

Recording Requested By and  
When Recorded Return to:

RECORDED

Peggy J. Harrison  
Energy Transfer Partners  
8801 S. Yale Ave., Suite 310  
Tulsa, OK 74137

2010 APR 21 AM 10 48

WILLIAM H. HURST  
CANYON CNTY RECORDER

BY *[Signature]*  
Heritage Operating, L.P.  
TYPE BEA REC 300

SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY

**THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT IMPOSING  
ACTIVITY AND USE LIMITATIONS PURSUANT TO THE UNIFORM ENVIRONMENTAL  
COVENANTS ACT, IDAHO CODE § 55-3001, et seq.**

### **ENVIRONMENTAL COVENANT**

This instrument is an Environmental Covenant ("Environmental Covenant") executed by Heritage Operating, L.P., ("OWNER NAME") and the Idaho Department of Environmental Quality ("Department") pursuant to the Uniform Environmental Covenants Act, Idaho Code §§ 55-3001 through 3015. This Environmental Covenant sets forth protective provisions, covenants, restrictions and conditions (collectively referred to as "Activity and Use Limitations") on the Property described below. The Activity and Use Limitations are designed to protect natural resources, human health and the environment. Heritage Operating, L.P. is also the "holder" as defined in Idaho Code § 55-3002(6). OWNER, as the current property owner grants this Environmental Covenant to all signatories to this instrument.

Property. This Environmental Covenant concerns real property at 824 Simplot Boulevard, city of Caldwell, County of Canyon, State of Idaho, legally described as Parcel 02766000, Legal description 21-4N-3W NW Industrial Site #2 W200' of S300' of Blk 3 (hereafter referred to as "the Property"). The Property is legally described in the attached Schedule A. [map is attached]

Property Ownership. OWNER hereby represents and warrants to the other signatories to this Environmental Covenant that it is the sole owner of the property, holds fee simple title to the property and OWNER has the power and authority to enter into this Environmental Covenant.

Reason for Activity and Use Limitations. The Property described above was previously used to operate a gas station, and became contaminated with gasoline. On August 12, 1999, V-1 Oil Company (Blue Bell Group, Inc.) was issued a Schedule & Criteria by the Department to remediate the Property. Blue Bell Group implemented a corrective action plan ("CAP") on the Property. This Environmental Covenant is required because residual concentrations of petroleum constituents of concern remain following CAP implementation and monitoring in soil and groundwater underlying the Property. These concentrations are above allowable risk- based concentrations as determined by the Department therefore future use of the Property shall be limited to protect human health and the environment

Name and Location of Administrative Record. A copy of the "Updated REM Evaluation Report (Final)" and the "Sixth Quarter (Post ORC Injection) Groundwater Sampling Report" can be found at the Department of Environmental Quality, Boise Regional Office, located at 1445 North Orchard in Boise, Idaho.

Activity and Use Limitations. By acceptance and recordation of this Environmental Covenant, OWNER, and any successors in interest, are hereby restricted from using the Property, now or at any time in the future, as specifically set forth below:

- 1. There shall be no extraction of groundwater under, the Property for any purpose, including, without limitation, drinking by animals or human beings, irrigation or an industrial or commercial use.*
- 2. The Property, and any portion thereof, may be used for commercial and industrial uses only. The Property shall not be used for residential purposes, agricultural purposes, or any permanently occupied human habitation (including hotels or motels), school, day care or hospital use.*
- 3. Any demolition or construction activity with the Property's building that may result in the release or exposure to the environment of a petroleum constituent that remains on the Property as part of the CAP is prohibited without prior written approval from the Department.*

OWNER, or its successors in interest, shall be solely responsible for demonstrating that use on the Property is in conformity with the Activity and Use Limitations. The Activity and Use Limitations are imposed due to conditions resulting from former uses of the Property. If any event or action occurs that constitutes or may constitute a breach of the activity and use limitations, the Owner or any successors in interest, shall notify the Department within thirty (30) days of becoming aware of the event or action, and shall remedy the breach of the activity and use limitations within sixty (60) days of becoming aware of the event or action, or such other time frame as may be agreed to by the Owner or any successors in interest, and the Department.

Amendment by Consent. The Environmental Covenant may be amended by consent pursuant to Idaho Code § 55-3010. Except for an assignment undertaken pursuant to a governmental reorganization, assignment of the Environmental Covenant to a newholder is an amendment.

Duration and Termination. The Activity and Use Limitations shall apply to the Property, or any subdivided portion thereof, in perpetuity unless terminated by court action as provided in Idaho Code § 55-3009 or by consent pursuant to Idaho Code § 55-3010. The OWNER, or its successors in interest, may seek consent to terminate any or all of the Activity and Use Limitations that apply to the Property, or any subdivided portion thereof, pursuant to Idaho Code § 55-3010, by demonstrating with the record before the Department that:

- 1. the Property or any subdivided portion thereof is shown in a Department-approved document not to contain contaminated soils or groundwater; or*
- 2. contaminated soils and groundwater are at levels the Department deems in writing to be adequate for the Property to be developed for unrestricted use.*



Provisions to Run With the Land. Each and all of the Activity and Use Limitations shall run with the land, and pass with each and every portion of the Property, and shall apply to and bind the respective successors in interest thereof. Each and all of the Activity and Use Limitations are imposed upon the entire Property unless expressly stated as applicable to a specific portion of the Property.

Concurrence of Subsequent Owners Presumed. All purchasers, lessees, or possessors of any portion of the Property shall be deemed by their purchase, leasing, or possession of such Property, to be in accord with the foregoing and to agree for and among themselves, and their successors, that the Activity and Use Limitations as herein established must be adhered to and that their interest in the Property shall be subject to the Activity and Use Limitations contained herein.

Recording/Filing of Environmental Covenant. This Environmental Covenant and any amendment or termination of the Environmental Covenant shall be recorded in the county recorder's office of every county in which any portion of the Property subject to the Environmental Covenant is located. The Environmental Covenant or any amendment or termination shall be recorded by OWNER, or its successors in interest, within ten (10) days of receipt of this Environmental Covenant signed by the Department. Within ten (10) days of the recording of this Environmental Covenant, or any amendment or termination, OWNER, or its successors in interest, shall provide to the Department a copy of this recorded Environmental Covenant, or any amendment or termination of this Environmental Covenant. Upon receipt of the copy of the recorded Environmental Covenant, and any amendment or termination therein, the Department shall post the copy of the fully executed instrument in the Registry as required by Idaho Code Section 55-3012(1). In addition, a copy of the recorded Environmental Covenant, or any amendment or termination, shall be provided by OWNER, or by its successors in interest, to the following persons: (a) each person that signed the Environmental Covenant; (b) each person holding a recorded interest in the Property; (c) each person in possession of the Property; (d) each municipality or other local government in which the Property is located; and (e) any other person the Department requires. The validity of the Environmental Covenant is not affected by failure to provide a copy of the Environmental Covenant as required under this section.

Compliance Reporting. Owner[s], or and any successors in interest, shall submit to the Department on an annual basis written documentation verifying that the activity and use limitations remain in place and their compliance with the activity and use limitations.

Enforcement. The Department and any party of the Environmental Covenant shall have authority to enforce the Activity and Use Limitations against OWNER or its successors-in-interest, including subsequent owners of the Property and any other person using the Property. Failure of OWNER, or its successor in interest, to comply with any of the Activity and Use Limitations set forth herein shall be grounds for the Department, or its successor, to require that the Owner correct or remove any violations of this Environmental Covenant. Violation of this Environmental Covenant shall be grounds for the Department, or its successor, to file civil actions against the Owner as provided by law or in equity, including without limitation, the Uniform Environmental Covenants Act, Idaho Code § 55-3011.

Non-Waiver. No failure on the part of the Department or any holder at any time to require performance of any term of this Environmental Covenant shall be taken or held to be a waiver of such term or in any way affect the Department's or any holder's rights to enforce such term.

Property Access. The Department shall have a right of access to the Property at reasonable times for the purposes of evaluating compliance with this Environmental Covenant.

Notice of Conveyance of Property. Within thirty (30) days of the closing of any conveyance of the Property, or part thereof, the Conveyer of the Property, shall provide written notice to the Department and each municipality or other local government in which the Property is located, the name and address of all the then Owners and/or Occupants of the Property, or part thereof, conveyed. The Department shall not, by reason of this Environmental Covenant, have authority to approve, disapprove, or otherwise affect any conveyance of the Property except as otherwise provided by law.

Notices. All notices required or permitted to be given hereunder shall be in writing and mailed in the United States Mail, postage prepaid, by certified or registered mail, return receipt requested, to the appropriate address indicated below or at such other place or places as either OWNER or its successors, or the Department or its successors, may, from time to time, respectively, designate in a written notice given to the other. Notices which are deposited in the United States Mail in accordance with the terms of this provision shall be deemed received three (3) days after the date of mailing thereof.

OWNER: Heritage Operating L.P.  
8801 S. Yale St 310  
Tulsa, OK 74137

THE DEPARTMENT: Idaho Department of Environmental Quality  
ATTN: Joe Nagel  
1410 N. Hilton  
Boise, ID 83706

Costs and Expenses. All costs of terminating this Environmental Covenant, including the cost of any remediation or abatement of any environmental condition related to Activity and Use Limitations pertaining to the Property, shall be borne by the party seeking such termination.

Partial Invalidity. If any portion of the Environmental Covenant or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such invalidated portion had not been included herein.

Headings. Headings at the beginning of each section of this Environmental Covenant are solely for the convenience of the parties and are not a part of the Environmental Covenant.

Idaho Code References. All references to the Idaho Code sections include successor provisions.

Reservation of Rights. Notwithstanding any provision of this Environmental Covenant, the Department retains all of its access and enforcement authorities under any applicable statute or rule. Nothing in this Environmental Covenant shall affect the Department's ability to enforce the terms of any voluntary consent order or other agreement relating to remediation of the Property entered into between the Department and OWNER or any other responsible party. Nothing in this Environmental Covenant shall affect the obligations of OWNER or any other responsible party under such voluntary consent order or other agreement. The Department's acceptance


hereunder is based upon the information presently known or available to the Department with respect to the environmental condition of the Property, and the Department reserves the right to take appropriate action under applicable authorities in the event the Department determines new information warrants such action.

Effective Date. The effective date of this instrument shall be the date the fully executed Environmental Covenant is recorded at the county recorder's office.



Signature and Acknowledgments  
Accepted:

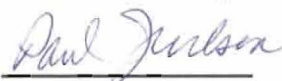
Idaho Department of Environmental Quality

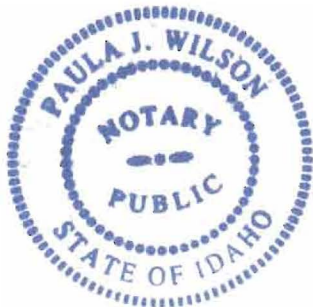
Signature:   
Printed Name: Toni Hardesty  
Title: Director, Idaho Department of Environmental Quality  
Date: \_\_\_\_\_

State of Idaho            )  
                                      ) ss.  
County of Ada            )

On this 25<sup>th</sup> day of March, in the year 2010, before me, a Notary Public in and for said County and State, personally appeared Toni Hardesty, known or identified to me to be the Director of the Idaho Department of Environmental Quality that executed this Environmental Covenant, and acknowledged to me that the Idaho Department of Environmental Quality executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for Idaho:   
Residing at: Borise  
Commission Expires: 9/23/11



Signature and Acknowledgments

Accepted:

Property Owner: Heritage Operating, L.P.

Signature: 

Printed Name: Peggy J. Harrison

Title: Assistant Secretary

Date: March 23, 2010

State of Oklahoma            )  
County of Tulsa            ) ss.

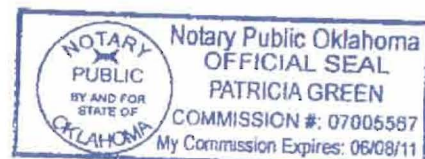
On this 23<sup>rd</sup> day of March, in the year 2010, before me Peggy J. Harrison, personally appeared, known to me, to be the Assistant Secretary of Heritage Operating, L.P., and she subscribed said partnership's name to the foregoing instrument, and acknowledged to me that she executed the same in said partnership name.

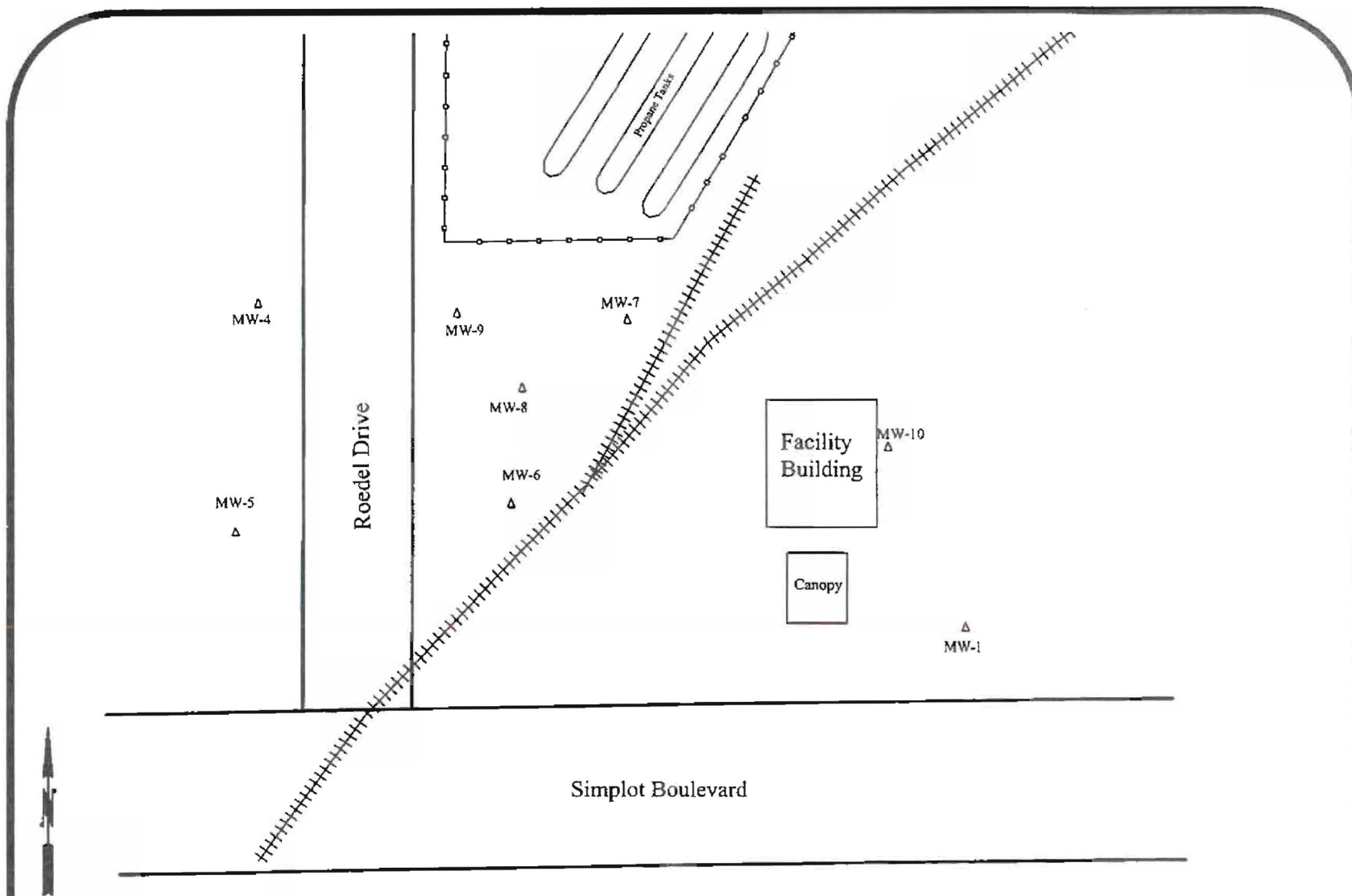
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for Oklahoma: 

Residing at: Tulsa, Oklahoma

Commission Expires: 06/08/2011





**Rocky Mountain  
ENVIRONMENTAL<sup>SM</sup>**

ASSOCIATES, INC.  
482 CONSTITUTION IDAHO FALLS, IDAHO 83402-3537  
PHONE (208) 524-2353 · FAX (208) 524-1795  
[www.rockymountainenvironmental.com](http://www.rockymountainenvironmental.com)

**V-1 Caldwell Site**

**Site Sketch**

△ Monitoring Well

**Not to Scale**

Project No.: 08-0014



**EXHIBIT "A"**  
**TO CORPORATION WARRANTY DEED BETWEEN**  
**V-1 OIL COMPANY AS GRANTOR AND HERITAGE OPERATING, L.P. AS**  
**GRANTEE DATED JANUARY 2, 2003**

**(CALDWELL, IDAHO PROPERTY)**  
**CANYON COUNTY**

COMMENCING at the Southwest corner, Block 3, INDUSTRIAL SITE ADDITION NO. 2; thence

North following the East line of Roedel Avenue, a distance of 300 feet; thence

East at right angles and parallel with Aven Street, a distance of 200 feet; thence at right angle

South parallel with East line of Roedel Avenue, a distance of 300 feet to the North line of Aven Street; thence

West following the North line of Aven Street 200 feet, more or less, to the POINT OF BEGINNING.

EXCEPTING AND RESERVING THEREFROM a right-of-way or easement granted, or to be granted, to the Oregon Shortline Railroad Co. and/or Union Pacific Railroad Co. for a spur track over and across the following portion of the real property herein conveyed, to-wit:

BEGINNING at a point in the West line of said Block 3 that is 22.67 feet Northerly, measured along said West line, from the Southwest corner of said Block 3; thence

Northerly along the West line of said Block 3 which is also the East line of Roedel Avenue, a distance of 28.66 feet; thence

Northeasterly along a straight line forming an angle of 44° 16' from North to Northeast with the West line of said Block 3, a distance of 149.74 feet; thence

Northeasterly along a curve to the left having a radius of 449.276 feet, tangent at its point of beginning to the last described line, a distance of 170.48 feet, more or less, to a point in the North line of the V-1 OIL COMPANY property; thence

Easterly along the North line of the V-1 OIL COMPANY property, which is parallel with Aven Street, a distance of 2.21 feet, more or less, to the Northeast corner of said property; thence

Southerly along the East line of the V-1 OIL COMPANY property, which is parallel with said East line of Roedel Avenue, a distance of 117.46 feet; thence

Southwesterly along a curve to the left having a radius of 449.276 feet, tangent at its POINT OF BEGINNING to a line forming an angle of 65° 53' 17" from North to Northeast with the last described line, a distance of 169.54 feet; thence

Southwesterly along a straight line, tangent at its point of beginning to the end of the last described curve, a distance of 88.56 feet, more or less, to the POINT OF BEGINNING.

**ALSO EXCEPTING THEREFROM:**

A parcel of land being on the Northerly side of the centerline of State Highway No. 19, Project No. M-7823 (001) Highway Survey as shown on the plans thereof now on file in the Office of the Idaho Transportation Department, Division of Highways, and being a portion of Block 3 of INDUSTRIAL SITE ADDITION NO. 2 to the City of Caldwell, Canyon County, Idaho, according the Official plat thereof now on file and of record in Book 6 of Plats at Page 11, in the Office of the County Recorder of Canyon County, Idaho, described as follows, to-wit:

BEGINNING at the Southwest corner of Block 3 of said INDUSTRIAL SITE ADDITION NO. 2, Canyon County, Idaho; thence

Easterly (shown of record to be East) along the South line of said Block 3, a distance of 200.0 feet to the Southeast corner of the West 200.0 feet of said Block 3; thence

North 0° 20' 03" West (shown of record to be North) along the East line of the West 200.0 feet of said Block 3, a distance of 16.26 feet to a point in a line parallel with and 54.0 feet Northerly from the centerline of said State Highway No. 19, Project No. M-7823 (001) Highway Survey; thence

Westerly along said parallel line being a 22,972.32-foot radius curve left 199.0 feet, more or less, to a point in the West line of said Block 3; thence

South 0° 20' 03" West (shown of record to be South) along said West line 18.98 feet to the PLACE OF BEGINNING.

HIGHWAY STATION REFERENCE: 839+53.81 to 841+52.82

The bearings as shown in the above land description, unless otherwise noted, are from the Idaho Plane Coordinate System, based on the transverse mercator projection for the West Zone of Idaho. To convert to geodetic bearings, a correction of 0° 39' 41.25" must be subtracted from all Northeast and Southwest bearings and added to all Northwest and Southeast bearings.

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2003 JAN 16 PM 4 26  
G NOEL HALES  
CANYON COUNTY RECORDER  
REQUEST PIONEER - CALDWELL  
TYPE *Deed Fee 9-000*  
*CR*

RECORDED

200303003



ENERGY TRANSFER

RECEIVED

APR 29 2010

DEPT. OF ENVIRONMENTAL QUALITY  
WASTE PROGRAM

Peggy J. Harrison

8801 S. Yale Avenue, Suite 310

Tulsa, OK 74137

918-794-4559

pharrison@heritagepropane.com

April 27, 2010

Mr. Joe Nagel  
Idaho Department of Environmental Quality  
1410 N. Hilton  
Boise, ID 83706

Re: Heritage Operating, L.P./V-1  
Environmental Covenant for Caldwell, Idaho Property

Dear Mr. Nagel:

As per your request, enclosed is a copy of Environmental Covenant that placed restrictions on the property located at 824 Simplot Boulevard, Caldwell, Idaho as mandated by the Idaho Department of Environmental Quality. This Environmental Covenant was recorded in the Canyon County records on April 21, 2010 as evidenced by the file stamp on the enclosed document.

If you should have any questions, or need any additional documentation, please feel free to contact me at 918-794-4559.

Very truly yours,

Peggy J. Harrison

MANAGER CORPORATE GOVERNANCE

PJH/Enclosure

c: Robert E. Clayton (via email: rvent@ida.net)

Mr. Doug R. Nelson  
Nelson Hall Parry Tucker, P.A.  
P.O. Box 51630  
Idaho Falls, Idaho 83402