



Oregon

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January 17, 2023

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Mr. Wally Moon
Section Manager
Superfund & Emergency Management Division
Spills Prevention, Assessment and Removal Section
United States Environmental Protection Agency Region 10
1200 Sixth Avenue
Seattle, WA 98101

Re: J.H. Baxter Eugene Site • RCRA Corrective Action Status, RCRA Permitting Status and EPA Superfund Program Consideration of Baxter's Inclusion on the Superfund National Priorities List
ORD 009 032 400
ECSI #055

Dear Mr. Moon:

This letter is a follow-up from the Dec. 18 meeting between DEQ and EPA Region 10 Superfund where the J.H. Baxter RCRA and Superfund history and current status was discussed. This letter further states that the J.H. Baxter Eugene site is not in the past, or currently, a hazardous waste treatment, storage, or disposal facility subject to RCRA corrective action.

The site no longer operates as wood treater and no further industrial activities are planned, therefore DEQ concurs with the EPA Region 10 plan to consider the site for inclusion on the National Priorities List (NPL).

RCRA STATUS

DEQ is authorized under the federal RCRA program to implement hazardous waste rules, permitting and enforcement in Oregon. DEQ has never considered J.H. Baxter to be a TSDF requiring a RCRA permit which would then require RCRA corrective action. Rather, the site was a wood treater regulated under the self-regulation requirements found in 40 CFR 264 Subpart W which does not require a permit. Without the need for a RCRA permit, there is no RCRA corrective action required.

For wood treaters, such as J.H. Baxter, there is the corrective action possibility that upon closure, if the wood treating unit could not clean close, then a post-closure permit could be required. If a post-closure permit were issued, then corrective action obligations would be in the permit. Practically, because the site is a DEQ Industrial Orphan Cleanup site based on its inability to proceed with a timely cleanup – then it is likely the site could not afford the development of a permit application or the permit applications fee.

The RCRA historical status of J.H. Baxter is a large quantity generator (LQG). There are no generator requirements for onsite or offsite corrective action unless there is a RCRA order issued. There has been

no RCRA order issued at this site. The RCRAInfo database indicates that J.H. Baxter was a protective filer and there was a loss of interim status. Both situations have no direct requirements or options for RCRA corrective action.

It must be stated that under the federal RCRA Government Performance and Results Program (GPRA) and 2020 Corrective Action Baseline, now the 2030 Corrective Action Goals, EPA did track J.H. Baxter corrective action milestones. However, like J.H. Baxter, there were other Oregon sites without RCRA permits or orders that EPA tracked for these programs. The list of sites was developed a long time ago and not all sites met criteria for inclusion. It is worth noting now that EPA headquarters is developing criteria for sites, such as this one, that can be dropped from the GPRA list. If the appropriate criteria are developed that would allow J.H. Baxter to be removed from the list, DEQ would be in favor and proceed with such deletion.

CERCLA and DEQ CLEANUP STATUS

From the online DEQ Environmental Cleanup Site Information (ECSI) database:

Milestone	Initiation Date	Comment
Site Evaluation	1/2/1989	
Remedial Investigation	8/7/1989	
Removal Action	12/1/1992	Groundwater pump and treat system installed.
Record of Decision	10/14/2019	Cleanup Remedy requires: Soil excavation, engineered soil cap, continued hydraulic containment (pump and treat), surface water sediment and soil sampling off-site, maintaining institutional controls.
Remedial Action (Primary Action)	11/17/2021	DEQ Cleanup Program, with EPA Removal Program, is currently implementing the off-site residential soil sampling (EPA) and is conducting time critical removals at two residential properties in January 2024 (DEQ).
Orphan Site	2/10/22	DEQ memo declaring J.H. Baxter an Industrial Orphan Site.

From the ECSI database there is mention of a milestone “Site added to CERCLIS” with a start date of July 1, 1989. Other than this mention and previous mention of EPA activities in 1984 and 1985 the database does not state any further CERCLA involvement.

In 2022, DEQ designated J.H. Baxter as an Industrial Orphan Cleanup site. The Orphan program is used to prioritize those cleanup sites which the responsible party is “unknown or is unwilling or unable to undertake all required removal or remedial actions.” (DEQ memo, 2/10/22, p. 1) DEQ states that the site is “unwilling (and likely unable) to undertake required remedial actions.”(DEQ memo, p.1)

Once in the Industrial Orphan Site Program, DEQ prioritizes sites based on human health and ecological risk and uses funds from the sale of long-term bonds to fund site work, to address ongoing threats in a timely manner. DEQ also seeks to recover its Orphan cleanup costs from responsible parties. DEQ considers the J.H. Baxter site a high environmental priority requiring further investigation and cleanup. To this end, DEQ concurs with the EPA Region 10 plan to evaluate J.H. Baxter's site conditions and possible inclusion on the National Priorities List.

If you have any questions regarding the RCRA status of J.H. Baxter, please contact Fredrick Moore at 541-633-2011 or at Fredrick.Moore@DEQ.Oregon.gov. For DEQ Cleanup information please contact Sarah Eagle at 971-357-5275 or at Sarah.Eagle@DEQ.Oregon.gov.

Sincerely,



Brad Shultz
Manager
Western Region Cleanup Program

Sincerely,



Ron Doughten
Manager
Eastern Region Hazardous Waste Program

Attachment: J.H. Baxter & Co.–Eugene Orphan Declaration Memorandum

Copies to: Stephen Nguyen, EPA R10 CERCLA
Kim Ogle, EPA R10 RCRA
Keith Andersen, DEQ WR Administrator
Fredrick Moore, DEQ ER Permit Writer
Sarah Eagle, DEQ Cleanup Project Manager
Jeannette Acomb, DEQ HW HQ
Becky Williams, DEQ HW WR
Killian Condon, DEQ HW WR