

New York State Department of Environmental Conservation

Division of Solid & Hazardous Materials

Bureau of Hazardous Waste & Radiation Management

625 Broadway, 9th Floor, Albany, New York 12233-7258

Phone: (518) 402-8594 • Fax: (518) 402-9024

Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 13, 2010

Mr. Brian McGinnis
FMC Corporation, Remediation Department
1735 Market Street
Philadelphia, Pennsylvania 19103

Dear Mr. McGinnis:

Re: FMC Corporation, Middleport, NY
EPA ID No. NYD002126845
AOC Docket No. II-RCRA-90-3008(h)-0209
FMC's Draft RCRA Facility Investigation (RFI) Report
Volume V – Tributary One and Flood Plan South of Pearson/Stone Roads

The United States Environmental Protection Agency (USEPA) and the New York State Department of Environmental Conservation (NYSDEC), hereafter referred to as “the Agencies”, in consultation with the New York State Department of Health (NYSDOH), have completed our review of the above referenced Volume V of FMC's Draft RFI Report (Volume V submitted by FMC letter dated December 9, 2009). As FMC is aware, this volume contains analytical results from off-site sampling and other information used to define the extent of FMC-related soil and sediment contamination within the Tributary One flood zone south of Pearson/Stone Roads. The Agencies, and NYSDOH, have also completed review of the public comments on this FMC Draft RFI Report volume that were received during the December 30, 2009 through February 15, 2010 comment period. As a result of these comments, the Agencies have prepared a written Responsiveness Summary which provides the Agencies' and NYSDOH's response to written comments from the public received during the comment period. It should be noted that although a January 13, 2010 public meeting was held to solicit verbal comments from the public and a transcript was made of this event, no member of the public came forward with comments. Be advised that the Agencies and NYSDOH intend to make this Responsiveness Summary available to the public by placing a hard copy in the FMC document repository (i.e., Middleport Public Library) and by providing an electronic version to the Middleport Community Input Group (MCIG) for posting on their web site at their discretion. A copy of this Responsiveness Summary is enclosed.

Based on our review of the referenced Draft RFI Report Volume V and careful consideration of the public comments which we received, the Agencies have determined that RFI Report Volume V is generally acceptable for approval. Therefore, the Agencies are hereby granting final approval of RFI Report Volume V, in accordance with Item 1.b in Section VI of the above referenced AOC.

The Agencies would like to make clear that this approval of RFI Report Volume V does not represent any agreement on the part of the Agencies that RFI activities beyond the limits of the areas depicted in RFI Report Volumes II, IV & V and with respect to groundwater in all areas, are complete at this time. As FMC is

aware, these other areas and groundwater are undergoing RFI's on separate tracks and will be addressed in future volumes of FMC's RFI Report. Also, this approval in no way diminishes or restricts the Agencies' right under Section VII of the above referenced AOC to require that FMC conduct additional investigative work in the future, within or beyond the study areas defined in RFI Report Volume V, if determined necessary to protect human health and/or the environment.

Based on our review of the data and other information contained in FMC RFI Report Volume V, the Agencies have hereby determined in accordance with Item 2 in Section VI of the above referenced AOC, that a Corrective Measures Study (CMS) is necessary to address FMC related soil and/or sediment contamination on the properties/areas indicated below, and that FMC must perform such a CMS in accordance with the requirements in Attachment II of the above referenced AOC.

- The properties/areas shaded in green on Figures 9.1 through 9.6 and with respect to the sediment/soils located within the sections of Tributary One running through these green shaded properties/areas.

As a result of the above determination, the Agencies have hereby established a schedule for FMC to submit a CMS Work Plan for the above properties/areas by the FMC proposed date of October 15, 2010, as stipulated by Item 2 in Section VI of the above referenced AOC. The Agencies will establish a schedule for submission of the CMS Report and Tasks in accordance with Item 2 in Section VI of the above referenced AOC in conjunction with our approval of the FMC CMS Work Plan.

If you have questions concerning this letter, you may contact either Mr. Matt Mortefolio (NYSDEC) at (518) 402-8594 or Mr. Michael Infurna (USEPA) at (212) 637-4177.

Sincerely,



Matt Mortefolio, P.E.
NYSDEC Project Coordinator
Bureau of Solid Waste & Corrective Action



For M.I.
Michael Infurna
USEPA Project Coordinator
Environmental Planning and Protection Division

Enclosure

cc: w/enc. - D. Watts, MCIG Technical Advisor
W. Arnold, MCIG Chairperson
D. Seaman, Seaman, Jones, Hogan & Brooks

ecc: w/enc. - M. Hinton, NYSDEC Region 9 Buffalo
N. Freeman, NYSDOH