

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 08-1195
CODE CHAPTER 5.05 TO INCLUDE	)	
TUALATIN VALLEY WASTE RECOVERY ON	)	Introduced by Michael J. Jordan, Chief
THE LIST OF DESIGNATED FACILITIES	)	Operating Officer, with the concurrence of
	)	David Bragdon, Metro Council President

WHEREAS, Metro Code Section 5.05.030 authorizes the Metro Council to add and delete facilities from the list of designated facilities set forth in that Section; and

WHEREAS, Waste Management, Inc., has made application to Metro seeking designated facility status for Tualatin Valley Waste Recovery by requesting that Metro add Tualatin Valley Waste Recovery to the list of designated facilities set forth in Metro Code Section 5.05.030; and


WHEREAS, as set forth in the staff report accompanying this Ordinance, the Chief Operating Officer analyzed the criteria set forth in Metro Code section 5.05.030(b) that the Metro Council must consider when it determines whether to add a facility to the list of designated facilities in Section 5.05.030(a); and

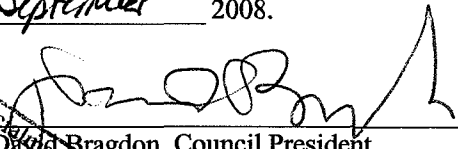
WHEREAS, the Chief Operating Officer recommends approval of this Ordinance; now therefore, THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

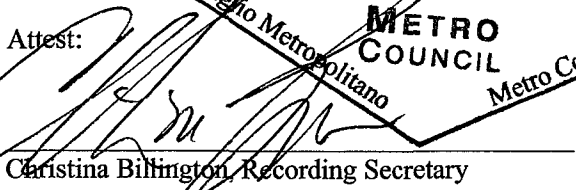
Metro Code Section 5.05.030(a) is amended to add the following provision as subsection 13:

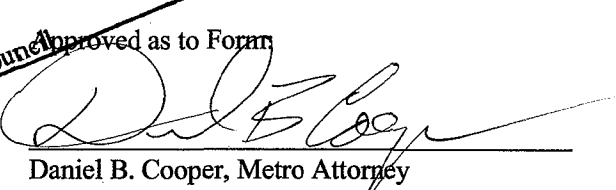
- (13) Tualatin Valley Waste Recovery. The Tualatin Valley Waste Recovery facility, 3205 SE Minter Bridge Road, Hillsboro, Oregon, subject to the terms of an agreement between Metro and the owner of the Tualatin Valley Waste Recovery facility authorizing receipt of solid waste generated within Metro only as follows:
  - (A) As specified in an agreement entered into between Metro and the owner of the Tualatin Valley Waste Recovery facility authorizing receipt of such waste; or
  - (B) Subject to a non-system license issued to a person transporting to the facility solid wastes not specified in the agreement.

ADOPTED by the Metro Council this 25<sup>th</sup> day of September 2008.

Officially Approved  Approvato Ufficiale

  
 David Bragdon, Council President

Attest:   
 Christina Billington, Recording Secretary

  
 Daniel B. Cooper, Metro Attorney

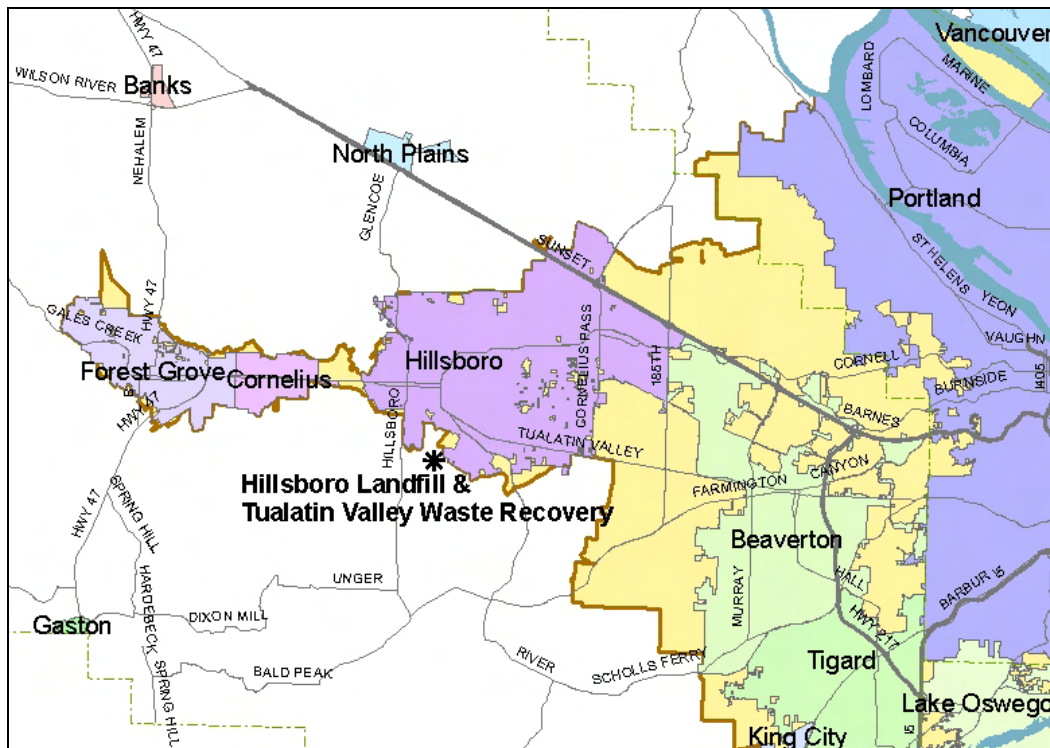
## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 08-1195, AMENDING METRO CODE CHAPTER 5.05 TO INCLUDE TUALATIN VALLEY WASTE RECOVERY ON THE LIST OF METRO DESIGNATED FACILITIES

August 20, 2008

Prepared by: Bill Metzler

The proposed Ordinance, if approved by Council, will list the Tualatin Valley Waste Recovery (“TVWR”) facility in Code as a designated facility authorized to receive non-putrescible waste generated from within the Metro boundary for the purpose of conducting material recovery. Upon listing, the Chief Operating Officer (COO) may then enter into a formal Designated Facility Agreement (“DFA”) with the facility on behalf of Metro. TVWR is located adjacent to the Hillsboro Landfill and is just outside the Metro boundary



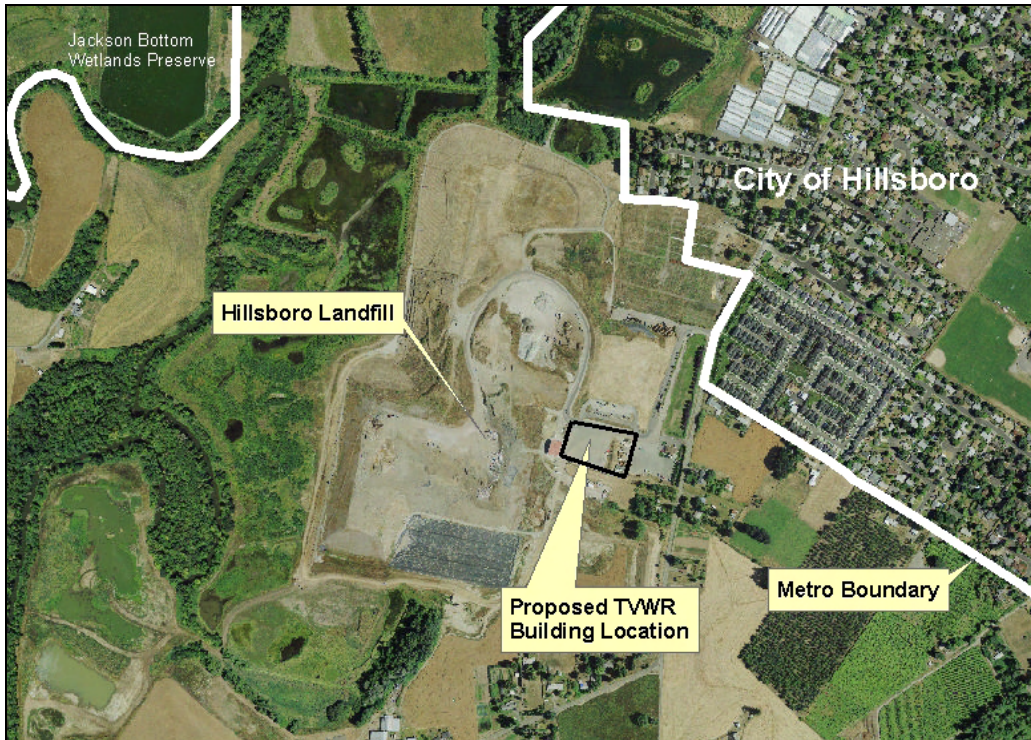
Site location map of Tualatin Valley Waste Recovery and Hillsboro Landfill

## BACKGROUND

Tualatin Valley Waste Recovery (“TVWR”) is a Waste Management, Inc. owned material recovery facility located at 3205 SE Minter Bridge Road, Hillsboro, Oregon and borders the Metro jurisdictional boundary. TVWR is located adjacent to the Hillsboro Landfill, also owned by Waste Management, Inc.

TVWR currently operates only as a source-separated recycling depot accepting primarily source-separated loads of glass, metal, yard debris, wood waste and concrete. In 2004 TVWR was

issued a DEQ solid waste permit as a material recovery facility (Permit No. 1280) authorized to accept only select mixed loads of “dry” (non-putrescible) wastes generated at commercial, industrial, construction and demolition sites, and from the public, source-separated recyclable materials, and limited amounts of tires. However, TVWR has not operated as a mixed non-putrescible waste material recovery facility. TVWR currently operates only as a source-separated recycling depot.



Proposed TVWR building site location, Hillsboro Landfill and Metro Boundary (airphoto)

### Proposed improvements at TVWR

According to information provided by Waste Management, Inc., TVWR is currently obtaining permits to undertake a substantial facility expansion with an estimated date of completion of April 22, 2009 (Earth Day). The proposed facility will be authorized by the DEQ to accept mixed non-putrescible waste and recyclables for the purpose of conducting material recovery. However, Waste Management, Inc. representatives have indicated to Metro that the proposed facility may not be finished until July 2009 or later pending issuance of local permits and availability of construction materials.

The proposed facility will include construction of a new, fully enclosed 65,000 square foot metal building with a translucent roof to lower energy consumption. In addition, the facility will collect rainwater from the roof to be stored for operational and fire suppression needs, and will be partially powered by solar cells. The proposed facility will be built following the guidelines from the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, and intends to be certified under the “Gold Standard” for LEED rating.



Waste Management, Inc. illustration of proposed TVWR facility

### Designated Facility Agreement to establish consistency with EDWRP

On August 16, 2007, in an effort to increase the recovery of solid waste, the Metro Council approved Ordinance No. 07-1147B adopting the Enhanced Dry Waste Recovery Program (EDWRP). The ordinance requires that by January 1, 2009 all mixed non-putrescible waste generated in the Metro region be delivered to a material recovery facility (“MRF”) for processing before disposal. In order to ensure compliance with EDWRP requirements, the residual from such processing must be delivered for disposal to landfills designated by Metro to only accept processing residual, which includes the Hillsboro Landfill. Upon entering into a DFA with Metro, NSLs will not be issued for non-putrescible waste deliveries to the TVWR facility.

In response to these changes, TVWR has requested designated facility status as a MRF so that it may accept and process non-putrescible waste generated from within the Metro region after December 31, 2008. The proposed ordinance, if approved by Council, will list TVWR in the Code as a designated facility authorized to accept non-putrescible waste for the purpose of conducting material recovery, along with other designated facilities already listed. If the Council lists TVWR as a designated facility, the COO will negotiate a DFA with Waste Management, Inc.

The DFA for the TVWR facility will include standard provisions included in other DFAs, and will also include provisions that ensure non-putrescible waste generated from the Metro region is managed in accordance with applicable EDWRP requirements established in Metro Code Section 5.05.030(g) for the operation of a material recovery facility as follows:

*(g) An agreement between Metro and a designated facility that, after December 31, 2008, authorizes the facility to accept non-putrescible waste that has not yet undergone material recovery, is not comprised of processing residual, and originated or was generated within Metro boundaries shall:*

- (1) Require such designated facility to perform material recovery on such waste; and*

- (2) *Demonstrate, in a manner that can be verified and audited, that such processing achieves material recovery substantially comparable to that required of in-region material recovery facilities by Metro Code subsections 5.01.125(a) and (b) by either:*
  - (A) *Meeting such material recovery requirements for all non-putrescible waste received at the facility, whether or not from within Metro boundaries; or*
  - (B) *Keeping all non-putrescible waste received from within Metro boundaries segregated from other waste throughout processing, keeping processing residual from such processing segregated from other solid waste after processing, and meeting such material recovery requirements for all such non-putrescible waste.*
- (3) *Demonstrate, in a manner that can be verified and audited, that such facility substantially complies with (A) the performance goals described in Metro Code Sections 5.01.067(i) (as amended by Section 1 of Metro Ordinance No. 07-1138) and 5.01.075(c) (as amended by Section 2 of Metro Ordinance No. 07-1138), and (B) the performance standards, design requirements, and operating requirements applicable to licensed and franchised material recovery facilities operating within the Metro region and adopted by Metro as administrative procedures pursuant to Metro Code Section 5.01.132 (as amended by Section 3 of Metro Ordinance No. 07-1138).*

#### Waste Management, Inc. to Seek a Variance

The Metro Code requirements in Chapter 5.05 implementing the EDWRP provisions go into effect on December 31, 2008. However, Waste Management, Inc. has indicated that the proposed TVWR facility will not likely be completed and fully operational until April 22, 2009 or perhaps even later in 2009 due to local permit timeframes and questionable availability of construction materials. Therefore, a DFA with Waste Management, Inc. cannot be developed that authorizes TVWR to accept non-putrescible waste from the Metro region until TVWR can either:

- 1) Meet the EDWRP requirements as specified in Metro Code Chapter 5.05, or
- 2) Obtain a variance from specific EDWRP Code provisions.

If Waste Management, Inc. pursues a variance request, then the Metro Council would decide whether or not to grant a variance, and a DFA would be developed by the COO to reflect the decision of the Council.

## TVWR and the Hillsboro Landfill

TVWR is located adjacent to the Hillsboro Landfill, also owned by Waste Management, Inc. The Hillsboro Landfill operates under a DEQ Solid Waste Disposal Site Permit (No. 112) and was listed in Metro Code Chapter 5.05 as a designated facility of the system in 1993. Correspondingly, Metro and the Hillsboro Landfill entered in to a DFA on April 20, 1993 (Metro Contract No. 902858), and the COO is currently negotiating a new DFA with Waste Management, Inc. in compliance with EDWRP requirements.

In accordance with EDWRP requirements established in Metro Code Section 5.05.030(c), Metro's existing DFA with the Hillsboro Landfill will be amended by December 31, 2008 to ensure that all non-putrescible waste undergoes material recovery prior to disposal. In particular, the Hillsboro Landfill DFA will stipulate that after December 31, 2008, the Hillsboro Landfill can only accept processed non-putrescible waste (processing residual from a MRF) from authorized facilities for disposal in the landfill.

If TVWR is approved by the Council as a designated facility, then TVWR, in accordance with the provisions of its Metro DFA, will be able to accept unprocessed non-putrescible waste from the Metro region, where dry waste will be recovered at TVWR prior to disposal of the residual at the Hillsboro Landfill. The practical effect will be that some 80,000 tons of unprocessed non-putrescible waste delivered to the Hillsboro Landfill (based on tons reported for 2007), coming from the Metro region, must be diverted to one or more MRFs for processing. As a result of the waste recovery at TVWR, Waste Management, Inc. has indicated that the life of the Hillsboro Landfill could be extended by an additional 25-30 years.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

Staff is not aware of any opposition to the proposed ordinance. Waste Management, Inc. held a public information meeting for neighbors to discuss the proposed new MRF on August 7, 2008 and received generally positive comments from the public that attended.

### **2. Legal Antecedents**

Metro Code Section 5.05.030(a) contains a list of designated facilities. Metro Code Section 5.05.030(b) states that, pursuant to a duly enacted ordinance, the Metro Council may add facilities to the list. In deciding whether to designate an additional facility, the Council shall consider several factors listed in the Code. Below are the factors that must be considered, with each factor followed by a brief analysis.

- (1) *The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination (Metro Code Section 5.05.030(b)(1));*

Metro staff have not found any evidence that TVWR has accepted wastes that were not permitted by the DEQ to accept, therefore the potential for future risk of environmental contamination at TVWR appears to be minimal. TVWR currently accepts source-separated loads of glass, metal, yard debris, wood waste and concrete, and operates under a DEQ solid waste permit. As a source separated material recovery facility accepting only limited types of non-putrescible and source-separated wastes, the facility has no known history of accepting wastes that pose a future risk of environmental contamination.

- (2) *The record of regulatory compliance of the facility's owner and operator with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations (Metro Code Section 5.05.030(b)(2));*

The DEQ considers the current source-separated recycling depot operation to be well run, and in compliance with federal and state requirements. The facility is also reported to have a good compliance record with local (Washington County) public health, safety and environmental rules and regulations. TVWR is permitted by the DEQ, however, the current permit will need to be modified for the new facility.

Waste Management, Inc. also owns and operates the adjacent Hillsboro Landfill, which has a DEQ permit and a Metro DFA for disposal of non-putrescible waste. Hillsboro Landfill also has a good record of regulatory compliance with Metro, Washington County and the DEQ. Other Waste Management, Inc. facilities that are franchised by Metro include the Troutdale Transfer Station (Metro Franchise No. F-001-03), and Forest Grove Transfer Station (Metro Franchise No. FR-004). Both transfer stations have good records of substantive regulatory compliance with Metro ordinances and generally cooperate with Metro in enforcement of such ordinances. Waste Management, Inc. also owns and operates the Columbia Ridge Landfill, which is permitted by the DEQ, and is a Metro designated facility for certain wastes generated in the Metro region. The Columbia Ridge Landfill is also Metro's waste disposal contractor. Both the Hillsboro Landfill and the Columbia Ridge Landfill have good records of regulatory compliance and cooperation with Metro and the DEQ. Additionally, Waste Management, Inc. owns and operates the Riverbend Landfill which is located in Yamhill County, outside the Metro region, and has a good record of regulatory compliance and cooperation with Metro, Yamhill County and the DEQ.

- (3) *The adequacy of operational practices and management controls at the facility (Metro Code Section 5.05.030(b)(3));*

TVWR plans to use operational practices and management controls that are typical of material recovery facilities and considered by the DEQ to be adequate for the protection of health, safety, and the environment. Metro will review and approve TVWR's operating plan prior to operational start-up. Moreover, the proposed improvements at the facility that include constructing a new fully enclosed 65,000 square foot LEED certified

building will result in significant operating improvements and management controls at the facility.

(4) *The expected impact on the region's recycling and waste reduction efforts (Metro Code Section 5.05.030(b)(4));*

Listing a new designated facility to conduct material recovery on unprocessed non-putrescible waste - that was previously landfilled - will result in additional processing capacity for the region and will have a positive impact on the region's recovery rate and waste reduction efforts.

Based on Hillsboro Landfill tonnage reports from 2007, staff estimates that the effect of approving TVWR as a designated facility will likely result in some 80,000 tons per year of unprocessed non-putrescible waste from the Metro region will be diverted from Hillsboro Landfill to TVWR for processing. If TVWR maintains a 25% recovery rate, then an additional 20,000 tons of material will be recovered from Metro area waste, which translates into adding about two-thirds (2/3) of an additional percentage point<sup>1</sup> toward the regional recovery goal of 64%. The Metro region is achieving a 55.5% recovery rate based on 2006 data from the DEQ.

However, in its application to be listed as a designated facility, Waste Management, Inc. has indicated that TVWR anticipates accepting 160,000 tons of non-putrescible waste from the Metro region annually, and plans to recover 48,000 tons from that waste, resulting in a 30% recovery rate. These higher recovery numbers could add 1.5 percentage points to the regional recovery rate.

(5) *The consistency of the designation with Metro's existing contractual arrangements (Metro Code Section 5.05.030(b)(5));*

Approval of the proposed DFA will not conflict with Metro's disposal contract or any other of its existing contractual arrangements. Waste Management, Inc. is Metro's disposal contractor for putrescible waste. The waste authorized under the proposed DFA for TVWR is non-putrescible and not subject to the contract provisions, and therefore delivery of non-putrescible Metro area waste to TVWR is consistent with the disposal agreement.

(6) *The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement (Metro Code Section 5.05.030(b)(6));*

As an out-of-region non-designated facility, TVWR has not previously been subject to Metro ordinances or agreements, as it is a proposed new facility. However, the Hillsboro Landfill, which is a Metro designated facility (Metro DFA Contract No. 902858), has been generally cooperative with Metro's Regulatory Affairs Division.

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<sup>1</sup> One additional percentage point would be the equivalent of an additional 22,000 tons of recovered material.



Waste Management, Inc. also owns and operates the adjacent Hillsboro Landfill, which has a DEQ permit and a Metro DFA for disposal of non-putrescible waste. Hillsboro Landfill also has a good record of regulatory compliance with Metro, Washington County and the DEQ. Other Waste Management, Inc. facilities that are franchised by Metro include the Troutdale Transfer Station (Metro Franchise No. F-001-03), and Forest Grove Transfer Station (Metro Franchise No. FR-004). Both transfer stations have good records of substantive regulatory compliance with Metro ordinances and generally cooperate with Metro in enforcement of Metro ordinances. Waste Management, Inc. also owns and operates the Columbia Ridge Landfill, which is permitted by the DEQ, and is a Metro designated facility for certain wastes generated in the Metro region. The Columbia Ridge Landfill is also Metro's waste disposal contractor. Both the Hillsboro Landfill and the Columbia Ridge Landfill have good records of regulatory compliance and cooperation with Metro and the DEQ. Additionally, Waste Management, Inc. owns and operates the Riverbend Landfill which is located in Yamhill County, outside the Metro region, and has a good record of regulatory compliance and cooperation with Metro, Yamhill County and the DEQ.

(7) *Other benefits or detriments accruing to residents of the region from Council action in designating a facility (Metro Code Section 5.05.030(b)(7));*

The potential benefits of listing TVWR as a designated facility are listed below under Anticipated Effects. Staff does not anticipate that any detriments will accrue to residents of the region as a result of the proposed listing.

### **3. Anticipated Effects**

- Collection of Metro regional system fees and excise tax on processing residual that is landfilled.
- Enhanced implementation of EDWRP provisions and more efficient administration through a DFA.
- Significant additional material recovery from wastes previously landfilled - estimated to be between 20,000 tons per year to 40,000 tons per year, depending on operating capacity.
- Extend the life of the Hillsboro Landfill by 25-30 years.
- A "Gold Standard" LEED certified MRF. According to information provided by Waste Management, Inc., the proposed TVWR facility is designed to be certified by the Leadership in Energy and Environmental Design (LEED) Green Building Rating System to the Gold Standard. The facility will be built with minimal amounts of waste, energy efficiency, water savings and several other criteria in order to achieve LEED certification.

#### **4. Budget impacts**

Adopting this Ordinance will help enable implementation of EDWRP, whose budget impacts have already been considered by the Metro Council in its adoption of Ordinance 07-1147B. Designation of TVWR is consistent with EDWRP and is not expected to alter the budget impact projection contained in the EDWRP Ordinance staff report.

TVWR will receive only unprocessed non-putrescible waste for the purpose of conducting material recovery on waste generated in the Metro region under the authority of the proposed DFA. This wastestream is unlikely to be diverted from Metro transfer stations or other MRFs since it has typically been delivered to the Hillsboro Landfill. The processing residual resulting from material recovery at TVWR will be delivered to a designated facility (the Hillsboro Landfill) where regional system fees and excise tax will be collected and remitted to Metro.

#### **RECOMMENDED ACTION**

The Chief Operating Officer recommends adoption of Ordinance No. 08-1195.

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