



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
(USEPA)**

**NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION
(NYSDEC)**

**NEW YORK STATE DEPARTMENT OF
HEALTH
(NYSDOH)**

PUBLIC COMMENT RESPONSIVENESS SUMMARY

**FMC – MIDDLEPORT FACILITY
RCRA FACILITY INVESTIGATION (RFI) REPORT
VOLUME V**

MAY 2010

INTRODUCTION:

The United States Environmental Protection Agency (USEPA), the New York State Department of Environmental Conservation (NYSDEC) and the New York State Department of Health (NYSDOH), hereafter collectively referred to as the "Agencies", have prepared this document to provide responses to public comments on Volume V of FMC's Draft RCRA Facility Investigation (RFI) Report pertaining to its Middleport, New York Facility. This Draft RFI Report volume was submitted in accordance with 1991 Administrative Order on Consent (AOC), and represents a compilation of environmental data on past chemical releases affecting Tributary One and its flood zone south of Pearson / Stone Roads. Draft RFI Report Volume V contains the results of soil / sediment sampling and chemical analyses within this off-site area.

After reviewing this report volume and making a preliminary determination that it contains sufficient information to adequately characterize FMC-related environmental contamination in the aforementioned off-site area, the Agencies provided the public with an opportunity to review and comment on this FMC Draft RFI Report volume. Public notification of this involvement opportunity was provided on or about December 30, 2009 via newspaper notice, the NYSDEC's on-line Environmental News Bulletin (ENB) and a community mailing conducted with FMC's assistance. This notification indicated that the FMC Draft RFI Report volume was available to the public both on-line and in hard copy form, and announced a 45 day written comment period running from December 30, 2009 through February 15, 2010, as well as a public information and comment session held at the Middleport Fire Hall on January 13, 2010.

AGENCIES' DECISION:

The Agencies received 2 written comment documents from the public (i.e., comment cards) during the December 30, 2009 through February 15, 2010 comment period from individuals, regarding the FMC Draft RFI Report Volume V. The Agencies also received written transcripts from the January 13, 2010 public session containing the presentations given by FMC and the Agencies. However, no member of the public came forward to provide oral comments during this session. The Agencies' review of the written comments has not identified any substantive and significant issues specifically related to the FMC Draft RFI Report volume. Therefore, in accordance with the 1991 AOC, the USEPA and NYSDEC, in consultation with the NYSDOH, have decided to approve Volume V of the FMC RFI Report. As a result of this approval, and based on the information contained in this FMC RFI Report volume, the USEPA and NYSDEC are requiring FMC to conduct a Corrective Measures Study (CMS) to evaluate what, if any, corrective measures are necessary to be taken by FMC with respect to FMC-related soil / sediment contamination on certain properties/areas along Tributary One south of Pearson / Stone Roads. (as depicted on Figures 9.1 through 9.6 in RFI Report Volume V).

RESPONSIVENESS SUMMARY FORMAT & CONTENT:

This Responsiveness Summary contains 2 specific written comments from the public which are presented as they appear in the original comment document. Under each specific public comment, an Agencies' response to the comment is provided. There were no oral comments made by the public during the January 13, 2010 session.

FMC RFI REPORT VOLUMES I, II & IV
AGENCIES' RESPONSIVENESS SUMMARY

Section II – FMC Comments & Responses

Specific Comment No: 1

Specific Comment From: John Shuttleworth

Specific Comment:

“The entire remediation effort has been one of the biggest wastes of money in NYS. Other than a few selected locations, remediation was not required and never justified. No health effect was ever demonstrated and “common sense” was never applied. However, it has provided job security for DEC & DOH employees.”

Agencies' Response:

The Agencies would like to point out that this comment does not deal directly with the subject RFI Report volume which was presented for public review. This volume simply presents sampling results to establish the extent of FMC related soil/sediment contamination along Tributary One south of Pearson / Stone roads. Although the Agencies have made no judgment with regard to the need for remediation at this time, we would like to make clear that the evidence presented in this and other volumes of FMC's RFI Report demonstrates that FMC has released arsenical pesticides and other chemical compounds which have been deposited in soil and sediment within and around the Village of Middleport. This deposition has caused elevated levels of chemicals (mainly arsenic) in some soil and sediment which pose a potential threat to human health and/or the environment, and require judgments to be made with regard to the need for corrective measures. Such judgments will be made during the upcoming Corrective Measures Study (CMS) process for this area, through which the Agencies will solicit comments from the public before rendering any final decision on the need for remediation. Upon completion of the CMS, remedial decisions will be made on the basis of need to protect human health and the environment.

RFI Report Revisions: None

Specific Comment No: 2

Specific Comment From: Harold Mufford

Specific Comment:

“It should be noted: Most properties on the west side of North Hartland Street between Sherman & Chase Roads, as surveyed in the early 1830s, did not have a definite western (north/south) line listed on the deeds. “To the high water line in the Mill Pond.” Hard to determine where that is or was located back in the 1830s or today.”

FMC RFI REPORT VOLUMES I, II & IV
AGENCIES' RESPONSIVENESS SUMMARY

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Agencies' Response:

The figures provided in RFI Report Volume V of the North Hartland Street area between Sherman & Chase Roads present property boundaries which are based on tax maps from the Towns of Royalton and Hartland, and from the Village of Middleport. As indicated on Figures 9.1 through 9.6 in Volume V, the property boundaries depicted are "approximate and subject to verification." The Agencies consider that any perceived or actual discrepancies between the tax maps used in these figures and property deeds, are not necessary to resolve with regard to this report volume. If, in the future, remediation of this area is determined to be necessary, the Agencies acknowledge that further definition of property boundaries may be needed.

RFI Report Revisions: None