J. H. BAXTER & CO., a California Limited Partnership

JBaxter

28-E-3.1

August 26, 1998

Jeanne Tran
Ching Pi Wang
Department of Ecology
Northwest Regional Office
3190 160th Ave. S.E.
Bellevue, WA 98008-5452

Dear Ms. Tran and Mr. Wang:

Enclosed with this letter are a proposal and a schedule from J.H. Baxter & Co. (Baxter) for action at the Arlington facility to address stormwater and MTCA issues. Baxter has considered this proposal very carefully and believes that it is one which will achieve a significant amount of immediate control on the sources of PCP in stormwater (see Tasks 1 and 3 on enclosed schedule) as well as an expedited response to the facility's MTCA status. The proposal also lays the basis for future remedial action under MTCA which we propose should be undertaken in concurrence with the installation of additional controls to address the stormwater situation.

We must stress, however, that Baxter cannot implement controls on this site sooner then what is reflected in the schedule without jeopardizing Baxter's financial ability to complete it and possibly its corporate existence. We feel that the proposal pushes the company to the limits of what it can do. The fact of the matter is that the MTCA designation and the addition of dioxin as a contaminant of concern present issues that complicate the whole process. Baxter was in the process of complying with Consent Order 96WQ-N232 which reflected a compliance schedule of January 2000 to address PCP contamination in stormwater. That schedule was agreed to with Ecology because of time necessary to investigate and construct proper treatment only for PCP, in addition to the financial hardship concerns on Baxter's part relating to the cost of construction. The Department of Ecology (DOE) has now requested in addition to addressing PCP in stormwater, that Baxter comply with a dioxin effluent limit that has not yet been established. Also, we have been required to address concerns of the MTCA at the same time. In order to maintain financial integrity and address the concerns of both Water Quality and Toxic Clean-up, Baxter will need time to properly coordinate all requests of DOE. The schedule proposed, although extremely aggressive from a cost standpoint, is one that will allow Baxter to comply with DOE requests and perform work in the most efficient cost effective manner.

This proposal does not address each and every issue which must be resolved before we can jointly proceed ahead. Some significant issues must be the subject of face to face

Design of the treatment units will begin after Ecology approves this action plan. Conceptually, the units will consist of a simple layered filter fabric and activated carbon structure designed to trap sediment and remove dissolved organic compounds. The treatment units will be placed outside of the catch basins at land surface and be designed for hand installation and removal. This will allow ready inspection and maintenance by J.H. Baxter facility personnel. These units may be designed specifically for this site, or "off-the-shelf" units may be purchased as appropriate. The treatment units will filter as much of the sediment and dissolved organic compound as possible consistent with maintaining proper drainage for facility operations.

MTCA Action Item 1: Agreed Order Negotiation

Ecology's Toxic Cleanup Program has recently re-ranked the J.H. Baxter Arlington site on the Hazardous Sites List from a #4 (relatively low priority) to a #1 (high priority), primarily because of concerns about offsite impacts to groundwater. Ecology has also indicated that this work should be completed under an Agreed Order, which requires the scope of work to be negotiated with Ecology prior to implementation.

An Agreed Order will be negotiated with Ecology's Toxic Cleanup program to perform a Remedial Investigation and Feasibility Study (RI/FS). **The RI/FS will investigate the nature and extent of contamination at the Baxter Arlington site and identify remedial alternatives. The Agreed Order will identify a Scope of Work and Schedule of Deliverables for the RI/FS.**

MTCA Action Item 2: Work Plan

A streamlined work plan will be prepared for a focused Remedial Investigation/Feasibility Study (RI/FS). **Existing data will be analyzed to develop a conceptual model for the occurrence of PCP in the groundwater system and the potential for dioxin to occur. Surface soils in the pole treating and treated pole storage areas may be contributing to the observed groundwater contamination and paving will be considered a presumptive remedy for addressing this concern.** It is also possible that past spills or other releases have occurred that may contribute to groundwater quality impacts via subsurface pathways. **The work plan will focus on investigation of the subsurface soil quality to identify these other potential contributors so that the effectiveness of paving as a remedial alternative can be evaluated along with other subsurface source remedial technologies.**

The work plan will begin with a comprehensive analysis of the existing data, particularly historic use information and existing groundwater data. These analyses will be used to focus subsurface investigations in areas where historic practices suggest potential for contaminant releases. The existing groundwater data will be used to define the range in anticipated groundwater flow conditions within and away from areas of known groundwater contamination. **The data will also assist in assessing offsite groundwater migration.** The work plan will be reviewed and approved by Ecology. It is anticipated that work on this task will begin in October and be completed by the end of December.

WINTER 1998-1999
December, January, February

MTCA Action Item 3: Field Investigation

Site characterization activities will be focused within the treatment area and on assessment of the groundwater plume. The field investigation is anticipated to begin in January and extend through February.

We propose to install approximately eight borings near drains, historical spill locations, the butt tank, and other areas considered to be potential PCP source areas. The borings will extend beneath the water table. Three of the borings will be completed as groundwater monitoring wells to better define subsurface PCP source areas and the extent of the groundwater plume. Approximately four soil samples will be obtained for chemical analysis from each of the borings so that the vertical distribution of the constituents of concern can be defined. The collected soil samples will be analyzed for PCP. Approximately two samples per boring will also be selected for analysis of petroleum hydrocarbons (associated with aromatic petroleum carrier and diesel fuel), and volatile aromatics (potentially associated with aromatic petroleum carrier), based on field screening results (including headspace screening and visual evidence of hydrocarbon staining). Approximately five soil samples will be analyzed for total organic carbon to assist in evaluating the adsorption capacity of site soils.

Limited sampling for dioxins (approximately five samples) will be proposed since the site will likely be capped; PCP also serves as a better indicator of contamination than dioxins. The limited dioxin data will be used to verify the relationship between PCP and dioxin concentrations.

Groundwater from the three new wells and four existing wells will be sampled during the wet season for PCP, petroleum hydrocarbons, volatile aromatics, total suspended solids or turbidity, and field parameters (including pH, temperature, conductivity, and dissolved oxygen). This data will be combined with the existing data collected by Baxter as part of the NPDES sampling.

In order to verify that the PCP-containing groundwater is not impacting offsite groundwater quality, groundwater grab samples (using Hydropunch samplers) will be obtained along the downgradient border of the property and/or offsite. Groundwater samples collected from these wells will be analyzed for PCP.

SPRING 1999
March, April, May

MTCA Action Item 4: Interim Report

The field investigation data will be compiled and evaluated. At this time, it is likely that a need for supplemental data will be identified, particularly for a better evaluation of potential remedial alternatives. Recommendations for any additional investigation will be made in a brief interim report describing the proposed investigation and rationale for the additional data collection. This additional work will be reviewed and approved by Ecology.

SUMMER 1999
June, July, August

MTCA Action Item 5: Supplemental Field Investigation

Additional investigations will be conducted if necessary to address data gaps. The potential scope of such investigations can not be defined at this time but will likely focus on remedial alternative analysis.

MTCA Action Item 6: RI/FS Report

Preparation of the focused RI/FS report will get underway once the supplemental field investigations (if necessary) are completed. The RI/FS will discuss the nature and extent of contamination at the site as well as appropriate remedial options.

FALL AND WINTER 1999-2000
September, October, November, December, January, February

MTCA Action Item 7: Cleanup Action Plan (CAP)

Preparation of a CAP would begin in November and extend through February. If remedial actions are required, the design work could be completed during this period so that it coordinates with the stormwater improvements.

Stormwater Action Item 4: Design Studies

Final design of the pavement, storm drainage systems, and treatment facilities will begin in January 2000 and extend into the spring months. Additional studies may also be undertaken during this period to support final design efforts. The culmination of the design work will be the submittal of an engineering report to Ecology that meets the requirements of Chapter 173-240 WAC. The schedule for submittal of draft and final documents would be established sometime in 1999.

SPRING 2000
March, April, May

Stormwater design studies would continue as described previously, and the final engineering report would likely be submitted in May.

J.H. BAXTER ARLINGTON PROPOSED ACTION PLAN
August 27, 1998

SUMMER AND FALL 2000
June, July, August, September, October

Stormwater Action Item 5: Pave Parcel A as Part of a Presumptive Remedy

The AKART recommended stormwater contamination at the site be addressed by paving all of Parcel A as a means to collect surface water for treatment and to isolate surface soils presumed to contain residual PCP. A portion of the site was actually slated for paving in late summer or early fall of 1998. This construction was put on hold in June due to the emergence of the dioxin issue and potential MTCA action, and resulting uncertainty concerning Ecology's intentions. It appeared particularly unwise to proceed with paving if future subsurface investigation and remediation required the same pavement to be torn up and removed.

We now propose to begin paving Parcel A after the MTCA process has run its course and a determination made as to the degree and timing of remediation. The paving will then act as part of the stormwater treatment system and as a protective cap for site remediation purposes. Pavement can in essence be considered a "presumptive remedy" since it is a typical part of remediation at most wood-treating facilities.

The paving would begin in June and extend for an estimated two to three months. It would be in place in time for the following winter.

Stormwater Action Item 6: Construction of the Treatment System

Construction of the stormwater infiltration gallery, treatment system, and surface water conveyance system for Parcel A would be integrated with the paving installation described above. This task would begin in June (or perhaps slightly earlier if weather permits), and continue into September or early October. The intent would be to have all stormwater system improvements completed before the onset of wet weather in late October.

We are proposing to design a system that includes asphalt paving, water conveyance piping, a detention structure (perhaps a lined perimeter ditch), filtration equipment for solids removal, GAC for organic compound removal, and a subsurface infiltration gallery for discharge of treated water to groundwater. A bioswale is no longer being considered as a viable option for primary treatment (as discussed previously); however, it may be possible to construct a detention pond with the shape and draft of a bioswale and to encourage plant growth within it as a means to assist with sediment removal and organic compound degradation.

SCHEDULE 1998–2000

A schedule showing the proposed and estimated time for each of the action plan tasks is attached.

discussions. One such issue is the "effluent standard" that will be established for the facility. We understand that Ecology has not yet determined that standard or by what process it will make that determination. We believe that any discharge must comply with AKART. By law, establishing AKART involves the need to consider the reasonableness of costs to a permittee. Without knowing the standard that Ecology is considering, there is no way for Baxter to know at the present time whether Granulated Activated Charcoal (GAC) will be able to meet the standard, and if GAC can meet the standard, whether that cost will be reasonable.

Baxter conservatively estimates that at least $3 million will be necessary to complete the actions described in the proposal. This estimate does not include any amounts for MTCA work other than an RI/FS and capping of soils on Parcel A. It assumes that no unusual problems will be uncovered during the investigation. This estimate also assumes that AKART for control of PCP and dioxin will be the use of GAC. The cost of GAC to achieve effluent standards will not exceed those contained in the AKART analysis. Any changes to these assumptions will result in increases to the cost estimate.

In formulating this proposal, Baxter found that the MTCA process will govern the timing of some of the measures that may be necessary to control stormwater quality. This is especially true for the paving of Parcel A. The paving of Parcel A will likely be part of the overall MTCA remedy. We feel that the MTCA process must come to some decision at which the paving of Parcel A becomes a MTCA requirement before Baxter should be required to construct the remainder of the facilities necessary to control stormwater quality.

The costs of the overall program at Arlington are obviously a critical concern to Baxter. Realizing the work necessary to accomplish the fix will be subject to enforceable agreements with Ecology, Baxter cannot propose a schedule containing measures that it realistically cannot commit to implement. The schedule proposed is a best case senario consistent with Baxter's financial ability. Baxter is prepared to share with Ecology confidential information concerning its financial condition. We wish to do that in a meeting where this subject can be fully discussed. For the purposes of this letter, however, it is sufficient to point out several facts: (1) the company has experienced operating losses each year since 1993 and projects such losses to be incurred through 2002, (2) the company is committed by other agreements to expend on average $4 million a year through 2002 for cleanups at other sites including Weed, California, The Dalles, Oregon, Laramie, Wyoming and Eugene, Oregon, and (3) funds to address the Arlington site will not be available out of operating revenues and will have to be obtained through other means such as asset sales and insurance recovery. Our assets are our only collateral to secure the line of credit from our lender. It cannot be sold without bank approval.

Baxter anticipates that it will attempt to recover as much of its costs as possible from insurance. Any such attempt will be jeopardized if Baxter has incurred cleanup costs in any manner which has not been approved in advance by DOE. Baxter is not in a

financial position to take that risk and should not be forced into that position by an unrealistic schedule.

In recent meetings with Ecology it has been brought to our attention that DOE does not feel that J.H. Baxter has been proactive about addressing contamination issues on our site in Arlington. Baxter is frustrated by the comments considering the fact that it has fully complied with the permit that was issued to us in June of 1993. The permit was a monitoring permit only because DOE had not issued its groundwater water quality criteria guidance document and therefore did not know how to regulate our site which was the only wood preserving site in the state with a groundwater discharge. Additionally, Baxter has been working expeditiously to comply with an order issued by the water quality unit to address PCP contamination in stormwater. To date, Baxter has spent well over $100,000.00 is complying with the order only to be told that dioxin is now the primary concern at the site and that DOE may issue a new NPDES permit in September with final effluent limitations and no compliance schedule for dioxin. This expenditure of $100,00.00 was largely a wasted effort in view of the present concern about dioxin. If a permit is issued with final effluent limitations and no compliance schedule, Baxter will most likely spend much of its limited resources defending itself against civil lawsuits. This will jeopardize the completion of the stormwater control at the site. As indicated in the recent dioxin study report issued by DOE on August 20, 1998, J.H. Baxter is the only wood preserving company that has completed a dioxin study at its site even though other wood treaters were required to do the same study in compliance with their permits and did not. In addition, Baxter is also concerned that the manner in which the water quality unit has elected to address the new issues at this site with Baxter will not promote a strong working relationship and effective resolution to the contamination issues we face.

Baxter continues to be willing to work with Ecology to address issues at the Arlington site and would like to continue to work in a productive manner with Water Quality and the Toxic Clean-up Program. Baxter is prepared to meet with Ecology staff and discuss this proposal and all issues related to it. Baxter is also prepared to expend the time necessary to put negotiated orders in place on an expedited basis. In the meantime, we will await your response as to a time and place for such a meeting.

Yours truly,

Georgia Baxter
Executive Vice President
J.H. Baxter & Co.

cc: Ron Lavigne – AG
Megan While – Olympia
Mike Rundlett – NWRO
Wilmot Moore - Olympia
Mike Gallager- NWRO

Attachment

J.H. BAXTER ARLINGTON PROPOSED ACTION PLAN

15,986.003

August 27, 1998

FALL 1998
September, October, November

Stormwater Action Item 1: Cooling Tower Evaporator Retrofit

The cooling tower evaporator will be immediately retrofitted to eliminate approximately half of the source of PCP to stormwater. The AKART analysis calculated that 49.1% of the PCP in stormwater from the treated pole storage and treatment facility area (Parcel A) was due to cooling tower emissions. J.H. Baxter will design and install an in-line activated carbon treatment unit to remove this source. It is intended that the installation be complete by the start of the wet season in October.

Stormwater Action Item 2: Bioswale Pilot Study

Phase 1 of the bioswale pilot study will continue with the work being conducted by the University of Washington in conjunction with AGI. The study is evaluating whether plants can reduce PCP concentrations in soil and water and which plants are most effective in doing so. A final report is expected in late November or early December.

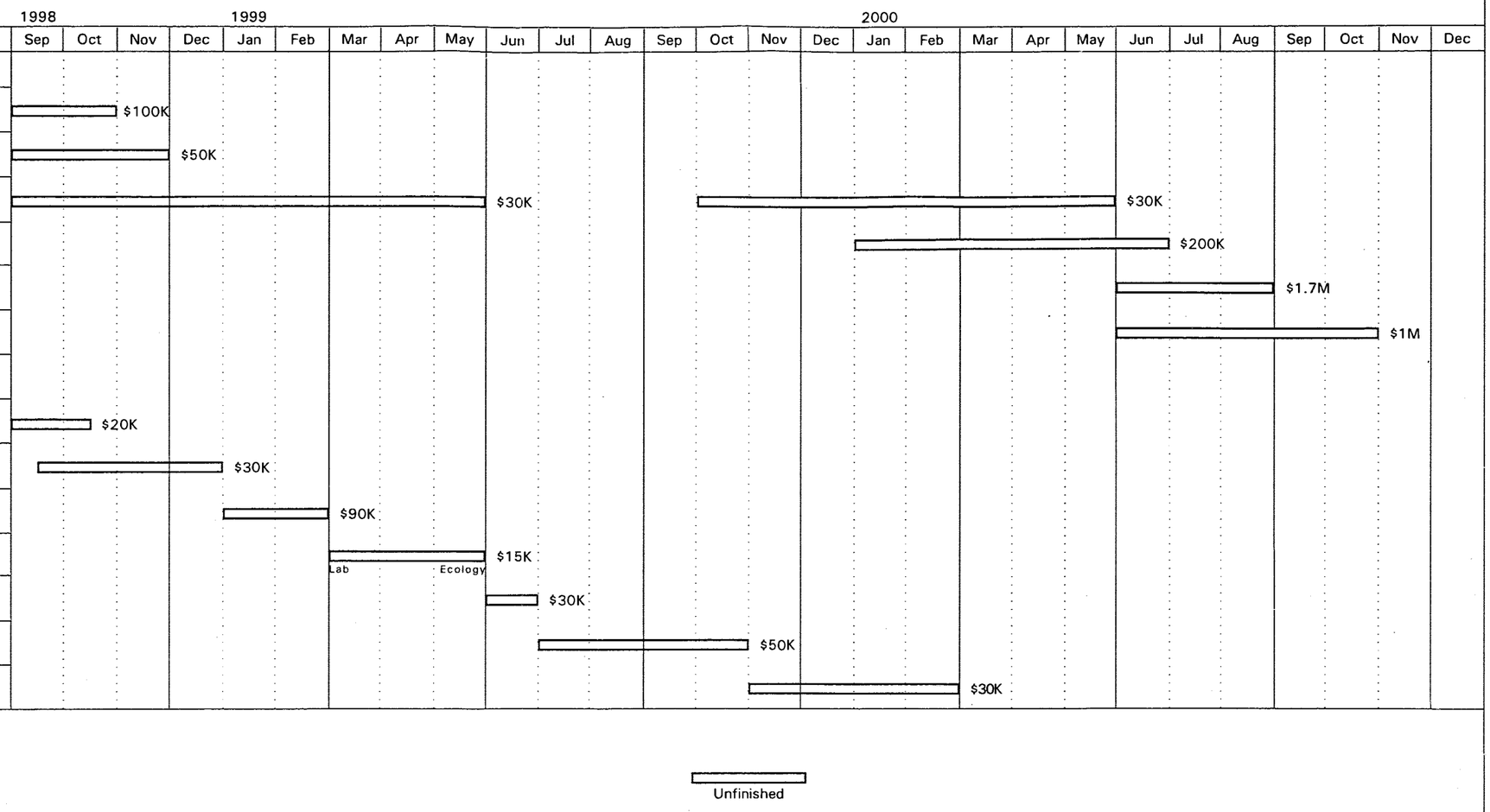
We are now proposing to eliminate the next phase (Phase 3) of the bioswale pilot study as described in AGI's January 13, 1998 Final Scope of Work Bioswale Pilot Testing Program, J.H. Baxter & Company Arlington Facility. The concept of a bioswale being the primary treatment unit no longer appears feasible given its experimental nature and the exceptionally low discharge standard likely to be applied for dioxin compounds. What does appear feasible is stormwater treatment by solids filtration coupled with granular activated carbon (GAC) treatment. GAC was the backup technology described in the AKART analysis for the bioswale, and we propose to proceed with design work on this basis. However, a bioswale or some other type of biological treatment might be implemented at some future date as support for a GAC system. It is anticipated the Phase 1 study will provide useful information for the future design and construction of a bioswale.

Stormwater Action Item 3: Temporary Stormwater Treatment

As a temporary measure, it is proposed that each of the drains in Parcel A (treatment area and treated pole storage) be fitted with filtration/treatment units to reduce the amount of PCP and dioxin entering the ground from surface water runoff. The AKART analysis indicated that approximately 87% of the PCP discharge in stormwater occurs through the Parcel A drains. Since construction of the final treatment system is not proposed until the summer of 2000, we believe it is important that some measure of treatment be in effect during the winters of 1998-1999 and 1999-2000 to reduce impact to the environment. Installation of units on Parcel A drains will apply treatment where it is needed most.

Proposed Arlington Schedule

Task Name	Duration
STORMWATER	
Task 1: Cooling Tower	60 days
Task 2: Ph1 Pilot Study	90 days
Task 3: Temporary Treatment	510 days
Task 4: Design Studies	180 days
Task 5: Paving	90 days
Task 6: Construction	150 days
MTCA	
Task 1: Agreed Order	45 days
Task 2: Work Plan	105 days
Task 3: Field Investigation	60 days
Task 4: Interim Report	90 days
Task 5: Supplemental Exploration	30 days
Task 6: RI/FS Report	120 days
Task 7: CAP	120 days



AGI Technologies
Project: 15,986.003
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