Coordination & Engagement on Issues Related to the JH Baxter Facility

COMMUNITY ENGAGEMENT CORE TEAM

Meeting 21

Monday, October 30, 2023

Facilitator's Meeting Summary

Participants for all or part of the meeting: Jeremy Aasum (Community member/ABC), Lisa Arkin (BT), Arjorie Arberry-Baribeault (BT), Robin Bloomgarden (Community Member), Mary Camarata (DEQ), Alice Corcoran (EPA), Bonnie Criss (EPA), Diane DeAutrement (community member), Dylan Darling (DEQ), Brad Eagleson (DEQ), David Farrer (OHA), Don Hanson (DEQ),Todd Hudson (OHA), Max Hueftle (LRAPA), Travis Knudsen (LRAPA), Randy Nattis (EPA), Emily Pyle (ABC), Teresa Roark (LCPH), Diana Rohlman (OSU), Rafi Ronquillo (EPA), Brad Schultz (DEQ), Susan Turnblom (DEQ), Trail Smith (CoE), Sarah Wheeler (DEQ), Jon Wilson (CoE), and Lin Woodrich (ABC).
Facilitation Team: Donna Silverberg and Emily Stranz, DS Consulting.

Welcome and Introductions - Facilitator, Donna Silverberg, welcomed the group to the 21st Core Team meeting. The purpose of the session was to hear updates from EPA and DEQ about clean-up and sampling, to provide an opportunity for questions, to hear updates from community, OHA, LRAPA, City of Eugene, Lane County, and DEQ reps, and to do final planning for the November 13th public meeting.

Status report on EPA's Sampling and Cleanup at JH Baxter – Randy Nattis, EPA, provided an overview of the Superfund process (see slides below). Superfund, or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), is a law passed by Congress in 1980 in response to a number of contaminated hazardous waste sites (Love Canal, Times Beach, and Valley of the Drums). The law provided authority to EPA to enforce cleanup of contaminated sites and require that the responsible parties pay for or perform the cleanup. The Superfund process provides emergency response, information gathering and analysis, liability for responsible parties, and site cleanup. Superfund has the following goals:

1. Protect human health and the environment;
2. Make the responsible parties pay for the cleanup work, if possible;
3. Involve communities in the process; and,
4. Return the site to a productive use.

There are established, proposed, and deleted (or cleaned up) Superfund sites throughout the nation, a map of which can be seen by clicking on the link.

Under the Superfund program there are two types of processes: Removal and Remedial.

There are three types of actions within the **removal process**: emergency response, time critical removal, and non-time critical removal. All three types of actions in the removal program include assessment, removal, and post removal phases. Community involvement is integral to the entire process. Removal actions can occur at any time, including during the remedial process (for example at the JH Baxter site).

The **remedial process** also has distinct phases, including 1) assessment, 2) characterization, 3) selection of remedy, 4) cleanup, and 5) post construction. Community involvement, enforcement, and emergency response can occur at any time in the remedial process.

1. *Assessment phase* (the JH Baxter site is currently in this phase): includes the discovery of contamination, preliminary assessment, site inspection, and then determining whether the site should receive a national priorities listing (NPL). This phase includes air, water, and soil sampling at

and around the site to determine what hazardous waste is present and, if so, whether it is a threat to human health. This information is used to determine if the site will be listed as a Superfund site.

   a. Note: there are three ways that a site can be listed as a Superfund or on the NPL: receive a Hazard Ranking System (HRS) score of at least 28.5; be designated by the Agency for Toxic Substances and Disease Registry (ATSDR) due to hazards to human health and other criteria; or designated by the State (each state may only designate 1 site, ever. North Redge Estates was Oregon's one and only site). Randy noted that EPA is on the cusp of its NPL decision process for the JH Baxter site.

2. *Characterization phase:* This phase includes a remedial investigation/feasibility study, and a proposed plan. After NPL listing, the site is further characterized to assess the extent of the contamination, what technologies can be used to treat the contamination, cost estimates, and eventually a plan of action for cleanup.
   a. As part of this step, the EPA works with the community to develop a community involvement plan (CIP). There is also the potential for the community to receive a technical assistance grant for resources to help the community participate in the effort (for instance, to help translate technical details). Community outreach, engagement, and information sharing are important parts of this process and includes interviews, process design, access to information and reports, media, public meetings, etc.
3. *Selection of remedy phase:* This Phase includes a formal Record of Decision or ROD. The ROD is an action memo clarifying the cleanup actions, cost, and how EPA will implement it. This phase also includes public meetings, opportunities for the public to provide input and comments, and, once finalized, the community involvement plan will be revised and implemented.
4. *Cleanup phase:* includes remedial design and remedial action. This phase includes design of the cleanup and implementation of the cleanup actions. This phase also includes multiple opportunities and avenues for public engagement.
5. *Post construction phase:* Involves operations and maintenance and, eventually, deletion from the NPL. This phase includes ensuring that the cleanup actions result in long-term human health and environmental safety on the site. It includes operation and maintenance of the ongoing cleanup technologies on site and a 5-year review. Then, once all the cleanup goals are met, the EPA will propose that the NPL is deleted (or removed) from the NPL. Like other steps in the process, there are opportunities for public meetings and comments.

One of the goals of the Superfund law is that a site is returned to productive use, such as housing, public works facilities, transportation, and other community infrastructure. No matter what the use, the community should benefit because the property is cleaned-up. The community and local government are engaged in this step of the process.

Questions from the Core Team

- *Question*: What happens to the private property owner in this process? How are they involved?
  - *Response:* Every site is unique. Ideally, they are paying for, or doing most of the cleanup under supervision. It is still to be determined what JH Baxter's involvement will be, as EPA and DEQ are still investigating their ability to pay.
  - *Response:* The 2nd goal of the Superfund process is to make the responsible party pay. EPA will use their authorities to get funds, often this is what is left as the property's value.
- *Question:* Does the property owner retain ownership of the property after it is cleaned up?

- *Response:* Randy will ask internally to see whether the property is ever relinquished from the original owner.

What is happening on site at JH Baxter? – Randy showed where the JH Baxter project is in the Superfund process, noting that the effort is in phase 1 (assessment phase) and that the discovery of contamination step has been conducted. Now, EPA is working on the preliminary assessment and site inspection phase. Results from sampling are being reviewed and compiled into a report that will be internally reviewed and revised before going to a team of experts who will rank it, using the Hazard Ranking System, for potential inclusion on the NPL.

Under the Removal Program, the onsite evaluation was conducted in September and results of the tank assessment are being evaluated; EPA is developing a statement of work and cost estimate for the time critical removal action now, with the goal of conducting time critical removal actions in winter-spring 2024. The removal effort could take months or a year.

In the meantime, EPA has a 24/7 emergency response program with on call duty officers and contract support. If the Government were to shut down, the emergency response program is considered an "essential function" of government and will be available.

As mentioned above, EPA enforcement has JH Baxter's financial information and is evaluating their ability to pay. Depending on the outcome, JH Baxter will support the cleanup effort either with funds, or onsite with their site expertise.

Questions from the Core Team

- *Question:* Can you provide more details on the site assessment test results?
  - *Response*: The contractor has the sampling data, is evaluating it, and will provide a written report. EPA will review, comment, and then the final report will be a public document. This will likely be available within two months.
- *Question:* There was concern that some chemicals onsite would not be easily removed or disposed of… can you provide any updates?
  - *Response*: That is part of the scope of work and cost estimate that EPA is working on now. EPA does a "waste stream determination", where they share information on the specific contaminants and amounts. Disposal companies then help clarify how and when disposal can happen, and how much it will cost.
- *Question*: Is there any way for the community to support the process moving forward more quickly?
  - *Response*: Yes, early questions and participation is helpful, and the process of designing the community engagement part is key. Working together to have efficient and effective communication can make things go faster. Back and forth iterations are okay, but also take time, so having a solid plan and approach to communication and engagement is helpful.
- *Question:* Does the Superfund process include the residential cleanup too?
  - *Response:* DEQ is leading a time critical removal that is outside of the Superfund process. However, potential future cleanups could be part of the Superfund cleanup.

Take-aways/suggestions for the November community meeting

- The information presented is helpful and thorough.
- Consolidating information and making the presentation shorter would be good for communicating with the general public.

- There may be folks who haven't attended any meetings yet and may have questions about the health impacts to them personally and their property. It may be good to start with a very short update on that before diving into the Superfund presentation.

Updates on Tree and Soil Removals – Susan Turnblom and Don Hanson, DEQ, reported that the tree and vegetation removal conducted by Sperry Tree Care wrapped up on October 10th and residents reported being pleased. DEQ is still working with residents who will have soil removed later this year to determine restoration plans, including replanting and replacing trees or plants as desired. DEQ and individual residents are also working on relocation details for the period during which their yards will be cleaned.

Regarding additional soil removal cleanup: DEQ had a pre-bid site-walk with 3 potential subcontractors. Bids are due November 13th and the work is targeted for the week after Thanksgiving.

The last round of step-out sampling identified 4 additional properties with over 40ppt dioxin. DEQ will work to clean those up next year, assuming there is funding.

Updates on JH Baxter Safety - Brad Eagleson, DEQ, reported vandalism to the stormwater system that occurred at JH Baxter on Labor Day weekend. JH Baxter contracted to make repairs and they were close to being done, but on October 11th it was vandalized again. The pumps were up and running on October 12th. There was another attempt on October 15th, but Security of America was onsite, and the person ran off.

There are a series of 3 storm water collection tanks, totaling 2.25M gallons of storage. The collection system is running, but the treatment system is not working. Contractors will be onsite soon to fix the treatment system and there is significant storage space available now.

JH Baxter is in the process of adding two motion-sensor security cameras that will be tied into Security of America's system and running 24/7. If motion is detected, a photo is taken and sent to the security company. This should be helpful, as the type of vandalism that is occurring is not a 1-hr job, it is a night's worth of work.

Questions and Comments from the Core Team

Suggest – motion sensor lights too…

- *Suggestion:* Have JH Baxter add motion sensor lights along with the cameras.
- *Question:* What happened with the trees that were removed and chipped up?
    - *Response:* The trees were chipped and taken offsite (to Lane Forest Products) because the chips would be in the way of removal activities. The trees are not believed to have contamination, because the contaminates of concern (dioxins) are not water soluble and would not be taken up into the tree; instead, dioxins stick to soil, oil, and fats.
- *Question*: Will there be another step-out for dioxin soil sampling? If so, in what direction?
    - *Response:* In the recent round of sampling, the higher levels are further north along Baxter Street. DEQ and EPA have not found an edge of contamination yet. Eventually there will be another step out. Right now, the agencies are focusing on the site assessment and integrated assessment, and EPA will likely include additional sampling within the workplan. EPA is looking at historical images and land-use to try to determine why Baxter Street is contaminated.

Other Updates

Coordination & Engagement on Issues Related to the JH Baxter Facility

- Beyond Toxics - BT will be talking to residents that have had trees removed to make sure that those impacted have their voices heard by other community members. This will be a debrief conversation of this work and also is part of the Bethel Clean Energy Program.
- After a lot of hard work from BT, ABC, and others, the Eugene City Council voted unanimously to move forward with a public health protection overlay zone in the City's land-use codes.
- ABC – Thrilled about the public health overlay zone for all of Eugene.
- OHA – Changes to the health consultation report are ongoing and a final will be released in 2024.
- LRAPA – Echoed the overlay zone excitement. No other updates.
- City of Eugene – This City continues to conduct site visits at JH Baxter to check the stormwater outfall.
- Lane County Public Health – No updates.
- DEQ – Enforcement is still working with DOJ to secure the State's ability to get paid for the civil penalty against JH Baxter. Recently, DEQ signed a new settlement order which makes the company liable for increased civil penalties. The new order added another JH Baxter legal entity in California and, as such, provides another entity from which to potentially get payment. The civil penalty requires payment and accrues interest.
- DEQ – Brownfields – The City of Eugene is submitting a grant request for EPA's national brownfields competition for Trainsong Park. The request will be scored nationally and announced in May 2024; money would be available in October 2024.

Next Steps & Action Items – Donna noted that there will be a virtual public meeting on November 13th from 6-7:30, as a webinar. If Core Team members have additional input on important information to share at the November public meeting, please reach out to Donna or Emily to share ideas.

Likely, the next Core Team meeting will be in the new year. If needed, the Core Team can come together sooner. In the meantime, updates will be provided via email.

Donna thanked everyone for their participation and adjourned the meeting.

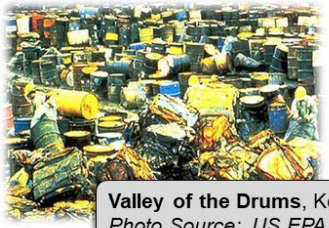
This summary was prepared by the DS Consulting facilitation team. Comments or suggested edits should be sent to emily@dsconsult.co

Superfund Overview

What is 'Superfund'? A law that allows EPA to clean up contaminated sites and forces parties responsible for the contamination to either perform cleanups or reimburse the government for EPA-led cleanup work.

Times Beach, Missouri (1982)
Source: AP1982

Love Canal, Niagara Falls (1979)
Photo Source: The Buffalo News



Valley of the Drums, Kentucky (1981)
Photo Source: US EPA

www.epa.gov/superfund

EPA

Superfund Overview

Photo Sources: EPA

CERCLA

- 1980 – Comprehensive Environmental Response, Compensation, and Liability Act

Commonly referred to as the 'Superfund law''

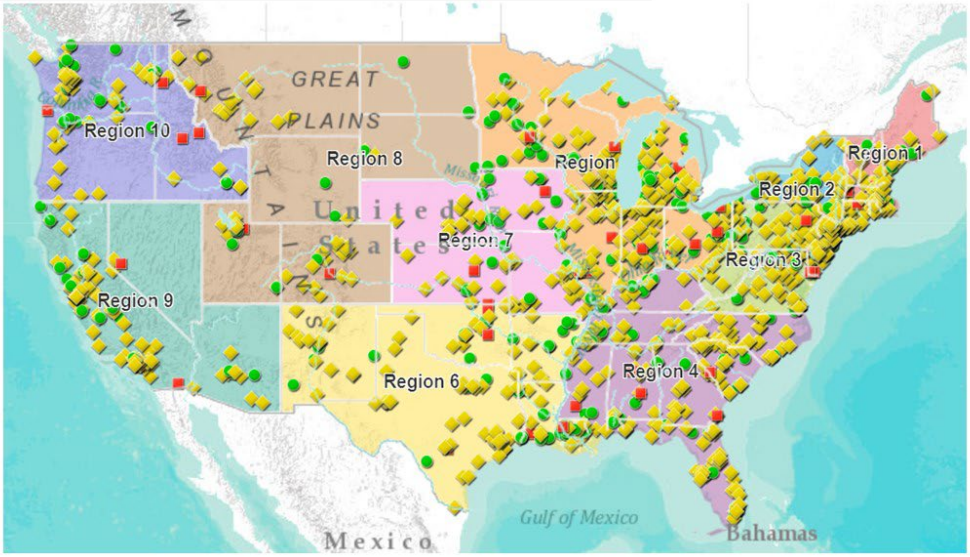
- Address the dangers of abandoned or uncontrolled hazardous waste by developing a nationwide program for:
  - emergency response;
  - information gathering and analysis;
  - liability for responsible parties; and
  - site cleanup

EPA

EPA

Coordination & Engagement on Issues Related to the JH Baxter Facility

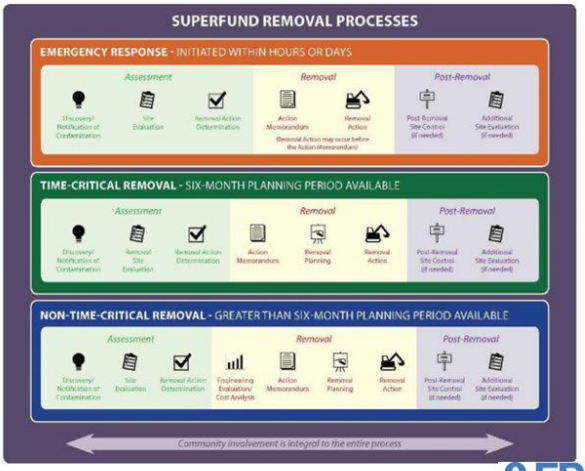
Superfund Sites Nationwide



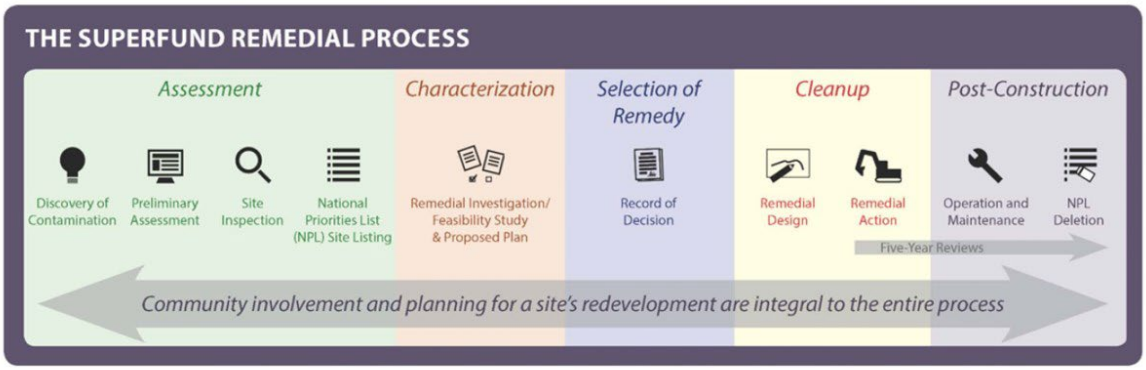
Source: EPA Superfund National Priorities (NPL) Where you Live Map

EPA SUPERFUND REMOVAL PROCESSES

- Emergency Response
  - Initiated within hours or days
- Time-Critical Removal
  - Six-month planning period available
- Non-Time Critical Removal
  - Greater than six-month planning period available



THE SUPERFUND REMEDIAL PROCESS

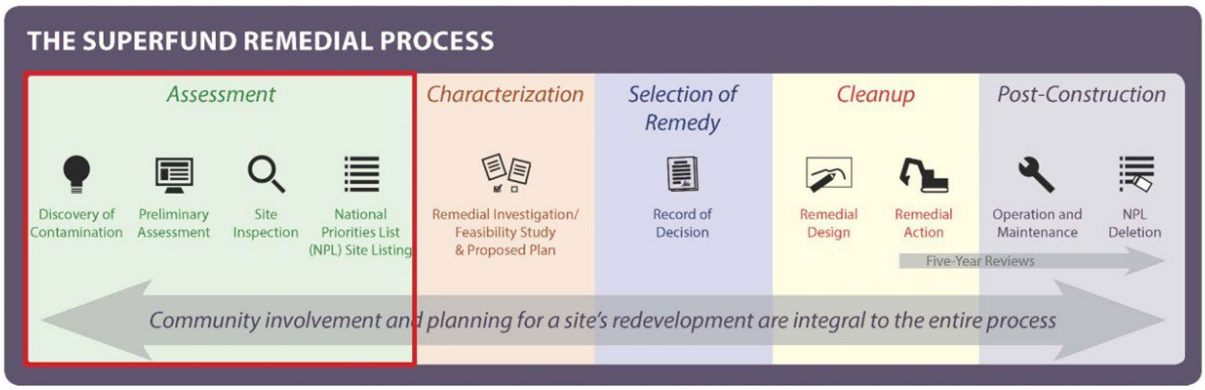


Note: Removal actions can occur at any time, including simultaneously.

EPA

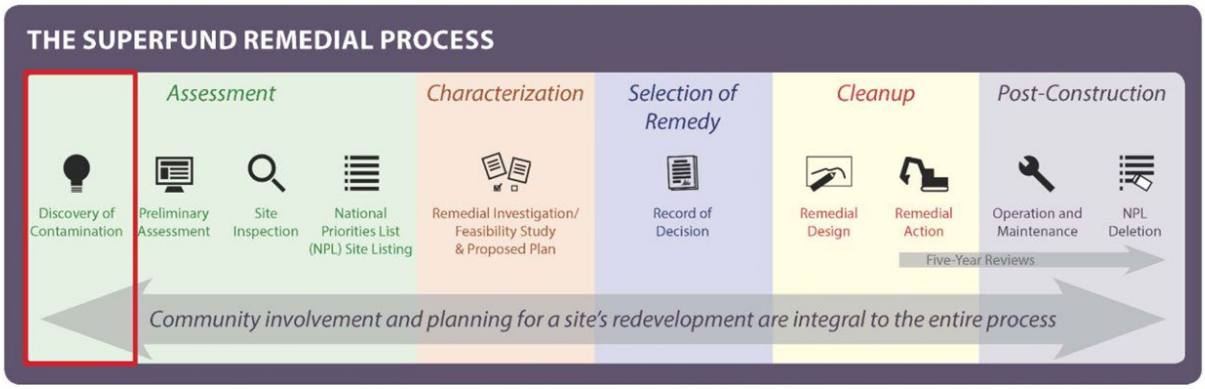
ASSESSMENT STEPS

What happens when a polluted site is discovered?



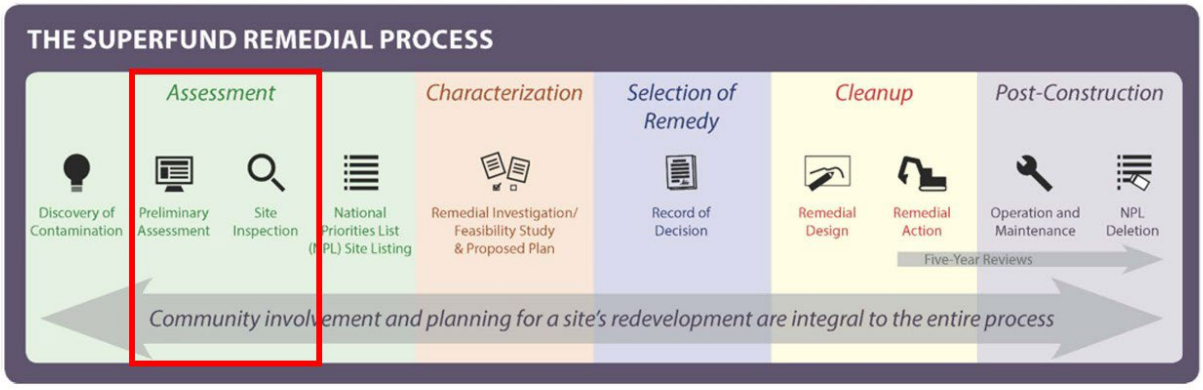
EPA

ASSESSMENT STEPS



EPA

ASSESSMENT STEPS

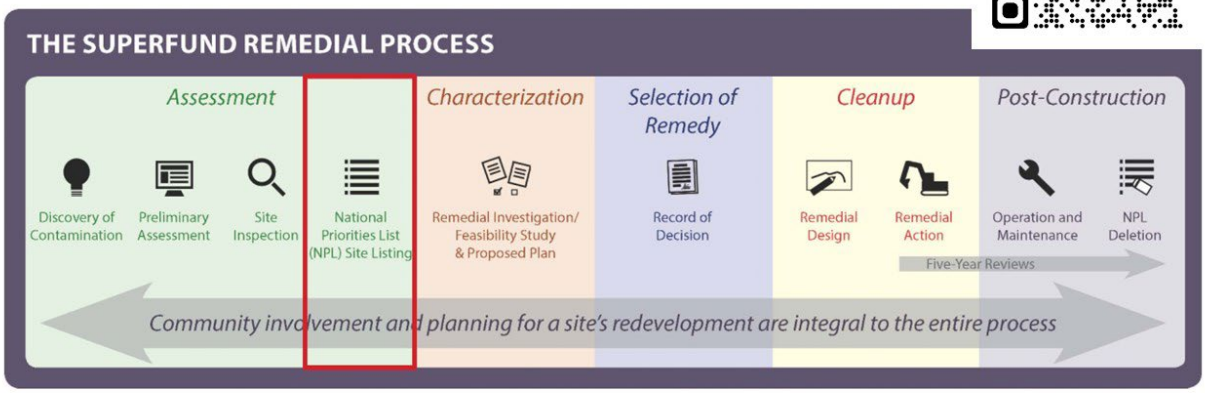


EPA

Coordination & Engagement on Issues Related to the JH Baxter Facility

Hazard Ranking System (HRS) website

ASSESSMENT STEPS

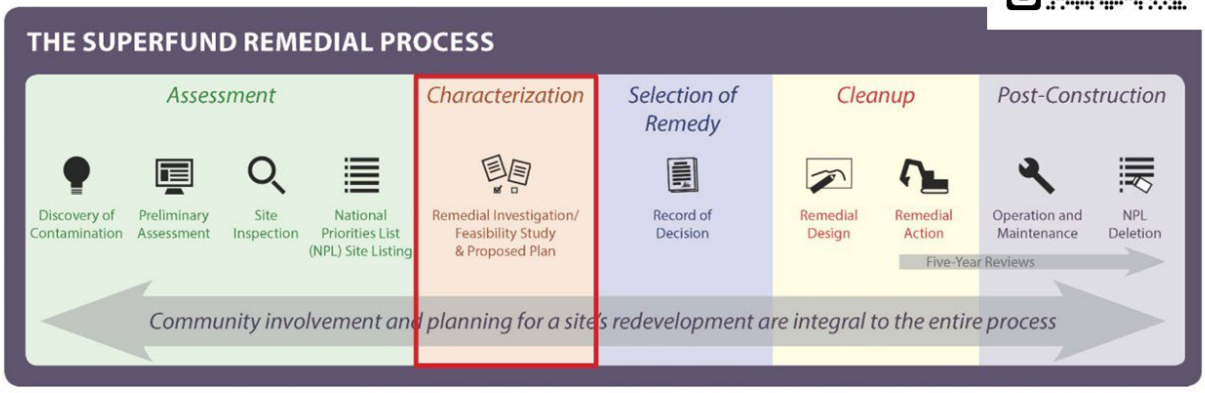


EPA

Superfund Community Involvement

CHARACTERIZATION

How much contamination is there? How do we clean it up?



EPA

Coordination & Engagement on Issues Related to the JH Baxter Facility

EPA

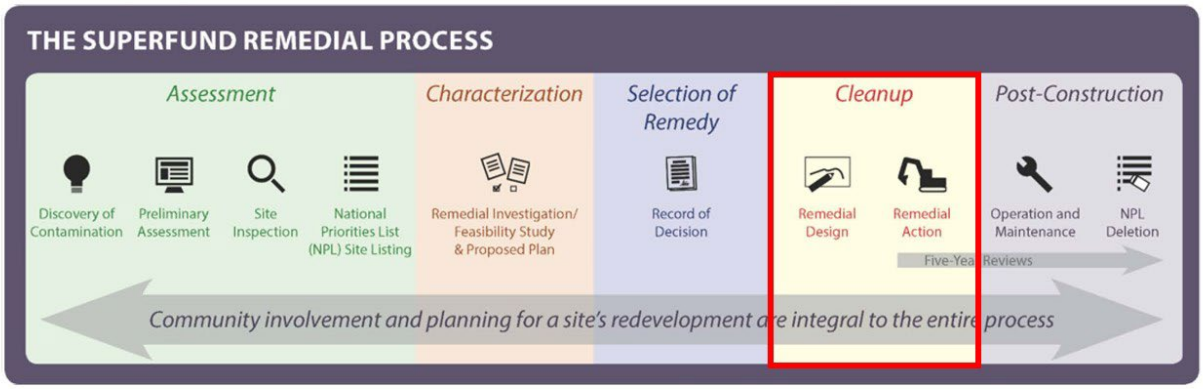
SELECTION OF REMEDY

What happens after evaluation of cleanup options and public comment?

EPA

CLEANUP STEPS

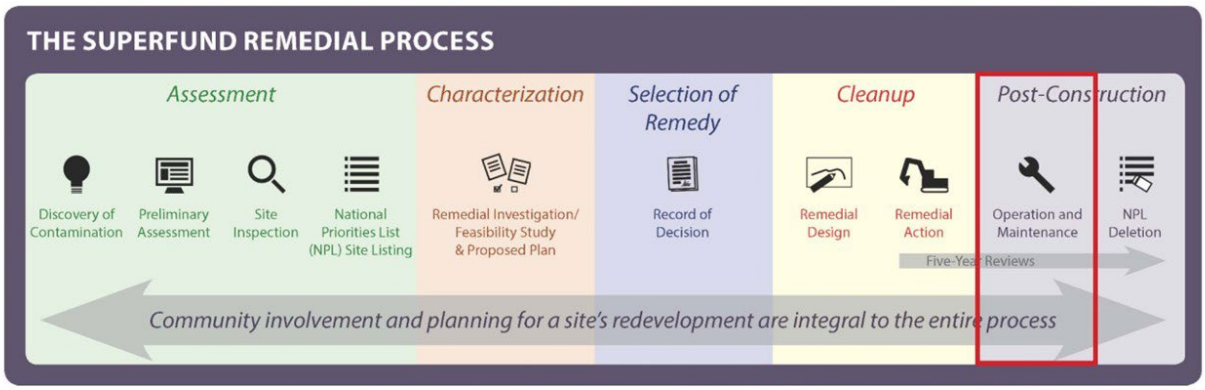
What happens after remedy selection?



EPA

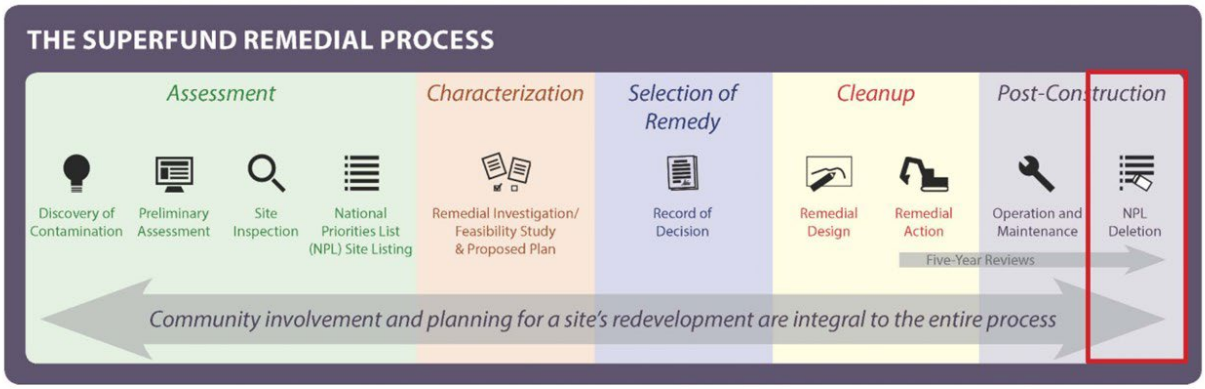
POST-CONSTRUCTION STEPS

What happens after cleanup?



EPA

POST-CONSTRUCTION STEPS



EPA

Reuse/Redevelopment

- **Once sites have been cleaned up, EPA works with communities through an array of tools, partnerships, and activities to help to return these sites to productive uses.**
  - These uses can be industrial or commercial, such as factories and shopping malls.
  - Some sites can be used for housing, public works facilities, transportation, and other community infrastructure.
  - Some sites can be for recreational facilities, such as golf courses, parks and ball fields; or for ecological resources, such as wildlife preserves and wetlands.

  No matter what use is appropriate for a site, the community benefits from restoring the site to productivity, because the property can once again add to the economic, social, and ecological value of the community.

- **Opportunities for Community Involvement related to Reuse of the Site**
  - Work with EPA, your local government, and your neighbors to plan the redevelopment of the site.
  - Explore the redevelopment tools and resources provided by EPA.
    - www.epa.gov/superfund-redevelopment
  - Be supportive of redevelopment plans once they have been agreed upon.

EPA

Superfund questions??

EPA

What is happening - JH Baxter?

- Safety – (Superfund Removal process – Emergency Response)
  - EPA has a 24 / 7 emergency response program with on call duty officers and contract support

- Tank Farm sampling (Superfund Removal process – Time Critical Removal Action)
- Integrated Sampling (Superfund Remedial process)
- Other activities – Enforcement activities

EPA

Coordination & Engagement on Issues Related to the JH Baxter Facility

On-site - Removal Site Evaluation

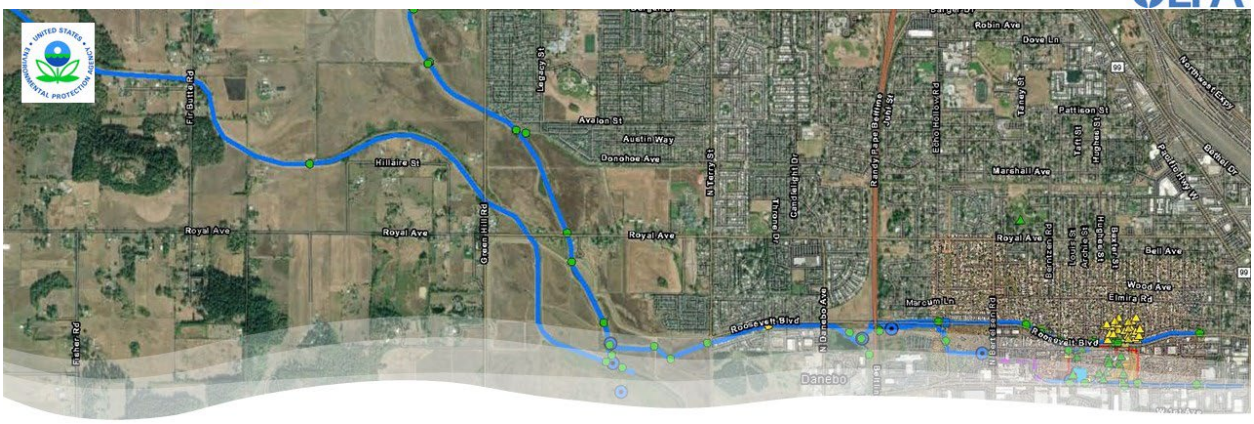
- Conduct field sampling in Fall 2023 of the JH Baxter facility with a focus on the product and treatment tank farms. This effort will provide the additional data needed to evaluate the need for a Time Critical Removal Action (TCRA).

Waste Stream	Waste Stream Group	Estimated Quantity (gallons)	Total Estimated Quantity by Waste Stream Group (gallons)
	ACZA (assume product)	137,475	
	ACZA Concentrate	56,776	
	ACZA Condensate	256	
cal Copper Zinc Arsenate	ACZA Mixing Tank	11,430	219,793.25
	ACZA recovery water	8,175.75	
	ACZA Solution	1,037.5	
	Tank 50 ACZA Scrubber	1,215	
	PCP (assume product)	98,738.80	
	5% Penta	29,287	
rophenol	PP-9 Penta	32,325	157,983.30
	Penta Recovery	17,361.5	
	Penta Vapor	350	
	Used Diesel Oil	55	
	Used Hydraulic Oil	18	405.50
	Used Oil (other)	332.5	
	Bunker Oil	56,134	
	Diesel Oil	6,000.99	
	Engine Oil	99	
re product)	FPS Oil	7,446	70,065.54
	Hydraulic Oil	233.75	
	Multi Purpose Oil	141.9	
	Stove Oil	9.9	
	50/50 Creo Penta	17046.5	
overy	Creosote 50/50	22,942	71,030.57
	50/50	32,939.57	
	Creo/Penta	82.5	
ter	Process Waste	47,022.25	48,448.15
	Penta waste water sludge	1,425.94	
	ACQ Solution	8,526.08	
opper quaternary (ACQ)	ACQ Scrubber Water	1,500	10,169.39
	Copper Oxide Concentrate	149.31	
	Creosote (assume product)	19,137	19,137.00
nonia	Aqua Ammonia (assume product)	1,478.75	1,478.75
hanolamine Complex	CEA Complex (assume product)	1,320	1,320
	PCP/ACZA	1,100	1,100
			403,901.49

Timeline / Anticipated schedule

March 2023 – Conducted an initial reconnaissance, asbestos survey, and preliminary inventory of the Tank Farm

- June 2023 - Developed a sampling strategy and plan
- September 2023 – Product and treatment tank farm sampling event
- Currently – Developing a SOW and cost estimate for a TCRA
- Winter - Spring 23/24 – Begin TCRA



Purpose of Site-Wide Integrated Assessment

- Conduct one field sampling event that provides the data needed to evaluate the eligibility of the site for possible inclusion on the National Priorities List (NPL) and the potential for on-facility removal activities.

Q&A