



Oregon

Tina Kotek, Governor

Department of Environmental Quality

Western Region Eugene Office

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TTY 711

February 14, 2023

Georgia Baxter-Krause
P.O. Box 3541
Bend, OR 97707

**Re: Environmental compliance at the JH Baxter Facility
3494 Roosevelt Blvd., Eugene, OR 97402**

Dear Georgia Baxter-Krause:

Since J.H. Baxter & Co. LLC ceased operation at the Eugene facility on Jan. 31, 2022, no progress has been made in the implementation of the Record of Decision for the release of hazardous substances at the facility, and DEQ has ongoing concerns about stormwater and hazardous waste management onsite.

Baxter's Jan. 28, 2022, letter advising DEQ of the facility's closure also notified DEQ that Baxter's intention is to comply with all regulatory requirements including stormwater, groundwater and process water treatment. The letter further stated that daily inspections will be conducted to ensure environmental safety and compliance. Baxter advised DEQ that a small crew on-site will make sure all water systems remain operational and in compliance with all environmental and safety regulations.

On Feb. 10, 2022, DEQ designated the Baxter cleanup site, ECSI #0055 an Orphan Site under Oregon Revised Statute 465.381. This decision was based on Baxter's inability to perform cleanup actions at the site. DEQ's Orphan program has been focusing investigation and cleanup efforts on the off-site dioxin contamination present in residential yards to the north/northeast of the facility.

On Sept. 27, 2022, DEQ's Hazardous Waste Program requested assistance from U.S. Environmental Protection Agency to remove hazardous materials and substances and associated solid waste from the property. This request was made due to concerns about Baxter's capacity to maintain environmental compliance at the facility including the company's ability to properly manage the hazardous waste at the facility.

On Oct. 25, 2022, DEQ's Office of Compliance and Enforcement sent Baxter a letter regarding violation of the July 14, 2022, Mutual Agreement and Order. The letter also requested a written response by Nov. 3, 2022. DEQ did not receive a written response to all the questions and concerns outlined in the letter.

DEQ has also been made aware of several break-ins and vandalism at the facility over the past year that resulted in temporary problems with the treatment systems and alarms. Although no

long-lasting damage or shutdown of the system resulted, DEQ is concerned for the potential that a larger and long-lasting problem could result with Baxter's current level of attention on the facility.

DEQ is requesting Baxter provide a comprehensive plan that outlines how the company will ensure ongoing environmental compliance, including securing the site and financial assurance to pay for the ongoing compliance activities. The comprehensive plan should include, but not be limited to the following:

Funding

- Please provide details on the amount of rent received from your property in Arlington, Washington, and how this funding is being used.
- DEQ understands Baxter has sold a natural gas, direct-fired lumber drying kiln, heavy equipment, miscellaneous equipment, and large pieces of machinery including the three industrial incisors. Please provide details on the amounts received including receipts for items sold and how these funds are being used.

Security

- What is Baxter doing to secure the site in Eugene to prevent vandalism? Does Baxter conduct regular security inspections? Are Baxter employees equipped to resolve security issues?

Stormwater Treatment System

- How often and when is the stormwater system under onsite supervision?
- What is Baxter's response time (in hours) to precipitation or other weather events that can impact the operation of the treatment system?
- What is the current capacity of the system?
- What are the current management and resource capabilities to prevent the discharge of untreated stormwater offsite if the system capacity is exceeded?
- What are Baxter's plans for conducting all required sampling and reporting under the National Pollutant Discharge Elimination System (NPDES) permit, including but not limited to whole effluent toxicity (WET) and dioxin testing for outfall 001?
- As signatory for reporting of the NPDES permit in EPA's Network Discharge Monitoring Report, or NetDMR, please update your name and address to current.
- DEQ conducted a Dec. 1, 2022, reconnaissance inspection of the stormwater system identifying several maintenance issues (inspection report provided to you Jan. 30, 2023). Is Baxter committed to operating and maintaining the stormwater system as it was designed?
- Does Baxter anticipate any non-compliance with the NPDES permit?

Groundwater Treatment System

- How often and when is the treatment system under supervision?
- What is Baxter's response time (in hours) to events that can impact the operation of the treatment system?
- What are the resource capabilities to maintain operation of the treatment system and prevent untreated groundwater from migrating offsite if the system operation is compromised?

- Baxter has informed DEQ that Maul Foster & Alongi is preparing an Operation and Maintenance plan for the system. DEQ was expecting to receive this plan by the end of Jan. 2023, but it has not yet been received. When will this plan be submitted to DEQ for review?
- What are Baxter's plans for conducting all future required sampling under the Cleanup Program and the NPDES permit?
- How is Baxter funding operation and maintenance of this system, including any repairs to the system?

Environmental Cleanup

- The Record of Decision was signed in Oct. 2019. Does Baxter intend to implement the ROD?
- How will Baxter update the beneficial water use survey in accordance with DEQ's Guidance for Conducting Beneficial Water Use Determinations at Environmental Cleanup Sites?

Hazardous Waste

- Certain hazardous wastes have exceeded the large quantity generator (LQG) 90-day storage limit. Does Baxter expect it will dispose any of the remaining hazardous waste and if so, which wastes and when?
- Has Baxter requested letters of interest from other wood treaters specific to the unused preservative solutions remaining on site? If so, please provide any such documentation/correspondence.
- Has Baxter appealed the EPA determination under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) that unregistered preservatives cannot be offered to other wood treaters? If so, please provide all relevant documentation. If not, does Baxter expect to submit an appeal and when?
- How much longer does Baxter expect to keep both operators on site to manage the process wastewater system?
- DEQ understands that the hazardous waste contained in retorts 81 & 83 and tanks 9, 26, 27, 32, 41A, and 46 is unsuitable for onsite treatment and evaporation. As such, please describe Baxter's plans for ensuring compliance with 40 Code of Federal Regulations 264/265 Subpart J, including but not limited to daily tank/retort inspections and addressing any tank releases?

Air Quality

- Air quality regulatory and permitting requirements are administered by and should be coordinated with the Lane Regional Air Protection Agency.

Please submit the comprehensive plan no later than March 20, 2023 to:

Oregon DEQ
Attn: Susan Turnblom
165 East 7th Avenue, Suite 100
Eugene, OR 97401

The Baxter site is a high priority for DEQ with its multiple regulatory and contamination issues as well as being located in an underserved environmental justice community. If you do not submit a comprehensive plan by the above date, DEQ will need to consider additional action including enforcement or litigation.

If you have any questions or if you would like to schedule a meeting to discuss in further detail, please contact Susan Turnblom at (541) 687-7464 or via email at susan.turnblom@deq.oregon.gov.

Sincerely,



Keith Andersen
DEQ Western Region Administrator

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