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August 21, 2012

The Honorable Joseph Martens, Commissioner
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233

Dear Commissioner Martens,

I write today to express my disappointment and frustration that the Department of Environmental Conservation (DEC) has yet to acknowledge the concerns raised by the people of the Village of Middleport, New York regarding the proposed cleanup of contaminated soil near the FMC Corporation facility. Therefore, it is incumbent upon me to once again request that your agency heed the public's apprehension over plans to remediate arsenic present in the soil of over 180 properties in the Village. I respectfully ask that you reconsider your selection of Corrective Measure Alternative 9.

I first wrote to you on July 12, 2012 requesting further consideration by your agency, as well as the Environmental Protection Agency (EPA) and the New York State Department of Health (NYSDOH). In response, the EPA has requested your agency require off-site disposal of contaminated soil that will be excavated as part of the proposed remedy. I am pleased with this response by the EPA but do not believe it goes far enough to address concerns put forth by the homeowners and small business owners in the village.

I understand and share your concern for the need to remediate and protect the public's health; however, I believe a satisfactory accommodation can be made to address the legitimate concerns of my constituents. Throughout the public comment period, I heard from hundreds of residents and business owners in the Middleport community who are upset with how proposed cleanup actions will adversely affect the infrastructure, façade, and day-to-day atmosphere of the village. Past remediation efforts carried out by the EPA negatively affected the community, and I believe it is appropriate for future efforts to reflect the strong concerns of the residents.

Once again, I urge the Department of Environmental Conservation to fully consider the ramifications an invasive cleanup will have on property rights and quality of life for Middleport and its people. I am hopeful your agency will work with residents and elected officials to assure the people of Middleport that any remedial action will take into account local concerns and will mirror public consent. I am willing to work with your agency to find a reasonable solution that serves the best interests of the residents of Middleport, while making certain that the health and well-being of the community is protected.

Sincerely,



Kathleen C. Hochul
Member of Congress