

# MINUTES

Eugene Toxics Board  
Pete & Jerry Room, Fire Station 1  
Eugene, Oregon

February 5, 2010  
4:00 p.m.

**PRESENT:** David Doll, Chair; Holly Jacobson, Cynthia Kokis, Maeve Sowles, Diana Bollenbaugh, Stephen Flanagan, members; Glen Potter, Eugene Fire & Emergency Medical Services Department

## **I. Approval of Agenda/New Items**

Mr. Doll called the meeting of the Eugene Toxics Board to order. He determined that members had no additions or changes to offer to the agenda.

## **II. Public Comment**

**Lisa Arkin** represented the Oregon Toxics Alliance (OTA). She wished to present research that her organization had done on the Eugene Toxics Right-to-Know (RTK) Program data base and requested time on a future agenda to present a more full report. She suggested that research found inadequacies in the system, as evidenced by data about J. H. Baxter. She indicated that Suzana Radivojevic and Rodolfo Oliviera, volunteer chemists for the OTA, would speak to those issues. Ms. Arkin shared copies of Baxter's emissions as reported on the data base, and three copies of the hazardous air pollutant (HAP) figures reflected in the company's Lane Regional Air Protection Agency (LRAPA) permit.

**Suzana Radivojevic** said that J. H. Baxter was a wood treating company that employed three formulations of restricted wood preservatives no longer used residentially due to their toxicity: pentachlorophenol; creosote, which included at least 100 identified components including naphthalene and polycyclic aromatic hydrocarbons; and arsenic-based formulation, which had high ammonia emissions. Those substances were now used only for industrial and commercial applications. Ms. Radivojevic said that information from the Environmental Protection Agency's (EPA) Toxics Release Inventory (TRI) indicated that in 2008, J. H. Baxter reported 250 pounds of pentachlorophenol to the TRI, but that substance was not reported to the RTK data base.

In regard to creosote, the situation was similar. J. H. Baxter reported creosote and two other compounds that might be associated with creosote, but neither creosote or its major components were reported to the RTK Program, nor was ammonia. Ms. Radivojevic acknowledged that she did not know the reporting criteria for the RTK Program but found those emissions had not been reported to the data base. She said that the emissions from the facility were considered fugitive

emissions and companies did mass balance calculations and estimated the amounts released.

Ms. Radivojevic concluded that it appeared fugitive emissions were not required to be reported to the Right-to-Know Program, but she believed that 96 percent of emissions from J. H. Baxter were fugitive and that they posed a public health risk.

Mr. Potter observed that “emitted to air” was one of 11 output types that could be reported under Eugene’s Toxics Right-to-Know Program. Ms. Radivojevic clarified that only two chemicals released by J. H. Baxter in 2008 were reported under that category.

Mr. Doll said that nothing in the 2008 report added up to the amount mentioned by Ms. Radivojevic, and suggested the matter needed further investigation as it could change matters for other companies as well.

**Joann Ernst** averred that the emissions reported to the Right-to-Know Program were from J. H. Baxter’s regulated stacks and did not include fugitive air emissions. She asserted that there was inaccurate reporting to the Right-to-Know data base as evidenced by the lack of reporting from Murphy Plywood, which reported over 26,000 pounds in air emissions in the form of formaldehyde, ammonia, and methanol to the EPA TRI data base. Additionally, the RTK data base contained no information about the byproducts produced by J. H. Baxter.

It appeared from the RTK data base that the emissions from J. H. Baxter were less than one percent of the total emissions in the 97402 zip code area. Ms. Ernst contrasted that to data from the TRI, which indicated that J. H. Baxter emitted more than 39,000 pounds of toxins in west Eugene. Ms. Ernst said the chemicals J. H. Baxter reported to the City’s RTK Program were not reported in quantities necessary to create air emissions of more than 39,000 pounds.

Ms. Ernst objected to the fact that no one took fugitive air emissions into account. The LRAPA permit for J. H. Baxter included a limit on pentachlorophenol of 20 pounds per year from the company’s stacks, but if one included the fugitive emissions reported to the TRI data base, it was clear that the company released 250 pounds of pentachlorophenol. That made the company out of compliance by more than 200 pounds per year if fugitive emissions were accounted for.

Ms. Ernst advocated for changes to the RTK Program, calling for more accuracy in the chemicals reported by companies; the reporting of byproducts created by manufacturing processes; inclusion of fugitive air emissions in the reporting data base; assurance there was an emergency preparedness plan for leaks, spills, and failures at each company; inclusion of health data for chemicals reported as well as for combinations of chemicals that could form more hazardous chemicals on the Web site; and requiring that companies in Springfield and Lane County report to the program.

**Rodolfo Oliviera** noted complaints made by nearby residents about ammonia, but LRAPA did not have any control of that. He reviewed some information contained in a document entitled Ammonia Review, copies of which he circulated among board members. He advocated for J. H. Baxter and all such plants to have an emergency preparedness plan, which he had found no evidence of in the LRAPA permit.

Ms. Bollenbaugh asked if Mr. Oliviera had checked with the City of Eugene, as her company had an emergency preparedness plan that addressed chemical hazard. Mr. Doll indicated to Mr. Oliviera that the Occupational Health and Safety Administration governed that issue, not LRAPA, and noted that his own company had an emergency preparedness plan that addressed chemical hazard as well.

Mr. Doll also determined from Mr. Potter that the City of Eugene Fire Marshal's Office issued hazardous materials permits and ensured the safe storage, use, and handling of hazardous materials. Mr. Oliviera indicated that his concerns regarded the scope of the emergency plan required by LRAPA and the fact that residents were complaining about ammonia and the issue was not covered by any regulations in Lane County.

Ms. Arkin asserted that J. H. Baxter had been out of compliance with an LRAPA requirement for a plan to inform the public when its pollution control facility was off-line.

Ms. Arkin indicated her intent to provide the board with a full report about her organization's concerns in three to four weeks.

Mr. Doll asked Mr. Potter to comment. Mr. Potter thanked the OTA representatives for attending. He explained that discrepancies between the TRI and RTK program could be attributed to the fact that the RTK program was precluded by state law from requiring the reporting of pesticides. The majority of the chemicals used by J. H. Baxter were for pesticide use.

Speaking to Ms. Ernst's proposal that the City regulate companies outside the city limits, Mr. Potter said that the program had authority over manufacturing businesses located in Eugene with ten or more employees in a calendar year and with total outputs of 2,640 pounds of listed hazardous substances in a calendar year. Murphy Plywood either did not meet the criteria or needed further investigation; he suspected the company was outside the city limits. Regarding addition of program requirements, Mr. Potter noted that the program was established through the City Charter and the charter could only be amended by a vote of Eugene citizens.

The board agreed to schedule further discussion at the next meeting. Members agreed it was important to respond to the issues raised by the OTA, particularly in regard to the reporting discrepancies the organization perceived.

### **III. Approval of Minutes**

Ms. Jacobson noted that she was incorrectly referred to as Ms. Johnson on page 2 of the minutes.

Mr. Doll deemed the minutes corrected as amended.

### **IV. 2010 Fee Recommendation**

Mr. Potter reviewed the FY11 program budget and explained his fee recommendation of \$55.48

per FTE up to the state-imposed \$2,000 maximum.

Mr. Flanagan, seconded by Mr. Doll, moved to approve the staff recommendation for the 2010 fee. The motion passed unanimously.

Mr. Potter indicated he would present the Board's recommendation to the City Council on February 17, 2010.

#### **V. Schedule Next Meeting**

The board scheduled its next meeting for March 18, 2010, at 4 p.m. in the Pete & Jerry Room at the Downtown Fire Station.

Mr. Doll adjourned the meeting at 4:55 p.m.

*(Recorded by Kimberly Young)*