

To: Mayor Vinis and Eugene City Council

Re: JH Baxter and dioxin findings

Date: 1/18/2022

The primary role of government is to protect the people. We have a situation in Eugene that warrants immediate action by the Eugene Mayor and City Council to ensure public health protections. JH Baxter, a local creosote manufacturer and wood preservation facility, has contaminated nearby public facilities and private properties with dioxin and other hazardous chemicals. Regulatory agencies determined hazardous chemicals traveled offsite and into the surrounding neighborhoods through air deposition and contaminated surface and ground water.

On January 13, 2022, the Oregon DEQ reported evidence that dioxin, created at JH Baxter as a result of their manufacturing processes, is contaminating the private yards of Eugene residents and public parks. This finding follows upon decades of significant violations of their discharge permit. For example, a decade ago in 2011, the DEQ identified JH Baxter as a Significant Non Complier. The agency reserves this designation for permitted facilities meeting the following criteria: 1) Flagrant and willful violation; 2) Chronic or recalcitrant violator; and/or 3) Violations that constitute a significant deviation of a permit, order or regulatory requirement and whose violations of requirements are important to the protection of the environment or human health or the integrity of the regulatory system. In March 2021, the DEQ fined JH Baxter \$223,440 for intentional violations of their solid waste permit. DEQ and the USEPA have issued ten enforcement actions against JH Baxter, a number that doesn't include the multiple times when anomalies found at JH Baxter did not result in an enforcement action.

LRAPA has also repeatedly fined JH Baxter for violations of their air discharge permit. LRAPA issued eight enforcement actions against JH Baxter, which doesn't include the multiple times anomalies were found at JH Baxter but did not result in an enforcement action.

JHB Enforcement Actions, 1993-2020

- **EPA** (hazardous waste)
 - Paid \$64,000 civil penalty (2018, for 2014 hazardous waste violations)
- **LRAPA** (air quality)
 - Paid \$10,926 from four enforcement actions
 - Four additional enforcement actions without penalty
 - Eight total enforcement actions
- **DEQ** (hazardous waste and water quality)
 - Assessed \$49,600 from six enforcement actions.
 - \$42,400 of this amount was paid (remaining amount reduced in settlement, based on new information).
 - Nine additional enforcement actions without penalty
 - 15 total enforcement actions

Total penalties assessed: \$124,526.

Total actions: 24



*Enforcement Action information provided by the Oregon DEQ on 12/02/2020. On March 3, 2021 the DEQ issued an additional civil penalty for \$223,440 for multiple violations of Oregon's hazardous waste laws and National Pollutant Discharge Contamination waste water discharge permit. **This recent civil action brings total penalties assessed to JH Baxter to \$347,966.***

This amount is a drop in the bucket, simply the price of doing business in Oregon for a large business such as JH Baxter. The amount \$347,966 pales in comparison to the harm caused by this facility's pollution discharges. Neighbors are suffering:

- loss of property values,
- loss of ability to enjoy one's property,
- loss of ability to enjoy and feel wellbeing from one's surrounding environment,
- loss of health,
- loss of economic stability from paying medical bills, and
- loss of generational wealth caused by the decline in residential property values, which is often a family's sole significant investment.

Eugene residents living in the vicinity of JH Baxter know their own long history of being exposed to JH Baxter's air, water and soil pollution. Many hundreds of residents have filed complaint after complaint describing suffering the ill effects and loss of wellbeing as a direct result of JH Baxter's air toxics and water pollution. Many more residents have given up trying to engage with our local and state regulators from fear of dismissiveness and minimal responsiveness.

This situation is unacceptable and the community no longer can endure ongoing pollution from JH Baxter.

A legal remedy is found in Oregon statutes. Oregon regulatory agencies can issue a cease and desist order under [Oregon Revised Statute \(ORS\) 468.115](#). This statute provides the authority as follows:

Whenever it appears to the Department of Environmental Quality that water pollution or air pollution or air contamination is presenting an imminent and substantial endangerment to the health of persons, at the direction of the Governor the department shall, without the necessity of prior administrative procedures or hearing, enter an order against the person or persons responsible for the pollution or contamination requiring the person or persons to cease and desist from the action causing the pollution or contamination. Such order shall be effective for a period not to exceed 10 days and may be renewed thereafter by order of the Governor.

Regulatory agencies have proven JH Baxter poses "an imminent and substantial endangerment to the health of persons" as required under ORS 468.115. The agencies must now direct a request to issue a cease and desist order to Governor Kate Brown. Governor Brown would need to direct DEQ to enter such an order. DEQ has authority under Oregon Administrative Rule (OAR) 340-216-0082(4) to revoke an air quality permit if it finds that the permittee's activities are seriously endangering public health, safety or the environment.

There is no doubt that JH Baxter is seriously endangering public health, safety or the environment. State regulators have warned that young children are at daily risk of dangerous dioxin exposure by playing in their backyards or some nearby parks. Dioxin is a carcinogen and mutagen. The DEQ requires soil clean-up at a mere 4.7 parts per trillion. That is a hard number to visualize - it would be the equivalent to 4.7 seconds out of 32,000 years. An article published in the National Library of Medicine describes dioxin toxicity thus:

Dioxins are classified as known human carcinogens, but they also cause noncancerous effects like atherosclerosis, hypertension, and diabetes. Long-term exposures to dioxins cause disruption of the nervous, immune, reproductive, and endocrine system. Short-term exposure to high levels impairs the liver function and causes chloracne. The most sensitive population to dioxin exposure are the fetuses and infants. A large number of health effects have been documented in the scientific literature, and they all place dioxins among the most toxic chemicals known to man. -

[Dioxins and Human Toxicity](#)

On behalf of the larger community, the Active Bethel Community neighborhood association, the residents of the Bethel and Trainsong neighborhoods, and Beyond Toxics, we collectively request that the elected government of the City of Eugene immediately send a request to Governor Brown directing the Oregon DEQ and LRAPA to revoke operating permits by issuing a cease and desist order for JH Baxter.

Sincerely,

Beyond Toxics

Lisa Arkin, Executive Director
Arjorie Arberry Baribeault, Environmental Justice Organizer for West Eugene
Paige Hopkins, Climate Justice Organizer for Lane County

Active Bethel Community Board

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