

# AGENDA

MEETING:	REGIONAL SOLID WASTE ADVISORY COMMITTEE
DATE:	Monday, September 16, 2002
TIME:	3:00 p.m. – 4:50 p.m.
PLACE:	370 A&B, Metro Regional Center, 600 NE Grand Avenue, Portland

## 5 mins. I. Call to Order and Announcements Susan McLain Announcements Responses to Issues from the August 19th Meeting Approval of Minutes

## 15 mins. II. REM Director's Update Terry Petersen

### 40 mins. III. October Report: Preliminary Information Terry Petersen

#### (Information and discussion Item.)

Last October, Metro regulations dealing with local transfer stations were significantly revised to advance several policy objectives such as waste reduction and local access to services. Revisions included establishment of service areas, removal of any limitations on the amount of dry waste received by a station, and increases in the wet waste limitations. The Metro Code requires a report to the Council on the performance of the new Code provisions for transfer station service areas by October 15, 2002, and by March 15 of each even-numbered year thereafter. The scope of work for this report was reviewed with SWAC at the May meeting. This agenda item will provide SWAC with an update on the status of this report and what some of the key findings are likely to be.

#### 40 mins. IV. Metro Regulation of Dredge Material

(Information and Discussion. See attachment A.)

A staff report on Metro's role in the disposal of dredge material was presented to Metro Solid Waste and Recycling Committee on 9/4/02. Metro is seeking SWAC review and comment on the report.

#### 10 mins. V. Other Business and Adjourn

All times listed on this agenda are approximate. Items may not be considered in the exact order listed.

Chair: Councilor Susan McLain (797-1553) Staff: Janet Matthews (797-1826) Alternate Chair: Councilor Bill Atherton (797-1887) Committee Clerk: Michele Adams (797-1649)

Susan McLain

**Terry Petersen** 

#### **Executive Summary**

#### Solid Waste Advisory Committee August 19, 2002

#### Ĩ. **Call to Order and Announcements**

- · Councilor McLain announced that the Council passed three ordinances amending the Regional System Fee (and excise tax) Credit Program recently. In response to Mr. White's question, she clarified why Metro chose to identify materials that do not count, rather than referencing DEQ's list of what counts toward recovery rate calculations.
- Councilor McLain also said that the ordinance revising term limits for advisory bodies passed Council. Representatives of associations are no longer subject to term limits. In addition, a non-voting position (Clark County haulers' representative) was added to the SWAC.
- Approval of Minutes: Mr. Korot motioned to move the summary; Mr. Gilbert seconded the motion; none opposed; Executive Summary passed as read.

#### 11. **REM Director's Update**

- Janet Matthews · Metro's latex paint recycling facility was recognized by SWANA with a gold award in the special wastes division. The facility was built in 1999, recovers nearly 80% of the paint received and generates enough revenue to cover 80% of the operating costs of the facility.
- · REM's Budget Advisory Committee has its first meeting next month. They will review the department's reserves and Metro's role in e-waste management. The Rate Review Committee meets during the winter and will review cost and revenue allocations to ratepayers. If anyone is interested in more information they should contact Tom Chaimov.

#### 111. **Regional E-waste Management Report**

Mr. Klag said that Metro's consultant, Cascadia Consulting Group, recently submitted a report identifying the following: estimates of how much e-waste is in the region; an assessment of current collection and processing infrastructure; what information is still needed to assess region's needs; and, recommendations for e-waste collection and processing in the Metro region. The report finds that there are tens of thousands of pounds of e-waste in the region that will become obsolete in the near future. The strengths of the existing infrastructure are reuse and refurbishing options, but more environmentally sound processing options are needed. Areas identified for Metro action are to obtain better estimates of how much old electronics equipment is out there, support existing re-use infrastructure, and consider formal environmental and sustainability actions such as using and promoting bidding and procurement services to ensure safety. The committee was interested in Metro's involvement in national and regional efforts, such as NEPSI and WEPSI, and industry participation. Mr. Klag stated that Metro is involved in national and regional efforts. Advance recycling fees are being considered at those levels, but it is going to take time to resolve. Ms. Crockett suggested that a cost-benefit analysis for various options would be valuable. Collection options were also discussed. Ms. Storz asked if anyone is doing environmental certification. Mr. Klag said that regulators do due diligence, but that it is difficult to track the chain of custody. Councilor Atherton asked if haulers are finding e-waste in their loads. Mr. Apotheker said that e-waste is showing up at Metro transfer stations and DEQ's waste composition studies indicate that the percentage of electronics in the wastestream has tripled in the past few years. Ms. Gilliland announced that DEQ does have a fact sheet and interim rules posted on their web site. Mr. Klag introduced Mr. Sampson of StRUT, an operation that does total reclaim of CRTs domestically.

#### IV. **Regulatory Framework for Solid Waste Activities**

Ms. Matthews referred to potential changes that may be made to Metro's regulatory framework by early next year, and the need to provide background information to SWAC prior to further discussions. She began by reviewing the solid waste delivery diagram that shows when nonsystem licenses (NSL) and designated facility agreements (DFA) are appropriate, Mr. Brower clarified that these delivery mechanisms only apply to putrescible waste, with no distinction

### Susan McLain

#### Scott Klag

#### Janet Matthews

between vegetative and non-vegetative at this point. Ms. Matthews then reviewed what type of regulatory oversight there is for various types of activities (see Tables 1 – 3). The REM department and Council are reviewing DFAs right now and are considering changes to the Metro Code that could subject certain designated facilities to the same requirements as in-region facilities, such as minimum recovery rates. Mr. Kampfer asked if NSLs are working as a regulatory mechanism. Councilor McLain, Ms. Matthews and Mr. Brower explained that NSLs are effective in ensuring the proper disposition of waste leaving the region and for capturing fees and taxes on such waste.

VII. Other Business and Adjourn

There was no further business.

Susan McLain

#### Documents to be kept with the record of the meeting:

Agenda Item III:

- 1. Overhead presentation (copy available upon request)
- 2. Report: Executive Summary (included in 8/19/02 agenda packet)
- 3. Report: Assessment of E-waste Collection and Processing Issues for the Metro Region (copy available upon request)

Agenda Item IV:

- 1. Solid Waste Delivery Diagram (included in 8/19/02 agenda packet)
- 2. Table 1 Purpose of Metro's Solid Waste Regulatory System (included in 8/19/02 agenda packet)
- 3. Table 2 Regulatory Framework for Solid Waste Activities (included in 8/19/02 agenda packet)
- 4. Table 3 Summary of Regulatory Tools including the New Service Areas for Local Transfer Stations (included in 8/19/02 agenda packet)

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#### STAFF REPORT

#### DISCUSSION OF METRO'S ROLE REGARDING THE DISPOSAL OF DREDGE MATERIAL

August 27, 2002

Drafted by: Chuck Geyer

#### BACKGROUND

Several events in 2001 led Regional Environmental Management (REM) staff to investigate dredge material disposal issues in the Metro region. The three most prominent were an agreement to proceed with the cleanup of the Portland Harbor Superfund site, the controversy surrounding the deepening of the Columbia River navigation channel, and an examination of the options concerning the reclamation of Ross Island and Metro's participation in that process.

The information from news accounts of the events contained estimates of potentially large quantities of dredge material that would need to be managed and disposed. Contamination levels of the material were (and still are) largely unknown. This led to the realization that significant quantities of dredge material could be requiring disposal in landfills that are part of the Metro solid waste system.

In December 2001, the Regulatory Affairs Division of REM began to investigate the issues regarding the disposal of dredge material and a project workplan was developed. As stated in the workplan for the DREDGE MATERIALS SCOPING PROJECT, the objective was:

To conduct research and produce a report that provides background, policy analysis and options defining Metro's regulatory role (including fee policies) for dredge materials generated, managed or disposed of within the Metro region or which may impact the Metro solid waste system.

The work was conducted by meeting with the appropriate governmental agencies; reviewing key reports, agreements, regulations and scientific standards; and attending two seminars sponsored by the Environmental Law Education Center. The investigation focused almost exclusively on dredging activity in the Willamette River since it is the primary source of dredge material in the Metro Region.

### **Key Policy Issues**

Five key policy issues were to be addressed:

- 1. Identify the current regulatory role, responsibility and direction of key agencies regarding the regulation, handling, treatment, management and disposal of dredge materials.
- 2. Identify, to the extent possible, and monitor the sources, magnitude and scope of dredge materials likely to impact the Metro solid waste system.
- 3. Identify, to the extent possible, the amount of waste from the Portland Harbor Superfund Cleanup and other major dredging projects (dredging and other remedial waste) that will be generated, managed and disposed of within the Metro solid waste system. Where possible distinguish the volume of inerts, hazardous and solid wastes.
- 4. Identify common disposal options used in the past for dredge materials and whether or how that my change in the future. Specifically, identify the potential role that solid waste handling, treatment and disposal facilities, both inside and outside Metro, hope to play in the future management of dredged materials

5. Identify options Metro has for playing a positive and constructive role in regulating, coordinating and facilitating the treatment, management and disposal of dredge materials and other cleanup waste, including payment of an appropriate level of fees and taxes.

Following is the information gathered about and a discussion of each issue.

#1. Identify the current regulatory role, responsibility and direction of key agencies regarding the regulation, handling, treatment, management and disposal of dredge materials.

Staff found that all levels of government have a regulatory role regarding dredge material and dredging operations, and that particularly at the federal and state level, multiple agencies (and divisions within them) have different responsibilities. These roles are largely defined by federal legislation, some of which dates back to 1800's.

#### Portland Harbor Superfund Site<sup>1</sup>

The first part of staff's investigation focused on Portland Harbor, and began with a joint meeting of project staff from EPA and DEQ to get an overview of the issues. This was followed by meetings with the City of Portland, Port of Portland and Army Corps of Engineers (additional conversations were conducted to clarify information).

The two key agencies regulating the cleanup of Portland Harbor, and ultimate disposal of resulting materials, are EPA and DEQ. The two have divided their roles by what is done "in-water" and "upland." EPA has the lead responsibility for conducting in-water work and acts as the support agency for DEQ. DEQ has the lead responsibility for conducting upland work necessary for source control and acts as the support agency for EPA. Attachment #1 is an aerial photo of the stretch of the river comprising Portland Harbor. Attachment #2 is a map of the upland sites along this stretch.

The roles and responsibilities regarding the cleanup of a Superfund site are governed by CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act), a federal act that established the national cleanup fund referred to as "Superfund." Being designated such a site means it has been placed on the National Priorities List for cleanup; it does not mean Superfund monies will necessarily be spent. Funding of the actual cleanup of the site is the responsibility of Potentially Responsible Parties (PRPs) that are identified through the various stages of the process<sup>2</sup>. Eighty-four individual sites have been identified as part of the Portland Harbor Superfund Site as of May 2001 (26 of which are sewer outfalls).

Nine PRPs (commonly referred to as the Lower Willamette Group) voluntarily initiated negotiations with EPA/DEQ to start the cleanup process. This resulted in execution of the Portland Harbor Administrative Order on Consent (AOC). This agreement sets out the responsibilities in conducting the Remedial Investigation/Feasibility Study (RI/FS) phase of the cleanup. During this phase, the location and delineation of contamination will be further investigated<sup>3</sup>, as well as recommendations on appropriate remediation approaches. This phase is expected to take two to three years at a minimum. Actual cleanup is expected to begin after the RI/FS, although cleanup can begin earlier if approved by EPA/DEQ. The

<sup>&</sup>lt;sup>1</sup> This area consists of both the bottom of the river, and upland portions that contain sources of contamination to the sediments to the Willamette River, from approximately the tip of Sauvie Island to Swan Island. The area could expand depending on additional investigations.

<sup>&</sup>lt;sup>2</sup> Metro has been identified as a PRP through its ownership of Willamette Cove. The Port, as a prior owner, has also been identified as a PRP for this property and has agreed to contribute toward cleanup costs.

<sup>&</sup>lt;sup>3</sup> Numerous investigations have already been conducted to date documenting some contamination.

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Port of Portland, working with the Army Corps of Engineers, is particularly interested in early cleanup actions to expedite what is anticipated to be a lengthy cleanup process.

The Port, together with the City of Portland, is part of the Lower Willamette Group (the Port is a PRP due to its ownership and operation of terminals and dredging activities, the City through sewer outfalls). The Corps is conducting an independent assessment of contamination in the area and developing a dredge material management plan. Both can be used to assist in the RI/FS process, and may identify early cleanup opportunities.

In addition to the cleanup that will occur under CERCLA, the Superfund cleanup process must assess damage to the natural resource (the Willamette River). Damage assessment, and eventual compensation, is governed by the Natural Resource Damage Assessment (NRDA) process. In this process a group of trustees for the resources is designated based on historical ties to the resource.<sup>4</sup> Compensation can include a combination of money, remediation and restoration of the resource. The City of Portland is investigating the restoration of habitat as compensation, in part through its River Renaissance and Endangered Species Act (ESA) initiatives. Both these efforts are aimed at restoring the Willamette's naturally occurring ecosystems.

The listing of several species of fish as endangered must be considered during the Portland Harbor Cleanup. The implications of the ESA listing are currently unclear as they regard the cleanup. It is expected that it will significantly impact the method and levels of cleanup, as well as the timing since the listed species are present in the river system only during certain portions of the year. The National Marine Fisheries Service (NMFS) administers ESA requirements. Satisfying both ESA and accomplishing the Superfund cleanup will stretch both the financial and political resources available, as it requires the coordination of multiple regulatory agencies as well as PRPs and the Trustees, in addition to the actual cleanup work.

#### **Maintenance Dredging**

The second part of the dredge material disposal investigation focused on maintenance dredging in the Willamette River. Maintenance dredging occurs on a periodic basis to maintain the depth of the river for a particular commercial use or to deepen areas around docking facilities. The amount of dredged material ranges from one quarter to one half a million cubic yards annually.

Historically on the Willamette, maintenance dredging was required to maintain the federal navigation channel that extended from the confluence of the Columbia to approximately the Broadway Bridge. Maintenance of the navigation channel is the responsibility of Army Corps of Engineers. Dredging has not been required recently since the flood events of 1996 and 1997 largely scoured sediments from the river bottom. Currently such dredging has been suspended pending resolution of the Superfund process for Portland Harbor, except for some dredging to deepen terminal access or docks.

Other maintenance dredging occurs primarily to maintain the appropriate depth at terminals. In order to dredge, a joint permit must be obtained from the Corps and the Division of State Lands (DSL), as well as from DEQ. The joint "404" permit application process also requires sign off from DEQ and in some cases NMFS and the Oregon Department of Fish & Wildlife (ODFW). The 404 permit specifies the depth

<sup>&</sup>lt;sup>4</sup> The trustees are federal and state government designees, as well as the following tribes that have treaty-reserved rights to the resource: Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of Siletz Indians, the Confederated Tribes of the Umatilla Indian Reservation, The Nez Perce Tribe and the Confederated Tribes of the Warm Springs Reservation of Oregon.

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that may be dredged and identifies the amount and initial disposal location. DEQ issues a "401" water quality certification permit for the same dredging project.

The Corps, through the 404-permit process, also monitors dredging activity in all bodies of water throughout the state. As stated above, the process is in conjunction with the DSL permitting process. The Corps requires sampling of the dredge material prior to disposal. The samples are compared to the Corps' screening criteria to determine appropriate disposal. This permitting process also requires sign-off by DEQ. DEQ may require more stringent testing and may apply different screening criteria than the Corps' for a particular disposal location. An example of this would be additional testing required to dispose material at Ross Island in the Willamette. Other agencies such as NMFS and ODFW also review permit applications for dredging.

#### **Other Activities**

A related activity that is occurring is the combined sewer overflow (CSO) disconnection by the City of Portland. It is expected to cost approximately a billion dollars and result in no further contamination to the river from sewer outfalls. It will generate approximately 500,000 cubic yards of soil from associated tunnel and related excavation (not dredge material). The CSO program is a result of regulation through the federal Clean Water Act (CWA). CWA establishes water quality standards that are administered mainly by DEQ with federal oversight by EPA.

Another related activity is the deepening of the Columbia. This is outside the Superfund site and mostly outside the Metro boundary. Construction will remove up to 20 million cubic yards of material<sup>5</sup>. Maintenance dredging activity for the deepening is expected to generate up to an additional 4 million cubic yards of materials per year. Disposal sites are expected to be upland sites whenever possible where material will be contained behind dikes, dewatered and put to a beneficial use. No significant contamination has been found that would require disposal in a landfill.

#### **DEQ Sediment Work Group**

In early 2001 DEQ formed a sediment workgroup to address agency coordination and communication with respect to contaminated sediments. In its April 2002 report the workgroup issued three major recommendations:

- *Clarify/expand the Solid Waste definition of "clean fill"* The current definition of clean fill is ambiguous. Clarifying the definition would allow dewatered sediments with contamination levels below some threshold to be managed as clean fill rather than as a solid waste.
- Adopt the Hazardous Waste Identification Rule exclusion for sediments- Adequate oversight for contaminated sediments will be provided through the clarification of the clean fill definition, the Dredged Material Evaluation Framework and the anticipated DEQ Sediment Evaluation Guidance.
- Invest Resources in Sediment Coordination- DEQ needs to remain in close contact with Army Corps of Engineers, EPA and others as the Dredged Material Evaluation Framework and Dredged Material Management Plan is developed. To do so will require additional resources.
- #2. Identify, to the extent possible, and monitor the sources, magnitude and scope of dredge materials likely to impact the Metro solid waste system.

<sup>&</sup>lt;sup>5</sup> These estimates are expected to decline in new projections slated for mid-2002.

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The identification and monitoring of the sources of dredge material begins with review of the Army Corps of Engineers and the Division of State Lands permitting process. Theoretically, all dredging of more than 50 cubic yards requires a permit (Nationwide Dredging Permit). This permit indicates the amount authorized to be dredged, and authorizes a disposal location. Metro should be able to identify the majority of dredge material sources through this process.

However, once the general permit is issued, the actual dredging activity is not monitored by either DSL or the Corps. Since the permits are often issued for a five-year period during which dredging may or may not occur, it is difficult to monitor the actual disposal of material. The location of disposal listed in the permit may change as well. Effective monitoring can only be accomplished by cross-checking the permit with activity at the disposal sites within the Metro solid waste system (and perhaps outside the system as well).

The magnitude and scope of dredge material generated will vary over time depending on the disposal sites available and what happens during the cleanup of Portland Harbor. In 2001, staff estimated that dredge material disposal<sup>6</sup> comprised approximately 2% of the total solid waste disposed in the Metro system.<sup>7</sup> The dredged material represents probably less than 10% of the total material dredged from the Willamette during this time period. The Metro solid waste disposal system has adequate capacity to absorb this amount of material in the short and long run.

The trend is for the amount of material entering the Metro system to increase because historical disposal sites (e.g. Morgan's Bar, Ross Island) are currently not available and because the cleanup of Portland Harbor should increase the quantity of dredge material appropriate for disposal as solid waste. Still, given the capacity of local and regional landfills, adequate capacity should exist well into the future.

#3. Identify, to the extent possible, the amount of waste from the Portland Harbor Superfund Cleanup and other major dredging projects (dredging and other remedial waste) that will be generated, managed and disposed of within the Metro solid waste system. Where possible distinguish the volume of inerts, hazardous and solid wastes.

Estimates for the amount of in-water material in Portland Harbor that will require remediation ranges from 3 to over 12 million cubic yards.<sup>8</sup> More exact projections will result from the RI/FS currently underway. Likewise there is no estimate of the degree of contamination for materials likely to be dredged.

Other Superfund waste that will require management and possible disposal are those from the upland sites along Portland Harbor (see attachment #2). There are approximately 50 sites, exclusive of sewer outfalls, some of which will generate material for disposal, some of which will not. Each site will be dealt with individually by DEQ over the next five years. One project coordinator proffered an estimate of a quarter of a million tons, however it was conditioned that this could vary by several orders of magnitude. Again, sufficient capacity is available in the solid waste system to deal with almost any possible amount requiring disposal.

Another major potential source of dredge material would be from the dredging of the federal navigation channel in the Willamette. Large scale maintenance dredging has been suspended pending the outcome of the RI/FS. There is also some discussion of whether such a channel even needs to be maintained as far

<sup>&</sup>lt;sup>6</sup> Most of the dredge material was stored or disposed of in "upland" sites. Prior to 2001, very little if any dredge material was disposed of in solid waste landfills located in Oregon and Washington.

<sup>&</sup>lt;sup>7</sup> Assumes total solid waste disposal was 1.3 million tons.

<sup>&</sup>lt;sup>8</sup> There is approximately 1.33 cubic yards per ton.

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as the Broadway Bridge since little shipping is done above this bridge. Volume estimates are not currently available for this maintenance dredging.

#4. Identify common disposal options used in the past for dredge material and whether or how that may change in the future. Specifically, identify the potential role that solid waste handling, treatment and disposal facilities, both inside and outside Metro, hope to play in the future management of dredged materials.

#### Background

Disposal options have historically included both in-water and upland sites. In-water disposal refers to placing the material at another location unconfined, or by placing the material in confined cells if the material is appropriate given the presence of contaminants in sufficient quantities.

In-water sites available historically have been:

- Morgan's Bar which was an in-water site until 2000 when the practice was halted due to local land use decisions;
- Ross Island which is still able to accept clean material after testing (see below); and
- Hayden Island which has been used but is no longer a viable site.

The Port of Portland has created its own upland de-watering facility that is used to create fill material for its own use (see Attachment #3). Material de-watered must be relatively clean since water is discharged directly to the Columbia and the material is used on Port property.

#### **Ross Island**

Ross Island (see Attachment #4) has been a primary dredge material disposal site in the Metro area in the past. However, new restrictions have been imposed on the material accepted, primarily through the screening criteria imposed by DEQ. If initial testing of dredge material required for the "404" permit demonstrate areas of concern, additional bioassay and bioaccumulation testing may be required. These additional testing procedures can be prohibitively expensive.

This additional testing is now required because of the unique environment of Ross Island and due to some controversy over materials accepted in the past. In one case, material was accepted from the dredging of the Port's terminals that required in-water disposal in confined cells. One of these cells was subsequently disturbed, resulting in a release of the dredged material. In another instance it was discovered that materials were being accepted for in-water disposal that were not allowed by the site's permits. After these incidents, regulatory agencies over-sight increased for the disposal of dredge material at Ross Island.

Reclamation of the island is also being reviewed by the Ross Island Reclamation Plan Advisory Committee (RIRPAC). The committee is composed of representatives from Ross Island Sand & Gravel, NMFS, City of Portland, Metro, Audubon Society, and DSL. The committee will recommend revisions to the reclamation plan contained in its existing DSL permit. Initial indications are that significantly less fill will be required than under the current DSL permit. A recent estimate is for an additional 4.5 million cubic yards to be received at the site over 10 years<sup>9</sup> to be used to create a wetland (25 million c.y. would be required under the current permit). The Ross Island company would prefer that the material be "clean", which means it would not require containment and would comply with DEQ's fill evaluation protocols for the site.

<sup>&</sup>lt;sup>9</sup> See Attachment #4 for an estimate of sources.

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Ross Island Sand & Gravel proposes to transfer ownership of Ross Island to the City of Portland in the near future, while retaining ownership of Hardtack Island (that portion on which their processing operations are shown in Attachment #4) to process imported materials. (Mining of the island has stopped however the processing of imported material is expected to continue into the indefinite future.)

#### Landfills

All RCRA<sup>10</sup> Subtitle D landfills are potential sites for dredged materials. Currently both the Roosevelt and Columbia Ridge landfills are known to have accepted dredged material. The main difference is that the Roosevelt Landfill had been accepting material that had not been de-watered as allowed during a temporary testing period approved by local and state regulators. Material arrived via barge or a lined container and was dumped on the landfill in a sort of gelatinous state (see Attachment #5). Water not absorbed by garbage was collected in the leachate system and pumped back onto the landfill to create a bio-reactive situation. The purpose of the liquid is to speed decomposition and increase the generation of methane that is burned to generate electricity for the Klickitat County PUD. The test period has concluded and the landfill will require approval from EPA Region 10 to obtain a permanent exemption to resume taking material that contains free liquids since this is prohibited by federal solid waste regulations.

Dredge material generated from other dredging projects outside the Metro area e.g. Puget Sound and Tacoma, have been disposed of at Columbia Ridge Landfill in eastern Oregon. The dredged material going to the Columbia Ridge Landfill, however, must first be de-watered before it is disposed due to permitting requirements. Depending on the level of contamination, the material can be classified as inert, solid or special waste. More contaminated material could be disposed of at the nearby Chemical Waste Management hazardous waste landfill, depending on the extent of contamination.

All general-purpose landfills near the region appear interested in playing a role as disposal sites for dredged material. Those landfills include Coffin Butte, North Wasco County, Finley Butte and Hillsboro.

#### **PCS Facilities**

Facilities thermally treating petroleum-contaminated soils (PCS) could potentially treat contaminated dredge material depending on the level and type of contamination. (Facilities that accept such materials would have to de-water the materials.) Those that thermally treat PCS may be able to have their state permits (and Metro's certification) modified to handle other types of environmental media containing contaminants.

#5. Identify options Metro has for playing a positive and constructive role in regulating, coordinating and facilitating the treatment, management and disposal of dredge materials and other cleanup waste, including payment of an appropriate level of fees and taxes.

#### Disposal

Metro is responsible for the disposal of solid waste in the region. In this capacity it is both a direct service provider through ownership of transfer stations, as well as the regulator of private disposal facilities servicing the region.

<sup>&</sup>lt;sup>10</sup> The federal Resource Conservation and Recovery Act is the main statute governing solid and hazardous waste in the U.S.

Until very recently, much of the dredging material in the region was managed as inert waste and, therefore, was not subject to Metro's solid waste rules or to Metro fees and taxes. The solid waste regulatory section of the Metro Code exempts facilities that exclusively receive, process, transfer or dispose of inert wastes. As such, the agency has not collected fees or taxes on wastes eligible to be managed at inert waste operations.

It has become clear, however, that much of the dredge material from the Willamette River contains various degrees of contamination. While some dredgings may still qualify as inert waste, others will be hazardous waste (and require far more extensive and expensive management) and still other dredgings will be somewhere in between inert waste and hazardous waste and will require disposal in a solid waste landfill. Dredged material generated in the region, and appropriate for landfill disposal, clearly falls within Metro's regulatory purview as a solid waste.<sup>11</sup>

Metro could play a key role in facilitating additional disposal options for dredge material generated in the region. Some options for such assistance could include pursuing a change in Oregon regulations to permit Oregon Subtitle D landfills to take dredge material before it is dewatered, developing dewatering capabilities in the region, or developing in-region disposal capacity for the dredged material appropriate for disposal in a general purpose landfill.

#### **Metro Fees and Taxes**

The Metro Code established two levels of fees for solid waste. The first level is for solid waste required to pay full regional system fee and excise tax. Only solid waste that meets Metro's definition of "Cleanup material contaminated by hazardous substances" is allowed a credit that results in a fee of \$2.50/ton and excise tax of \$1.00/ton.

Metro intended cleanups to pay fees and taxes at a reduced level so that it did not contribute significantly to the cost of proper disposal. Dredged material is similar in many ways to clean-up material. Therefore, it is recommended that dredged materials should be charged a smaller regional system fee (\$2.50/ton) and a reduced excise taxe (\$1.00/ton) rather than the full rate (\$15.00/ton fee and \$6.39 tax.).

### Metro's Regulatory Role

Metro has historically regulated the disposal of dredge material as solid waste only when disposed of within the solid waste system. Disposal sites (landfills) in the Metro system are now receiving increasing amounts of dredge material, requiring additional regulatory oversight by Metro.

It is recommended that REM develop a system to monitor dredge permits issued and the resulting disposal of material once it is dredged. Such a system should include close cooperation with the Army Corps of Engineers, Division of State Lands and the Water Quality, Solid Waste, and Cleanup Divisions of DEQ. In addition, REM should require and scrutinize the records of disposal sites to identify dredge material originating from the Metro Region.

An important component of this increased oversight should be educating the affected community about Metro's role. Few of the parties contacted during the scope of this project realized that Metro had a regulatory interest in dredge material disposal since many are new participants in the solid waste arena. Education should include firms that actually dredge the material, as well as the businesses requiring

<sup>&</sup>lt;sup>11</sup> Metro Code chapter 5.010 defines solid waste as "all putrescible and non-putrescible wastes, including without limitation, ... sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction waste; ... petroleum-contaminated soils and other wastes;....

regular dredging to maintain the depth of their terminals, and the consulting community that assists in the permitting process.

#### **Portland Harbor**

Cleanup of the Portland Harbor Superfund Site is still in the investigation phase. It is recommended that Metro offer assistance in identifying, and perhaps facilitating, appropriate disposal sites. It is recommended that REM attend a meeting of the Lower Willamette Group and gives a presentation of its regulatory role as well as the application of its fees and taxes.

### ANALYSIS/INFORMATION

#### 1. Known Opposition

Given that Metro has only recently become engaged in the issue, no opposition has yet been voiced. Some parties are concerned that additional fees and taxes could make the cleanup of Portland Harbor more expensive. However, the application of Metro fees and taxes appears to be a minor additional cost.

#### 2. Legal Antecedents

Metro Code sections 5.01, 5.02 and 7.01 set forth Metro's regulatory authority and the collection of fees and taxes regarding the disposal of dredge material. The legal antecedents regarding dredging are contained in the Rivers and Harbors Act, Clean Water Act, Endangered Species Act, the Oregon Constitution, the 404-dredge permit process and associated 401-water certification, and the regulations of both DSL and DEQ. As regards the cleanup of Portland Harbor and associated material disposal, the additional antecedents of CERCLA and NRDA come into play.

#### 3. Anticipated Effects

Raise Metro's involvement in the disposal of dredge material.

### 4. Budget Impacts

No immediate budget impact is anticipated.

### EXECUTIVE OFFICER RECOMMENDATION

- Participate in further discussions regarding the regulation of dredged materials to ensure regulatory consistency and maintain current knowledge regarding the actions of other agencies.
- Offer assistance to other agencies as additional issues develop regarding the disposal of dredge material.
- Communicate to the parties involved with dredge material disposal, Metro's application of the "Cleanup Material" exemption to material disposed at landfills.

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## Potential Fill Sources (Annual amounts, for 10 years)

Fill Source	Approximate Volume (cubic yards)
Upland Sources	100,000
RIS&G Aggregate Processing By-product	50,000
Columbia River Dredge Material	200,000
Natural Sedimentation	50,000
Willamette River Dredge Material	50,000

Source: Oregonian 6-4-02

# Dredge Material (w/water) at Landfill



Barge Unloading into Lined Container



