

Coordination & Engagement on Issues Related to the JH Baxter Facility

COMMUNITY ENGAGEMENT CORE TEAM

Meeting 17

Tuesday December 13, 2022

Meeting Summary

Participants for all or part of the meeting: Ali & Jeremy Aasum (Community Member/BT), Arjorie Arberry-Baribeault (BT), Lisa Arkin (BT), Robin Bloomgarden (Community Member), Mary Camarata (DEQ), Killian Condon (DEQ), Alice Corcoran (EPA), Bonnie Criss (EPA), Diane DeAutremont (Community Member), Bill Dunbar (EPA), David Farrer (OHA), Pradnya Garud (OHA), Todd Hudson (OHA), Max Hueftle (LRAPA), Travis Knudsen (LRAPA), Mike Kucinski (DEQ), Kelby Land (LCEH), Randy Nattis (EPA), Emily Pyle (ABC), Seth Sadofsky (DEQ), Nancy Sawka (DEQ), Susan Turnblom (DEQ), Jon Wilson (CoE), Lin Woodrich (ABC). Facilitation Team: Donna Silverberg & Emily Stranz, DS Consulting.

Welcome and Introductions - Facilitator, Donna Silverberg, welcomed the group to the 17th Core Team meeting. The purpose of the session was to introduce the Core Team to EPA team members working on the JH Baxter project, to provide updates and answer questions regarding community, OHA, LRAPA, City of Eugene, Lane County, and DEQ efforts, and to gather Core Team input and ideas about broader public communications.

The group welcomed Alice Corcoran (EPA Community Involvement Coordinator), Bonnie Criss (EPA On-Scene Coordinator), Bill Dunbar (EPA Public Affairs Specialist), Randy Nattis (EPA On-Scene Coordinator), Seth Sadofsky (DEQ Hazardous Waste Interim Manager) and Nancy Sawka (DEQ Clean-up Interim Manager) to the Core Team.

Cleanup and Soil Sampling Status Report – Susan reported that, moving forward, DEQ will continue to take the lead on the offsite (residential) investigation and clean-up and EPA will lead the onsite cleanup of the JH Baxter facility. DEQ and EPA are working closely together to address all issues at and around the site. EPA has and will continue to support DEQ with sampling residences; so far EPA has sampled 22 yards, 2 of which had levels of dioxins that fall into the ‘clean up sooner than later’ category. DEQ and EPA are developing a work plan for more yard sampling to determine the depth of contamination. EPA contractors will take samples from 0-3ft deep to determine how much soil to remove. This sampling likely will occur early in 2023.

Mike summarized important actions over the last year. He noted that in January 2022 DEQ received a letter from Baxter saying they were closing the facility at the end of the month. In February, DEQ declared the site an Orphan site. The facility continued to operate vital environmental systems, however, clean up actions onsite were minimal. In September, DEQ requested EPA assistance onsite and, in October, DEQ enforcement sent a letter of violation of the mutual agreement and order (from their ongoing enforcement case). Georgia Baxter has kept a skeleton crew to keep some key aspects of the plant going. Recent break-ins and vandalism is concerning. DEQ and partners feel strongly that action is necessary to avoid an accident or harmful event.

In response to a question, Killian expanded on why DEQ is concerned about securing the site: There are two types of liquid on site – product and liquid waste. These liquids are in two different tank farms (tank farms are concrete containment units built to hold liquid if there is a failure). Killian believed JHB’s Spill Prevention, Control, and Countermeasure (SPCC) Plan outlined that each containment was designed to contain a leak from the largest tank within that containment, in addition to providing a freeboard buffer for a significant rain event. A processing system pumps out rainwater that falls into the tank farms to ensure there is sufficient room in case of a potential leak or failure with the rainwater being processed through the process wastewater treatment unit.

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[Facilitator's Note: Following the Core Team meeting, a subsequent review of the SPCC, an EPA-required plan, found that Section 4.1 states: "All petroleum storage areas have concrete secondary containment sufficient to contain the entire contents of the largest storage tank plus freeboard for precipitation (based on a 24-hr, 25-year storm event)."]

DEQ is preparing a cross-program, and potentially cross-agency, letter to send to Georgia Baxter that seeks clarification on her path forward. It is important for the site to be secure. If Georgia cannot provide that security, the agencies will step in. The letter is formal documentation of the request and an interim measure to document the urgency for a comprehensive plan to keep the site secure and progressing towards clean up.

Questions and comments from the Core Team

- Question: Is there still penta on site?
 - Response: Yes, there is penta onsite; JHB sold its penta cakes and they have moved to a different wood treater in Oregon. There are 4-5 different products on site (preservatives) along with hazardous wastes.
- Suggestion: Include LRAPA (and potentially all the partner agencies) in the letter instead of sending separate letters; doing so will demonstrate the collective agency attention to the issues.
- Question: is anything in the tanks flammable?
 - Response: to best of DEQ's knowledge, none of the material on site is flammable.
- Comment: Vandalism in the area is chronic and an ongoing issue.

Randy Nattis, EPA, provided information on why EPA is involved and how they will support efforts moving forward. He said EPA Region 10 brings financial and technical resources to the JH Baxter clean-up effort. EPA has supported DEQ in the offsite cleanup by sampling 22 yards so far and has committed to sampling 50 properties. EPA's Time Critical Removals (TCRs) program can act relatively quickly to effect change onsite. When DEQ asked EPA to visit the facility in fall 2022, it became clear to EPA that the JH Baxter site needed to be cleaned up as soon as possible. He noted that EPA's next steps are to do a detailed onsite evaluation, take samples, and then develop a plan to mitigate risk and stabilize the site. Randy has asked Georgia for access to the site and is following up that verbal request with a formal access request letter.

As part of the onsite evaluation, EPA will evaluate the tank farms (how many, how to best access tanks, the structural integrity, etc.) and then get samples from each tank to clarify the contents. Typically, EPA would also do transportation and disposal; however, with penta, there are not a lot of places that have the capacity to dispose of it (need high temp incinerator). As such, EPA will work with others to dispose of the penta. It likely will take time and money to dispose of the penta. Time Critical Removals are typically 12 months or \$2M per project. EPA can request to go above time and money, if needed. Randy and his team have already submitted a request for more money, if it is available. EPA is planning to be in Eugene within the next few months to start the evaluation. Randy finished by sharing that EPA's mission is to protect human life and the environment.

- Question: Is it possible for EPA or DEQ to pay for full time security onsite?
 - Response: Yes, during the TCR, EPA will have fulltime security onsite.
- Question: Will EPA's actions include testing and removal of contaminated soil onsite?
 - Response: EPA is exploring long-term investigation of subsoils. Many hazardous materials will need proper disposal (e.g. asbestos, penta, metals and concrete). The removal program will not be able to pay for the entirety of the project, so EPA will explore other mechanisms, for

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- example the superfund program, to open up more funding for the long-term project. This is going to be a big effort, taking multiple years, and the EPA team would need to go through the superfund priority listing process to secure funds.
- Question: This is all very concerning. Is there a way that the agencies can prevent the selling of JHB until the cleanup is complete so that someone else doesn't buy it and potentially interrupt the cleanup?
 - Response: Two things limit the sale of the property: First, from EPA's perspective, there is penta onsite and EPA's pesticide program – Federal Insecticide, Fungicide, and Rodenticide Act or FIFRA - would consider a transfer of the property as a prohibited transfer of the material. Second, from DEQ's perspective, the enforcement action doesn't stop if property is sold. Any new property owner is responsible for the cleanup liability.
 - Comment: This is a perfect example of why these types of chemicals should not be allowed; you can't get rid of them. The regulatory agencies should not allow the chemicals to be used in the first place.
 - Question: Regarding Georgia and JHB financial assets – does EPA have authority to help make sure that any JHB or Georgia Baxter income goes to cleaning up this property?
 - Response: EPA is in the process of sending a 104E letter, a request for information and ability to pay. EPA can do a unilateral order for JHB to do the cleanup; if they don't EPA will do the work and go back to JH Baxter for reimbursement. If JH Baxter doesn't pay, EPA will sue them. EPA's approach will include the enforcement avenue. At the same time, the agency is prepared to do the work in light of Baxter's poor compliance history.
 - Comment: It is awful that JHB has been polluting Eugene for so long and awful to hear that pollution will go to another community when the products are incinerated. Additionally, it is awful that the disposal sites often are on Native American reservations or close to them.
 - Comment: as a community member, I have a new level of concern given what I have heard. It is a question of accountability – it is wild that they can continue to skate by, knowing how big of an issue this is and how many people are and will be impacted.
 - Question: Why has it taken this long to get to this point? Why is it that we only now know the level of cleanup needed?
 - Response: Mike responded that when JHB was an operating facility they were working to phase out the use of penta. *(EPA required the cancellation of pentachlorophenol in February 2022. This means after two years, pentachlorophenol will no longer be manufactured, sold, or distributed in the United States <https://www.epa.gov/pesticides/epa-requires-cancellation-pentachlorophenol-protect-human-health>).* When they closed, it became clear that JHB did not have the capacity to pay for the cleanup. This was a red flag, so DEQ requested support from EPA. This is not a unique situation; many penta-based wood treatment plants have turned into superfund sites. Once the EPA site evaluation occurs and more information is available on the details of cleanup needs, the community will see things progress.

Public Meeting Planning – The group did not have time to meet in small groups, so Donna asked that Core Team members consider the following questions and provide input to the EPA team:

1. Given what you heard from DEQ and EPA, what are your initial thoughts and questions?
2. What advice do you have for EPA about concerns or questions other community members might have at a public meeting in the next couple of months?
3. What messages do you think should EPA share with the broader public?

Core Team members provided initial input and will provide additional thoughts to Alice via email/phone call. They suggested:

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- Schedule the meeting when there is more information on/answers to the offsite soil removal needs.
- If holding the meeting as a hybrid (some in person, some on video) consider a place big enough to allow for social distancing.
- It would be helpful to develop a collective communication plan that all partners can agree on ahead of public communications.
- Consider including the OHA health consultation report as part of the public meeting.

Updates from Team Members –

- **ABC and Beyond Toxics** did not have additional updates for the Core Team.
- **OHA** – Dave reported that their draft Health Consultation report is nearing the end of the review process. The next step will be to publish the document. OHA Publications gave the team permission to bypass publications with specific parameters. The team is working on it and anticipates release for public review in February 2023. Lisa noted that it will be important to think about how best to share the report with the public; Dave responded that OHA will do a public meeting a few weeks after the report's release (likely at the mid-point of the comment period). *[Facilitator's Note: following the Core Team meeting, OHA said that they would provide the Core Team the final report via email the morning of the day of public release, so the Core Team members have a few hours head start with the materials before they are generally available to the public. OHA is anticipating the final Health Consultation report to be released to the public in February, followed by a community meeting in March 2023.]*
- **LRAPA** - Travis reported that LRAPA has been onsite to inspect the facility. Additionally, LRAPA received an air permit renewal application for a less complex permit, reserved for lower emitting facilities. This permit does not include the retorts, but does include the evaporator. It has the same level of oversight from LRAPA (still includes onsite inspections), but with less monitoring and reporting. It also removes the previous “baseline” emissions credit. The baseline emissions credit allows companies to get a “credit” or a higher starting point for emissions (higher levels of emissions allowed) if they were operating before 1978; the credit then could be passed to new buyers. However, with the change in permit type, this will no longer be available to the next buyer. Max reported that the annual fees for 2023 were due December 1st; he sent reminder to Georgia who said she would pay the fees.
 - Question: How is the evaporator working? Have there been improvements since its installation? What happens once water is evaporated?
 - Response: Briefly, the evaporator has two types of materials – solid and heavy liquids. The solids go to the J-press and are disposed of as solid waste, shipped out in drums or sacks to Utah or Portland to be incinerated. The heavy liquids go through the treatment system again, leaving just water to be evaporated in the evaporator. the solids that are generated at the J-press are managed as hazardous waste and are ultimately disposed at an out-of-state hazardous waste incinerator. For more information, see LRAPA's presentation from the June 2022 Core Team meeting for a description of how the evaporator works:
<https://www.oregon.gov/deq/Programs/Documents/JHB-MeetingSummary062822.pdf>.
- **City of Eugene** – Jon reported that he was onsite at JHB last week with DEQ. He inspected the wastewater system and found no unauthorized materials going into the system. Additionally, Jon met with Eugene Fire to ensure that they were prepared to respond properly if there were an emergency onsite; they are prepared if needed.

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- **Lane County Environmental Health** – Kelby reported that LCEH will be hiring a few positions for a newly developed Environmental Justice program in the coming year. Kelby shared that her understanding is that these positions will work closely with the community on issues similar to JHB. Kelby will keep the Core Team updated as things progress.
- **DEQ** – Susan reported that the DEQ water quality engineer and storm water inspectors were onsite at JH Baxter last week. She did not have an update but can get one and share it with the Core Team via email. Regarding Trainsong Park, DEQ postponed soil sampling due to equipment issues and dry grounds. They plan to go out in January/February 2023 to continue soil sampling. EPA is providing funding for sampling at Trainsong. Susan noted that DEQ will reach out to ABC if they need help getting permission for access to properties. The City of Eugene is also looking into potential surface or groundwater sampling at Trainsong.

Next Steps & Action Items

- **ACTION:** DEQ (Susan) will provide an update from the December water quality inspection to the Core Team.
- **ACTION:** Provide updates on soil (DEQ) and potential surface/groundwater (CoE) sampling at Trainsong Park at the next Core Team meeting.
- **ACTION:** DEQ (Susan) will check in on whether DEQ needs ABC to help gather access agreements for soil sampling at Trainsong; DEQ will reach out to ABC if needed.
- **ACTION:** EPA will work to plan a public meeting, likely in February 2023.
- **ACTION:** Core Team, specifically community members, will reach out to Alice to offer input on when, where, format, and needs for the public meeting.
- **ACTION:** DSC will schedule a Core Team meeting ahead of EPA's public meeting so the Core Team can preview and provide input on the meeting content.
- **ACTION:** OHA will provide the Core Team the final report via email the morning of the day of public release.
- **ACTION:** OHA will schedule and plan for a community meeting regarding the Health Consultation report, near the mid-point of the public comment period.

The next Core Team meeting will be scheduled ahead of the EPA public meeting. Agenda topics will include project updates, presentation, and review of content for the public meeting, and updates on Trainsong.

With that, Donna thanked everyone for their participation adjourned the meeting.

This summary was prepared by the DS Consulting facilitation team. Comments or suggested edits should be sent to emily@dsconsult.co