

Hazardous Waste Site Review Committee Meeting

Hazardous Waste Site Review Committee Meeting

July 19, 2016, 4:00 PM CDT

Alda Community Center

6410 W Highway 30, Alda, NE

AGENDA

I. Call to Order

II. 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 – NEB. REV. STAT. §§ 84-1407 THROUGH 84-1414 (1999, Cum. Supp. 2006, Supp. 2007)

III. Roll Call

Seven of the twelve appointed committee members were present at roll call; Alex Harness arrived at approximately 4:15. There were no members of the public present at the meeting.

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

Others in attendance: Dwight Miller-Heritage, Mark Vess-Heritage, Joe Francis-Nebraska Department of Environmental Quality (NDEQ), David Graiver-NDEQ, Daniel LeMaistre-NDEQ, David Haldeman-NDE, Branden Lubke – Nebraska Fire Marshal, Mark DeKraai – University of Nebraska Public Policy Center (UNPPC), Addison Fairchild - UNPPC

Hazardous Waste Site Review Committee Meeting

IV. Review and Approval of June 23, 2016 Meeting Minutes

The meeting minutes refer to “DTS.” It was determined “DTS” is an acronym for Disposal, Treatment and Storage. The final report will include “DTS” in the list on acronyms.

Chad Nabity made a motion to approve the June 23, 2016 meeting minutes. The motion was seconded by Karen Bredthauer; 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:** Breadthauer, Exstrom, Kloss, Nabity, Purdy, Smith, Turnbull
- **Nay:** None
- **Abstentions:** None

V. Review of Agenda and Update of Notebooks

1. Joe Francis led the discussion on updating the notebooks. The next meeting NDEQ staff will bring a new set of dividers. Under tab number 5, under miscellaneous information, insert a memo regarding when the final report is due. Under tab number 8, insert the letter to the editor to the Lincoln and Grand Island papers, which will be discussed later. Mark Vess sent a memo/note with a couple of links that includes additional information. The official minutes of the meeting from last month June 23 will go under tab 9. The agenda for today’s meeting can be inserted under tab 10. The PowerPoint presentation that the Nebraska Department of Environmental Quality (NDEQ) will be presenting will go under tab 10.
2. Mark DeKraai reviewed the agenda. There are two additional papers in front of each member: one is the 8 factors that we will be going over today; the other is an individual feedback form if you want to give meeting feedback anonymously. We have presentations on two of the eight factors today: Heritage will present on economic considerations; then for enforcement considerations, there will be two presentations - the first by NDEQ and the Fire Marshal and the second by Heritage. An opportunity for questions will follow each presentation. An additional item has been added about method of disposal technology. The committee will then discuss issues, concerns and conclusion for all 8 areas. The committee will finish up with member comments and public comments, meeting feedback, and summarizing steps for the next meeting. Dates have been set for the August and September meetings.

VI. Heritage Presentation on Economic Considerations

1. **#1 Economic considerations such as whether the facility is needed, profit expectations for the facility, how the facility will be operated, effects on the community, the potential for compensation to the local governing body, and aspects related to closure of the facility**

Hazardous Waste Site Review Committee Meeting

Dwight Miller presented on behalf of Heritage

Factors being discussed:

- **#1 Economic Considerations**
 - Need for facility
 - The Army has over 550,000 tons of conventional munitions needing demilitarization
 - An Army Small Business Award was won by Heritage
 - Heritage was awarded the contract, so to deliver Heritage will need to have the facility to meet the contract obligations
 - The existing storage and support infrastructure is recognized as meeting best-in-industry standards.
 - Heritage plans to have economically sustainable development
 - Expected profit – viability of business plan
 - The initial operation is based on the awarded Army Small Business (SB) Contract
 - The Small Business status enhances opportunities for future contract awards
 - The current award represents less than 2% of prospective Army conventional demilitarization needs
 - The facility will have capacity for additional federal, state, and private material thermal treatment
 - How will Heritage operate the facility
 - Heritage will manage and operate the facility
 - Heritage will hire and train local operations staff
 - More than 90% of hires will be from local area and Nebraska
 - Specialized safety, technical, and professional skills positions may need to be sourced nationally
 - There will be daily, weekly, monthly operating and performance monitoring, which will be required for maintaining cost effective performance as well as environmental and safety obligations of the facility
 - Effects on the community
 - The operation creates over 12 management positions
 - There will be 50 full time employment and 12 part time employment jobs
 - Service Contract Act (SCA) wage rates or hire with competitive benefits package
 - Annual salaries will range \$50K to \$100K Over \$3.5M annual payroll
 - There is an estimated three times multiplier in positive economic impact
 - There will be compensation to local governing body through property and sales taxes
 - Financial assurance at closure

Hazardous Waste Site Review Committee Meeting

- There are Resource Conservation and Recovery Act (RCRA) requirements for funds for closure and decommissioning of Treatment, Disposal and Storage (TDS) Facilities
- These requirements ensure the community is not impacted by a closed facility.

2. Question and Answer from Heritage Presentation

Question and Answer Regarding Economic Considerations

Committee member question: In Missouri, how many truckloads do they get? When we're seeing jobs, Mark said there would be three, maybe four truckloads a week. I'm having a hard time understanding how we're going to have that many jobs?

Heritage answer: It is three, maybe four truckloads a day initially. Basically we have to have the capability to store 1,600 tons of material onsite. And we have to have the capability to process 141 tons minimum per month based off of the contract with the government. So the rotary kiln operation... you don't fire it up, cool it down – it runs 24 hours a day 7 days a week. So when you think about it, if you have 4 shifts working 3.5 days a week, you have a total of 42 hours a week that each of the four shifts will work. If you take the management position, it requires 3 per shift for a total of 12 and the 50 people and the 12 people are divided out. You have all these different people working combined hours to make the full week. You really end up with 12 or 13 full time employees per shift. Because it's a 24/7 operation, it requires a lot of people.

SCA wage rates establish what those folks make. Because the job is at Heritage and it involves the handling of hazardous materials, explosives, employees at Heritage get a pay increase because it's hazardous work (if they are directly handling materials they get an 8% increase, and if they are indirectly handling them they get a 4% increase). You're looking at really strong wage packages.

The government issued certain requirements for this contract which prevented people competing for the contract from coming back and saying that they can't store it all. This is why the contract was awarded because Heritage has the capability of taking a certain amount of materials. The transportation cost was combined with the cost that we said we could do the work for.

Committee member question: What about the impact on housing in this area? Schools?

Heritage answer: We're hoping that a lot of these skills are material handling jobs, so you actually already have those kinds of people here. We're hoping to recruit from the Grand Island area or outside of the immediate area within Nebraska almost everyone that we need. It should have a relatively small effect. For the highly trained people (chemists, etc.), they will more than likely be older and will just be relocating here. I don't think that it will have a great impact.

Chad Nabity answer: When you're talking 50-70 jobs within a community the size of the Grand Island metropolitan area, at those upper ends there is sufficient capacity, although we do have a

Hazardous Waste Site Review Committee Meeting

tight housing market. It won't impact Alda that much because Grand Island will absorb some of it. At the lower end, those are probably people that are already here. We figure a little over a 1% growth rate for Grand Island so that anticipated growth can accommodate a portion of the additional positions.

VII. Heritage and NDEQ Presentations on Enforcement and Regulation

- 1. #8 Enforcement provisions, including applicable regulations, monitoring plans, who is responsible for enforcement, sequence and timing of possible enforcement, and the ability of governmental agencies to ensure compliance.**

David Graiver, Daniel Le Maistre and David Haldeman presented on behalf of NDEQ

Regulatory Interaction

Applicable Programs include the following:

1. Air Quality – Title 129 – Air Quality Regulations
2. Resource Conservation and Recovery (RCRA) – Title 128 – Hazardous Waste Regulations
3. Water Quality – Title 119 – National Pollutant Discharge Elimination System and Title 123 – Design, Operation, and Maintenance of Wastewater Works

It is important to note that NDEQ will not be able to make definitive statements on the ramifications of many of its regulatory programs on Heritage until a complete application is filed by Heritage. Heritage cannot submit their applications until the Hazardous Waste Site Review Committee have completed and submitted the required report.

- Nebraska Department on Environmental Quality (NDEQ) Interactions
 - Each program will have three primary methods of interacting with Heritage:
 - 1. Permitting,
 - 2. Compliance Verification, and
 - 3. Outreach and Assistance
- Air Quality Permitting
 - These are based on “Potential to Emit”
 - Construction Permits are
 - Project driven
 - Both State and Federal
 - Operating Permits include
 - All operations at facility
 - All applicable requirements
 - State and Federal
- Air Construction Permits are required because of the use of an incinerator
 - State Permits
 - Ensure protection of National Ambient Air Quality Standards
 - Ambient air is air outside of buildings to which the general public has access

Hazardous Waste Site Review Committee Meeting

- Requirements vary state to state
- Federal Permits:
 - Pertain to prevention of significant deterioration
 - The requirements are more uniform than between states
 - Federal requirements are much more involved
- Air Operating permits are required because of the use of an incinerator and include:
 - Federal Permits
 - Also known as Class I, Major, or Title V permits
 - State Permits
 - Are Class II Operating Permits in Nebraska
 - They allow the source to avoid Federal Operating Permit
- Air Quality Compliance Verification
 - Federal rules can require a Class 1, Title V operating permit
 - Compliance verification consists of periodic facility inspections including:
 - Entrance and exit interviews
 - Records review
 - Visual inspection of all emission units
 - Inspections are random and are unannounced
 - They frequency will depend on type and quantity of air pollutants emitted.
 - They can be conducted in response to complaints
 - They can be conducted in response to records and reports
- Resource Conservation and Recovery (RCRA) Permitting
 - This facility qualifies as a commercial hazardous waste management facility
 - The permit duration is 5 years
 - The permit contains operational and post-closure (30 years) requirements
 - The requirements for operation and post-closure:
 - Specifies what can be treated
 - Requires financial assurance
 - Requires monitoring and recordkeeping
 - There are engineering and geologic reviews of all plans
 - 2 Parts:
 - Part I (NDEQ)
 - Part II (EPA)
 - No new local siting – tests would have to be completed on materials other than those included in the original permit application
- RCRA Compliance Verification
 - There are three Treatment Storage Disposal Facilities (TSDF) in Nebraska and 80 Large Quantity Generators (LQGs)
 - TSDFs are inspected annually
 - LQGs are inspected every four years
 - Compliance verification consists of periodic facility inspections including:
 - Entrance and Exit interviews
 - Records review

Hazardous Waste Site Review Committee Meeting

- Visual inspection of all emission units
 - Inspections are random and are unannounced
 - There will be annual inspections for Heritage
 - They can be conducted in response to complaints
 - They can be conducted in response to records and reports
- Water Permitting
 - NPDES (National Pollutant Discharge Elimination System) Construction Stormwater General Permit
 - Required for land disturbances of 1 acre or more
 - NPDES Industrial Stormwater General Permit
 - Required for a commercial hazardous waste management facility
 - NPDES Discharge Permit
 - Based on the Effluent Limitation Guideline (ELG) at 40 CFR 457 and water quality standards. Includes air pollution control scrubber blow-down.
 - Meeting and ELG and water quality standards require treatment
 - Wastewater treatment systems must be designed by professional engineers registered to practice in the State of Nebraska
 - Systems must be permitted by the NDEQ Technical Assistance Unit
- Water Compliance
 - Construction Stormwater (CSW)
 - Requires implementation and monitoring of CSW best management practices. The CSW permit may be terminated after construction is completed.
 - Industrial Stormwater (ISW)
 - Requires implementation and monitoring of ISW best management practices and benchmark sampling.
 - NPDES Discharge Permit
 - Requires the treatment and sampling of wastewater to ELG or water quality standards.
 - All NPDES permits are subject to NDEQ inspections.
- Environmental Protection Agency (EPA) Involvement
 - Nebraska is part of U.S. EPA Region 7, which includes:
 - Nebraska, Iowa, Kansas, and Missouri
 - EPA has federal oversight of Nebraska's environmental programs.
 - EPA conducts some inspections
 - EPA reviews and advises NDEQ
- Facility Responsibilities:
 - Build as described in applications
 - Follow applicable rules and regulations
 - Obtain proper permits
 - Good recordkeeping and reporting
 - Communicate issues to NDEQ

Hazardous Waste Site Review Committee Meeting

- Where issues come up is typically when there may be problems with communication, and a little problem snowballs into a bigger problem.
- Compliance
 - Enforcement may occur as a result of routine or complaint-driven inspections:
 - Inspections - routine
 - Each facility has a specific set of rules and regulations
 - Inspections – complaint-driven
 - Can be written, online, or phone calls. All three of these types of methods are utilized
 - Review of records or reports
 - For example, someone isn't doing reporting or record-keeping as required. Or there is content that suggests activity that is outside of what the permit allows.
 - Enforcement action taken on a case by case basis and includes three options: informal warning, letter of warning, and notice of violation.
 - Informal warning is:
 - Used for minor issues that can be easily corrected (e.g. omission of a signature).
 - Follow-up action is not typically necessary.
 - Letter of Warning (LOW)
 - Requests compliance for issues that are minor but still substantive.
 - Issues that are straightforward and can be reasonably resolved without further intervention.
 - Recordkeeping issues
 - Reporting issues
 - The LOW can:
 - Describe the issues,
 - Establish remedies, and
 - Specify the timeframe for correcting issues
 - Fines and penalties are not typically associated with LOWs
 - Notice of Violation is
 - Used for more severe infractions
 - Spills
 - Exceeding limitations
 - Repeated infractions
 - Can require
 - Monitoring
 - Testing
 - Physical Modifications
 - Could be to the facility – if that occurs, there may be a need to revise the permit
 - Permit revisions

Hazardous Waste Site Review Committee Meeting

- If issues are not resolved, the following options can be used:
 - Directors Order/Compliance Order/Consent Order
 - Referral to the Nebraska Attorney General's (AG's) office
 - Fine of \$10,000 per day per violation maximum
 - Referral to the EPA
 - Fine of \$500 – \$250,000 per day per violation maximum (EPA)
 - Supplemental Environmental Projects
 - Criminal Action
- Example #1 (referral to attorney general)
 - Facility in western Nebraska
 - Took in several unpermitted hazardous wastes
 - Over 280 violations (Maximum potential penalty = \$2,800,000)
 - AG's office and Facility reached a settlement
 - \$80,000 in fines plus court costs
 - \$80,000 in supplemental environmental projects
- Example #2 (referral to attorney general)
 - Facility operated as a treatment storage and disposal facility (TSDF) without the appropriate post-closure permit.
 - Required to:
 - Submit all necessary information within 60 days.
 - Meet all relevant fire and safety standards
 - Modify the application with more stringent more stringent groundwater monitoring standards
 - Increase financial assurance from \$1.4 million to \$2.6 million
- Example #3 (administrative example)
 - Facility stored and processed waste containing more than 50 mg/kg of Polychlorinated-Biphenyls (PCBs) in violation of their permit.
 - Also processed wastes with mercury levels that exceeded permitted levels
 - Approximately 29 days of violations
 - (\$290,000 maximum fine)
 - Facility entered a Consent Order with NDEQ
 - 2 years of additional PCB sampling
 - New inventory management program
 - No fine
- Outreach and Assistance
 - The NDEQ prefers to work with a facility when possible
 - Permit Assistance Visits
 - Once a permit is issued, we will sit down with the facility and go through the content
 - Compliance Assistance Visits

Hazardous Waste Site Review Committee Meeting

- A facility can request the NDEQ to review procedures – no harm, no fault manner so our experts can advise on compliance issues
- Public Records
 - Nebraska Administrative Code Title 115, Ch. 4
 - Almost all documents the NDEQ receives are publicly available records and available at any time on the NDEQ web page.
 - Permit Applications
 - Correspondence/Reports
 - Finalized Orders/Litigation
 - Pending legal matters are confidential until complete
 - Other things can be kept confidential under Title 115.

Nebraska Fire Marshal

Branden Lubke presented on behalf of the Nebraska Fire Marshal

- As the building begins, the architect and engineer must submit plans for review. After the plans are reviewed, the review will go to the engineer and any other contacts. When the review is sent back to the engineer, the local code enforcement deputy gets a copy which lets them know something is going on. With that, we work on timelines. There are specific code reviews that are separate for each process – for general construction for each building, underground wiring, fire alarm, clean agent system, etc. With those, everything but the general building code review, the fire marshal has to witness an acceptance test. With the general construction, before the building is to be used, the fire marshal has to come in many times (beginning, midway point, at the end at the very least). When everything is done, the fire marshal will give the building occupancy
- Just like with NDEQ, the Fire Marshal will work with Heritage. If there are questions, the Fire Marshal encourages customers to call and ask.

2. Question and Answer from Heritage and NDEQ and Fire Marshal Presentations

Committee member question: Have prior inspections been done at Heritage?

Heritage answer: Yes, the state Fire Marshal has certified the use of all existing facilities. We're talking about the addition of a new facility. Once that facility is constructed and approved, the fire marshal will not look at it again unless a complaint is received.

Committee member question: Theoretically, say Heritage is up and running and inspectors are coming, but say there is an accident. So then, the fire marshal will be out there?

Fire Marshal answer: Depending on the incident, if it involves a fire, it will involve the arson investigators which is a different part of our division. If there is a fuel spill, there is a fuel division. But, say there's a problem where people are injured, if we receive notice of that as a complaint, we will come out and look at it.

Hazardous Waste Site Review Committee Meeting

Heritage answer: Basically, if there's a compliance related issue or accident or injury, the US Army requires a full accident report and notification of the Army within 8 hours. The Fire Marshal's office would also get notified, the NDEQ would get notified, as would the local fire department and emergency managers, hospitals, etc.

Inspection is like an upside down pyramid – at the beginning you start with encompassing inspections, but as you show compliance, they get less and less encompassing.

Committee member question: In general, how tied together are the permitting processes? Are state permits required always and sometimes federal permits?

NDEQ answer: For construction permits, it's one or the other permit (state or federal). Even if it's a federal permit, NDEQ is the agency giving it.

Committee member question: Does NDEQ oversee construction activities?

NDEQ answer: No, we have someone issue the permit, but actually watching the construction is not part of NDEQ's job. NDEQ will conduct inspections; there will be entrance and exit interviews and record reviews. The inspections are random and unannounced. In the air quality program, frequency depends on the air emission by the type of facility. We also inspect in response to any type of complaint. If there is a record or report that trips a red flag, we can send our inspectors out there as well.

Committee member question: For everything that can go wrong, you only check once a year?

NDEQ answer: At least once a year – there are many different organizations (EPA, RCRA) that go out once a year so there will be several inspections a year. There is also self-reporting and other requirements for monitoring and those need to be done in a timely manner. This can trigger an inspection or some sort of an action to remedy the problem.

Longer intervals can be seen with smaller facilities (dry-cleaners, auto body shops), but a facility like this is a big deal here in Nebraska so constant contact will be kept with Heritage.

In NDEQ and other agencies, it is like community policing – agencies are there to help ensure that it is in compliance. Everyone will be on the same page (NDEQ will be in touch with the EPA). There is also a field office in Grand Island here in the Natural Resource District (NRD) office, so NDEQ can rely on that person if an issue comes up that needs quick attention.

Heritage answer: There is a conditional use permit required for the facility that would be granted by the county. One of the important points is that to be in compliance with the conditional use permit, you must be in compliance with all other permits. It's another hammer that the county has over the facility and another point of enforcement at the local level to ensure that the facility is in compliance.

Hazardous Waste Site Review Committee Meeting

Fire Marshal answer: The Fire Marshal doesn't come in to say what is wrong, and here's a fine. The Fire Marshal comes in and points out what needs to be fixed, otherwise the facility will be closed, but normally it doesn't get to that point.

VIII. Method of Disposal Technology

The Chair, John Turnbull introduced this item on the agenda. "Method of Disposal Technology" was put on the agenda recently. There was a letter to the editor published on the 13th of July in the Grand Island Independent from an individual representing Citizens for Safe Water who was concerned about the methods of disposal.

Mark Vess presented on behalf of Heritage.

The US Government cannot use open burn (OB) or open detonation to dispose of munitions. The US Government has done extensive studies of technologies to demilitarize weapons such as electrical oxidation, biological degradation, chemical reduction, hydrothermal oxidation, and thermal plasma. It is important to note that in this case, the US Army is considering the best technology for conventional munition demilitarization rather than chemical munition demilitarization. For HC-smoke, the US Army required the most appropriate technology: thermal treatment. This technology is proven, environmentally sound, economical, and scalable.

The US government develops a request for proposal and the request for proposal gives you a small amount of a larger amount of information as a starting point. In the letters to the editor, the person says that they are concerned and surprised to hear about the massive incinerator. It goes on to talk about there are proven alternatives. It also calls for the end to open air burning.

There are 18 reference documents referring to the Army specifying 7 technologies recommended for the disposal of chemical demilitarization and 6 of the 7 technologies use thermal technology.

The person who wrote the letter to the editor was right, there is an alternative, but it equates to about \$68,000 per ton to get rid of an irritant, and not even a lethal material. It's not applicable to this effort. The Army takes all of this into consideration before they issue a request for proposal. Heritage proved to the government that we can do and conduct work that meets the requirements. Thermal treatment was specified by the government, it's a closed system and open burning is not allowed. This is well thought out and it's well decided. They took 18 months to make this decision with a whole cast of characters.

Committee member question: In the past, Heritage's technology is a novel adaptation, has the army destroyed HC smoke emissions using open air burning?

Heritage answer: Yes – the US EPA shut them down. The Heritage method is more environmentally friendly than previously used. Also, the facility is brand new and will be built with modern EPA requirements.

Committee member question: Mark – if you got hit by a truck, who's your successor?

Hazardous Waste Site Review Committee Meeting

Heritage answer: We have the investors. We have administrative management which is being performed in Seattle, Washington. Our engineers – 2 Nebraska firms, and 4 national firms. The managers and compliance staff – Mark is just the leader of the band.

IX. Issues, Concerns, Conclusions for Factors 1-8

Deferred to the next meeting.

X. Comments, Feedback, Next Steps and Adjourn

A. Member Comments

There were no additional member comments.

B. Meeting Feedback

There was no meeting feedback.

C. Summary of Next Steps

August 23 – 4:00 PM next meeting (location TBA)

September 20 – 4:00 PM (location TBA)

A Doodle Poll will be sent to determine a date for an early October meeting to go over final report.

D. Public Comments

There were no public comments.

E. Adjourn

John Turnbull, adjourned the meeting at 6:18 PM Central Daylight Time