

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE ) RESOLUTION NO. 02-3211  
EXECUTIVE OFFICER TO GRANT A METRO )  
SOLID WASTE FACILITY LICENSE FOR YARD )  
DEBRIS RELOADING TO S&H LOGGING, INC., ) Introduced by Mike Burton,  
dba LANDSCAPE PRODUCTS & SUPPLY ) 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., dba, Landscape Products & Supply, has applied for a Solid Waste Facility License under the provisions of Metro Code Chapter 5.01 to operate such a facility; and,

WHEREAS, Landscape Products & Supply has received proper land use approval from the City of Hillsboro; and,

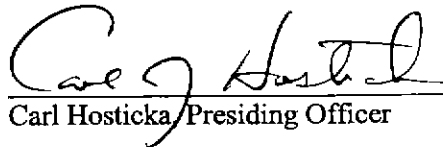
WHEREAS, the Landscape Products & Supply application is in conformance with the requirements of Chapter 5.01 of the Metro Code; and,

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

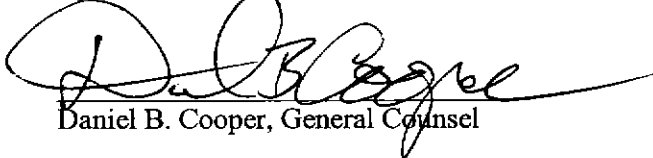
WHEREAS, this resolution was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

BE IT RESOLVED that the Metro Council authorizes the Executive Officer to grant a Solid Waste Facility License for yard debris reloading to Landscape Products & Supply that shall be substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this 25<sup>th</sup> day of July, 2002

  
Carl Hosticka, Presiding Officer

Approved as to Form:

  
Daniel B. Cooper, General Counsel



**METRO SOLID WASTE FACILITY LICENSE**  
**Number YD-103-02**

**Issued to Landscape Products & Supply  
To conduct yard debris reloading**

*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. dba Landscape Products &amp; Supply 20200 SW Stafford Road Tualatin, OR 97062 Tel.: (503) 638-1011 Fax: (503) 638-0754</p>	<p><b>FACILITY NAME AND LOCATION:</b></p> <p>Landscape Products &amp; Supply 1748 NE 25<sup>th</sup> Street Hillsboro, OR 97124 Tel.: (503) 638-1011 Fax: (503) 638-0754</p>
<p><b>OPERATOR:</b></p> <p>S &amp; H Logging 20200 SW Stafford Road Tualatin, OR 97062 Tel.: (503) 638-1011 Fax: (503) 638-0754</p>	<p><b>PROPERTY OWNER:</b></p> <p>Paul W. and Linda L. Moody 9811 NE 114<sup>th</sup> Circle Vancouver, WA 98662 Tel.: (360) 855-1490</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**

**Landscape Products & Supply**

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., dba Landscape Products & Supply  
20200 SW Stafford Road  
Tualatin, OR 97062  
Tel.: (503) 638-1011 Fax: (503) 638-0754
- 1.2 Contact** Casey Stroupe
- 1.3 License Number** Metro Solid Waste Facility License Number YD-103-02
- 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** Landscape Products & Supply  
1748 NE 25<sup>th</sup> Street  
Hillsboro, OR 97124  
Tel.: (503) 638-1011 Fax: (503) 638-0754
- 1.6 Operator** S & H Logging dba Landscape Products & Supply  
20200 SW Stafford Road  
Tualatin, OR 97062  
Tel.: (503) 638-1011 Fax: (503) 638-0754
- 1.7 Facility legal description** Claim No. 43 in SE ¼ Section 29, T1N, R 2W of the Willamette Meridian, City of Hillsboro, County of Washington, State of Oregon
- 1.8 Property owner** Paul W. and Linda L. Moody

## 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  $\frac{1}{4}$  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** This 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. Licensee 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. Licensee shall be responsible for any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. 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. 02-3211, 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. DBA LANDSCAPE PRODUCTS & SUPPLY.

Date: July, 24 2002

Presented by: Councilor Atherton

**Committee Action:** At its July 17 meeting, the Solid Waste and Recycling Committee voted 5-0 to recommend Council adoption of Resolution 02-3211. Voting in favor: Councilors Bragdon, McLain, Monroe, Park and Atherton.

**Background:** Resolution 02-3211 authorizes the Executive Officer to issue a new Solid Waste Facility License for yard debris reloading to Landscape Products & Supply, located in Hillsboro. The license will authorize the facility to accept yard debris for the purpose of grinding and reloading it for delivery to an authorized composting facility. Landscape Products & Supply will not be authorized to do composting or other processing on-site.

**Committee Issues/Discussion:** Roy Brower, Regulatory Affairs Administrator for the REM department, made the staff presentation. He stated that everything is in order on this application, and staff recommends approval. The committee clarified the type of license being sought and the location of the facility.

- Existing Law: Metro Code 501.045, et seq.
- Budget Impact: There is no budget impact.



## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 02-3211 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., dba LANDSCAPE PRODUCTS & SUPPLY

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July 1, 2002

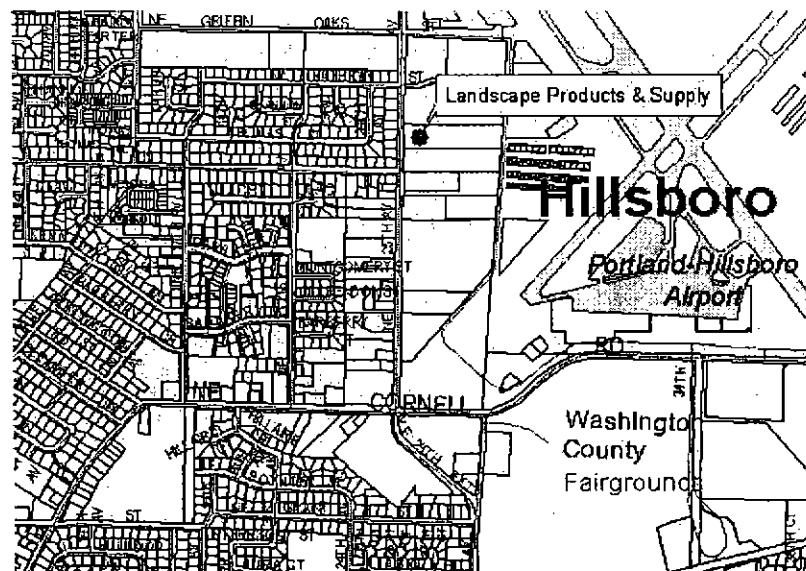
Presented by: Terry Petersen

## BACKGROUND

The purpose of this report is to provide the information necessary for the Metro Council to act on the recommendation that Landscape Products & Supply be awarded a license to operate a yard debris reload facility located in Hillsboro, Oregon (Metro District 4).

### History of Local Land Use Approval

Landscape Products & Supply is a 6-acre facility located at 1748 NE 25<sup>th</sup> Street in Hillsboro, in Washington County. The site is zoned MP-Industrial Park Zone and the business complies with all applicable local land use requirements.



### History of Metro Application

On May 22, 2002 Metro was notified that a new yard debris reload facility might be operating in Hillsboro without a Metro license. On May 29, 2002, a Metro inspector visited the facility to determine if the information was accurate. After meeting with the site operator, it was determined that Landscape Products & Supply, in addition to selling retail landscape products, was in fact conducting yard debris reloading. Further, it was determined that Landscape Products & Supply is owned and operated by S&H Logging, Inc., (S&H) a Metro licensed yard debris reload facility located in Tualatin in Clackamas County (Metro district 2).

Metro sent S&H Logging, Inc., DBA Landscape Products & Supply, a letter reminding the applicant that a Metro license is required to operate a yard debris reload and that they should discontinue accepting yard debris at the Hillsboro site until they applied for and received a Metro license to conduct yard debris reloading.

On June 27, 2002, Landscape Products & Supply submitted a yard debris reload facility application form. The application fee was delivered at the same time. The application was determined to be complete on July 1, 2002. The Council has 120 days to either grant or deny a license (November 30, 2002).

### **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 tipped at Clackamas Compost had been reloaded at S&H Logging. 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 also 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.

### **ANALYSIS/INFORMATION**

#### **1. Known Opposition**

There is no known opposition.

#### **2. Legal Antecedents**

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)].

Metro Code Section 5.01.055 requires license applicants to participate in a pre-application conference and to file an application within one year from the date of that conference. Metro staff held a pre-application conference call with the applicant on June 27, 2002, and the applicant submitted the application by mail on the same day, along with an application fee as required by Metro Code Section 5.01.062.

Metro Code Section 5.01.060 provides:

(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 reloading yard debris for delivery to a Metro licensed 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 Paul W. and Linda L. Moody. A signed consent by the property owners has been received by Metro.

- (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 Metro Land Use Compatibility Statement (LUCS) signed by the City of Hillsboro Planning Director. The LUCS states that the business complies with all applicable local land use requirements.

- (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.

### 3. Anticipated Effects

Approval of Resolution No. 02-3211 will authorize the Executive Officer to issue a new Solid Waste Facility License for yard debris reloading to Landscape Products & Supply located at 1748 NE 25<sup>th</sup> Street in Hillsboro, Oregon (Metro District 4). 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. Landscape Products & Supply will not be authorized to do composting or other processing on-site.



#### **4. Budget Impacts**

The facility will reload yard debris. Since this material is exempt from Metro fees under Metro Code Section 5.01.150(b)(3) (which provides that “user fees shall not apply to source-separated yard debris accepted at Licensed . . . yard debris reload facilities”), there will be no budget impact.

#### **RECOMMENDED ACTION**

The Executive Officer recommends approval of Resolution No. 02-3211, granting a Solid Waste Facility License to Landscape & Supply for the authorization of yard debris reload activities. The facility is subject to the terms and conditions incorporated into the license document attached as “Exhibit A” to Resolution No. 02-3211.

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