

# Hazardous Waste Site Review Committee Meeting

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August 23, 2016, 4:00 PM CDT  
Grand Island Public Library  
Meeting Room Center  
211 N Washington St.  
Grand Island, NE 68801

**I. Open Meetings Law information – verification of public notice, availability of copy of law in the meeting location - NEB. REV. STAT. §§ 84-1407 through 84-1414 (1999, Cum. Supp. 2006, Supp. 2007)**

The Chair, John Turnbull, called the meeting to order at 4:00 PM Central Daylight Time. Chairman Turnbull verified public notice and availability of copy of law in the meeting location

**II. Roll Call**

All twelve appointed committee members were present; the quorum was met.

First Name	Last Name	Attendance
Teresa	Anderson	X
Greg	Baxter	X
Karen	Bredthauer	X
Chris	Exstrom	X
Alex	Harness	X
Brad	Kloss	X
Chad	Nabity	X
Dan	Purdy	X
Jon	Rosenlund	X
Casey	Sherlock	X
Timothy	Smith	X
John	Turnbull	X

*Others in attendance: Jim Macy-Nebraska Department of Environmental Quality (NDEQ), Mark Vess-Heritage, Joe Francis-NDEQ, Morgan Leibrandt-NDEQ, Dan LeMaistre-NDEQ,, Mark DeKraai – University of Nebraska Public Policy Center (UNPPC), Quinn Lewandowski-UNPPC, and a few unnamed members of the public*

**III. Review and Approval of July 19, 2016 Meeting Minutes**

Karen Bredthauer made a motion to approve the July 19, 2016 meeting minutes. The motion was seconded by Casey Sherlock; the motion passed by roll call vote with no abstaining votes and no dissensions. Committee member Alex Harness was absent at the time of this vote.

- **Yea:** Anderson, Baxter, Bredthauer, Exstrom, Harness, Kloss, Nabity, Purdy, Rosenlund, Sherlock, Smith, and Turnbull

# Hazardous Waste Site Review Committee Meeting

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- **Nay:** None
- **Abstentions:** None

## **IV. Review of Agenda and Update of Notebooks**

Mark DeKraai gave a brief overview of the meeting's agenda. Joe Francis worked with committee members to update their notebooks.

## **V. NDEQ Update**

### **A. Opening Address - Jim Macy, NDEQ Director**

Jim Macy thanked committee members for their service and time dedicated to this committee. He reiterated that the purpose of establishing this committee is to provide early public involvement for the consideration of the proposed facility. While general public attendance at the meetings has been sparse, NDEQ ran public notices of the meetings, put all information and advertised on their website. They realize that the majority of newspaper readers don't carefully read the public notice section so they ran separate news releases. Jim Macy took the time to thank the Grand Island Independent for running those news releases and for the additional stories they ran. The goal of informing the public and inviting them to participate continues to be met.

NDEQ looks forward to receiving the report. After the final report is submitted, the committee's work will be over and according to the statute the committee "shall have no further duties." However, if there are any substantial changes from what Heritage has to this point described in the meetings, the director can ask the committee to consider the changes which could have impacted the final report.

As NDEQ described in the first meeting, once the committee has submitted the report NDEQ will forward the committee's report, along with any responses Heritage may provide to the committee report, and a copy of the Heritage applications to the Hall County Board. The Hall County Board must approve the proposal before NDEQ begins its technical review. NDEQ relies on the committee to ensure the final committee report accurately characterizes all members' questions and concerns.

### **B. Clarification on Compliance Requirements and Financial Assurance - Morgan Leibrandt and Dan LeMaistre, NDEQ**

With regard to compliance inspection concerns, the program has a yearly inspection commitment for routine inspections. During the startup phase of the project, the inspections will be more frequent. Periodically through the life of the five year RCRA permit there will be testing to make sure the results meet all standards.

Clean Harbors, another hazardous waste incinerator in the in Kimball, NE, setup a real-time process and emissions information system that allows NDEQ access to real-time and historical data at any time. Heritage has agreed to provide the same type of system. NDEQ air and water will also hold inspections with Heritage. Additionally, NDEQ will

## Hazardous Waste Site Review Committee Meeting

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respond to any complaints about Heritage. Any ongoing permits will also be inspected by whatever entity is providing the permit.

Dan LeMaistre then took the time to further clarify liability requirements for Heritage. The Resource Conservation and Recovery Act (RCRA) requires that all hazardous waste treatment, storage and disposal (TSD) facilities demonstrate financial responsibility for accidental occurrences that may cause harm to a third party. There are two types of accidental occurrences, sudden and nonsudden. Sudden accidental occurrences are events that are not continuous or repeating in nature, such as fires or explosions. All TSD facilities, like Heritage, must maintain funds of at least one million dollars per occurrence and no less than two million dollars annually.

Nonsudden accidental occurrence are events that occur over an extended period of time from either a continuous release or repeated release. Heritage does not have any financial responsibility requirements for nonsudden accidental occurrences because the requirements only apply to facilities that operate land management units (landfills, surface impoundments, etc.). Any facility that does have a financial responsibility requirement for nonsudden accidental occurrences must maintain funds of at least three million dollars per occurrence and no less than six million dollars annually.

A facility can demonstrate that liability funds are available through several financial mechanisms: financial test, letter of credit, surety bond (insurance) or trust fund. Many facilities maintain a surety bond to demonstrate compliance with their accidental occurrence financial assurance requirements. It is important to note that the listed financial requirements are the minimums established by RCRA and addition assurance may be necessary if a regulating agency determines that the level of risk necessitates additional funds.

### **VI. Review Draft Report**

#### **A. Review and Modify Format**

##### **i. Hazardous Waste Site Review Committee Final Report**

Mark DeKraai presented the draft format of the report. The report will talk about the Nebraska review process so the reader can understand what went on throughout this process: the factors that were reviewed, notice of intent, and description of local site review committee. The next section of the report will be a factual orientation of the committee's work and identify the major issues and concerns. The rest of the report flows sequentially by committee meeting capturing meeting agenda and minutes which include the questions & answers, presentation materials, and other meeting materials. Appendices will include the statutes, Notice of Intent, and terms and acronyms.

It was proposed the title be changed to:

*Hazardous Waste Site Review Committee Final Report*

# Hazardous Waste Site Review Committee Meeting

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*For the Hall County, Nebraska Site for the Heritage Disposal and Storage, LLC,  
Hazardous Waste Storage and Incinerator Facility  
October 18, 2016*

This proposed change was accepted, and will be reflected on the next draft of the report.

Greg Baxter, Chris Exstrom, and Jon Rosenlund proposed that the “*Committee Conclusions and Recommendations*” section be changed. The new section title would be “*Committee Findings and Comments*.” This proposed change was accepted.

Use of a table was proposed to better cross reference issues and concerns, the response or answer, and what meeting minutes one can refer to if you want more information. This table would be used for each of the factors in the body of the report under the “*Committee Findings and Comments*” section. After discussion, the group accepted a format similar to the example below be used:

*With regard to site characteristics, the committee identified the following significant issues and concerns:*

<b><i>Issue or Concern</i></b>	<b><i>Summary of Response or Answer</i></b>	<b><i>Committee Comment</i></b>
<i>What method will be used to restrict wildlife access to evaporation ponds?</i>	<i>The water would be fully fenced and there will be bird prevention on top of evaporation ponds as well. Minutes 5/24, p.8</i>	<i>Adequate safeguards will be in place to protect wildlife.</i>

The committee comment section of the table will be a place where the committee can identify if the response or answer or answer is adequate.

## **B. Generate Issues, Concerns, and Conclusions for Factors 1-8**

*Any questions were placed in the question and answer section below*

### ***Economic Considerations:***

It was proposed that the section contain some reference to the fact that Heritage has been in their location since 2003. The committee agreed that information that the Army contract application and selection process required a section analyzing Heritage’s financial capacity that included financial resources, insurance, investments, etc. It was also suggested that short-term and long-term and long benefits on the economy should also be included in the report.

### ***Facility Functions:***

Committee members suggested the wording that “water suppression system” be changed to “fire suppression system.”

## Hazardous Waste Site Review Committee Meeting

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### ***Technology:***

The committee would like to note the difference between a rotary kiln vs. open burn and state that the best available control technology (BACT) is a requirement of the contract. Heritage already has the technologies that it is going to use, and is just analyzing the best selection of the lineup to give the least emissions, least bad actors, and best by-products. The engineers are currently looking at methods in the emission control system to drop the particulate out. It is not that the engineering is not complete, it is about maximizing BACT – Best Available Control Technology.

It was pointed out that Zinc Oxide needs to be corrected to Zinc Chloride. The report will need to designate what chemical transformations are happening with this process; the handout provided at one of the first meetings provided a lot of this information (Table 5.2 in the HC Smoke Handout).

Jon Rosenlund suggested that the report locate Technology and Environmental Quality sections next each other. This suggestion was accepted by the committee

### ***Site Characteristics:***

The committee agreed to move this section to the beginning of the factors.

### ***Environmental Quality:***

Anticipated water use was suggested to be included in the report. It was also mentioned that the points of surface and ground water protection were other important pieces to include.

### ***Transportation Considerations:***

The Army is handling the entire transportation portion. The Army bomb depots will load the materials on the trucks. The Army bomb depots will be responsible for maximizing the load without overloading or unbalancing the load. Heritage's responsibility will start as soon as truck hits the Heritage gate. Trucks bringing in or taking away shipments will use the most efficient, least populated, minimal risk, etc. route.

***The remaining two factors (Plans for Emergencies and Enforcement Provisions) were deferred until the September meeting.***

## **C. Questions and Answers**

### ***Are you (NDEQ) notified if the insurance isn't paid?***

It is reviewed and has to be maintained to hold the permit.

***In regards to bonding, I would like more information on what is required for bonding. How does that bonding hold, if a third party comes in? From a state perspective, what are the legal insurance commitments of that? From the regulatory perspective, are the***

## Hazardous Waste Site Review Committee Meeting

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***insurance company bond for a period of time if the company changes hands (to stand by a commitment)?***

With Heritage being a contractor for the U.S. Government, the U.S. Government is a service provider under their insurance; the U.S. Government mandates the minimum coverages. Heritage already exceeds those. Their lender requires bonding of the facility which protects the banks, which also protects this mechanism. The U.S. Government, the bank, and NDEQ will all be notified if Heritage is not paying its insurance. The U.S. government will be paying Heritage for this contract, and require checks and balances. Heritage's insurance package covers employees, accidents, civilians, incidents, environmental considerations and much more. This contract is a part of a very big package, and Heritage takes pride in ensuring that it has met all requirements. Heritage is continually consulting with a law firm (Baird Holm, LLP), and this law firm will help draft the legal documents that will bind them to the state of Nebraska as far as all cleanup processes, etc. NDEQ will then be looking closely at the language and make sure that meets regulatory compliance.

If or when Heritage closes its doors the facility would be inspected to see if it would be capable of a clean close. If the facility is not capable of a clean close, mechanisms would be put into place to have money available for any possible cleanup in the future. The bottom line is that the mechanisms are under control of NDEQ. The facility cannot do away with mechanisms such as bonds. Insurance cannot pull the policy away without DEQ being involved.

***Does Heritage have the financial capacity to carry out the project?***

The Army Application included a financial portion that included cost, investments, etc. Heritages financial capacity was a part of this selection process in getting awarded the contract.

***Will it be an evolutionary technology (as technology improves you improve with it), or will it be a set your method and continue to run that method?***

There will always be a constantly evolving situation to increase safety and efficiencies. The design includes the flexibility to process other materials in the future. Heritage's contract is for about 15-20% of the stockpile. Currently we are capitalizing on the technology that General Dynamics already uses, and will have the most compliant thermal treatment plant at the time. Federal regulations require, as equipment ages and it has to be rebuilt or replaced you have to look at BACT, which means Heritage will have to progressively review its options as equipment ages or has to be replaced.

***Can real-time access data be provided? And is it an actual requirement?***

It can be provided, and it isn't an official requirement. Heritage has been a self-reporter since its opening, and Heritage believes it to be the right way to do business. Heritage sees having the real-time data access available to NDEQ as a liability reduction for both the State and for Heritage.

# Hazardous Waste Site Review Committee Meeting

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## **VII. Comments, Feedback, Next Steps and Adjourn**

### **A. Member Comments**

Chairman John Turnbull and member Dan Purdy made a request that the below diagrams be shared at the next meeting and be made available and be included in the report:

1. Concept diagram of rotary kiln
2. Facility diagram

### **B. Meeting Feedback**

No additional meeting feedback was given. Due to time constraints, discussion of the final two factors – Plans for Emergencies and Enforcement Provisions - will be continued at the September 20<sup>th</sup> meeting.

### **C. Summary of Next Steps**

#### **i. Remaining Meeting Schedule**

1. Tuesday, September 20<sup>th</sup> – 4:00 PM – 6:00 PM, Grand Island Public Library
2. Wednesday, October 12<sup>th</sup> - 6:00 PM, TBA

### **D. Public Comments**

No comments were made or proposed.

### **E. Adjourn**

John Turnbull adjourned the meeting at 6:05 PM CST.