor to cancer

1
2 risk.

3 Referring to the USEPA risk base soil
4 screening levels, does .1 to 10 parts per
5 million of arsenic soil concentration now
6 correspond to the cancer risk range of one in
7 a million to one in 10,000 expected incidences
8 of cancer over a lifetime rather than the .4
9 to 40 parts per million of soil concentration
10 as we have had in the past or currently have.

11 If so, the Agencies must explain the
12 study or studies that were used to arrive at
13 the new criteria including the effect of any
14 new criterion has on the New York State
15 background level of 16 parts per million,
16 which would be outside the new risk range. If
17 the new criterion is to be used as a standard,
18 then the Agencies should explain why it is not
19 a health risk to live in New York State. To
20 expedite the remediation phase of the project,
21 Region IX of the DEC should be given the main
22 authority for the process. This would reduce
23 the time required to make decisions or resolve
24 problems when they arise since local agents
25 would not have to keep consulting with Albany

1
2 to resolve issues.

3 The MCIG, the Middleport Community Input
4 Group, disagrees with the use of a
5 bioavailability factor of one in the
6 calculations of risk assessment as being
7 unrealistically and unnecessarily
8 conservative. Studies have shown typical
9 bioavailability to be less -- much less than
10 one for arsenic in soil. And that's not
11 arsenic and drinking water, which is a
12 different factor. Using a factor of one could
13 result in remedial alternatives that are
14 unnecessarily intrusive and that fail to
15 reflect actual conditions in Middleport.

16 There must be a plan for FMC to assure
17 that replanted trees, shrubs, grass and
18 flowers get well established and that any tree
19 that has its roots disturbed is given
20 sufficient care to recover. This should not
21 be left to the property owner to spend their
22 time and money. Village water is not free.

23 The MCIG objects to the consumption of
24 home grown produce as a factor in risk
25 assessment. The Agencies need to demonstrate

1
2 that home grown produce is a significant
3 threat to residents. FMC study, which was
4 done by Exponent, an outside group, indicated
5 it was not.

6 The final remediation study indicated
7 that plants used in the study with the
8 exception of break ferns had no significant
9 arsenic uptake. Data needs to be provided
10 that shows common garden plants uptake
11 sufficient amounts of arsenic to cause health
12 problems and simple washing is not enough to
13 reduce the risk.

14 Some extensive open areas of land are
15 part of the study area. An Environmental
16 Impact Study should be performed to determine
17 the local ecosystem especially a loss of small
18 animal species.

19 I've got one other thing that was
20 unprepared. This is my own. Matt, you showed
21 your Corrective Action Objectives. You left
22 out that human health -- site specific human
23 health risk was part of that as we agreed to
24 when those objectives were drafted. The MCIG
25 would object to those being left out.

1
2 MS. LUTZ: My name is Crista Lutz,
3 L-U-T-Z, and I live at 51 State Street in
4 Middleport, New York. And the Middleport
5 Community Input Group supports FMC's approach
6 to site specific risk assessment in the draft
7 CMS report and believe basing the assessment
8 on New York State soil clean up objective
9 results in an overly conservative finding that
10 does not reflect the true environment of
11 Western New York or how Middleport residents
12 live and are exposed to arsenic.

13 It seems that the Agencies do not agree
14 with FMC's risk assessment evaluation. It is
15 not sufficient just to say that there is not
16 an agreement. The Agencies need to explain
17 why there is not an agreement and where FMC
18 went wrong. Statements used for explanation
19 such as we are trying to protect human health,
20 it is all a bunch of assumptions and the
21 calculations are not correct, are really not
22 sufficient.

23 Just on a personal note, when I saw the
24 number of years on this, I'd like to put into
25 perspective to all of you how long this has

1
2 been going on. I had an eight year old who
3 was tested when this madness all started. If
4 you go with this and you agree tonight which,
5 of course, isn't going to happen and you go
6 with the number 2, ten years, that eight year
7 old will have reached the age of 45.

8 MR. OWEN: Richard Owen, O-W-E-N, 12
9 Locust Drive, Middleport. Since there's been
10 no concrete evidence or statistical data that
11 point to the health hazards in Middleport,
12 community acceptance should carry the most
13 weight in the CMA evaluation criteria. What
14 solutions will be provided to property owners
15 who agree to have their property sampled have
16 elevated levels of arsenic, but are not
17 included in the CMS, to leave them on their
18 own is unacceptable.

19 Property owners should be part of the
20 discussion when selecting a CMA alternative
21 for their property. Owners should be allowed
22 to a less stringent CMA knowing that
23 restriction may be applied to their deeds and
24 that FMC would still be responsible for
25 cleanup if property usage were to change in

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the future.

MR. MIANO: My name is Michael Miano, M-I-A-N-O. I live at 97 South Main Street in Middleport. This first point was touched upon by Crista. When selecting a CMA, the Agencies must be aware that some of the alternatives will require a lengthy amount of time to complete according to FMC's estimation. For example, FMC estimates CMA 2 to require ten years to complete. CMA 8, eight years. This amount of time for construction activities to be carried out within the village could be detrimental to the viability of the community. This project continues to drag on with avoidable delays such as the need to rewrite this CMS. What will be done to insure that this project moves forward at a reasonably expedited rate and that the selected CMA does not cause unreasonable delays? Thank you.

MS. STORCH: My name is Elizabeth Storch, S-T-O-R-C-H. I've been a resident of Middleport since 1972. The MCIG, the Middleport Community Input Group, opposes the CAMU as a disposal option. This position is

1
2 not because of technical issues or potential
3 health risks. Rather, there is a concern
4 regarding the aesthetic and the psychological
5 impact that the CAMU would have on the
6 community. A lower height for the CAMU or
7 camouflaging with vegetation will not resolve
8 these concerns since the CAMU will still be
9 there as a reminder and next to a public
10 school athletic field.

11 Currently, Middleport suffers from the
12 stigma that its residential neighborhoods are
13 contaminated with chemicals. It will not help
14 to eliminate that stigma if the quote unquote
15 chemicals are merely relocated somewhere else
16 in or near the community.

17 And I'd like to just say, off what the
18 written thing is, that like Brian said, that
19 there would not be hazardous waste in that
20 CAMU. I have arsenic of an unacceptable rate
21 according to the Agencies in my yard. I feel
22 no fear at all and I've researched this
23 extensively, but outsiders coming in aren't
24 going to understand why would they have to
25 remove it from my property and put it to a

1
2 different place. It's just against logic for
3 the outsiders who don't know what's going on.
4 And so that's why we are concerned about
5 people from the outside.

6 I have no fear of my property at all.
7 And if I didn't have to do anything because of
8 deed restrictions placed on my property, I
9 would not do anything. I would not accept
10 remediation, but I don't want that deed
11 restriction on my property.

12 In the past, comments and concerns from
13 residents have been addressed in a less than
14 satisfactory manner by the Agencies leaving
15 those comments unanswered and concerns
16 unresolved. During this and subsequent
17 comment periods, all comments and concerns
18 should be resolved so that the residents'
19 concerns are satisfactorily addressed or they
20 acknowledge that agreements cannot be reached.

21 Agencies' responses that do not directly
22 address residents' concerns or that appear to
23 be evasive will not be acceptable. It will
24 also not be acceptable for the Agencies to be
25 dismissive and then cut off discussion with

1
2 the phrase, quote, the Agencies have made
3 their decision and are moving on, unquote.

4 In that regard, for instance, in the past
5 we've had a comment about the Gasport study
6 which was dismissed by the Agencies. And I'm
7 commenting now from the text, the Agencies and
8 FMC claim the Gasport study was peer reviewed.
9 However, in a letter from John E. Vena,
10 V-E-N-A, Ph.D., and others on behalf the
11 Environment and Society Institute to Mr. Mike
12 Infurna, dated June 12th, 2000, there is a
13 statement that the study was not peer
14 reviewed. There were also negative comments
15 concerning some technical aspects of the
16 Gasport study. The MCIG requests an
17 explanation.

18 Another situation that developed, the
19 MCIG does not believe that it is good science
20 for the Agencies to rely on studies relating
21 to cancer risk and arsenic exposure performed
22 in China that were based on arsenic intake
23 from drinking water, not exposure to soil
24 contamination. Those green areas on that map
25 where further remediation is expected, a lot

1
2 of that is we call Air Deposition Area. Air
3 deposition is arsenic in the soil. That is
4 what is in my property. I don't eat or drink
5 from my soil.

6 The MCIG would expect the Agencies to
7 understand and help residents understand
8 exposure to arsenic dissolved in drinking
9 water is a much higher risk concern than
10 arsenic bonded to soil and has different
11 affects when consumed. The MCIG understands
12 that ingestion is a signature pathway for
13 human exposure. However, the scientific
14 evidence points to a result different for
15 arsenic in soil versus arsenic in water. And
16 again, the Agencies just recently said that
17 their conclusions were based on studying water
18 and arsenic together and intake from that from
19 studies from China. Thank you.

20 MS. BIEBER: Jennifer Bieber,
21 B-I-E-B-E-R, 9269 Chestnut Ridge Road,
22 Middleport. I'm wearing two hats tonight.
23 First, I'll make a statement on behalf of the
24 CIG group. To assist property owners in
25 making an intelligent decision on remediation,

1
2 the Agencies need to explain with data not
3 theories or assumptions that the arsenic
4 levels in typical residential yards is a
5 health risk. They also need to demonstrate
6 with hard evidence the significant benefit to
7 reducing an average of 30 parts per million
8 per residential yard to 20 parts per million
9 and 40 parts per million to 20.

10 If it is so important to lower arsenic
11 levels in residential yards and agricultural
12 fields to 20 parts per million in Middleport,
13 the Agencies need to provide rationale as to
14 why it is not just as important to lower
15 levels in Gasport that were found to be well
16 above 20 parts per million and as high as 122
17 parts per million.

18 What are the Agencies plans for Gasport?
19 How can more rigorous cleanup standards for
20 Gasport be justified given evidence of
21 elevated arsenic levels in Gasport?

22 Next, I'm speaking on behalf of the Town
23 of Royalton. A resolution was passed last
24 night at our board meeting. I would like that
25 to go on public record, whereas, FMC has

1
2 proposed to locate a Correction Action
3 Management Unit, CAMU, on property located
4 within the Town of Royalton and whereas, FMC
5 proposes to use the CAMU to store ARSENIC
6 contaminated soils removed during the various
7 FMC remediation projects for permanent storage
8 and whereas, the Town of Royalton Zoning
9 Ordinance does list a CAMU as one of the
10 permitted or specialty permitted uses for the
11 proposed CAMU site and whereas, locating a
12 CAMU for storage of arsenic with a mound that
13 is proposed to be 35 feet, will represent a
14 potential hazard to the health, safety and
15 economic welfare of the Town of Royalton
16 residents will further stigmatize the area of
17 the town that because of prior FMC generation
18 of hazardous waste is known as an area that
19 has been polluted and may violate the Town's
20 Zoning Ordinance. Now, therefore, it is
21 hereby resolved that the Town of Royalton Town
22 Board opposes the existence of a CAMU on any
23 property located within the town.

24 MR. ARNOLD: You heard from about six
25 members of the MCIG tonight. We are really a

1
2 group of over 25 official members and there
3 are over 55 people on our e-mail distribution
4 list. People that have asked us to
5 communicate with them what we're doing and
6 what's going on. Some of them come to our
7 meetings. We used to have meetings once a
8 month. We now have them as called for.
9 Anyone who would like to be on the
10 distribution list, there is a table back over
11 here for the MCIG with some material on it.
12 There's also a business card with my e-mail
13 address on it. You can just send me an e-mail
14 and I'll get you on the distribution list.
15 Thank you.

16 MR. WESTCOTT: Richard Westcott,
17 W-E-S-T-C-O-T-T, Village Mayor. I'd like to
18 address first the item of CAMU. This letter
19 was sent on January 17th. We just want to
20 enter it into the record. Dear Sirs, this
21 will advise you of the fact that the Village
22 Board is opposed to the placement of a CAMU at
23 the FMC facility because it would be
24 detrimental to the Village and to its
25 residents. The placement of said CAMU at the

1
2 FMC facility would degrade the overall
3 aesthetics of the community and further lower
4 the property values in the area and discourage
5 outsiders from taking up residence, starting a
6 business within the Village.

7 There is no question that the proposed
8 CAMU would be seen either rightly or wrongly
9 by the general public as a landfill and one
10 containing hazardous material at that. This
11 perception will most assuredly develop
12 regardless of FMC's efforts to mask, screen or
13 otherwise, to minimize the aesthetic impact of
14 the CAMU. It is highly likely that this
15 sediment would stigmatize the Village and that
16 this stigma would be highly detrimental to the
17 Village, its commerce and its residents. The
18 Village Board believes that this devastating
19 consequences to the Village resulting from the
20 FMC and its predecessor's actions and a 30
21 year paul cast over the Village as a result
22 would be perpetual by a CAMU.

23 However, the Village echoes the concerns
24 raised by the New York State DEC in its
25 November 2009 comments on FMC's 2008 CAMU

1
2 application regarding the legality of storing
3 contaminated soils and materials from off-site
4 locations a a proposed CAMU. It is the
5 Village's position that such waste currently
6 existing outside the boundaries of the FMC
7 facilities do not fall within the definition
8 of a CAMU eligible waste as set forth in 40
9 CFR Section 264.552 and would thus be
10 precluded from the placement within the
11 proposed CAMU.

12 Accordingly, it is the Village's position
13 that FMC and the Agencies should explore
14 alternative means for further remediation of
15 the area and that the establishment of a CAMU
16 should not be entertained or allowed in as an
17 alternative in the CMS.

18 The other issue or other point, rather,
19 that I'd like to make, is on the future land
20 use of all industrial properties. We disagree
21 that all of the industrial property would
22 remain that since it was never intended to
23 have a perpetual status and that the Village
24 Planning Board was not involved and the
25 assumptions were based on the current maps and

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uses.

As we look to the future, some of these industrial properties might be designated for other uses. Last, we also disagree with any sort of deed restriction or institutional controls being placed on any residential, public or commercial property in the CMAs being proposed. A further explanation will be coming in the written form during the comment period on all the points. Thank you.

MR. BASILE: Thank you, Mr. Mayor. Thank you, ladies and gentlemen. Are there any further public comments from any others other than from the group?

MS. RIZZO: My name is Julie Rizzo, J-U-L-I-E R-I-Z-Z-O. I live at 4268 Freeman Road in Middleport and I would just like to voice my opposition against a CAMU being put right behind a school site. Along with Mrs. Storch's opinion of the CAMU, I agree a hundred percent. It will further lower property values, further stigmatize Middleport. I am one of those outsiders, who moved to Middleport ten years ago. And have

1
2 since pulled my kids from the
3 Royalton-Hartland School system as they were
4 becoming of fifth grade age moving over to
5 Middleport because I didn't want them at that
6 site because of the arsenic content.

7 It would be wonderful for me to be able
8 to send my children to the community that I
9 moved into that I love. They are wonderful
10 people here. It's a shame that this has to be
11 right on the school property. Uphill, you're
12 proposing a CAMU. It just doesn't make any
13 sense and to put the soil that can only -- 25
14 percent of that soil be even eligible to cover
15 a landfill, it doesn't make any sense. You're
16 going to put it next to the school. Thank
17 you.

18 MS. HUGHES: Hi, Sue Hughes,
19 H-U-G-H-E-S, 4797 Cottage Road. Most of you
20 know me as on the school board; however, I'm
21 not here representing the school tonight. The
22 school has gone on record with its opinion of
23 the arsenic levels on the school yard, but I
24 do have a few comments.

25 First off, hazardous waste fit for human

1
2 exposure and hazardous waste for a landfill
3 are two entirely different things. What
4 you're removing from people's properties is
5 hazardous. It's just classified differently
6 when you landfill it.

7 In some of the discussions about this
8 you're talking about institutional controls.
9 I don't believe the school district by law can
10 do that. So you might want to look into that.

11 The school building is a hundred years
12 old. Realistically, at some point it's not
13 going to become cost effective to maintain
14 that building. So it will not always be a
15 school. That's something that needs to be
16 considered. Enrollment continues to drop
17 despite some of the numbers that you have
18 published. I have them here if you'd like to
19 look at them.

20 And I think enough's been said on the
21 CAMU. What else can be said other than you
22 want to put it right behind the school yard.
23 I think that's about it.

24 Oh, I have a letter here from Dr. Joe
25 Cardella of UB and I'm just going to submit it

1
2 and not read it. If one of you gentlemen
3 wants to read it, that's okay with me. Thank
4 you.

5 MR. BASILE: Thank you. Any other
6 comments from any other members of the public?

7 MS. WITRYOL: Amy Hope Witryol,
8 W-I-T-R-Y-O-L, 4726 Lower River Road,
9 Lewiston, New York. I just wanted to comment
10 to the DEC to let your colleagues in Albany
11 know, Matt, that I will be reading the
12 responses to the public comments in great
13 detail and with great interest. Thank you.

14 MR. BASILE: Are there any other
15 comments to be received this evening from
16 anyone in the room?

17 MR. ARNOLD: I am Bill Arnold, again,
18 from the Middleport Community Input Group. In
19 determining the perfect corrective measure --
20 or preferred corrective measure, the
21 Middleport Community Input Group urges the
22 regulatory Agencies to give significant weight
23 to community acceptance based on the MCIG's
24 review of CMAs in the draft CMS and other
25 related documents and several months of

1
2 discussion within the group and among
3 Middleport residents. The MCIG believes
4 community acceptance is contingent upon a
5 reasonable time to complete the remediation to
6 avoid many years of disruption in Middleport,
7 protect human health based on hard evidence
8 and actual risk, flexibility for property
9 owners to protect trees and other landmarks
10 and consideration of reasonable expectation of
11 future land uses.

12 Based on these criteria, CMA 2 and CMA 8
13 are not acceptable because the time to execute
14 is excessive. The cleanup trigger is too
15 conservative. They are not site specific.
16 There is no flexibility for property owners
17 because there is a limited ability to save
18 trees or other landmarks and there is no use
19 of future land use criteria. Last, there is
20 too much soil to remediate causing excessive
21 truck traffic in the Village over an extended
22 period of time.

23 Given the only health risk assessment we
24 have, which is included in the CMS, the MCIG
25 believes CMA 1 is most appropriate for

1
2 Middleport because satisfies the community
3 acceptance criteria; there is no health
4 concerns as shown by past studies such as the
5 1987 DEC study on cancer incidences in
6 Middleport; a 1987 DEC study on arsenic in
7 Roy-Hart school students and environmental
8 exposure study, and the Middleport
9 bioavailability study.

10 The CMA preserves the neighborhood
11 character with no loss of trees. They take no
12 more time to complete, avoids truck traffic in
13 the Village, negates concerns over practices
14 to support green remediation and there's no
15 institutional controls necessary.

16 Other appropriate CMAs would be CMA 4, 5
17 and 3 as they satisfy some of the community
18 acceptance criteria, such as, all three
19 protect human health according to the human
20 health risk assessment in the CMS. CMA 3 and
21 4 are the simplest ones to execute as they
22 involve the least number of properties. CMA 3
23 and 4 require the shortest amount of time to
24 execute excepting CMA 1. CMA 3 and 4 affect
25 the least number of properties. CMA 3

1
2 utilizes future land use data and CMA 3
3 requires half the time to execute as compared
4 to CMA 2.

5 As a group, the MCIG and believing the
6 Agencies will not select CMA 1, we feel that
7 CMA 3 is the most appropriate alternative for
8 Middleport. However, whatever the Agencies
9 select as an alternative, the group wants to
10 know how the choice meets this MCIG criteria
11 for community acceptance. Regardless of which
12 CMA is selected by the Agencies, the MCIG
13 urges that the CAMU application be denied.

14 MS. STORCH: Elizabeth Storch, again.
15 I've lived in Middleport since 1972 and in
16 1979, I moved over on State Street. I was one
17 of 450 some people, Bill would be able to get
18 you all the statistics, on an exponent study
19 where my bodily fluids and my hair and my toe
20 nails were examined along with 450 other
21 people including children I believe. There
22 was not one person that showed elevated risk
23 or elevated arsenic in their system. I have
24 had no sickness. I had neighbors that, while
25 they have since passed away, my immediate

1
2 neighbors lived here all their lives. Mr. and
3 Mrs. Elmer Vary, they were in their high
4 nineties like 97 or 98.

5 To the lady here who said she pulled her
6 child out of the school district and this
7 isn't the first time that I heard that, I wish
8 I could speak to you. I wish you could be a
9 member. You are welcome to join our MCIG
10 because those kind of fears are totally
11 unnecessary. And I would say to you that my
12 background includes a Master's of Library
13 Science from the University of Buffalo and a
14 Master's of History from the University of
15 Buffalo. I've done research of the very
16 professional nature on this whole thing since
17 I have been involved with this -- notified
18 that my property was cited for arsenic
19 concerns because I didn't want to live in
20 danger either.

21 And I got on web sites. I have Time
22 Warner cable internet service and I almost
23 worn my computer out searching. I can tell
24 you unequivocally, I don't feel in danger
25 living where I live and I live right across

1
2 from the school. I don't think there is one
3 child or one teacher that is in danger, but it
4 goes back to what I said to Brian McGinnis is,
5 people come in and, I believe it's, you know,
6 not being educated on the scientific data,
7 that they are afraid of that soil that would
8 be put into the CAMU. My objections to the
9 CAMU are not that I'm afraid of the soil, but
10 what other people, you know, the perception.

11 Also, I'm laughing because it was quite a
12 deal and Brian was very instrumental. I
13 wanted my property. I'm a very scientific
14 person. What was it? It was two or three
15 years for the final remediation. We could not
16 get that arsenic up in those plants. I went
17 out there and I watered them and I gave them
18 tender loving care because I've got like
19 something in the 40 parts per million. And
20 after all the data was done and after, the
21 Agencies said let's repeat it. Let's do it
22 another year. Couldn't get the darn stuff up.
23 Now, if we can't get it up by doing an
24 official and that was very official.

25 I've got a multi-page document and you

1
2 should see the statistics and the scientific,
3 you know, and the money that FMC spent on that
4 final remediation. That arsenic is buried in
5 the soil. It's not going anywhere.

6 Now, if it were in water and there are
7 some places in Middleport they have cleaned up
8 and there were some places that still need
9 addressing because there's water involved with
10 the arsenic. But in the Air Deposition Area,
11 and again, whenever I hear of anybody being
12 afraid of the Air Deposition Area or the
13 school, I have to disagree. And it's not a
14 casual disagreement. It's from study and very
15 valid research done and not just on my part.
16 In that MCIG, we have other teachers. We have
17 Bill, who is a retired electrical engineer
18 from IBM. We have got just a wealth of people
19 that have put a lot of hard work into this.
20 So thank you very much.

21 MR. BASILE: Thank you, again. Another
22 comment?

23 MR. ARNOLD: I'd just like to continue a
24 little bit what Liz was saying. Is Ms. Rizzo
25 still here? Did she leave? I'm sorry that

1
2 people feel that they have a fear of what's in
3 our yards that could cause a lot of illness,
4 but I have to blame the Agencies for that
5 fear. The Agencies have not helped educate
6 the people in Middleport of what we should be
7 concerned with and why we should be concerned
8 with it. All they've got is a bunch of
9 assumptions and numbers that they use to say
10 that your soil can cause illness and yet they
11 ignore all the testing that's been done in
12 Middleport that shows that it is not. There
13 are people that have large concerns about the
14 soil in their yards. And it's just too bad
15 that they have to be in fear living in their
16 own homes and they shouldn't be. Yet the
17 Agencies have a facts sheet on growing garden
18 vegetables in contaminated soil and they say
19 grow it and wash it and all that, but yet when
20 you ask them if you should grow a garden?
21 They'll say no, you shouldn't grow a garden in
22 that. But why? Their facts sheet doesn't say
23 that.

24 Somebody said the other day at a time in
25 our meeting that what happens if your little

1
2 girl drops her hot dog in the soil. Well,
3 what does happen? If your soil wasn't
4 contaminated, would you let your little girl
5 eat the hot dog she just dropped in the soil?
6 The neighbor's cat may have just been there.
7 So the Agencies have not really dealt
8 aboveboard with us on what we should fear and
9 what we should not fear.

10 The typical elevation in our yards is to
11 my mind and to many other residents whoever
12 looked at this not a real concern, not a real
13 hazard. It is a concern. It's not a real
14 hazard. If you look at various areas in
15 Western New York, you will find elevated
16 levels of arsenic because most of the areas in
17 Western New York were at one time apple
18 orchards and apple orchards were sprayed with
19 arsenic containing pesticides.

20 The Gasport study that's been talked
21 about sampled areas of orchard and found
22 levels as high as 122 parts per million, which
23 is higher than most people's yards in the Air
24 Deposition Area, but yet they are not
25 concerned about that. There's no plan to

1
2 remediate that. There's no plans to look at
3 that. They are only here look at Middleport
4 trying to get 30 parts per million down to 20
5 parts per million trying to rip up everybody's
6 yard and when they do it, they are going to
7 take out every movable building in your yard
8 except your house and the garage, all the
9 shrubs, all the trees, all the flowers, all
10 the sheds, all the pools, all the swing sets.
11 Everything will go. Your yard will be dug up
12 a foot deep or so. You will get clean fill
13 brought in, new grass. Hopefully, it will
14 grow in the dirt that they brought in. It
15 didn't on Vernon Street. And for what?
16 Wouldn't have any more shade trees in your
17 yard. That will be gone and just to lower it
18 to 20 parts per million from 30 or 35,
19 whatever it is.

20 So to my mind and to a lot of minds, this
21 is not a project that needs to take place at
22 the scale that we have been lead to believe it
23 needs to take place at. We just wish the
24 Agencies would deal with us and not talk in
25 scare tactic terms to get people to think that

1
2 we really got to do something here. Do it
3 with hard facts.

4 MR. BASILE: Thank you once again. If
5 no one has any further comments or input this
6 evening, we want to thank you on behalf of our
7 folks at FMC, the EPA, New York State
8 Department of Health and the DEC. Just,
9 again, to remind you, that our agency folks
10 will be here. If you have any questions, an
11 informal session following this public
12 hearing.

13 In addition, July the 1st is the last day
14 for public comment. That will end a 45 day
15 public comment period and Matt Mortefolio's
16 information is on the screen. Thank you for
17 taking the time. I think the Agencies have
18 heard you this evening and have a good night.
19 Thank you.

20 (Proceedings concluded.)
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C E R T I F I C A T E

I, DOREEN M. SHARICK, do hereby certify that I have reported in stenotype shorthand the proceedings of the Corrective Measures Study Suspected Air Deposition and Culvert 105 Study Areas, held at the Middleport Fire Hall, Middleport, New York, on June 14, 2011.

That the transcript herewith is a true, accurate and complete record of my stenotype notes.

Doreen M. Sharick,
Notary Public.