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AGENCIES' PUBLIC INFORMATION & COMMENT SESSION

FMC MIDDLEPORT RCRA CORRECTIVE ACTION

MIDDLEPORT FIRE HALL

28 MAIN STREET

MIDDLEPORT, NEW YORK

JUNE 10, 2009 6:30 P.M.

REPORTED BY:

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2 APPEARANCES:

3 ANN HOWARD, FACILITATOR

4

5 BRIAN McGINNIS, FMC REPRESENTATIVE

6 WAI CHIN LACHELL, AMEC GEOMATRIX, INC.,

7 FMC REPRESENTATIVE

8

9 MATTHEW MORTEFOLIO,

10 NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION

11

12 MICHAEL INFURNA,
13 US ENVIRONMENTAL PROTECTION AGENCY
14
15 ERIN RANKIN, ARCADIS
16
17 TAMARA GIRARD
18 NYS DEPARTMENT OF HEALTH
19
20 DR. TERRI BOWERS
21
22 KELLY MCINTOSH
23
24
25

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2 MS. HOWARD: Good evening. My
3 name is Ann Howard and I will be the
4 moderator/facilitator for tonight's session.

5 My role here is to make sure we get
6 through our agenda and that every one who
7 wishes speak has an opportunity to present.
8 Couple of logistical things, if you are going
9 to deliver comments, it's going to be very
10 important that you come to the microphone to
11 speak and I'll go over that again as we get to
12 that part of the agenda.

13 The agenda for this evening is
14 pretty simple. We'll have a presentation by
15 representatives from FMC on the information
16 contained in these volumes that are under
17 discussion for this evening. There will be a
18 short commentary from Matt Mortefolio from the
19 New York State Department of Environmental
20 Conservation. There will be a short
21 presentation by Mike Infurna from the USEPA
22 and then we will open up the comments session.
23 I'll go over this again when we get to that
24 part of session that.

This is not a question and answer

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2 session. This is an opportunity for you to
3 share your comments and concerns regarding
4 this information to forward and review by the
5 agencies.

6 As I said, I'll review the process
7 as we get to that part of the agenda. So
8 first order of business is to introduce Wai
9 Chin Lachell and Brian McGinnis, the FMC
10 representatives.

11 MR. McGINNIS: Thank you, Ann.
12 Good evening and I'd like to thank everybody
13 for coming out tonight and I'd like to also
14 thank you for having us here. I'd like to

15 real briefly introduce the folks, the
16 consultants that are here from FMC. First, my
17 name is Brian McGinnis. I'm an FMC employee.
18 I'm from Philadelphia. I'm the FMC project
19 manager for Middleport Cleanup Project.
20 Wai Chin Lachell and Erin Rankin are
21 my two project managers from two different
22 consulting firms that work on the project. I
23 brought along Dr. Kelly McIntosh. Kelly,
24 raise your hand so everybody knows who you
25 are. Kelly is an expert in groundwater. We

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2 also brought along Dr. Terri Bowers. Terri is
3 an expert in arsenic risk and arsenic
4 background.

5 Before we get started with all this
6 material tonight, I wanted to take this
7 opportunity to congratulate a group right here
8 in Middleport, it's the Middleport Community
9 Input Group. Bill Arnold is the president of
10 that group. There is a number of other folks
11 in the room that come to those meetings on a
12 monthly basis. They just actually received
13 recognition by the USEPA last night and they
14 are the recipient of a 2009 Region 2
15 Environmental Quality Award. So on behalf of
16 that FMC, we'd like to congratulate that
17 group. We also like to thank the MCIG for all
18 their valuable input that they have provided
19 us on the project over the last two and a half
20 years for giving us and you as the community
21 not only their time but themselves. So we'd
22 like to thank you very much for that.

23 Tonight, we are going to talk about
24 three different reports that are in draft form
25 for the RCRA Facility Investigation for the

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2 Middleport site. The purpose of the RFI
3 report is it really presents all the
4 information that we have collected over the
5 last number of years, and it also presents our
6 evaluation of the results. What I'd like to
7 say is what it's not I think is also
8 important. What it's not going to tell
9 anybody or us right now, it's not going to
10 identify properties that either definitely
11 will or will not need to be cleaned up.
12 That's going to take place in the next step of
13 the process, which is called the Corrective
14 Measures Study. And we will talk briefly
15 about that later on in our presentation.
16 There's three reports. There's one
17 about our background and related information.

18 The second one is about the suspected Air
19 Deposition Area, which is along the
20 residential homes in and around the plant site
21 and also, the third volume is about Culvert
22 105.

23 Culvert 105, if you don't know, is a
24 stormwater drainage way actually starts right
25 at the railroad tracks just north of the plant

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2 and it runs from there all the way up to the
3 village water treatment plant on --

4 MS. LACHELL: Pearson Road.

5 MR. MCGINNIS: Pearson Road.

6 It's a series of underground pipes and open
7 ditches. It's a stormwater conveyance.

8 So the purpose of this RFI that we
9 have done, it's required by the government for
10 FMC to conduct this. That's one of the
11 reasons that we did it. What it really does
12 is it evaluates -- and I'll come back and
13 explain this. It evaluates the nature and the
14 extent of materials that were historically
15 released from the plant site. The nature part
16 of this means what was released and the extent
17 means how far did it go and where is it.

18 As part of the process, we actually
19 analyzed for a whole host of different
20 materials that the plant handled over the
21 years back to the 1920's and one of the things
22 that we found early on in the project actually
23 was that arsenic is really the predominant
24 material that was actually released from the
25 facility. So that's actually one of the

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2 materials that we have really keyed in on to
3 look at. Although, we have looked at many
4 others, too.

5 The report actually is going to end
6 up being 11 volumes. We have three of those
7 tonight that are finished in draft. We have
8 another one that's being reviewed by the
9 agencies right now. Let me give you a little
10 picture here. This is the plant site. If you
11 look at this map on the right side, that's the
12 plant site. The Air Deposition Area, which we
13 have been talking about, is this area in green
14 that's surrounds the plant site. The Culvert
15 105 is in this purple area. You can see that
16 it starts right north of the railroad tracks,
17 underneath the Erie Canal and then up right by
18 Pearson Road.

19 The other really large volume of
20 data or large report that we have that the

21 agencies are reviewing right now is for
22 tributary one, which is the stream that runs
23 through town, just on the west side and then
24 continues on up and that stream actually ends
25 up going into some other streams and ends up

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2 at Lyndonville. So there is actually going to
3 be 11 different volumes. Some of them are a
4 lot smaller. Some of them are a lot larger.
5 The next largest one that is coming out is
6 tributary one.
7 So Wai Chin, you'll talk about
8 Volume I for us.
9 MS. LACHELL: Yes.
10 MR. MCGINNIS: Thank you.

11 MS. LACHELL: Volume I just
12 really discusses the background information.
13 It provides information that relates to all
14 the different study areas. There is nine
15 study areas. So it provides information and
16 it any kind of summarizes the study areas,
17 describes the study areas. Provides a
18 description of the history of the operations
19 at the plant site since about 1920. It also
20 identifies all the materials that were ever
21 handled at that facility. It provides other
22 information concerning land usage, climate,
23 wind directions. And you know, the other big
24 things, it describes everything that FMC has
25 evaluated in terms of environmental. So that

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it describes environmental monitoring programs, all the environmental studies and the remedial activities conducted to date.

Information in this Volume I will be used in all the other subsequent volumes. So one of the key information that is provided in Volume I is the discussion of Middleport background studies. In other words, what are arsenic levels in areas that have not been impacted by FMC.

Arsenic is a naturally occurring substance. So it can be found in soils and it's also a very widely used material. For example, it has been used in pesticides in orchards, wood treatment and a variety of other materials. So you know, the background studies really identify what the arsenic levels are in soils that have not been impacted by FMC.

So in this case and in the studies in this RFI and subsequent studies, the background data that will be used is the data

24 collected back in Gasport back in 2003. And
25 as you can see here, this is the summarized

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2 data that was collected back in Gasport based
3 on land usage.

4 MR. McGINNIS: Thank you, Wai
5 Chin.

6 What we are going to do now is give
7 you a brief summary and kind of a 50,000 foot
8 overview of the results from Volume II, which
9 is the Air Deposition Area. The reports for
10 all three of these reports are actually
11 available on line if you want to go on line
12 and look at them. We have got the reports
13 here tonight. They are in the Middleport

14 Library. We also have them at 17 Vernon
15 Street. If you want to come by there, you
16 can't actually check them out from the library
17 but if you want to come by 17 Vernon Street
18 and you want to take them home for a couple
19 nights, that's fine. Just let us know and we
20 will make arrangements for you to do that if
21 you want to look at it in a lot of detail.

22 The yellow area is the area that we
23 have studied for the Air Deposition Area.
24 That's the area that we looked at. We
25 included in this volume data that we collected

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2 when we studied Culvert 105. And the reason
3 that we did that, it makes it a little bit

4 more complicated, but in the end it will be a
5 lot better because there are some properties
6 that not only did we look at their soils in
7 the upper 12 inches for air deposition, if the
8 culvert ran through their property, we took a
9 lot deeper samples to evaluate if there was
10 any impact in the buried area from the
11 culvert. We actually took the data from south
12 of the canal here and added that into this
13 report. If one of these property owners wants
14 to look at their data as a whole, they don't
15 have to go look at two different reports.
16 They can just go to one report and look at
17 that.

18 Total samples, we sampled about 255
19 properties. There's about 30 properties in
20 this area that were not sampled for various
21 reasons. Mostly, we couldn't get access to
22 them.

23 This shows all the different points
24 at which we collected samples and we went to a
25 little over 2,400 different locations within

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2 this area to collect samples. Now, at some of

3 these locations we actually took more than one

4 sample. Some of these samples we took them

5 from zero to 3 inches, 3 to 6 inches, 6 to 9

6 inches and 6 to 12 inches and that varied from

7 location to location. So we ended up with

8 about a little over 5,600 individual sample

9 results in this area that were analyzed for

10 arsenic. There's also approximately 530 of

11 these samples in this area that were analyzed

12 for other constituents. Other materials that

13 we handled at the plant over the years.

14 Now, what we did with the results to

15 make it easier for not only us but for the

16 public, most of that I think they did it for

17 me. I don't know. But to try to understand
18 what was going on, what you see here is a map
19 where we mapped all the different sample
20 results. And over here on the side is a color
21 scale that tells us, you know, what the levels
22 of arsenic were. If it's white, it's less
23 than 20. And then I'm not going to go through
24 these but gray is 20 to 25. And then this
25 purple color is where we had sample results

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2 that were greater than 60 parts per million.
3 As you can see, you've got some areas that are
4 closest to the plant. You see the highest
5 results.
6 Now, this is what it looked like

7 before we did anything, any type of clean up
8 outside the plant area. If we take away those
9 areas we have already cleaned up, you can see
10 that, one, a lot of the higher results are
11 gone now. So those are the three different
12 areas that we cleaned up, the school yard and
13 the 14 properties over here on Vernon and then
14 this area on Park and that wooded parcel
15 behind the property that's right along the
16 railroad tracks. Thank you.

17 MS. RANKIN: It's a formerly
18 wooded parcel. If you go by there now,
19 there's no trees. Thank you.

20 MR. McGINNIS: Thank you. Her job
21 is to say things correctly. Thank you.

22 This actually shows the sample
23 results from the zero to 3 inch depth and I'm
24 going to go through and show you zero to 3
25 inch, 3 to 6 inch, 6 to 9 inch and 9 to 12.

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2 Here's the 3 inch to 6 inch. It
3 looks pretty similar to the zero to 3. If we
4 take out what's already been remediated,
5 that's what we have left. And then we go to
6 the 6 to 9, and you can see it's with depth
7 the concentrations start to go down. And if
8 we take out what's been remediated, it looks a
9 little better. Then if we go to the 9 to 12
10 inch, you can see there's a few spots around
11 that still have some levels above 20. If we
12 take out what we remediated, there's not a
13 whole lot. So the concentrations decrease
14 with depth. All right.

15 MS. LACHELL: So you know, we
16 have all that data. What did we do with that
17 data? We looked at it and what we did is
18 based on the concentrations that we saw and a
19 bunch of other factors including wind

20 direction, you know, historical uses on
21 properties, we identified which properties
22 would be included in the Corrective Measure
23 Study. The Corrective Measure Study is the
24 point where we identified whether or not a
25 property warrants remediation. In the RFI all

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2 we are doing is trying to figure out which
3 properties will go into the Corrective Measure
4 Study, the next step.

5 So just a quick summary of what
6 these symbols mean, the hatches, the wide
7 hatches identify properties that we had no
8 sampling data on that. We could not sample
9 during our RFI process. And these smaller

10 hatchings are properties that have both
11 impacts from stormwater from Culvert 105 and
12 impact from air deposition. So it's just a
13 few of these properties.

14 Back in 2007, the agencies had
15 reviewed some of the preliminary soil data
16 that we received and that they had determined
17 that there was no further action required for
18 46 properties. And the 46 properties are the
19 ones shown in yellow. So those 46 properties
20 will not need to be evaluated in the
21 Corrective Measure Studies. They already
22 should have received a letter from the
23 agencies saying that no further actions are
24 required.

25 The properties that will require

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2 further study in the Corrective Measure Study
3 are shown in green. So the study areas are
4 shown in this bluish/purplish outline. So
5 based within that study area, approximately 28
6 properties will not move onto the next step,
7 which is the Corrective Measure Studies.

8 MR. McGINNIS: So we talked about
9 two of the reports already. The third one is
10 for Culvert 105. This shows the areas that we
11 investigated. Here's the canal and here's
12 Culvert 105 and here's Sleeper Street,
13 continues on north and right up here is the
14 village's waste water treatment plan.

15 We sampled approximately 25
16 properties through here. There were 299
17 points at which we collected samples and we
18 did this a little bit differently. This is
19 typically the way when we investigate some
20 type of a waterway, instead of taking just,
21 you know, a pattern of dots or a series of
22 equally spaced sample points, we go across the

23 stream. So you will see in the report they
24 are referred to as transects. That is the
25 sampling that we did across the streambed to

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2 try and get an idea of what was there. So a
3 total of about 1,300 samples for arsenic in
4 here and about 82 samples for other
5 constituents.
6 MS. LACHELL: Just going back a
7 little bit. As with the Air Deposition Area,
8 in the Culvert 105 area, arsenic was
9 determined and defined the extent of FMC's
10 impact even though we looked at all the
11 constituents that were ever handled at the
12 facility, we determined or concluded in the

13 RFI that arsenic really defines what the
14 limits are. So that's why we are only kind of
15 focusing on arsenic in our presentation.

16 MR. McGINNIS: Right, right.

17 MS. RANKIN: FMC hired us as
18 consultants to collect the samples and submit
19 them to the laboratory for analysis. In
20 addition to that, the agencies also collected
21 samples and they independently sent those
22 samples to a laboratory for analysis.

23 MR. McGINNIS: Right. Those are
24 included in the report.

25 MS. RANKIN: Right.

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2 MR. McGINNIS: All the sampling

3 data whether FMC collected and analyzed the
4 data or the agencies collected and analyzed
5 the data, all of that information is in the
6 reports.

7 We mapped some other results for you
8 just to show you. This is Sleeper Street and
9 down here is the canal. The solid lines are
10 the buried portions of Culvert 105 and the
11 dashed lines are the open ditch. So here's
12 the results that we found for the depth
13 between zero and 12 inches along Culvert 105
14 just north of the canal. After we did our
15 remediation --

16 MS. LACHELL: 2007.

17 MR. MCGINNIS: -- Two years ago,
18 two summers ago, this is what's left. If we
19 look at the deeper results because we did take
20 deeper samples here, greater than 12 inches,
21 here's the results. After we did our
22 remediation, that's what was left.

23 The next slide shows the results
24 from Sleeper Street down at the bottom on up
25 to the waste treatment plant up here at the

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2 top and this is zero to 12 inches.

3 MS. LACHELL: Yes.

4 A JUROR: And if we look at
5 deeper than 12, there's not a lot left there.
6 That kind of tells us in the big picture is
7 that the majority contamination is in the
8 upper 12 inches of soil.

9 MS. LACHELL: Where there is some
10 higher levels of arsenic, they were typically
11 found near the bottom of the pipe, the buried
12 pipe.

13 MR. MCGINNIS: Right, right.

14 MS. LACHELL: So we did a little
15 bit different approach for identifying what

16 properties would be included in the CMS for
17 the culvert area. What we decided to do was
18 that all properties that are traversed by the
19 Culvert 105 would be included into the next
20 phase of the study, will be included in the
21 Corrective Measure study. So those properties
22 will be studied further, but that does not
23 necessarily mean just because you're an
24 agreeing property and included in the CMS, it
25 doesn't mean that you'll be remediated. That

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2 will be determined as part of that Corrective
3 Measure Study.
4 Conclusions, just a summary of the
5 findings of the two volumes. We looked at all

6 the constituents that the facility has
7 handled. We think that we have adequately
8 evaluated any impacts that FMC may have had to
9 the areas. We have enough data to complete
10 the Corrective Measure Studies. And we have
11 identified what properties will be further
12 evaluated in the Corrective Measure Study. So
13 with conclusion of this report and the
14 approval of the reports, we will hopefully be
15 moving onto the next phase.

16 MR. MCGINNIS: What's next is
17 this kind of just gives a summary of different
18 activities that are going to be going on over
19 the next probably year or so, maybe a little
20 bit longer. The public comment period for the
21 first three volumes of the RFI, it will be
22 over on July 2. And once the agencies gets
23 all those comments, they will evaluate them,
24 and based on the comments, they may ask FMC to
25 revise our document or not based on the

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1
2 comments so comments are very important. We
3 are looking to finalize those first three
4 volumes either this summer or early fall and
5 get them on the shelf.

6 The next step as we talked about is
7 a Corrective Measure Study. We have a
8 Corrective Measure Study work plan. The work
9 plan kind of outlines how we are going to go
10 about conducting the Corrective Measure Study.
11 That was submitted -- oh, I don't know.

12 Anyway it was submitted to the agencies and
13 the agencies are currently reviewing that.

14 I have to stop myself and I
15 apologize. I keep saying the agencies and
16 it's actually the three folks sitting over
17 here. It's the United States Environmental
18 Protection Agency. It's the New York State

19 Department of Environmental Conservation and
20 the New York State Department of Health. So
21 when we say agencies, that's a bad habit of
22 ours. When we say agencies, we mean those
23 three governmental agencies, who provide us
24 guidance and comments on the project.

25 Once we get approval to do the

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2 Corrective Measure Study and that's for
3 Culvert 105 and the Air Deposition Areas, for
4 both of those areas, once we get approval, we
5 will go ahead and start that. Right now, we
6 are targeting -- we think we will probably be
7 done early next year, depending on when we get
8 approval or agreement about how it should be

9 conducted. I mean we are looking at -- is it
10 nine months?

11 MS. LACHELL: Yes, less than that
12 I think.

13 MR. McGINNIS: Between six and
14 nine?

15 MS. LACHELL: Yes.

16 MR. McGINNIS: Between six and
17 nine for us to actually sit down and do the
18 study, put everything together.

19 MS. LACHELL: Once that study is
20 completed, we will go through this same
21 process --

22 MR. McGINNIS: Yes, yes, right.

23 MS. LACHELL: -- Public meeting,
24 public comment.

25 MR. McGINNIS: Right. So I think

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2 that should wrap it up for us I think. Ann.

3 MS. HOWARD: The next portion of
4 the agenda will include comments by Matt
5 Mortefolio from the New York State Department
6 of Environmental Conservation.

7 MR. MORTEFOLIO: My name is Matt
8 Mortefolio, project manager for New York State
9 DEC. I come from Albany and I've been working
10 on the project since '86. Most of you know
11 me, of course. I'm going to raffle through
12 these slides because we did our presentation
13 separately. I just found out that those guys
14 have covered alot of what I did. So I'm going
15 to raffle through as much as we can.

16 First of all, FMC's covered under a
17 thing called RCRA, which stands for the
18 Resource Conservation and Recovery Act, a
19 Federal law. FMC's covered under it because
20 they once managed hazardous waste at the site
21 and that law basically governs facilities that

22 did that in the past. And that we also have
23 authority over releases. It's a federal law
24 and the states also have jurisdiction over it
25 in New York State's case. That's what that's

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2 all about.

3 Just quickly, the presentation
4 topics, the purpose of the RFI like Brian said
5 is to determine the nature of the
6 contamination and its extent away from the
7 facility. That's about all I can say about
8 that. I'm going to go overall site area one,
9 Culvert 105, like they did, a little more
10 detail on certain things. Again, the nature
11 of the releases, the extent and then going to

12 go in a little more detail about property
13 categories, their effected properties that we
14 believe the properties been effected by
15 releases, unaffected and places where we have
16 no data and different other nuances to that.

17 I'll go over the public
18 opportunities for comment, which Brian touched
19 upon. I'll give you some addresses and things
20 you can provide comments. And again, next
21 steps like Brian just highlighted.

22 Again, past chemical releases from
23 the FMC facility migrated from the plant site,
24 that's what this is all about, finding out
25 what they are and where they went. The

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2 chemical constituents concerned in Area #1 and
3 Culvert 105 that we looked for when samples
4 are basically arsenic, lead, chlorinated
5 pesticides, DDT is one of those chlorinated
6 pesticides. It's a group of chemicals.

7 In general, after that sampling was
8 done, we basically concluded and agree with
9 FMC that the primary constituent and concern
10 was arsenic like they said. And the reason
11 for that is arsenic, unlike the other ones,
12 appeared in the highest concentrations, higher
13 than these other two right here, and also, was
14 the most wide spread. In other words, we
15 found many locations where we found arsenic to
16 be elevated but not the other constituents.
17 We agree with FMC that that's a good chemical
18 to use to find out what the extent of the
19 contamination was. Arsenic, which I won't go
20 into any detail, is a toxic element and it's
21 also a Class A carcinogen, which means it's a
22 confirmed carcinogen by EPA's research in the
23 past.

24 Okay. Factors FMC used and we

25 worked together on to determine the extent was

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2 an arsenic background concentration and we
3 basically determined that 20 parts per million
4 or milligrams per kilogram, milligrams of
5 chemical to kilograms of soil, would be a good
6 number to use to delineate the extent of the
7 arsenic and the reason for that is that number
8 basically, FMC performed a background sampling
9 in nearby Gasport where we didn't believe any
10 affect from FMC on the soils was happening to
11 determine what the amount was normally in the
12 soil if FMC's releases had never occurred.

13 They took over 100 samples. They
14 were taken from different land uses, farms,

15 residential, commercial, orchards, the kind of
16 land uses you see right around Middleport and
17 then we synthesized that data. We came up
18 with two things; one is the 95th percentile of
19 that data turned out to be about 20 parts per
20 million for residential soils. 95th
21 percentile simply means that 95 percent of the
22 data that we collected gave us results of 20
23 parts per million or less. It's like an upper
24 bound of what would be a non-FMC related soil.

25 We also calculated what's called the

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2 weighted 95th percentile of all the data and
3 that includes farm, residential, orchards and
4 everything. It's weighted because each of the

5 land uses has a different area and it wasn't
6 appropriate to have orchards be governing the
7 data more than residential or visa versa and
8 that turned out to be also 20 parts per
9 million. That's where that came from.

10 Other factors that are used, just a
11 concentration of arsenic alone found in the
12 soil doesn't mean it's related to FMC. So
13 other factors were used in area one. We
14 looked at the historic wind patterns since the
15 release was by air, which way does the wind
16 normally blow so we could correlate that with
17 the data, ground features that might influence
18 where the air emissions went. In Culvert
19 105's case, we looked at where the ditch runs
20 and what the flood limits are, and the idea is
21 that the flooding that occurred along that
22 waterway would be kind of an ultimate limit of
23 where the FMC related contamination would be.

24 Using that, again, these two figures
25 appear at the back of the facts sheet which I

1
2 handed out. I'll probably go over a lot of
3 those. Those are kind of most the two most
4 important figures out of the two volumes,
5 Volume II and Volume IV out of all of them
6 because basically, they sum up what the
7 results of the investigation are in terms of
8 what properties and areas will have to be
9 evaluated further and which ones won't, which
10 I think is critical.

11 Again, FMC pointed out the blue line
12 is the culvert. The green area in both of the
13 figures is an approximation of the extent of
14 the involved effected properties for the
15 releases. That doesn't mean every inch of
16 property may be affected. If a part of it is,
17 it appears all in green. It doesn't mean the

18 whole thing is. Also, it's approximate
19 because if a property wasn't sampled, it also
20 doesn't mean that, you know, there's nothing
21 there. So it's an approximate area which we
22 feel is adequate to move onto the CMS.
23 Couple features of this, along this
24 line here, which is the northern boundary of
25 the Air Deposition Area #1, and this line here

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2 which is basically the county line, Niagara
3 and Orleans County, is basically the end of
4 sampling for Area #1. However, we basically
5 don't consider it as maybe being the end of
6 the contamination because of the 20 parts per
7 million is still elevated here. So additional

8 sampling has been done north of the canal by
9 FMC and east of this line, which we are
10 waiting on. FMC has the results of and we are
11 going to be having them soon. That should
12 basically close out the book we think on maybe
13 the extent.

14 This will be a separate area. We
15 will call it area two if it materializes that
16 there's actually elevated levels there. It
17 will be addressed at a later time. So what
18 we're going to do is prioritize everything in
19 green area to move forward into the CMS.
20 We're not going to wait to see and what
21 happens out here and delay this area's further
22 study.

23 I'm going to focus on some property
24 categories. So we are very clear on,
25 especially if you are a property owner, who's

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affected and who's not affected and where you might fall. And this is basically the same figure 9.1, but it's the west area of it. The green property, again, has been determined to be effected. They generally have in some realm or another soil greater than 20 parts per million, again, maybe not the whole property. In some cases it is. It's also considered related to the FMC and they will be included in the CMS as FMC said.

Yellow properties are the properties where we sampled. The agencies, like Brian said, gave the homeowners letters saying we don't believe you are affected by the FMC releases. All of these properties have levels of arsenic primarily or predominantly below 20. So those will not be included as Brian said in the CMS. Those properties are done. If you are in a yellow property, your

21 property's part in this process is over once
22 this report is approved. That's the gist of
23 that.
24 We have white site properties inside
25 this blue line, which is this thin line where

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2 we sampled. We haven't given them no further
3 actions. An example, these two white
4 properties here, this report basically would
5 indicate that the extent of the FMC related
6 contamination doesn't extend to these
7 properties. In some cases, it means that
8 these properties are unaffected by any sort of
9 arsenic contamination. In other cases, there
10 may be some elevated arsenics in spots related

11 to non-FMC reasons that we don't know why.
12 Outside the property, all the white
13 out here, everything here is outside the
14 sampling area. We didn't collect samples, but
15 based on what we found inside the area, the
16 sampling we did there plus the wind patterns
17 and everything else, we don't believe these
18 properties are affected either. They weren't
19 sampled, but they will not be looked at any
20 further. So anything out here is basically
21 done.

22 This is the northern part of that
23 same figure. Again, Brian went over this
24 stuff that's basically in these purple areas
25 is previously remediated properties or areas,

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2 school property, the football fields we are
3 all familiar with. The reason they are in
4 green is that the remediations were performed
5 and we believe performed satisfactorily, but
6 the regulations require they must first go
7 through the Corrective Measure Study process
8 to do a last evaluation to determine that
9 those remediations were adequate, which we
10 believe that will be happening and then these
11 things will be finalized. That's why they are
12 in green and they will be part of the CMS.

13 Properties with the close diagonal
14 lines, as Wai talked earlier, these here are
15 basically properties that share effects from
16 air deposition and from where the culvert
17 passes through, Culvert 105.

18 Another set of property categories.
19 Wai went through this a little bit.
20 Properties with wide space diagonal lines. If
21 they are green and both of these cases mean we
22 have no sample on the property. If they are
23 in the green area, they are appearing in the

24 CMS because the samples around them suggest
25 the possibility of contamination. So we will

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2 be evaluating them as if they were sampled.
3 If they are white with diagonal lines, it
4 means no sampling was performed. But again,
5 white means that the data around them suggests
6 that they are not affected by the FMC releases
7 and that, again, white means it will not be
8 apart of the CMS.

9 Moving onto Culvert 105, this is
10 south of the barge canal. That's the barge
11 canal right there. Pretty much same thing
12 what green indicates. These properties will
13 be in the CMS because they are impacted from

14 releases from the culvert. And again, the
15 diagonal lines, again, mean where properties
16 share impacts from both air deposition and
17 from the culvert that goes through here. And
18 that's a different category there. So this is
19 the same thing that Brian showed you earlier.
20 This is, again, Culvert 105 continued. This
21 is the barge canal. Now, we are north of the
22 barge canal as we look through here.
23 Again, plain green properties are
24 the properties that we believe are affected
25 from culvert releases through flooding and

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2 various other means. Again, it doesn't mean
3 whole properties are affected, like an example

4 maybe this property right here. The affects
5 maybe limited to near the culvert, which they
6 probably are. But since there's part of the
7 property been affected, everything is kind of
8 shown in green.

9 This wide brown line here, that is
10 basically signifying that we would have no
11 samples here, but what happens here is that we
12 have elevated levels of arsenic along this
13 property boundary indicating that we need to
14 have further samples because probably it's
15 further out in this direction. So it's not
16 really clear where the eastern extent of the
17 contamination is along that line. That's what
18 the line signifies.

19 As I said before, public
20 opportunities for providing input. That's
21 what we are here for is to get the public's
22 opinion on these reports before the agencies
23 take final action. Various ways to do it
24 tonight, when I get done, we will have people
25 coming up and you can give your oral comments

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2 on the report and they will be transcribed.
3 Also, in the back if you haven't gotten one
4 already, there's comment forms which you can
5 write your comments on, leave them here or
6 mail them in. After tonight, you can mail
7 your comments to me. There's my address at
8 New York State DEC up until July 2, which is
9 the end of the comment period.

10 And that address is also on the
11 facts sheet if you need take a look at that.
12 One other thing before I go on here, I should
13 have put it on the slide, but Brian said
14 earlier that these reports are available on
15 line for the public to review.

16 MR. MCGINNIS: Can you tell them

17 where?

18 MR. McGINNIS: Thank you because
19 I didn't put it on the slide either. If you'd
20 like to look at all three volumes, they are
21 put online separately thanks to the Middleport
22 Input Group. I believe I got that right.

23 MR. McGINNIS: No, Community
24 Input Group.

25 MR. MORTEFOLIO: Middleport

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2 Community Input Group has a web site and they
3 have been gracious enough to put these online
4 for us. And the web site is
5 www.Middleport-future.com/RFI and that is in
6 the fact sheet. If you didn't hear me, pick

7 up a facts sheet and that way you can access
8 the reports and look at them at home at your
9 leisure.

10 Next step, as Brian went through, we
11 will review all the public comments after July
12 2nd including the transcript from tonight.
13 The agencies will review all those. We will
14 prepare and present to the public what's
15 called a responsive summary. That means we
16 would take all the comments, we will reprint
17 them in some fashion, even the ones in the
18 transcript and the agency will issue some
19 responses to them.

20 And we will probably also depending
21 on the size of the comments either mail them
22 out to the commenters at least mail out a
23 notification that we have done this, and this,
24 again, hopefully, will be available online.
25 The responsive summary will be in the library

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2 so people can come and look at it.

3 Once we've done that, probably
4 immediately when we've done that, we will make
5 a final determination on these three volumes
6 of the RFI report which their choice is to
7 approve them or basically have FMC modify them
8 as Brian said based on the comments.

9 And then as they went through
10 before, we move on to conducting the
11 Corrective Measure Study, which will be
12 basically a fall/winter, maybe even spring of
13 2010 endeavor by both FMC and the agencies and
14 there will be a lot more opportunities during
15 that time and after that time for public input
16 on that part of it.

17 Finally, I'm done. I'd like to
18 acknowledge a couple of things first before I
19 send off here. The Middleport Public

20 Involvement Group, which I got that wrong. I
21 got that wrong on the slide. Middleport
22 Community Involvement Input Group. I totally
23 messed that up. I'll give you a lot of
24 credit. Like I said before, they have been
25 instrumental in getting things online so

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2 people can get them easily. It's not easy for
3 the agencies to do that for various reasons.
4 And they came to our rescue there sort of and
5 also helped FMC out. So I'd like to
6 acknowledge that they have been a big help in
7 this endeavor.
8 Other New York State DEC staff, way
9 back there is Mike Kitten and he works out of

10 Region 9 Buffalo. From New York State
11 Department of Health in the back desk doing
12 the duty tonight is Nate Freeman and Tamara
13 Girard from the New York State DOH, has been
14 project manager for DOH on this site for quite
15 a while and the last person I'll introduce and
16 say a few things that Brian already kind of
17 let out of the bag but that's okay, Mike
18 Infurna, who is representing USEPA. He works
19 out of New York City. He's been on this
20 project almost as long as I have and has a
21 couple words to say with regards to the
22 Middleport Community Input Group. Got it
23 right there. Thank you.

24 MR. INFURNA: Brian kind of stole
25 my thunder.

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2 MR. McGINNIS: I'm sorry. I
3 didn't mean to say anything.

4 MR. INFURNA: Last night I
5 presented the MCIG with a plaque for an
6 Environmental Quality Award, pretty much
7 rewarding their work in getting comments and
8 concerns from the community to the agencies.
9 They work very hard at it. It goes
10 unappreciated except in this instance where we
11 gave them a plaque and we appreciate their
12 work.

13 And if anyone would like to get
14 involved with this, I know it's kind of hard
15 sometimes to come to these types of forums
16 because if maybe somebody doesn't want to
17 speak in public, but if you're interested and
18 you have some concerns and you'd like to relay
19 them to the agenciess, maybe you can speak
20 with Bill Arnold after this meeting. They
21 meet once a month and it's an excellent way of
22 getting your concerns and maybe your neighbors

23 and whoever else's to the agencies and it's a
24 really good way of addressing things before
25 it's maybe too late or whatever, but they did

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2 a great job with this and we look forward to
3 working with them in the future.

4 MS. HOWARD: Thanks, Mike. Now,
5 here's your portion of the meeting. I just
6 want to follow-up, again, with more specifics
7 about how this portion of the meeting will
8 run. This is at the bottom of your agenda.
9 Just please note that this is not a question
10 and answer session. This is your opportunity
11 provide comments as you had reflected on the
12 information you received tonight or if you've

13 taken the time to read these multi-page
14 volumes of information. The purpose is to get
15 your comments. This is not the only way you
16 can provide your comments. There were
17 handouts that would allow you to provide
18 written comments. You can leave those tonight
19 or as Matt said earlier, you can mail them to
20 him. And the final day for submitting
21 comments, again, is July 2nd.

22 If you wish to speak tonight at this
23 meeting, there are a couple of things we are
24 going to ask you to do and this is mainly
25 because this meeting is being transcribed.

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3 provided to the agencies to assure accuracy of
4 your comments and to assure that all the
5 information you provide is included. We are
6 asking if you want to provide oral comments
7 this evening, please come to the microphone.
8 Please state your name, your address and then
9 provide your comment. We are only going to
10 have one person at time obviously and we will
11 try to move this as smoothly as possible.
12 There is no particular order of this so I will
13 just ask people just by show of hands if you'd
14 like to speak.

15 Because this is not a question and
16 answer format, it is recognized that you may,
17 in fact, have questions and so representatives
18 from FMC as well as from the agencies will be
19 here after this formal session to answer your
20 specific questions if you think that's
21 appropriate in that one on one opportunity.
22 So we are ready to take your comments.

23 Okay. Please state your name,
24 address and then give your comment, please?

25 MR. WESTCOTT: My name is Dick

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2 Westcott. I live at 13 Mechanic Street in the
3 village. I'm a village trustee and I'm also a
4 member of CIG. My comment for the agencies
5 and to FMC, is it my understanding that the
6 approximately 28 properties that will be
7 excluded from the CMS study will receive a
8 letter indicating a reason as to why they were
9 excluded, either because they were below the
10 20 parts per million or it was a parking lot
11 or whatever, but those 28 properties roughly
12 will receive a letter at the end of this? Is
13 that what is my understanding here?
14 MS. HOWARD: Do you have a
15 comment about that or are you suggesting a

16 letter should be sent? Do you have a specific
17 comment?

18 MR. WESTCOTT: As a
19 representative of the village and
20 particularly, I stress that it should be done
21 at the conclusion of this so these people can
22 attach it to their property and personal
23 paperwork and whatever so they are not hanging
24 because some people will be tested then they
25 are excluded. They deserve a reason and

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2 that's my comment. I just hope it's going to
3 be followed through and it will be right.
4 Thank you.

5 MS. HOWARD: Thank you. Anyone

6 else?

7 MR. ARNOLD: I'm Bill Arnold.

8 I'm a resident at 10160 State Road. That's

9 east of the Middleport Schools. I'm also

10 chairman of the Middleport Community Input

11 Group. I'd like to thank the agencies and FMC

12 for their comments that they made regarding

13 the group. We have a table in the back over

14 here where there's some information that you

15 can pick up that explains our group and other

16 information such as that.

17 We do meet once a month. We'd like

18 people to come to our meetings if they can.

19 You don't have to say anything. You can just

20 sit there and learn what's going on,

21 understand what the topics are that we are

22 discussing and join in if you'd like.

23 I have several comments and I'll

24 just make a couple right now and let someone

25 else speak. We, as a group, discussed last

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2 night after our regular meeting with the
3 agencies and FMC, our concern over the
4 conclusion of the corrective action objectives
5 and the way that that one paragraph was
6 spelled out with the range of cancer risk, we
7 are still not happy with the way that turned
8 out and we'd like to go on the record in this
9 transcript saying that we are not happy with
10 the situation.

11 As a personal question or comment
12 not related to the CIG, is I would like to
13 understand what the improvement in human
14 health would be, measureable improvement to
15 lower landscaped properties, residential
16 properties from say 30 to 40 parts per million
17 to 20. Taking into account to do that you
18 have to rip out everything, every living thing

19 that's on that property probably in an
20 excavation effort to do it. I'll let whoever
21 else would like to speak.

22 MS. HOWARD: Anyone else? Please
23 state your name and address?

24 MS. BARTHOLOMIEU: Hello, my name
25 is Rhonda Bartholomieu. I am here along with

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2 my husband, David Bartholomieu. Our address
3 is 84 North Hartland Street. My biggest
4 concern is Middleport is considered an arbor
5 town. We have beautiful trees and we'd like
6 to keep it that way. We also have a shallow
7 ditch in our backyard that is a habitat to a
8 lot of deer, opossums, animals, my dog. My

9 children love to play in there. And we would
10 just hate to see everything ripped to shreds.
11 From what was seen on North Vernon Street, it
12 was a descent action that was taken, but those
13 trees will never come back and the trees that
14 were put in its place, I don't think does
15 justice to what was there prior to that. So I
16 hate to see that happen to all of our
17 properties here and I just don't see how we
18 are helping nature by taking trees that have
19 taken hundreds of years to grow to be ripped
20 out just to see if there was a problem with
21 the arsenic. I mean if it's held within the
22 trees -- I understand taking out the soil
23 around it, but to just rip out the trees, I
24 think it's pointless and it's a crime. Thank
25 you.

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2 MS. HOWARD: Thank you. Any
3 other comments? Your name and address,
4 please?

5 MS. STORCH: I'm Elizabeth
6 Storch. I live at 59 State Street,
7 Middleport. I'm in the Air Deposition Area.
8 My house is in one of those green areas. I've
9 lived here for 30 years this August. I've
10 been a member of the MCIG for two years.
11 I'm a retired librarian. I have
12 researched this topic extensively. My average
13 parts per million of arsenic in my soil is
14 somewhere in the mid twenties. I feel
15 absolutely zero percent danger to my health.
16 I see no need to remediate my soil. And I
17 just wanted to go on the record for that.

18 Matt and Mike came over, Matt from
19 the DEC and Mike came over. They are well
20 aware. I told them and they came and they
21 know my feelings, but for any of you out there

22 that are afraid, I feel that the remaining air
23 deposition properties, myself, from the
24 research that I've done and from Dr. Bowers'
25 research and others that the bioavailability

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2 of the arsenic in the soil is very low,
3 meaning that you can be on the soil, you can
4 even grow vegetables, wash them. You can do
5 your normal activities and not be in any
6 danger of cancer from that. I want to go on
7 the record that I feel safe in the community
8 of Middleport. And I plan to continue to live
9 here for another 30 years.
10 MS. HOWARD: Thank you. Anyone
11 else? Your name and address, please?

12 MR. OWEN: My name is Dick Owen.
13 I live on 12 Locus Drive in the Village. I'm
14 a member of CIG. I'm optimistic that the
15 agencies -- FMC and CIG are communicating well
16 and I just hope that an agreement can be
17 reached and the process can be made faster
18 than what we have had and that the agreement
19 will be that remediation is done on a risk
20 basis rather than sticking hard to a
21 background due to the fact that I feel through
22 the research I've done that the background
23 levels are somewhat unreasonable and risk
24 based and probably bring the numbers up higher
25 and everybody will be content because I think

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2 then we will save alot of our foliage and
3 trees. That's all I have.

4 MS. HOWARD: Thank you. Anyone
5 else? Just state your name again, Bill?

6 MR. ARNOLD: It's Bill Arnold.
7 As Dick alluded to and just spoke, this
8 process has been going on for quite a long
9 time. Matt referenced that he's been doing
10 this since 1986. That's over 20 years that
11 this village has been going through this
12 situation. I would like to emphasis that we
13 should try to proceed with this as quickly as
14 possible. I think the dates that FMC
15 presented to evaluate the CMS is too long. I
16 think that needs to be expedited a little
17 better than the scheduling that you have right
18 now.

19 20 years of this situation is more
20 than any community should have to bear. And
21 we need to get this project moving along and
22 we need to get it done quicker than what some
23 of the schedules are calling for right now.
24 The MCIG is not interested in hearing why we

15 agricultural contamination at 56. I believe
16 there were numbers as high as 122 parts per
17 million found in the agricultural areas. So
18 the data is much higher than what was shown on
19 those charts.

20 Matt, the chart you showed for area
21 one in the upper left-hand corner, I think
22 there were properties included in there in the
23 white that you said would not be studied
24 further that are on the tributary north of
25 Frances Street and that really will be in

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2 Volume 5. So you may want to check that. I
3 don't want anybody to go away thinking that
4 their property is going to be clear when it

5 really isn't.

6 MS. HOWARD: Thank you. Anyone

7 else? Silence is really loud, isn't it?

8 Okay. It appears as though we have heard the

9 extent of the oral comments. Just to remind

10 you, you are welcome to provide written

11 comments. You can leave them this evening or

12 mail them in prior to July 2nd. As stated

13 earlier, FMC representatives and the agency

14 representatives will be here following this

15 formal session to answer any specific

16 questions you have or to receive your comments

17 in person. Thank you for coming.

18 (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
in the public hearing of the Agencie's Public
Information & Comment Session, FMC Middleport RCRA
Corrective Action, held at the Middleport Fire Hall,
28 Main Street, Middleport, New York, on June 10,
2009.

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

18 DOREEN M. SHARICK

19 Notary Public.

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