

Coordination & Engagement on Issues Related to the JH Baxter Facility

COMMUNITY ENGAGEMENT CORE TEAM

Meeting 18

Tuesday February 21, 2023

Facilitator's Meeting Summary

Participants for all or part of the meeting: Jeremy Aasum (Community Member/ABC), Arjorie Arberry-Baribeault (BT), Lisa Arkin (BT), Anthony Barber (EPA), Robin Bloomgarden (Community Member), Mary Camarata (DEQ), Killian Condon (DEQ), Alice Corcoran (EPA), Bonnie Criss (EPA), Dylan Darling (DEQ), Diane DeAutremont (Community Member), Bill Dunbar (EPA), Ed Farren (ABC), David Farrer (OHA), Pradnya Garud (OHA), Todd Hudson (OHA), Max Hueftle (LRAPA), Travis Knudsen (LRAPA), Randy Nattis (EPA), Hanna Nguyen (BT), Kieran O'Donnell (DEQ), Diana Rohlman (OSU), Rafi Ronquillo (EPA), Seth Sadofsky (DEQ), Nancy Sawka (DEQ), Susan Turnblom (DEQ), Sarah Wheeler (DEQ), Jon Wilson (CoE), and Lin Woodrich (ABC).
Facilitation Team: Donna Silverberg & Emily Stranz, DS Consulting.

Welcome and Introductions - Facilitator, Donna Silverberg, welcomed the group to the 18th Core Team meeting. The purpose of the session was to update the Core Team on DEQ and EPA's Clean-Up of JH Baxter and the surrounding community, and to provide an opportunity for brief updates and questions regarding related community, OHA, LRAPA, City of Eugene, Lane County, and DEQ efforts.

Donna welcomed Kieran O'Donnell, DEQ's Office of Compliance and Enforcement Manager. Kieran recapped for the Core Team that DEQ issued an enforcement action against JH Baxter in 2021. The enforcement action was uncontested and so the agency prevailed without a contested case hearing. Now, DEQ is working with the Oregon Department of Justice (DOJ) to collect penalty fines from JH Baxter. DOJ has issued liens on JH Baxter owned properties in both Oregon and Washington (JHB owns and rents out a property in Washington State). Additionally, DOJ is looking at JH Baxter and Georgia Baxter's ability to pay. To support timely cleanup of the residences impacted by JH Baxter, DEQ made a determination that the company was unlikely able to pay for the cleanup; this allowed DEQ to access internal (aka Orphan) funding to support clean-up. Regardless of the internal funding, DEQ and DOJ are doing all they can to collect fines from JH Baxter.

The group approved the December Core Team meeting summary with no additional edits. The final summary will be posted on the DEQ website.

Soil Sampling & Clean-Up Updates - Status report on Clean-Up

DEQ and EPA residential soil sampling and removal efforts – Susan reported that DEQ is leading the investigation and planned cleanup of contaminated soil in the neighborhood north of JH Baxter. DEQ is working with a contractor to get more information on the seven yards identified as needing cleanup sooner than later. This phase of sampling will inform DEQ on how much contaminated soil they need to remove. The sampling will include using a drill to access deeper soils and will take a few days. DEQ expects sampling to be complete in April 2023, with soil removal this summer.

EPA is acting as DEQ's contractor to collect soil samples at an additional 28 residences that DEQ has not yet sampled (bringing the total of EPA sampled residences to 50). EPA will be in the neighborhood taking soil samples the weeks of March 6th and 13th. They currently have 12 access agreements signed and asked whether ABC would be able to help getting more access agreements signed. Lin affirmed that ABC is happy to help.

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- **ACTION:** Randy will provide a factsheet, list of addresses, and the access agreement template to Lin for ABC to use in this outreach effort. Lin will coordinate ABC volunteers in reaching out to the residents.

Additionally, EPA has received an access agreement from JH Baxter and will be onsite in March conducting an inventory to determine what is in each tank. This information will inform additional onsite sampling this spring and EPA's management of clean as the next step in the process of accessing additional enforcement and cleanup tools.

Questions and comments from the Core Team

- Question – Is there any thought about testing soils on commercial and publicly owned properties next to JH Baxter?
 - Response – Yes, offsite sampling, including drainage pathways, wetlands downstream, and neighboring properties is part of the process to determine eligibility for EPA's National Priorities List (i.e., Superfund).
- Question – Once EPA is onsite, will someone be onsite at all times to prevent issues from occurring (e.g. trespassing, looting, or accidents)?
 - Response – No, EPA has gained access to the property, but not control of the property. JH Baxter is the property owner and is responsible for maintaining control. EPA will coordinate with JH Baxter when accessing the site. However, in the case of an environmental emergency, EPA would be able to mobilize a response. If JH Baxter were to rescind access, EPA has enforcement avenues they could use to regain access.
- Question/Comment - Could the agencies pool funds for a full-time security guard? It seems like the agencies are preparing to respond to an emergency; the community would rather prevent an emergency instead of respond to one. Community members are concerned about safety, both on-site and in the neighborhood.
 - Response - Jon reported that he has talked to the fire department, and they are aware of the situation at JH Baxter and are prepared to respond, if needed. Randy added that he was onsite last week and the pump and treat, and stormwater systems appeared to be in working order. Killian reported that DEQ's Hazardous Waste inspectors have been inspecting the site monthly. He also noted, as the eyes of the group, that there is nowhere on site where an animal or human could fall into an open container of chemicals; almost all containers are closed and chemicals are inaccessible. Additionally, there are EPA requirements that mandate that all tanks have secondary containment capacity, so if something were to happen to a tank, there is a secondary containment to capture leaks.
- Question: Why isn't the legal path better understood? Do DEQ and EPA have other examples of recalcitrant polluters who have abandoned their responsibilities that they can look at?
 - Response – Yes, and the agencies need to go through the compliance processes to ensure that all required steps are taken so the agencies may utilize all the tools available to them. It does take time, but it is the only way to access the agencies' legal authorities. Kieran added that under state's cleanup authorities, the state can respond if there is a release or potential release of pollution that is an imminent risk to the community.

Nancy Sawka, DEQ's regional Clean-Up manager, updated the Core Team on a letter the DEQ programs jointly sent to JH Baxter on February 14th. The letter clarifies all of DEQ's remaining concerns and requires JH Baxter to develop a comprehensive plan specifying how they will come into and maintain compliance with each program. Additionally, the plan must include how JH Baxter will provide financial assurance to maintain ongoing operations, as well as clarity about how JH Baxter will secure the property. If DEQ has not received a plan from JH Baxter as of March 20, DEQ will continue moving forward with additional enforcement actions.

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- **ACTION:** Nancy will provide the letter to the Core Team following the session (*sent 2/22/23*).

Randy reported on EPA investigations to determine the eligibility for its Superfund National Priorities List (NPL). He noted that contractors are in place and ready to go. This requires EPA to go through a ranking process, which includes offsite sampling of drainage pathways, downstream wetlands, neighboring properties, etc. This then results in a score to determine whether the facility qualifies for listing. It likely will take a few months to do the NPL assessment and scoring. If the site qualifies, the Superfund (or CERCLA) program can provide additional funding. There then is a schedule for EPA to propose sites for the Superfund list, which can take up to a year. Randy noted the EPA Cleanup program limits project funding to 12 months or \$2M and there is a waiver process that could support up to \$6M and additional time. The Cleanup program receives \$7-8M/year to cleanup sites. He anticipates JH Baxter's cleanup will be expensive.

In the meantime, EPA will utilize the enforcement tools available to them to order JH Baxter to conduct the cleanup. If they do not take action, EPA will take steps to get funds from JH Baxter for the cleanup work. Regardless of who conducts the work, EPA will be very involved to ensure cleanup is done properly; they will have 100% oversight.

Randy recapped that the immediate next step is sampling of the tank farm; this will get the information that is needed (e.g. analytical support of what is in the tanks) to allow EPA to order JH Baxter to take action.

- **ACTION:** EPA (Bill, Alice, and Rafi) and DEQ (Susan) will provide ABC and BT statements regarding upcoming field work at and near JH Baxter by Friday, February 24. ABC and BT will use these for their newsletters and updating the community.

Public messaging and meeting plans – Donna shared a list of upcoming public meetings:

- March 8 – BT public meeting; in person at Willamette High School. Topics: Overlay zone, Gas ban & gas stations (not JHB, but it might come up).
- April 4(ish) Core Team meeting - [Note: The Core Team requested to have their next session when the Trainsong soil sampling data is available, see below.]
- April (tbd) - EPA and DEQ public awareness session re: sampling and clean-up (in person and online).
- April 22 - ABC public meeting in person at Petersen Barn re: OHA Health Assessment, and updates from DEQ, LRAPA, City of Eugene, Lane Public Health, OSU, et. al. ABC will announce this meeting in their April print and email newsletters.
- Mid-May - LRAPA's JHB Air Permit hearing.
- May 16th(ish) - Core Team meeting.
- June 10: We are Bethel Community Celebration!

Updates from Team Members –

- **Beyond Toxics** – Lisa reported that BT applied for and received a grant to work with residents living near JH Baxter. The grant aims to benefit the community through clean, green energy options like solar or heat pumps, and to contribute to positive community work being done.

Additionally, BT will have a meeting in March, which is not specifically about JH Baxter, however, JH Baxter will likely come up. Arjorie asked the agencies what information provided tonight is not public information for BT to communicate to others. Agency representatives responded that everything reported tonight is okay to share with community members. Because the agencies are providing technical information that could be confusing for those not involved in these conversations, tailoring the messages might be helpful. Additionally, the timeframes provided for actions and meetings are best estimates at this point and are subject to change. If BT would like to talk more about details to share, they can reach out to Alice or Rafi at EPA, or Susan at DEQ.

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- **ABC**– Lin reported on two upcoming events: the April 22nd ABC general meeting and the June 10th “We Are Bethel” event. Many of the Core Team partners will have tables at the June 10th event and Lin asked if EPA would like to have a table as well.
 - **ACTION: Lin will send Alice details on the “We Are Bethel” event for EPA to consider if they would like to have a booth.**
- **OHA**– Pradnya reported on the draft Health Consultation Report status and public meeting plans. She noted that OHA has finished reviewing the document and expedited the Spanish translation, so they are on track for a March 2nd release. OHA has agreed to do a screensharing session of the summary factsheets (which include health consultation conclusions and public health recommendations) a day before the public release. This also allows OHA to get factsheets to EPA and DEQ soil samplers for when they are in the field the week of March 5th and 13th.
 - **ACTION: OHA will work to schedule the screen sharing session with Core Team Community members on Wednesday, March 1. OHA can also provide a Spanish screen sharing and presentation, if desired.**
- **LRAPA**– Travis reported that at the last Core Team meeting there was interest in having LRAPA participate in DEQ’s compliance letter to JH Baxter. LRAPA heard that request and, after conferring with DEQ, sent a separate letter to JH Baxter specifying the facilities’ compliance status since the facility stopped production in January of 2022. The letter link is here: <https://tinyurl.com/yycp6dm>

Additionally, JH Baxter’s air permit has been updated. The new permit is a less complex air permit, which no longer includes wood preservation and removes the ‘netting basis’. Previously, JH Baxter got a credit (netting basis, or emissions credit) because they were open and operating prior to the establishment of new permit rules. This credit allowed JH Baxter to sell the facility to a similar industry owner who also could benefit from the netting basis. Because JH Baxter’s operations have changed, this is no longer the case under the new permit. The new permit requires a Level 1 Cleaner Air Oregon process that will be conducted and result in a health risk assessment of the quantifiable emissions (including the boiler, evaporator, and burning of diesel fuel as a back-up if the natural gas goes out). There will be a public process to share information and get public comments. LRAPA will provide at least 30-days notice before the public hearing and a public comment period. Although JH Baxter is not manufacturing treated wood products, the permit is necessary because they still have on-going operations that require JH Baxter and LRAPA to monitor the site.

- **City of Eugene**– Jon reported that City of Eugene put together an application to collect, store, and analyze water quality data and the application is now functional. He noted that this will allow for easier collecting, storing, and analyzing of data.
 - Question – Is there an opportunity for the community to observe or participate in the City’s water sampling? BT has heard from many students that they would be interested in learning about water sampling.
 - Response – Yes! The City has partnered with Lane Community College in the past on storm water sampling and would like to explore additional opportunities.
- **DEQ**– Nancy reported on soil sampling activities at Trainsong Park. She reminded the group that, about a year ago, DEQ sampled the park as one of the seven background locations used to compare background toxin levels to those found at and around JH Baxter. All the other background samples were extremely low, but DEQ found elevated levels of dioxin in some areas of Trainsong Park. In response, the City closed portions of the park, and DEQ has been conducting sampling. DEQ attempted to sample more residential and stormwater areas, however, they were unable to get samples due to environmental conditions (dry soils). DEQ went out again recently and sampled 8

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backyards adjacent to the park, and additional areas within the park. Sample data is not back yet, however, the lab likely will provide it to DEQ around the end of March/beginning of April. DEQ will report to Core Team when sampling results are available.

Next Steps & Action Items

- Susan will provide the Core Team an update from DEQ Water Quality's recent inspection.
- Susan will provide ABC and BT with an update on DEQ's soil sampling and removal next steps, for use in the ABC newsletter and community information sharing.
- Randy will provide a factsheet, list of addresses, and the access agreement template to Lin; Lin will coordinate ABC volunteers for contacting neighbors about soil sampling access agreements.
- Nancy will provide the Core Team with DEQ's compliance letter sent to JH Baxter.
- EPA (Bill, Alice, and Rafi) and DEQ (Susan) will provide ABC and BT statements regarding upcoming field work at and near JH Baxter by Friday, February 24. ABC and BT will use these statements for the ABC newsletter and community information.
- Lin will send Alice information on ABC's June 10th "We Are Bethel" event for EPA to consider if they would like to have a booth at the event.
- Lisa will reach out to Jon to explore opportunities for students to observe the City of Eugene water quality sampling efforts.
- OHA will plan for screen sharing of Health Consultation summary factsheets next week and then will provide factsheets to DEQ/EPA to hand out while in the field (March 5th)
- DSC will schedule the next Core Team meeting when Trainsong sample results are ready to share.

The next Core Team meeting will be scheduled when soil sampling results from Trainsong Park are available.

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