

**ADEQ RESPONSE TO PUBLIC COMMENTS ON THE
HERITAGE ENVIRONMENTAL SERVICES, LLC
DRAFT HAZARDOUS WASTE PERMIT**

Arizona Administrative Code (A.A.C.) R18-8-271.0 requires ADEQ to respond to all significant comments made on any draft Permit within the public comment period. On August 11, 2013 and August 14, 2013 public notices were advertised in the *Arizona Republic and the Coolidge Examiner*, respectively. The public comment period opened on August 11, 2013 and closed on September 25, 2013. No request for a public meeting or public hearing was submitted by any member of the public.

Three persons submitted public comments on the draft Permit. The following is a compilation of all comments, followed by ADEQ's response in **bold text**.

COMMENTS SUBMITTED BY HERITAGE ENVIRONMENTAL SERVICES, LLC

COMMENT 1: Fact Sheet. Page 2. Section III – For consistency with Standard Operating Procedures used at the facility, Heritage requests that ADEQ change the term "incompatible" to "compatible" with respect to testing of incoming wastes.

RESPONSE: Acknowledged. If necessary, future fact sheets will include this terminology.

COMMENT 2: Fact Sheet. Page 3. II.J.5 – ADEQ has no legal basis for requiring Heritage to evaluate compliance with International Fire Code (IFC) or International Building Code (IBC). ADEQ is requiring Heritage to submit reports evaluating the facility's compliance with two regulatory programs (IFC and IBC) for which ADEQ has no statutory or regulatory authority to administer or enforce.

RESPONSE: The regulatory bases for demonstrating that the facility provide for adequate fire protection is found in the following sections: 40 CFR 264.17(General Requirements for ignitable, reactive, or incompatible wastes), 264.31 (Proper Facility Design and Operation), and the omnibus provisions of 270.32(b)(1) and 270.32(b)(2). Reliance on internationally-recognized standards such as the 2007 IFC and IBC for fire control standards provides a high degree of technical support for the permit conditions. Further, these requirements are already in effect within the City of Coolidge, which minimizes any concern that the requirements are arbitrary in nature.

Permit Conditions In the Draft Permit

The Draft Permit contained conditions that required Heritage to upgrade its inventory tracking for hazardous materials (including oxidizers, and flammable and ignitable products and solid wastes). Heritage may store those hazardous materials in permitted hazardous waste storage areas, and ADEQ believes that the inclusion of detailed information in Heritage's inventory tracking system would likely result in better compliance with the limitations imposed by the IFC and IBC. ADEQ viewed these conditions as appropriate measures, especially at the Central Container Storage Area

(CSA) and at the 800 Container Storage Area because these units are not served with adequate automated fire suppression systems.

When it drafted those Permit conditions, ADEQ considered the facility's compliance history and several other factors:

- a) ADEQ reviewed Compliance Order Z-82-03, and ADEQ's letter of June 23, 2003 to Heritage which required Heritage to demonstrate, per 40 CFR 264.35, that the facility is provided water at adequate volume and pressure to supply water hose streams or foam producing equipment, or automatic sprinklers, or water spray systems. In response to the order, Heritage completed a number of significant upgrades to its fire suppression systems. These included the installation of fire hydrants, increasing static water availability in excess of 120,000 gallons, installing a pump capable of providing 1000 gallons per minute (gpm) of firewater at 40 pounds per square inch gauge (psig), and the installation of a water connection point for fire apparatus to access the water supply. However, upgrades to the sprinkler system at the Central Container Storage Area were not performed.
- b) On July 1, 2003, in a letter from the City of Coolidge, Fire Chief Mickey McHugh provided a certification of water at adequate volume and pressure. The letter noted that Heritage agreed to complete a number of improvements including to "Inspect, recertify and maintain the sprinkler system in Building 600."
- c) On August 5, 2006, at approximately 6:20 pm, hazardous waste stored on the loading dock at the Heritage facility spontaneously combusted (The event was described by witnesses as an "explosion and a fire"). Residents of four homes located near Heritage were evacuated until the fire was addressed by the City of Coolidge Fire Department, with the assistance of the Pinal County Sheriff HazMat Office, and the Pinal County Emergency Management personnel.
- d) On October 19, 2006, ADEQ issued to Heritage a Notice of Violation, citing violations of 40 CFR 264.17 and 265.31, as well as a failure to properly report discrepancies in the types of waste stored at the facility, per Permit Condition I.E.10(e). As part of its response to the NOV, Heritage installed linear heat detection cable at the loading dock. The cable is designed to trigger a fire alarm when temperatures exceed 190 degrees F. Runs of the cable were installed along the perimeter and at each of the steel trusses that support the shade canopy at the loading dock. No upgrades to the sprinkler system in the Central Container Storage Area were made.
- e) On September 26, 2009, as part of its Permit application, and in response to ADEQ's substantive comments, Heritage submitted a report prepared by a qualified fire protection engineer. The engineer certified that the facility was equipped with adequate fire protection measures. However, the engineer noted that the design of the automatic sprinkler system in the Central Container Storage Area would provide local

and remote fire notification, but could not be expected to control a fire in the storage area.

The Permit Conditions found in the draft Permit were deemed necessary, in lieu of upgrades to the sprinkler system at the Central Container Storage Area and installation of an automated fire suppression system in the 800 Storage Area. ADEQ believes that they were justified and properly authorized by existing rules and by omnibus authority, based on a complete review of the permit application and the facility's compliance history.

Changes to the Draft Permit In Accordance with Recent Submittals by Heritage

On September 25, 2013, Heritage notified ADEQ that it had agreed to accept a schedule of compliance (SOC) within the final permit to provide for further upgrades to its fire suppression systems. The SOC permit conditions require Heritage to design and install upgraded fire protection systems, including foam suppression for the Central Container Storage and sprinkler suppression at the 800 Storage Areas. Heritage anticipates that the systems must be installed within 270 days of permit issuance.

The SOC permit conditions have been revised to reflect installation of the upgraded fire suppression systems, and an engineer's certification that the systems have been properly installed (i.e., installed in compliance with the IFC and IBC and meeting appropriate NFPA guidance). These requirements are in lieu of the draft Permit conditions requiring the upgrades to the electronic inventory system and the engineer's certification for IBC and IFC compliance.

The draft permit conditions that have been deleted are Permit Part II.J.1.k, Permit Part II.J.5 and Permit Part III.J.5. Permit Part II.T.4 has been revised to reflect fire protection system upgrades. Future fact sheets for Heritage permit actions will include the appropriate information for fire suppression systems at the facility.

COMMENT 3: Fact Sheet. Page 3. II.J.6 – The organic concentration log is limited to equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight "for less than 300 hours per calendar year." A.A.C. R-18-8-264.A (40 C.F.R. § 264.1064(g)(6)). Also, there is no regulatory requirement for annual submittal of the log.

RESPONSE: ADEQ may require a Permittee to provide information and furnish records relevant to compliance with the hazardous waste rules. ADEQ believes this authority extends to Permits and Permit conditions, per 40 CFR 270.40(h).

40 CFR 264.1064(g)(6) requires a Permittee to maintain a log of equipment contacting organic wastes with an organic concentration of at least 10 percent by weight. However, the information maintained on the log does not include the number of hours the equipment is in contact with the organic waste. The requirement to provide the log on an annual basis has been retained in the Permit. The requirement that the log include how long the equipment was in contact with the waste has been deleted from Permit Condition II.J.6 in

the draft permit. This permit condition is now renumbered as Permit Condition II.J.5 in the final permit.

COMMENT 4: Fact Sheet- Page 4; II.T – ADEQ has no legal basis for requiring Heritage to update its daily inventory management system to identify classes of material based on International Fire Code (IFC) classification or otherwise demonstrate compliance with IFC or International Building Code (IBC). ADEQ is requiring Heritage to classify materials based on IFC where RCRA has never contemplated IFC and the agency does not have the statutory or regulatory authority to create permit provisions based on IFC.

RESPONSE: ADEQ provided its regulatory and legal bases for all Permit Conditions within the Permit, the Fact Sheet, and other documents of the Administrative Record for this Permit Action. Further information is available in this Response to Comments Summary. Concerning IFC and IBC requirements, please refer to the response to comment 2.

COMMENT 5: Fact Sheet. Page 4. Permit Part III – Typographical error- change "are ' to "area."

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 6: Fact Sheet. Page 5. III.J – Arizona Statute does not require a qualified professional such as a chemist or environmental compliance manager to supervise waste compatibility determinations and consolidation operations. In support of these requirements, ADEQ cites A.R.S. § 49-922.B.S., which appears to be in error. Possibly ADEQ is basing this requirement on A.R.S. § 49-922.C.1 which requires that the facility demonstrate "sufficient expertise."

RESPONSE: The typo is acknowledged. ARS §49-922.C.1 requires an applicant for hazardous waste permit to demonstrate sufficient reliability, expertise, integrity and competence to operate a hazardous waste management facility. ADEQ expects any applicant for a hazardous waste permit to employ qualified (i.e., properly trained) employees to safely manage hazardous waste at the facility.

ADEQ has reviewed Heritage's training plan and the position requirements for hazardous waste operators contained in the permit application in order to verify that the expertise and competence of workers are promoted and maintained for each relevant task, including hazardous waste treatment operations (e.g., blending). ADEQ emphasizes that the Permit does not require hazardous waste operators to have a degree, but Heritage must be able to adequately demonstrate their expertise and competence. No change has been made to the Permit in response to this comment.

COMMENT 7: Fact Sheet. Page 6. III.J – ADEQ has no statutory or regulatory authority to require Heritage to demonstrate compliance with International Fire Code or International Building Code. RCRA provides no support for this proposition, and any claimed authority under

RCRA provisions 40 C.F.R. § 270.32(b)(1) and (b)(2) is limited by Arizona's Regulatory Bill of Rights, A.R.S. § 41-1001.01.A.7.

RESPONSE: ADEQ has already provided its regulatory and legal bases for all Permit Conditions within the contents of the Permit as well as related documents such as the Fact Sheet, and components of the Administrative Record for this Permit Action. It is noted that those Permit conditions have been modified in response to recent submittals made by Heritage. Please see the response to comment 2 for further information.

COMMENT 8: Permit Cover Sheet; Page 1. Please add the East Container Storage Area to the list of six container storage units.

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 9: Permit Part I.E.10(d) – Heritage requests that the ADEQ include the specific statutory and regulatory requirements for the Permittee or for that matter any generator, company contracting laboratory analysis, or laboratory to provide written notification in the form of a letter each and every time a laboratory is conducting laboratory analysis as well as requiring the final analytical report to include a copy of the letter in the permit. This requirement is arbitrary, administratively excessive, and an unreasonable requirement for the Permittee. While an EPA model permit may have similar language concerning communication with a laboratory, there is not a regulatory requirement for this requirement. Heritage requests that this language be removed from the permit.

RESPONSE: The requirement to inform the laboratory in writing that it must operate under the conditions set forth in the permit is found in the EPA model Permit for commercial hazardous waste treatment storage and disposal facilities. The standard condition is broadly worded and is a reasonable requirement in a number of circumstances covered by the Permit. For example, a laboratory performing analyses of samples generated during closure of the facility should abide by the requirements of the Quality Assurance Project Plan (QAPP) approved for the closure. For other routine circumstances, however, there may not be a need to provide such notice to the laboratory. The permit condition has been clarified to state that “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 applicable conditions set forth in this Permit.” If the Permittee believes there are no applicable conditions that the laboratory must be made aware of, such notification will not be necessary. To further streamline this Permit condition, the requirement to include a copy of the letter in the final analytical report for notification and certification verification purposes has been deleted from Permit Part I.E.10(d).

COMMENT 10: Permit Part I.G.7 – Heritage maintains a certificate of liability insurance at the facility as required by the regulatory requirements. Heritage does not maintain a "signed duplicate copy" of the liability policy required under Permit Condition II.N. The signed certificate of liability insurance is a regulatory requirement that is more than adequate for the operating facility and clearly indicates that the facility is insured in accordance with the

regulatory requirements. Heritage requests that the I.G.7 be modified to indicate that a certificate of liability insurance is maintained at the facility.

RESPONSE: Agreed. Heritage will maintain a certificate of liability insurance at the facility and will submit a signed duplicate copy of the liability policy to the ADEQ upon request as stated at 40 CFR Part 264.147(a)(1)(i). The copy of the liability policy may be submitted, with adequate justification, as "Confidential Business Information" and/or Heritage may elect to redact confidential information contained in the policy. Permit Condition I.G.7 has been revised as a result of this comment.

COMMENT 11: Permit Part. I.G.B – Heritage requests clarification from the ADEQ for the sentence that is inserted between Permit Part I.G.7 and Permit Part I.G.8. as the sentence does not appear to make sense.

RESPONSE: The sentence in the draft permit reads "The Permittee shall maintain at the facility, until closure is completed and certified by a qualified Arizona Registered Professional Engineer (P.E.), the past three years of the following documents:" The text in Permit Condition I.G has been revised to state "The Permittee shall maintain at the facility the past three years of the following documents:".

COMMENT 12: Permit Part I.G.9 – Heritage believes the records required under I.E.10 are required for a period of three years.

RESPONSE: Agreed. Changes made per the previous comment have clarified this requirement. No change has been made to the permit as a result of this comment.

COMMENT 13: There is no comment numbered 13.

COMMENT 14: There is no comment numbered 14.

COMMENT 15: Permit Part II.B.2 – ADEQ did not include the exemption for when the owner or operator is also the generator. Please include the following regulatory language from A.A.C. R-18-8-264.A (40 C.F.R. § 262.12(b)): "When the Permittee is to receive hazardous waste from an on off-site source (except where the Permittee is also the generator), he/she must inform..."

RESPONSE: Agreed. The suggested language has been incorporated in Permit Condition II.B.2.

COMMENT 16: Permit Part II.C.1 – Arizona regulations and Federal RCRA do not require annual waste stream analysis. Waste stream analysis must only be "repeated as necessary to ensure that it is accurate and up-to-date." A.A.C. R-18-8-264.A (40 C.F.R. § 264.13(a)(3)). Please revise the language in the permit accordingly.

RESPONSE: Permit Condition II.C.1 has been revised to state that waste stream evaluation will be performed in accordance with Permit Part B, Waste Analysis Plan,

Section 4.5. ADEQ believes that this section of the WAP meets the requirements of 40 CFR 264.13(a)(3).

COMMENT 17: Permit Part II.C.3 – See also comment regarding Permit Part II.C.1, above. There is no requirement for an annual waste stream analysis as long as the analysis is accurate and up to date per A.A.C. R-18-8-264.A (40 C.F.R. § 264.13{a)(3)).

RESPONSE: The Permit has been revised to address this comment. The Permit condition has been modified to require that waste stream evaluation be performed in accordance with Permit Attachment B (Waste Analysis Plan), Section 4.5. Waste stream analyses are to be repeated as necessary to ensure that it is accurate and up-to-date, e.g., when the Permittee becomes aware of changes to the waste stream. Refer to response to the Comment 16.

COMMENT 18: Permit Part II.C.4 – Heritage objects to the requirement that analysis of hazardous waste streams be completed within 72 hours after arrival at the facility. There may be an occasion where analysis is performed that requires additional testing including clarification from the generator or sending samples to a laboratory for testing prior to accepting the waste. While Heritage agrees to placing hazardous waste in storage within 72 hour of arrival in accordance with Permit Attachment C and analysis is normally performed during this timeframe, there may be circumstances that require a longer time to complete an evaluation through testing. This condition with a stipulated timeframe is vague and reference to 264.13(c)(1) indicates that while inspection is necessary (and specified in the WAP), there is no 72 hour period established in the regulation to complete the required inspection. Heritage requests that the condition be revised to indicate that hazardous waste will be placed in permitted storage within 72 hours of receipt in accordance with Attachment C, Section 7.

RESPONSE: The Permit Part II.C.4 has been revised to state that the analysis of the incoming waste streams shall be in accordance with Permit Part B, Waste Analysis Plan. Incoming waste will be placed in permitted storage within 72 hours of receipt, in accordance with Permit Attachment C (Container Storage and Consolidation Plan), Section 7.1.

COMMENT 19: Permit Part II.E – Heritage assumes that ADEQ is limiting storage of "waste containers" to no more than one year based on the storage prohibitions in A.A.C. R-18-8-268 (40 C.F.R. § 268.50(b)). This limitation applies only to storage of hazardous wastes that are restricted from land disposal. Additionally, a facility may store such hazardous wastes beyond one year if it can demonstrate that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal {40 C.F.R. § 268.50(c)}.

RESPONSE: Agreed. The Permit Part II.E has been modified to reference 40 C.F.R. §268.50(c). In general, waste may not be stored for greater than one year, unless the Permittee prepares a written justification that shows that the storage is solely for the

purpose of accumulation of such quantities of hazardous waste to facilitate proper recovery, treatment, or disposal, per 40 CFR 268.50(c).

COMMENT 20: Permit Part II.I.1(b) – Heritage was unable to determine the regulatory citation that automatically requires soil sampling in response to the specified conditions. Sampling and analysis should be limited to such releases that reach non-impervious areas. Please revise the permit to reasonably indicate that soil has to be impacted to require soil sampling in response to the specified conditions.

RESPONSE: The first paragraph of Permit Part II.1(b) has been modified as follows:

“As part of the remedial action taken in response to a fire, release, or unplanned explosion of hazardous waste where hazardous waste is released from the facility beyond the facility boundary and has impacted surface soil, the Permittee shall sample and analyze to determine the extent and depth of any soil contamination present at concentrations which could threaten human health or the environment. Alternatively, the Permittee may conduct soil sampling after removal of soil contaminated with hazardous waste or hazardous constituents to verify that concentration of hazardous waste or constituents do not threaten human health and the environment. Sample types, locations, analytes and methods may be subject to the approval of the Director.”

With reference to the comment relative to restricting sampling and analysis of spills to the non-impervious areas, ADEQ notes that spills within the containment areas are not typically subject to spill response in the contingency plan because containment is intended to be “sufficiently impervious”(40 CFR 264.175 (b)(1)); Sampling and analysis is thus typically expected to apply to spills that reach areas outside of containment (e.g., soils) so as to properly assess risks to human health and the environment (see 40 CFR 264.56(c)).

COMMENT 21: Permit Part II.I.3 – Heritage requests that ADEQ clarify the meaning of the sentence in this Permit Condition.

RESPONSE: Agreed. The sentence has been rephrased to state that the Permittee shall request a modification to the Contingency Plan based on the criteria listed in 40 CFR 264.54.

COMMENT 22: Permit Part II.J.1(i) – The notices to generators (instead of generators) are those "as specified in 40 C.F.R. § 264.12(b)".

RESPONSE: Agreed. The permit condition is based on 40 C.F.R. § 264.73(b)(7) which references notices to generators and 40 C.F.R. § 264.12(b). No change has been made to the permit as a result of this comment.

COMMENT 23: Permit Part II.J.1(j) – The organic concentration log is limited to equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by

weight "for less than 300 hours per calendar year." A.A.C. R-18-8-264.A (40 C.F.R. § 264.1064(g)(6)).

RESPONSE: Acknowledged. Refer to response to comment 3.

COMMENT 24: Permit Part II.J.1(k) – As discussed above, ADEQ is requiring Heritage to classify materials based on IFC. RCRA has never contemplated IFC and the agency does not have the statutory or regulatory authority to create permit provisions based on IFC.

RESPONSE: The referenced Permit Conditions are needed to provide for adequate protection. The regulatory bases for demonstrating that the facility provide for adequate fire protection is found in the following sections: 40 CFR 264.17(General Requirements for ignitable, reactive, or incompatible wastes), 264.31 (Proper Facility Design and Operation), and the omnibus provisions of 270.32(b)(1) and 270.32(b)(2). Reliance on internationally-recognized standards such as the 2007 IFC and IBC for fire control standards provides a high degree of technical support for the permit conditions. Further, these requirements are already in effect within the City of Coolidge, which minimizes any concern that the requirements are arbitrary in nature. ADEQ has further explained its bases for such Permit Conditions in the response to comment 2.

COMMENT 25: Permit Part II.J.5 – As discussed above, ADEQ has no legal basis for requiring Heritage to evaluate compliance with International Fire Code (IFC) or International Building Code (IBC). ADEQ is requiring Heritage to submit reports evaluating the facility's compliance with two regulatory programs (IFC and IBC) for which ADEQ has no statutory or regulatory authority to administer or enforce.

RESPONSE: The referenced Permit Conditions are needed to provide for adequate protection. The regulatory bases for demonstrating that the facility provide for adequate fire protection is found in the following sections: 40 CFR 264.17(General Requirements for ignitable, reactive, or incompatible wastes), 264.31 (Proper Facility Design and Operation), and the omnibus provisions of 270.32(b)(1) and 270.32(b)(2). Reliance on internationally-recognized standards such as the 2007 IFC and IBC for fire control standards provides a high degree of technical support for the permit conditions. Further, these requirements are already in effect within the City of Coolidge, which minimizes any concern that the requirements are arbitrary in nature. ADEQ has further explained its bases for such Permit Conditions in the response to comment 2.

COMMENT 26: Permit Part II.J.6 – As discussed above in comments to Part II.J.1.(j), the organic concentration log is limited to equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight "for less than 300 hours per calendar year." A.A.C. R-18-8-264.A (40 C.F.R. §264.1064(g)(6)).

RESPONSE: Refer to response to comment 3.

COMMENT 27: Permit Part II.K.3. Heritage requests that references to Permit Condition II.K.1 be removed from the requirements of II.K.3.

RESPONSE: The Permit condition has been rewritten for clarity and Permit Condition II.K.1 has been deleted as it is now redundant.

COMMENT 28: Permit Part II.K.4 – Heritage requests that references to Permit Condition II.K.1 be removed from the requirements of II.K.4.

RESPONSE: The Permit condition has been rewritten for clarity and Permit condition II.K.1 has been deleted, as it is now redundant.

COMMENT 29: Permit Part II.L.5. Heritage requests that the ADEQ provide the regulatory citation requiring Heritage to submit the inflation estimate required by L.2 and L.3 and 40 CFR Part 264.142(b) within 30 days of revision. The language in II.L.5 coupled with L.2 and L.3 is inconsistent with the regulatory requirements and will require revision. Alternatively, the condition can be removed from the permit and the appropriate regulatory citations used.

RESPONSE: ADEQ may require a Permittee to provide information and furnish records relevant to compliance with the hazardous waste rules. ADEQ believes this authority extends to Permits and Permit conditions, per 40 CFR 270.40(h).

Permit Part II.L.2 has been revised to state that the Permittee must adjust the cost estimate for inflation estimates within sixty (60) days prior to each anniversary date of the establishment of the financial instrument, and submit evidence of such an increase to ADEQ within 60 days after the adjustment.

Permit Part II.L.3 has been revised to clarify that the Permittee may revise the closure cost estimate at the time that changes to the Closure Plan are submitted for approval. Alternatively, the Permittee may submit such revisions to ADEQ no later than 60 days after ADEQ has approved the request to modify the Closure Plan, but it must then be submitted as a Class 1 Permit Modification request requiring Director Approval. The rationale for this clarification is as follows: First, the facility Closure Plan is currently detailed in Permit Attachment G (also, the closure cost estimate is detailed in Permit Attachment G, Section G.11). 40 CFR 270.42 Appendix I identifies the classes of Permit Modifications that are associated with such changes to the Permit – ADEQ notes that, at a minimum, they must be managed as Class 1 Permit Modification requests requiring prior approval from the Director. Therefore, ADEQ believes that other changes to the Closure Plan not explicitly described in 40 CFR 270.42, Appendix I must also be considered as Class 1 Permit Modification requests requiring prior approval by the Director per 40 CFR 270.42(d), which states: “In determining the appropriate class for a specific modification, the Director shall consider the similarity of the modification to other modifications codified in appendix I...”

As a result of the above changes, Permit Part II.L.5 is not needed and has been deleted.

COMMENT 30: Permit Part II.T.4 – As discussed above in comments to Part II.J.1(k), ADEQ has no legal basis for requiring Heritage to update its daily inventory management system to identify classes of material based on International Fire Code (IFC) classification. ADEQ is requiring Heritage to classify materials based on IFC where RCRA has never contemplated IFC and the agency does not have the statutory or regulatory authority to create permit provisions based on IFC.

RESPONSE: The referenced Permit Conditions are needed to provide for adequate protection. The regulatory bases for demonstrating that the facility provide for adequate fire protection is found in the following sections: 40 CFR 264.17(General Requirements for ignitable, reactive, or incompatible wastes), 264.31 (Proper Facility Design and Operation), and the omnibus provisions of 270.32(b)(1) and 270.32(b)(2). Reliance on internationally-recognized standards such as the 2007 IFC and IBC for fire control standards provides a high degree of technical support for the permit conditions. Further, these requirements are already in effect within the City of Coolidge, which minimizes any concern that the requirements are arbitrary in nature. ADEQ has further explained its bases for such Permit Conditions in the response to comment 2.

COMMENT 31: Permit Part III (Page III-1) – Typographical error- remove "to as" before "to reduce the free liquid content ..."

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 32: Permit Part III (Page III-1) – ADEQ limits the materials Heritage may use to reduce the free liquid content of F006 hazardous waste to diatomaceous earth (DE) and/or silica pellets. Heritage requests that it be allowed to use "other commercially acceptable materials" such as vermiculite and others for this purpose.

RESPONSE: Permits for treatment processes at hazardous waste management facilities must have conditions governing such processes as are necessary to protect human health and the environment. The hazardous waste treatment conducted by Heritage is a physical process for the blending of *compatible* hazardous wastes. In addition, Heritage includes specific agents (adsorbents) intended to reduce the free liquid content of the waste. These activities are performed in order to make the waste safer to transport, more amenable for recovery, and to generally meet a customer's requirements. The revised permit allows Heritage to adjust the free liquid content of hazardous waste by using materials other than those explicitly described, but a qualified professional (e.g., Chemist, Environmental Compliance Manager) must review the relevant properties and document that the adsorbent is effective and is safe and compatible (e.g., produces no deleterious gases or other adverse bi-products) with the hazardous waste.

The job descriptions of the Professional and Supervisor have been updated to include the review of the properties of potential adsorbents to ensure that they are safe and effective substitutes. The solids (filter cake) blending training module has been revised to include the

usage of adsorbents that are deemed safe and effective by Heritage. The list of permit conditions that were modified as a result of this comment are: Permit Part III (Introduction), and Permit Attachment F, Personnel Training Plan, Sections 2.1 & 2.2, and Appendix A.

COMMENT 33: Permit Part III.A – While the list of possible waste types provided by the ADEQ is informative in the second column of Table III.A., Heritage requests that the ADEQ indicate the described materials are typical and other waste materials that do not meet the descriptions in the second column of Table III.A may be present. For example, contaminated environmental media, debris, compressed gas, household hazardous waste, etc. are not included in these descriptions. Heritage is certain that other materials that do not neatly fit into the described categories are suitable for receipt at the facility. This comment also applies to Tables III.B through III.F.

RESPONSE: Agreed. Waste description columns in Tables III.A through III.G have been revised to include contaminated environmental media, debris, compressed gas, and household hazardous waste. In addition, each table includes the following foot note: “The materials described above are typical and other waste materials that do not meet the descriptions in the second column of may be present.”

COMMENT 34: Permit Part III.B.1 – Heritage requests that phrase "USDOT approved containers at the facility subject to the terms of this permit" be removed. There is no blanket requirement to store hazardous waste in DOT containers under ADEQ or RCRA regulations. While the vast majority of the containers at the facility are DOT specification containers and operating practices follow DOT requirements, Heritage is concerned that such a requirement for containers that can be used to ship hazardous wastes (e.g, roll-off boxes) will be prohibited by the permit language.

RESPONSE: Agreed. The phrase has been modified to state “USDOT approved containers and acceptable non-USDOT approved containers at the facility subject to the terms of this permit.” The description of containers in Permit Attachment C, Container Storage and Consolidation Plan, Section 2.3 has been updated to include non-USDOT approved containers. Permit Attachment F, Personnel Training Plan, Sections 2.1, 2.2, and 2.3 have been modified to state that Heritage staff will be trained to make a determination if a non-USDOT approved container is acceptable for storage.

COMMENT 35: Permit Part III.B.1 – On Tables III-B through III-F, the list of hazard codes identified in the second column of all the tables does not match the list of hazard codes contained in the Waste Analysis Plan (Attachment B) and the Part A submitted with the permit application. Please correct the tables in Section III.B to match the Part A and the Waste Analysis Plan that are incorporated into the permit and were filed with the permit renewal application.

RESPONSE: Agreed. Tables III-B, III-C, III-D, III-E, III-F and III-G have been revised to include hazard codes contained in the Waste Analysis Plan and the Part A of the application.

COMMENT 36: Permit Part III.B.1 – While the list of possible containers provided by ADEQ is informative in the fourth column of Tables III-B through III-F, Heritage requests that the ADEQ indicate that the described containers are typical and other container types may be present at the facility in all of the permitted storage areas. The ADEQ appears to be limiting the type of container that waste may be stored in at the facility by the designated storage area and further restricting the type of containers in condition III.B.3. There is a myriad of container types that may be used to store hazardous waste. In addition, there is a nearly infinite type of containers (or combinations) that are suitable for shipping hazardous waste, including those that may not even exist today. Heritage does not see any reason to limit the type of containers that may be stored in a particular storage area or at the facility. This condition is inconsistent with Attachment C which is incorporated into the permit.

RESPONSE: Agreed. The text in the “Type of Containers” column in each table has been revised to state “USDOT approved containers and acceptable non-USDOT approved containers suitable for storage in the respective CSA.”

COMMENT 37: Permit Part III.B.1(b) – The chemically resistant coating for the containment area is specified as Sikaguard 62. Please revise the sentence to "The concrete base of the containment area is coated with an approved chemically resistant coating identified in Attachment C, Appendix C-H."

RESPONSE: Agreed. The sentence has been revised to state that "The concrete base of the containment area is coated with one of the approved chemically resistant coatings identified in Attachment C, Appendix C-H."

COMMENT 38: Permit Part III.B.1(b) – Table III-C is missing hazard codes F002, F003, F004, and F006. Please see the comment (35) concerning the list of hazard codes for Section 111.8.1.

RESPONSE: Agreed. The four waste codes referenced above have been included in Table III-C.

COMMENT 39: Permit Part III.B.1. Table III-E does not include the hazard code D001. Please add the code to the table as ignitable compressed gases may be stored in the area in accordance with Section 3.4.4 of Attachment C incorporated into the permit. In addition, outdoor storage of bulk containers of ignitable materials that do not contain free liquids may be stored in the storage area.

RESPONSE: Agreed. Hazard code D001 has been included in Table III-E.

COMMENT 40: Permit Part III.B.2(a) and (b) – Please revise the first sentence in III.B.2(a) to the following:

“The Permittee shall not store more than a combined total of 63,701 gallons of hazardous waste...”

Heritage objects to any language requiring the facility to manage CESQG generated wastes as hazardous waste upon receipt by Heritage at the facility. Heritage objects to this requirement as it is simply not required for any other facility that may manage CESQG wastes including Municipal Solid Waste Landfills, solid waste transfer stations, or other facilities that may be receiving CESQG wastes including Household Waste Collection centers that may be receiving CESQG wastes. This requirement imposes an unreasonable burden on Heritage for the characterization of such wastes, management of the containers including labeling, tracking, recordkeeping, reporting, and shipping. This requirement places additional burden on a facility that is responsibly managing CESQG wastes that is not imposed on other facilities that may be managing such materials simply for having a RCRA operating permit. Please provide the federal or Arizona equivalent regulatory citation that specifically requires Heritage to manage waste generated by CESQG's as hazardous waste upon receipt at the facility. Otherwise, please remove any reference to this requirement in the permit.

RESPONSE: The requested change to the first sentence of III.B.2(a) has been made. ADEQ clarifies that waste that is received from a Conditionally Exempt Small Quantity Generator (CESQG) which is being managed as hazardous waste (e.g., waste generated by a CESQG, and received by the facility on a hazardous waste manifest with federally defined waste codes) must continue to be managed as hazardous waste. Other CESQG generated waste does not have to be managed as hazardous waste upon receipt at Heritage, provided that it has been correctly identified as non-hazardous by the generator and by Heritage (when following its procedures for evaluating incoming waste shipments as part of its Waste Analysis Plan).

The Permit Parts III.B.2(a) & (b) have been modified to reflect that hazardous waste received from CESQG's by the facility on a hazardous waste manifest with federally defined waste codes will be managed as hazardous waste upon receipt.

COMMENT 41: Permit Part III.B.2(d) – Heritage requests that the ADEQ explain the origin of the 20,500 gallon limitation for the maximum volume of stored hazardous waste and non-hazardous waste in the Dock and Van Storage Area. The unit has a secondary containment capacity exceeding 40,000 gallons. Heritage is concerned that two or three trailers of non-hazardous waste at the dock with storage of hazardous waste at the permitted capacity would exceed the permit limits even though the facility is constructed to contain significantly larger volumes of waste. The unit is equipped with 5 docks for trailers, and Heritage would potentially violate the permit condition for simply having 5 trailers of non-hazardous waste present in the unit even though there is substantially more secondary containment capacity constructed for the DVSA. Heritage requests that the ADEQ revise the proposed limit to a minimum of 50,000 gallons.

RESPONSE: Agreed. The secondary containment capacity allows Heritage to store 50,000 gallons of waste in the DVSA. The maximum volume of waste stored at the DVSA has been increased to 50,000 gallons in Permit Part III.B.2(d).

COMMENT 42: Permit Part III.B.3 – Heritage requests that the phrase "shall store only hazardous waste in containers approved by this permit" be removed from this section of the permit. Please see comment 36.

RESPONSE: The phrase has been revised to state that “shall store hazardous waste only in USDOT approved containers and acceptable non-USDOT approved containers” Permit Attachment C, Container Storage and Consolidation Plan, Section 2.3 has also been revised to describe non-USDOT approved containers.

COMMENT 43: Permit Part III.B.4(a) – Please clarify this section, as four-foot aisles are based on flammable liquids in piles and two-foot aisles are more restrictive from a RCRA perspective. Also, III.B.1(c) specifies three-foot aisle space.

RESPONSE: Agreed. The Permit Part III.B.4(a) has been revised to state that the aisle spacing will be in accordance with Attachment C, Container Storage and Consolidation Plan, Section C.3.4.1.

COMMENT 44: Permit Part III.B.5(a) – As noted in comments to Part II.E., a facility may store hazardous wastes in containers beyond one year if it can demonstrate that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment or disposal [see (A.A.C. R18-8-268 (40 C.F.R. § 268.50(c))].

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 45: Permit Part III.B.5(b) – Heritage is concerned that this comment will limit the type of waste that may be received by the facility. Please see comment 33.

RESPONSE: Refer to response to comment 33 which clarifies the types of waste Heritage may store in each of the container storage areas. No change has been made to the permit as a result of this comment.

COMMENT 46: Permit Part III.C.1 – Please revise the sentence to "Containers will be visually inspected each operating day in accordance with Attachment D, Section 2."

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 47: Permit Part III.E.2 – The permit condition incorrectly states the requirements for management of residue for empty containers containing acutely hazardous waste at 40 CFR Part 261.7(b)(3) as the inner liner of a container may also be removed as long as it is managed as hazardous waste. If this requirement is a necessary condition of the permit, please state the requirement as specified in the regulation.

RESPONSE: Agreed. The Permit Part III.E.2 has been revised to include the inner liner.

COMMENT 48: Permit Part III.F.2 – ADEQ limits sealing of containment systems to a "penetrant sealant." Heritage requests that ADEQ use the broader language "chemically resistant coating."

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 49: Permit Part III.F.3 – ADEQ requires that accumulated liquids be removed from sumps "within one day of discovery." ADEQ regulations and RCRA require liquids to be removed "in a timely manner as is necessary to prevent overflow." A.A.C. R-18-8-264.A (40 C.F.R. § 264.175(b)(5)). Heritage requests that this provision match the ADEQ requirement of "in a timely manner as is necessary to prevent overflow."

RESPONSE: The conditions included in the permit must be in accordance with regulations, protective of human health and environment and enforceable. A permit condition which requires liquids to be removed "in a timely manner as is necessary to prevent overflow" is not clear. The requirement that accumulated liquids be removed from sumps "within one day of discovery" is enforceable, protective of human health and environment, and in accordance with A.A.C. R-18-8-264.A (40 C.F.R. § 264.175(b)(5)). Based on Heritage's submittal received on October 25, 2013, the permit language has been updated to state that if there are extenuating circumstances where it is not practical to remove the liquids within one day of discovery, Heritage will document the situation with an explanation in the operating record.

COMMENT 50. Permit Part III.G.2 – ADEQ requires that visible signs of residue identified during inspections be removed from the floor surface "on a daily basis." ADEQ regulations and RCRA require spills and leaks to be removed "in a timely manner." A.A.C. R-18-8-264.A {40 C.F.R. § 264.175(b)(5)}. Heritage requests that this provision match the ADEQ requirement of "in a timely manner."

RESPONSE: The conditions included in the permit must be in accordance with regulations, protective of human health and environment, and enforceable. The Permit serves to clarify the regulatory requirement which requires visible signs of residue identified during inspections to be removed "in a timely manner". The permit requirement that visible signs of residue identified during inspections be removed from the floor surface "on a daily basis" is clear, enforceable, protective of human health and environment, and in accordance with A.A.C. R-18-8-264.A (40 C.F.R. § 264.175(b)(5)). ADEQ believes that this permit condition is reasonable under most circumstances, but understands that extenuating circumstances may prevent hazardous waste operators from cleaning up the spill within one operating day. The Permit Part III.G.2 has been updated to state that if there are extenuating circumstances where it is not practical to remove the residue within one day of discovery, Heritage will document the extenuating circumstances by including an explanation in the operating record.

COMMENT 51: Permit Part III.J.2(a) – ADEQ is requiring that Heritage employees perform compatibility testing of wastes under the supervision of a "qualified professional," such as a

"degreed chemist or the Environmental Compliance Manager." Arizona Statute only requires that personnel demonstrate "sufficient expertise" to perform hazardous waste functions. A.R.S. §49-922(C)(1). Heritage does not believe that ADEQ can or should limit those personnel to "degreed chemists" or other degreed professionals.

RESPONSE: The Permit does not require compatibility testing to be performed under the supervision of a degreed chemist. A degreed chemist is presented as an "example" of a qualified professional who can supervise compatibility testing. A non-degreed individual can also perform compatibility testing as long as the person has sufficient training and/or experience specific to the task (and is thus "qualified" as documented by Heritage). No change has been made to the permit as a result of this comment.

COMMENT 52: Permit Part III.J.2(b) – Please revise the language requiring compatibility testing to be performed exclusively in permitted areas. Other areas within the facility are suitable for performing the testing that includes but is not limited to a laboratory bench, at or near the bulk tanker loading area, or on the dock area as part of facility operations.

RESPONSE: Agreed. The permit has been revised to allow Heritage to perform compatibility testing in the laboratory and the Bulk Loading Area. These areas are acceptable in the circumstances described by Heritage. For example, the laboratory bench is suitable for the examination and testing of very small quantities of hazardous waste, and the bulk loading area is a permitted storage unit that uses sealed secondary containment to collect spillage of organic wastes. The DVSA is already permitted to perform compatibility testing.

COMMENT 53: Permit Part III.J.3(a) – As commented above in Part III.J.2(a), ADEQ cannot limit supervising personnel to degreed professionals.

RESPONSE: Refer to response to comment 51. No change has been made to the permit as a result of this comment.

COMMENT 54: Permit Part III.J.5 – As commented above, ADEQ has no legal basis for regulating Heritage's storage volume in accordance with International Fire Code (IFC) and International Building Code (IBC). ADEQ is requiring Heritage to comply with certain conditions established under two regulatory programs (IFC and IBC) for which ADEQ has no statutory or regulatory authority to administer or enforce.

RESPONSE: Permit Part III.J.5 has been deleted. Heritage has agreed to install fire suppression systems within the Central Container Storage Area and the 800 Area Container Storage, per Permit Condition II.T.4 . Further information concerning ADEQ's rationale, authority and basis for the Permit Conditions found in the Draft Permit are provided in the response to comment 2.

COMMENT 55: Permit Part III.J.3.(a) & (b) – The specified permit conditions are inconsistent with the permit attachments that govern the operation of the facility as it pertains to

consolidation, transfer, blending and bulking. Heritage requests that ADEQ revise this section of the permit to be consistent with Permit Attachment C, Section 4. Heritage objects to a requirement that limits the consolidation of ignitable or reactive wastes to the Bulk Loading Area and the Dock and Van Storage Area unless the ADEQ is referring to tankers or roll off boxes exclusively.

RESPONSE: Permit Part III.J.3. (b) has been revised to permit Heritage to consolidate ignitable and reactive wastes in the East Container Storage Area; and consolidate containers of ignitable and reactive waste in the Central Container Storage Area, the 800 Area Container Storage, and the Lab Depack Area provided that containers in contact with waste are not opened. Permit Part III.J.3(j) that allows Heritage to transfer ignitable or reactive waste from a leaking to a non-leaking container at the Central Container Storage Area, the 800 Area Storage, and the Lab Depack Area, has been added.

The existing fire suppression systems in the Central Container Storage Area and the 800 Area Container Storage have been deemed inadequate to control fires by the professional fire protection engineer employed by Heritage. However, Heritage has agreed to upgrade these systems within 270 days of Permit issuance. Permit Part III.J.3(k) which states that upon commissioning of the upgraded fire protection systems, Heritage may consolidate ignitable or reactive wastes in these areas without the above restrictions, has been added.

Attachment C, Section 4 has been revised to make it consistent with Permit Part III.J.3. (b).

COMMENT 56: Permit Part IV.A – Heritage requests that the second paragraph clearly indicate that the ADEQ has made the determination "No Further Action" is required as contemplated by IV.F.5.b. for past releases at Solid Waste Management Units or Areas of Concern. The ADEQ conducted an extensive RFA and Heritage conducted an extensive RFI as specified for the facility by the ADEQ.

RESPONSE: The section includes the sentence "Past releases have been comprehensively investigated by the Permittee, and these releases do not pose a threat to human health or the environment". This indicates that Heritage does have to perform new actions in connection with these releases; however, to further clarify the status of corrective action in these historic solid waste management units and areas of concern a statement that "No Further Action" for past releases has been included in Permit Part IV.A.

COMMENT 57: Permit Part IV.A – ADEQ required that Heritage address certain identified SWMU's following the requirements of facility Closure Plan. Heritage requests that the ADEQ indicate that the process for closure will be followed for these specified units in the event of facility closure rather than the requirements of Section IV of the permit. These areas are clearly identified in the facility Closure Plan.

RESPONSE: Permit Part II.K.2 clearly states that SWMUs comprising the permitted CSA's will be closed in accordance with the Closure Plan (Attachment G). However, if

there is a release prior to closure at the permitted SWMUs, it will be managed in accordance with the Part IV (Corrective Action). No change has been made to the permit as a result of this comment.

COMMENT 58: Permit Part IV.A – Because of the extensive requirements contained in Section IV and unknown nature of the scope of the proposed activities contemplated by Section IV, Heritage requests that a provision be added to the permit language stating that revisions to the proposed time schedules contained in Section IV of the permit can be adjusted upon request of the Permittee to the ADEQ without a permit modification as contemplated by Table 1 of 40 CFR Part 270.42.

RESPONSE: ADEQ believes it has authority to modify submittal deadline without the need for formal permit modification. ADEQ will consider a request for an extension in the time to file a document when submitted with adequate justification. No change has been made to the permit as a result of this comment.

COMMENT 59: Permit Part IV.B.2(a) – In accordance with 40 CFR Part 264.100 the requirement for completing progress reports under corrective action is annually rather than semi-annually. Please revise the permit language accordingly.

RESPONSE: Agreed. The permit has been revised to reflect an annual reporting requirement.

COMMENT 60: Permit Part IV.B – Heritage objects to the additional administrative burden contemplated by the ADEQ for requiring a permit modification for each and every document submitted under the corrective action program. This is an administrative burden that would require an estimated eight permit modifications to implement from the SAR to the Remedy Implementation in addition to preparing the documents necessary to address corrective action that are reviewed and approved by the ADEQ representatives. Heritage representatives have not experienced this level of administrative burden for corrective action in the more than 20 years of implementing corrective action elements in multiple regions and states including Arizona. For a program that has been in place under RCRA for more than 20 years for facilities with and without RCRA operating permits, the ADEQ has the ability to implement such a program and adequately communicate with the public about corrective action activities without going through multiple permit modifications and administrative proceedings as proposed in this permit.

RESPONSE: As of July 1, 2012, the hazardous waste permitting program became fee-for-service. Permit maintenance items such as the review of schedule of compliance submittals and corrective action are now subject to initial fees and cost recovery. Further, corrective action related documents (e.g., RFI Work Plans, RFI Reports) become part of the Permit (Attachment J: Corrective Action Schedule of Compliance – Approved Workplans and Reports). Submittal of such components of corrective action modifies an existing permit, and requires a Class 1 permit modification request requiring prior Director Approval. This Permit Attachment is now included in all hazardous waste Permits.

NOTE: In responding to this comment ADEQ noted an error in Part IV.J.2(s). The permit language has been revised to state that upon completion of any remediation involving a Site Assessment Plan and Remedial Action Plan, a Class 1 Permit modification request requiring prior Director approval must accompany any request for a No Further Action determination.

COMMENT 61: Permit Part IV.D.2 – The requirements and language in IV.D.2 is inconsistent with the IV.E. Section IV.D.2 requires that an Interim Measures Plan be developed within 45 days. Section IV.E appears to provide for a decision making process, yet IV.D.2 automatically requires an Interim Measures plan. This language is confusing and will require clarification for the Permittee.

RESPONSE: The Permittee is referring to different scenarios. In the first instance, after identifying a release, the Permittee notifies the Director within seven days and submits an Interim Measure Plan 45 days after notifying the Director about the release. In the second instance, the Director notifies the Permittee to develop a IM Work Plan which has to be submitted 30 days after the request. No change has been made to the permit as a result of this comment.

COMMENT 62: Permit Part IV.B.5 – Since Heritage is unaware of any corrective action that has not been completed, Heritage is unsure why a project coordinator is required within 30 days of the effective date of the permit. Heritage requests that the permit language be modified to indicate that a Project Coordinator will be designated when corrective action activities are being performed and upon the request of the Director.

RESPONSE: The Permit has been modified to state that Heritage will assign a Project Coordinator within 30 days of a written request by ADEQ.

COMMENT 63: Permit Part IV.J & 1 2 – While Heritage believes a streamlined approach to the corrective action process identified in IV.J. is a good approach, Heritage objects to the additional administrative burden contemplated by the ADEQ for requiring a permit modification for each and every document submitted under the corrective action program. This is an administrative burden that would require two permit modifications to implement something that appears to be as simple as the collection of soil samples and excavation of contaminated soil if present. These modifications would be in addition to detailed planning documents necessary to implement the activities for relatively straightforward tasks. Heritage representatives have not experienced this level of administrative burden for corrective action in more than 20 years of implementing corrective action elements in multiple USEPA regions and states, including Arizona. For a program that has been in place under RCRA for more than 20 years for facilities with and without RCRA operating permits, the ADEQ has the ability to implement such a program and adequately communicate with the public about corrective action activities without going through multiple permit modifications and administrative proceedings as proposed in this permit.

RESPONSE: Please refer to response to comment 60. No change has been made to the permit as a result of this comment.

COMMENT 64: Permit Part IV.J.2(q) – Please define the term "blue stake" and the documentation required.

RESPONSE: The term “blue stake” refers to colored flags embedded in the ground to identify buried artifacts or structures, so as to assist in the remediation. The text has been revised to state that the area will be “flagged”.

COMMENT 65. Permit Part IV – An informal dispute resolution process should be part of the corrective action provisions in the permit. This process is necessary to provide the ADEQ and the Permittee an informal mechanism to resolve issues associated with decisions involving the corrective action process. Heritage proposes the following language be added to Section IV.

1. If ADEQ disapproves or modifies and approves any submission required under Permit Section IV., ADEQ shall provide the Permittee with a written notice setting forth the reasons for the disapproval, or modification and approval.
2. If the Permittee disagrees, in whole or in part, with any written decision concerning ADEQ disapproval or modification and approval of any submission required by Condition IV of the permit, the Permittee shall notify ADEQ of the dispute. The Permittee and ADEQ shall informally, and in good faith, endeavor to resolve the dispute.
3. If the Permittee and ADEQ cannot resolve the dispute informally, the Permittee may pursue the matter formally by submitting a written statement of position to the Director or his/her designee, within twenty-eight (28) days of receipt of ADEQ's written disapproval or modification and approval. The Permittee's statement of position shall set forth the specific matters in dispute, the position that the Permittee asserts should be adopted as consistent with the requirements of the permit, the basis for the Permittee's position, and shall include any supporting documentation. If the Permittee fails to follow any of the requirements contained in this paragraph, then it shall have waived its right to further consideration of the disputed issue. This action is subject to formal appeal under the Arizona code.
4. ADEQ and the Permittee shall have an additional fourteen (14) days from the date of the Director's receipt of the Permittee's statement of position to meet or confer to attempt to resolve the dispute. This time period may be extended by mutual agreement of the Permittee and IDEM. If agreement is reached, the Permittee shall submit a revised submission, if necessary, and shall implement the submission in accordance with such agreement.
5. If ADEQ and the Permittee are not able to reach agreement within the 14-day period, or such longer period corresponding to the mutual agreement in Item 4, the Permittee may submit any additional written arguments and evidence not previously submitted, or further explain any arguments or evidence previously submitted, to the Director. Based on the record, the Director, or delegate, will thereafter issue a written decision that shall include a

response to the Permittee's arguments and evidence. This written decision will constitute final agency action. This action is subject to review under Arizona code.

6. Notwithstanding the invocation of this dispute resolution procedure, the Permittee shall proceed to take any action required by those portions of the submission and of the permit that ADEQ determines are not substantially affected by the dispute. The activity schedule for those portions of the submission and of the permit which are substantially affected by the dispute shall be suspended during the period of dispute resolution.

RESPONSE: A.R.S., Title 41, Article 10 provides for the opportunity for appeal and an optional conference to resolve disputes. No change has been made to the permit as a result of this comment.

COMMENT 66: Permit Attachment D. Section 1 – In paragraph 1, for clarity, insert "railcar" so the sentence reads "If the railcar gate is unlocked, will be present in the vicinity at all times."

RESPONSE: Agreed. The sentence has been revised to state that "If the railcar gate is unlocked, Heritage personnel will be present in the vicinity at all times."

COMMENT 67: Permit Attachment D, Section 1 – In paragraph 3, please correct the following typographical error: remove "and," after "Signs are posted at the main entrance ...,"

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT: 68. Permit Attachment D. Section 2 – In the last paragraph please revise the sentence "Corrective action that is needed, as noted at any inspection must be completed within 24 hours" to "... must be initiated within 24 hours."

RESPONSE: Agreed. The sentence has been revised to state that "Corrective action that is needed, as noted at any inspection must be initiated within 24 hours and completed as early as possible."

COMMENT 69: Permit Attachment D. Section 3.4 – For clarity, please revise the phrase "to respond to a fire" to "for response to a fire."

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 70: Permit Attachment D. Section 3.4.1, #7 – Please correct the typographical error "A/8/C" fire extinguishers to "A/B/C fire extinguishers."

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 71: Permit Attachment D. Section 4.2 – Please correct the typographical error from "waste side" to "west side"

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 72: Permit Attachment D. Section 4.2. Roll-off Container Storage Area – For clarity, change "a block wall on the east and north side of the unit" to "block walls on the east and north sides of the unit." Change "a 3 inch curb at the Roll-Container Storage Area" to "a 3-inch curb is present."

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 73: Permit Attachment D. Section 4.2. Depack Area – For clarity, please revise all references to "Depack Area" to "Lab Depack Area."

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 74: Permit Attachment D. Section 4.2 - 800 Area Container Storage – Please correct the typographical error in the second sentence by removing "depack" and inserting 800 Area Container Storage.

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 75: Permit Attachment D. Section 4.4 – Please correct the typographical error by changing "foot (steel toed boots)" to "foot protection (steel toed boots)."

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 76: Permit Attachment D. Section 5.5 – Please correct the typographical error from "Appendix C-B" to "Appendix D-B"

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 77: Permit Attachment D, Appendix D-A. Safety and Emergency Equipment Inspection – Please correct the typographical error from "Table F-A" to "Table D-A."

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 78: Permit Attachment D. Appendix D-B – In the first paragraph, for clarity, change "The facility is designed ..." to "The system is designed ..."

RESPONSE: Agreed. The suggested edit has been incorporated in the text.

COMMENT 79: Permit Attachment E. Section 10 – Please add the phrase "Although not required by regulation or permit," to the last paragraph. Heritage provides this information as a best management practice that is not required by regulation. This is a voluntary practice and the addition of the sentence by the ADEQ will prevent opportunity for improvement in such important communication processes.

RESPONSE: Agreed. The phrase has been added to the last paragraph.

COMMENTS SUBMITTED BY GARMO FAMILY LIMITED PARTNERSHIP

COMMENT 80: I would like to object to the renewal of the above-referenced hazardous waste permit at this time. I request that the following be noted for the record. I have owned 18 acres of undeveloped land at Storey Road & Christensen Road for several years. The operation of a hazardous waste management facility for another 10 years will adversely impact any future development of my land due to its close proximity. This continued use will continue to cause substantial environmental consequences which will result in considerable remedial expense upon development of my land, as well as continuing to negatively affect its current value. As a fellow tax payer, I am entitled to every opportunity to optimize the value of my property and not have it negatively impacted by outside detrimental factors beyond the current economic climate.

RESPONSE: The Heritage facility is located on land that is zoned for industrial use by the City of Coolidge. ADEQ does not believe that the operations performed at Heritage pose a significant threat to contaminate offsite properties for the following reasons:

- a) Heritage has addressed all corrective action requirements noted in the August 1988 RCRA Facility Assessment (RFA) completed by ADEQ, and all historic releases have been mitigated.
- b) Subsequent to the RFA, spills of solid and hazardous waste at the facility have occurred in locations with adequate secondary containment.
- c) In the unlikely event of a release of hazardous waste occurring offsite, Heritage or the transporter for Heritage is required to implement their Contingency Plan and immediately respond to the threat.
- d) Concerning any ambient impact from operations at Heritage, ADEQ required Heritage to perform air quality modeling to demonstrate that the concentrations of atmospheric pollutants at the facility boundary are within permissible limits and not a threat to human health or the neighboring environment. The ambient modeling report is a component of the administrative record for this permit action.

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

COMMENTS SUBMITTED BY MICKEY MCHUGH, FIRE CHIEF, CITY OF COOLIDGE, ARIZONA.

COMMENT 81: I have reviewed the Draft Permit and ask that the storage amounts for the Central Container Storage area be increased by 100% per hazardous waste class as this control area is protected by a sprinkler system, (IFC 2006-Table 2703.1.1(1) d).

RESPONSE: Comment noted. Heritage has agreed to upgrade the fire suppression systems at the Central Container Storage Area and the 800 Storage Area. The draft Permit already proposes an increase of less than 25 percent to the permitted storage quantities, as requested by Heritage. No change has been made to the permit as a result of this comment.