

ADEQ RESPONSE TO PUBLIC COMMENTS ON THE
CONN-SELMER, INC. FINAL DRAFT POST-CLOSURE PERMIT

Arizona Administrative Code (A.A.C.) R18-8-271.0 requires ADEQ to respond to all significant comments made on any draft Post-Closure Permit within the public comment period. On March 26, 2000, a public notice was advertised in the *Arizona Daily Star*. The public comment period opened on March 26, 2009 and closed on May 10, 2009. No request for a public meeting or public hearing was submitted by any member of the public.

On May 8, 2009, Conn-Selmer, Inc. (CSI) submitted written comments on the draft permit. No other comments were received from the general public. The following is a compilation of CSI's comments. The comments are followed by ADEQ's response in **bold indented text**.

COMMENT 1 - The permit does not include an enforcement plan or references to any enforcement provisions. This omission is problematic particularly in light of the proposed Consent Order which requires Conn-Selmer to pay a penalty of \$100,000 when third-party auditors discover two or more violations of Significant Non-Compliance in any single audit or if the same violation of Significant Non-Compliance is discovered in consecutive audits. The permit should put Conn-Selmer on notice as to the types of permit violations that would constitute Significant Non-Compliance and outline applicable enforcement procedures.

RESPONSE: ADEQ does not agree that the Permit should include this detail. Various types or categories of permit violations constituting significant non-compliance as well as certain enforcement procedures, may be included in the Consent Judgment, when finalized. CSI should contact the manager of ADEQ's Hazardous Waste Inspections and Compliance Unit for further details. No change has been made to the permit as a result of this comment.

COMMENT 2 - The permit requires Conn-Selmer to provide financial assurance of its compliance with the Post-Closure Plan, and Conn-Selmer has established a trust to comply with this requirement. As written, the permit provides no mechanism for Conn-Selmer to request reimbursements for post-closure care expenditures by submitting itemized bills to the ADEQ, nor is there a provision for ADEQ to instruct the trustee to make reimbursements to Conn-Selmer after such a request is submitted. The Trust Agreement also provides that "the Trustee shall refund to the Grantor such amounts as the ADEQ Director specifies in writing" but the draft permit does not provide a mechanism for Conn-Selmer to request a release of trust funds in excess of the post-closure cost estimate. The permit should include a provision instructing the trustee to refund any excess funds remaining at the trust after completion of post-closure activities.

RESPONSE: The CSI facility consists of a long term maintenance/post-closure

component and an active maintenance/corrective action component. The corrective action component involves the management media containing one or more listed hazardous wastes). Thus, ADEQ has included the requirement that CSI update the financial assurance annually to account for changes due to the GNP/GDP implicit price deflator index.

ADEQ requires CSI to maintain “full” financial assurance for the term of post-closure care. However, there may be circumstances in which ADEQ may approve such reimbursements (e.g. due to a series of negative GNP/GDP price deflators, or after CSI enters its final 3-year post-closure period). Thus, ADEQ does not object to CSI’s request to include more detail on reimbursement within the permit. ADEQ notes that the financial assurance rules [see R18-8-264.A (40 CFR 264.145(a)(10)and (11))] as well as the existing trust agreement appear to provide sufficient instruction in this matter. Nevertheless, ADEQ has included a clarification in Permit Condition II.G noting that the Permittee may request reimbursement of funds in the trust at any time during the post-closure care period, in accordance with R18-8-264.A (40 CFR 264.145(a)(10)and (11).

The commenter has also expressed a concern (see Comment 24) regarding use of the term “continuous” in this permit condition. The response to Comment 2 also addresses that concern.

Permit Condition II.G has been modified. It now reads as follows:

“G. FINANCIAL ASSURANCE FOR POST-CLOSURE

1. Each year, within sixty (60) days of the anniversary date of the financial assurance mechanism, tThe Permittee shall demonstrate ~~continuous~~ compliance with the financial assurance requirements of A.A.C. R18-8-264.A (40 CFR §§264.145 and 264.146) by providing to ADEQ documentation of financial assurance as required by A.A.C. R18-8-264.A (40 CFR §264.151), in at least the amount of the cost estimate required by Permit Condition II.F.
2. The amount provided in the financial assurance mechanism of the Permittee shall be adjusted annually to meet the annual post-closure care and final closure cost estimate submitted by the Permittee under Permit Condition II.F.
3. The Permittee may request reimbursement of funds in the trust at any time during the post-closure care period, in accordance with R18-8-264.A (40 CFR 264.145(a)(10)and (11).
4. Changes in financial assurance mechanisms must be approved by the

Director pursuant to A.A.C. R18-8-264.A (40 CFR §264.144)."

COMMENT 3 - The draft permit does not resolve a concern that ADEQ has expressed, but not resolved, in regard to the uncontrolled emissions from the stripping towers. Conn-Selmer asks that the permit address this to bring resolution to it. EPA exempts *de minimis* emissions under 40 CFR 264.1032 ("process vents associated with air stripping operations"). Subpart AA prescribes controls for systems "managing hazardous wastes with organic concentrations of at least 10 ppmw." Hazardous wastes with concentrations below 10 ppmw do not have to be controlled. The organic concentration being emitted from Conn-Selmer's stripping towers is approximately 1.2 ppmw, considerably less than the regulatory threshold.

RESPONSE: Acknowledged. The response to comments hereby notes that, in accordance with R18-8-264.A (40 CFR 264.132), additional emissions controls are not required at the GRS process vents. No change has been made to the permit as a result of this comment.

COMMENT 4 - Part II, Section A.1(a) of the permit mandates compliance with all applicable permits. As such, it is effectively a cross-default provision, whereby violation of another agency's requirements constitutes and automatic violation of the post-closure permit. This provision is both unnecessary and unfair, and should be removed. .

RESPONSE: Agreed. ADEQ notes that the permit condition in question is actually II.A.1(b).

Permit Condition II.A.1 has been changed. It now reads as follows:

"A.POST CLOSURE CARE AND USE OF PROPERTY

1. Post-Closure Care

Post-Closure Care subject to A.A.C. R18-8-264.A (40 CFR 264.117) shall consist of at least:

- (a) Continuous operation, inspection and maintenance of the Groundwater Remediation System (GRS), including the equalization tank, remediated groundwater storage tank, and secondary containment (run-on and run-off control systems), with intermittent downtime due to maintenance and occasional interruptions;**
- (b) Groundwater monitoring and reporting;**
- (c) Review of groundwater monitoring data, treatment system progress, and any modifications necessary to achieve lasting groundwater resource**

remediation and final closure of the GRS without compromising public health and environmental protection; and

- (d) Inspections and maintenance of the surrounding fence, warning signs; monitoring wells, and extraction wells.”

COMMENT 5 - The permit (including attachments) is replete with redundant provisions that are often inconsistent, making compliance difficult. For instance, different sections of the permit contain contradictory record retention requirements, and there is some confusion as to when monitoring reports are due. To ensure clarity and to facilitate compliance, the permit must be internally consistent. In addition, redundant provisions should be eliminated.

RESPONSE: Per this comment and succeeding comments, ADEQ has corrected contradictory conditions. If necessary, the commenter may also submit a Class 1 (minor) permit modification to edit or clarify the permit without changing the substantive conditions, in order to remove other noted redundancies.

Regarding record retention, Permit Condition IV.D states that inspection records shall be maintained for three years, but Permit Condition VI.A.2(b) states that records shall be maintained for ten years. Per R18-8-264.A (40 CFR 264.73(b)(5)), the correct period for retention of inspection records is three years. Permit Condition VI.A.2(b) has been corrected to reflect the regulatory cite.

Permit Condition VI.A.2 has been modified. It now reads as follows:

- “2. The following information shall be recorded as it becomes available and maintained in the operating record of the facility as until completion of post-closure care period:
- (a) Summary reports and details of all incidents that require implementing the contingency plan;
 - (b) Records and results of inspections (except these data need be kept only three years);
 - (c) Monitoring, testing or analytical data where required by statute, regulation or Permit Conditions I.E.9 and I.E.10; and
 - (d) Waste minimization certification, as required by Permit Condition I.J.”

COMMENT 6 - Conn-Selmer is concerned that the permit does not allow flexibility in conducting

its day to day operations. The permit, as currently written, requires that application be made for a permit modification before making any changes. Conn-Selmer asks that ADEQ make allowance in the permit for changes to be made to the sampling plan, checklists, maintenance schedules, without going through the formal modification process. A statement allowing specific documents to be modified outside the formal modification mechanism would be equally enforceable as long as there was a stipulation requiring that such changes be discussed and approved by ADEQ before implementation.

RESPONSE: ADEQ believes the permit modification rules will not be overly burdensome to the Permittee when performing routine permit maintenance. The Permittee must follow the permit modification rules for most permit changes, however, ADEQ does have a suggestion regarding future changes to the Permittee's checklists (see below).

The hazardous waste rules provide for four types of permit modifications: Class 1, Class 1 with prior approval, Class 2, and Class 3. Class 1 changes are self-implementing by the Permittee. According to R18-8-270.A (40 CFR 270.42(d)(2)(i)) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. Class 1 modifications frequently serve to correct typographical errors, change general information, or make very minor changes to the permit. They are made without prior Director approval, and they are not subject to license timeframes. The Permittee is required to provide a notification of the change to the contacts listed on the facility mailing list, within ninety days after implementation of the change. No public meeting or hearing is required for these changes, and they are not subject to licensing timeframes requirements.

Modifications that are Class 1 with prior approval follow a slightly more complex process. The Permittee submits the change to ADEQ for review and approval. The review may not initially follow a formal permit review process – it may consist of a less formal information exchange between the Permittee and ADEQ (however, all information must ultimately be a certified submittal by the signatory for the Permittee). After ADEQ approval, the changes are public noticed the same way as Class 1 changes. These changes do not require a public meeting or hearing, and are not subject to licensing timeframes.

Finally, in order to further reduce the administrative burden, the Permittee may make several Class 1 changes to the permit at one time, followed by one notification notice. As a result, ADEQ views the permit modification rules as being very flexible, with little burden on the Permittee.

ADEQ does not believe it is possible to waive any portion of the permit modification

rule through inclusion of a permit condition as described by the commenter.

Regarding checklists, ADEQ may approve a permit modification that identifies certain minimal information that must be present on the checklist(s). The checklist may be included in the permit as an “example”. This approach allows the permittee to make formatting and other minor changes to the form(s) without the need for formal permit modification.

No changes have been made to the Permit as a result of this comment.

COMMENT 7 - The draft permit contains requirements that have already been fulfilled by Conn-Selmer, but the draft permit does not acknowledge such fulfillment. For example, Part II.D.1 (Notice in Deed to Property) states that “the Permittee shall Record... a notation on the deed to the facility property... that will, in perpetuity, notify any potential purchaser of the property that the land has been used to manage hazardous wastes....” Conn-Selmer asks that ADEQ add acknowledgements to indicate where requirements have already been fulfilled in order that requirements that yet need to be met are readily identifiable.

RESPONSE: ADEQ agrees to this change and inclusion of other such acknowledgements.

Permit Condition II.C and II.D.1 has been modified to add this acknowledgement and reformatted to the following:

Permit Condition II.C has been modified. It now reads as follows:

“C. The Permittee has submitted to the local zoning authority and to ADEQ a survey plat, as required in R18-8-264.A (40 CFR 264.119(a)), indicating the location and dimensions of the SWMU with respect to a permanently surveyed benchmark.”

Permit Condition II.D.1 has been modified. It now reads as follows:

“1. As required in A.A.C. R18-8-264.A (40 CFR 264.119(b)), the Permittee has recorded in accordance with state law, a notation on the deed to the facility property that will, in perpetuity, notify any potential purchaser of the property that:

- (a) The land has been used to manage hazardous wastes;**
- (b) Its use is restricted under A.A.C. R18-8-264.A (40 CFR subpart G)**

The survey plat and record of the type, location, and quantity of hazardous wastes

disposed of within the facility and managed at SWMUs on the facility property have been included in the notice to Deed and their status as required by A.A.C. R18-8-264.A, 264.115, and 264.119(a) and have been filed with the local zoning authority.”

COMMENT 8 - Part IV and Part VI contain contradictory retention requirements for inspection records, as noted in the below table. Conn-Selmer asks that these items be clarified to avoid confusion.

IV.D	VI.A.2(b)
The Permittee shall keep records of inspections in an inspections log or summary. The Permittee shall keep these records for at least three years from the date of inspection, at a minimum.	The following information shall be recorded as it becomes available and maintained in the operating record of the facility as until completion of postclosure care period: (b) Records and results of inspections (except these data need be kept only ten years)

RESPONSE: Permit Condition IV.D has been retained in the permit.

Per Response to Comment 5, above, Permit Condition VI.A.2(b) has been changed to :

“The following shall be recorded as it becomes available and maintained in the operating record of the facility until completion of the post-closure care period:

- (a) Summary reports and details of all incidents that require implementing the contingency plan;**
- (b) Records and results of inspections (except these data need be kept only three years);**
- (c) Monitoring, testing, or analytical data where required by statute, regulation, or Permit Conditions I.E.9 and I.E.10; and**
- (d) Waste Minimization Certification, as required by Permit Condition I.J.”**

COMMENT 9 - The draft permit is confusing as to when monitoring reports are actually due. Part I.E.11(c) states that “Monitoring results shall be reported at the intervals specified in Part III of this permit,” and two paragraphs later Part I.E.11(e) states that “the Permittee shall submit groundwater monitoring reports and annual GRS reports to the Director in accordance with VI.C.”

RESPONSE: Groundwater monitoring reports are due no later than April 15 (for the Comprehensive Sampling Event) and October 15 (for the Abbreviated Sampling Event)

of each year. The reports present the results of groundwater monitoring last performed no more than 60 days prior to the submittal date of the report. Thus, if the last day of Comprehensive sampling is on February 9, then the monitoring report is due on April 10 (i.e., no later than April 15).

To clarify the submittal deadlines, Permit Condition I.E.11(c) is changed to:

“Monitoring Reports. Monitoring results shall be reported at the intervals specified in Part III Attachment D, Section 2.5.1 of this Permit.

The last paragraph of Attachment D, Section 2.5.1 has been changed as follows:

~~“Regardless of the frequency of monitoring being conducted (annually, semiannually, quarterly) t~~ The Annual Comprehensive Groundwater Monitoring Report must be submitted by April 15 of each calendar year. The Semi-Annual Abbreviated Groundwater Monitoring Report shall be submitted by no later than October 15 of each calendar year. If due to unforeseen events, Permittee is unable to meet these deadlines, Permittee may request an extension. The request must describe the unforeseen events that prevented the Permittee from meeting the deadlines. This request may be in written or electronic format, and must be submitted to ADEQ no later than the reporting deadline.

Permit Condition I.E.11(e) has been changed to:

The Permittee shall submit ~~groundwater monitoring reports and~~ the annual GRS reports to the Director in accordance with ~~VI.C~~ Attachment D, Section 2.5.2 of this Permit.

Finally, Permit Attachment F, Section 2.3.2 has been changed as follows:

“2.3.2 Reporting

~~As stated in the Consent Order No. Z-10-98, CSI will submit to ADEQ a Comprehensive Groundwater Monitoring Report and an Abbreviated Groundwater Monitoring Report, summarizing groundwater monitoring data, Quarterly Progress (status) Reports, Quarterly Groundwater Monitoring Reports containing all monitoring data collected during the quarter, and an Annual GRS Groundwater Monitoring Report summarizing the monitoring data performance of the GRS for the year. Copies of other miscellaneous reports, logs, and data (i.e., inspection reports, drilling logs, laboratory data, etc.) will be made available to the Director upon request.”~~

COMMENT 10 - Attachment D, Section 2.5.1, states that “the Annual Comprehensive Monitoring Report must be submitted by April 15 of each calendar year. The Semi-Annual Abbreviated Monitoring Report shall be submitted by no later than October 15 of each calendar year.”

In contrast, Part VI.C.1 and Section 3.1 of Attachment D both state that the reports must be submitted to ADEQ within 60 calendar days after the last day of sampling for the groundwater monitoring event.

RESPONSE: Permit Condition VI.C.1 has been changed as follows:

“1. The Permittee shall submit a groundwater monitoring reports in accordance with Permit Attachment D, Section 2.5.1 ~~by no later than 60 following the last day of the groundwater monitoring event (see also Attachment D for details).~~ At a minimum, the reports Groundwater Monitoring Report shall include the following:”

As noted in the response to Comment 9, groundwater monitoring reports are due to ADEQ no later than April 15 (for the comprehensive sampling event) and October 15 (for the abbreviated sampling event) of each year. The reports present the results of groundwater monitoring last performed no more than 60 days prior to the submittal date of the report. Thus, if the last day of Comprehensive sampling is on February 9, then the monitoring report is due on April 10 (i.e., no later than April 15).

COMMENT 11 - To further complicate matters, Exhibit D-4 of Attachment D states that the frequency of the Annual Comprehensive Groundwater Monitoring Event is annual, and the Semi-annual Abbreviated Monitoring Event is “6 months after the Comprehensive sampling event.”

RESPONSE: Exhibit D-4 of Attachment D has been changed. In the column titled “Frequency”, for the Abbreviated Sampling Event, the cell now reads as “Annually”.

In addition, the name of the Annual Comprehensive Monitoring Event or Annual Comprehensive Groundwater Monitoring Report have been changed to delete the word “Annual”. Therefore they are now known as the Comprehensive Monitoring Event and the Comprehensive Groundwater Monitoring Report. Similarly the names of the Semi-Annual Abbreviated Monitoring Event and the Semi-Annual Abbreviated Monitoring Report have been changed to delete the word “Semi-Annual”. They are now known as the Abbreviated Monitoring Event and the Abbreviated Monitoring Report.

COMMENT 12 - Based on the above information, monitoring for the Annual Comprehensive Event will need to be scheduled to occur between January 1 and February 14 each year, and monitoring for the Semi-annual Abbreviated Event will need to be scheduled to occur exactly 6 months after the Comprehensive Event.

RESPONSE: Agreed, except that the Permit has been modified to clarify that the Abbreviated Sampling Event does not have to be performed “exactly” six months after

the Comprehensive Sampling Event (see the response to Comment 11, above).

COMMENT 13 - To avoid confusion, Conn-Selmer asks that this requirement be revised to state the same requirement in all sections of the permit, such as “reports must be submitted to ADEQ within 60 calendar days after the last day of sampling for the groundwater monitoring event or April 15 (/October 15), whichever date is earlier.” For Exhibit D-4, this could be notes as follows: “Note that reporting of results must be made to ADEQ within 60 calendar days after the last day of sampling for the groundwater monitoring event or April 15 (/October 15), whichever date is earlier.”

RESPONSE: The reference to the timing the sampling event relative to the deadline for the report has been deleted. The Comprehensive Groundwater Monitoring Report is due April 15 and the Abbreviated Groundwater Monitoring Report is due October 15. Exhibit D-4 still describes the Comprehensive Monitoring Event and the Abbreviated Monitoring Event, but just notes them as “annual events”.

COMMENT 14 - Conn-Selmer additionally asks that “6 months after the Comprehensive sampling event” be provided with a tolerance of a certain number of weeks, such as “plus/minus 2 weeks.” Conn-Selmer is concerned that without a specified tolerance, 6 months could be calculated to a given day, which may not be feasible due to weather, holidays, or weekends.

RESPONSE: Per ADEQ’s response to Comment 11, The language “6 months after the Comprehensive sampling event” has been changed to “annual”. ADEQ believes this provides the Permittee sufficient flexibility in scheduling the Abbreviated Sampling Event.

COMMENT 15- Conn-Selmer additionally asks that the second paragraph under Section 3.1—“During post-closure, the Permittee shall follow the monitoring schedule specified in Attachment D, Exhibit D-4”—be revised to “During post-closure, the Permittee shall follow the monitoring schedule specified in Attachment D, Exhibit D-4 (note that reporting of results must be made to ADEQ within 60 calendar days after the last day of sampling for the groundwater monitoring event or April 15 (/October 15), whichever date is earlier)” because following the Exhibit D-4 monitoring schedule without taking into consideration the reporting schedule could result in non-compliance. Likewise, the next paragraph—“Data specified in Section 2.5.1 shall be submitted to ADEQ within 60 calendar days after the last day of sampling for the groundwater monitoring event”—should be revised to —“Data specified in Section 2.5.1 shall be submitted to ADEQ within 60 calendar days after the last day of sampling for the groundwater monitoring event or April 15 (/October 15), whichever date is earlier” for the same reason.

RESPONSE: Agreed.

Attachment D, Section 3.1 has been changed as follows:

“

During post-closure, the Permittee shall follow the monitoring schedule specified in Attachment D, Exhibit D-4 (note that reporting of results must be made to ADEQ within 60 calendar days after the last day of sampling for the groundwater monitoring event or April 15 (/October 15), whichever date is earlier).

Data specified in Section 2.5.1 shall be submitted to ADEQ within 60 calendar days after the last day of sampling for the groundwater monitoring event or April 15 (/October 15), whichever date is earlier.”

COMMENT 16 - Lastly, regarding Part I.E.11(c) and Part I.E.11(e): For the former, it would be less confusing and more accurate to state “...intervals specified in Attachment D of this permit,” as Part III merely points to Attachment D. (“The Permittee shall conduct groundwater monitoring, well field measurements, sampling, analysis, and reporting according to parameters and frequencies specified in Attachment D.”) For the latter, Attachment D, 2.5.1, should also be referenced, as it too specifies when reports are to be submitted.

RESPONSE: Agreed. See response to comment 9, above.

COMMENT 17 - Attachment D, Section 2.5.1, Part I.E.10(a, c, d), and Part VI.C.1 contain contradictory requirements for monitoring, recording, and reporting, as noted in the below table. (Note—items that are in general agreement are not listed.) Conn-Selmer asks that these items be clarified to avoid confusion).

2.5.1	I.E.10(a, c, d)	VI.C.1
sample analysis time	The analytical techniques or methods used; the dates analyses were performed	sample analysis time

2.5.1	I.E.10(a, c, d)	VI.C.1
Chain of Custody		Chain of Custody

2.5.1	I.E.10(a, c, d)	VI.C.1
Field data is to include pH, temperature, and conductivity		Field data

2.5.1	I.E.10(a, c, d)	VI.C.1
Field instrument serial numbers, model numbers	Field instrument(s) used - make , model, serial number	
2.5.1	I.E.10(a, c, d)	VI.C.1
Field instrument daily pre- and post-calibration records	Field instrument(s) calibrated daily before and after use	
2.5.1	I.E.10(a, c, d)	VI.C.1
	Site identification specified in this permit, latitudinal and longitudinal coordinates of wells and facilities monitored (method/ format of lat/long determination and accuracy), Datum format used, accuracy	Well location coordinates
2.5.1	I.E.10(a, c, d)	VI.C.1
		Log book records
2.5.1	I.E.10(a, c, d)	VI.C.1
		Quality control data (level 2 data packages for post-closure care and level 4 CLP-like data packages for samples collected during final closure).
2.5.1	I.E.10(a, c, d)	VI.C.1
PDB implementation dates, times DTW(s) and PDB extraction; dates, times, DTWs at both implementation and extraction	PDB type, date and time of implementation and retrieval, length of PDB system , depth-to-water at implementation and retrieval	

2.5.1	I.E.10(a, c, d)	VI.C.1
		Description of maintenance requirements, problems encountered, and corrective action implemented.

2.5.1	I.E.10(a, c, d)	VI.C.1
	Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity	

2.5.1	I.E.10(a, c) & I.E.11(c, e)	VI.C.1
	The method used to obtain a representative sample of the groundwater to be analyzed must be the appropriate method from Appendix I of 40 CFR Part 261 or an equivalent method approved by the Director.	

2.5.1	I.E.10(a, c) & I.E.11(c, e)	VI.C.1
	Laboratory methods must be those specified in Test Methods for Evaluating Solid Waste: Physical/Chemical Methods SW-846, Standard Methods of Wastewater Analysis, or an equivalent EPA method meeting applicable limits of detection performed by a laboratory certified by the ADHS	

2.5.1	I.E.10(a, c) & I.E.11(c, e)	VI.C.1
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	<p>Each parameter test that an in-state or out- of-state laboratory can perform for hazardous waste analysis must be certified by the ADHS. Additionally, if a contract laboratory is used to perform analyses, then the Permittee shall inform the laboratory in writing that it must operate under the conditions set forth in this Permit. For notification and certification verification purposes, a copy of that letter will be included with the final analytical report.</p>	
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2.5.1	I.E.10(a, c) & I.E.11(c, e)	VI.C.1
<p>Specific Data Reporting for Each Report - Annual Comprehensive Monitoring Report: Tabulate seasonally related results from full suite of analytical method e.g., SW-8260 per 40 CFR 264 Appendix IX, i.e., VOCs, total metals, and hexavalent chrome (CrVI) since 1998 (CrVI need only be analyzed in the event of detectable total chromium above 100 µg/l). A discussion of concentrations of tetrachloroethylene shall be included in the text</p>		<p>Data, for the compounds listed in Exhibit D-1 shall be tabulated, for the wells monitored according to this permit, including the prior five (5) years (past results shall be from the same seasonal time period). All exceedances of MCLs shall be highlighted.</p>

2.5.1	I.E.10(c) & I.E.11(c, e)	VI.C.1
<p>Specific Data Reporting for Each Report - Semi-Annual Abbreviated Monitoring Reports: This report shall</p>		<p>Data, for the compounds listed in Exhibit D-1 shall be tabulated, for the wells monitored according to this</p>

<p>include only tabulated results for seasonally related concentrations of compounds listed in Exhibit D-1 and only for the wells identified in Exhibit D-4. All exceedances of the regulatory levels specified in this permit shall be bolded or highlighted on the Table. Field parameters shall be listed in a separate table with all previous historical data available for each well sampled during similar seasonal conditions (i.e., month or quarter). Data from the annual comprehensive sampling and analyses event will be included in the abbreviated report.</p>		<p>permit, including the prior five (5) years (past results shall be from the same seasonal time period). All exceedances of MCLs shall be highlighted.</p>
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RESPONSE: The Permit has been modified to remove the above noted redundancy. Permit Condition VI.C.1 has been modified to delete the description of the Reports Content. VI.C.1 now says: “The Permittee shall submit groundwater monitoring reports in accordance with Attachment D, Section 2.5.1.”

~~At a minimum, the reports shall include the following:~~

- ~~(a) Sample collection logs for each well sampled (COCs, field data, well location coordinates, sampler, date, time, log book records).~~
- ~~(b) Sample analytical results, sample collection and analysis time, and associated quality control data (level 2 data packages for post-closure care and level 4 CLP-like data packages for samples collected during final closure).~~
- ~~(c) Data, for the compounds listed in Exhibit D-1 shall be tabulated, for the wells monitored according to this Permit, including the prior five (5) years (past results shall be from the same seasonal time period). All exceedances of MCLs shall be highlighted.~~
- ~~(d) Description of maintenance requirements, problems encountered, and corrective action implemented.~~

Other changes:

Permit Condition I.E.10(c) has been deleted, Permit Condition I.E.10(d) has been renumbered to I.E.10(c)

Also:

In Attachment D, Section 2.5.1, the paragraph labeled “Items Required in All Groundwater Monitoring Reports” has been changed as follows:

Items Required in All Groundwater Monitoring Reports

- ~~• Sample collection logs for each well sampled (Chain of Custody, field data collected per Exhibit D-7 is to include: DTW, pH, temperature, and conductivity), sampler, and date and time of sampler implementations and retrieval.~~
- Sample analytical results, sample collection and analysis time (PDB implementation dates, times DTW(s) and PDB extraction; dates, times, DTWs at both implementation and extraction, and associated quality control data (e.g., field instrument serial numbers, model numbers, and daily pre- and post-calibration records)

The groundwater monitoring reports shall include the following:

- Sample collection logs for each well sampled (Chain of Custody, well location coordinates, sampler, date and time of sampler implementation and retrieval, depth to water, pH, temperature, and conductivity);
- Sample analytical results, sample collection and analysis date and time showing PDB implementation and extraction dates and times and the resulting sampling run-times
- PDB type, length of PDB system
- Quality Control data (field instrument serial numbers, model numbers, and daily pre- and post-calibration records);
- Data for the compounds listed in Exhibit D-1 shall be tabulated for each well, including the prior five (5) years (past results shall be from the same seasonal period). All exceedances of groundwater protection levels (e.g., MCLs and PRGs – see Exhibit D-1) shall be highlighted. A discussion of concentrations of tetrachloroethylene shall be included in the text.
- Description of maintenance requirements, problems encountered, and

corrective action implemented.

The paragraph labeled “Specific Data Reporting for Each Report” has been deleted, and the paragraph immediately following it has been edited as follows:

~~Specific Data Reporting for Each Report~~

- ~~• Annual Comprehensive Monitoring Report: Tabulate seasonally-related results from full suite of analytical method e.g., SW-8260 per 40 CFR 264 Appendix IX, i.e., VOCs, total metals, and hexavalent chrome (CrVI) since 1998 (CrVI need only be analyzed in the event of detectable total chromium above 100 µg/l). A discussion of concentrations of tetrachloroethylene shall be included in the text.~~
- ~~• Semi-Annual Abbreviated Monitoring Reports: This report shall include only tabulated results for seasonally related concentrations of compounds listed in Exhibit D-1 and only for the wells identified in Exhibit D-4. All exceedances of the regulatory levels specified in this permit shall be bolded or highlighted on the Table. Field parameters shall be listed in a separate table with all previous historical data available for each well sampled during similar seasonal conditions (i.e., month or quarter). Data from the annual comprehensive sampling and analyses event will be included in the abbreviated report.~~

~~Regardless of the frequency of monitoring being conducted (annually, semiannually, quarterly), †The Annual Comprehensive Monitoring Report must be submitted by April 15 of each calendar year. The Semi-Annual Abbreviated Monitoring Report shall be submitted by no later than October 15 of each calendar year. If due to unforeseen events, Permittee is unable to meet these deadlines, Permittee may request an extension. The request must describe the unforeseen events that prevented the Permittee from meeting the deadlines. This request may be in written or electronic format, and must be submitted to ADEQ no later than the reporting deadline.”~~

COMMENT 18 - H.5 states that “The Permittee shall maintain at 1310 Fairway Drive, Nogales, Arizona...All other documents required by Part I, Permit Condition E.9.” Part I, Permit Condition E.9 does not contain any reference to documents required to be created or maintained. Perhaps the reference should be Part I, Permit Condition E.10?

RESPONSE: Correct. This refers to the maintenance of continuous monitoring records, such as strip chart recordings.

Permit Condition I.H.5 has been changed as follows:

“5. All other documents required by Part I, Permit Condition E.10.”

COMMENT 19 - I.1(b) makes reference to “Permit Condition I.E.10(a) Reporting Requirements - Planned Changes;” the part reference should actually be “I.E.11(a)”

RESPONSE: Correct. Permit Condition I.I.1(b) has been changed as follows:

“(b) Permit Condition I.E.11(a) Reporting Requirements – Planned Changes;”

COMMENT 20 - I.2 states the Permittee shall submit an ADEQ character/background reference form for key personnel changes, which term includes contracted GRS management company and personnel, contracted GRS maintenance company and personnel, signatories, and Emergency Coordinators. Conn-Selmer asks that contractors be removed from this requirement, and specifically state “persons employed by the Applicant in a supervisory capacity or empowered to make discretionary decisions with respect to the solid waste or hazardous waste operations of the facility,” as the inclusion of contractors is unduly burdensome and redundant, and is not supported by Federal nor Arizona Code. The referenced rule (A.A.C. R18-8-270.J (270.14(b)(23)) states “Any additional information required by the DEQ to evaluate compliance with facility standards and informational requirements of R18-8-264, R18-8-269 and R18-8-270.” Conn-Selmer does not believe that the furnishing to ADEQ of character/background reference forms for contractors facilitates the evaluation of “compliance with facility standards and informational requirements of R18-8-264, R18-8-269 and R18-8-270.”

It is further noted that the ADEQ character/background reference form itself defines “Key Employee” as “any person employed by the Applicant in a supervisory capacity or empowered to make discretionary decisions with respect to the solid waste or hazardous waste operations of the facility,” and makes no provision for contractors.

RESPONSE: Agreed. Permit Condition I.I.2 has been changed as follows:

“2. Changes to Key Employee

For the following key personnel changes, the Permittee shall submit an ADEQ character/background reference form:

- ~~Contracted GRS management company and personnel;~~

- ~~Contracted GRS maintenance company and personnel;~~ Persons employed by the Permittee in a supervisory capacity or empowered to make discretionary decisions with respect to the operations of the facility;
- Signatories; and
- Emergency Coordinators.”

COMMENT 21 - A.1(a) states that “Post-Closure Care...shall consist of at least continuous operation, inspection and maintenance of the GRS.” As “shall” denotes a mandatory requirement, it does not allow for temporary downtime beyond Conn-Selmer’s control, such as power outages, equipment breakdowns, etc. as noted in the Revised Post-Closure Plan submitted by Conn-Selmer to ADEQ, and as presented in Attachment F, 2.2.3.2. Accordingly, Conn-Selmer asks that this requirement be revised to accommodate temporary downtime beyond Conn-Selmer’s control.

RESPONSE: Agreed. Permit Condition II.A.1(a) has been changed as follows:

“(a) Continuous operation, inspection and maintenance of the Groundwater Remediation System (GRS), including the equalization tank, remediated groundwater storage tank, and secondary containment (run-on and run-off control systems), with intermittent downtime due to maintenance and occasional power interruptions;”

Note: the text “including the equalization tank, remediated groundwater storage tank, and secondary containment (run-on and run-off control systems)...” was moved from II.A.1(d).

COMMENT 22 - II.D.3 states that “The Permittee shall ensure access to and maintenance of the GRS at 1310 West Fairway Drive, Nogales, Ariz. and the supporting network of extraction and monitoring wells at that location and surrounding properties until compliance with applicable groundwater and soil remediation levels is achieved and approved by the ADEQ and other applicable regulatory agencies and stakeholders.” This provision is inconsistent with the ADEQ's request in connection with the proposed Consent Order that "Conn-Selmer will use **best efforts**' to formalize an access easement from the current owners of the property to Conn-Selmer and the approved third party auditor to ensure access to the entire 'site.'" Usage of "shall" denotes a mandatory requirement, but compliance with this provision of the permit will not be feasible if Conn-Selmer is unable to secure an access easement from the current owners of the sites who have the right to deny such access. At most, Conn-Selmer can reasonably commit to using "best efforts" to obtain access to the sites, but it cannot guarantee that the current owners would allow entry. Accordingly, Conn-Selmer asks that this requirement be revised to state that "The Permittee will use best efforts to ensure access to and maintenance of the GRS at 1310 West Fairway Drive, Nogales,

Ariz. and the supporting network of extraction and monitoring wells at that location and surrounding properties..."

RESPONSE: Agreed. Permit Condition II.D.3 has been modified to conform to the draft Consent Judgment. It now reads:

“3. To the extent that the Facility or any other property to which access is required for the implementation of this Permit is owned or controlled by persons other than the Permittee, the Permittee shall use “best efforts” to secure access, in the form of a use easement, from such persons or companies, as well as for the State of Arizona, ADEQ, to effectuate this Permit. The easements shall be to access the identified areas, for monitoring, maintenance and service of both; the Facility at 1310 W. Fairway Drive, Nogales, Arizona, and the parking lot area in which the monitoring wells are located, adjacent to the Facility. “Best Efforts” shall include, but not be limited to the payment of reasonable sums of money in consideration of the access easement.”

COMMENT 23 - II.A.4 states that “facility security measures described in this Permit, including Permit Attachments A, C, E, and F shall be maintained throughout post-closure care.” Attachment E does not address facility security measures.

RESPONSE: Agreed. Permit Condition II.A.4 has been modified. It now reads:

“4. Facility Security

Facility security measures described in this Permit, including Permit Attachments A, C, and F shall be maintained throughout post-closure care and revised as necessary to ensure compliance with A.A.C. R18-8-264.A and 40 CFR 264.14.”

COMMENT 24 - II.G states that “the Permittee shall demonstrate continuous compliance with the financial assurance requirements.” Conn-Selmer objects to the term “continuous compliance” and requests that it be removed, as 40 CFR 145(a)(6) allows up to “60 days after the change in the cost estimate” for the owner/operator to “cover the difference” and Arizona Administrative Code does not make exception to the federal rule.

RESPONSE: The hazardous waste financial assurance rules already provide for a specified time period (30 days) to allow the trustee to specify adjustments to the financial assurance mechanism (i.e., the trust fund), and so as to properly reflect the most recent cost estimate, and, thus, allow the Permittee to remain in “continuous” compliance with the financial assurance requirements. However, Permit Condition II.G requires the Permittee to “demonstrate continuous compliance”, and ADEQ agrees that this language may not be consistent with the rules. ADEQ has removed the word “continuous” from this Permit Condition and has substituted a period of sixty days following the anniversary date of the

financial assurance mechanism in which the Permittee may provide an annual demonstration to ADEQ.

See also the response to Comment 2 for the description of the changes to Permit Condition II.G.

Permit Condition II.G has been modified. It now reads as follows:

“

G. FINANCIAL ASSURANCE FOR POST-CLOSURE

1. Each year, within sixty (60) days of the anniversary date of the financial assurance mechanism, the Permittee shall demonstrate compliance with the financial assurance requirements of A.A.C. R18-8-264.A (40 CFR §§264.145 and 264.146) by providing to ADEQ documentation of financial assurance as required by A.A.C. R18-8-264.A (40 CFR §264.151), in at least the amount of the cost estimate required by Permit Condition II.F.
2. The amount provided in the financial assurance mechanism of the Permittee shall be adjusted annually to meet the annual post-closure care and final closure cost estimate submitted by the Permittee under Permit Condition II.F.
3. The Permittee may request reimbursement of funds in the trust at any time during the post-closure care period, in accordance with R18-8-264.A (40 CFR 264.145(a)(10)and (11)
4. Changes in financial assurance mechanisms must be approved by the Director pursuant to A.A.C. R18-8-264.A (40 CFR §264.144).”

COMMENT 25 - III.A.2 is redundant, as the same information is presented in Part IV in greater detail. Conn-Selmer asks that the paragraph be removed from the permit as it is unnecessary and could lead to confusion.

RESPONSE: Agreed. Permit Condition III.A.2 has been modified. It now reads as follows:

“2. Inspection Schedules and Procedures

Inspection schedules and procedures are addressed in Part IV of this Permit.”

COMMENT 26 - III.A.3 is redundant, as the same information is presented in Part VI.A.2(c). Conn-Selmer asks that the paragraph be removed from the permit as it is unnecessary and could lead to confusion.

RESPONSE: Agreed. Permit Condition III.A.3 has been modified. It now reads:

“3. Record Keeping

Record keeping requirements are addressed in Part VI.A and VI.B of this Permit.”

COMMENT 27 - III.B.1 provides three scenarios for which the Permittee is required to “submit data-supported concerns and recommendations...to request revision of the GRS and the GMP,” or “revise the groundwater monitoring plan and remediation methodology as needed,” or “make changes to the Groundwater Monitoring Plan as necessary,” but the mandatory procedure prescribing exactly how to go about taking those actions isn’t presented until III.D. Conn-Selmer is concerned that this may lead to confusion and asks that III.D be incorporated into III.B as either 1(d) or B.3.

Alternatively, B and D could be combined and rewritten to be more concise, reducing the number of words by 30%, and clarifying exactly the intent of the two sections:

The Permittee is responsible for control of contaminant plume migration and the remediation of all contaminants attributed to the Permittee, within and outside property boundaries.

To meet that responsibility, the Permittee shall conduct groundwater monitoring, well field measurements, sampling, analysis, and reporting according to parameters and frequencies specified in Attachment D of the permit.

The Permittee shall review monitoring results, and based on changes (e.g., seasonal data, table elevation fluctuations, changes in concentration of constituents of concern [Attachment D, Exhibit D-1], plume migration) shall evaluate the status and potential need for revision of the monitoring and remediation programs.

Based on data collected from groundwater monitoring or other investigation results required by this Permit, if the Permittee believes his monitoring or remediation program no longer satisfies the requirements of the regulations, the Permittee shall, within 90 days of the determination, submit an application for P. a Permit Modification to request revision of the remediation methodology, and/or Groundwater Remediation System (Attachment B), and/or the Groundwater Monitoring Plan (Attachment D) of this permit, or addition of monitoring and/or extraction wells or change to monitoring frequency, that will satisfy the regulations. The Permit Modification request shall be submitted in accordance with Permit Condition I.I. [A.A.C. R18-8-264.A (40 CFR 264.97-99(h) – (j)), A.A.C. R18-8-101 (40 CFR 264.101)]

An application for a Permit Modification shall include data-supported concerns and recommendations with appropriate signatures of a professional geologist or professional

engineer, and the Permittee, with signatory authority.

RESPONSE: ADEQ agrees. Permit Condition III.D has been moved and renumbered to be Permit Condition III.B.3.

Permit Condition III.B now reads as follows:

B. GROUNDWATER MONITORING

The Permittee shall conduct groundwater monitoring, well field measurements, sampling, analysis, and reporting according to parameters and frequencies specified in Attachment D. The Permittee shall use this plan until a new plan is approved by ADEQ as necessary to comply with the requirements of A.A.C. R18-8-264.A, 40 CFR 264.97 and 264.99.

1. Groundwater Monitoring Plan Revisions

- (a) The Permittee shall review monitoring results, and based on changes (e.g., seasonal data, table elevation fluctuations, changes in concentration of constituents of concern [Attachment D, Exhibit D-1], plume migration) shall evaluate the status and potential need for revision of the monitoring and remediation programs. The Permittee shall submit data-supported concerns and recommendations with appropriate signatures of a professional geologist or professional engineer, and the Permittee, with signatory authority, to request revision of the Groundwater Remediation System (Attachment B) and the Groundwater Monitoring Plan (Attachment D) of this Permit.
- (b) The Permittee is responsible for control of contaminant plume migration and the remediation of all contaminants attributed to the Permittee, within and outside property boundaries, and shall revise the groundwater monitoring plan and remediation methodology as needed, to comply.
- (c) Based on data collected from groundwater monitoring or other investigation results required by this Permit, the Permittee shall make changes to the Groundwater Monitoring Plan as necessary in order to protect human health and the environment. Such changes may include the addition of monitoring and/or extraction wells or change to monitoring frequency.
[A.A.C. R18-8-101 (40 CFR 264.101)]

2. Groundwater Sampling Locations, Frequency, and Analytical Requirements

Until modified as described in Part III(B)(1), the schedule in Permit Attachment D shall be maintained by the Permittee.

3. **If the Permittee believes his monitoring or remediation program no longer satisfies the requirements of the regulations, the Permittee shall, within 90 days of the determination, submit an application for a Permit Modification to make any appropriate changes to the program that will satisfy the regulations. The Permit Modification request shall be submitted in accordance with Permit Condition I.I. [A.A.C. R18-8-264.A (40 CFR 264.99(h) – (j))]**

Former Permit Condition III.D was deleted.

COMMENT 28 - III.C states that “The Permittee shall assure ADEQ that groundwater monitoring and corrective action measures necessary to achieve compliance with the applicable groundwater protection standards are taken throughout the term of this permit,” but does not provide instruction on how that assurance is to be delivered. As “shall” denotes a mandatory requirement, Conn-Selmer asks that instruction be provided so that the company can in turn provide the required assurance.

Additionally, Conn-Selmer assumes the “or” should be “of”.

RESPONSE: This permit condition is a “standard permit condition”, called for by rule, and derives from R18-8-264.A (40 CFR 264.100). The regulations state that the Permit must include permit conditions to ensure that groundwater is remediated to below the groundwater protection standards. Assurance with this requirement is provided by:

1. The establishment of a groundwater monitoring program.
2. The establishment of a remedy. The Permittee must remove or treat the hazardous constituents from the groundwater both between compliance points and beyond the facility boundaries, as necessary to protect human health and the environment;
3. The remedy must be designed such that cleanup is completed within a reasonable period of time, considering the extent of contamination;
4. The Permittee must submit periodic reports on groundwater quality;
5. The Permittee must submit annual reports on the effectiveness of the remedy;
6. The corrective action measures (monitoring and remedy) may be terminated once the groundwater is found to be fully remediated;
7. The corrective action must continue if groundwater is not fully remediated by the end of the compliance period.

ADEQ notes that the Permit already contains provisions to demonstrate this assurance, and Permit Condition III.C may be redundant. Permit Attachment D provides a list of hazardous constituents identified under 40 CFR 264.93; it provides concentration limits under 40 CFR 264.94 for each of those hazardous constituents; it includes sufficient compliance points to monitor groundwater; it requires the Permittee to continue to implement the remedy already constructed at the facility; and it requires the submittal of periodic reports on groundwater quality (semiannually) and remedy effectiveness (annually). In addition, the permit form establishes a post-closure period of thirty

years to continue the remedy, and it states that this period may be reduced or extended by the Director as necessary to protect human health and the environment.

The title to Permit Condition III.C has been corrected.

Permit Condition III.C has been modified. It now reads as follows:

C. ASSURANCE OF COMPLIANCE

~~The Permittee shall assure ADEQ that groundwater monitoring and corrective action measures necessary to achieve compliance with the applicable groundwater protection standards are taken throughout the term of this permit.~~

The Assurance of Compliance demonstration can be found in Attachment D of this Permit.

COMMENT 29 - IV.A states that “any request to change the frequency or content of inspections at the facility shall be considered a Class 2 permit modification, in accordance with Part I.I of this Permit.” However, neither Part I.I nor any other part provides details on what constitutes a Class 2 permit modification.

RESPONSE: Rules governing permit modification are found in R18-8-270.A (40 CFR 270.40 through 42), which includes a general description of permit modifications and a table (Table I) of common modifications and their classifications. In addition the Permittee may request that the Director make a “class determination” on any modification that is not found in the table.

It would not be practical to include the list of permit modifications in this Permit, and ADEQ believes the Permit properly references the modification rules in the event the Permittee requires a modification (see Permit Condition I.B.1).

No change has been made to the Permit as a result of this comment.

COMMENT 30 - IV.C.2 states that “ADEQ must be notified in writing within five business days of any remedial actions” involving any “deterioration or malfunction of equipment or structures which have been identified during an inspection.” Conn-Selmer asks that the notification requirement be removed from the permit as it is unduly burdensome and redundant, as remedial actions involving deterioration or malfunction of equipment or structures identified during inspections are required to be recorded by IV.D and VI.A.2(b) in the written operating record maintained at the site, which is accessible by ADEQ regulatory compliance inspectors as required by I.E.9(b).

RESPONSE: Such records are available upon inspection, but Permit Condition IV.C.2 also describes instances in which an environmental or human hazard is imminent or

has already occurred (ADEQ notes that this determination is left to the judgment of the Permittee's inspector). ADEQ requires that it be notified in such instances. ADEQ agrees that other instances in which remedial actions are taken in which no environmental or human hazard is imminent or has already occurred may simply be noted in the operating record. Those records will be available to ADEQ upon routine inspection. Permit Condition IV.C.2 has been modified. It now reads as follows:

"2. Remedies shall be designed to ensure that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedies shall be implemented as soon as possible, with written notification provided to ADEQ within five business days of implementation of the remedy."

COMMENT 31 - V.B states that "the Permittee shall attempt to make and maintain the following arrangements, as appropriate, for the GRS and peripherals to ensure safe operation and minimize potential adverse impact to public health and the environment." Conn-Selmer asks that "as appropriate" be further clarified to address the specific circumstances and hazards that could potentially be present at the site.

Making "arrangements to familiarize police, fire department, and emergency response team personnel with the layout of the facility, properties, associated hazards, places where facility personnel would normally be working, access roads to the facility and peripheral wells, and possible evacuation routes...[and making]...agreements with State emergency response teams, emergency response contractors, and equipment suppliers" seems excessive and burdensome to all parties involved as the "potential adverse impact to public health and the environment" is minimal when considering the contaminant concentrations of the influent.

RESPONSE: The GRS treats influent groundwater containing F-listed hazardous waste constituents. Thus, R18-8-264.A (40 CFR 264.37, Arrangements With Local Authorities), applies. ADEQ cannot grant a waiver from this requirement. ADEQ notes that the Permit Condition does require the Permittee to provide information to the authorities concerning the level of hazard that the waste poses to the public and the potential responding entities.

Permit Condition V.B contains a formatting error. ADEQ has corrected the error and edited the Permit Condition to closely match the regulatory citation. Permit Condition V.B has been modified as follows:

"V.B ARRANGEMENT WITH LOCAL AUTHORITIES

1. From the effective date of this Permit, according to A.A.C. R18-8-264.A (40 CFR 264.37), the Permittee shall attempt to make and maintain the following arrangements, as appropriate for the type of waste handled at the GRS and the potential need for the services of these organizations:

(a) Arrangements to familiarize police, fire department, and emergency response team

personnel with the layout of the facility, properties, associated hazards, places where facility personnel would normally be working, access roads to the facility, and possible evacuation routes;

- (b) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;
- (c) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and
- (d) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the GRS and the types of injuries or illnesses which could result from fires, explosions, or releases at the GRS.

- 2. Where State or local authorities decline to enter into such arrangements, the Permittee must document the refusal in the operating record.”

COMMENT 32 - V.C.1 states that “The contingency plan shall also address monitoring, inspections, and maintenance activities.” As monitoring, inspections, and maintenance activities are addressed in other sections of the permit, it seems redundant and burdensome to also address these in the contingency plan.

RESPONSE: Agreed. V.C.1 has been modified as follows:

- “1. As described in A.A.C. R18-8-264.A and 40 CFR 264.51 through 264.55, upon completion of closure activities, the Permittee shall have a contingency plan for the facility. The contingency plan, as included in Attachment E of this permit, shall be designed to minimize hazard to human health or the environment from any unplanned events or acts of nature (e.g., earthquakes, floods, failure of drainage systems, equipment malfunction) or other cause of release of contaminated groundwater to the soil, or surface water. ~~The contingency plan shall also address monitoring, inspections, and maintenance activities.~~”

COMMENT 33 - V.E states that “At all times, there shall be at least one CSI employee or designated contractor either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a reasonably short period of time).” Conn-Selmer asks that “reasonably short period of time” be further clarified to “reasonably short period of time, such as 90 minutes or less.” As ADEQ is aware, CSI’s Emergency Coordinators are located in Tucson, but were appointed based on their thorough knowledge of the GRS. As the possibility of a release that would immediately pose a risk to human health or the environment is highly unlikely at the site, we believe the appointment of the Tucson-based Emergency Coordinators is justified.

RESPONSE: Agreed. Permit Condition V.E has been modified. It now reads as follows:

“E. At all times, there shall be at least one CSI employee or designated contractor either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a ~~reasonably short period of time~~ two hours), with the responsibility for coordinating all emergency response measures. This emergency coordinator shall be thoroughly familiar with all aspects of the facility contingency plan, all operations and activities at the facility and GRS, the location and characteristics of waste disposed, the location of all records for the facility, and the facility layout. In addition, this person shall have the authority to commit the resources needed to carry out the post- closure contingency plan.”

COMMENT 34 - VI.A.2(d) states that a “waste minimization certification” must be maintained in the facility operating record. However, there is no requirement anywhere in the permit requiring such document to be created. If this a valid requirement, should not the permit specify what the waste minimization certification entails?

RESPONSE: Agreed. The requirement to maintain a waste minimization certification is a requirement of all permitted hazardous waste facilities, and can be found at R18-8-264.A (40 CFR 264.73(b)(9)). A Permit Condition describing the Waste Minimization Certification requirement has been added to Permit Part I, at Section J. Permit Condition I.J reads as follows:

“J. WASTE MINIMIZATION CERTIFICATION

- 1. The Permittee shall annually certify pursuant to A.A.C. R18-8-264.A (40 CFR 264.73 (b)(9)):**
 - (a) That the Permittee has a program in place to reduce the volume and toxicity of all hazardous waste which are generated by the facility operations to the degree, determined by the Permittee, to be economically practicable; and**
 - (b) That the method of treatment, storage or disposal is the only practicable method or combination of methods currently available to the facility which minimizes the present and future threat to human health and the environment.**
- 2. This certification shall be retained with the facility's operating record and shall comply with the signatory requirement of Permit Condition I.F pursuant to A.A.C. R18-8-264.A (40 CFR 264.73 (b) (9)).”**

Also, Permit Condition VI.A.2(d) now refers to Permit Condition I.J. It now reads as

follows:

“(d) Waste minimization certification, as required by Permit Condition I.J.”

COMMENT 35 - VI.C.2 states that “the permittee shall submit an Annual GRS Report by April 15 of each year following the year being reported.” However, Section 2.5 of Attachment D explicitly states that “the report for the groundwater remediation system shall be referred to as the ‘GRS Summary Report’.” As “shall” denotes a mandatory requirement, Conn-Selmer asks that this report be referred to consistently throughout the permit to avoid confusion. Additionally, it should be noted that the term “GRS Summary Report” contains a redundancy, as the “S” in GRS denotes “Summary”.

RESPONSE: Per the table of definitions in Part I of the Permit, GRS means “Groundwater Remediation System”.

Permit condition VI.C.2 contains an error. The A in annual should not have been capitalized in the first sentence – this correction is consistent with the changes made to the names of the Comprehensive Monitoring Report and the Abbreviated Monitoring Report (i.e., deleting “Annual” and “Semi-Annual” from the names) . The first sentence of the first paragraph of Permit Condition VI.C.2 now reads as follows:

“2. The Permittee shall submit an Annual GRS Report by April 15 of each year following the year being reported.”

COMMENT 36 - VI.C.2 and Section 2.5.2 of Attachment D contain contradictory requirements for the content of the GRS Summary Report, as noted in the below table. (Note—items that are in general agreement are not listed.) Additionally, while both references state that isopleths shall be presented in different colors, 2.5.2 contradicts the mandatory statement with “if possible”, which is confusing and misleading. Conn-Selmer asks that these items be clarified to avoid confusion.

VI.C.2	2.5.2
(e) Isopleths for each of the groundwater contaminants listed in Attachment D, Exhibit D-1, of this permit, for the reporting period and the previous year. The isopleths for each contaminant of the reporting year and the previous year, shall be presented in the same figure by different colors or line format.	• Isopleths for each of the groundwater contaminants listed in Exhibit D-1 for the reporting period and the previous year. The isopleths for each contaminant of the reporting year and the previous year, shall be presented in the same figure by different colors, if possible .

(g) Narrative interpreting data, summarizing plume status, concerns, possible GRS improvements, and recommendations for groundwater plume control and expedited remediation and resource recovery.	
	<ul style="list-style-type: none"> • Description of maintenance requirements and problems encountered.
	<ul style="list-style-type: none"> • Summary and evaluation of plume status regarding control, mitigation, and potential impact to drinking water systems.
	<ul style="list-style-type: none"> • Recommendations regarding the GRS and description of future activity.

RESPONSE: Agreed.

The second sentence of the first paragraph of Permit Condition VI.C.2 has been modified. VI.C.2 now reads as follows:

- “2. The Permittee shall submit an annual GRS Report by April 15 of each year following the year being reported. At a minimum, the ~~annual~~ GRS Report shall include the information required by Attachment D, Section 2.5.2 following”

Permit Conditions VI.C.2(a) through (g) have been deleted, and Section 2.5.2, of Attachment D has been modified. It now reads as follows:

“2.5.2 Contents of the GRS Summary Report

- Monthly volumes extracted from Potrero Well No. 2. (for the 12-month reporting period) with graphical comparison to the previous year. Summarize potential impact to treatment.
- Description of maintenance requirements and problems encountered.
- Monthly volume pumped from the Permittee’s extraction well(s) and pump rate. Summarize impact to the groundwater remediation system and relation of installation depth, 150 bgs, to current surface water level and extraction efficacy.
- Quarterly groundwater level data with trends in elevations plotted comparing reporting year to previous year. Include any additional

pertinent data and comments.

- **GRS down-time; date(s), duration, reason, and corrective action taken, if appropriate.**
- **Isopleths for each of the groundwater contaminants listed in Permit Attachment D, Exhibit D-1 for the reporting period and the previous year. The isopleths for each contaminant of the reporting year and the previous year, shall be presented in the same figure by different colors, if possible.**
- **Summary of maintenance activities. Provide date(s), reason(s) and describe impact to the GRS.**
- **Summary and evaluation of plume status regarding control, mitigation, and potential impact to drinking water systems.**
- **Recommendations regarding the GRS and description of future activity.**

Copies of other miscellaneous reports, logs, and data (i.e. inspection reports, drilling logs, maintenance, laboratory data, etc.) will be made available to the Director upon request.”

COMMENT 37 - Part VII appears to be applicable only to new SWMUs or AOCs; however, it does not explicitly state such. In the absence of such explicit statement, it appears that some sections are applicable to current SWMUs. For example, VII.D - Project Coordinator, appears to be a requirement that CSI must meet within fifteen (15) calendar days of the effective date of the permit, regardless of the status of SWMUs/AOCs. Another example is VII.H - RCRA Facility Investigation Work Plan and Reports, in which it is stated that “On or before ninety (90) calendar days after the effective date of this Permit for those SWMUs identified in Permit Condition VII.C...the Permittee shall submit a Preliminary Work Plan to the Director.”

Please clarify which sections, if any, apply other than at the time a new SWMU or AOC is discovered.

RESPONSE: Permit Condition VII.D does not require that the project coordinators of the Permittee and ADEQ meet. It requires that the Permittee assign a Project Coordinator and notify ADEQ of the appointment.

Permit Part VII addresses both existing and new SWMU’s. Of the SWMU’s listed in VII.C, the only active one is SWMU #3.

VII.A – no new submittal is due

VII.B – no new submittal is due

VII.C – no new submittal is due

VII.D – submittal is due within 90 days of permit issuance

VII.E – submittal is due 15 days after discovery

- VII.F – submittal is due 15 days after discovery
- VII.G – submittal is due after a determination that interim measures are required
- VII.H – submittal is due 90 days after permit issuance (for SWMUs identified in VII.C)
- VII.I – submittal is due after approval of the RCRA Facility Investigation Report
- VII.J – submittal is due after review of the Corrective Measures Study
- VII.K – submittal is due 45 days after receipt of remedy selection
- VII.L – no new submittal is due – this is an alternative corrective action process for minor releases and spills

ADEQ understands that Permit Condition VII.H may be interpreted to require the Permittee to submit a preliminary work plan (PWP) for SWMU #3. This was not intended. To clarify this, Permit Condition VII.H.2 has been modified. Permit Condition VII.H.2 now reads as follows:

“2. Content and Submittal of RCRA Facility Investigation Work Plan
~~On or before ninety (90) calendar days after the effective date of this Permit for those SWMU’s identified in Permit Condition VII.C (Summary of RCRA Facility Assessment (RFA) Findings/Results) or after any~~ Within ninety (90) calendar days of receipt of an RFI call-in, the Permittee shall submit a Preliminary Work Plan (PWP) to the Director containing a project schedule overview identifying and describing critical tasks, the tentative funding cycle, and the due dates for submission of Draft RFI Work Plans to address those units, releases of hazardous waste (including hazardous constituents), and media of concern which require further investigation. The RFI shall include Tasks I, II, and III of the Corrective Action Plan (CAP). Task III (RFI Work plan) shall incorporate the CAP’s Task VII facility submission summary, providing a schedule for all remaining tasks required under the RFI (CAP Tasks IV through VI). Task VII reporting requirements shall be followed throughout the RFI process. The Permittee may eliminate those specific portions of the CAP which are not applicable to the nature of the releases at the facility. EPA OSWER Directive 9502.00-6D (May 1989) RFI Guidance, or equivalent should be consulted.”

COMMENT 38 - VII.D states that “The Permittee must provide at least seven (7) calendar days written notice to the Department prior to changing Project Coordinator.” As “must” denotes a mandatory requirement, it does not allow for a situation in which the Project Coordinator terminates employment with CSI without notice, or CSI needs to terminate the Project Coordinator’s employment without notice. Accordingly, Conn-Selmer asks that this requirement be revised to require written notice to the Department within seven (7) calendar days of changing Project Coordinator.

RESPONSE: Agreed. Permit Condition VII.D has been modified. The last sentence of VII.D now reads as follows:

“The Permittee must provide written notice to ADEQ within seven (7) calendar days of changing Project Coordinator.”

COMMENT 39 - Table VII-1 states that an “Interim Measures Work Plan for interim measures identified at time of Permit issuance” is “due thirty (30) calendar days after effective date of Permit.” However, there is no mention of this requirement in the body of the text.

RESPONSE: This condition addresses the special case in which Interim Measure(s) may be pending at the time of Permit issuance. For the CSI facility, no Interim Measures are pending at the time of permit issuance, so this item may be deleted.

Table VII.-1 has been modified. Row eight of Table VII-1 has been deleted:

Interim Measures Work Plan for interim measures identified at time of Permit issuance	thirty (30) calendar days after effective date of Permit
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COMMENT 40 - Additionally, the table should make reference to the following facility submittal requirements:

Requirement: Written notification of Project Coordinator selected
 Due Date: Fifteen (15) calendar days after effective date of Permit

Requirement: Written notification of change of Project Coordinator
 Due Date: Within seven (7) calendar days of changing Project Coordinator

RESPONSE: Agreed. Table VII-1 has been modified. Rows 26 and 27 (so numbered following deletion of Table VII-1, row eight, as discussed in the response to Comment 39, above) have been added to Table VII-1 as follows:

“

<u>Written notification of Project Coordinator selected</u>	<u>Within fifteen (15) calendar days after effective date of the Permit</u>
<u>Written notification of change of Project Coordinator</u>	<u>Within seven (7) calendar days of changing the Project Coordinator</u>

”

COMMENT 41 - Attachment D, Section 2.5.1 states, under the paragraph specifying data reporting for the Semi-Annual Abbreviated Monitoring Reports, that “data from the annual comprehensive sampling and analyses event will be included in the abbreviated report.”

RESPONSE: Agreed. This statement was deleted in the response to Comment 17.

COMMENT 42 – Attachment D, Section 3.1 states “upon confirmation of the exceedance of the regulatory level specified in this permit, samples shall then be collected within 15 days from the down gradient groundwater well(s); DMW-4, DWW-1, DMW-11, and DWW-2.” Section 3.2 contains the same requirement. Conn-Selmer asks that well DWW-2 be deleted from these specific monitoring requirements, as it is an up gradient groundwater well.

Section 3.1 states “if results above the regulatory levels are detected for any of the target analytes in DMW-8, UMW-3, or UMW-3D, the ADEQ shall be notified immediately.” As “shall” denotes a mandatory requirement, Conn-Selmer asks that the term “immediately” in this instance be quantified in terms of time and when the clock begins, such as “within 48 hours of becoming aware of exceedance.”

RESPONSE: Protrero Well #2 (DWW-2) is not designated as a down-gradient well, but ADEQ notes that the groundwater gradient may fluctuate with operation of DWW-2. Therefore, ADEQ continues to require that this well be sampled in the above circumstances. Other changes and clarifications have been made to Attachment D, Section 3.1. The fourth paragraph now reads as follows:

“If results above the regulatory levels (MCL or PRG) are detected for any of the target analytes (Exhibit D-1) in DMW-8, UMW-3, or UMW-3D, ADEQ shall be notified immediately within 48 hours of the Permittee becoming aware of the exceedance. Wells shall be resampled within fifteen (15) days of knowledge of analytical exceedance of the regulatory level (MCL or PRG). Upon confirmation of the exceedance of the regulatory level (MCL or PRG) specified in this permit, samples shall then be collected within fifteen 15 days from DWW-2 (city-owned irrigation well), and the down-gradient groundwater well(s) wells: DMW-4, DWW-1 (private drinking water well), and DMW-11, and DWW-2 (city-owned irrigation well).”

The fourth paragraph of Attachment D, Section 3.2 has been modified. It now reads as follows:

“If results above the regulatory levels (MCL or PRG) specified in this Permit for any of the target analytes specified in Table D-1b of Exhibit D-1 in DMW-8, UMW-3, or UMW-3D, ADEQ shall be notified immediately within 48 hours of the Permittee becoming aware of the exceedance. Resampling of wells exceeding those regulatory levels (MCLs or PRGs) shall be conducted within fifteen (15) days. If exceedances are confirmed, samples shall be collected within thirty (30) days from DWW-2 (city-owned irrigation well), and the potentially affected down-gradient groundwater well(s) wells: DMW-4, DWW-1, and DMW-11 and/or DWW-2.”

COMMENT 43 - Section 3.2 states, in the last paragraph, that “If all wells show contaminant concentrations below the levels specified in Exhibit D-1, ***and upon confirmation of the results and any lack of evidence regarding any alternate source of the contamination (e.g., an upgradient well)***, the Permittee may apply to ADEQ for a permit modification for the cessation of post-closure care and termination of the permit.” Conn-Selmer is unclear as to what the meaning is of the statement in bold italics. Please clarify.

RESPONSE: This is an error. Attachment D, Section 3.2, paragraph 5 has been modified. It now reads as follows:

“If all wells show contaminant concentrations below the levels specified in Exhibit D-1, ~~and upon confirmation of the results and any lack of evidence regarding any alternate source of the contamination (e.g., an upgradient well)~~, the Permittee may apply to ADEQ for a permit modification for the cessation of post-closure care and termination of the permit. The Permit modification request shall be submitted in accordance with Permit Condition I.I”

COMMENT 44 - Section 3.2 states that “analytical data shall be submitted as a Level 2 data package.” That statement is in contradiction to Part VI.C.1(b) which states “level 4 CLP-like data packages for samples collected during final closure.”

RESPONSE: This is an error. The language in Permit Condition VI.C.1(b) has been deleted (see Response to Comment 17).

COMMENT 45 - Section 3.3.2 states that “volatile organic constituents shall be analyzed by either SW-8260 or SW-8021.” That statement is in contradiction to Exhibit D-4, which states only SW-8260 can be used for the Annual Comprehensive Monitoring Event, while either SW-8260 or SW-8021 may be used for the Semi-Annual Abbreviated Monitoring Event, and in contradiction to Exhibit D-5, which states only SW-8260 can be used for Final Closure Monitoring Events.

RESPONSE: Attachment D, Section 3.3.2 and the table for the Semi-Annual Abbreviated Monitoring Event are in error. Section 3.3.2 has been modified. It now reads as follows:

“

3.3.2

Analytical Methodology

Analytical methods the Permittee is to use for various parameters are identified in Exhibits D-4 and D-5. Volatile organic compounds (VOCs) shall be analyzed by either SW-8260 or SW-8021 ~~(constituents causing~~

~~contamination have been confirmed, Exhibit D-4~~). Total metals analysis will be run for cadmium, chromium, nickel, and silver, by EPA 200.7 or 200.8. If total chromium is detected above 100 ug/l, the well will be resampled within 15 days and analyzed for hexavalent chrome by either SW-7196A or EPA 318.6. Laboratories performing the analyses must be certified by the Arizona Department of Health Services (ADHS). Certified labs can be found at the ADHS web page at www.azdhs.gov.

If the Permittee finds that a method is no longer available the Permittee shall advise ADEQ. An alternate method to those listed in this Permit must be justified by the Permittee and approved by ADEQ.”

Exhibit D-4 has also been modified. For the comprehensive and the abbreviated monitoring events, under the column labeled “Method”, both now list SW-8021 or SW-8260 as appropriate methods:

For example for the abbreviated monitoring event, the cell now says:

“

	Method
ABBREVIATED	----- SW-8021 or SW-8260 -----

”

COMMENT 46 - Exhibit D-1, Table D-1a, states parenthetically that “Annual comprehensive monitoring requires analysis for all 40 CFR 265 Appendix IX VOCs and metals and parameters specified in Exhibit D-4.” However, Exhibit D-4 states that the parameters to be sampled are those listed in Exhibit D-1b, which specifically lists only seven VOCs and four metals to be analyzed. Please clarify what the analysis requirement is for the annual comprehensive monitoring event.

RESPONSE: The Permittee is required to analyze for all Appendix IX VOCs that may be analyzed by the method. However, the “constituents of concern” for purposes of ongoing corrective action consist of the seven VOCs listed in Table D-1a and Table D-1b, and the four toxic metals listed in Table D-1b.

Therefore, the Comprehensive Monitoring Event must specifically report the eleven organic and metallic constituents, but the analytical report must also include all of the Appendix IX VOCs that may be analyzed by the method.

No changes to the Permit as a result of this comment.

COMMENT 47 - Exhibit D-2 has a table D-1a, entitled *Wells of Interest in the Area of the CSI Remediation Unit*, that differs from the table entitled *Well Construction Details Post-Closure Plan* contained in Exhibit D-6. The following wells are those that differ:

	Wells of Interest in the Area of the CSI Remediation Unit	Well Construction Details Post-Closure Plan
DMW-1	160	140
DMW-3	135	136
DMW-4	120	128.5
DMW-5D	152	180
DMW-7	144	152.6
DMW-8	140	118
DMW-9	171	170
DMW-10	210	200
DMW-11	185	187
DMW-12	161	153
EW-1	150	148
UMW-2	191	190
UMW-3	130	160

RESPONSE: The well depth information has been taken from different sources, some of which appear to conflict. ADEQ agrees to include a disclaimer in Exhibit D-2, Table D-1a and Exhibit D-6 that states that the well depth information has not been verified. The information may be corrected as data becomes available.

Exhibit D-2, Table D-1a has been modified to include a disclaimer at the bottom that states:

“Note: Well depth information has not been verified”

Page 2 of Exhibit D-6 has been modified to include a disclaimer at the bottom that states:

“Note: Well depth information has not been verified”

COMMENT 48 - Exhibit D-4 makes reference to Exhibit D-1b under the Comprehensive sampling event parameter heading, but doesn't make reference to Exhibit D-1a under the Abbreviated sampling event parameter heading. As a matter of consistency and to avoid confusion, please replace the constituents listed under parameters for the Abbreviated sampling event with “Hazardous VOCs (Exhibit D-1a).”

RESPONSE: Agreed. Exhibit D-4 has been modified. It now reads in row 4, column 3 as follows:

“
 Parameter

ABBREVIATED	-----
	Hazardous VOCs
	<u>(Exhibit D-1a)</u>

”

COMMENT 49 - Exhibits D-4 & D-5 do not have “length of PDB system” listed as a field measurement, as specified in Part I.E.10(c)(iv).

RESPONSE: Agreed. Exhibits D-4 and D-5 have been modified.

Exhibit D-4 now shows “length of PDB system in column 3, rows 3 and 5:

“	Parameter

COMPREHENSIVE	Field Measurements
	pH
	Temperature
	Specific Conductance
	Depth to Groundwater
	<u>Length of PDB system</u>

”

“	Parameter

ABBREVIATED	Field Measurements
	pH
	Temperature
	Specific Conductance
	Depth to Groundwater
	<u>Length of PDB system</u>

”

Exhibit D-5 now shows “length of PDB system in column 2, row 3:

“	Parameter

	Field Measurements
	pH

Temperature
Specific Conductance
Depth to Groundwater
<u>Length of PDB system</u>

”

COMMENT 50 - Exhibits D-4 & D-5 state that “field instruments used to acquire field measurements shall have the supporting data including make, model number, serial number, and calibration records available to ADEQ, upon request.” However, Section 2.5.1 states that “field instrument serial numbers, model numbers, and daily pre- and post-calibration records” are items required in all groundwater monitoring reports.

RESPONSE: Agreed. The statements in Exhibits D-4 and D-5 are not necessary and possibly contradictory with Attachment D, Section 2.5.1. Therefore, the phrase “Field instruments used to acquire field measurements shall have the supporting data including make, model number, serial number, and calibration records available to ADEQ, upon request” have been deleted from the bottom of the exhibits.

Exhibit D-4

.
. .
.
“~~Field instruments used to acquire field measurements shall have the supporting data including make, model number, serial number, and calibration records available to ADEQ, upon request~~”

Exhibit D-5

.
. .
.
“~~Field instruments used to acquire field measurements shall have the supporting data including make, model number, serial number, and calibration records available to ADEQ, upon request~~”

COMMENT 51 – Attachment C, Section 2.1 states that “replacement parts shall be purchased and readily available for such equipment and systems.” As “shall” denotes a mandatory requirement, and replacement parts span a wide range of costs—from less than one dollar to thousands of dollars-- Conn-Selmer asks that this requirement be clarified as to what type of replacement parts are expected to be on hand.

RESPONSE: This sentence has been deleted. Attachment C, Section 2.1, paragraph 2 now reads as follows:

“All maintenance activities shall be recorded in the Activity Log on the day the activity occurs. The equipment and systems shall be inspected, tested, adjusted, repaired, cleaned, lubricated, and replaced etc. ~~Replacement parts shall be purchased and readily available for such equipment and systems.~~”

COMMENT 52 – In Attachment C, Section 2.1 Conn-Selmer notes the incorrect use of the term “Corrective Action Management Unit” instead of “GRS”.

RESPONSE: The error has been corrected. Attachment C, Section 2.1, first paragraph now reads as follows:

“Conn-Selmer’s routine Preventive Maintenance Schedule and Operating Log are designed to identify and correct conditions relating to equipment and systems that can cause environmental degradation or endangerment of public health and safety before the equipment or system fails. These preventive maintenance policies and procedures are required to be followed by Conn-Selmer representatives at the ~~Corrective Action Management Unit~~ GRS in Nogales, Arizona.”

COMMENT 53 - Exhibit C-4 states that monitoring wells should be inspected both annually and during each sampling event; the latter frequency is correct, as specified in Exhibit C-1. Additionally, the “Daily” section is incorrectly labeled—it should be labeled as “Weekly”, also as specified in Exhibit C-1. Conn-Selmer is submitting a request to ADEQ to modify the counterpart to this form (Figure 2-3) presented in the Post-Closure Plan (Attachment F).

RESPONSE: Exhibits to Permit Attachment C have been deleted. Checklists and other sample forms are now found in Permit Attachment F (see response to Comment 54).

COMMENT 54 - Much of Conn-Selmer’s Post-Closure Plan is replicated throughout the draft permit, and creates confusion from both a compliance standpoint and a permit modification standpoint. Accordingly, the company requests that either the permit point to the Plan, or vice-versa, when referencing duplicate items. For example, it is redundant to have the same inspection checklists in both Attachment C and Attachment F. Making reference in Attachment C to Attachment F would streamline the permit and reduce the opportunity for error, both in compliance and permit modification.

RESPONSE: Agreed.

Attachment D to the Post-Closure Plan (Permit Attachment F) has been removed. Section 2.7 of Permit Attachment F now references Permit Attachment E (Contingency Plan). Regarding checklists, Permit Attachment C now refers to the Attachments in Permit Attachment F.

Section 2.7 of Permit Attachment F has been modified. It now reads as follows:

“
2.7 Contingency Plan
 This Section can be found in Permit Attachment E.”

Paragraph 2 of Section 2.8 of Permit Attachment F has been modified. It now reads as follows:

“The total estimated cost of monitoring and maintenance during a post-closure period of 30 years is found in Permit Attachment G, Table 2-6. The contingency line item in Table 2-6 reflects expenses over and above the estimates for the items presented.”

Permit Attachment F in the draft Permit contained two tables each identified as Table 2-6. ADEQ has removed the first Table 2-6 (revised 4/25/08), showing a post-closure cost estimate of \$2,273,343.00. ADEQ retained the cost estimate revised 2/25/09, showing an amount of \$1,998,785.00 for the post-closure cost estimate.

Other duplications have been addressed:

Permit Attachment C (Inspections) has been modified to remove redundant exhibits or attachments, and to refer to other locations in the permit with identical attachments. It now reads as follows:

“INTRODUCTION

This section presents the inspection schedules and forms as required by the A.A.C. R18-8-270A and 40 CFR 270.14(b)(5). Also included is an inspection and maintenance program to meet the general requirements of 40 CFR 264.15 and the miscellaneous units requirements of 40 CFR 264 Subpart X.

As part of its operation, maintenance, and monitoring program, of the Groundwater Remediation System (GRS) located at 1310 West Fairway Drive, Nogales, Arizona, the Permittee shall inspect facility areas, structures, equipment, and groundwater monitoring and extraction wells, to ensure proper condition and operation of the GRS. The following is a list of items that shall be inspected, on a regular basis:

- GRS equipment and operation;

- GRS secondary containment unit;
- GRS Security;
- Groundwater Monitoring Wells and Extraction Well(s) equipment and operation; and
- Groundwater Monitoring Wells and Extraction Well(s) Security.

The inspection schedule is found in Table 2-2 of Permit Attachment F. Examples of record keeping forms are provided in Figures 2-3, 2-4, 2-6a, and 2-6b of Permit Attachment F. These are examples of required inspection criteria. The actual form composition may vary. Records shall be maintained on-site for a period not less than three years from the date of the inspection.

1.0 INSPECTION RECORD-KEEPING REQUIREMENTS

The Permittee shall conduct routine visual inspections. Inspections shall be documented at the frequencies specified in Table 2-2 of Permit Attachment F, Post-Closure Inspection & Maintenance Schedule. Routine inspections of the GRS peripherals shall include checking for equipment malfunctions, structural deterioration, and any other deficiencies that could threaten human health, safety, or the environment or have the potential to cause a release of hazardous waste materials. All inspectors shall document the condition of items being inspected along with corrective actions taken (if appropriate), the name of the inspector, and the date of the inspection. When a hazard is imminent or has already occurred, corrective action shall be taken immediately according to the Contingency Plan in Permit Attachment E. Completed inspection forms shall be maintained by the Permittee, on site, for a period of at least three years from the date of the inspection. Inspection records shall be made available to ADEQ, upon request.

2.0 MAINTENANCE

2.1 GRS MAINTENANCE

The Permittee's routine Preventive Maintenance Schedule and Operating Log are designed to identify and correct conditions relating to equipment and systems that can cause environmental degradation or endangerment of public health and safety before the equipment or system fails. These preventive maintenance policies and procedures are required to be followed by the Permittee's representatives at the GRS in Nogales, Arizona.

All maintenance activities shall be recorded in the Activity Log on the day the activity occurs. The equipment and systems shall be inspected, tested, adjusted, repaired, cleaned, lubricated, and replaced etc. Replacement parts shall be purchased and readily available for such equipment and systems.

Items included on the Activity Log include:

- Date and time maintenance occurred;
- Name of individual(s) and company responsible for maintenance;
- Description of maintenance activity (including procedures used and specific equipment serviced)

A sample of the Groundwater Remediation System Operating Log is provided in Figure 2-3 of Permit Attachment F. A sample of the Activity Log is provided in Figure 2-4 of Permit Attachment F.

2.2 GRS Preventive Maintenance

Preventive maintenance shall be performed on the treatment system to prevent premature equipment wear and to keep the system in proper working order. Preventive maintenance shall include lubrication, cleaning or replacement of filters and replacement of air fan belts. Maintenance shall be performed only when the system is not operating.

The Permittee shall perform routine preventive maintenance on the following items:

- Air blower intake screens;
- Air fan belt wear;
- System motors;
- GRS pumps and piping;
- Interlock/alarm functionality;
- Visual inspection of stripper tower and packing material for scaling and biological growth; and
- Operation of secondary containment sump pump.

Procedures for tower and packing material maintenance are provided in Sections 2.2.4.3 and 2.2.4.4 of Permit Attachment F.

2.3 OBJECTIVES

The objectives of the operation, maintenance, and monitoring program are as follows:

- To ensure that operation of the groundwater remediation system is safe and as designed;
- To determine what maintenance work must be performed to ensure system continuous operation as designed; and

- **To document actions taken.”**

COMMENT 55 - OTHER REQUESTED CHANGES

On May 8, 2009, CSI requested other changes be made to the draft Permit. Presented is a list of changes requested by CSI, followed by ADEQ's response.

- a) CSI submitted a revised sampling plan (Permit Attachment D, Exhibit D-7).

RESPONSE: The revised plan offers several clarifications and improvements to the sampling plan contained in the permit, and ADEQ has replaced “the letter Plan” portion of Permit Attachment D, Exhibit D-7 with this submittal. ADEQ has minor comments on the submittal, however, and requests that CSI update the plan to address the comments within 90 days.

- a) **Originally, only samples for VOCs were collected with passive diffusion bags and the samplers were called PDBs. Currently, passive samplers are used to collect groundwater samples for other parameters (e.g., metals, ions). ADEQ requests that CSI refer to PDB samplers used in their sampling plan by composition as was done for the *rigid porous polyethylene* (RPP) passive diffusion samplers. ADEQ also requests that the PDB samplers that CSI is using for collecting groundwater samples for VOC analysis be referred to as *low density polyethylene* (LDPE) passive diffusion samplers. For clarity and distinction from other types of media sample collection containers, ADEQ requests that CSI use either the term passive diffusion bag (PDB) sampler or diffusion sampler rather than “sample bag” to describe the general class of samplers being used for corrective action and compliance monitoring.**
- b) **Update the plan to specify how often the well depth will be measured and by what method. What measures will be taken if the water table level precludes sample collection?**
- c) **Indicate how PDB sampler location within the screened interval of the well and below the water table will be confirmed at PDB implementation and retrieval.**

The Permit has been changed as a result of this comment. Permit Attachment D, Exhibit D-7 is replaced with the May 8, 2009, revised sampling plan.

- b) CSI submitted a revised Section 2.2.1 of the Revised Post-Closure Plan (Attachment F of the draft Permit). CSI seeks to delete the specification of “15-horsepower” for the extraction well pump. At such time a replacement pump is needed, or perhaps sooner if reduction in electricity usage justifies it, CSI may consider replacing the pump with a smaller pump more suitable to the transmissive capability of the aquifer.

RESPONSE: ADEQ cannot approve the change at this time. The requested change is a specification that influences whether the corrective action adequately captures the contaminant plume. CSI should provide extensive detail to ensure continued successful system operation as originally designed and constructed. ADEQ may consider this change at a later date following proper justification.

No change has been made to the Permit as a result of this comment.

- c) CSI submitted a revised Attachment F, Section 2.2.3.1 and Attachment F, Table 2-1 of the Permit. CSI seeks to delete “10-horsepower” from the specification for the air stripping tower blowers in Section 2.2.3.1. At such a time a replacement blower is needed, or perhaps sooner if reduction in electricity usage justifies it, CSI may consider replacing the blowers with smaller blowers more suitable to the VOC concentrations currently being remediated. This revision would also entail the insertion of the word “maximum” before the phrase “Air Flow Rate = 3,100 scfm” in the Air Stripping Towers section of Table 2-1.

RESPONSE: ADEQ cannot approve the change at this time. The requested change is a specification that influences whether the treatment system adequately removes hazardous waste constituents from the contaminated groundwater. CSI should provide extensive detail to ensure continued successful system operation as originally designed and constructed. ADEQ may consider this change at a later date following proper justification.

No change has been made to the Permit as a result of this comment.

- d) CSI submitted a revised Attachment F, Section 2.2.4.4 of the Permit. CSI seeks to revise the first sentence to agree with Table 2-2, which is the correct procedure as follows: “As noted in Table 2-2, the treatment system requires inspection for algae and microbial growth in the air stripping towers and treatment system tanks on a biannual basis. If an inordinate amount of algae and/or microbial growth is observed in the air stripping towers and /or treatment system tanks, disinfection is required.”

RESPONSE: Agreed.

The Permit has been changed as a result of this comment. Permit Attachment F, Section 2.2.4.4 has been updated with the May 8, 2009, submittal.

- e) CSI submitted an update to Permit Attachment F, Section 2.3 and 2.3.1. to clarify that, in the event of conflict, the Permit form supercedes Permit Attachment F for groundwater monitoring and reporting.

RESPONSE: Agreed.

The Permit has been changed as a result of this comment. Permit Attachment F, Section 2.3 and 2.3.1 have been updated with the May 8, 2009, submittal.

- f) CSI submitted an update to Permit Attachment F, Section 2.4. CSI seeks to revise the first sentence as follows:

“The sampling and analysis program will follow the procedures outlined in the ADEQ-approved Letter Sampling Plan submitted by Conn-Selmer October 7, 2008, and revised May 8, 2009. All laboratories used for sampling during the post-closure period have a certification from the Arizona Department of Health Services for the analyses being performed.”

RESPONSE: Agreed.

The Permit has been changed as a result of this comment. Permit Attachment F, Section 2.4 has been updated with the above May 8, 2009, submittal.

- g) CSI submitted an update to Permit Attachment F, Table 2-4. Because Permit terms will undoubtedly trump Plan terms, CSI seeks to add the following note to this page:

“Groundwater monitoring and reporting will be conducted in accordance with the Post-Closure Plan unless modified by the AWMA Post-Closure Permit.”

RESPONSE: To avoid redundancy, Permit Attachment F, Table 2-4 now refers to the monitoring schedules contained in Permit Attachment D, so this change is unnecessary.

- h) CSI submitted an update to Permit Attachment F, Section 2.6.3.4. CSI seeks to merge the two sections discussing the extraction well because it incorrectly states that the extraction wells will be inspected annually, and to list them separately is redundant.

RESPONSE: Agreed.

The Permit has been changed as a result of this comment. Permit Attachment F, Section 2.6.3.4 has been updated with the above May 8, 2009, submittal.

- i) CSI submitted an update to Permit Attachment F, Figure 2-3. CSI seeks to revise the “Annual” section of the form by removing “Monitoring Wells (see separate form)” as it is incorrect (should be located under “During Each Sampling Event”). Additionally, the “Daily” section is incorrectly labeled – it should be labeled as “Weekly”.

RESPONSE: Agreed.

The Permit has been changed as a result of this comment. Permit Attachment F, Figure 2-3 has been updated with the above May 8, 2009, submittal..

NOTE: OTHER MINOR CHANGES MADE TO THE PERMIT

- Definitions for SW (Solid Waste), U.S.C. and Universal Waste have been removed from Part I.D. These definitions are not needed. The definition for A.W.Q.S. was clarified.
- Permit Condition I.I.3 (Mailing List) was added. It requires the Permittee to request and use the facility mailing list maintained by the Director, for all permittee-initiated modifications. This standard condition was inadvertently left off of the Draft Permit.
- Permit Condition II.A.1 was reformatted.
- Permit Condition II.A.2 was rewritten for clarity.
- Permit Condition II.A.3 was reformatted.
- An error in Permit Condition III.B was corrected. Regulatory cite for the introductory paragraph was changed from 40 CFR 264.98 to 40 CFR 264.99.
- A clarification was made in Permit Condition III.B.3. On the first line, the words “remediation program” was changed to “corrective action program”, in accordance with R18-8-264.A (40 CFR 264.100(h)).
- In Permit Condition IV.B, the second sentence was deleted as it was unnecessary.
- Permit Condition IV.C.1 was clarified. “Remedial Actions” was changed to “Remedies”.
- Permit Condition IV.C.2 was clarified. “Remedial Actions” was changed to “Remedies”. Also, it was clarified that remedies are designed to prevent or correct for a hazardous event. This Permit Condition is changed as follows:

“Remedies shall be designed to ensure that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedies shall be implemented as soon as possible, with written notification provided to ADEQ within five business days of implementation of the remedy.”
- In Permit Condition IV.D, the sentence “ADEQ must be notified within 30 days of any revisions to the contingency plan.” has been removed. The basis for the deletion is that the regulations for Permit Modifications [R18-8-270.A (40 CFR 270.42, Appendix I)

apply in such instances and imposes various time periods for notification, depending on the significance of the change to the Permit.

- Permit Condition V.F.1(a) was in error, and has been deleted. The responsibility to notify “all potentially affected members of the public” lies with the emergency response agency.
- Permit Condition V.F.4 had an error. The correct number for ADEQ emergency response is (602) 771-2300, or 800-234-5677, extension 771-2300.
- Permit Condition VI.C.4 has been added to the Permit. This Permit Condition specifies the electronic data submittal requirements for the Comprehensive Monitoring Event and the Abbreviated Monitoring Event. The data requirements are specified in ADEQ’s Groundwater Data Submittal Guidance Document, version 3.3. The Permit Condition is as follows:

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“4. In addition to submittal of written groundwater monitoring reports, Permittee shall submit groundwater monitoring data in accordance with the ADEQ Groundwater Data Submittal Guidance Document, Version 3.3.”

- Permit Condition VII.A.4 has been changed to delete the words “or six years after the Corrective Action, whichever is latest.” The standard Permit Condition for Corrective Actions specifies that the records be maintained for the life of the Permit.
- Permit Condition VII.A.5(d) has been changed to correct the cite for the signatory requirements in the Permit. The correct cite is Permit Condition I.F (Signatory Requirements).
- Permit Condition VII.E.2, second paragraph was deleted as being unnecessary language and was not clear.
- Permit Condition VII.H.6 has been changed to delete the regulatory cite for the facility mailing list. The last sentence now reads as follows:

“Within fifteen (15) calendar days of receipt of approval, the Permittee shall mail a notice that summarizes the approved RFI Final Report to all individuals on the facility mailing list maintained by ADEQ.”

- Permit Condition VII.I.2 has been changed to delete reference to “tentative funding schedules”. This term is typically used for federal facilities, and is not applicable to CSI.

- **Permit Attachment A (Facility Description) was rewritten for clarity.**
- **Permit Attachment D, Section 3.3.2, line 3 – Silver was included to the list of metals to be analyzed (its absence was an error). Per Attachment D, Table D-1b, after three years, analysis for silver and nickel may be discontinued if all concentrations remain below the MCL. However, all metals must be analyzed during the final closure monitoring period.**