REGION 10
SEATTLE, WA 98101

MEMORANDUM

SUBJECT: Request for approval and funding for a Time-Critical Removal Action, including a request for exemption from the 12-Month and $2 million statutory limits on removal actions, at the J.H. Baxter & Co. Site, Eugene, Lane County, Oregon

FROM: Randy Nattis, On-Scene Coordinator
Emergency Management Branch

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THRU: Calvin J. Terada, Director
Superfund Emergency Management Division

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TO: Casey Sixkiller, Regional Administrator
Region 10

SITE ID: 10VA

I. PURPOSE

The purpose of this Action Memorandum (AM) is to request and document approval of the selected Time-Critical Removal Action (TCRA) described herein for the J.H. Baxter & Co. site (Site), a former wood treating facility within an industrial area and adjacent to the Bethel neighborhood located at 3494 Roosevelt Blvd, Eugene, OR 97402 the City of Eugene, Lane County, Oregon. This TCRA involves the removal of over 500,000 gallons of CERCLA hazardous substances that were abandoned when the wood treating facility ceased operations in January 2022. CERCLA hazardous substances include pentachlorophenol, creosote, heavy metals, oil, contact wastewater, asbestos, and dioxins/furans. These materials exist as liquids, sludges, and solids. The total project ceiling, if approved, will be $10,304,000.

An emergency exemption is being requested as part of this AM because the proposed action is expected to exceed the statutory 12-month period and $2 million ceiling in order to prevent unacceptable exposures from the release of hazardous substances from the Site.

The selected TCRA meets the criteria for initiating a removal action under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR § 300.415(b)(2).

II. SITE CONDITIONS AND BACKGROUND

The SEMS ID No. is ORD009032400.

The Site which currently is approximately 32-acres in size, was constructed in 1943. Before 1943, the area was undeveloped farmland. Early wood treating operations were limited to a single retort, which utilized creosote formulations for wood preservation. Beginning in the 1950s, adjacent farmland was developed for residential housing. The area was annexed as part of the City of Eugene in the early 1960s. Additional retorts were added to the facility in the 1960s, as were the additional preservation chemicals including pentachlorophenol (PCP), metals-based solutions, and fire retardants (including Protexal, Pytesote, and Flamescape).[1] After raw wood products were treated in the retorts, they were transported via tram to drip pads where the treated wood was allowed to dry until no further drippage occurred. After drying on the drip pad, treated wood products were either stored in one of several on-site treated wood storage areas or transported off-site by truck or rail. The bulk of the finished products were used by utilities as guardrails, crossarms, poles, and pilings.

Until its operational closure in early 2022, operations consisted of treating wood in any of five retorts using creosote, PCP, Chemonite® (ammoniacal copper zinc arsenate (ACZA)), or ammoniacal copper quaternary (ACQ). The main treatment area includes four retorts (Retorts 81, 82, 83, and 84), and multiple work, process, and storage tanks. Another area used for PCP treatment (Retort 85) includes one retort and several process and storage tanks. The ground surface beneath all retorts and tanks is currently paved with secondary containment sidewalls averaging 2 feet in height. In 1992, in response to new regulations at 40 C.F.R. Part 264 Subpart W, all the retort areas had concrete roofed drip pads installed. Approximately 80 percent of the remaining areas within the facility are unpaved.

The process and chemical storage area is broken into 2 primary tank farms, south and north, which are connected by underground piping. According to the facility Spill Prevention, Control, and Countermeasure Plan (SPCC), the total storage capacity exceeds 1 million gallons and contains materials such as PCP-based oil, creosote/bunker fuel oil, creosote, ACZA, ACQ, 50/50 recovery, diesel, recovery water, PCP-a recovery, arsenic acid, and aqua ammonia.

In 1994, pursuant to an Oregon Department of Environmental Quality (ODEQ) consent order[2], J.H. Baxter & Co. installed a groundwater extraction and treatment system, consisting of three wells, a filtration system, and granulated activated carbon. In 1997, J.H. Baxter & Co. installed a stormwater collection and treatment system, consisting of: catch basins located around the facility to capture all site stormwater; underground and aboveground piping to the stormwater collection tanks; flocculation and precipitation systems; and a granulated activated carbon treatment system. Stormwater gravity drains to collection sumps and is then pumped to the stormwater collection tanks with approximately three million gallons of capacity prior to treatment. The treated water from both these systems are discharged under a National Pollution Discharge Elimination System (NPDES) Permit. The sources covered by the NPDES permit include treated stormwater and groundwater. These sources discharge

[1] Keystone Environmental Resources Ltd., (Keystone) August 1991. *Remedial Investigation Report (Phase I) of J.H. Baxter & Company Eugene, Oregon Site.*

[2] Order on Consent issued to J.H. Baxter & Co. by ODEQ, ESCR-WVR-88-06. August 7, 1989, and Second Addendum to Consent Order ECSR-WVR-88-06

through two outfalls, both of which are described in the NPDES permit as storm ditches. Treated stormwater is discharged through Outfall 001, and treated groundwater is discharged to Outfall 002.

In 2007, pursuant to ODEQ cleanup program authorities, a 10-acre Interim Remedial Action Measure (IRAM) soil cap was installed throughout the eastern third of the Site to mitigate airborne transport of contaminated soil off-site. This action was selected based on soil boring samples taken throughout the area in 1994, which showed consistently elevated polycyclic aromatic hydrocarbon (PAH) and arsenic concentrations. The cap consisted of a geotextile fabric beneath 12 inches of gravel fill. In 2009, a property line adjustment separated this capped area into a different tax parcel. In 2011, J.H. Baxter & Co. sold this 10-acre parcel on the eastern edge of the property to a metals recycling company. This parcel abuts the Union Pacific rail line to the south. Records indicate that this area was used as an incisor area to cut small holes and perforations into wood before treatment was applied. Figures from the J. H. Baxter & Co. Remedial Investigation (RI) Summary Report[3] indicate there used to be a rail spur over this 10-acre parcel, connecting the drip pad shed and main treatment area to the Union Pacific rail line.

A ODEQ Record of Decision[4] (ROD) was completed for the Site in October 2019. The remedy included capping approximately 16 acres of contaminated soil at the Site, continuing groundwater pumping for hydraulic containment of contaminated groundwater, removal of contaminated ditch sediments on the south side of the Site, and sampling of soil and sediments in off facility areas that could reasonably have been impacted by contaminant discharges from the facility. The ditch on the south side of the Site accepts stormwater runoff from the east, along the railroad tracks and treated stormwater from the Site. Off facility areas with the highest potential to have been historically impacted are to the north and south of the Site, in the direction of the prevailing winds. JH Baxter & Co completed an air model for the Lane Regional Air Protection Agency (LRAPA) to provide a more detailed assessment of annual emissions patterns and patterns of emission migration.

In 2020, JH Baxter & Co created and implemented a Sampling and Analysis Plan[5] (SAP) to summarize the approach, data collection, and evaluation methods to update data for site Contaminants of Concern (COCs) present in surface soil near off facility areas. The SAP also evaluated COC concentrations in a drainage immediately downstream of the Site to determine potential impacts and collect background surface soil samples required to support the understanding of the general area-wide contamination. While sampling results did not identify contamination that would be an immediate threat to the health of nearby residents, the results indicated more detailed, property-specific sampling was necessary to further evaluate the magnitude and extent of contamination. JH Baxter & Co. sampled seven residential properties in September and October of 2021. Six properties had dioxin levels that exceed ODEQ's residential soil risk-based concentration of Toxic Equivalency to 2,3,7,8 – TCDD of 4.7 parts per trillion (ppt) (TEQ). Three of these properties had dioxin levels over 40 ppt TEQ. According to the Oregon Health Authority (OHA), a dioxin concentration in soil at or above 40 ppt TEQ poses a risk to children younger than six years old who play in the soil every day for a year or more. This includes an increased risk of reproductive effects later in life and potential thyroid hormone

[3] Baxter 2010a, Remedial Investigation Summary Report, Revision 1, J. H. Baxter & Co. Eugene, Oregon Facility. Prepared for: Oregon Department of Environmental Quality. March 10, 2010.
[4] Record Of Decision for J.H. Baxter & Co. Facility Eugene, Oregon ECSI#055
[5] GSI. 2020. Off-site Soil Sampling and Analysis Plan for J.H. Baxter & Co. Facility, Eugene, Oregon. February 2020. GSI Water Solutions, Inc.

abnormalities. Therefore, ODEQ determined that contaminated soil in three properties near the facility with dioxin levels over 40 ppt TEQ needed to be removed as quickly as possible.

On January 21, 2022, ODEQ sent a Consent Order and Scope of Work to J H Baxter & Co. for off-facility elements of the Remedial Action prescribed in the ROD, including the immediate cleanup of the three properties with dioxin levels over 40 ppt TEQ and for the continued off-facility sampling to delineate the extent of contamination and identify other properties that need cleanup. A week later, the company president indicated that the facility would not be able to complete the required actions due to financial limitations. ODEQ was then notified by the company president of their decision to 'mothball' the facility, suspending all wood treatment operations, though maintaining a skeleton crew to oversee the ground water, stormwater, and process water treatment systems.

On February 10, 2022, ODEQ issued a Request for Orphan Site Designation for J.H. Baxter & Co.,[6] enabling the use of the state Orphan Site Account for ODEQ expenses where the responsible party is "unknown or is unwilling or is unable to undertake all of the required removal or remedial action." Two employees remain working at the facility, maintaining the treatment systems. Also on February 10, ODEQ[7] made a formal request to the U.S. Environmental Protection Agency (EPA) for assessment and removal assistance for off-facility contamination based on the discovery of off-facility residential soil contamination with dioxins/furans. Removal Site Evaluation activities conducted in off-site areas from May 2022 to March 2023 did not identify the need for a CERCLA removal action.

In the spring and summer of 2022, after several site evaluations by ODEQ hazardous waste inspectors, there were concerns that the remaining materials within the tank farms threatened the surrounding communities and the environment due to J. H. Baxter & Co.'s failure to properly dispose of the remaining materials. ODEQ assumed the remaining materials to consist of more than 500,000 gallons of Resource Conservation and Recovery Act (RCRA) hazardous wastes. These concerns were amplified due to aging infrastructure, the need to continuously treat process RCRA wastewater, and the need to ensure site security is maintained for ongoing trespassing concerns. In September 2022, ODEQ[8] requested support from the EPA in evaluating on-facility areas for potential CERCLA removal activities.

A. Site Description

1. Removal site evaluation

In March 2023, EPA conducted an initial Removal Site Evaluation within the facility footprint to evaluate the potential presence of asbestos-containing material (ACM) for EPA worker health and safety, and perform an inventory reconciliation to develop a sampling strategy and SAP of the tanks, drums and other containers. Suspected ACM samples were collected from tank system piping, process piping, process equipment, and structural materials. A total of 19 bulk samples of suspected ACM, including two field duplicates, were collected for asbestos polarized light microscopy (PLM) analysis using EPA Method/600/R-93/116. Based on analytical results, chrysotile and/or amosite asbestos were

[6] ODEQ 2022c. Request for Orphan Site Designation – J H Baxter & Co. – Eugene ECSI# 0055. February 11, 2022.
[7] Request for Assessment and Removal Assistance from U.S. EPA for Offsite contamination from J H Baxter & Co., Eugene, Oregon, Oregon DEQ Environmental Cleanup Site Information #0055
[8] 2022 September - DEQ requests US EPA's assistance to remove hazardous materials, hazardous building materials, hazardous substances and associated solid waste from the property.

present in 10 of the 19 bulk ACM samples. The inventory reconciliation identified 78 tanks and 59 drums, several totes and other various type containers, including canisters, buckets, metal sinks, cubic yard sacks, metal vaults, and paper sacks. The condition of the storage containers varied. Some containers were rusted, in fair or good condition, and some appeared breeched and leaking. The following chemicals and their storage method were identified on site based on labels and operator knowledge.

In June 2023, following the completion of container inventory reconciliation and prior to the waste characterization sampling effort, a subsequent site reconnaissance visit by EPA consisted of meeting with two disposal vendors. The purpose of this meeting was to help EPA create a sampling approach and plan to identify large waste streams [greater than (>) 1,000 gallons] and small waste streams [less than (<) 1,000 gallons] to manage future waste characterization strategies and efforts.

Areas of Concern

In September 2023, EPA conducted a Removal Site Evaluation to characterize the chemicals and waste materials stored in tanks and containers in the North Tank Farm (NTF) and South Tank Farm (STF) (Figure 8). For characterization, the Site was divided into five areas of concern (AOCs) (Figure 2). The table below includes a description of the features in each area. The figures referenced below for each AOC can be found in Attachment 1.

Descriptions of the Areas of Concern.

AOC	Figure	Location	Description of AOCs
Area 1	Figure 3: Area 1 Container and Tank Location Map	NTF	Drip Pad Shed 1, Drip Pad Shed 2, "Penta" (pentachlorophenol) Shed, and areas adjacent to the Control Room
Area 2	Figure 4: Area 2 Container and Tank Location Map	NTF	Storage tanks, several types of process tanks, and ACZA Chemical Storage
Area 3	Figure 5: Area 3 Container and Tank Location Map	NTF	Control Room, Boiler Room, Maintenance Shop, and several tanks and containers
Area 4	Figure 6: Area 4 Container and Tank Location Map	STF	Entire STF, Building C, Spray Pond, and the Maintenance Office
Area 5	Figure 7: Area 5 Container and Tank Location Map	South and southeast of STF	Shop Annex, HazMat Storage Area, and Building B

Criteria for Analytical Assignment

The sampling design for these 5 AOCs was based on available information from the prior container inventory reconciliation. Samples collected for laboratory analysis were pre-assigned to analytical groups based on waste stream size [large (>1,000 gallons) and small (<1,000 gallons)], volume of container content, and known information [Safety Data Sheets (SDS), general chemistry, and facility operator knowledge]. The analytical groups were determined based on the following criteria:

Group A – Chemicals in sealed tanks/containers with labels and SDSs. Sampling was not required, and no laboratory analysis were assigned.
Group B – Chemicals in unsealed tank/container identified by facility operators based on process knowledge. Confirmatory sampling and relevant, but limited laboratory analysis needed to characterize the chemicals were assigned.
Group C – Chemicals/waste in tanks/containers with labels or having limited or questionable identification. Confirmatory sampling and relevant laboratory analysis needed to characterize the chemicals/waste were assigned.
Group D – Chemicals that are most likely waste, unknown, unusable, or spoiled product having limited or no identification of waste content. This group of chemicals were suspected to potentially contain multiple layers and tank bottom sludge/solids; therefore, the greatest number of laboratory analyses needed to characterize the waste were assigned.

These criteria were used to determine analytical assignment during the sampling event. However, based on field observations and other acquired information from process knowledge shared by facility operators, it was determined that - due to poor storage and maintenance practices - many containers presumed to be sealed may have been potentially compromised. In addition, it was determined from discussions with facility operators that the majority of the storage tanks at some point in the past may have been used to store multiple chemicals. Also, several tanks and containers were inconsistent with their contents and labels. Therefore, EPA designated all the stored chemicals at the Site as waste and, hereinafter, all chemicals and samples are referred to as waste or waste materials.

Sample Collection and Analysis

Based on the criteria used for analytical assignment, waste samples were collected for various pre-assigned laboratory analyses including analysis of volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), polychlorinated biphenyls (PCBs), heavy metals, mercury, cyanide, and dioxins/furans, as well as analysis of the physical properties of the material and leaching potential relevant for disposal.

Analytical results indicate that the waste materials stored in tanks and containers at the Site contain hazardous substances as defined at Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601(14). The analytical results of the sampling event are extensive and can be found within the J.H. Baxter & Co. – Waste Characterization Trip Report[9] (Waste Characterization Trip Report).

[9] J.H. Baxter & Co. – Waste Characterization Trip Report Final 2024 - Weston-TechLaw JV - Response Engineering and Analytical Contract (REAC) - TASK ORDER #68HERH23F0354

CERCLA Hazardous Substances, Pollutants or Contaminants Identified on Site					
Chemical Class	CERCLA Hazardous Substance?	Contained in tanks?	Contained in Drums?	Contained in totes?	Contained in other misc. containers?
ACZA	Yes	✓			✓
Aluminum Sulfate	Yes	✓	✓	✓	
Anti- freeze	Yes		✓		
Aqua Ammonia	Yes	✓			
Arsenic Acid	Yes	✓			
Coper Citrate	Yes		✓		
Copper Ethanolamine Complex (CEA)	Yes			✓	
Creosote	Yes	✓	✓		✓
Lime Slurry	Yes			✓	✓
Pentachlorophenol	Yes	✓	✓	✓	✓
Petroleum Compounds	No	✓	✓	✓	
Petroleum Compounds (Contaminated)	Yes		✓	✓	
Process Water	Yes	✓			
Sodium Hydroxide	Yes	✓			
Sodium tripolysulfate	No		✓		
Unknown waste materials	Yes	✓	✓	✓	✓

Waste Volume Estimates of Bulk Storage Containers

Waste volume estimates were determined based on prior inventory data and field observations noted during the waste characterization sampling event. For reporting purposes, an approximately 5% margin of error was added to the inventory-determined waste volumes to provide a range for the waste volume estimates.

Based upon previous inventory data and field observations noted during the waste characterization sampling event, approximately 458,790 – 482,330 gallons of waste were sampled for either laboratory analysis or field testing.

Total Waste Volumes Sampled

Waste Type	Waste Volume (gallons)	Analysis Type
Solid waste (see note below)	58,000 – 61,000	Laboratory Analysis
Wastewater	25,000 – 26,500	Laboratory Analysis
Liquid waste (see note below)	375,000 – 394,000	Laboratory Analysis
Solid/liquid waste (field-tested)	790 – 830	First Step Hazard Categorization® field test
Total Volume Sampled	**458,790 – 482,330**	

Note:

1. Total volume of solid waste sampled excludes Spray Pond secondary containment, where composite sample of process waste from recycled cooling waters was collected.
2. Total volume of liquid waste sampled excludes NTF and STF secondary containments, where composite waste samples of comingled chemicals from leaking tanks associated with a variety of manufacturing process steps were collected.

Based upon previous inventory data and field observations noted during the waste characterization sampling event, there are approximately 32 potentially Resource Conservation and Recovery Act (RCRA) empty tanks/containers, including tanks/containers presumed to contain residual waste material. Approximately 11,180 to 11,750 gallons of waste materials were not sampled. These materials are in Area 5.

Total Waste Volumes Un-sampled

Waste Stream	Total Volume (gallons)
Chemicals stored in labeled unsealed containers	720 – 760
Chemicals in use by facility for groundwater/stormwater treatment	550 – 580
Partial quantities of chemicals/waste stored in labelled containers	6,930 – 7,280
Waste materials stored in containers with labels	1,600 – 1,680
Waste materials stored in containers without labels (unknowns)	1,380 – 1,450
Total Volume NOT Sampled	**11,180 – 11,750**

Waste Volume Estimates of Secondary Containment

GIS generated data was used to make volume estimates for the NTF and STF secondary containment areas. This was accomplished by estimating the total surface area of the containment structure, the area obscured by tanks, and an approximate depth of the material from field observations. Estimation metrics for each secondary containment area are provided below.

Secondary Containment Waste Volume Estimates

Location	Total Area (ft^2)	Spill Area Percent (%)	Spill Area (ft^2)	Waste Depth (ft)	Waste Volume (ft^3)	Waste Volume (gallons)
NTF	22,191	25%	5,548	0.167	927	6,953 – 7,300
STF	9,934	10%	993	0.021	21	158 – 166
Spray Pond	751	100%	751	0.5	376	2,820 – 2,961
Total Volume Estimates [1 cubic feet (ft^3) = 7.5 gallons]					**1,324**	**9,931 – 10,450**

Waste Volume Estimates of Secondary Containment Structures

Field observations and process knowledge shared by the facility operators indicate that the concrete material used to construct the NTF, STF, and Spray Pond secondary containments are contaminated with comingled liquid waste and/or stored process waste. Therefore, the concrete construction material of these secondary containment areas constitutes RCRA hazardous waste.

Based upon field measurement and GIS-generated data, the NTF secondary containment consist of approximately 1,145 feet of concrete perimeter wall, approximately 2-feet high, with a 1-foot-thick concrete foundation; the STF secondary containment consist of approximately 441 feet of concrete perimeter wall, approximately 2-feet high, with a 1-foot-thick concrete foundation; and the Spray Pond secondary containment consist of approximately 110 feet of concrete perimeter wall, approximately 12-feet high, with a 1-foot-thick concrete foundation. Refer to Figure 8: Secondary Containment Areas.

Based upon these estimated measurements, the NTF, STF, and Spray Pond secondary containments

potentially consist of approximately 38,000 ft^3 of concrete waste.

Secondary Containment Concrete Waste Volume Estimates

Location	Concrete Wall				Concrete Foundation			Total Concrete Volume (ft^3)	Total Concrete Volume (gallons)
	Perimeter (feet)	Height (feet)	Thickness (feet)	Volume (ft^3)	Area (ft^2)	Thickness (feet)	Volume (ft^3)		
NTF	1,145	2	1	2,290	22,191	1	22,191	24,481	183,608
STF	441	2	1	882	9,934	1	9,934	10,816	81,120
Spray Pond	110	12	1	1,320	751	1	751	2,071	15,533
Total Concrete Volume = Concrete Wall Volume + Concrete Foundation Volume (1 ft^3 =7.5 gallons)								**37,368**	**280,261**

Estimated Volumes of Identified Waste Streams

A combined total of approximately 760,162 to 799,220 gallons (approximately 6,461,380 to 6,789,650 pounds) of various waste streams have been identified at the Site.

Waste Volume Estimate Summary

Waste Category	Volume Range (gallons)	Volume Range (pounds)
Containerized Waste, Sampled Volume	458,790 – 482,330	3,899,715 – 4,099,805
Containerized Waste, Un-sampled Volume	11,180 – 11,750	95,030 – 99,875
NTF Secondary Containment Waste Volume	6,953 – 7,300	59,100 – 62,050
STF Secondary Containment Waste Volume	158 – 166	1,343 – 1,411
Spray Pond Secondary Containment Waste Volume	2,820 – 2,961	23,970 – 25,169
NTF Secondary Containment Concrete Volume	183,608 – 193,200	1,560,670 – 1,638,703
STF Secondary Containment Concrete Volume	81,120 – 85,200	689,520 – 724,000
Spray Pond Secondary Containment Concrete Volume	15,533 – 16,310	132,031 – 138,633
Total Waste Volume (Pounds = Gallons x 8.5)	**760,162 – 799,220**	**6,461,380 – 6,789,650**

Hazard Class and Waste Code

Potential hazard classes and waste codes were assigned to waste materials based on process knowledge, general chemistry, analytical results, U.S. Department of Transport (DOT) and EPA hazardous waste definitions, and Code of Federal Regulations (CFR) 40 CFR Part 261 – Identification and Listing of Hazardous Waste.

Potential Hazard Class Assignment

Based upon the criteria for assigning potential hazard classes, only sampled waste materials (including composite samples collected from NTF, STF, and Spray Pond secondary containments) with associated analytical data were assigned potential hazard classes. Hazard classes were determined based on the properties of the chemical or mixture and its constituents.

Based upon the assigned potential hazard classes, estimated volumes of waste materials with similar potential hazard classes were determined. Waste materials that were not sampled were not assigned potential hazard classes.

Sampled Waste Volumes and Potential Hazard Class

DOT Hazard Class	Hazard Class Definition	Samples	Waste Volume (gallons)
Class 6	Toxic/poisonous	45	463,100 – 486,260
Class 6 & 8	Toxic/poisonous, corrosive	2	340 – 360
Class 3 & 6	Flammable/combustible liquids, toxic/poisonous	1	55 – 60
Class 3, 6, & 8	Flammable/combustible liquids, toxic/poisonous, corrosive	1	3,500 – 3,700

Potential Hazardous Waste Code Assignment

Based upon the above criteria for assigning potential hazardous waste codes, specifically as defined in 40 CFR Part 261, the potential hazardous waste codes listed below were assigned to the waste materials and waste streams identified at the Site, including solid waste, wastewater, and liquid waste matrices.

40 CFR Part 261 Hazardous Waste Codes and Brief Definitions

Waste Code	Hazardous Waste Code Definition
D001	Waste that exhibits the characteristic of ignitability
D002	Waste that exhibits the characteristic of corrosivity
D004	Waste that contains arsenic
D018	Waste that contains benzene
K001	Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol
F032	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations (except potentially cross-contaminated wastes that have had the F032 waste code deleted in accordance with § 261.35 of this chapter or potentially cross-contaminated wastes that are otherwise currently regulated as hazardous wastes (i.e., F034 or F035), and where the generator does not resume or initiate use of chlorophenolic formulations). This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol
F034	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol
F035	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol

Potential Waste Codes for Solid Waste

Sample	Potential Waste Code	Waste Description	Volume (gallons)
O-1-PS-WC-01	D002	Lime slurry	330
COMP-P-SLUDGE-01	F032, D004	PCP sludge	1,322
SPRAY-POND-SLUDGE	K001, D004, F032, F034, F035	Cooling water sludge	2,820
T-03-WC-01	Code not assigned	Bunker oil sludge	56,134
O-002-ACS-WC-01	D002, F032, F034, F035	Calcium hydroxide	6
Total			**60,612**

Potential Waste Codes for Wastewater

Sample	Potential Waste Code	Waste Description	Volume (gallons)
81RETORT-WC-01	D004, F032, F034, F035	Penta 50/50 Creo	5,200
COMP-WW-WC-01	F032, F034, F035	Process water treatment B	2,350
T-19-WC-01	F032, F034, F035	Wastewater	6,493
T-28-WC-01	F032, F034, F035	Press discharge fluid	3,000
T-38-WC-01	F032, F034, F035	Wastewater from boiler	7,668
Total			**24,711**

Potential Waste Codes for Liquid Waste

Sample	Potential Waste Code	Samples	Waste Description	Consolidated Volume (gallons)
T-15-WC-01	D001	1	Aqua ammonia	3,479
D025-SA-WC-01	D001, D018	1	Used diesel oil	55
T-09-WC-01 & -02 T-41A-WC-01	D004, F032	3	Penta (PCP) Recovery water	3,598
T-36-WC-01	D004, F035	1	ACZA concentrate	58,776
T-32-WC-01 T-32B-WC-01	D004, F032, F034	2	50/50 Creo Penta Creo/Penta	8,224
T-10-WC-01 T-12-WC-01	D004, F032, F035	2	ACZA, Mixing Tank ACZA, blue liquid	68,808
NTF-COMP-SLUDGE STF-COMP-SLUDGE	D004, F032, F034, F035	2	Comingled chemical and process waste	7,075
O-2-PS-WC-1 T-20-WC-01 T-25-WC-01 T-26-WC-01 & -02 T-20A-WC-01 T-20B-WC-01 O-10-NTF-01	F032	8	PCP Penta 5% Penta Penta recovery FP9 oil FP9 oil Penta outfall	118,754
O-3-PS-WC-01 T-5054-WC-01 T-34-WC-01	F035	3	Copper ethanolamine complex ACZA scrubber ACZA solution	6,428
T-02-WC-01 & -02 T-27-WC-01 & -02 T-04-WC-01 & -02 T-07-WC-01 O-001-NTF T-32C-WC-01	F032, F034	9	50/50 Creo 50/50 Creo 50/50 Creosote Creo 50/50 vapor 50/50 recovery	71,185
T-23-WC-01 T-24-WC-01 T-14-WC-01	F032, F035	3	ACZA recovery water ACZA ACZA recovery water	25,401
83RETORT-WC-01 82RETORT-WC-01	F032, F034, F035	2	50/50 Creo ACZA	6,150
T-16-WC-01 D001-SA-WC-01	Likely non-hazardous	2	Alkaline copper quaternary solution Retort Graphite	3,682
Total				**381,615**

Analytical results, located in the Waste Characterization Trip Report, indicate that the waste materials stored in tanks and containers at the Site contain hazardous substances as defined at Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

2. Physical Location

The Site has an area of approximately 32-acres and is a former wood-treatment facility located at 3494 Roosevelt Blvd, Eugene, OR 97402 in the Bethel Neighborhood of West Eugene in Eugene, Oregon. It is bounded by Roosevelt Boulevard and Roosevelt Channel to the north and northwest, the Union Pacific Railroad right-of-way to the south, property owned by Pacific Recycling, Inc. to the east, and properties owned by Cascade Plating & Machine, Heli-Jet Heliport, and Zip-O-Log Mills, Inc. to the west.

Natural surface water drainage in the Eugene area is to the north-northwest toward the Willamette River. Drainage in the vicinity of the Site had been modified by ditches and canals built in the 1950s by the U.S. Army Corps of Engineers (USACE) and the Soil Conservation Service. The drainage system is included within the lower Amazon Creek Watershed. This watershed drains west and north through Fern Ridge Reservoir and the Long Tom River to the Willamette River, 40 miles north of Eugene.

The nearest residents are within 200 feet to the north of the facility boundary and approximately 7,969 residents live within 1 mile of the facility. According to EPA's Environmental Justice (EJ) screening and mapping tool, the area surrounding the Site is considered an EJ community.

3. Site Characteristics

The wood-treating facility portion of the Site is approximately 32 acres and has several areas of interest. The areas of interest have been divided into the following decision units (DU).

- The Main Treatment Area:
    - North Retort and surrounding tanks (AOC 1) – DU01
    - North Tank Farm (AOC 2) – DU02
    - South Tank Farm (AOC 3) – DU03
    - Boiler room and surrounding area (AOC 4) – DU04
    - Hazardous Materials Shed and Drum Storage Area (AOC 5) – DU05
- Drip pad sheds, storage, and drying areas – DU06
- Stormwater and Groundwater treatment systems – DU07
- Laboratory – DU08

The primary focus area of this TCRA will be DU01 thru DU05 (The Main Treatment Area) and DU08 (Laboratory). All these DUs contain large quantities of hazardous substances such as dioxins/furans, heavy metals, VOCs, and SVOCs as demonstrated by the Waste Characterization Trip Report.

4. Release or threatened release into the environment of a hazardous substance, or pollutant or contaminant.

The sampling and analysis conducted by EPA identified the presence of a large range of hazardous substances, pollutants, or contaminants as defined by Section 101(14) and 101(33) of CERCLA, 42

U.S.C. § 9601(14) and (33). The following summary of sample results identified the constituents of waste abandoned on site as demonstrated in the Waste Characterization Trip Report.

Based upon analytical results, concentrations of 17 dioxins and furans, including 2,3,7,8-TCDF, 2,3,7,8-TCDD, 1,2,3,7,8-PeCDF, 2,3,4,7,8-PeCDF, 1,2,3,7,8-PeCDD, 1,2,3,4,7,8-HxCDF, 1,2,3,6,7,8-HxCDF, 2,3,4,6,7,8-HxCDF, 1,2,3,7,8,9-HxCDF, 1,2,3,4,7,8-HxCDD, 1,2,3,6,7,8-HxCDD, 1,2,3,7,8,9-HxCDD, 1,2,3,4,6,7,8-HpCDF, 1,2,3,4,7,8,9-HpCDF, 1,2,3,4,6,7,8-HpCDD, OCDF, and OCDD, were detected in the waste samples. Many of these results exceeded EPA human exposure limits by more than 100 times safe levels.

Based upon analytical results, concentrations of 22 SVOCs, including acenaphthene, acenaphthylene, anthracene, benzidine, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(g,h,i)perylene, benzo(k)fluoranthene, chrysene, dibenz(a,h)anthracene, di-n-butyl phthalate, di-n-octyl phthalate, fluoranthene, fluorene, indeno(1,2,3-cd)pyrene, isophorone, naphthalene, pentachlorophenol, phenanthrene, phenol, and pyrene, were detected in the waste samples indicating that hazardous substances are present in the sampled wastes.

Based upon analytical results, concentrations of 29 VOCs, including 1,2,3-trichlorobenzene, 1,2,3-trimethylbenzene, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene, 2-chlorotoluene, 4-chlorotoluene, 4-methyl-2-pentanone (MIBK), acetone, benzene, carbon disulfide, chlorobenzene, chloroform, ethylbenzene, isopropylbenzene, methyl tert-butyl ether, methylene chloride, naphthalene, n-butylbenzene, n-propylbenzene, p-isopropyltoluene, sec-butylbenzene, styrene, tert-butylbenzene, tetrachloroethene, toluene, trichloroethene, trichlorofluoromethane, vinyl chloride, and xylenes, were detected in the waste samples indicating that hazardous substances are present in the sampled wastes.

Based upon analytical results, concentrations of mercury, cyanide, and 22 ICP-metals, including aluminum, antimony, arsenic, barium, beryllium, cadmium, calcium, chromium, cobalt, copper, iron, lead, magnesium, manganese, nickel, potassium, selenium, silver, sodium, thallium, vanadium, and zinc, were detected in the waste samples indicating that hazardous substances are present in the sampled wastes.

These Contaminants of Concern (COC), such as dioxins / furans are classified as known human carcinogens with an extremely low exposure threshold in the part per trillions (ppt). Additionally, COCs such as the heavy metals identified, PCP, VOCs, and SVOCs all exceeded EPAs human exposure limits and if ingested, or other forms of exposure, could have serious impacts on human health.

In the 2019 ODEQ ROD, it was determined that on-facility soil contamination existed and suggested that off-facility contamination may exist, which prompted an effort to conduct environmental sampling in right-of-way areas an eventually in the residential neighborhood north of the wood-treatment facility. When off-facility sample results revealed dioxin contamination in soils above the Oregon Risk-Based Concentrations (RBCs), which represents an increased cancer risk, J.H. Baxter & Co. mothballed the facility and stopped implementing the activities within the ROD. Additionally, due to the aging infrastructure the threat of a catastrophic failure of one or more tanks is substantial, which would directly impact human health and the environment. Additional information regarding threat of release

of CERCLA hazardous substances is included in *Section 5 - Exemption from statutory limits*, of this memo.

5. NPL Status

The Site is not listed on the National Priorities List (NPL), though EPA is in the early stages of considering listing the Site.

6. Maps, pictures, and other graphic representations

Figures:

- FIGURE 1: Site Features
- FIGURE 2: Container and Tank Location Overview Map
- FIGURE 3: Area 1 Container and Tank Location Map
- FIGURE 4: Area 2 Container and Tank Location Map
- FIGURE 5: Area 3 Container and Tank Location Map
- FIGURE 6: Area 4 Container and Tank Location Map
- FIGURE 7: Area 5 Container and Tank Location Map
- FIGURE 8: Secondary Containment Areas

Picture 1 – Aerial view of the South Tank Farm looking north.

Picture 2 – Looking in on Tank 2 and the supporting piping, standing oily process water, staining and access paths.

Picture 3 – Looking west at Retorts 83, 82, and 81 and the associated secondary containments and network of piping.

Picture 4 – South Tank farm secondary containment and staining high up on the walls from PCP and oils.

Picture 5 - Retort #81 damaged with exposed ACM

Picture 6 – Water cooling system which is used to evaporate the process contact water from the North and South tank farms.

Picture 7 – One of three 1-million gallon above ground storage tanks used in the surface water collection and treatment system. This photo demonstrates one of the tanks at capacity and overflowing

7. Environmental Justice (EJ)

Environmental Justice (EJ) analysis for the Site is contained in Attachment 2. Screening of the surrounding area was performed using EPA's EJ Screen Tool. Region 10 has reviewed environmental and demographic data for the area surrounding the Site at 3494 Roosevelt Blvd, Eugene, OR 97402 and determined there is a high potential for EJ concerns at the Site. This information has been taken into consideration when determining the need to undertake this proposed removal action, as well as implementation considerations.

B. Other Actions to Date

1. Previous Actions

No previous removal actions pursuant to CERCLA have occurred at this Site.

2. Current actions

May 2022 – March 2023 – EPA conducted a removal site evaluation (RSE) within the residential neighborhood to the north of the former wood-treatment facility, based on the request from ODEQ. EPA sampled 52 properties for dioxins/furans as part of this investigation. This effort did not identify any properties above EPA's Removal Management Levels (RMLs) (Hazard Quotient = 3, non-cancer), but did identify 7 properties that exceeded the ODEQ removal action level as established by the Oregon Heath Authority (OHA). ODEQ is leading a residential soil removal effort on a number of these properties under their own cleanup program authorities.

October 2022 – December 2023 – EPA conducted a sitewide Integrated Assessment (IA), combined Site Investigation and Removal Site Evaluation, to gather information and collect multi-media samples to address contamination on and surrounding the facility to support a National Priorities List Hazard Ranking System (HRS) score. This included but was not limited to site characteristics, contaminant sources and distribution, migration pathways, and potential for off-site migration of contaminants.

March 2023 – As part of the ongoing Removal Site Evaluation, EPA conducted a reconnaissance and inventory reconciliation event at the Site, which included the identification of tanks, totes, drums, and other containers that may contain hazardous wastes. The purpose of this investigation was to collect enough information to develop a Sampling and Analysis Plan (SAP), an electronic database, and conduct a preliminary asbestos investigation.

September 2023 – EPA continued the on-facility RSE, based on a request from ODEQ and observations made during the March 2023 reconnaissance and inventory reconciliation event. Activities included sampling above ground storage tanks, totes, and drums for hazardous or unknown waste inventory, and waste characterization.

C. State and Local Authorities' Roles

1. State and local actions to date

ODEQ has a well-documented enforcement record for this facility going back to the late 1970s. Most recently, in 2019, as part of the ODEQ ROD, J. H. Baxter & Co. was ordered to conduct two separate off-facility soil sampling efforts focusing on arsenic, chromium, copper, zinc, PAHs, PCP, and dioxins/furans. The first sampling event took place in 2020 and focused on sampling from downstream draining ditches and right-of-way areas to the north of the facility. The second sampling event took place in late 2021, further focusing on right-of-way areas to the north of the facility as well as on residential properties north of Roosevelt Boulevard. Results from both sampling events showed

elevated dioxins/furans in the surface soils and identified 5 residential properties that exceed the OHA established site-specific action level for Toxic Equivalency (TEQ - equivalency to 2,3,7,8 – TCDD) of 40 parts per trillion (ppt). In January of 2022, when J.H. Baxter & Co. ceased operations at the facility, they also halted all their off-facility sampling efforts. ODEQ then issued a Request for Orphan Site Designation and formally made a request to EPA for assessment and removal assistance for off-facility contamination. EPA sampled 52 properties for dioxins/furans, identifying 6 additional properties that exceed the OHA site-specific action level. As of the date of this memorandum, 11 properties have been identified that exceed the OHA site-specific action level. Additional residential sampling is planned by EPA. ODEQ is currently leading efforts to conduct soil removal actions on properties exceeding their site-specific action level under their own cleanup program authorities.

2. Potential for continued State/local response

State and local agencies continue to play an active role by conducting residential soil removals, participating in EPA-lead activities and providing hazardous waste inspections, State regulatory support for NPDES oversight and enforcement, public affairs, legal and community involvement resources, and background information.

State and local authorities do not have the resources to characterize and dispose of hazardous substances remaining at the Site as reported in the letter from ODEQ in September 2022 to EPA requesting assistance[10]. EPA is coordinating with ODEQ, OHA, and Lane Regional Air Protection Agency (LRAPA), as well as EPA's remedial program, to ensure that the planned removal action is supportive of the long-term management of the Site once the TCRA is completed.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

The current conditions meet the following factors indicating the Site poses a threat to the public health or welfare of the United States or the environment, and a removal action is appropriate under Section 300.415(b)(2) of the NCP.

1. Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants (40 C.F.R. § 300.415(b)(2)(i)).

There are industrial properties on 3 sides of the former wood-treatment facility and a residential community less than 200 feet away across Roosevelt Boulevard to the north. The Site contains greater than 500,000 gallons of hazardous substances in tanks, above-ground storage tanks, drums, piping within the tank farms and solid wastes. Catastrophic failure of one or more tanks would create direct exposure to workers and neighboring residents. Additionally, there are hazardous substances in the sediments within the secondary containment as well as exposed and confirmed friable ACM that all pose a continued threat of release or migration to the environment. Nearby residents, workers, and trespassers may be exposed to these contaminates via direct contact, inhalation, ingestion, and runoff.

[10] 2022 September - DEQ requests US EPA's assistance to remove hazardous materials, hazardous building materials, hazardous substances and associated solid waste from the property.

Animal and fish populations may be exposed to the contaminants via direct contact, inhalation, ingestion and runoff from sediment or surface waters leaving the Site due to any of the following: catastrophic failure of tanks or pipes, failure or capacity exceedance of the secondary containment, loss of the ability to treat and evaporate process wastewater, or through theft or vandalism of any of the critical components currently used to treat or hold the hazardous substances remaining on the Site. Additionally, in the hot dry summer months in western Oregon, winds will continue to blow dry contaminated soil and sediments from the secondary containment and friable ACM from the Site, posing a risk to nearby residents, workers and trespassers. All the contaminants of concern have been identified in the Waste Characterization Trip Report by location and amount. They are all hazardous substances as defined at Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

2. **Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release (40 C.F.R. § 300.415(b)(2)(iii)).**

The primary objective of the September 2023 RSE was to assess and sample all large containers, drums, totes, and tanks, within the south and north tank farms. There are greater than 500,000 gallons of hazardous substances in both liquid and solid phases. These hazardous substances have been evaluated to contain high levels of dioxins/furans, metals, VOCs, and SVOCs, and have been assigned potential hazardous waste codes including F032, FO33, F034, F035, D001, D002, D004, D018, and K001. Considering the aging infrastructure, the current mothballed status of the facility, the periodic vandalism and theft from the Site, and no plans by the owner to remove any of these wastes, the threat of release from one or more of the tanks is high, which would directly expose the neighboring residential community as well as the adjacent commercial area.

3. **Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released (40 C.F.R. § 300.415(b)(2)(v)).**

Large amounts of rain can overwhelm the process water treatment and exceed the secondary containments of both tank farms, which threatens the migration of hazardous substances off-facility. Additionally, during the summer months in Eugene, Oregon, the temperature can exceed 90 degrees Fahrenheit for extended periods of time with no expected rainfall until the fall months. These high temperatures and dry conditions can also create excessive wind events. The combination of high temperatures, dry conditions, and high winds will create a potential migration pathway of dried sediments from the containment areas and dry ACM to the surrounding community.

4. **Threat of fire or explosion (40 C.F.R. § 300.415(b)(2)(vi).**

There are several liquid flammable hazardous wastes, strong oxidizers, and other incompatible materials in various sized containers, ranging from 55-gallon drums to 250-gallon totes. There are also over 300,000 gallons of petroleum products, such as diesel, oil, bunker, and creosote. These materials, if left uncontrolled or abandoned, would increase the chances of a fire or explosion. This could result in a release of material which could breach secondary containment, increasing the chances of material migrating offsite and could also create a large plume and ash cloud that would contain high levels of dioxins/furans, metals, and other hazardous substances. Such a release would directly impact the

nearby residential community and commercial district. Additionally, aging equipment within the tank farms apparently has a risk of combustion if the power is turned off or disconnected. Portions of the facility have been disconnected from power due to theft and vandalism as recently as October 2023 taking several months to repair, adding to the fire risk.

5. Availability of other appropriate federal or state response mechanisms to respond to release (40 C.F.R. § 300.415(b)(2)(vii).

Per the September 2022 letter from ODEQ to EPA, ODEQ has insufficient funds to conduct necessary cleanup actions. No other government entity has the technical ability or resources to conduct the necessary removal action.

IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances from this Site may present an imminent and substantial endangerment to public health, or welfare, or the environment.

V. EXEMPTION FROM STATUTORY LIMITS

Subject to exceptions, 42 U.S.C. § 9604(c)(1) states that removal actions should not continue after $2 million has been obligated for response actions or 12 months have elapsed from the date of initial on-site response. One such exception, commonly called the emergency exemption, allows EPA to exceed those thresholds where continued response actions are immediately required to prevent, limit or mitigate an immediate risk to public health, welfare or the environment where other assistance will not otherwise be provided on a timely basis. Further, pursuant to EPA delegation 14-2, the Regional Administrator, or the Superfund Emergency Management Division (SEMD) Director must obtain advance concurrence from the Assistant Administrator of the Office of Land and Emergency Management to assert the emergency exemption for removal actions costing more than $6 million. EPA Region 10 believes that consistent with the criteria stated in 42 U.S.C. § 9604(c)(1)(A) and 40 C.F.R. § 300.415(b)(5), an emergency exemption to the cost and time limits for removal actions is warranted for the following reasons.

A. Emergency Exemption Conditions

1. There is an immediate risk to public health or welfare or the environment.

In January 2022, J.H. Baxter & Co. decided to halt all wood treating operations and mothballed the facility, claiming a volatile market and diminished margins. When mothballed, the facility was fully stocked and capable of treating wood with functional retorts, process areas, and treatment solutions. Since January 2022, the facility has remained idle and the treatment solutions containing hazardous substances are now considered hazardous wastes. EPA identified these hazardous wastes within the RSE, characterizing over 500,000 gallons of hazardous substances in both liquid and solid phases. The presence of dioxins/furans, metals, VOCs, and SVOCs located at the Site poses an immediate risk to public health, welfare, or the environment. To safely access, consolidate, transport, and dispose of these hazardous wastes, EPA will need to deconstruct much of the tank farm to gain access to each

tank and the connecting piping. If these materials are not immediately secured and removed from Site, the possibility of fire, explosion, containment breach or further infrastructure deterioration may directly affect the densely populated residential, commercial, industrial districts and surrounding environment through catastrophic releases from the facility.

2. Continued response actions are immediately required to prevent, limit, or mitigate an emergency.

Continued response actions are immediately required to prevent, limit, or mitigate an emergency. Current conditions at the Site have resulted in the release of dioxin/furans, metals, VOCs, and SVOCs and could result in further releases to the environment. If immediate actions are not taken to secure, consolidate, and dispose of the hazardous substances in the drums, totes, tanks, and contaminated sediments in the secondary containment, further risk to human health and the environment will continue unabated from potential and ongoing releases, such as high levels of dioxin/furans, metals, VOCs, and SVOCs. Due to an ageing and abandoned infrastructure and lack of freeboard in the secondary containment areas, environmental factors such as rains and winds can create migratory pathways into the adjacent communities with water runoff and atmospheric deposition. Delays in undertaking this removal action may result in structure failure of one or more tanks, creating an emergency where human health and the environmental will be directly impacted, resulting in additional costs as contamination is likely to migrate past the current containment areas, increasing the total impacted area.

3. Assistance will not otherwise be provided on a timely basis.

Assistance will not otherwise be provided on a timely basis. No other government, third party entity, or potentially responsible party, as laid out in the confidential enforcement memorandum, can provide assistance to mitigate the public health threats posed by the Site on a timely basis. Given the need to take an immediate removal action and considering the size and scope of the removal action, in September 2022[11], ODEQ requested EPA support to conduct investigation and cleanup. Failure to complete this removal action as soon as possible would result in a continuation of the deteriorating infrastructure which threatens to expose dioxin/furan loaded hazardous substances to the ground, into the water, and into the atmosphere, increasing the threat of exposure to area residents, workers, trespassers and the environment. As such, there is an immediate risk posed by the conditions at the Site and an emergency exemption to the $2 million and 12-month statutory limit is necessary to abate these threats.

VI. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed action description

EPA's proposed actions are as follows:

[11] 2022 September - DEQ requests US EPA's assistance to remove hazardous materials, hazardous building materials, hazardous substances and associated solid waste from the property.

a. Establish a command post, site security, and implement best management practices.
b. Establish process wastewater collection and treatment system.
c. Assume surface water treatment operations as needed.
d. Establish a community and work zone air monitoring and sampling program.
e. Conduct additional off-site soil sampling as needed.
f. Reestablish the onsite rail line to support off-site transport and disposal.
g. ACM abatement.
h. Hazardous substances and waste stream consolidation and stabilization.
i. Off-site transportation and disposal of hazardous substances, complying with the offsite rule 40 C.F.R. § 300.440.
j. Demolition and disposal of tank farm, piping, and secondary containment.
k. Removal and disposal of contaminated soils and other discovered source materials as needed.
l. Confirmation soil sampling as needed.
m. Backfill excavation with clean materials as needed.

2. Post-Removal Site Controls

Due to the scope of the planned removal activities, post-removal site controls are not anticipated. However, significant contamination remains at this Site and additional response actions are required to address the threats to human health and the environment.

3. Description of alternative technologies

There are no viable alternative technologies that have been identified.

4. Engineering Evaluation/Cost Analysis (EE/CA)

This proposed action is for a time-critical removal action and, therefore, an EE/CA is not required.

5. Applicable or relevant and appropriate requirements (ARARs)

Removal actions conducted under CERCLA are required to attain applicable or relevant and appropriate requirements (ARARs) to the extent practicable considering the exigencies of the situation. In determining whether compliance with ARARs is practicable, the On-Scene Coordinator may consider appropriate factors, including the urgency of the situation and the scope of the removal action to be conducted. EPA has developed the following list of ARARs. The removal action will comply with these ARARs to the extent practicable considering the exigencies of the situation.

FEDERAL ARARs

Resource Conservation and Recovery Act, Subtitle C - Hazardous Waste Management (42 U.S.C. § 6901; 40 C.F.R. Parts 260 to 279). Hazardous waste regulations pursuant to Subtitle C of RCRA specify hazardous waste identification, management, and disposal requirements. At a minimum,

pentachlorophenol, dioxins, heavy metals, creosote, and asbestos have been found at the Site and are RCRA hazardous wastes. RCRA requirements for management, including disposal of solid and hazardous wastes will be applicable requirements for the Site. RCRA Subtitle C also provides treatment standards for debris contaminated with hazardous waste, which is also applicable to any debris contaminated with hazardous waste at the Site.

Because the State of Oregon is authorized to operate its state hazardous waste program, pursuant to the Hazardous Waste and Hazardous Materials I & II statute (HWMA, ORS 465 & 466) and its administrative rules governing hazardous waste (OAR Chapter 340 Divisions 100, 101, 102, 120, and 135), in lieu of the federal RCRA program, this response action will comply with the State HWMA standards to the extent practicable. Substantive requirements of RCRA Subtitle C (or the state's HWMA equivalent) may be satisfied by off-Site disposal, consistent with the CERCLA Off-Site Rule at 40 C.F.R. § 300.440. Oregon generally incorporates federal regulations by reference and requires compliance with the federal regulations.

Below is a list of specific subparts and sections that have been identified in advance as likely applicable, though this list could change if site conditions or available information changes.

a. Part 261 "Identification and Listing of Hazardous Waste" and more specifically Subparts A – D (40 CFR §§ 261.1 – 261.35) are likely applicable to the work to be done on site because they provide the definitions and criteria for identifying hazardous waste. These regulations are likely practicable to meet.
b. Part 262 "Standards Applicable to Generators of Hazardous Waste" and more specifically Subparts A – D (40 CFR §§ 262.10 – 262.44) are likely applicable to the work because EPA's removal actions will result in gathering hazardous waste at the Site and storing it temporarily for off-site shipment to an appropriately-permitted facility. Subparts A, B, and C are likely practicable. Subpart D "Recordkeeping and Reporting" may not be practicable because EPA is already required to manage records pursuant to CERCLA and other federal recordkeeping laws and regulations, and therefore meeting requirements of multiple overlapping record-related regulations may not be practicable.
c. Part 263 "Standards Applicable to Transporters of Hazardous Waste" is likely applicable, however it depends on whether EPA and/or its contractors serve as transporters, or whether an independent third party will transport the waste off-site. This will be further assessed as the work on-site proceeds. If EPA or EPA contractors are the transporters, Subparts A – C (40 CFR §§ 263.10 – 263.31) are likely applicable. All of those sections within Subparts A – C are likely practicable, except Section 263.22 "Recordkeeping". Section 263.22 is likely not practicable for the reasons described above regarding Part 262.
d. Part 268 "Land Disposal Restrictions" and more specifically Subparts A, B, D, and E (40 CFR §§ 268.1 – 268.14 and 268.40 – 268.50) are likely applicable to the removal work because EPA will be arranging for the transport of hazardous waste for disposal which will most likely be land disposal at an appropriately-permitted facility. These regulations are likely practicable to meet however real-time changes in disposal plans may alter whether these regulations are applicable and/or practicable.

Clean Water Act (CWA), 33 U.S.C. § 1342. The National Pollution Discharge Elimination System (NPDES) requires permits for discharge of stormwater. ODEQ and the City of Eugene have been delegated the authority under the CWA to carry out the NPDES program in the State of Oregon. If response activities involve clearing, grading, excavating, or other activities that will disturb more than one acre of land resulting in storm water discharges, such activities will comply with the substantive requirements for a Construction Stormwater General Permit to the extent practicable. Additionally, due to the operational status of the facility, it may become necessary for EPA to assume operation of the surface water treatment system as a part of this removal action. If this occurs, EPA will comply with the substantive requirements of the facility's current NPDES permit to the extent practicable.

Clean Air Act (CAA), 42 U.S.C. §7401, et seq; 40 CFR § 50.4-50.12. National Ambient Air Quality Standards (NAAQS) may be applicable, specifically particle pollution. Removal activities may involve air emissions related to dust generated during excavation of source material or fill placement activities. The selected removal actions will be carried out in a manner that will comply with NAAQS to the extent practicable. NAAQS are translated into source-specific emissions limitations by the state in Oregon Administrative Rule (OAR) 340, *et seq.* and approved by EPA as part of its State Implementation Plan. The substantive requirements of the OAR will be met as practicable.

Endangered Species Act (ESA), (16 U.S.C. § 1531 – 1544; 50 CFR Parts 17, 402). The ESA protects species of fish, wildlife, and plants that are listed as threatened or endangered with extinction. It also protects designated critical habitat for listed species. The Act outlines procedures for federal agencies to follow when taking actions that may jeopardize listed species, including consultation with resource agencies. In this geographic area are marbled murrelets, northern spotted owl, streaked horned lark, Taylor's checkerspot butterfly, and fenders blue butterfly which are either threatened or endangered. Given the industrial nature of the Site area, it is doubtful the removal action would impact these species or their habitats; however, the substantive requirements of this Act are potentially applicable. The OSC will coordinate with the U.S. Department of Interior to determine if there may be potential impacts to threatened or endangered species and mitigate any disturbances.

Migratory Bird Treaty Act (MBTA), (16 U.S.C. §§ 703 *et seq*.). The MBTA makes it unlawful to "hunt, take, capture, kill" or undertake various other actions adversely affecting a broad range of migratory birds without prior approval by the U.S. Fish and Wildlife Service. EPA conducted an evaluation of the area and determined that birds protected under the Migratory Bird Treaty Act, killdeer and Canadian geese, are known to be present in the vicinity of the Site. When migratory birds are observed during the cleanup, EPA will comply with the substantive provisions of the to the extent practicable.

National Emissions Standard for Hazardous Air Pollutants (NESHAP) (Clean Air Act, 42 U.S.C. § 7412, 40 CFR Part 61, Subpart M). Subpart M addresses asbestos milling, manufacturing, and fabricating operations, demolition and renovation activities, waste disposal issues, active and inactive waste disposal sites, and asbestos conversion processes. Subpart M is potentially applicable to the handling, packaging, labeling, transportation, and disposal of asbestos-containing material (ACM). Below is a list of specific sections that have been identified in advance as applicable, though this list could change if site conditions or available information changes.

a. Section 61.145 “Standard for demolition and renovation” is likely applicable because some of the work EPA will do will require demolition. EPA will need to abate the asbestos wrap found on tanks, piping, and retorts to access contents and dispose of contaminated materials.
b. Section 61.150 “Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations” is likely applicable because EPA will be collecting and disposing of asbestos waste from the site.

National Historic Preservation Act (NHPA) (16 U.S.C. § 470f, 36 C.F.R. §§ 60, 63, and 800). Section 106 of the NHPA requires that federal agencies take into account the effects of their undertakings on historic properties and seek ways to avoid, minimize, or mitigate any adverse effects on those properties. The Section 106 process seeks to accommodate historic preservation concerns with the needs of federal undertakings through consultation among the agency official and affected parties, commencing at the early stages of project planning. While consultation with the State Historic Preservation Officer (SHPO) is considered by EPA to be an administrative, rather than substantive, element of the NHPA, EPA will engage the SHPO on the planned removal activities. To the extent practicable, EPA will continue to communicate with the SHPO and provide the SHPO with a reasonable opportunity to comment on activities that may impact historic properties when practicable.

State of Oregon ARARs

Visible Emissions, Nuisance and Fugitive Emission Requirements. (OAR 340-208-0210, LRAPA Title 48, Title 49). These regulations require the application of reasonable measures to minimize fugitive emissions and odors to the greatest extent practicable. They prohibit any handling, transporting, or storage of materials, or use of a road, or any equipment to be operated, without taking reasonable precautions to prevent particulate matter from becoming airborne. These rules include areas other than “special control areas” where fugitive emissions or odors may cause a nuisance and control measures are practicable.

Oregon Hazardous Waste Management Act (ORS 466.005-466.225; Hazardous Waste Management Rules; OAR 340-100 *et. seq.*). As described above, regulations under this statute establish the requirements for the generation, transportation, treatment, storage, and disposal of hazardous wastes in accordance with EPA authorization pursuant to RCRA. Except as otherwise modified or specified OAR Chapter 340, Divisions 100 to 106, 109, 111, 113 incorporate, by reference, hazardous waste management regulations of the federal program, included in 40 CFR Parts 260 to 266, 268, 270, 273 and Subpart A and Subpart B of Part 124, into Oregon Administrative Rules. The incorporation by reference requires compliance with the federal regulations, therefore the federal regulation citations are listed above.

Solid Waste Management (OAR 340-093-0170, 0190, 0210, 0220, 0260). Regulations under this statute establish the requirements for the collection, transportation, treatment, storage, and disposal of solid wastes.

Oil and Hazardous Materials Emergency Response Requirements (OAR 340-142). Regulations under this rule pertain to spills of oil and hazardous materials. Should a spill occur meeting the requirements

of this regulation, EPA with comply with the notification, reporting and cleanup standards to the extent practicable**.**

Oregon Asbestos Rules (OAR 340-248, LRAPA - Title 43). These regulations address the definition of asbestos-containing waste material; accumulation of asbestos material or asbestos-containing waste material; demolition of buildings with asbestos-containing waste material; and transportation of asbestos-containing waste materials for disposal. These regulations are potentially applicable to the management of asbestos-containing materials at the Site. Some of the state regulations may be more stringent than the federal regulations, however Region 10 has not conducted an official determination of whether the Oregon regulations are more stringent than the federal regulations and does not do so with this Action Memorandum. To the extent these regulations are more stringent than the federal regulations, they would be ARARs and complied with to the extent practicable.

6. **Project Schedule**

It is expected that project implementation will begin in July of 2024 and will take more than 12 months to be completed.

B. Estimated Costs

The EPA estimated extramural costs are shown below.

Regional Allowance Cost		
Emergency and Rapid Response Services (ERRS)	$	8,000,000
Superfund Technical Assessment and Response Team (START)	$	900,000
U.S.C.G. Strike Team	$	60,000
Sub-Total, Extramural Costs	$	8,960,000
Contingency (15%)	$	1,344,000
Total Removal Action Project Ceiling:	$	10,304,000

VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

If the proposed removal action should be delayed or not taken, large quantities of hazardous substances will remain as potential human health and ecological threats. Since the facility ceased operations in 2022, the tank farm infrastructure continues to deteriorate. No other party has been identified that has the ability to contain, consolidate, and dispose of the identified hazardous wastes so the risk of catastrophic failure will continue over time, increasing the risk of exposure to the surrounding communities and the environment.

VIII. OUTSTANDING POLICY ISSUES

This removal action will not address all the contamination concerns at this Site. EPA is in the process of considering this Site for proposal to the Superfund National Priorities List.

IX. ENFORCEMENT

See the Confidential Enforcement Memorandum outlining enforcement details.

X. RECOMMENDATION

This decision document represents the selected removal action for the J.H. Baxter & Co. Site, a former 32-acre former wood treatment facility located in Eugene, Oregon, developed in accordance with CERCLA, as amended, and is consistent with the NCP. This decision is based on the administrative record.

Conditions at the J.H. Baxter & Co. Site meet the NCP Section 300.415(b)(2) criteria for a removal and the CERCLA Section 104(c) emergency exemption for the 12 month and $2 million limitation, and I recommend your approval of the proposed removal action and emergency exemption for the 12 month and $2 million statutory limits. The total project ceiling, if approved, will be $10,304,000. Of this, as much as $10,304,000 comes from the Regional Removal Allowance.

XI. APPROVAL / DISAPPROVAL

APPROVAL:

CASEY SIXKILLER
Digitally signed by CASEY SIXKILLER
Date: 2024.05.09 11:48:17 -07'00'

Casey Sixkiller, Regional Administrator
Region 10

DISAPPROVAL:

_____

Casey Sixkiller, Regional Administrator
Region 10

XII ATTACTMENTS

Attachment 1 – Figures
Attachment 2 – EJ Screen