

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ISSUING A SOLID ) RESOLUTION NO. 01-3111A  
WASTE FACILITY LICENSE TO S & H )  
LOGGING, INC. ) Introduced by Mike Burton,  
 ) Executive Officer

WHEREAS, the Metro Code, requires a solid waste facility license of any facility that reloads yard debris; and

WHEREAS, S & H Logging, Inc. is such a facility; and

WHEREAS, S & H Logging, Inc. applied for a Solid Waste Facility License under the provisions of Metro Code Chapter 5.01; and

WHEREAS, S & H Logging, Inc. has received land use approval from Clackamas County; and

WHEREAS, S & H Logging, Inc.'s application is in conformance with the requirements of Chapter 5.01 of the Code; and

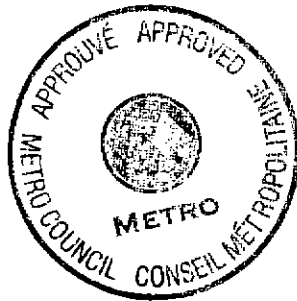
WHEREAS, Metro staff has analyzed the application and recommended approval of the applicant's request for a Solid Waste Facility License; and

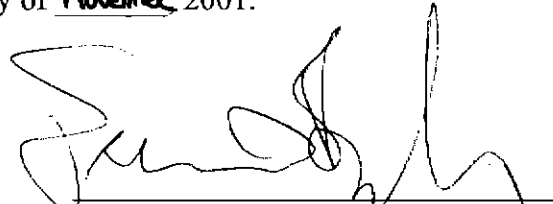
WHEREAS, The resolution was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

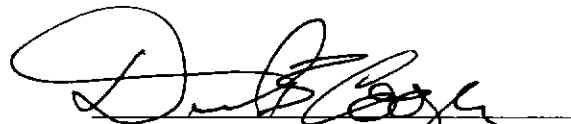
The Executive Officer is authorized to grant a Solid Waste Facility License for yard debris reloading to S & H Logging, Inc. that shall be substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this 15<sup>th</sup> day of November 2001.



  
David Bragdon, Presiding Officer

Approved as to Form:

  
Daniel B. Cooper, General Counsel



# METRO SOLID WASTE FACILITY LICENSE

## Number YD-045-01 Issued to S & H Logging, Inc.

*Issued by*

**Metro**

600 NE Grand Avenue

Portland, OR 97232

Telephone: (503) 797-1650

Issued in accordance with the provisions of Metro Code Chapter 5.01

|  |  |
|--|--|
| <p><b>LICENSEE:</b></p> <p>S &amp; H Logging, Inc.<br/>20200 SW Stafford Road<br/>Tualatin, OR 97062<br/>Tel: (503) 638-1011 Fax: (503) 638-0754</p>                   | <p><b>FACILITY NAME AND LOCATION:</b></p> <p>S &amp; H Logging, Inc.<br/>20200 SW Stafford Road<br/>Tualatin, OR 97062<br/>Tel: (503) 638-1011 Fax: (503) 638-0754</p> |
| <p><b>OPERATOR:</b></p> <p>Casey Stroupe<br/>S &amp; H Logging, Inc.<br/>20200 SW Stafford Road<br/>Tualatin, OR 97062<br/>Tel: (503) 638-1011 Fax: (503) 638-0754</p> | <p><b>PROPERTY OWNER:</b></p> <p>Duane and Loretta Stroupe<br/>20200 SW Stafford Road<br/>Tualatin, OR 97062<br/>Tel: (503) 638-1011 Fax: (503) 638-0754</p>           |

This license is granted to the licensee named above and may not be transferred without the prior written approval of the Executive Officer. Subject to the conditions stated in this license document, the licensee is authorized to operate and maintain a yard debris reload facility, and to accept the solid wastes and perform the activities authorized herein.

**METRO**

**S & H Logging, Inc.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Licensee

\_\_\_\_\_  
Mike Burton, Metro Executive Officer

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



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## **1.0 ISSUANCE**

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- 1.1 Licensee** S & H Logging, Inc.  
20200 SW Stafford Road  
Tualatin, OR 97062  
Tel.: (503) 638-1011 Fax: 638-0754
- 1.2 Contact** Casey Stroupe
- 1.3 License Number** Metro Solid Waste Facility License Number YD-045-01
- 1.4 Term of License** This license is issued for a term of five (5) years unless modified, suspended, or revoked under the provisions of section 11.2 of this license. The term commences from the date this license is signed by Metro.
- 1.5 Facility name and mailing address** S & H Logging, Inc.  
20200 SW Stafford Road  
Tualatin, OR 97062
- 1.6 Operator** Casey Stroupe  
S & H Logging, Inc.  
20200 SW Stafford Road  
Tualatin, OR 97062  
Tel.: (503) 638-1011 Fax: 638-0754
- 1.7 Facility legal description** ¼ of section 29 & the NW ¼ of section 28, Tax lots 4500, 4100, and 4000, T 25, R 1E, W.M., Clackamas County, State of Oregon
- 1.8 Property owner** Duane and Loretta Stroupe

## **2.0 CONDITIONS AND DISCLAIMERS**

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- 2.1 Guarantees** The granting of this license shall not vest any right or privilege in the licensee to receive specific quantities of solid wastes or other materials at the direction of Metro during the term of the license.



- 2.2 **Non-exclusive license** The granting of this license shall not in any way limit Metro from granting other solid waste licenses within the District.
- 2.3 **Property rights** The granting of this license does not convey any property rights in either real or personal property, nor does it authorize any injury to private property or invasion of property rights.
- 2.4 **No recourse** The licensee shall have no recourse whatsoever against Metro, its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this license or because of the enforcement of the license or in the event the license or any part thereof is determined to be invalid.
- 2.5 **Release of liability** Metro, its elected officials, employees, or agents do not sustain any liability on account of the granting of this license or on account of the construction, maintenance, or operation of the facility pursuant to this license.
- 2.6 **Binding nature** The conditions of this license are binding on the licensee. The licensee is liable for all acts and omissions of the licensee's contractors and agents.
- 2.7 **Waivers** To be effective, a waiver of any terms or conditions of this License must be in writing and signed by the Metro Executive Officer.
- 2.8 **Effect of waiver** Waiver of a term or condition of this License shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- 2.9 **Choice of law** The License shall be construed, applied and enforced in accordance with the laws of the State of Oregon.
- 2.10 **Enforceability** If any provision of this License is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this License shall not be affected.
- 2.11 **License not a waiver** Nothing in this license shall be construed as relieving any owner, operator, or licensee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
- 2.12 **License not limiting** Nothing in this license is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to the solid waste facility that it is authorized or required to enforce or administer.



- 2.13 Definitions** Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01. The Metro Code definition of “solid waste” includes source separated yard debris, landscape wastes, and clean wood wastes. In the event that the Metro Code is amended, the latest amended version shall apply to this license.

### **3.0 AUTHORIZATIONS**

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- 3.1 Purpose** This section of the license describes the wastes that the licensee is authorized to accept at the facility, and the waste-related activities the licensee is authorized to perform at the facility. This license is not intended to regulate non-waste-related activities such as the management of bark chips and other finished products.
- 3.2 General conditions on solid wastes** The licensee is authorized to accept at the facility only the solid wastes described in this section. The licensee is prohibited from knowingly receiving any solid waste not authorized in this section.
- 3.3 General conditions on activities** The licensee is authorized to perform at the facility only those waste-related activities that are described in this section.
- 3.4 Authorized solid wastes** The licensee is authorized to accept for grinding and reloading, source-separated yard debris and landscape waste that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. Other green wastes may only be accepted as specifically authorized in writing by the Director of the Metro Regional Environmental Management Department. The licensee is also authorized to accept clean wood wastes (e.g. untreated lumber and wood pallets). No other wastes shall be accepted at the facility unless specifically authorized in writing by the Director of the Regional Environmental Management Department.

### **4.0 LIMITATIONS AND PROHIBITIONS**

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- 4.1 Purpose** This section of the license describes limitations and prohibitions on the wastes handled at the facility and waste-related activities performed at the facility.



- 4.2 Prohibited waste** The Licensee is prohibited from receiving, processing or disposing of any solid waste not authorized in this License. The licensee shall not knowingly accept or retain any material amounts of the following types of wastes: non-green feedstocks, special wastes as defined in chapter 5.02 of the Metro Code, materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; any waste prohibited by the DEQ; putrescible waste other than that allowed by section 3.4 of this license and any non-putrescible waste.
- 4.3 Composting prohibited** This licensee shall not keep yard debris on site long enough for more than negligible biological decomposition to begin.
- 4.4 No disposal of recyclable materials** Yard debris and organic materials accepted at the facility may not be disposed of by landfilling.
- 4.5 Limits not exclusive** Nothing in this section of the license shall be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this license document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

## **5.0 OPERATING CONDITIONS**

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- 5.1 Purpose** This section describes criteria and standards for the operation of the facility.
- 5.2 Qualified Personnel** The licensee shall provide an operating staff qualified to carry out the functions required by this license and to otherwise ensure compliance with Metro Code Chapter 5.01. Facility personnel shall be familiar with the provisions of this license and the procedures contained within the operating plan.
- 5.3 Adequate capacity** The facility shall accept no more solid wastes than it has sufficient area, capacity, equipment, and personnel to process in an efficient and timely manner. The facility shall maintain sufficient capacity for:
- a. Incoming wastes waiting to be processed; and
  - b. Proper handling, storage, and removal of hazardous or other non-permitted wastes delivered to or generated by the facility.





- 5.4 Odor prevention** The licensee shall operate the facility in a manner that prevents the generation of odors. The licensee shall establish and follow procedures for preventing odors at the facility. Specific measures an operator shall take to prevent odors include but are not limited to adherence to the contents of a required operating plan (see Section 6.0).
- 5.5 Noise minimization** The licensee shall conduct Metro-authorized activities at the facility in a manner that prevents the creation of excessive noise to the extent necessary to meet applicable regulatory standards and land-use regulations.
- 5.6 Vector prevention** The licensee shall operate the facility in a manner that prevents infestations of rodents, insects, or other animals capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.
- 5.7 Timely processing and removal** All authorized solid wastes received at the facility must be processed or appropriately stored and removed from the facility, within a timeframe that prevents nuisance conditions or safety hazards.
- 5.8 Storage** Stored yard debris and wood wastes shall be suitably contained and removed at sufficient frequency to prevent nuisance conditions or safety hazards. Storage areas must be maintained in an orderly manner and kept free of litter. Yard debris may not be stored for more than 24 hours before being removed from the facility.
- 5.9 Litter and airborne debris** The licensee shall operate the facility in a manner that prevents the generation of litter and airborne debris. The licensee shall:
- a. Take reasonable steps to notify and remind persons delivering yard debris and wood wastes to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit.
  - b. Construct, maintain, and operate all vehicles and devices transferring or transporting yard debris and wood wastes from the facility to prevent leaking, spilling or blowing of such material on-site or while in transit.
  - c. Conduct grinding operations in such a manner as to prevent dust and debris from blowing off-site.
  - d. Keep all areas within the site and all vehicle access roads within  $\frac{1}{4}$  mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operations.



- 5.10 Water quality** The licensee shall operate and maintain the facility to prevent contact of yard debris and wood wastes with stormwater runoff. Methods must be consistent with the controlling agency (local jurisdiction and DEQ).
- 5.11 Fire prevention and control** The operator shall provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from the processing area.
- 5.12 Adequate vehicle accommodation** Vehicles containing landscape waste or yard debris feedstock/waste shall not park or queue on public streets or roads except under emergency conditions. Adequate off-street parking and queuing for vehicles shall be provided.
- 5.13 Public Access** Public access to the facility shall be controlled as necessary to prevent unauthorized entry and dumping.
- 5.14 Complaints** The licensee shall respond to all written complaints of nuisances (including, but not limited to, blowing debris, fugitive dust, odors, noise, and vectors). If licensee receives a complaint, licensee shall:
- a. Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); and
  - b. Log all such complaints by name, date, time and nature of complaint. Each log entry shall be retained for one year and shall be available for inspection by Metro.
- 5.15 Signage** The licensee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, legible, and shall contain at least the following information:
- a. Name of the facility
  - b. Address of the facility;
  - c. Emergency telephone number for the facility;
  - d. Operating hours during which the facility is open for the receipt of authorized waste;
  - e. Fees and charges;
  - f. Metro's name and telephone number (503) 797-1650; and



g. A list of authorized and prohibited wastes.

**5.16 Access to license document** The licensee shall maintain a copy of this Metro Solid Waste Facility License on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.

**6.0 OPERATING PLAN**

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- 6.1 Purpose This section lists the procedures that must be included in the required facility operating plan. The operating plan must be submitted to and approved by Metro prior to issuance of the license. The operating plan may be amended from time to time subject to approval by Metro.
- 6.2 Access to operating plan The licensee shall maintain a copy of the operating plan on the facility's premises and in a location where facility personnel and Metro representatives have ready access to it.
- 6.3 Procedures for inspecting loads The operating plan shall establish:
- a. Procedures for inspecting incoming loads for the presence of prohibited wastes; and
  - b. A set of objective criteria for accepting and rejecting loads.
- 6.4 Procedures for processing loads The operating plan shall establish procedures for:
- a. Processing authorized solid wastes;
  - b. Storing authorized solid wastes; and
  - c. Minimizing storage times, avoiding delay in processing and managing yard debris and landscape waste during all weather conditions.
- 6.5 Procedures for managing prohibited wastes The operating plan shall establish procedures for managing and transporting to appropriate facilities any prohibited wastes discovered at the facility. The plan shall include procedures for managing:
- a. Decomposing yard debris that is generating malodors;
  - b. Hazardous wastes; and
  - c. Other prohibited solid wastes.
- 6.6 Procedures for odor prevention The operating plan shall establish procedures for preventing all odors, including odors produced by grass clippings. The plan must include:
- a. A management plan that will be used to monitor and manage all odors of any derivation including malodorous loads delivered to the facility; and
  - b. Procedures for receiving and recording odor complaints,



immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility.

- 6.7 Procedures for noise minimization The operating plan shall establish procedures for minimizing the volume and duration of noise produced in the course of Metro-authorized activities.
- 6.8 Procedures for emergencies The operating plan shall establish procedures to be followed in case of fire or other emergency.

## **7.0 RECORD KEEPING AND REPORTING**

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- 7.1 **Purpose** This section of the license describes the record keeping and reporting requirements. The Licensee shall effectively monitor facility operation and maintain accurate records of the information described in this section.
- 7.2 **Feedstocks received** The licensee shall keep and maintain accurate records of the amount of material received and the amount of outgoing material. Such information shall be reported to Metro on a quarterly basis. Each report shall be provided by the 15<sup>th</sup> of the month following the end of each quarter. The report shall be signed and certified as accurate by an authorized representative of licensee.
- 7.3 **Unusual occurrences** The licensee shall keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.
- 7.4 **Nuisance complaints** For every nuisance complaint (e.g. odor, noise, dust, vibrations, litter) received, the licensee shall record:
  - a. The nature of the complaint;
  - b. The date the complaint was received;
  - c. The name, address, and telephone number of the person or persons making the complaint; and
  - d. Any actions taken by the operator in response to the complaint (whether successful or unsuccessful).Records of such information shall be made available to Metro and local governments upon request.



- 7.5 Regulatory information submittals** The licensee shall submit to Metro duplicate copies of regulatory information submitted to the DEQ and local jurisdictions pertaining to the facility, at the same time as submittal to DEQ and/or a local jurisdiction.

## **8.0 FEES AND RATE SETTING**

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- 8.1 Purpose** This section of the license specifies fees payable by the licensee, and describes rate regulation by Metro.
- 8.2 Annual fee** The licensee shall pay a \$300 annual license fee, as established in Metro Code. Metro reserves the right to change the license fee at any time by action of the Metro Council.
- 8.3 Fines** Each violation of a license condition shall be punishable by fines as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation. Metro reserves the right to change fines at any time by action of the Metro Council.
- 8.4 Rates not regulated** The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro.

## **9.0 INSURANCE REQUIREMENTS**

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- 9.1 Purpose** The section describes the types of insurance that the licensee shall purchase and maintain at the licensee's expense, covering the licensee, its employees, and agents.
- 9.2 General liability** The licensee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.
- 9.3 Automobile** The licensee shall carry automobile bodily injury and property damage liability insurance.
- 9.4 Coverage** Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.



- 9.5 Additional insureds** Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS.
- 9.6 Worker's Compensation Insurance** The licensee, its subcontractors, if any, and all employers working under this license, are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Licensee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If licensee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
- 9.7 Notification** The licensee shall give at least 30 days prior written notice to the Director of the Metro Regional Environmental Management Department of any lapse or proposed cancellation of insurance coverage.

## **10.0 ENFORCEMENT**

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- 10.1 Generally** Enforcement of this license shall be as specified in Metro Code.
- 10.2 Authority vested in Metro** The power and right to regulate, in the public interest, the exercise of the privileges granted by this license shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against licensee.
- 10.3 No Enforcement Limitations** Nothing in this license shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this license be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this license or the licensee's operation of the facility.



## **11.0 MODIFICATIONS**

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- 11.1 Modification** At any time during the term of the license, either the Executive Officer or the licensee may propose amendments or modifications to this license.
- 11.2 Modification, suspension or revocation by Metro** The Director of the Metro Regional Environmental Management Department may, at any time before the expiration date, modify, suspend, or revoke this license in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:
- a. Violation of the terms or conditions of this license, Metro Code, or any applicable statute, rule, or standard;
  - b. Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this license;
  - c. Failure to disclose fully all relevant facts;
  - d. A significant release into the environment from the facility;
  - e. Significant change in the character of solid wastes received or in the operation of the facility;
  - f. Any change in ownership or control, excluding transfers among subsidiaries of the licensee or licensee's parent corporation;
  - g. A request from the local government stemming from impacts resulting from facility operations; or
  - h. A significant history of non-compliance on the part of the licensee.

## **12.0 GENERAL OBLIGATIONS**

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- 12.1 Compliance with the law** Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this license as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the license document, as well as any existing at the time of the issuance of the license but not cited or attached, and permits or conditions issued or modified during the term of the license.



- 12.2 Indemnification** The licensee shall indemnify and hold Metro, its employees, agents and elected officials harmless from any and all claims, damages, actions, losses and expenses including attorney's fees, or liability related to or arising out of or in any way connected with the licensee's performance or failure to perform under this license, including patent infringement and any claims or disputes involving subcontractors.
- 12.3 Deliver waste to appropriate destinations** The licensee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits;
- 12.4 Right of inspection and audit** Authorized representatives of Metro may take soil and water samples and perform such inspection or audit as the Regional Environmental Management Director deems appropriate and shall be permitted access to the premises of the facility during normal working hours upon giving reasonable advance notice (not less than 24 hours). Subject to the confidentiality provisions of this license, Metro's right to inspect shall include the right to review, at an office of licensee located in the Portland metropolitan area, all information from which all required reports are derived including all books, records, maps, plans, income tax returns, financial statements, contracts, and other like materials of licensee that are directly related to the operation of the facility.
- 12.5 Confidential information** Licensee may identify any information submitted to or reviewed by Metro under this Section 12.0 as confidential. Licensee shall prominently mark any information which it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt, of any request for disclosure of information identified by licensee as confidential, Metro shall provide Licensee written notice of the request. Franchisee shall have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. Nothing in this Paragraph 12.5 shall limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith efforts not to disclose such information.





**12.6 Compliance  
by agents**

The licensee shall be responsible for ensuring that its agents and contractors operate in compliance with this license.

SK:  
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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ISSUING A SOLID WASTE FACILITY LICENSE TO S & H LOGGING, INC. ) RESOLUTION NO. 01-3111  
)  
) Introduced by Mike Burton,  
) Executive Officer

WHEREAS, the Metro Code, requires a solid waste facility license of any facility that reloads yard debris; and

WHEREAS, S & H Logging, Inc. is such a facility; and

WHEREAS, S & H Logging, Inc. applied for a Solid Waste Facility License under the provisions of Metro Code Chapter 5.01; and

WHEREAS, S & H Logging, Inc. has received land use approval from Clackamas County; and

WHEREAS, S & H Logging, Inc.'s application is in conformance with the requirements of Chapter 5.01 of the Code; and

WHEREAS, Metro staff has analyzed the application and recommended approval of the applicant's request for a Solid Waste Facility License; and

WHEREAS, The resolution was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Executive Officer is authorized to grant a Solid Waste Facility License for yard debris reloading to S & H Logging, Inc. that shall be substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
David Bragdon, Presiding Officer

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, General Counsel



# METRO SOLID WASTE FACILITY LICENSE

**Number YD-045-01**

**Issued to S & H Logging, Inc.**

*Issued by*

**Metro**

600 NE Grand Avenue

Portland, OR 97232

Telephone: (503) 797-1650

Issued in accordance with the provisions of Metro Code Chapter 5.01

|   |  |
|---|--|
| <p><b>LICENSEE:</b></p> <p>S &amp; H Logging, Inc.<br/> 20200 SW Stafford Road<br/> Tualatin, OR 97062<br/> Tel.: (503) 638-1011 Fax: (503) 638-0754</p>                    | <p><b>FACILITY NAME AND LOCATION:</b></p> <p>S &amp; H Logging, Inc.<br/> 20200 SW Stafford Road<br/> Tualatin, OR 97062<br/> Tel.: (503) 638-1011 Fax: (503) 638-0754</p> |
| <p><b>OPERATOR:</b></p> <p>Casey Stroupe<br/> S &amp; H Logging, Inc.<br/> 20200 SW Stafford Road<br/> Tualatin, OR 97062<br/> Tel.: (503) 638-1011 Fax: (503) 638-0754</p> | <p><b>PROPERTY OWNER:</b></p> <p>Duane and Loretta Stroupe<br/> 20200 SW Stafford Road<br/> Tualatin, OR 97062<br/> Tel.: (503) 638-1011 Fax: (503) 638-0754</p>           |

This license is granted to the licensee named above and may not be transferred without the prior written approval of the Executive Officer. Subject to the conditions stated in this license document, the licensee is authorized to operate and maintain a yard debris composting facility, and to accept the solid wastes and perform the activities authorized herein.

**METRO**

**S & H Logging, Inc.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Licensee

\_\_\_\_\_  
Mike Burton, Metro Executive Officer

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



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## 1.0 ISSUANCE

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- 1.1 Licensee** S & H Logging, Inc.  
20200 SW Stafford Road  
Tualatin, OR 97062  
Tel.: (503) 638-1011 Fax: 638-0754
- 1.2 Contact** Casey Stroupe
- 1.3 License Number** Metro Solid Waste Facility License Number YD-045-01
- 1.4 Term of License** This license is issued for a term of five (5) years unless modified, suspended, or revoked under the provisions of section 11.2 of this license. The term commences from the date this license is signed by Metro.
- 1.5 Facility name and mailing address** S & H Logging, Inc.  
20200 SW Stafford Road  
Tualatin, OR 97062
- 1.6 Operator** Casey Stroupe  
S & H Logging, Inc.  
20200 SW Stafford Road  
Tualatin, OR 97062  
Tel.: (503) 638-1011 Fax: 638-0754
- 1.7 Facility legal description** ¼ of section 29 & the NW ¼ of section 28, Tax lots 4500, 4100, and 4000, T 25, R 1E, W.M., Clackamas County, State of Oregon
- 1.8 Property owner** Duane and Loretta Stroupe

## 2.0 CONDITIONS AND DISCLAIMERS

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- 2.1 Guarantees** The granting of this license shall not vest any right or privilege in the licensee to receive specific quantities of solid wastes at the direction of Metro during the term of the license.



- 2.2 Non-exclusive license** The granting of this license shall not in any way limit Metro from granting other solid waste licenses within the District.
- 2.3 Property rights** The granting of this license does not convey any property rights in either real or personal property, nor does it authorize any injury to private property or invasion of property rights.
- 2.4 No recourse** The licensee shall have no recourse whatsoever against Metro, its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this license or because of the enforcement of the license or in the event the license or any part thereof is determined to be invalid.
- 2.5 Release of liability** Metro, its elected officials, employees, or agents do not sustain any liability on account of the granting of this license or on account of the construction, maintenance, or operation of the facility pursuant to this license.
- 2.6 Binding nature** The conditions of this license are binding on the licensee. The licensee is liable for all acts and omissions of the licensee's contractors and agents.
- 2.7 Waivers** To be effective, a waiver of any terms or conditions of this License must be in writing and signed by the Metro Executive Officer.
- 2.8 Effect of waiver** Waiver of a term or condition of this License shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- 2.9 Choice of law** The License shall be construed, applied and enforced in accordance with the laws of the State of Oregon.
- 2.10 Enforceability** If any provision of this License is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this License shall not be affected.
- 2.11 License not a waiver** Nothing in this license shall be construed as relieving any owner, operator, or licensee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
- 2.12 License not limiting** Nothing in this license is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to the solid waste facility that it is authorized or required to enforce or administer.



- 2.13 Definitions** Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01.

### **3.0 AUTHORIZATIONS**

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- 3.1 Purpose** This section of the license describes the wastes that the licensee is authorized to accept at the facility, and the waste-related activities the licensee is authorized to perform at the facility. This license is not intended to regulate non-waste-related activities such as the management of bark chips and other finished products.
- 3.2 General conditions on solid wastes** The licensee is authorized to accept at the facility only the solid wastes described in this section. The licensee is prohibited from knowingly receiving any solid waste not authorized in this section.
- 3.3 General conditions on activities** The licensee is authorized to perform at the facility only those waste-related activities that are described in this section.
- 3.4 Authorized materials** The licensee is authorized to accept for reloading, source-separated yard debris, landscape waste, and other green wastes as specifically authorized in writing by the Director of the Metro Regional Environmental Management Department. The licensee is also authorized to accept clean wood wastes (e.g. untreated lumber and wood pallets). No other wastes shall be accepted at the facility unless specifically authorized in writing by the Director of the Regional Environmental Management Department.

### **4.0 LIMITATIONS AND PROHIBITIONS**

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- 4.1 Purpose** This section of the license describes limitations and prohibitions on the wastes handled at the facility and waste-related activities performed at the facility.
- 4.2 Prohibited waste** The Licensee is prohibited from receiving, processing or disposing of any solid waste not authorized in this License. The licensee shall not knowingly accept or retain any material amounts of the following types of wastes: non-green feedstocks, special wastes as defined in chapter 5.02 of the Metro Code, materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for





disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; any waste prohibited by the DEQ; putrescible waste other than that allowed by section 3.4 of this license and any non-putrescible waste.

- 4.3 Composting prohibited** This licensee shall not keep yard debris on site long enough for more than negligible biological decomposition to begin.
- 4.4 No disposal of recyclable materials** Yard debris and organic materials accepted at the facility may not be disposed of by landfilling.
- 4.5 Limits not exclusive** Nothing in this section of the license shall be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this license document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

**5.0 OPERATING CONDITIONS**

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- 5.1 Purpose** This section of the license describes criteria and standards for the operation of the facility.
- 5.2 Qualified Operator** The licensee shall provide an operating staff qualified to carry out the functions required by this license and to otherwise ensure compliance with Metro Code Chapter 5.01.
- 5.3 Operating plan** The licensee shall establish and follow procedures for accepting, managing and processing loads of solid waste received at the facility. Such procedures must be in writing and in a location where facility personnel and Metro staff can readily reference them. The licensee may, from time to time, modify such procedures. The procedures shall include at least the following:
  - a. Methods of inspecting incoming loads for the presence of prohibited wastes.
  - b. Methods for managing and transporting for disposal at an authorized disposal site all prohibited waste discovered at the facility.
  - c. Objective criteria for accepting or rejecting loads.
  - d. Methods for measuring and keeping records of incoming waste
  - e. A general description of any processing the wastes will receive (e.g., chipping, shredding) and the maximum length of time required to move the material off-site.



- 5.4 Capacity** Processing capacities shall be sufficient to handle projected incoming volumes of materials. Facility design shall address capacity and storage issues, including:
- a. Capacity for incoming wastes waiting to be processed.
  - b. Capacity for proper handling, storage, and removal of hazardous or other non-permitted wastes delivered to or generated by the facility.
- 5.5 Fire prevention** The operator shall provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from the processing area.
- 5.6 Adequate vehicle accommodation** Vehicles containing landscape waste or yard debris feedstock/waste shall not park or queue on public streets or roads except under emergency conditions. Adequate off-street parking and queuing for vehicles shall be provided.
- 5.7 Managing authorized wastes** All authorized solid wastes received at the facility must be either (a) processed, (b) appropriately stored, or (c) properly disposed of, within a timeframe that avoids creating nuisance conditions or safety hazards.
- 5.8 Storage** Stored yard debris and wood wastes shall be suitably contained and removed at sufficient frequency to avoid creating nuisance conditions or safety hazards. Storage areas must be maintained in an orderly manner and kept free of litter.
- 5.9 Litter and airborne debris** The licensee shall operate the facility in a manner that is not conducive to the generation of litter and airborne debris. The licensee shall:
- a. Take reasonable steps to notify and remind persons delivering yard debris and wood wastes to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit.
  - b. Construct, maintain, and operate all vehicles and devices transferring or transporting yard debris and wood wastes from the facility to prevent leaking, spilling or blowing of such material on-site or while in transit.
  - c. Conduct grinding operations in such a manner as to prevent dust and debris from blowing off-site.



- d. Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris.

- 5.10 Odor**  
The licensee shall operate the facility in a manner that is not conducive to the generation of odors. The licensee shall establish and follow procedures for minimizing odor at the facility. Specific measures an operator shall take to control odor include but are not limited to adherence to the contents of a required odor minimization plan (see Section 6.0). Such procedures must be in writing and in a location where facility personnel and Metro inspectors can readily reference them. The licensee may modify such procedures from time to time.
- 5.11 Vectors**  
The licensee shall operate the facility in a manner that is not conducive to infestation of rodents, insects, or other animals capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.
- 5.12 Noise**  
The licensee shall operate the facility in a manner that controls the creation of excessive noise to the extent necessary to meet applicable regulatory standards and land-use regulations.
- 5.13 Water quality**  
The licensee shall operate and maintain the facility to prevent contact of solid wastes with stormwater runoff and precipitation. Methods must be consistent with the controlling agency (local jurisdiction and DEQ).
- 5.14 Public Access**  
Public access to the facility shall be controlled as necessary to prevent unauthorized entry and dumping.
- 5.15 Signage**  
The licensee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, legible, and shall contain at least the following information:
- a. Name of the facility
  - b. Address of the facility;
  - c. Emergency telephone number for the facility;
  - d. Operating hours during which the facility is open for the receipt of authorized waste;
  - e. Fees and charges;
  - f. Metro's name and telephone number (503) 797-1650; and
  - g. A list of authorized and prohibited wastes.
- 5.16 Complaints**  
The licensee shall respond to all written complaints of nuisances



(including, but not limited to, blowing debris, fugitive dust, odors, noise, and vectors). If licensee receives a complaint, licensee shall:

- a. Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); and
- b. Log all such complaints by name, date, time and nature of complaint. Each log entry shall be retained for one year and shall be available for inspection by Metro.

- 5.17 Access to license document** The licensee shall maintain a copy of this Metro Solid Waste Facility License on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.

## **6.0 ODOR MINIMIZATION PLAN**

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- 6.1 Purpose** This section describes the minimum requirements that must be contained in an odor minimization plan.

- 6.2 Plan requirements** The operator shall have an odor minimization plan. The plan must include methods to minimize, manage and monitor all odors, including odors produced by grass clippings. The plan must include:
- a. A management plan that describes the methods that will be used to minimize, manage, and monitor all odors of any derivation including malodorous loads received at the facility;
  - b. Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility;
  - c. Procedures for avoiding delay in processing and managing landscape waste and yard debris during all weather conditions.

## **7.0 RECORD KEEPING AND REPORTING**

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- 7.1 Purpose** This section of the license describes the record keeping and reporting requirements. The Licensee shall effectively monitor facility operation and maintain accurate records of the information described in this section.



- 7.2 Feedstocks received** The licensee shall keep and maintain accurate records of the amount of material received and the amount of outgoing material. Such information shall be reported to Metro on a quarterly basis. Each report shall be provided by the 15<sup>th</sup> of the month following the end of each quarter. The report shall be signed and certified as accurate by an authorized representative of licensee.
- 7.3 Unusual occurrences** The licensee shall keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.
- 7.4 Nuisance complaints** For every nuisance complaint (e.g. odor, noise, dust, vibrations, litter) received, the licensee shall record:
- a. The nature of the complaint;
  - b. The date the complaint was received;
  - c. The name, address, and telephone number of the person or persons making the complaint; and
  - d. Any actions taken by the operator in response to the complaint (whether successful or unsuccessful).
- Records of such information shall be made available to Metro and local governments upon request.
- 7.5 Regulatory information submittals** The licensee shall submit to Metro duplicate copies of regulatory information submitted to the DEQ and local jurisdictions pertaining to the facility, at the same time as submittal to DEQ and/or a local jurisdiction.

## **8.0 FEES AND RATE SETTING**

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- 8.1 Purpose** This section of the license specifies fees payable by the licensee, and describes rate regulation by Metro.
- 8.2 Annual fee** The licensee shall pay a \$300 annual license fee, as established in Metro Code. Metro reserves the right to change the license fee at any time by action of the Metro Council.
- 8.3 Fines** Each violation of a license condition shall be punishable by fines as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation. Metro reserves the right to change fines at any time by action of the Metro Council.



**8.4 Rates not regulated** The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro.

## **9.0 INSURANCE REQUIREMENTS**

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- 9.1 Purpose** The section describes the types of insurance that the licensee shall purchase and maintain at the licensee's expense, covering the licensee, its employees, and agents.
- 9.2 General liability** The licensee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.
- 9.3 Automobile** The licensee shall carry automobile bodily injury and property damage liability insurance.
- 9.4 Coverage** Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- 9.5 Additional insureds** Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS.
- 9.6 Worker's Compensation Insurance** The licensee, its subcontractors, if any, and all employers working under this license, are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Licensee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If licensee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
- 9.7 Notification** The licensee shall give at least 30 days prior written notice to the Director of the Metro Regional Environmental Management Department of any lapse or proposed cancellation of insurance coverage.



## **10.0 ENFORCEMENT**

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- 10.1 Generally** Enforcement of this license shall be as specified in Metro Code.
- 10.2 Authority vested in Metro** The power and right to regulate, in the public interest, the exercise of the privileges granted by this license shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against licensee.
- 10.3 No Enforcement Limitations** Nothing in this license shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this license be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this license or the licensee's operation of the facility.

## **11.0 MODIFICATIONS**

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- 11.1 Modification** At any time during the term of the license, either the Executive Officer or the licensee may propose amendments or modifications to this license.
- 11.2 Modification, suspension or revocation by Metro** The Director of the Metro Regional Environmental Management Department may, at any time before the expiration date, modify, suspend, or revoke this license in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:
- a. Violation of the terms or conditions of this license, Metro Code, or any applicable statute, rule, or standard;
  - b. Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this license;
  - c. Failure to disclose fully all relevant facts;
  - d. A significant release into the environment from the facility;
  - e. Significant change in the character of solid waste received or in the operation of the facility;
  - f. Any change in ownership or control, excluding transfers among subsidiaries of the licensee or licensee's parent corporation;



- g. A request from the local government stemming from impacts resulting from facility operations; or
- h. A significant history of non-compliance on the part of the licensee.

## **12.0 GENERAL OBLIGATIONS**

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- 12.1 Compliance with the law** Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this license as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the license document, as well as any existing at the time of the issuance of the license but not cited or attached, and permits or conditions issued or modified during the term of the license.
- 12.2 Indemnification** The licensee shall indemnify and hold Metro, its employees, agents and elected officials harmless from any and all claims, damages, actions, losses and expenses including attorney's fees, or liability related to or arising out of or in any way connected with the licensee's performance or failure to perform under this license, including patent infringement and any claims or disputes involving subcontractors.
- 12.3 Deliver waste to appropriate destinations** The licensee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code Chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits;
- 12.4 Right of inspection and audit** Authorized representatives of Metro may take soil and water samples and perform such inspection or audit as the Regional Environmental Management Director deems appropriate and shall be permitted access to the premises of the facility during normal working hours upon giving reasonable advance notice (not less than 24 hours). Subject to the confidentiality provisions of this license, Metro's right to inspect shall include the right to review, at an office of licensee located in the Portland metropolitan area, all information from which all required reports are derived including all books, records, maps, plans, income tax returns, financial statements, contracts, and other like materials of licensee that are directly related to the operation of the facility.





**12.5 Confidential information**

Licensee may identify any information submitted to or reviewed by Metro under this Section 12.0 as confidential. Licensee shall prominently mark any information which it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt, of any request for disclosure of information identified by licensee as confidential, Metro shall provide Licensee written notice of the request. Franchisee shall have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. Nothing in this Paragraph 12.5 shall limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith efforts not to disclose such information.

**12.6 Compliance by agents**

The licensee shall be responsible for ensuring that its agents and contractors operate in compliance with this license.

## **SOLID WASTE AND RECYCLING COMMITTEE REPORT**

CONSIDERATION OF RESOLUTION NO. 01-3111A, FOR THE PURPOSE OF ISSUING A SOLID WASTE FACILITY LICENSE TO S&H LOGGING, INC.

Date: November 9, 2001

Presented by: Councilor Atherton

**Committee Recommendation:** At its November 7 meeting, the Committee considered Resolution No. 01-3111 and voted unanimously to send the ordinance, as amended, to the Council for adoption. Voting in favor: Councilors McLain, Monroe and Chair Atherton.

**Background:** Metro Code Chapter 5.01.045(b) provides procedures and requirements under which Metro licenses yard debris processing and reload facilities. Metro has assumed this regulatory authority with the tacit approval of the region's local governments and through an intergovernmental agreement with the state Department of Environmental Quality (DEQ). The Metro Code provides that, if the Council fails to take action on a license application within 120 days, the license will be considered to have been granted. The 120-day review period for the S&H Logging license application addressed by this resolution will expire on November 28.

The facility site has a long and complex regulatory history including the DEQ and local land use decisions by Clackamas County. This history is outlined in the staff report.

**Committee Discussion:** the committee at its October 17 meeting initially considered the resolution. Casey Stroupe, owner of S&H Logging, presented his case for approving the license application. He explained that he currently sells a variety of landscaping products at the site. In addition, he receives and processes wood waste and yard debris into hog fuel through the use of grinding equipment. He is seeking a license to operate a yard debris reload facility. Because composting is not a permissible land use at the site, a Metro license for a reload facility would allow him to accept yard debris which would be transferred to another site where composting is permitted.

Roy Brower, Regional Environmental Management Department Regulatory Affairs Administrator, then presented the staff report. He noted that Metro does not accept or take action on license applications until the applicant has obtained all necessary state and local land use and regulatory permits. Land use authority to allow a reload facility to operate at the site was not obtained from Clackamas County until June 28, 2001. He noted that neighborhood complaints had been received concerning the hog fuel operation but that the Metro license would only apply to the reload element of operations at the site. He promised that the licensing requirement would be vigorously enforced, but expressed concern about Metro's ability to separate complaints involving the unregulated hog fuel operation and the reload operation.

Barbara Kemper, a neighbor of a another yard debris processing and composting site owned by Mr. Stroupe in Clackamas County (Clackamas Compost Products), testified in opposition to granting the license. She noted that there had been numerous complaints regarding this facility. She questioned whether the new site for which a license was sought would be operated in a manner that would not generate noise, odor and other types of complaints. She entered two additional letters into the record from neighbors of the Clackamas Compost site that also expressed opposition to the granting of a license. Chair Atherton introduced several additional letters opposing the license into the record.

Following the public hearing, Chair Atherton raised several issues concerning the proposed license. These included Metro's ability to regulate some aspects of the operation while not regulating others, the potential for the reload operation to generate odor and noise, the initial lack of an operating plan, and the management of leachate at the site. He indicated that he would like to have more time to review these issues and carried over further committee consideration of the proposed resolution to the next committee meeting.

At the November 7 meeting, REM staff presented several amendments to the proposed license that addressed the concerns raised by Councilor Atherton. Mr. Brower presented these amendments. The major proposed revisions included:

- requirement that the facility could not accept material that had already begun to compost and smell prior to its arrival at the facility
- approval of a facility operations plan prior to the issuance of the license
- strengthening language to require procedures for the "prevention" of odors, and "minimization" of noise
- requiring a separate odor management plan
- requiring that all material accepted for reloading be removed from the site within 24 hours

Mr. Stroupe testified that the proposed changes were acceptable to him.

Dave Kunz, representing DEQ, reviewed the agency's regulatory relationship with the S&H Logging site. He noted that they had assisted in the development of a leachate management system at the site. He also indicated that, while the site had generated complaints, that Mr. Stroupe had generally been responsive in addressing them.

Chair Atherton announced that he had requested that a ordinance be drafted that would extend Metro's regulatory authority to include hog fuel chipping and grinding operations located at sites that are otherwise regulated by Metro.

The committee unanimously approved the proposed amendments and recommended the revised resolution for Council adoption.

**EXECUTIVE SUMMARY  
RESOLUTION NO. 01-3111**

**FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO GRANT A  
METRO SOLID WASTE FACILITY LICENSE TO S & H LOGGING, INC.**

**PROPOSED ACTION**

- Approve a Solid Waste Facility License authorizing S & H Logging, Inc. to grind and reload yard debris for delivery to an authorized off-site composting facility.

**WHY NECESSARY**

- Approval of this license will enable S & H Logging, to continue to provide a place for residents in the area of Stafford Road to drop off yard debris. The owner/operator of this facility is also the owner/operator of Clackamas Compost Products and American Compost and Recycling. S & H Logging, Inc. also previously operated as a compost facility but ceased that activity following a denial of local land use authority by Clackamas County. S & H Logging intends to deliver its yard debris to its Clackamas facility for composting.
- S & H Logging, Inc. has submitted for Council consideration a Solid Waste Facility License application to do yard debris reloading only.

**DESCRIPTION**

- S & H Logging, Inc. occupies a 24-acre site located at the corner of SW Stafford Road near I-205 in Tualatin, Oregon (Metro District 2).

**ISSUES/CONCERNS**

- A number of residents in the vicinity of the facility have opposed the operation during County land use hearings due to noise, dust, and odors. A conditional use permit to reload yard debris at the facility was initially denied by the County. Though the denial was upheld by the County Hearings Officer on appeal, the decision was subsequently reversed by the County Commission which ruled that yard debris reloading is an outright permitted use RRF-5 zone.

**BUDGET/FINANCIAL IMPACTS**

- No budget impact to Metro.

## STAFF REPORT

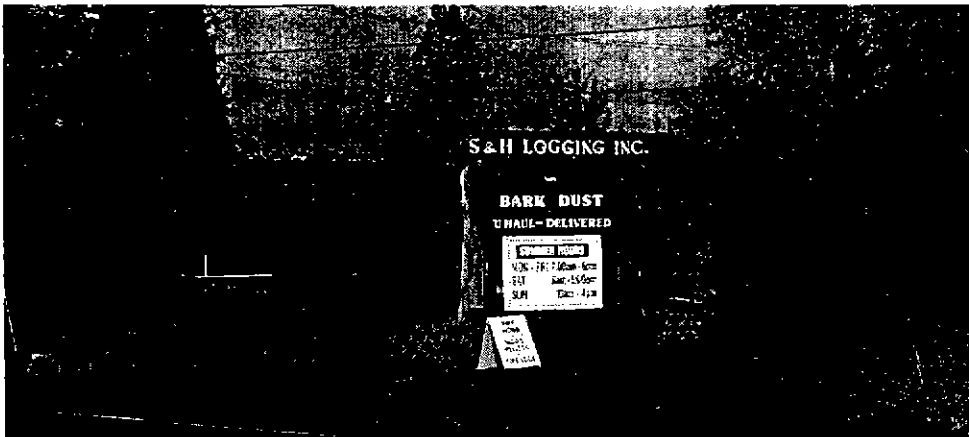
IN CONSIDERATION OF RESOLUTION NO. 01-3111 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO GRANT A METRO SOLID WASTE FACILITY LICENSE FOR YARD DEBRIS RELOADING TO S & H LOGGING, INC.

September 12, 2001

Presented by: Terry Petersen

## BRIEF DESCRIPTION OF RESOLUTION

Approval of Resolution No. 01-3111 will authorize the Executive Officer to issue a new Solid Waste Facility License for yard debris reloading to S & H Logging, Inc. (S&H) located at 20200 S.W. Stafford Road in Tualatin, Oregon (Metro District 2). Issuance of a license will authorize the facility to accept yard debris for the purpose of grinding and reloading it for delivery to an authorized composting facility. S&H will not be authorized to do composting or other processing on-site.



## EXISTING LAW

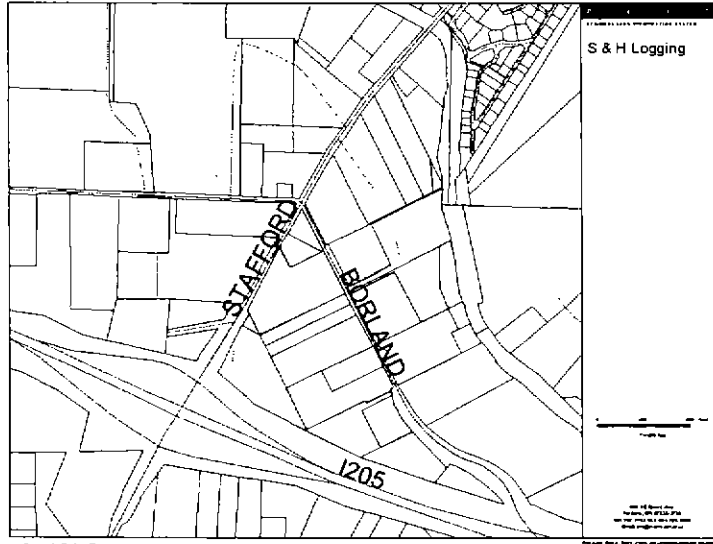
Metro Code Section 5.01.045(b) requires a Metro Solid Waste License for a person to own and operate a facility that processes or reloads yard debris. The Metro Council approves all Solid Waste Licenses [Metro Code 5.01.067(a)]. A decision to approve or deny is made following an investigation and recommendation by the Executive Officer [Metro Code 5.01.070(b)].

## BACKGROUND

### A. History of Local Land Use Approval

S&H Logging is a 24-acre facility located at the corner of SW Stafford Road and Borland Road near I-205 in Clackamas County. In 1983, the County conditionally approved S&H's request to operate a firewood yard. In the early 1990's, S&H began accepting yard debris from area homeowners. Over time, S&H began accepting increasingly more

yard debris until it became a full-scale yard debris composting facility. The facility also began selling landscaping supplies and operated a hogged fuel grinding operation.



In 1992, the County asked S&H to file a conditional use permit (CUP) application relating to the composting portion of its business. S&H filed such an application on December 1, 1992. The application was denied on August 2, 1993, on the grounds that composting was not an allowable conditional use within an RRFF-5 zone. There followed a series of appeals during which time S&H continued to operate under a series of temporary permits, granted by the County Hearings Officer on the basis of findings that S&H was diligently pursuing legal issues relevant to the conditional use process. The last of these temporary permit renewals expired in November of 1996. However, S&H continued its composting operations and the County stayed enforcement pending the outcome of changes to its zoning ordinance. In 1998, the County revised its ordinance to expressly include composting as a conditional use in the RRFF-5 zone. This opened the door for S&H to submit a new CUP application under the revised zoning ordinance.

S&H submitted another CUP application. A recommendation was issued by the County on May 3, 2000, in preparation for a scheduled May 10 hearing. The recommendation of the Clackamas County Department of Transportation and Development was for denial of the requested CUP. However, on May 4, S&H's legal counsel notified the County that S&H was withdrawing its CUP application because it did not believe that any further approvals from Clackamas County were necessary.

On May 8, 2000, the Department of Environmental Quality issued a Notice of Noncompliance (NON) to S&H for continuing to operate without a DEQ permit or a Solid Waste Facility License (a Metro license substitutes for a DEQ permit through an intergovernmental agreement between Metro and the DEQ). The NON warned that, "Continued operation in the absence of a valid permit may result in an enforcement action, including the imposition of civil penalties."

In a letter dated June 5, 2000, S&H's attorney notified the County and Metro that the facility had ceased composting and was operating as a yard debris reload only. The letter further outlined S&H's position that yard debris reloading was an outright permitted use under the existing zoning.

On August 25, 2000, the Clackamas County Planning Director issued a Notice of Decision denying S&H's interpretation of the County Zoning Ordinance to include yard debris reload activities as a primary use of the zone.

S&H appealed the decision to the County Hearings Officer. In a decision issued on December 6, 2000, the Hearings Officer upheld the decision of the County Planning Director.

S&H then appealed the decision to the County Board of Commissioners. On June 28, 2001, the Board of Commissioners issued an order (Order NO. 01-179) reversing the decisions of the Planning Director and Hearings Officer and interpreting the zoning ordinance as allowing yard debris reload activities in the RRFF-5 zone.

## **B. History of Metro Application**

S&H first submitted a Yard Debris Processing Facility License application to Metro on January 14, 1998. The application requested authority to operate a composting facility. Upon review by Metro staff, the application was found to be inadequately prepared. S&H re-submitted an application on March 24, 1998. The second application was adequately prepared but incomplete pending the acquisition of a conditional use permit (CUP) from Clackamas County. S&H had applied to the County for a CUP but, at the time S&H applied for a Metro license, its CUP application was still pending.

On June 16, 2000, Metro received a letter from S&H's attorney withdrawing S&H's application for a license authorizing it to operate as a composting facility. The letter stated that S&H would cease operating as a compost facility and requested a pre-application conference in preparation for the submission of a new application for authorization to operate as a yard debris reload. The pre-application meeting was held on August 9, 2000.

On June 19, 2001, S&H submitted a yard debris reload facility application form. The application fee was delivered on July 2. The application became complete when proof of land use was provided on August 1, 2001. The Council has 120 days to either grant or deny a license (November 28, 2001).

### Notice Provided to Interested Parties

S & H Logging is located near a residential area. Prior to its cessation of composting activities, Metro had received numerous complaints regarding odors. Neighbors, local governments, and other interested parties were provided notice of S&H's application for authority to operate a yard debris reload and given an opportunity to submit written comment. Responses were received from James and Olive Kuhl and Dr. Sarah Kuhl. The Kuhls provided copies of letters they had written to Clackamas County in opposition

to the granting of land use approval for S&H to operate a composting facility at the site. No comments were received regarding S&H's present plan to reload yard debris.

### **C. Compliance History**

On August 23, 2000, the Department of Environmental Quality issued a Notice of Noncompliance (NON) to S&H for allowing particulate matter from its hogged fuel grinding operations to drift off-site.

On October 4, 2000, Metro issued an order to S&H to cease yard debris reload activities until such time as it acquired the necessary local land use approval and a Metro license.

On June 13, 2001, in the course of a routine inspection of Clackamas Compost, a composting facility owned and operated by the applicant, a Metro facility inspector noted that yard debris was being tipped from a truck marked "Clackamas Compost Products." Further investigation revealed that the yard debris had originated at S&H Logging which had resumed reloading such material. On June 25, 2001, Metro issued S&H a Notice of Noncompliance for resuming yard debris reloading activities without the appropriate Metro license and in violation of the order issued on October 4, 2000.

The applicant operates two large Metro-licensed yard debris composting facilities; American Compost & Recycling, LLC, located at 9709 N. Columbia Blvd. in Portland and Clackamas Compost Products, LLC, located at 11620 SE Capps Rd. in Clackamas. Both facilities are well run and have a good compliance history under the applicant's management.

### **D. Metro Code Provisions Related to the Applicant's Request**

Code Section 5.01.045(b) specifies that:

#### 5.01.055 Pre-Application Conference

*(a) All prospective applicants for a Franchise or License shall participate in a pre-application conference with the Executive Officer. The purpose of such conference shall be to provide the prospective applicant with information regarding the applicable requirements for the proposed facility and to obtain from the prospective applicant a description of the location, site conditions and operations of the proposed facility.*

Staff held a pre-application conference with the applicant on August 9, 2000.

*(b) If a prospective applicant for a License or Franchise does not file an application for a License or Franchise within one year from the date of the pre-application conference, such applicant shall participate in a subsequent pre-application conference prior to filing any License or Franchise application.*

The applicant submitted the application presently under consideration by fax on June 19, 2001. This is within one year of the pre-application conference.



5.01.060 Applications for Certificates, Licenses or Franchises

*(a) Applications for a Certificate, Franchise or License or for renewal of an existing Certificate, Franchise or License shall be filed on forms or in the format provided by the Executive Officer.*

The application was filed on forms and in the format provided by the Executive Officer.

*(b) In addition to any information required on the forms or in the format provided by the Executive Officer, all applications shall include a description of the Activities proposed to be conducted and a description of Wastes sought to be accepted.*

The application contains a description of the activities proposed to be conducted and a description of wastes sought to be accepted. The proposed activities consist of shredding yard debris and reloading it for delivery to a composting facility.

*(c) In addition to the information required on the forms or in the format provided by the Executive Officer, applications for a License or Franchise shall include the following information to the Executive Officer:*

- (1) Proof that the applicant can obtain the types of insurance specified by the Executive Officer during the term of the Franchise or License;*

A certificate of insurance was provided with the application.

- (2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;*

At this time the DEQ is not requiring a permit for yard debris reload facilities. Metro licenses satisfy DEQ permitting requirements per an Intergovernmental Agreement (IGA) between Metro & DEQ.

- (3) A duplicate copy of any closure plan required to be submitted to DEQ, or if DEQ does not require a closure plan, a closure document describing closure protocol for the Solid Waste Facility at any point in its active life;*
- (4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents, proof of financial assurance for the costs of closure of the facility;*

DEQ does not regulate yard debris reload facilities. Because the facility will not accumulate any appreciable amount of waste material and because yard debris reloading comprises only a small part of the facility's activities, a closure protocol and an instrument of financial assurance were not required.

- (5) *Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the Licensee or Franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of section 5.01.180(e) of this chapter if the License or Franchise is revoked or any License or Franchise renewal is refused;*

The property that underlies the facility is owned by Duane and Loretta Stroupe who are principals in S & H Logging.

- (6) *Proof that the applicant has received proper land use approval; or, if land use approval has not been obtained, a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may include, but is not limited to a statement of compatibility of the site, the Solid Waste Disposal Facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the Statewide Planning Goals of the Land Conservation and Development Commission; and*

Proof of land use approval has been provided in the form of a copy of Order NO. 01-179 issued by the Clackamas County Board of Commissioners. The order interprets yard debris reloading as an allowable primary use within the RRF-5 zone where S&H is located.

- (7) *Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application, and any permit that has been granted shall be provided.*

No other required permits are known or anticipated by Metro staff.

#### 5.01.062 Application Fees

- (a) *Upon the filing of an application, every applicant for a Certificate, License or Franchise shall submit an application fee as provided in this section.*

The applicant has submitted the required application fee.

#### 5.01.150 User Fees

- (b) *User fees shall not apply to:*
  - (3) *Source-separated yard debris accepted at Licensed yard debris processing facilities or yard debris reload facilities;*

The proposed license authorizes the S&H to perform yard debris reload activities only. The facility will therefore be exempt from user fees and taxes under the existing Code.

### **BUDGET IMPACT**

The facility proposes to process as a composting feedstock yard debris that is presently processed for hogged fuel. Since this material is already being recovered and is exempt from Metro fees, there will be no budget impact.

### **OUTSTANDING QUESTIONS**

None

### **EXECUTIVE OFFICER'S RECOMMENDATION**

The Executive Officer recommends approval of Resolution No. 01-3111, granting a Solid Waste Facility License to S & H Logging, Inc. for the authorization of yard debris reload activities its facility subject to the terms and conditions incorporated into the license document attached as "Exhibit A" to Resolution No. 01-3111.

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