



METRO

Agenda

MEETING: METRO COUNCIL
DATE: November 20, 2008
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. MEN AND WOMEN OF FIRE

Brennan-Hunter

4. BLUE RIBBON COMMITTEE FINAL REPORT

Burkholder/Yaden

5. QUARTERLY MANAGEMENT REPORT TO COUNCIL

Jordan

6. CONSENT AGENDA

6.1 Consideration of Minutes for the November 13, 2008 Metro Council Regular Meeting.

6.2 **Resolution No. 08-3996**, For the Purpose of Confirming the Council President's Appointments to the Transportation Policy Advisory Committee (TPAC) For 2009–2010.

7. ORDINANCES - SECOND READING

7.1 **Ordinance No. 08-1202**, Amending the FY 2008-09 Budget and Appropriations Schedule By Transferring Appropriations From Contingency For the Sustainable Metro Initiative, Adding 1.0 FTE Project Manager, Amending The FY 2008-09 Through FY 2012-13 Capital Budget and Declaring an Emergency. Park

7.2 **Ordinance No. 08-1197**, For the Purpose of Amending Metro Code Chapter 5.05 to Include Riverbend Landfill on the List of Designated Facilities. Harrington

8. CHIEF OPERATING OFFICER COMMUNICATION

9. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for November 20, 2008 Metro Council meeting

<p>Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 – Community Access Network www.tvctv.org – (503) 629-8534 2 p.m. Thursday, November 20 (Live)</p>	<p>Portland Channel 30 (CityNet 30) – Portland Community Media www.pcmtv.org – (503) 288-1515 8:30 p.m. Sunday, November 23 2 p.m. Monday, November 24</p>
<p>Gresham Channel 30 – MCTV www.mctv.org – (503) 491-7636 2 p.m. Monday, November 24</p>	<p>Washington County Channel 30 – TVC-TV www.tvctv.org – (503) 629-8534 11 p.m. Saturday, November 22 11 p.m. Sunday, November 23 6 a.m. Tuesday, November 25 4 p.m. Wednesday, November 26</p>
<p>Oregon City, Gladstone Channel 28 – Willamette Falls Television www.wftvaccess.com – (503) 650-0275 Call or visit website for program times.</p>	<p>West Linn Channel 30 – Willamette Falls Television www.wftvaccess.com – (503) 650-0275 Call or visit website for program times.</p>

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 797-1542. Public hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website www.oregonmetro.gov and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Agenda Item Number 4.0

BLUE RIBBON COMMITTEE FINAL REPORT

Metro Council Meeting
Thursday, November 20, 2008
Metro Council Chamber



The case for an integrated mobility strategy

WALKING AND BIKING OFFER AN IMMEDIATE OPPORTUNITY TO TACKLE KEY CHALLENGES.

Congestion, climate change, burdensome fuel costs, lack of funding to even maintain roads, concern about making sure our transportation investments build, rather than destroy, communities—these challenges make it plain to each of us in our daily lives that the times are changing.

The good news is that we can take one relatively small step that will attack every one of these problems. It won't work overnight and it won't solve everything, but it will set us on a path towards a transportation network that is truly earth and community friendly. It is a policy that brings smiles to commuters, kids and communities (as well as taxpayers!)

Our region already has a good start, with Portland the most “bike friendly” city in America. But with smart investments in a network of routes and trails for biking and walking, in ten years we can more than double the number of people who choose to walk or bike. People like us in cities around the world with climates and hills as challenging as ours have done it. Their air and water are cleaner, their communities are stronger, and they are more active and healthy as a result.

It is time. It will work.

“We must recognize that we are on the cusp of a new wave of transportation policy. The infrastructure challenge of President Eisenhower’s 1950s was to build out our nation and connect within. For Senator Moynihan and his colleagues in the 1980s and 1990s it was to modernize the program and better connect roads, transit, rail, air, and other modes. Today, the challenge is to take transportation out of its box in order to ensure the health, vitality, and sustainability of our metropolitan areas.”

– Robert Puentes, *Brookings Institution, A Bridge to Somewhere: Rethinking American Transportation for the 21st Century*

Why encourage bike and pedestrian travel now?

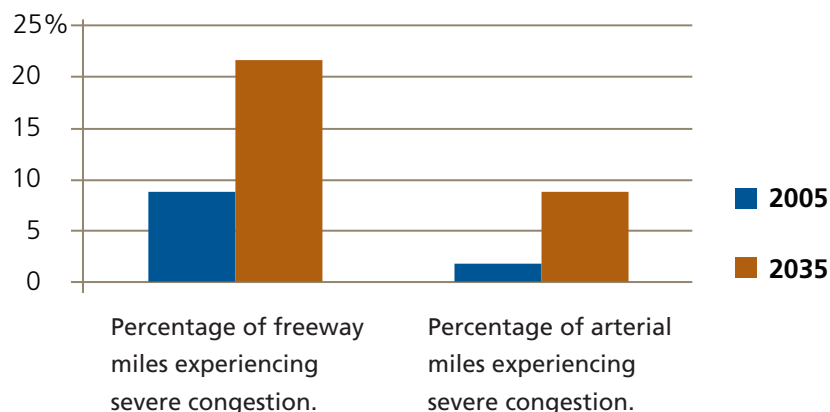
INVESTMENT PRODUCES ENVIRONMENTAL, LIVABILITY AND FINANCIAL RETURNS

Non-motorized travel reduces congestion

Thirty years from now, one million more people are expected to call the Portland region home. During this time, car traffic is expected to grow by nearly half, while truck traffic will more than double. The percentage of roadways experiencing severe congestion is expected to quintuple from 2% today to 10% by 2035. Increasing congestion has real economic costs. Dedicated facilities for pedestrians and cyclists frees roadways for other users.

Projected congestion growth in Portland region

Source: www.gasbuddy.com



Bicycling and walking reduce congestion by replacing cars on short trips, increasing use of public transportation and by stimulating compact, mixed use development.

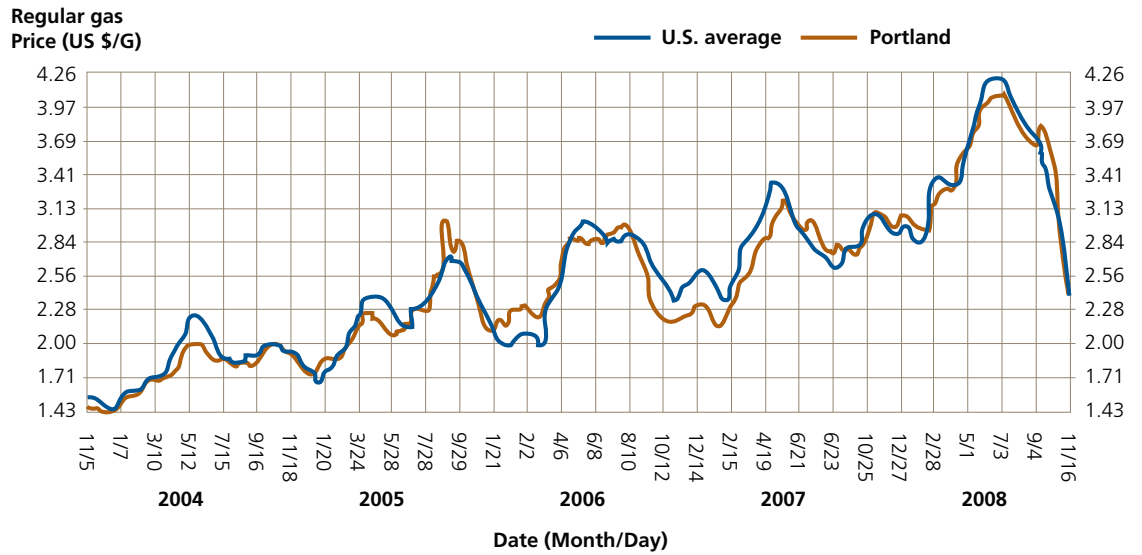
Non-motorized travel is inexpensive

Transportation is second to housing as a proportion of household budgets and fuel costs have risen from 3% of household expenditures in 2002 to 8.5% as of June 2008, putting an increasing strain on resident's budgets. Bicycle and pedestrian infrastructure saves public dollars as well. A lane of roadway will accommodate five to ten times more pedestrian and bicycle traffic than driving and the cost of bicycling and pedestrian infrastructure is just a small fraction of that of building highways. Trails and paths can also be efficient connections to transit, reducing the need for expensive and land-gobbling park-and-ride stations.

Those households that rely on walking and cycling as their primary means of travel save an average of \$694 per month.
– www.gasbuddy.com

60 Month average U.S. and Oregon gas prices

Source: www.gasbuddy.com



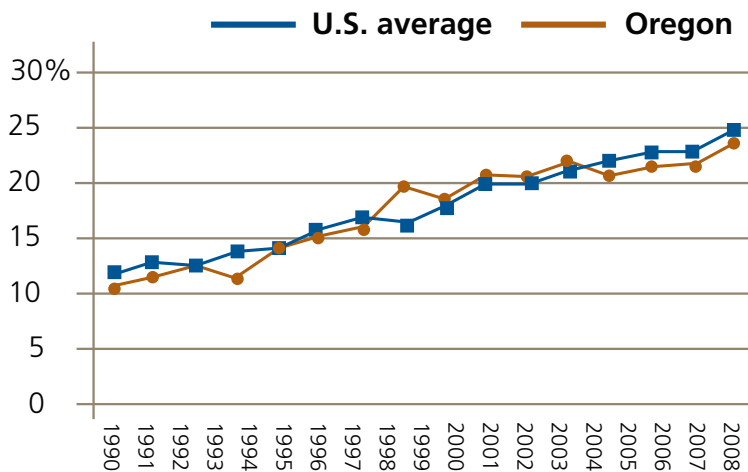
Those households living near a greenway are more likely to meet CDC health guidelines – CDC, Rails To Trails Conservancy

Non-motorized travel improves health and reduces health care costs

Americans' lack of physical activity is leading to an increase in a variety of health conditions including hypertension, cancer, heart disease, diabetes, and obesity, which will soon eclipse tobacco as the number one preventable cause of death in the United States. Studies have shown that people living in communities with walking and cycling facilities walk and cycle more. Bicycling and walking offer a way to integrate physical activity into busy schedules, and have been demonstrated to improve these conditions as well as to contribute to emotional well-being.

Percentage of adults who obese, Oregon and U.S. 1990-2008

Source: Oregon Department of Human Services

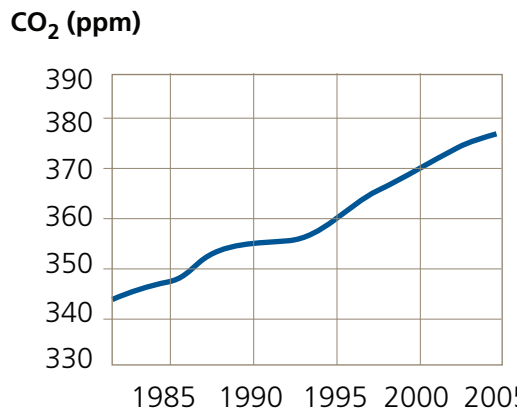


Non-motorized travel reduces greenhouse gas emissions

Greenhouse gas emissions are causing climate change, which leads to environmental and economic disruption and threatens our health and well being. The transportation sector is responsible for 38% of greenhouse gas emissions. Any strategy to address climate change requires reducing energy consumption in this sector. Bicycle and pedestrian transportation must be a key element in our region's strategy to increase the share of total trips made by bicycle and by foot. The Rails To Trails Conservancy estimates that bicycling and pedestrian travel can offset between 3 percent and 8 percent of greenhouse gas emissions of US cars and trucks.

Globally averaged CO₂ 1985 - 2005

Source: World Meteorological Organization



Every 1% increase in miles traveled by bicycle or on foot instead of by car reduces our region's greenhouse gas emissions by 0.4%

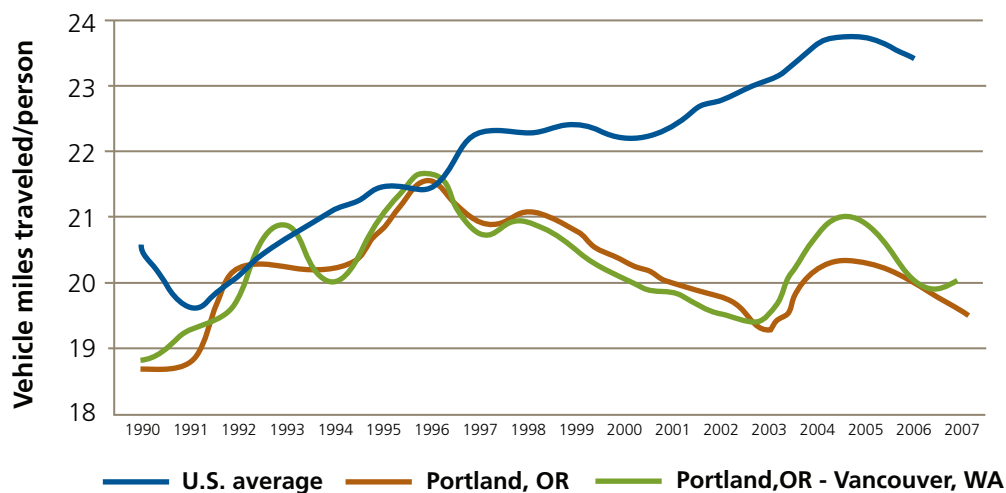


Non-motorized travel fosters dynamic, mixed-use communities

Non-motorized travel encourages a diverse mix of housing, shopping, restaurants, workplaces and recreation in convenient proximity. Residents that walk or ride tend to patronize small businesses, buying in smaller quantities but making more frequent purchases than motorists. This pattern of commerce supports small, community-based businesses and leads to a dynamic community environment. Motorists in such communities also benefit from shorter distances between services, which leads to fewer vehicle miles traveled per person.

Vehicle miles traveled per person 1990 - 2007

Source: FHWA, ODOT, WDOT



Motor vehicle miles traveled per person are increasing nationally. The Portland region has shown it is possible to counter this trend through compact growth and by providing transportation options.

The special case for greenways

GREENWAYS PROVIDE PREMIER ROUTES AND DISTINGUISH THE REGION

Some greenways connect population centers with a non-motorized, natural corridor that provides an unrivaled commute experience. Other Greenways connect the best natural gems our region has to offer and draw both residents and visitors for long recreational excursions. In either case, Greenways play a special role in the region's mobility strategy.

- Greenways are like parks. They are places for families and friends to be together and places to find solitude and connect with nature. But unlike parks, they facilitate travel through the urban area, from neighborhood to neighborhood, or from park to school, or from home to work.
- Greenways are like roads. They give us a way to get where we need to go. But unlike roads, they are built for nonmotorized travel and so they are safer, less stressful and truly enjoyable. They are places where you can experience the wind in your hair or the sun on your shoulders as you travel.
- Greenways are like public squares. They are places for community to gather and can be good locations for shops, restaurants, museums, benches, fountains or works of art. But unlike public squares they extend in either direction as gateways to additional urban and natural experiences.
- Greenways are like a local gym, except that the scenery is better and you can exercise while you get to work rather than before or after.

Greenways may pass through a park, natural area or stream corridor. The land may be newly developed, but usually it is redeveloped, having been formerly occupied by a railroad, highway, or other transportation route. Many greenways in urban centers or developed areas are linear parks. Greenways are the premier travel corridor for walking and riding because they are safe and fast, and because they offer a natural experience that is removed from the noise and frenzy of the urban environment.

Greenways are a significant element of Connecting Green, a broad-based movement in the Portland region to create a system of parks, trails and natural areas that is second to none.



Why the Portland region?

PORTLAND IS UNIQUELY QUALIFIED TO UNDERTAKE THIS STRATEGY

Residents are choosing non-motorized transportation with increased frequency

An active, outdoor-oriented culture, sustainability consciousness, and strong civic and elected leadership position the Portland Region to lead the nation in implementing a nonmotorized transportation strategy. In the city, bicycling to work increased 146% between 2000 and 2006 despite accounting for only 0.7% of the Portland Office of Transportation's capital budget. Travel by bike and foot now makes up as much as 9% of total commute trips in the city, and just under 5% in the metropolitan region as a whole. In 2008, Portland became the first major city to be designated by the League of American Bicyclists as a platinum level bicycle friendly community. The City of Beaverton has been awarded Bronze status. The region's strong transit system is a key asset that positions the Portland region to lead a bicycle and pedestrian strategy.

Finally, Metro, local governments and nonprofit groups have proposed an exemplary network of greenways that span the region and provide opportunities for connection with the region's rich natural heritage. These routes are in varying stages of development, with many in the advanced stages of planning and ready to proceed.



Solution requires a more integrated approach to mobility

A FOUR PRONGED STRATEGY IS NEEDED

Our nation's overwhelming emphasis on one mode of travel has created stark inefficiencies and negative side effects. A regionwide network of on-street and off-street bikeways and walkways integrated with transit and supported by educational programs would make travel by foot and bike safe, fast and enjoyable. Such a system would take walking and cycling well beyond the exclusive domain of avid cyclists and the courageous to become a practical and preferred option for average residents. This is well within reach if we achieve four things:

1 Organize leadership

The strategy requires public and private leadership with interagency staff support.

Form a Caucus of Elected Leaders. Caucus members will make a commitment to champion the strategy. Members of the caucus agree to support the strategy's themes and direction. There will also be opportunities to help support specific proposals at the local, regional, state and federal levels.

Establish a Leadership Council. The council will be made up of civic and business leaders that make a commitment to support the caucus of elected leaders and serve as third party validators when the caucus is presenting proposals, making presentations, or involved in campaigns for elements of the strategy.

Create an Interagency Staff Team. Staff from interested cities, counties, state agencies and Metro will form an interagency team to support the work of the Caucus of Elected Leaders and the Leadership Council.

Model Cross-Discipline Integration at Metro. Cycling and walking, and particularly off-street trails, have in the past been treated as minor transportation facilities, with a divide between park and transportation planning. This schism reduces the functionality of the region's transportation system, limits options and increases costs. The aesthetic, recreation, health and ecological objectives associated with cycling and walking, which have been the traditional responsibility of parks bureaus and associated policy-making bodies, need to be acknowledged and fully integrated with transportation and mobility objectives, which are the purview of transportation departments. Metro should model the organizational changes that are necessary to integrate bicycle and pedestrian facilities planning with planning for other modes and encourage this integration within other jurisdictions in the region.

2 Demonstrate potential

There is excellent work going on across the region building trails, transit and bicycle/pedestrian facilities. Plans are in place, they are coordinated through the Regional Transportation Plan (RTP) and, as a region, our accomplishments are nationally significant. However, institutional traditions marginalize the planning, funding and development of trails and other bicycling and pedestrian infrastructure, resulting in weak coordination or even competition among these facilities.

The strategy's leadership must establish recognition among elected officials and influential organizations and committees that walking and cycling are serious transportation options. Such recognition stems from a realistic understanding of the return on investment such a system could have for our communities, our economy, and the environment. Nothing substitutes for results. Strategy leadership will showcase existing results as well as champion demonstration projects that take bike and pedestrian travel to new levels. Three pilot projects are envisioned:

Urban. Complete a well-designed and well-connected nonmotorized transportation project within a single urban "commute shed." Partner with area businesses to provide education and encourage use. For example, develop a trail that connects a regional center with the central city and provide associated on-street feeder routes and transit connections to substantially increase bicycle and pedestrian commuting within a targeted area.

Suburban. Partner with TriMet and area businesses to create an integrated bicycle/transit strategy for a geographically-defined area in the suburbs. For example, develop on and off-street bicycle and walking paths that feed a transit node. Provide safe, dry bicycle parking at the transit node. Make an agreement with area businesses to encourage their employees to use the facilities. A partnership with transit is critical in the suburbs, because distances between population and employment centers can be too long for bicycle travel (greater than 30 minutes by bike), but can be well served by transit.

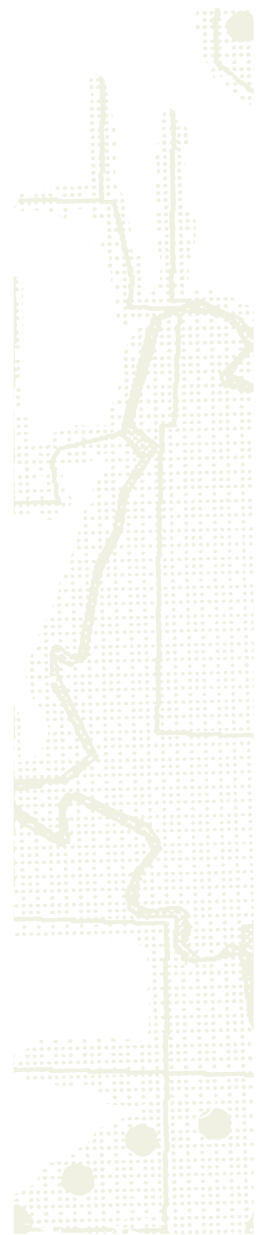
Greenway. Identify a demonstration project that would link together key natural attractions to create a unique urban/natural experience. This would be a greenway of exceptional quality that can serve as a day or multi-day excursion for residents and visitors.

Actions required are as follows:

Select Demonstration Areas. A committee will be formed to select three demonstration areas: an urban, a suburban and a recreational greenway. The areas will be based on the extensive data and research that has been compiled through the Blue Ribbon Committee for Trails process, and will draw from existing transportation plans. The committee will meet three times to complete the selection by early 2009.

Secure Federal and State Funds. The Caucus of Elected Officials and Leadership Council will advocate for funding for the demonstration areas in upcoming legislative sessions at the state and federal levels.

Build Demonstration Projects. The goal is to begin moving demonstration areas forward in 2009.





3 Reduce costs

Federal and state standards set up for road construction complicate the construction of off-street bicycling and walking trails and add an estimated 30% to their cost. The barriers generally relate to procedures in place to support highway construction that don't adapt well for trails, such as cumbersome acquisition requirements that give the impression that a condemnation is about to take place; time consuming change order reviews because standards for roads aren't appropriate for trails; redundancy of effort to fulfill local, state and federal requirements; and excessively time consuming paperwork for intergovernmental agreements, accounting and project closeout.

A key element of the strategy is to bring these costs into line. Federal funding is administered through ODOT. Eliminating these barriers will involve working with ODOT staff, the Oregon Transportation Commission, state legislature and federal congressional staff.

Convene an "Oregon Solutions" style Cost Reduction Project. Strategy leadership would convene agencies involved in trail construction to identify opportunities to streamline, fastrack and reduce costs and implement solutions.

4 Develop system

Strategy leadership will work towards a regional mobility strategy that fully integrates walking and cycling into the region's transportation plans. The Regional Transportation Plan (RTP) is now being updated and so the timing for such an integration is excellent.

Refine Guiding Principles. A work group will refine the guiding principles that will guide the development of the region's bicycle and pedestrian system. A preliminary list, developed during the work of the Blue Ribbon Committee for Trails, is provided in a later section of this document.

Develop Mobility Strategy and Integrate with Regional Transportation Plan. Inclusion in the Regional Transportation Plan qualifies projects for federal funding.

Create Safe Crossings. Work with the Oregon Department of Transportation to create a "safe crossings" initiative that addresses bicycle and pedestrian crossings. Areas where trails cross arterials or highways are particularly challenging. Crossings are in the right-of-way and so are eligible for gas tax investments and are key to protecting the safety of those who travel by bike and by foot.

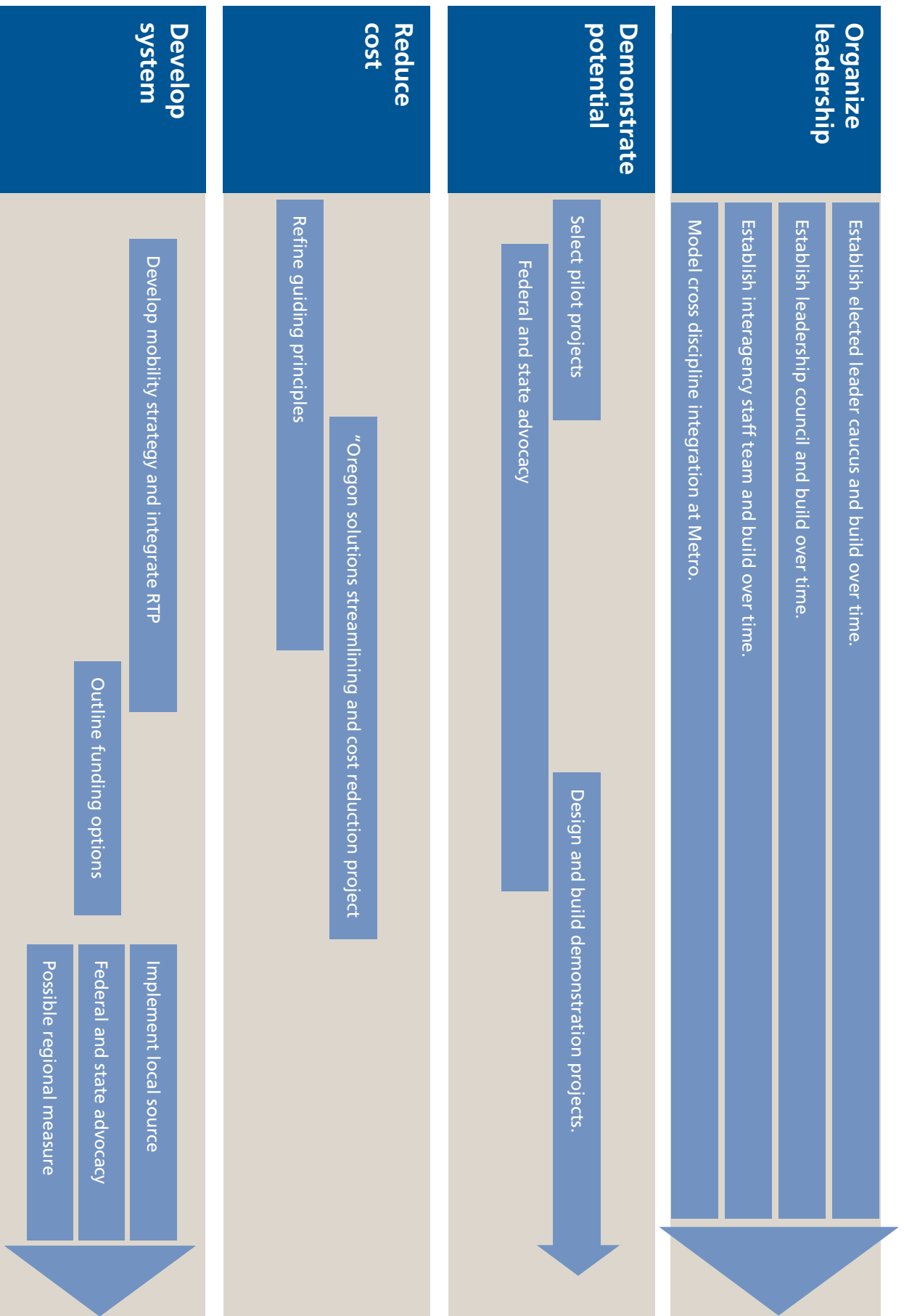
Design Funding Package. A staff team will outline a broad strategy for funding the mobility strategy identifying a target amount to be raised at the local, regional, state and federal levels and suggesting sources and a time frame for these amounts.

Implement Local Source. It is likely that the funding package will require a local match from system users. This source will need to be identified and implemented.

Secure State and Federal Funds. Strategy leadership will advocate at the state and federal level.

Implement a Regional Measure. A regional ballot measure or other source may need to be implemented.

Portland region bicycle and pedestrian strategy





Costs are small relative to other options

THE FINANCIAL INVESTMENT REQUIRED IS WITHIN THE REGION'S CAPACITY

Near term | Capacity \$118,000/year

Project management and technical staff support would include:

Project management. Provide support to the Caucus of Elected Leaders and Leadership Committee and serve as lead staff to the Interagency Staff Team. Direct overall strategy effort and provide staff leadership to key initiatives outlined in this document.

Demonstration areas. Scope and Develop demonstration project proposals, support selection process.

Funding. Develop materials, coordinate with partners and orchestrate advocacy for federal and state funding.

Fast tracking and Cost Reduction. Provide technical and project management support to Oregon Solutions to complete an interagency cost reduction project.

System Development. Coordinate development of the mobility strategy, facilitate integration of bicycle, pedestrian and trail plans with plans for other transportation modes.

The above is in addition to staff currently available at Metro and other governments in the region who will participate in the interagency staff team. The roles outlined above will be needed for two years at a total cost of \$236,000.

Mid term | Demonstration areas \$50 to 75 million

The urban, suburban and greenway demonstration areas have not been identified. However, a reasonable estimate for urban, suburban and greenway demonstration areas, including design, permitting, bidding, and construction is \$50-75 million.

Long term | System \$300 million to \$1 billion

A fully functioning bicycle and pedestrian system, built over the coming decades, is likely to cost between \$300 million and \$1 billion depending on the ultimate scope desired. To achieve this, the pace of investment must be increased over the current rate. For example, an average of only \$2.8 million per year in regional transportation funds are spent on urban multi modal trails. In the context of the region's overall investment in public transportation facilities of approximately \$630 million per year, a \$300 million investment over a span of ten or more years should not be out of range.

Appendices

NOTES ON FUNDING

A near term opportunity with the Federal reauthorization

The 2035 Regional Transportation Plan (RTP) identifies a \$7B gap for capital and \$6B gap for operations and maintenance of the transportation system across the region. Federal transportation funding has been the primary source of trail, bike and transit planning and construction. This funding is likely to remain key to urban mobility projects and competition for these funds is keen.

Congress reauthorizes the federal transportation bill every six years. As the next scheduled reauthorization approaches in 2009, revenues are down and needs are up. Success in obtaining an increased level of trails funding will depend on building alliances and lobbying effectively. Specifically:

- Participate in shaping Metro's federal transportation agenda in coordination with JPACT and the Regional Transportation Plan.
- Build support from a variety of constituencies across the region for urban mobility projects
- Build alliances with trail supporters in other Oregon communities
- Build on Rails to Trails Conservancy (RTC) national "2010 Campaign for Active Transportation"
- Identify federal earmarks and advocate for them with Oregon's Congressional delegation
- Participate in the Bike Summit in Washington D.C., March 2009 and 2010

Timeframe: Now through 2010. (Note: while the transportation bill is scheduled to be reauthorized in 2009, the last reauthorization bill was late, and knowledgeable observers believe it is likely that this bill will not be completed until 2010.)

Outcomes: Trails and other bicycle and pedestrian facilities are seen as integral elements of a transportation system that responds to a range of current and future challenges. The City of Portland and the Portland region are successful in lobbying for \$100M from the transportation reauthorization in coordination with RTC. Traditional sources of federal trails funding (MTIP, TE) are expanded.

State funding opportunities are worth pursuing in 2009

State funding has not been strong for either urban transportation trails or recreation trails. State gas tax revenues cannot be used outside the road right-of-way, and lottery funds, which can be used for trails, are likely to be scarce in 2009 due to the ailing economy as well as ballot measures that may have dramatic effects on the state budget. However, several factors suggest it may be timely to pursue state funding in 2009. These factors include a multi-stakeholder effort to pass a significant transportation funding package, heightened concern over gas prices and climate change, and potential reauthorization of Measure 66. There are several arenas to pursue.

Transportation-related

- The Governor’s Vision Committee is considering a proposal to allocate up to \$20M annually across the state for trails and bicycle facilities.
- The Legislature doesn’t necessarily follow the Governor’s budget and is important to get in front of Legislative committees.
- A proposed third round of funding for multimodal transportation investments, the so-called ConnectOregon program, provides a logical legislative vehicle and funding structure for trail investments.

Recreation-related

Measure 66 is up for reauthorization in 2014 and may be under discussion sooner, possibly in 2009. A strategic approach is needed to secure a portion of these funds for scenic greenways.

Outcomes: Active transportation and scenic greenways are recognized as legitimate elements of a complete transportation system and receive state funding accordingly. Pilot projects have been funded by the state and are successful in demonstrating the need for bicycle and pedestrian facilities coordinated with transit. Consistent funding sources, at appropriate levels, are dedicated to these projects.

New funding

- The level of public support needs to be tested for new funding opportunities:
- Voter-approved Funding. Review the field of upcoming ballot measures and evaluate the potential for a mobility focused measure.
- Potential for Bicycle Community Contribution. Pursue a contribution or registration fee for bicycles to engage cyclists and to address concern, however mistaken, that cyclists don’t carry their weight. This may be an important equity effort, rather than a key funding source.
- Potential for Regional and Local Funding. There may be traditional funding sources that could contribute to the funding mix. All have many competing priorities and the associated institutional hurdles. However, the case should be made for non-motorized mobility with sources such as urban renewal, transportation and parks systems development charges, and local gas taxes.

Principles for development

Demonstration areas will test and refine a set of principles that can then guide the development of a region-wide system. Based on the work of the Blue Ribbon Committee for Trails and the German Marshall Fund study tour to Amsterdam and Copenhagen, the following principles are suggested as a point of departure:

- Focus on the users experience over their entire trip. Working with the “total trip” experience requires not just transportation engineering but landscape and recreational planning expertise.
- Connectivity is key. Coordinate on-street, off-street, and transit facilities within key transportation corridors. Determine a range of mobility options to serve the corridors.

-
- Factor health, the environment, personal and public costs, convenience, the travel experience and community health into investment decisions.
 - Consider the pattern of development and respond with effective mobility strategies; urban solutions are likely to be different than suburban solutions.
 - Emphasize bicycle trails and routes to connect population and employment centers that are accessed with a 30 minute ride.
 - Set Priorities. Focus on completing or a few commute sheds at a time. Build regional equity into the sequence, so each part of the region gets a turn. This is similar to the way light rail was developed—first the east, then the west, then north, then airport, then south...
 - Provide separated bicycle and pedestrian facilities in high-volume corridors.
 - Set high standards for both the quality of the travel experience and a unified way finding system.
 - Consider principles used in Europe that the system should be coherent, direct and easy, safe and secure, self-explanatory, comfortable and attractive.
 - For greenways, the quality of the experience, the destinations, and the opportunities along the route to enjoy nature are all important. The process also has a focus on development of tree canopy and understory for wildlife habitat with special sensitivity to stream bank conditions. The balance between providing access to nature while preserving fragile habitat and ecosystems requires judgment that must be further developed. The Portland region will be positioned as a national model on achieving the right balance.

Blue Ribbon Committee for Trails

CONVENED BY THE METRO COUNCIL

Committee Chair

Dave Yaden

Committee Members

Eileen Brady

New Seasons Market

Scott Bricker

Bicycle Transportation Alliance

Councilor Rex Burkholder

Metro Council District 5

Chris Enlow

KEEN Footwear

Steve Faulstick

Doubletree Hotel

Jay Graves

The Bike Gallery

Al Jubitz

Jubitz Family Foundation

Julie A. Keil

Portland General Electric

Mayor Richard Kidd

City of Forest Grove

Commissioner Randy Leonard

City of Portland

Nichole Maher

Native American Youth and Family

Senator Rod Monroe

Rick Potestio

Commissioner Dick Schouten

Washington County Board of Commissioners

Dave Underriner

Providence Health and Services

Philip Wu, MD

Kaiser Permanente

Ian Yolles

Ex-Officio Member

Council President David Bragdon

Metro Council

The Blue Ribbon Committee was supported by a team led by Metro and including staff from the City of Portland, Oregon State Parks, the City of Forest Grove, and Alta Planning and Design. The composition of the staff workgroups was diverse, with expertise in transportation, trail, bicycle and parks planning, data analysis, cartography and GIS, funding, legislative process, and design. Staff worked collaboratively to serve the needs of the committee as a whole and to foster shared understanding rather than to advocate any specific position.

Thank you to the following people for their work on the Blue Ribbon Committee for Trails:

Elizabeth Adams

Janet Bebb

Mia Birk

Kristin Blyler

Anthony Butzek

Mary Anne Cassin

Jim Desmond

Steve Durrant

Gregg Everhart

Roger Geller

Eric Goetze

Marybeth Haliski

Carol Hall

Matthew Hampton

Jane Hart

Rocky Houston

Mel Huie

Karen Kane

Heather Nelson Kent

Tom Kloster

Janice Larson

Ted Leybold

Lake Strongheart McTighe

Joanna Mensher

John Mermin

Brian Monberg

Derek Robbins

Robert Spurlock

Patricia Sullivan

Mike Tresidder

Randy Tucker

Patty Unfred

Lia Waiwaiole

Marlon Warren

Mike Wetter

Max Woodbury

Agenda Item Number 6.1

Consideration of Minutes of the November 13, 2008 Metro Council Regular Meeting

Consent Agenda

Metro Council Meeting
Thursday, November 20, 2008
Metro Council Chamber

Agenda Item Number 6.2

Resolution No. 08-3996, For the Purpose of Confirming the Council
President's Appointments to the Transportation Policy Advisory
Committee (TPAC) for 2009-2010

Consent Agenda

Metro Council Meeting
Thursday, November 20, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE
COUNCIL PRESIDENT'S REAPPOINTMENTS
AND APPOINTMENT TO THE
TRANSPORTATION POLICY ADVISORY
COMMITTEE (TPAC) AND APPOINTMENT TO
THE REGIONAL TRAVEL OPTIONS (RTO)
SUBCOMMITTEE OF TPAC FOR 2009-2010

RESOLUTION NO. 08-3996

Introduced by Councilor Rex Burkholder

WHEREAS, Metro Code Sections 2.19.030(b) and 2.19.180, the Transportation Policy Alternatives Committee (TPAC) bylaws, and the Regional Transportation Options (RTO) Subcommittee of TPAC bylaws provides that the Metro Council President shall appoint all members of all advisory committees; and

WHEREAS, TPAC and its RTO Subcommittee coordinate and guide the regional transportation planning program in accordance with the policy of the Metro Council; and

WHEREAS, TPAC has three seats for citizen members currently vacant and the RTO Subcommittee has one seat for a citizen member currently vacant; and

WHEREAS, the Metro Council President has made the following appointments to fill the TPAC vacancies and the vacancy on the RTO subcommittee of TPAC:

TPAC Name; Reappointments and New Appointment; and Terms:

Sorin Garber, Transportation Consultant (Reappointment; Second Two-Year Term – January 2009 through December 2010);

Keith Liden, Land Use Planner, Parsons Brinkerhoff. (Reappointment; First Two-Year Term – January 2009 through December 2010);

Mara Gross, Policy Director, Coalition for a Livable Future, (New Appointment; First Two-Year Term – January 2009 through December 2010);

RTO Name; New Appointment; and Terms:

Teak Wall, Associate Planner, Cogan Owens Cogan, LLC, (New appointment; appoint to complete existing Two-Year Term – January 2009 through June 2010)

Now therefore,

BE IT RESOLVED that the Metro Council hereby confirms the Metro Council President's appointments of the following citizens to serve as TPAC and RTO members as noted below:

TPAC Name; Reappointment or New Appointment; and Terms:

Sorin Garber, Transportation Consultant (Reappointment; Second Two-Year Term – January 2008 through December 2009);

Keith Liden, Land Use Planner, Parsons Brinkerhoff (Reappointment; First Two-Year Term – January 2008 through December 2009);

Mara Gross, Policy Director, Coalition for a Livable Future, (New Appointment; First Two-Year Term – January 2009 through December 2010)

RTO Name; New Appointment; and Terms:

Teak Wall, Associate Planner, Cogan Owens Cogan, LLC, (New appointment; appoint to complete existing Two-Year Term – January 2009 through June 2010)

ADOPTED by the Metro Council this _____ day of November 2008.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-3996, FOR THE PURPOSE OF CONFIRMING THE COUNCIL PRESIDENT'S REAPPOINTMENTS AND APPOINTMENT TO THE TRANSPORTATION POLICY ADVISORY COMMITTEE (TPAC) AND APPOINTMENT TO THE REGIONAL TRAVEL OPTIONS (RTO) SUBCOMMITTEE OF TPAC FOR 2009–2010

Date: November 6, 2008

Prepared by: Pat Emmerson

BACKGROUND

The Transportation Policy Alternatives Committee (TPAC) provides technical advice to the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council regarding transportation planning and policy. TPAC has 21 members—15 technical staff from governments in the region and 6 community members. The Regional Travel Options (RTO) subcommittee makes recommendations to TPAC on a program to provide alternatives to driving alone in the region. The RTO subcommittee of TPAC has 18 members—14 technical staff and 4 community members. The community members of TPAC and its RTO subcommittee represent various transportation interests and parts of the region.

Currently TPAC has three vacant community seats, the result of expired two-year terms. Two of the nominees are recommended reappointments—Sorin Garber for a second two-year term, and Keith Liden for a first two-year term. Mr. Liden, who had interviewed during the previous recruitment, was appointed to complete the final year of Scott Bricker's term after he resigned.

The RTO subcommittee of TPAC has one vacant seat, the result of the resignation of member Avery Penn. Teak Wall has been selected to complete this existing two-year term. Public notices of the vacancies were sent to a list of interested parties, neighborhood association newsletters and major and community newspapers. The vacancies were posted on the Metro web site with application instructions and a link to an online application form. Metro received 13 applications and interviewed 6 individuals.

EXISTING LAW

Metro Code Sections 2.19.030 (a) and (b) and 2.19.180 (b)(6) states that community representatives be nominated through a public application process, appointed by the Metro President and confirmed by the Metro Council.

ANALYSIS/INFORMATION

1. **Known Opposition:** none
2. **Legal Antecedents:** Metro Code Sections 2.19.030 (a) and (b) and 2.19.180 (b)(6); Metro TPAC Bylaws; Ordinance No. 00-860A (For the Purpose of Adding a New Chapter 2.19 to the Metro Code Relating to the Advisory Committees), adopted November 9, 2000; and Resolution No. 04-3469A (For

the Purpose of Approving Updated Bylaws for the Transportation Policy Alternatives Committee (TPAC) That Formalize New Technical Subcommittees), adopted August 19, 2004.

3. **Anticipated Effects:** Approval fills vacancies for citizen members on TPAC and the RTO subcommittee of TPAC.

4. **Budget Impacts:** none

RECOMMENDED ACTION

Staff recommends the adoption of Resolution No. 08-3996.

Agenda Item Number 7.1

Ordinance No. 08-1202, Amending the FY 2008-09 Budget and Appropriations Schedule by transferring Appropriations from Contingency for the Sustainable Metro Initiative, Adding 1.0 FTE Project Manager, Amending the FY 2008-09 through FY 2012-13 Capital Budget and Declaring an Emergency

Second Reading

Metro Council Meeting
Thursday, November 20, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

AMENDING THE FY 2008-09 BUDGET AND) ORDINANCE NO. 08-1202
APPROPRIATIONS SCHEDULE BY)
TRANSFERRING APPROPRIATIONS FROM) Introduced by Michael Jordan, Chief
CONTINGENCY FOR THE SUSTAINABLE) Operating Officer, with the concurrence of
METRO INITIATIVE, ADDING 1.0 FTE PROJECT) Council President David Bragdon
MANAGER, AMENDING THE FY 2008-09)
THROUGH FY 2012-13 CAPITAL
BUDGET AND DECLARING AN EMERGENCY

WHEREAS, the Metro Council has reviewed and considered the need to increase appropriations within the FY 2008-09 Budget; and

WHEREAS, the need for the increase of appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2008-09 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of amending the General Fund and Metro Capital Fund to fund projects in support of the Sustainable Metro Initiative.
2. That the FY 2008-09 through FY 2012-13 Capital Budget is hereby amended to include the project shown in Exhibit C to this Ordinance.
3. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this _____ day of _____ 2008.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

**Exhibit A
Ordinance No. 08-1202**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Council Office							
<i>Personal Services</i>							
<i>SALWGE</i>	<i>Salaries & Wages</i>						
5000	Elected Official Salaries						
	Council President	1.00	111,132	-	0	1.00	111,132
	Councilor	6.00	222,264	-	0	6.00	222,264
5010	Reg Employees-Full Time-Exempt						
	Assistant to the Council President	1.00	81,504	-	0	1.00	81,504
	Chief Operating Officer	1.00	174,239	-	0	1.00	174,239
	Confidential Secretary	1.00	48,111	-	0	1.00	48,111
	Council President Policy Coordinator	1.00	48,747	-	0	1.00	48,747
	Deputy Chief Operating Officer	1.00	148,240	-	0	1.00	148,240
	Manager II	1.00	78,251	-	0	1.00	78,251
	Program Analyst II	4.00	200,615	-	0	4.00	200,615
	Program Analyst III	1.75	98,633	0.66	42,587	2.41	141,220
	Program Supervisor II	1.00	76,494	-	0	1.00	76,494
	Administrative Assistant II	1.00	41,424	-	0	1.00	41,424
	Administrative Assistant III	1.00	42,829	-	0	1.00	42,829
5030	Temporary Employees		62,000		0		62,000
5080	Overtime		1,750		0		1,750
5089	Salary Adjustments						
	Elected Officials Adjustment		10,002		0		10,002
	Merit Adjustment Pool (non-represented)		14,939		639		15,578
	Other Adjustments (non-represented)		14,939		0		14,939
	Other Adjustments (Class & Comp Study)		14,939		0		14,939
<i>FRINGE</i>	<i>Fringe Benefits</i>						
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		529,416		15,862		545,278
5190	PERS Bond Recovery		45,757		1,363		47,120
Total Personal Services		21.75	\$2,066,225	0.66	\$60,451	22.41	\$2,126,676
<i>Materials & Services</i>							
<i>GOODS</i>	<i>Goods</i>						
	5201 Office Supplies		57,793		0		57,793
	5205 Operating Supplies		2,207		0		2,207
	5210 Subscriptions and Dues		7,891		0		7,891
<i>SVCS</i>	<i>Services</i>						
	5240 Contracted Professional Svcs		60,243		125,000		185,243
	5246 Sponsorships		2,000		0		2,000
	5251 Utility Services		2,781		0		2,781
	5260 Maintenance & Repair Services		1,269		0		1,269
	5265 Rentals		823		0		823
	5280 Other Purchased Services		5,643		0		5,643
<i>OTHEXP</i>	<i>Other Expenditures</i>						
	5450 Travel		7,619		0		7,619
	5455 Staff Development		9,082		68,500		77,582
	5470 Council Costs		24,500		0		24,500
	5490 Miscellaneous Expenditures		6,202		0		6,202
Total Materials & Services			\$188,053		\$193,500		\$381,553
TOTAL REQUIREMENTS		21.75	\$2,254,278	0.66	\$253,951	22.41	\$2,508,229

**Exhibit A
Ordinance No. 08-1202**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
General Expenditures							
<i>Interfund Transfers</i>							
INDTEX	<i>Interfund Reimbursements</i>						
5800	Transfer for Indirect Costs						
	* to Risk Mgmt Fund-Liability		309,234		0		309,234
	* to Risk Mgmt Fund-Worker Comp		385,818		0		385,818
EQTCHG	<i>Fund Equity Transfers</i>						
5810	Transfer of Resources						
	* to Smith & Bybee Lakes Fund		91,740		0		91,740
	* to General Revenue Bond Fund-Zoo		402,089		0		402,089
	* to Metro Capital Fund-FAS Capital Account		65,000		0		65,000
	* to Metro Capital Fund-IT Projects		25,000		115,000		140,000
	* to Gen'l Revenue Bond Fund-Debt Serv Acct		1,504,342		0		1,504,342
	* to MERC Operating Fund		11,937		0		11,937
	* to MERC Capital Fund (Tourism Opp. & Compt. Acc		746,146		0		746,146
	* to General R&R Fund-General R&R		404,459		0		404,459
	* to General R&R Fund-IT Renewal & Replacement		257,815		0		257,815
	* to General R&R Fund-Regional Center R&R		277,000		0		277,000
	* to Metro Capital Fund-Parks Cap (per ton on SW)		270,000		0		270,000
	* to General R&R Fund- Parks R&R (earned on SW rev		200,000		0		200,000
	* to Solid Waste Revenue Fund		100,348		0		100,348
Total Interfund Transfers			\$5,050,928		\$115,000		\$5,165,928
<i>Contingency & Unappropriated Balance</i>							
CONT	<i>Contingency</i>						
5999	Contingency						
	* Contingency		3,152,085		(368,951)		2,783,134
	* Opportunity Account		100,000		0		100,000
	* Reserved for Future Planning Needs		351,000		0		351,000
	* Reserved for Future Election Costs		290,000		0		290,000
	* Reserved for Nature in Neighborhood Grants		250,000		0		250,000
	* Reserved for Reg. Afford. Housing Revolving Fun		1,000,000		0		1,000,000
	* Reserved for Metro Regional Center Remodel		378,000		0		378,000
	* Reserved for Diesel Retrofit matching grants		400,000		0		400,000
	* Recovery Rate Stabilization reserve		1,771,867		0		1,771,867
UNAPP	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance						
	* Stabilization Reserve		2,320,000		0		2,320,000
	* Reserve for Future Natural Areas Operations		1,023,070		0		1,023,070
	* PERS Reserve		2,782,174		0		2,782,174
	* Computer Replacement Reserve (Planning)		90,000		0		90,000
	* Tibbets Flower Account		201		0		201
	* Reserve for Future Debt Service		2,521,852		0		2,521,852
Total Contingency & Unappropriated Balance			\$16,430,249		(\$368,951)		\$16,061,298
TOTAL REQUIREMENTS		433.15	\$103,347,466	0.66	\$0	433.81	\$103,347,466

Exhibit A
Ordinance No. 08-1202

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget		
		FTE	Amount	FTE	Amount	FTE	Amount	
Metro Capital Fund								
Resources (this fund formerly included renewal & replacement now budgeted in a separate fund)								
<u>Resources</u>								
<i>BEBAL</i>	<i>Beginning Fund Balance</i>							
3500	* Prior year ending balance		7,547,235		0		7,547,235	
3500	* Prior year PERS Reserve		6,553		0		6,553	
<i>GRANTS</i>	<i>Grants</i>							
4100	Federal Grants-Direct		104,973		0		104,973	
4105	Federal Grants-Indirect		820,000		0		820,000	
4110	State Grants-Direct		1,340,800		0		1,340,800	
4115	State Grants-Indirect		100,000		0		100,000	
4120	Local Grants-Direct		413,764		0		413,764	
<i>INTRST</i>	<i>Interest Earnings</i>							
4700	Interest on Investments		110,854		0		110,854	
<i>DONAT</i>	<i>Contributions from Private Sources</i>							
4750	Donations and Bequests		3,698,027		0		3,698,027	
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>							
4890	Miscellaneous Revenue		2,751,919		0		2,751,919	
<i>EQTREV</i>	<i>Fund Equity Transfers</i>							
4970	Transfer of Resources							
	* from General Renewal & Replacement Fund		375,000		0		375,000	
	* from General Fund (per ton on SW)		270,000		0		270,000	
	* from General Fund-FAS projects		65,000		0		65,000	
	* from General Fund-IT Projects		25,000		115,000		140,000	
TOTAL RESOURCES			\$17,629,125		\$115,000		\$17,744,125	
Total Personal Services		2.00	\$179,631	-	\$0	2.00	\$179,631	
Total Materials & Services			\$540,000		\$0		\$540,000	
<u>Capital Outlay</u>								
<i>CAPNON</i>	<i>Capital Outlay (non-CIP Projects)</i>							
5750	Office Furniture & Equip		25,000		115,000		140,000	
<i>CAPCIP</i>	<i>Capital Outlay (CIP Projects)</i>							
5710	Improve-Oth thn Bldg		8,453,800		0		8,453,800	
5720	Buildings & Related		100,000		0		100,000	
5730	Exhibits and Related		5,296,000		0		5,296,000	
5740	Equipment & Vehicles		135,959		0		135,959	
5750	Office Furniture & Equip		150,000		0		150,000	
Total Capital Outlay			\$14,160,759		\$115,000		\$14,275,759	
Subtotal Appropriations			\$14,880,390		\$115,000		\$14,995,390	
Total Interfund Transfers			\$97,174		\$0		\$97,174	
TOTAL REQUIREMENTS			2.00	\$17,629,125	-	\$115,000	2.00	\$17,744,125

Exhibit B
Ordinance 08-1202
Schedule of Appropriations

	<u>Current Appropriation</u>	<u>Revision</u>	<u>Revised Appropriation</u>
GENERAL FUND			
Council Office	2,254,278	253,951	2,508,229
Finance & Administrative Services	5,489,506	0	5,489,506
Human Resources	1,737,211	0	1,737,211
Information Technology	2,808,244	0	2,808,244
Metro Auditor	651,286	0	651,286
Office of Metro Attorney	1,981,157	0	1,981,157
Oregon Zoo	26,677,562	0	26,677,562
Planning	24,768,035	0	24,768,035
Public Affairs & Government Relations	1,988,582	0	1,988,582
Regional Parks & Greenspaces	8,521,362	0	8,521,362
Special Appropriations	3,538,480	0	3,538,480
Former ORS 197.352 Claims & Judgments	100	0	100
Non-Departmental			
Debt Service	1,450,486	0	1,450,486
Interfund Transfers	5,050,928	115,000	5,165,928
Contingency	7,692,952	(368,951)	7,324,001
Unappropriated Balance	8,737,297	0	8,737,297
Total Fund Requirements	\$103,347,466	\$0	\$103,347,466
METRO CAPITAL FUND			
Capital Program	14,880,390	115,000	14,995,390
Non-Departmental			
Interfund Transfers	97,174	0	97,174
Contingency	2,293,857	0	2,293,857
Unappropriated Balance	357,704	0	357,704
Total Fund Requirements	\$17,629,125	\$115,000	\$17,744,125

All other appropriations remain as previously adopted

EXHIBIT C
Ordinance 08-1202
Capital Project Detail

Capital Project Request - Project Detail

Project Title: Learning Management System **Fund:** General Fund Capital Fund - 612

Project Status: Incomplete **Funding Status:** Funded **FY First Authorized:** 2008-09 **Department:** Information Technology

Project Number: TEMP **Active:** **Dept. Priority:** 0 **Facility:** Information Technology **Division:** Information Technology

Source Of Estimat: Preliminary **Source:** **Start Date:** 11/08 **Date:** 10/13/2008 **Cost Type:** Equipment

Type of Project: New **Request Typ:** Initial **Completion Date:** 6/13 **Prepared By:** Ann Wawrukiewicz

Project Estimates	Actual	Budget/Est	Prior						
Capital Cost:	Expend	2007-2008	Years	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	Total
Equipment/Furnishings	\$0	\$0	\$0	\$115,000	\$0	\$0	\$0	\$0	\$115,000
Total:	\$0	\$0	\$0	\$115,000	\$0	\$0	\$0	\$0	\$115,000

Funding Source:

Fund Balance	\$0	\$0	\$0	\$115,000	\$0	\$0	\$0	\$0	\$115,000
Total:	\$0	\$0	\$0	\$115,000	\$0	\$0	\$0	\$0	\$115,000

Annual Operating Budget Impact

Annual Expenditures

Materials and Services				\$0	\$13,000	\$13,000	\$13,000	\$13,000	\$52,000
Subtotal, Expenditures:				\$0	\$13,000	\$13,000	\$13,000	\$13,000	\$52,000
Net Operating Contribution (Cost):				\$0	(\$13,000)	(\$13,000)	(\$13,000)	(\$13,000)	(\$52,000)

Project Description / Justification: **Estimated Useful Life (yrs):** 5 **First Full Fiscal Year of Operation:** 2009-10

As part of the Sustainable Metro Initiative, Metro will acquire an online training system which would deliver curriculum offerings in an anytime, anywhere format. The system would allow online registration tracking as well as individual development plan tracking as well as compliance training.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1202, AMENDING THE FY 2008-09 BUDGET AND APPROPRIATIONS SCHEDULE BY TRANSFERRING APPROPRIATIONS FROM CONTINGENCY FOR THE SUSTAINABLE METRO INITIATIVE, ADDING 1.0 FTE PROJECT MANAGER, AMENDING THE FY 2008-09 THROUGH FY 2012-13 CAPITAL BUDGET AND DECLARING AN EMERGENCY

Date: October 13, 2008

Prepared by: Scott Robinson

BACKGROUND

This action requests amended appropriation authority for the Metro COO to increase spending authority resulting from the initial work of the Sustainable Metro Initiative.

Metro is undertaking an agency-wide project to clarify strategic direction, vision and mission, align organizational structure and to enhance efficiency and collaboration. As part of this effort, Metro staff has focused on identifying business and management policies and practices which require improvement in order to provide consistency and to provide staff the tools they need to effectively accomplish their work.

Many current business and management policies are inconsistently practiced and documented in a way that does not provides standardized guidance to managers and employees, creating a lack of uniformity.

The initiative supported by this amendment has four components:

1. Engagement with an organizational development firm on the management values, practices, standards manual and on-going cultural development with the management team to migrate the Metro organization to a cohesive unit.
2. Provision of onsite staff development for high priority management practices surrounding employee performance management (\$68,500 in fiscal 2008-09).
3. Consulting support from an organization such as the National Institute of Governmental Purchasing (NIGP) or Government Finance Officers Association (GFOA) to develop and train staff in consistent agency wide best practices (\$25,000 in FY 2008-09).
4. Acquisition of an online learning management system (LMS) to facilitate employee development plans, track course registration and offerings, provide online access to some course materials and to track employee progress towards development goals (\$115,000 initial capital expenditure and \$13,000 annual maintenance).

A scope of work and three year fiscal impact analysis are included the Attachment to this amendment.

The work of this amendment will be the responsibility of the Deputy COO, coordinated through the Office of the COO. A new 1.0 FTE Program Analyst III will serve as project coordinator for the effort. We are requesting the transfer of \$368,951 from General Fund contingency, including an appropriation of \$115,000 transferred to the Metro Capital Fund for acquisition of the Learning Management System.

Request	General Fund	\$253,951
	General Fund Transfer to Capital Fund	<u>115,000</u>
Total		\$368,951

ANALYSIS/INFORMATION

- 1. Known Opposition:** None known.
- 2. Legal Antecedents:** ORS 294.450 provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction.
- 3. Anticipated Effects:** This action provides the necessary resources to successful move forward with the Sustainable Metro Initiative. This increase is needed to ensure appropriate development and implementation of management and business standards and practices.
- 4. Budget Impacts:** This action increases the personal services and materials and services operating appropriations in the Council Office, and decreases contingency in the General Fund by \$368,951. It also increases the appropriation in the Metro Capital Fund by \$115,000. Additional expenditures in years two and three of this project, anticipated to be \$337,211, will be presented as an add package to the FY 2009-10 budget.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of this Ordinance.

SCOPE OF WORK AND THREE-YEAR BUDGET IMPACT

Through the Sustainable Metro Initiative (SMI), Metro has undertaken a significant effort to move the alignment and culture of the agency and prepare for the challenges we will face in the near future. In order to fulfill the promise of the effort to date, significant practical changes need to take place regarding both business processes and management and personnel practices. This budget amendment provides the resources to create the standards, common practices, reference guides and training tools necessary to make a sustained impact on the organization. Without this budget amendment, business and management practices will remain uncoordinated and non-standardized, leading to inefficient and ineffective use of resources.

PROPOSED SCOPE OF WORK

Part I – Human Resource Management and Management Practices

1. Working with senior management staff, create a set of management values.
2. Develop a code of conduct that ensures behavior is consistent with the law, the Metro Charter and public expectations and promotes ethical conduct in all we do.
3. Develop a comprehensive management policies and practices manual. Review against best practice in other agencies.
4. Facilitate implementation and rollout of the values, Code of Conduct and business and management policies and practices.
5. Make recommendations for further management training or organizational development, as applicable.

Part II – Manager Training

1. Employee training in fiscal 2008-09: \$68,500
2. Additional training costs anticipated in 2009-10: \$85,500

Part III – Business Practices

1. Review and assess current business (Contracting, Projects Management, Records Management, Security Practices, Safety, Budgeting, and Financial Management) and management (Personnel) policies and practices. Make recommendations regarding what is applicable and useable and what needs to be revised.
2. Develop a comprehensive business policies and practices manual. Review against best practice in other agencies.
3. Provide training to affected management staff . Assumes training provided by internal staff.

Part IV – Learning Management System

1. Specify and acquire an online training system which would deliver curriculum offerings in an anytime, anywhere format. The system would allow online registration tracking as well as individual development plan tracking as well as compliance training.

THREE-YEAR BUDGET IMPACT

Sustainable Metro Initiative 3 Year View

		2008/09	2009/10	2010/11
Project Manager FTE (incl. Fringe)	Personal Services	60,451	93,284	97,427
Organization Development*	Professional Services	100,000		-
Staff Development	Materials and Services	68,500	85,500	10,000
Systems Development	Professional Services	25,000	25,000	-
Learning Management System (LMS)	Capital	115,000	-	-
LMS maintenance and content	Maint. Services**	-	13,000	13,000
Total Expenditure Request		368,951	216,784	120,427

Assumes project manager for 8 months in 08-09

*Assumes an RFP process yielding a 2-person 5 mo. engagement at 20 hrs per week at \$125/hr.

** While the initial \$115,000 for LMS will be capitalized, annual maintenance will be M&S.

Ordinance No. 08-1197, For the purpose of Amending Metro Code Chapter 5.05 to Include Riverbend Landfill on the List of Designated Facilities.

Second Reading

Metro Council Meeting
Thursday, November 20, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 08-1197
CODE CHAPTER 5.05 TO INCLUDE)	
RIVERBEND LANDFILL ON THE LIST OF)	Introduced by Michael J. Jordan, Chief
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 Riverbend Landfill by requesting that Metro add Riverbend Landfill 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 14:

- (14) Riverbend Landfill. Riverbend Landfill, 13469 SW Highway 18, McMinnville, Oregon, subject to the terms of an agreement between Metro and the owner of Riverbend Landfill 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 Riverbend Landfill 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 _____ day of _____ 2008.

David Bragdon, Council President

Attest:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1197, AMENDING METRO CODE CHAPTER 5.05 TO INCLUDE RIVERBEND LANDFILL ON THE LIST OF DESIGNATED FACILITIES

August 27, 2008

Prepared by: Steve Kraten

The proposed Ordinance, if approved by the Council, will list the Riverbend Landfill (“RLF”) in Code as a designated facility, authorized to receive non-putrescible waste and cleanup material generated from within the Metro boundary. The landfill would be responsible for collecting and remitting regional system fees and excise tax to Metro on this waste. Upon listing, the Chief Operating Officer (“COO”) may then enter into a formal Designated Facility Agreement (“DFA”) with the landfill on behalf of Metro. Metro Council will continue to allocate putrescible waste to the landfill via non-system licenses, as it does with other landfills.



BACKGROUND

RLF is permitted as a RCRA Subtitle D¹ landfill by the Oregon Department of Environmental Quality (“DEQ”). The landfill is owned by Waste Management, Inc. and located at 13469 SW Highway 18, four miles southwest of McMinnville, Oregon, and 44 miles from Metro Regional Center. Subtitle D disposal permits allow disposal of municipal solid waste and cleanup material. Permitting and monitoring of Subtitle D landfills is a state responsibility when a state has been approved by United States Environmental Protection Agency to implement a solid waste disposal permit program. RLF’s current Solid Waste Disposal Site Permit to operate the landfill was issued by the DEQ in 1999. It is scheduled to expire on December 1, 2009. The landfill is situated in a “Public Works/Safety District” zone in which landfills are a permitted use, and operates under a license agreement with Yamhill County, in addition to the DEQ permit.

¹ Subtitle D is a designation of the federal Resource Conservation and Recovery Act (“RCRA”) that establishes landfill standards for municipal solid waste (“MSW”).

Current Metro Non-System Licenses for Solid Waste Deliveries to Riverbend Landfill

Presently, 97,000 tons of non-putrescible waste and 442,160 tons of municipal solid waste² (putrescible and non-putrescible waste) are authorized to be delivered to RLF under non-system licenses (“NSLs”) issued directly to generators and haulers by Metro. During 2007, 90,183 tons of non-putrescible waste and 240,219 tons of municipal solid waste were actually delivered. During 2007, RLF accepted 686,631 tons of waste from all sources, with 238,023 tons reported as originating from within Yamhill County. Metro-area waste thus accounted for 48 percent of the waste delivered to RLF in 2007. The proposed designated facility listing and agreement does not include putrescible waste. Putrescible waste deliveries will continue to require authorization from the Metro Council under NSLs issued to the generators or haulers delivering the waste to the landfill.

Both Metro-owned transfer stations and the Troutdale Transfer Station, owned by Waste Management, Inc., have delivered small quantities of solid waste to RLF on an emergency basis. Examples of emergencies include closure of I-84 through the Columbia Gorge due to ice, and when equipment breaks down preventing compaction of waste into the type of transport trailers appropriate for the tippers used at the Columbia Ridge Landfill in Arlington, Oregon. Attachment A to this staff report is a list that details the current NSLs issued by Metro to generators and haulers authorizing delivery of non-putrescible and putrescible waste to the RLF. All the NSLs to RLF, except one³, are set to expire on December 31, 2008.



Riverbend Landfill – Leachate retention pond in the foreground; working face of the landfill in the distance

² The term Municipal Solid Waste (“MSW”) is used to denote general residential and commercial garbage picked up on hauling routes, usually in smaller containers, and collected together in a single truck without regard to putrescibility. This is in contrast to waste collected in large drop boxes or compactors which are dedicated specifically to either putrescible or non-putrescible waste.

³ An NSL issued to Pride Recycling Company for MRF residual has an expiration date of December 31, 2009. However, this NSL will be terminated if the proposed DFA is approved.

Designated Facility Agreement to Establish Consistency within the Solid Waste System

On June 16, 2008, RLF submitted certification of its intent to seek designated facility status so that it may accept non-putrescible MRF residual generated from within the Metro region after January 1, 2009. The landfill also seeks to accept Metro-area cleanup material. The proposed ordinance, if approved by the Council, will list RLF in the Code as a designated facility, along with the other designated facilities already listed.

If the Council decides to list RLF, the Chief Operating Officer will seek to negotiate a DFA with Waste Management. The DFA will include standard provisions included in other landfill DFAs. Metro is seeking to establish as much uniformity as possible among all of the designated facilities and ensure that similarly situated facilities manage Metro area waste in a consistent manner while collecting and remitting Metro regional system fees and excise taxes. In particular, the DFA will ensure consistency with the Enhanced Dry Waste Recovery Program (“EDWRP”)⁴ authorizing only the acceptance of non-putrescible processing residual from MRFs and cleanup material. The landfill must also assist Metro in its determination of whether processing residual accepted at the landfill meets the recovery standard required by the Metro Code and Administrative Procedures.

ANALYSIS/INFORMATION

1. Known Opposition

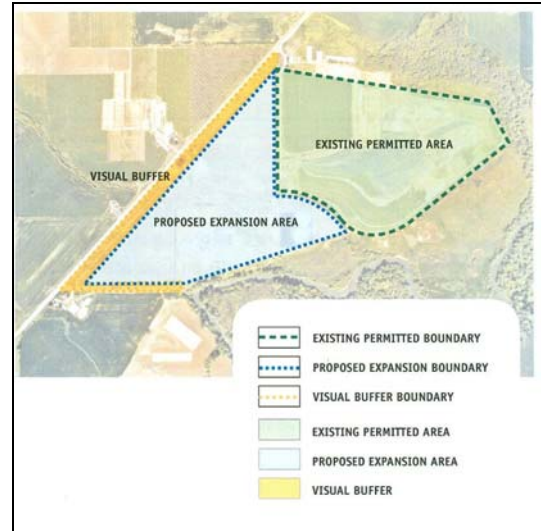
RLF has applied to Yamhill County for a permit to expand the landfill by 87 acres. Waste Management indicates that such an expansion would extend the useful life of the landfill from the current six years to 20 – 30 more years. Metro staff is aware that the owner of a property bordering the landfill is a leading opponent of the expansion and is seeking to mobilize others to oppose the landfill expansion by organizing under the title of the “Stop the Dump Expansion Committee” and pursuing a local ballot measure to stop the expansion. The measure⁵ will be on the Yamhill County November 4, 2008 ballot. If passed, it will prohibit future expansion of the landfill within 2,000 feet of a flood plain but will not affect the expansion for which RLF has already applied. This individual promotes his views about the expansion through a website (www.mcdumpville.com). Waste Management also has a website about the proposed expansion (www.riverbendlandfill.com/plans-expand.asp).

⁴ EDWRP requires that by January 1, 2009, all mixed non-putrescible waste generated in the Metro region be delivered to a material recovery facility for processing before disposal.

⁵ The title of the measure will be “Prohibits landfill expansion, new landfills within 2000 feet of flood plain”



Aerial View



Proposed Expansion

2. Legal Antecedents

Metro Code Section 5.05.030(a) contains a list of nine designated facilities located outside the Metro region. 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;* [Code Section 5.05.030(b)(1)]

RLF first opened in 1982 as a municipal solid waste landfill under the ownership of City Sanitation Service, McMinnville's local private hauler. At that time the landfill was clay-lined but without a synthetic liner. The landfill was purchased by Sanifill in 1992, which was acquired by USA Waste in 1994. USA Waste subsequently merged with Waste Management, Inc. in 1998. RLF became a Subtitle D landfill in 1993, at which time the original unlined cells were capped and closed. Since 1993, the landfill has been filling only lined cells and operating with the required environmental controls required by the DEQ.

The landfill accepted asbestos containing materials earlier in its operation but has not done so for the past ten years. In 2006 RLF inadvertently accepted and landfilled a load of bagged subflooring and tile containing asbestos in violation of its DEQ permit. Other than that, Metro staff have not found any evidence that the landfill has accepted wastes that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

(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; [Code Section 5.05.030(b)(2)]*

The DEQ considers the landfill to be a well-run facility that is in compliance with federal and state requirements. In the past five years RLF has received one notice of non-compliance from DEQ for elevated levels of suspended solids in stormwater discharge. The facility is also reported to have a good compliance record with local (Yamhill County and the City of McMinnville) public health, safety and environmental rules and regulations.

Waste Management, Inc. also owns and operates the 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. 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. Hillsboro Landfill and Columbia Ridge Landfill both have good records of regulatory compliance and cooperation with Metro and the DEQ.

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

RLF uses operational practices and management controls that are typical of a modern engineered Subtitle D landfill and considered by the DEQ to be adequate for the protection of health, safety, and the environment. In addition, the landfill has a 14-acre poplar plantation irrigated with leachate from the landfill. The uptake potential of the trees is estimated to exceed the amount of leachate. The landfill captures methane gas that is presently flared off. However, Waste Management, Inc. plans to install generators that will utilize landfill gas to supply electric power to the McMinnville PUD grid. Electricity generated in this manner is considered to be “green power.”

There has been an issue with litter blowing from the landfill into trees that border the neighboring property. The landfill has recently installed a taller litter fence in order to mitigate this problem. The landfill also mistakenly sank a ground water monitoring well on the neighbor’s property but has offered to mitigate that situation.

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

Under the proposed DFA, the only dry waste⁶ RLF will accept is MRF processing residual and cleanup material. The landfill will not be eligible to accept unprocessed dry waste from the Metro region. Therefore, the proposed DFA is consistent with the implementation of the Enhanced Dry Waste Recovery Program (“EDWRP”) and will provide the region with a nearby disposal option for MRF residual. This is expected to have a positive impact on the region’s recycling and waste reduction efforts.

RLF’s most significant role in the region’s solid waste system will continue to be as a significant disposal site for the region’s putrescible waste. During 2007, 81 percent of the waste delivered to RLF from within Metro was putrescible, which is not subject to the recovery standard. Metro area dry waste accounted for the remaining 19 percent of waste delivered to RLF, which was largely processing residual from Metro-area MRFs.

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

Metro has committed to deliver 90 percent of the total tons of putrescible waste that Metro delivers to general purpose landfills to facilities operated by Metro’s waste disposal contract operator, Waste Management, Inc. The majority of the Metro region waste delivered to RLF has been putrescible waste delivered under NSLs. Since RLF is a Waste Management facility, delivery of Metro-area waste to RLF is consistent with the disposal contract. The waste authorized under the proposed DFA is non-putrescible and not subject to this requirement, therefore approval of the proposed DFA will not conflict with Metro’s disposal contract or any other of its existing contractual arrangements.

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

As an out-of-region non-designated facility, RLF has not previously been subject to Metro ordinances or agreements. However, RLF has voluntarily cooperated and assisted Metro’s Regulatory Affairs Division in its investigations of haulers that have delivered waste to RLF in violation of Metro’s flow control ordinance.

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

⁶ The terms “dry” and “non-putrescible” are used synonymously. Putrescible waste is often referred to as “wet waste.”

The potential benefits of listing RLF 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 regional system fees and excise tax on processing residual that is landfilled.
- Enhanced implementation of EDWRP provisions and more efficient administration through a DFA;
- Enhanced ability to monitor waste classification at the facility;

4. Budget impacts

No budget impact is anticipated from the adoption of this Ordinance since most waste is already going under NSLs. The only dry waste RLF will receive under authority of the proposed DFA will be MRF processing residual and cleanup material. Therefore, construction and demolition debris (“C&D”) haulers will not be allowed to use the landfill for waste that has not been first processed at a MRF. The bulk of the Metro area waste accepted by RLF will likely be putrescible waste delivered under the authority of NSLs issued to transfer stations (see Attachment A). MRF residual and cleanup material is unlikely to flow to Metro transfer stations. However, it must be delivered to designated facilities where it will pay regional system fees and excise tax. Accordingly, Metro’s per-ton costs should not change as a result.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Ordinance No. 08-1197.

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ATTACHMENT A

**SOLID WASTE CURRENTLY AUTHORIZED BY METRO
FOR DELIVERY TO THE RIVERBEND LANDFILL UNDER NSLs**

Name of Non-System Licensee (All expire on Dec. 31, 2008)	Tons of Waste Authorized	Type of Waste Authorized	Tons Delivered in Calendar 2007
1. Forest Grove Transfer Station	175,000	putrescible waste	158,973
2. Gray & Company	1,000	putrescible wastes	568
3. Greenway Recycling LLC*	10,000	MRF processing residual	0
4. KB Recycling Inc.*	12,000	MRF processing residual.	8,546
5. Newberg Garbage Service Inc. via Newberg Transfer & Recycling Center.	160	putrescible waste	123
6. Pride Recycling Company*	65,000	MRF processing residual and putrescible solid waste	43,333
7. Pride Recycling Company ⁺	25,000	MRF processing residual.	64,149
8. Waste Management of Oregon*	50,000	non-hazardous special waste, construction debris and alternative daily cover	17,488
9. Troutdale Transfer Station*	65,000	putrescible and non- putrescible waste and special waste on an emergency basis	388
10. Willamette Resources, Inc.*	115,000	putrescible and non- putrescible waste and MRF processing residual	25,113
11. B&J Garbage via Canby Transfer Station	12,000	putrescible waste	4,629
12. West Linn Refuse & Recycling, Inc. via Canby Transfer Station	9,000	putrescible waste	7,092

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* NSLs will be modified or eliminated if the proposed DFA is approved. The remaining NSLs will be renewed to authorize the delivery of wet waste only.

⁺ This NSL has an expiration date of Dec. 31, 2009 but is for MRF residual and will be terminated if the proposed DFA is approved.

SUPPLEMENTAL STAFF REPORT**IN CONSIDERATION OF ORDINANCE NO. 08-1197, AMENDING METRO CODE CHAPTER 5.05 TO INCLUDE RIVERBEND LANDFILL ON THE LIST OF DESIGNATED FACILITIES**

November 6, 2008

Prepared by: Steve Kraten

In preparing ordinances proposing to list new designated facilities, staff conducts research to provide Council with information regarding the criteria in Code chapter 5.05.030(b)(1) – (7). Staff visit the facilities to get a first-hand understanding for the operations, review Metro files on the facilities, examine information provided by the state and local agencies that regulate the facilities, and look at information provided by the facilities themselves. Staff also reviews relevant information provided by other interested parties. All of this information is then synthesized into a staff report intended to provide the Council with the information it needs to make an informed decision. This is the process that was followed in the case of the proposed Riverbend Landfill (“RBLF”) designated facility agreement (“DFA”).

During and subsequent to the September 18, 2008, Metro public hearing on the proposed DFA listing, Council received much information on this issue, some of it conflicting. Staff has reviewed this information and found no grounds for revising its recommendation to list Riverbend Landfill as a designated facility in Metro Code 5.05.035. This supplemental staff report, presented in “Frequently Asked Questions” format, is intended to further explain issues and answer questions to assist the Metro Council in its consideration of the proposed listing of RBLF as a designated facility.

Q1: Is RBLF in compliance with applicable state and local environmental and land use regulations?

AI: Yes. Opponents of the proposed DFA contend that RBLF is out of compliance with Department of Environmental Quality (“DEQ”) environmental regulations, Yamhill County land use regulations, and federal flood control regulations (see Attachments 2, 3, 6, and 7). These contentions appear to reflect the opponents’ own judgments of how DEQ and Yamhill County should interpret and apply their regulations rather than official determinations made by the regulating agencies themselves. When evaluating the record of a facility’s compliance with other agencies regulations, Metro staff routinely contact the applicable regulatory agencies to find out whether they have taken formal enforcement action against the facility. Staff also examine the frequency and seriousness of such enforcement actions, whether the local governments consider any pending action to be of significance and, how that should inform Metro’s decision process. In the case of RBLF, both DEQ and Yamhill County have verbally indicated that the landfill is in compliance with applicable regulations (also see Q&A 10).

Q2: Is RBLF in a floodplain or floodway?

A2: Portions of RBLF lie within a floodplain but there is conflicting information regarding whether or not any part of the landfill is within a floodway. A floodplain is an area adjacent to a river that is prone to immersion by rising floodwaters. A floodway is defined by the Federal Emergency Management Agency (“FEMA”) as that portion of a floodplain that carries the flow of floodwater and where the water velocity and depth is greatest. A floodway is of greater concern than a floodplain because it poses a greater risk of erosion. A portion of RBLF is situated within a 100-year floodplain, though a perimeter berm effectively isolates it from the 100-year floodplain elevation (see Attachment 9).

The question of whether RBLF encroaches upon a floodway is somewhat more complex. As part of the current expansion process, RBLF was required to submit to FEMA a Conditional Letter of Map Revision (“CLOMR”) that shows the effects on water flows of the proposed expansion. FEMA approved the map on July 14, 2008. The map (see Attachment 3) shows a line marked “current effective floodway” running through the footprint of the landfill. This was cited by an opponent of the proposed DFA as evidence that the landfill encroaches upon a floodway. According to ICF Jones & Stokes, the engineering company retained by Waste Management to perform the floodplain/floodway study and develop the map, “current effective floodway” is a FEMA term to designate the last estimated floodway, regardless of whether it is current or accurate. In this case, the line designates what the engineering company believes to be an erroneous floodway course estimated by the Army Corps of Engineers in the 1970’s and referenced in a series of letters from the Corps to the County in 1980 and 1981 but never vetted by FEMA through the CLOMR process. The actual floodway, as determined by ICF Jones & Stokes using the original baseline data from the early 1980’s (before the landfill was constructed) and designated on the CLOMR map as “Existing Floodway,” runs along the southern edge or “toe” of the landfill (See Attachments 4 and 9). Thus, based on the most up-to-date FEMA-reviewed study, the landfill does not encroach upon a floodway. Also, as a practical matter, according to the operator, the landfill has never flooded.

Q3: Did the original siting of RBLF raise the floodplain level by 1.4 feet as alleged by landfill expansion opponents relying on a 1981 letter from the Army Corps of Engineers?

A3: Probably not. Based on the recent FEMA-approved CLOMR, the total increase in the 100-year floodplain level of RBLF and the Whiteson Landfill combined was 2.4 inches. The effect of the currently proposed RBLF expansion will be a rise of approximately another half inch (see Attachments 4 and 9). This is substantially less than the one-foot limit cited from the Yamhill County Zoning Ordinance in Ramsey McPhillips’ September 25, 2008 memo to the Metro Council (Attachment 2).

Q4: What is the remaining useful life of the landfill?

A4: RBLF estimates that, based on historical disposal trends and remaining capacity, the landfill can continue to accept waste for approximately six more years without an expansion and approximately 30 more years if the currently proposed expansion is approved. The landfill is obligated by its license agreement with Yamhill County to serve the County with waste disposal capacity until 2014. The operator is presently seeking an expansion through the Yamhill County land use process (Attachment 5) that would extend the projected remaining life of the landfill from six years to approximately 30 years.

Q5: How much of RBLF's waste is generated from within Metro?

A5: During calendar year 2007, RBLF accepted a total of 686,631 tons of waste. Of that amount, 287,497 tons (42 percent) were generated from within the Metro region¹.

Q6: Under what circumstances may waste be delivered to RBLF from the Troutdale Transfer Station?

A6: Troutdale Transfer Station's waste is primarily delivered to the Columbia Ridge Landfill. However, it is authorized to deliver waste to RBLF temporarily when there are emergency conditions such as the closure of I-84 or when there are certain unusual conditions such as the breakdown of a compactor, necessitating the use of top-loading transfer trailers that are not adequately sealed for transport through the Columbia Gorge. Metro's own transfer stations have also delivered waste to RBLF during such emergencies.

Q7: What is the relationship between RBLF and Whiteson Landfill?

A7: Currently, there is no direct relationship between the two landfills; they contain different types of wastes and are designed to different standards. Some of the public testimony about RBLF has been interspersed with comments about the nearby Whiteson Landfill, perhaps causing some confusion as to the difference between the two. Whiteson is an unlined landfill located directly across from RBLF on the opposite side of the South Yamhill River. Whiteson was opened in 1973 by Ezra Koch, the same individual that opened RBLF and, according to Yamhill County staff, Whiteson was originally called "Riverbend Landfill." Between 1981 and 1982, the year it closed, it accepted from a steel manufacturer approximately 24,000 tons of baghouse dust that contained lead and cadmium. On-site groundwater tests at Whiteson have shown elevated levels of lead and cadmium. The landfill is presently being managed by Yamhill County under a post-closure permit issued by DEQ. In contrast, RBLF is an active lined landfill

¹ Due to an inadvertent double counting of part of the waste delivered to RBLF by Pride Recycling Company, the original staff report erroneously listed the amount of Metro waste as 330,402 tons and the proportion of Metro waste as 48 percent.

built to modern standards and operated by Waste Management. It does not accept hazardous wastes.

Q8: What was the outcome of the Yamhill County ballot measure (Measure 36-119 on the November 4, 2008 ballot) prohibiting landfill expansion within 2,000 feet of a flood plain and what will be the effect on the current proposed expansion?

A8: The ballot measure failed by a margin of 58% to 42%. The “goalpost rule” requires land use applications to be evaluated according to the rules in force at the time applications are made. Since RBLF submitted its land use application for the current proposed expansion prior to the County’s vote on the ballot measure, the outcome of the vote would not be binding on the current expansion, even if the measure had passed.

Q9: What is the status of RBLF’s land use application to Yamhill County for an expansion?

A9: On November 6, 2008, Yamhill County held a public hearing on the issue. A continuation of that hearing is scheduled for November 20, 2008. A decision on the expansion application may not be made before January, 2009. Local land use approval must precede RBLF’s application to DEQ for a permit for the proposed expansion.

Q10: Has Metro received written comment from Yamhill County or the City of McMinnville regarding the proposed DFA?

A10: Metro sent letters to both the City and the County inviting them to comment on the proposed DFA (Attachments 11 and 12). The letter to the County was also followed up by an e-mail that provided the dates of public hearings on the issue (Attachment 13). Neither the City nor the County submitted written comment on the proposed DFA. In previous written comment on proposed non-system licenses to deliver additional Metro-area waste to RBLF, the County has raised no objections (see Attachments 14 and 15).

Q11: Has Metro received written comment from other interested parties regarding the proposed DFA or the landfill expansion?

A11: Yes. Written comment has been received from several sources. These comments are listed below and included as attachments to this report. On November 6, 2008, Ramsey McPhillips informed Metro staff by phone that there was additional written comment from interested parties that had been prepared for presentation at the Yamhill County land use hearing scheduled for the evening of November 6 and would also be provided to Metro. However, such comment was not received prior to the filing of this staff report.

LIST OF ATTACHMENTS	
1	September 17, 2008 letter to Metro Councilors from Lillian Frease and Ramsey McPhillips.
2	September 25, 2008 memo w/attachments to the Metro Council from Ramsey McPhillips.
3	September 29, 2008 letter w/attachments to Metro Councilors from Ramsey McPhillips.
4	October 9, 2008 memo w/attachments to Council President Bragdon from George Duvendack (RBLF).
5	Yamhill County notice of public hearing.
6	October 14, letter to Metro from Brenna Bell, Willamette River Keepers.
7	October 27, letter to Metro from Brenna Bell, Willamette River Keepers.
8	November 5, 2008 letter to DEQ from George Duvendack (RBLF).
9	November 6, 2008 e-mail to Steve Kraten (Metro) from Shane Latimer (ICF Jones & Stokes).
10	Undated, unsigned paper entitled "Yamhill SWCD Position – Riverbend Landfill Expansion"
11	August 7, 2008 letter to McMinnville City Manager from Metro Solid Waste & Recycling Director Michael Hogle.
12	August 7, 2008 letter to Yamhill County Counsel John Gray from Metro Solid Waste & Recycling Director Michael Hogle.
13	September 17, 2008 E-mail from Metro Regulatory Affairs Manager Roy Brower to Yamhill County Counsel John Gray.
14	January 23, 2002 letter to Steve Kraten (Metro) from Yamhill County Counsel John Gray.
15	November 16, 2007 letter to Warren Johnson (Metro) from Yamhill County Solid Waste Management Analyst Sherrie Matheson.

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Part 2
091808c-03

THINK CLEAN! WATER COMMITTEE
McMinnville, Oregon

Re: Riverbend Landfill

September 17, 2008

Dear Metro Councilors,

As you may know, we have launched a County initiative to stop the destruction of Yamhill County flood plains by garbage - Measure 36-119. Waste Management, the owner of the Riverbend Landfill, has used everything in their arsenal including a Texas style telephone push poll directed personally at co-petitioner, 5th generation Oregon farmer, Ramsey McPhillips, three law suits, and record sums of money for lobbyists to keep the Monopoly that is Riverbend charging ahead with flood plain expansion plans. Even in the face of these attacks, we have won all the lawsuits, made it onto the ballot and are ahead in the polls.

However, much of our fight is really with you. If Metro did not send its garbage to our flood plain, there would be no need for an expansion and no need for an initiative. You are 48% of Riverbend's flood plain fill. Your garbage is and will be the largest contributor to the 410-foot mountain that Waste Management plans for our riparian waterway. Your garbage is the largest man made structure in Yamhill County. Now Waste Management wants to *import your trash into our riverbank. This will more than double its size.* Mount Metro will make Riverbend equal to the 5th highest skyscraper in Portland. Councilors, you may claim you have no control over where your garbage goes but we must protest that you do. We have shown you countless times what is at stake in Yamhill County. Your inaction makes you complicit in a major environmental policy mistake, a mistake that could grandfather in another 35 years of antiquated riverbank garbage fill. There is no doubt that Metro is furthering the outdated garbage monopoly that jeopardizes our competitive garbage rates, causes flood plain destruction and loss of farmland. You needlessly exploit your neighbors and that is NOT what "green" Metro is about.

We present our case in front of the Yamhill County Planning Commission on November 6th. We implore Metro to state in a proclamation, task force conclusion, directive or ordinance that you will do everything you can to stop exporting garbage into the Yamhill County flood plain. The fact is that your trash is needlessly exploiting and endangering Willamette Valley's clean water and farmland. The Riverbend landfill sits on top of the Willamette Aquifer which stretches well into Metro's jurisdiction. The first three cells of the landfill that service your region are in the flood plain and are not lined with plastic. They are lined with clay. This landfill has already leaked. The expansion includes mounding on top of these leaking cells. Are you prepared to pay your share for the inevitable collapse of this facility?

The enclosed photos (also posted on our web-site, www.McDumpville.com) we took last week of the Yamhill County/DEQ regulated landfill Whiteson (40 feet across the river from Riverbend) convincingly shows that you cannot count on Yamhill County or DEQ to protect our flood plains from landfills. Whiteson has been under their purview for decades. It was short listed as a Super Fund site in 1984. Twenty-four years later, an opened face of the landfill the size of a tennis court is spewing heavy metal leachate and trash directly into the South Fork of the Yamhill River.

There is no such thing as a good flood plain landfill - past, present or future. If you disagree, we suggest that you re-open and expand one of your own - perhaps the one that has cost you over 31 million dollars so far to clean up. The history of flood plain landfills in Yamhill County is not proud and we trust measure 36-119 will begin to bring that sad history to a close. Councilors, now is the time to speak up, act responsibly for your own trash and begin moving away from Yamhill County's precious flood plains and farmland. It is your water, too. Protect our common resource with immediate action by using the power vested in you by the voters of Metro.

Sincerely,

Lillian Frease

Ramsey McPhillips

THINK CLEAN! WATER COMMITTEE

McDumpville.com

MEMORANDUM

METRO
CIVIL DEPT
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TO: Metro Council

FROM: Ramsey McPhillips

DATE: September 25, 2008

RE: Metro Proposed Ordinance No. 08-1197, to include Riverbend Landfill on the List of Designated Facilities

REASONS TO DISAPPROVE PROPOSED ORDINANCE NO. 08-1197

- I. **The Metro Council must consider a facility's compliance with federal, state and local requirements.**

When deciding whether to add a landfill to the list of designated facilities, the Metro Council shall consider, *inter alia*, the facility's record of regulatory compliance with federal, state and local requirements. Metro Ordinance 5.05.030(b)(2).

- A. **Riverbend Landfill violates Yamhill County Ordinance by increasing flood height more than 1 foot.**

In 1980-1981, the United States Army Corps of Engineers ("Corps") reviewed flood hazard information regarding two alternative plans (A and B) for development of the Riverbend Landfill. In correspondence dated May 12, 1981, the Corps informed the Yamhill County Department of Planning and Development that

"for the alternative plan 'A' fill which encroaches on the floodway, flood heights are expected to be increased 1.4 feet for a 100-year flood condition."

Ex. 1, (emphasis added).

On June 5, 1981 the Yamhill County Board of Commissioners informed the Corps that the Board had determined "implementation of Alternative Plan 'A' should be pursued and requested that the Corps revise the flood hazard maps then being drafted to account for implementation of Plan A. Ex. 2. Plan A was implemented and the **Riverbend Landfill, as presently configured, has raised the flood height by at least 1.4 feet.**

In 1981, Yamhill County adopted land use Zoning Ordinance 901.06(C). Yamhill County Zoning Ordinance 901.06(C) requires that a proposed development "not

increase the water surface elevation of the base flood more than one (1) foot at any point.” Ex. 3.

The Yamhill County prohibition against raising the flood height by more than one (1) foot should have been applied to Riverbend Landfill when Riverbend obtained a new license in 1994, allowing it to accept waste from outside of Yamhill County. In 1994, Yamhill County Board of Commissioners, adopted solid waste Ordinance 578. Ex. 4. The purpose of adopting Ordinance 578 was to codify changes to the original solid waste ordinance and to authorize a new solid waste disposal license agreement with Riverbend Landfill, allowing Riverbend Landfill to accept solid waste generated outside of Yamhill County. Ex. 4, pp. 1-2. Ordinance 578, Section 7.5 a. requires that applicants for a disposal franchise or license

provide sufficient information to determine compliance with the requirements of this ordinance, its regulations, and the rules of federal, state or local agencies having jurisdiction.

Since Riverbend Landfill was applying for a new license, it should have been required to demonstrate compliance with existing laws, including the requirement that the landfill not raise the flood level by more than one (1) foot. However, it clearly could not have made this demonstration, as is apparent through the Corps’ 1981 findings, thus it appears that Yamhill County simply ignored this requirement in its own Ordinance.

B. Riverbend Landfill may encroach on the floodway, in violation of federal law.

In a letter dated March 25, 1980, the Corps reminded the Yamhill County Planning Commission that, under the Federal Flood Insurance Program, no constrictive development, including fill material, is allowed within a floodway because floodways are reserved for passage of faster moving flood water. Ex. 5.

In a letter dated March 28, 1980, the Corps informed the Yamhill County Planning Commission that the part proposed Riverbend Landfill – phases 3, 4, and 5 encroached on the floodway. Ex. 6.

Additionally, the May 12, 1981 Corps letter, quoted above, states that plan A encroaches on the floodway:

“for the alternative plan ‘A’ fill *which encroaches on the floodway*, flood heights are expected to be increased 1.4 feet for a 100-year flood condition.”

Ex. 1, (emphasis added).

The Corps’ warnings regarding the location of the Riverbend Landfill within the floodway appear to have gone unheeded. Further investigation is required to determine whether

the Riverbend Landfill, as presently configured, is within the legal boundaries of the floodway, in violation of the law. However, the Corps' letters and anecdotal evidence from neighbors of the landfill certainly suggest that it is.

II. Conclusion.

Metro must consider a facility's compliance with applicable laws when deciding whether to add a landfill to the list of designated facilities. The Metro Council should not adopt proposed Ordinance No. 08-1197 because the, Riverbend Landfill, as presently configured, raises the flood level by more than one(1) foot, in violation of Yamhill County Zoning Ordinance 901.06(C) and may be within the floodway, in violation of federal law.

/



DEPARTMENT OF THE ARMY
PORTLAND DISTRICT CORPS OF ENGINEERS
P. O. BOX 2648
PORTLAND, OREGON 97208

RECEIVED
Part 2
MAY 14 1981

YAMHILL COUNTY DEPT. OF
PLANNING AND DEVELOPMENT

NPPEN-PL

12 May 1981

Mr. George W. Campbell
Yamhill County Department of
Planning and Development
Courthouse
McMinnville, OR 97128

Be
Milke MB
DAVE

Dear Mr. Campbell:

We have your 2 April 1981 letter request for flood hazard information concerning the proposed Riverbend landfill on South Yamhill River near McMinnville, Oregon.

From your map, the site is located between the river and Salmon River Highway, about 4 miles southwest of McMinnville. At that location, for the alternative plan "A" fill which encroaches on the floodway, flood heights are expected to be increased 1.4 feet for a 100-year flood condition. Backwater stages exceeding 1 foot would extend 5 miles upstream. Flood flow velocities along the fill slope would be about 2 feet per second. For the alternative plan "B" fill which abuts the floodway, stage increases are 1 foot or less by definition of "floodway" under the National Flood Insurance Program (NFIS). Velocities along the fill are estimated near 1.6 feet per second. Neither the 10- nor 50-year floods would produce controlling velocities.

We assumed several additional alternative layouts which encroache on the floodway to a lesser extent than alternative "A", but they also exceeded 1 foot of stage increase permitted by local flood plain regulations in compliance with the NFIP. We have inclosed copies of our computer printouts which will give you a comparison of the with and without project conditions.

Should you have any questions, please again contact Mr. William Akre, our Special Assistant for Flood Plain Management Services, at (503) 221-6411.

Sincerely,

Patrick J. Keough
PATRICK J. KEOUGH
Chief, Planning Branch

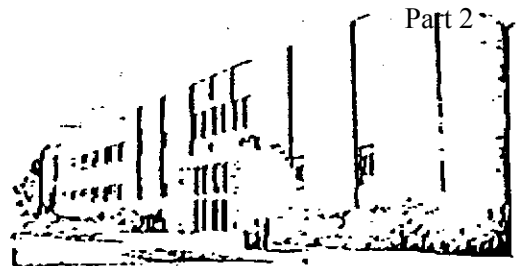
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2

YAMHILL COUNTY

Oregon

FILE #	81-156 SW
DATE	June 5, 1981
PAGE #	1 OF 2



BOARD OF COMMISSIONERS

FILE #	93-175 SW
DATE	May 5, 1993
PAGE #	2 OF

June 5, 1981

William R. Akre
 Corps of Engineers
 Portland District
 P.O. Box 2946
 Portland, OR 97208

Re: Riverbend Landfill
 Yamhill County

Dear Mr. Akre:

The Yamhill County Board of Commissioners has reviewed the flood hazard potential of the proposed Riverbend Landfill site and the various alternative development plans available to the Riverbend Landfill Company and has determined that implementation of Alternative Plan "A" should be pursued. For this reason, Yamhill County requests that Alternative Plan "A" be considered in any revisions to the flood hazard maps now being drafted.

It is our understanding that this request will initiate the map revision process. Should further action on Yamhill County's part become necessary, please advise the Department of Planning & Development of the appropriate course of action (472-9371, ext. 450).

Thank you for your prompt attention to this matter.

Yours very truly,

Colin Armstrong
 Colin Armstrong, Chairman
 Board of Commissioners

CA:gb

384

#3

- B. Residential uses such as lawns, gardens, parking areas and play areas.
- C. Agricultural uses such as farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry sod farming and wild crop harvesting.

901.05 Floodplain Development Permit Application.

Except as provided in subsection 901.04, a floodplain development permit shall be obtained before the start of any construction or development within the FP Overlay District. In the event a variance is necessary for construction within the floodplain, such application shall be processed in conjunction with the floodplain permit application, and shall be subject to the provisions of National Flood Insurance Program in addition to applicable provisions of this ordinance.

A floodplain development permit may be authorized pursuant to the Type B application procedure set forth in Section 1301 and subject to compliance with the review criteria listed in subsections 901.06 through 901.10. In addition to the notification requirements of Section 1402, written notice of the request and action taken will be sent to the Oregon Department of Fish and Wildlife. The following information may be required to be provided by the applicant:

- A. Land elevation data expressed in feet above mean sea level, and topographic characteristics of the development site.
- B. Base flood level on the site expressed in feet above mean sea level.
- C. Plot plan, drawn to scale, showing location of existing and proposed structures, fill and other development; elevation of the lowest floor, including basement, of all structures; and locations and elevations of streets, water supply and sanitary facilities.
- D. Elevation, expressed in feet above mean sea level, to which any structure has been floodproofed.
- E. Certification by a registered professional engineer or architect that the proposed floodproofing methods for any nonresidential structure meet the floodproofing criteria in subsection 901.08.
- F. Specific data regarding the extent to which any watercourse will be altered or relocated as a result of the proposed development.
- G. Any additional statements, maps or information demonstrating existing or historical flooding conditions or characteristics which may aid in determining compliance with the flood protection standards of this ordinance.

901.06 Floodplain Development Permit Criteria.

Prior to issuance of a floodplain development permit, the applicant must demonstrate that:

- A. The proposed development conforms with the use provisions, standards and limitations of the underlying zoning district and other overlay district.
- B. The proposed development, if located within the floodway, satisfies the provisions of subsection 901.09.
- C. The proposed development will not increase the water surface elevation of the base flood more than one (1) foot at any point.

#4

602
43-10

FILE #	71-07233-111
DATE	August 31, 1994
PAGE #	Part 2

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

94-589

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

Indexed
 1994 SEP -2 AM 11:54
 COUNTY CLERK

In the Matter of the Adoption)
 of an Ordinance to Amend the)
 Solid Waste Collection)
 and Disposal Ordinance to)
 Authorize a License Agreement) **ORDINANCE 578**
 with Riverbend Landfill;)
 Declaring an Emergency;)
 Effective October 1, 1994.)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in special session on August 31, 1994, commissioners Dennis L. Goecks, Ted Lopuszynski and Debi Owens being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

- A. ORS 459.110 to 459.990 authorize a county to enact ordinances and issue franchises and licenses regulating the collection and disposal of solid waste outside the incorporated areas of cities within the county. Yamhill County's Solid Waste Collection and Disposal Ordinance, as amended by Ordinances 154, 192, 259, 350, 401, 434, 490, 509, 534 and 548, currently regulates solid waste collection and disposal within the unincorporated areas of the county. Under the existing solid waste ordinance, the Board is authorized to grant a solid waste disposal franchise. It is uncertain whether the existing solid waste ordinance allows the Board to grant a solid waste disposal license agreement.
- B. The Board desires to adopt this ordinance to codify changes made by all previous amendments to the original solid waste ordinance and to establish new provisions to authorize a solid waste disposal license agreement with Riverbend Landfill. The License Agreement authorized by this ordinance replaces the existing Solid Waste Disposal Franchise with Riverbend authorized by Board Orders 80-73 and 81-659.
- C. A public hearing by the Board on the proposed License Agreement and possible amendments to the solid waste ordinance was opened on June 15, 1994 and thereafter continued to June 29, July 20, August 3, August 10 and August 31, 1994. Based on the record of the public hearing and on the recommendation of the Solid Waste Advisory Committee, the Board finds that adoption of the proposed License Agreement with Riverbend Landfill will enable the county to maintain stable long-term disposal rates for county residents and businesses, adequate long-term disposal capacity for solid waste

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YAMHILL COUNTY DEPT. OF
PLANNING AND DEVELOPMENT

94-589

generated within the county and adequate funding for county solid waste programs for the duration of the agreement.

D. On May 19, 1992 the voters approved two county initiative measures that potentially effected operations at Riverbend Landfill, Measure 36-1 and Measure 36-2.

Measure 36-1, entitled the "Yamhill County Groundwater Protection and Landfill Siting Ordinance," was appealed to the Oregon Land Use Board of Appeals ("LUBA") by Riverbend Landfill Company. In its Final Opinion and Order, LUBA decided the appeal in favor of Riverbend Landfill by declaring unconstitutional those parts of Measure 36-1 that purported to limit Riverbend's right to accept solid waste generated outside Yamhill County. Riverbend Landfill Co. v. Yamhill County, LUBA No. 92-114, February 2, 1993. LUBA's decision was appealed to the Oregon Court of Appeals, Appellate Case No. CA A78645. The Court of Appeals dismissed the appeal on March 10, 1993. Given the LUBA decision, the material provisions of Measure 36-1 are unenforceable.

Measure 36-2 was entitled "Initiative - Assurance of Long-Term Solid Waste Planning and Restriction on Importation of Solid Waste." Section 2 of Measure 36-2 measure established 10 "key provisions" which were required to become part of any new "disposal franchise" with Riverbend Landfill. While many of the 10 specified provisions have been incorporated into the License Agreement attached to this Ordinance 578, those provisions that discriminate against Riverbend's acceptance of solid waste generated outside Yamhill County are likely unconstitutional under a series of United States Supreme Court cases decided after the May 19, 1992 election. Although the License Agreement approved by this Ordinance 578 is not a disposal franchise, the Board desires to assure that no conflict occurs between the License Agreement and Measure 36-2. Therefore, this ordinance repeals Measure 36-2.

E. Under the existing franchise, a surcharge of \$3.30 per ton of waste disposed at Riverbend Landfill is paid to the county. From this surcharge the county pays City Sanitary Service, Inc., a subsidy of \$1.07 per ton of non-Yamhill County waste and \$1.20 per ton of Yamhill County waste excluding waste transferred from the Newberg Transfer and Recycling Center. Upon the effective date of the adoption of the Solid Waste Ordinance, 1994, the \$3.30 per ton surcharge will terminate and be replaced by license and host fees specified in the License Agreement. Thereafter, the source of most funding for recycling programs is intended be collection rates. To avoid substantial negative impacts on City Sanitary's recycling programs caused by the elimination of the source of its recycling subsidy upon the effective date of this ordinance, Riverbend Landfill Co., the county and City Sanitary agree by an attachment to this ordinance that Riverbend will continue the recycling subsidy until December 31, 1994.

F. For the reasons set forth above the Board finds that the adoption of a new solid waste ordinance and a License Agreement with Riverbend Landfill is in the best interests of the citizens of Yamhill County.

NOW, THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

Section 1. Adoption of Solid Waste Ordinance, 1994.

Effective on the date specified in Section 5, the Yamhill County Solid Waste Collection and Disposal Ordinance, as amended by Ordinances 154, 192, 259, 350, 401, 434, 490, 509, 534 and 548, is hereby repealed in its entirety and replaced by the ordinance attached and incorporated into this Ordinance 578 as Exhibit "A". The new ordinance may be cited as the Solid Waste Ordinance, 1994.

Section 2. Adoption of License Agreement; Amendments to Trust.

a. Effective on the date specified in Section 5, the Solid Waste Disposal License Agreement ("the License Agreement") between Yamhill County and Riverbend Landfill attached and incorporated into this Ordinance 578 as Exhibit "B" is hereby approved.

b. The Environmental Impairment Trust, also known as the Revocable Landfill Environmental Trust Agreement or the RLE Trust, approved by Board Order 89-177 is hereby modified in accordance with the provisions of Exhibit "C" to the License Agreement. The License Agreement is attached as Exhibit "B" to this ordinance.

Section 3. Repeal of Measure 36-2.

The initiative measure approved by the voters as Measure 36-2 on May 19, 1992 and entitled "Initiative - Assurance of Long-Term Solid Waste Planning and Restriction on Importation of Solid Waste" is hereby repealed in its entirety.

Section 4. Authorization of Agreement for Payment of Recycling Subsidy.

The chairman of the Board is authorized to execute the agreement entitled "Agreement - Payment of Recycling Subsidy" attached and incorporated into this Ordinance 578 as Exhibit "C".

Section 5. Conflict with Solid Waste Plan; Plan Update.

a. In the event any provision in the Solid Waste Ordinance, 1994 adopted by Section 1 of this ordinance or the License Agreement adopted by Section 2 of this ordinance is inconsistent with a provision in the Yamhill County Solid Waste Management Plan Policies & Implementation Measures, Board Order 91-127, March 6, 1991 ("the Solid Waste Plan"), then the Solid Waste Ordinance, 1994 or the License Agreement shall control over inconsistent provisions in the Solid Waste Plan.

b. County solid waste staff is directed to prepare modifications to the Solid Waste Plan to make the plan consistent with the Solid Waste Ordinance, 1994 and the License Agreement. Modifications shall be presented to the Board for adoption by Board Order not later than 30 days following the effective date specified in Section 5.

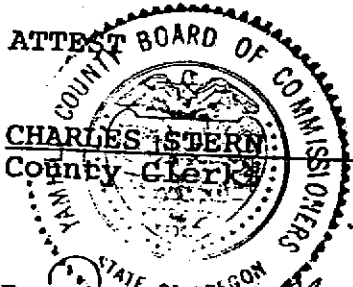
Section 6. Effective Date; Emergency Clause.

This ordinance, being necessary for the health, safety and welfare of the citizens of Yamhill County and an emergency having been declared to exist, shall become effective on October 1, 1994.

Section 7. Severability.

All sections, subsections and paragraphs of this ordinance are severable. If any section, subsection or paragraph is ruled invalid for any reason by the court of last resort, the other portions of this ordinance shall be unaffected.

DONE at McMinnville, Oregon this 31st day of August, 1994.



CHARLES STERN
County Clerk

By: Jaynie Mitchell
Deputy JAYNIE MITCHELL

FORM APPROVED BY:

John M. Gray, Jr.
JOHN M. GRAY, JR.
Yamhill County Counsel

YAMHILL COUNTY BOARD OF COMMISSIONERS

Dennis L. Goecks
Chairman DENNIS L. GOECKS

Ted Lopuszynski
Commissioner TED LOPUSZYNSKI

Debi Owens
Commissioner DEBI OWENS

7.2. Applications. Applications for a franchise or license shall be on forms provided by the coordinator. In addition to information required on the forms, the coordinator may require the filing of information deemed necessary to insure compliance with this ordinance.

- a. Applicants for a collection franchise shall list the type of service to be provided, and shall supply other information deemed necessary by the coordinator to insure compliance with this ordinance.
- b. Applicants for a disposal franchise or license shall list the type of service to be provided, and shall supply other information deemed necessary by the coordinator to insure compliance with this ordinance. Applicants for a disposal franchise or license shall file with the coordinator a duplicate copy of all information provided to DEQ in connection with their DEQ application.

7.3 Minimum Requirements for Collection Franchise. An applicant for a collection franchise shall submit all information required by the coordinator to determine compliance with this ordinance. At a minimum, the coordinator shall require at least the following:

- a. That the defined service area has not been franchised to another person or that the defined service area is currently not served by a franchisee or
- b. That the defined service area is not being adequately served by the franchisee and that there is a substantial demand from customers within the area for a change of service to that area; and
- c. That the applicant has current public liability insurance of not less than \$500,000 and property damage insurance not less than \$100,000. The applicant shall provide a certificate of insurance to county.

7.4 Review and Issuance of Collection Franchise.

- a. Applications for collection franchises shall be reviewed by the coordinator and persons selected by the Committee or the Board. The coordinator shall give written notice to a current franchisee of an application which would affect any part of the area already franchised.
- b. Following review of the application and recommendation of the coordinator, the Committee shall determine if the qualifications of the applicant are adequate and shall also determine if additional areas should be included or additional service or equipment should be provided. The Committee shall recommend to the Board whether the application should be granted, denied, or modified.
- c. The Board shall issue an order granting, denying, or amending the application.

7.5 Disposal Franchise or License Requirements.

- a. Applicants for a disposal franchise or license shall provide sufficient information to determine compliance with the requirements of this ordinance, its regulations, and the rules of federal, state, or local agencies having jurisdiction.
- b. Applicants shall specify the type of disposal site and the disposal method to be employed, together with any proposed special regulations dealing with hazardous wastes or the type of waste that will be accepted or rejected at the disposal site.

#5



DEPARTMENT OF THE ARMY
PORTLAND DISTRICT, CORPS OF ENGINEERS
P. O. BOX 3944
PORTLAND, OREGON 97208

NPPEN-PL

25 March 1980

RECEIVED

County Planning Commission
Yamhill County Dept. of Planning
and Development
Yamhill County Courthouse
McMinville, OR 97123

MAR 26 1980

YAMHILL CO
DEPT. OF PLANNING AND DEVELOPMENT

Gentlemen:

We have your 22 February 1980 letter requesting comments concerning a proposed sanitary landfill site referred to as Koch, Fred and Ezra, Riverbend Landfill Inc., CFP-16-80/2-180-80/PA-79-80.

From your description of the site, it is located on the north bank of South Yamhill River about 2.5 miles upstream of Salt Creek. At that location, a 100-year flood would be expected to crest near elevation 135 feet mean sea level, 1947 adjustment datum. The corresponding 100-year flood overflow limits are shown on the inclosed map of South Yamhill River, sheet 10. Floodway boundaries also are shown.

Under the Federal Flood Insurance Program, administered by the Federal Emergency Management Agency, floodways are areas reserved for passage of the faster moving flood water. No constrictive type development, including fill material, which would increase upstream flood heights is permitted in those areas. However, in flood plain areas outside of the floodway, properly placed fill material and structures at elevations above the 100-year flood are acceptable. Cities and counties participating in the Federal Insurance Program must comply with those minimum requirements.

Should you have any questions, please again contact Mr. William Akre, our Special Assistant for Flood Plain Management Services, at (503)221-6411.

Sincerely,

Patrick D. Keough
PATRICK D. KEOUGH
Sr. Chief, Planning Branch

1 Incl
As stated

#6



DEPARTMENT OF THE ARMY
PORTLAND DISTRICT CORPS OF ENGINEERS
P. O. BOX 3946
PORTLAND, OREGON 97108

Part 2

NPPEN-PL-6

28 March 1980

Yamhill County Planning Commission
Dept. of Planning & Development
Yamhill County Courthouse
McMinnville, OR 97123

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Gentlemen:

The additional information with your letter of 26 March 1980 in reference to CFD-16-80/Z-180-80/PA-79-80, Fred and Ezra Koch, Riverbend Landfill Co., Inc., shows the proposed land fill site and development phases.

According to the preliminary flooded-area map, sheet 10, for South Yamhill River inclosed with our letter of 25 March 1980, part of the land fill (phases 3, 4, and 5) encroach on the floodway. Your map is returned with the approximate floodway limit marked with red pencil.

Should you have any questions, please contact Mr. William Akre, our Special Assistant for Flood Plain Management Services, at (503) 221-6411.

Sincerely,

PATRICK J. KEOUGH
Chief, Planning Branch

1 Incl
As stated

September 29, 2008

08 SEP 30 PM 3:49

Dear Metro Councilors,

Thank you so much for listening to our testimony about the Riverbend Landfill footprint filling in the floodway of the South Fork of the Yamhill River.

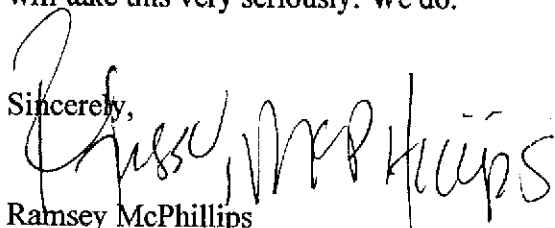
We wanted to pass along the attached maps that Waste Management recently submitted to FEMA that clearly shows Riverbend Landfill and the surrounding floodplain/floodway properties that they plan to re-arrange for their proposed expansion. In order to expand, Riverbend must pick up a tributary and move it ¼ mile down and across our highway. This act, if enacted, will result in substantial flooding to all who adjoin the river and this tributary. The small blue dashed line clearly marks the landfill footprint in the floodway.

End of argument on the matter of "is it?", beginning of argument of what Metro plans to do to stop sending its garbage to an operation that is not in compliance with Federal and County laws. I assume you all noticed in last week's testimony that both DEQ and Waste Management skirted your questions of floodway, floodplain infringement. Let this Waste Management map place us all on the same page so that we can agree on at least one thing. The landfill sits in the floodway.

We are working with FEMA and Yamhill County to stop the re-mapping of the Yamhill basin and hope you will hold off your designated landfill determination for such time that we may remedy these self evident problems. We will be voting on the very important flood plain ballot measure 36-119 in the general election. This will give us an indication of just how much our county values its aquifers, farmland, and garbage and recycling rates. We will look forward to reporting that outcome to you after the election.

Again, we value the opportunity to speak freely to your governing body and hope you will take this very seriously. We do.

Sincerely,



Ramsey McPhillips
THINK CLEAN! WATER COMMITTEE
Mcdumpville.com

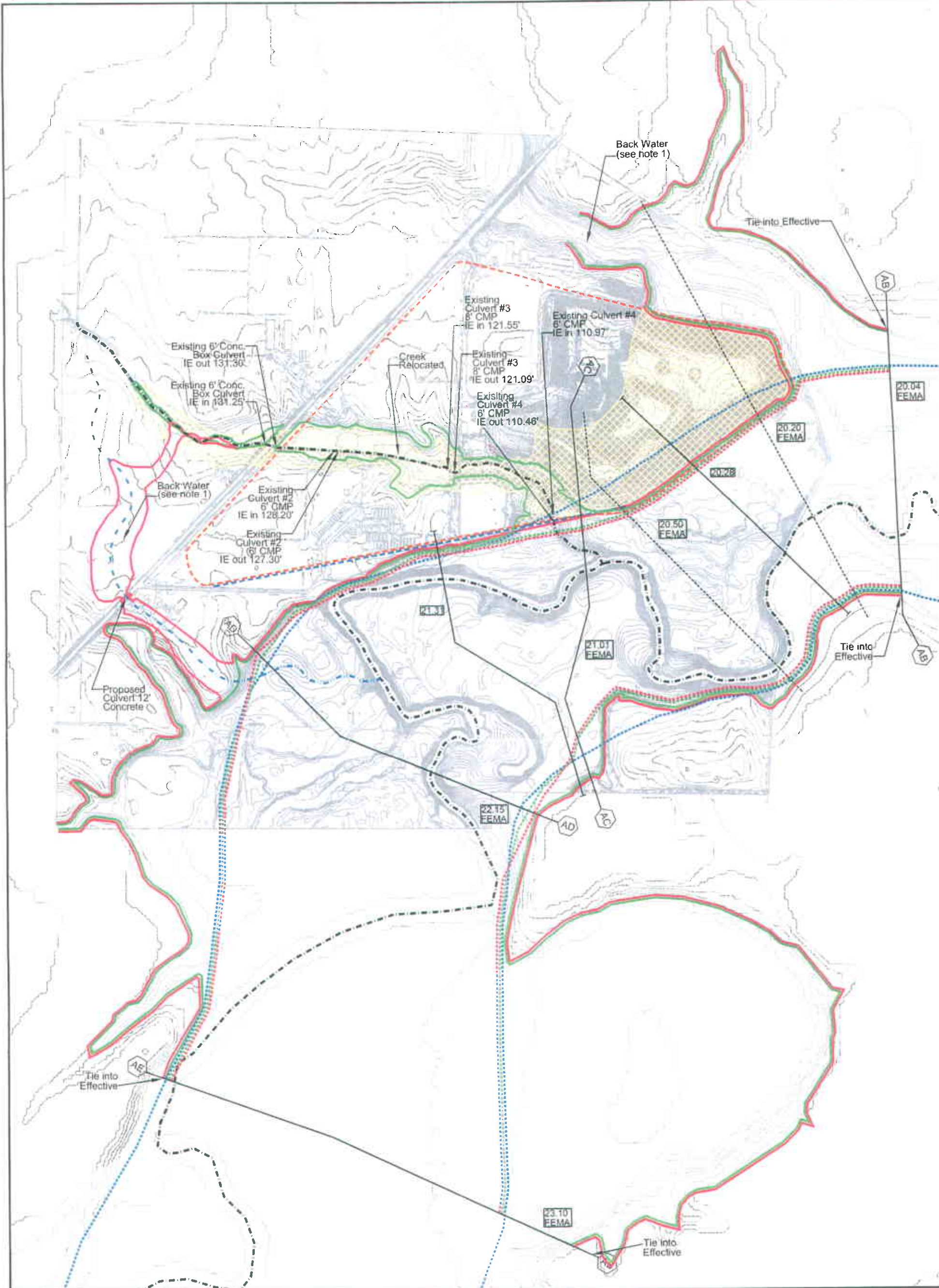
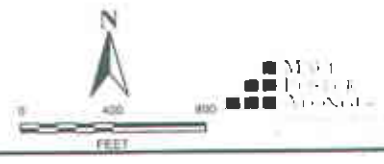


Figure 1 Site Features

Riverbend Landfill McMinnville, Oregon

- LEGEND**
- Existing Contours (Surveyed)
 - - - Existing Contours (USGS)
 - - - Existing Flow Line - Yamhill River and Stream Tributary
 - Proposed Stream Tributary - Relocated
 - - - Proposed Flood Protective Berm (see note 2)
 - - - Proposed Landfill Footprint
 - Current Effective Cross Section
 - - - Current Effective Cross Section Undredged
 - Cross Section added by MFA
 - River Mile
 - Current Effective Base Flood Boundary
 - - - Current Effective Area to be Removed
 - - - Existing Base Flood Boundary
 - Proposed Base Flood Boundary
 - - - Current Effective Floodway
 - Existing Floodway
 - - - Proposed Floodway

- SOURCE**
- 1) Existing contours based on aerial topography provided by Walker and Associates flown on May 5 2036. Contours are based on NAVD 88
 - 2) Contours outside of the survey extent derived from digital elevation model (DEM) obtained from USGS
 - 3) Proposed topographic contours based on NAVD 88
 - 4) Existing floodplains digitized from FEMA Flood Insurance Rate Map for Yamhill County, Oregon, effective date: Sept. 30, 1993
- NOTES**
- 1) Flooding in Inletary is Back Water
 - 2) Not considered a berm per NFIP Section 65.10



Layout: 1
 Project: 0274.02.01
 Drawn By: J. Fisher
 Approved By: M. Rounds

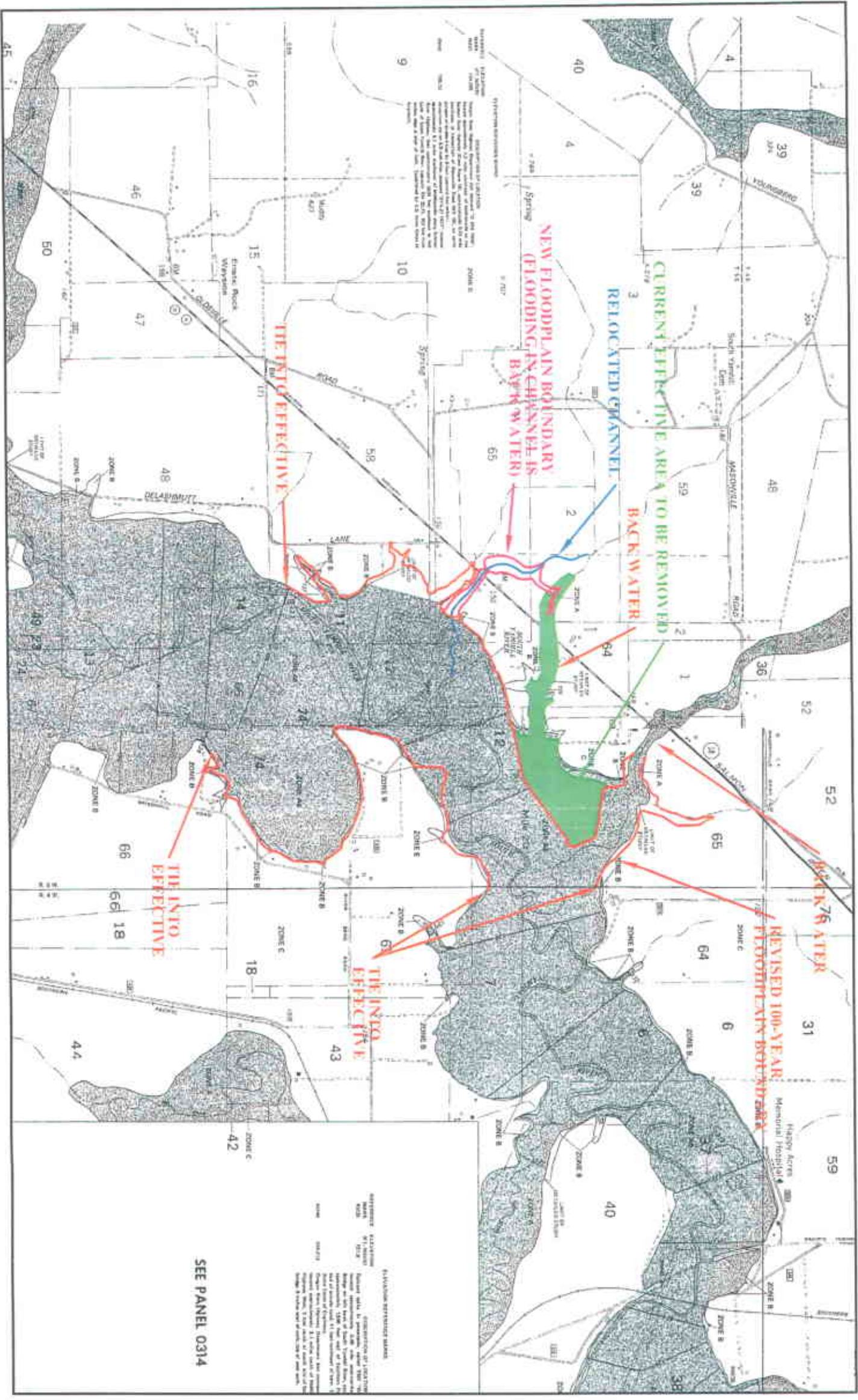


Figure 2
 FIRM Flood Insurance
 Rate Maps
 Riverbend Landfill
 McMinnville, Oregon



M.A.T.I.
 FOSTER
 MONGI INC.

10545 BARNHART BLVD. #1000
 McMinnville, OR 97128
 503.856.3121



RIVERBEND LANDFILL CO., INC.

13469 SW Hwy. 18
McMinnville, OR 97128
(503) 472-8788
(503) 434-9770 Fax

October 9, 2008

David Bragdon
METRO Council President
METRO
600 Northwest Grand Ave.
Portland, OR 97232-2736

Re: Proposed ordinance 08-1197 -- Riverbend Landfill as a Metro Designated Facility

Dear President Bragdon,

On September 25, 2008, the Metro Council held a hearing with respect to proposed ordinance 08-1197. That ordinance, if passed, will initiate a process for Metro to negotiate a Designated Facility Agreement (DFA) with Riverbend Landfill Company, Inc., the owner and operator of Riverbend Landfill in Yamhill County. At the hearing, written and verbal testimony was submitted to Metro alleging that Riverbend Landfill is not in full compliance with federal, state and local laws regulating the floodplain and floodway near the landfill. These assertions simply are not true.

Because the testimony submitted to Metro requires a technical response, I asked our environmental consultant to respond to the specific issues that have been raised. Attached you will find a memo from Shane Latimer of ICF Jones & Stokes responding to those issues.

In sum, the memo concludes that: 1) Riverbend Landfill has not significantly increased the elevation of the 100 year floodplain; rather, the elevation of the 100-year floodplain in this area has, at most, increased only by 0.2 foot, which includes impacts from sources other than Riverbend Landfill; and 2) Riverbend Landfill was constructed outside of the regulatory floodway.

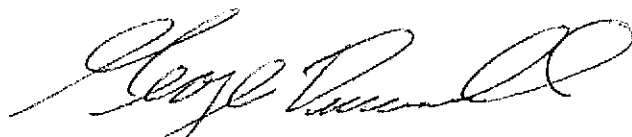
The memo describes how the testimony raising these issues is based on information from the 1980s that was never vetted by FEMA. In contrast, the information on which we now operate is fully updated, state-of-the-art, and has been acknowledged by FEMA.

I would also like to point out that, with respect to Yamhill County, Riverbend Landfill Company, Inc. has been operating under a license issued by the county in 1994. That license could not have been issued if Riverbend Landfill did not comply with all of the County's regulations.

From everyday collection to environmental protection, Think Green® Think Waste Management.

If you have additional questions about the attached memo, or about Riverbend Landfill's compliance with any law, please do not hesitate to contact me.

Sincerely,
Riverbend Landfill Company



George Duvendack
District Manager

Attachment – Technical Memorandum No. 1, *Riverbend Landfill – Explanation of FEMA floodplain and floodway analyses and response to public comment in that regard before Metro Council September 25, 2008*, ICF Jones and Stokes, September 30, 2008.

cc: Councilor Rod Park
Councilor Carlotta Collette
Councilor Carl Hosticka
Councilor Kathryn Harrington
Councilor Rex Burkholder
Councilor Robert Liberty
Tim Spencer (DEQ)
Cal Palmer, Mark Reeves (WM)
Shane Latimer (ICF)
Tommy Brooks, Jim Benedict (CHBH)



Technical Memorandum

Date: 9/30/08

To: George Duvendack, PE
District Manger

From: Shane Latimer, PhD CSE
Senior Ecologist

cc:

Subject: Riverbend Landfill – Explanation of FEMA floodplain and floodway analyses and response to public comment in that regard before Metro Council September 25, 2008.

The purpose of this technical memorandum is to address written testimony submitted to Metro Council September 25, 2008, regarding proposed ordinance 08-1197. The following questions have been raised:

- Has Riverbend Landfill Company, Inc. (RLI) constructed Riverbend Landfill such that it has caused a rise in the 100-year floodplain elevation of more than 1 foot and by as much as 1.4 feet?
- Does Riverbend Landfill currently encroach on the regulatory floodway in violation of federal law?

Based on the information provided in this memo, we believe that both questions regarding floodplain and floodway impacts can be answered in the negative. Our recent analysis, which has been reviewed and approved by the Federal Emergency Management Agency (FEMA; July 14, 2008), shows (1) that construction of Riverbend and Whiteson Landfills likely resulted in a rise of only 0.2 foot (2.4 inches) in the 100-year flood elevation of the South Yamhill River adjacent to the two landfills, and (2) that Riverbend Landfill does not encroach on the regulatory floodway. Moreover, the analysis shows that the proposed Riverbend Landfill expansion will result in only a very minor and permissible rise in the 100-year flood elevation of less than 0.05 foot (about 0.6 inch) between the creek realignment projects, and will not encroach on the floodway.

The remainder of this memo is divided into two sections. The first explains the current status of the various FEMA Letter of Map Revision processes related to Riverbend Landfill and of the

Technical Memorandum to George Duvendack

inter-related floodplain attributes that underlie these processes. The second section responds specifically to the floodplain-related issues raised at the September 25th Metro hearing.

Current Status of Riverbend Landfill FEMA Processes

The following is an explanation of the current status of the FEMA-related processes that have been completed or are required for the proposed expansion of Riverbend Landfill. To set the context for the process, the discussion begins with an explanation of the roles of FEMA and Yamhill County (County).

FEMA's Role

FEMA has several roles with regard to floodplain issues for lands within Yamhill County's jurisdiction: (1) to ensure that the County is properly administering the National Flood Insurance Program (NFIP); (2) to provide technical assistance to the County in reviewing changes to the floodplain maps, whether such revisions are due to changes in conditions or proposed projects; and (3) to maintain the Flood Insurance Rate Maps (FIRMs) for the County.

FEMA ensures that the County is properly administering the NFIP by conducting regular audits of County planning records. FEMA also assists the County in various ways to maintain and improve the program.

When an applicant applies to the County for a Floodplain Development Permit, where applicable, the applicant is required to submit an application to FEMA requesting a Conditional Letter of Map Revision (CLOMR). The purpose of the CLOMR is to ensure that a proper analysis of current conditions and potential effects is conducted prior to project implementation. For larger or more complex projects, including Riverbend Landfill's proposed stream realignment, the applicant must conduct a rigorous hydraulic analysis to ensure that any effects due to the proposed project comply with local codes or ordinances. The analysis is submitted to FEMA, which reviews the methods and results for accuracy. FEMA also ensures that any property owners potentially affected by hydraulic changes (e.g., a rise in the 100-year flood elevation) are notified.

Once a project is completed, the applicant is required to apply to FEMA for a Letter of Map Revision (LOMR), which results in an updated version of the applicable FIRM(s). The applicant must reanalyze hydraulics to ensure that, "as built," the project still complies with all applicable codes and ordinances. Again, FEMA requires that affected property owners be notified of any changes.

Yamhill County's Role

The County must review and sign all LOMR and CLOMR requests to ensure that "the completed or proposed project meets [LOMR] or is designed to meet [CLOMR] all of the community"¹

¹ The governing body or jurisdiction that administers the National Flood Insurance Program for a particular area is referred to generically as "the community" by FEMA.

floodplain management requirements, including the requirement that no fill be placed in a regulatory floodway, and that all necessary Federal, State, and local permits have been, or in the case of a conditional LOMR [CLOMR], will be obtained."² FEMA reviews the County's determination to ensure that it is correct and that proper notification has taken place.

Riverbend Landfill's LOMR Status

In preparation for submission of a Floodplain Development Permit Application, Riverbend Landfill submitted a CLOMR to FEMA. A signature was obtained from the County based on the criteria described above. The County was the only landowner that would potentially be affected by the proposed change (a potential maximum rise in the 100-year flood elevation of approximately 0.05 foot (0.6 inch³), and Riverbend Landfill notified the County accordingly. Riverbend Landfill received approval of the CLOMR from FEMA on July 14, 2008.

One development that arose from the CLOMR process was the discovery that floodplain/floodway modeling and mapping performed by the U.S. Army Corps of Engineers (Corps) in the early 1980s to explore alternative development plans for previous landfill development phases was never vetted by FEMA via a CLOMR or LOMR process. The hydraulic model prepared by the Corps was based on potential modifications to the floodplain/floodway beyond simply adding cross section topography for the landfills. These additional modifications may significantly impact (raise) water surface elevations in the models.

Regardless, FEMA required Riverbend Landfill to utilize data used to conduct the original Flood Insurance Study (FIS) for that reach of the river. Thus, all changes that have occurred on this reach of the river, including the construction of Whiteson and Riverbend Landfills, as well as any natural topographic changes in the river, are incorporated into the updated study conducted for the CLOMR. The result of the updated study is a floodplain map that assesses the effects of both landfills from the baseline FIS study, without regard to the Corps study. In other words, the current model and mapping incorporates all past and proposed changes and thus represents the worst case with regard to potential impacts to the floodplain and floodway. Those results are discussed below.

Due to the discovery that the Corps never submitted its study to FEMA, Riverbend Landfill is preparing a LOMR that incorporates all of the various effects to the study area to date, i.e., the effects due to natural changes and construction of Whiteson and Riverbend Landfills. This is a purely administrative process as all the information in the LOMR has already been approved via the CLOMR process; this LOMR will merely initiate updates to the FIRMs.

² FEMA MT-2 Form Instructions (for submission of proposed CLOMRs and LOMRs).

³ FEMA's CLOMR approval letter (July 14, 2008) lists maximum 100-year flood (base flood) elevation increases of 0.1 and 0.2 feet depending on the conditions being compared. The 0.1-foot increase is approximately 0.7 inch higher than those listed in all documents that have and will be submitted to the County. This is because FEMA rounds up to the nearest 0.1 foot. FEMA derives its 0.2-foot (2.4-inch) increase by interpolating (i.e., mathematically estimating) base flood elevations between accurately surveyed river cross sections and rounding up. Given the river's topographic diversity in this area, which could bias results in either direction, we chose not to interpolate maximum increases and decreases. We did, however, review the model to ensure that any increases in base flood elevations due to the proposed project would not affect property owners other than Riverbend Landfill, and potentially Yamhill County (Whiteson Landfill).

Technical Memorandum to George Duvendack

Results of the FEMA Studies

The following results have been vetted by FEMA as part of the CLOMR process. In summary, when compared to the conditions observed during the original FIS, which included none of the various fills within the 100-year floodplain, currently existing conditions produce 100-year flood elevations as much as 0.2 foot higher (as well as 0.2 foot lower) than the original analysis (Table 1). This means that the impact on the floodplain from Riverbend Landfill, Whiteson Landfill and any naturally occurring changes *combined* was no more than 0.2 foot.

Table 1. Comparison of 100-year flood elevations between the original Flood Insurance Study (1973 topography) and current conditions (2008 topography). Approved by FEMA July 14, 2008.

River Mile	Original FIS Model HEC-RAS/1973 Topography (feet msl*)	Current Existing Conditions HEC-RAS / 2008 Topography (feet msl)	Change (feet)
23.1	137.9	137.8	-0.1
22.15	136.8	136.8	0.0
21.31	136.3	136.1	-0.2
21.01	135.8	135.8	0.0
20.5	135.1	135.3	0.2
20.28	134.8	135.0	0.2
20.2	134.7	134.9	0.2
20.04	134.5	134.5	0.0

* Elevations in feet relative to mean sea level

The Floodway

The regulatory floodway is that part of the floodplain “regulated by Federal, State, or local requirements to provide for the discharge of the base flood [i.e., 100-year flood elevation] so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program) within the 100-year floodplain” (Corps 2008)⁴. Riverbend Landfill determined the location/elevation of the floodway when planning for future expansion during the early 1980s and again in 1994. During the CLOMR process, the location of the floodway boundary was confirmed by FEMA to be at the edge of Riverbend Landfill, as previously determined.

⁴FEMA Definition: “Floodway – The channel of a river and the adjacent overbank areas reserved to carry base flood discharge without raising the BFE (Base Flood Elevation) more than a designated amount.”

Response to Floodplain-Related Issues Raised at Metro

This portion of the memo relates only to the issues raised in written testimony submitted to Metro Council September 25, 2008, regarding proposed ordinance 08-1197.

First, recent FEMA approval of the CLOMR submitted by Riverbend Landfill affectively renders all of the issues raised moot for the technical reasons outlined above: The CLOMR shows that the effects of Riverbend Landfill (as well as those of Whiteson Landfill) to the floodplain are not significant or detrimental; existing conditions are comparable to pre-construction conditions with regard to the 100-year flood elevation and the location of the regulatory floodway.

Second, our research thus far indicates that the “two alternative plans (A and B) for development of the Riverbend Landfill” cited by testimony were developed as part of a planning exercise and never implemented, likely due to their potential impacts to the 100-year floodplain and floodway (the two designs apparently would have extended far to the southeast of the current landfill). We have been unable to find anything in the record in terms of a map or plan that supports the conclusions asserted in the testimony that Riverbend Landfill detrimentally alters the floodway or reduces storage capacity in the floodplain. Rather, we offer a report completed by EMCON Northwest, Inc. (1994; attached) for Riverbend Landfill and DEQ concluding “that relocating the floodway berm, as proposed by Riverbend Landfill will not significantly change the 100-year flood boundary, nor will it reduce the temporary floodplain storage capacity such that a hazard would be posed to human health or the environment.” The map that accompanies the EMCON report shows the floodway and floodplain boundaries in their current position (per the current CLOMR), even though EMCON used the Corps model.⁵

Summary

In summary, the CLOMR approved by FEMA July 14, 2008, is the most comprehensive and up-to-date description of the hydraulic characteristics of the reach of the South Yamhill River potentially affected by Riverbend Landfill, Whiteson Landfill, and any additional activities or natural changes within study boundaries. Riverbend Landfill, Yamhill County, and FEMA have each participated in the process as prescribed by the NFIP. The results of the process are as follows:

1. Riverbend Landfill currently occupies a portion of the 100-year floodplain as mapped in the current FIRMs and has likely increased the 100-year flood elevation by up to 0.2 foot in areas adjacent to the landfill.
2. Riverbend Landfill was constructed outside of the regulatory floodway.
3. The proposed expansion of Riverbend Landfill will cause only a minor, permissible rise (approximately 0.05 foot or about 0.5 inch) in the 100-year flood elevation, which occurs

⁵ EMCON did not know of the issues associated with the Corps model and used what was believed to be the most up-to-date information.

Technical Memorandum to George Duvendack

mainly between the existing and proposed channels of the unnamed tributary creek that will be realigned.

4. Issues raised in testimony presented to Metro Council with respect to floodplain-associated regulatory compliance would seem to be moot, based on outdated data, and without sufficient technical foundation.

References

[Corps] U.S. Army Corps of Engineers. Available:

<http://www.spa.usace.army.mil/reg/Definitions/glossary_of_terms.asp>. Accessed: September 30, 2008.

EMCON Northwest, Inc. 1994. Riverbend Landfill – Floodway Analysis (Letter Report). Neil R. Alongi, P.E. (Engineer of record).

FEMA [Federal Emergency Management Agency] Emergency Management Institute. Available:

<<http://www.training.fema.gov/EMIWeb/IS/IS394A/glossary-0306.doc>>. Accessed: September 30, 2008.

Attachments



Federal Emergency Management Agency

Washington, D.C. 20472

July 14, 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
Case No.: 07-10-0731R

The Honorable Mary P. Stern
Chairwoman, Yamhill County
Board of Commissioners
535 Northeast Fifth Street
McMinnville, OR 97128

Community: Yamhill County, OR
Community No.: 410249

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Dear Ms. Stern:

This responds to a request that the Department of Homeland Security's Federal Emergency Management Agency (FEMA) comment on the effects that a proposed project would have on the effective Flood Insurance Rate Map (FIRM), Flood Boundary and Floodway Map (FBFM), and Flood Insurance Study (FIS) report for your community, in accordance with Part 65 of the National Flood Insurance Program (NFIP) regulations. In a letter dated July 24, 2007, Mr. George Duvendack, Waste Management, Riverbend Landfill Company, requested that FEMA evaluate the effects that updated topographic information, fill placement, excavation, and backwater channel relocation associated with a proposed 87-acre expansion of the existing Riverbend Landfill and Recycling Center facility, would have on the flood hazard information shown on the effective FIRM, FBFM, and FIS report along the South Yamhill River from approximately 3.4 miles to approximately 6.6 miles upstream of the Southern Pacific Railroad.

All data required to complete our review of this request for a Conditional Letter of Map Revision (CLOMR) were submitted with letters from Shane Latimer, Ph.D., CSE, ICF-Jones & Stokes; Mr. David Gorman, P.E., and Mr. Michael Rounds, EIT, Maul, Foster, & Alongi, Inc.; and Mr. Duvendack.

We reviewed the submitted data and the data used to prepare the effective FIRM and FBFM for your community and determined that the proposed project meets the minimum floodplain management criteria of the NFIP. The submitted existing conditions hydraulic computer model, dated June 9, 2008, based on updated topographic information, was used as the base conditions model in our review of the proposed conditions model for this CLOMR request. We believe that, if the proposed project is constructed as shown in the submitted report entitled "Conditional Letter of Map Revision, Riverbend Landfill, Yamhill County, Oregon," prepared by Riverbend Landfill Company, ICF-Jones & Stokes, and Maul, Foster & Alongi, dated July 24, 2007, and revised February 2007, March 2008, and June 2008, and the data listed below are received, the floodplain boundaries of the base (1-percent-annual-chance) flood will be delineated as shown on "Figure 1 – Site Features," prepared by Maul, Foster & Alongi, dated June 10, 2008.

Our comparison of the existing conditions to the effective flood hazard information revealed that as a result of updated topographic information, the Base Flood Elevations (BFEs) for the South Yamhill River increased and decreased compared to the effective BFEs. The maximum increase, 0.2 foot, occurred approximately 3.87 miles upstream of the Southern Pacific Railroad. The maximum decrease, 0.2 foot, occurred approximately 4.69 miles upstream of the Southern Pacific Railroad.

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The proposed conditions model incorporated into the existing conditions model the effects of the proposed project along the South Yamhill River. As a result of the proposed project, the BFEs for the South Yamhill River will increase in some areas and decrease in other areas compared to existing conditions BFEs. The maximum increase, 0.1 feet, will occur approximately 4.69 miles upstream of the Southern Pacific Railroad. The maximum decrease, 0.3 feet, will occur approximately 6.50 miles upstream of the Southern Pacific Railroad.

As a result of the proposed project and updated topographic information, the BFEs for the South Yamhill River will increase and decrease compared to effective BFEs. The maximum increase, 0.2 foot, will occur approximately 3.87 miles upstream of the Southern Pacific Railroad. The maximum decrease, 0.4 feet, will occur approximately 6.50 miles upstream of the Southern Pacific Railroad. The width of the Special Flood Hazard Area (SFHA), the area that would be inundated by the base flood, will increase and decrease compared to the effective SFHA width. The maximum increase, approximately 800 feet, will occur approximately 5.67 miles upstream of the Southern Pacific Railroad. The maximum decrease, approximately 1,800 feet will occur approximately 3.61 miles upstream of the Southern Pacific Railroad.

As a result of the proposed project and updated topographic information, the width of the regulatory floodway, will increase and decrease compared to the effective floodway width. The maximum increase, approximately 310 feet will occur approximately 5.52 miles upstream of the Southern Pacific Railroad. The maximum decrease, approximately 550 feet will occur approximately 4.44 miles upstream of the Southern Pacific Railroad.

Upon completion of the project, your community may submit the data listed below and request that we make a final determination on revising the effective FIRM, FBFM, and FIS report.

- With this request, your community has complied with all requirements of Paragraph 65.12(a) of the NFIP regulations. Compliance with Paragraph 65.12(b) also is necessary before FEMA can issue a Letter of Map Revision when a community proposes to permit encroachments into the effective regulatory floodway that will cause increases in BFE in excess of those permitted under Paragraph 60.3(d)(3). Please provide evidence that your community has, prior to approval of the proposed encroachment, adopted floodplain management ordinances that incorporate the increased BFEs and revised floodway boundary delineations to reflect post-project conditions, as stated in Paragraph 65.12(b).
- Detailed application and certification forms, which were used in processing this request, must be used for requesting final revisions to the maps. Therefore, when the map revision request for the area covered by this letter is submitted, Form 1, entitled "Overview & Concurrence Form," must be included. (A copy of this form is enclosed.)
- The detailed application and certification forms listed below may be required if as-built conditions differ from the preliminary plans. If required, please submit new forms (copies of which are enclosed) or annotated copies of the previously submitted forms showing the revised information.

Form 2, entitled "Riverine Hydrology & Hydraulics Form"

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Form 3, entitled “Riverine Structures Form”

Hydraulic analyses, for as-built conditions, of the base flood; the 10-percent, 2-percent, and 0.2-percent-annual-chance floods; and the regulatory floodway, together with a topographic work map showing the revised floodplain and floodway boundaries, must be submitted with Form 2.

- Effective October 1, 2007, FEMA revised the fee schedule for reviewing and processing requests for conditional and final modifications to published flood information and maps. In accordance with this schedule, the current fee for this map revision request is \$4,800 and must be received before we can begin processing the request. Please note, however, that the fee schedule is subject to change, and requesters are required to submit the fee in effect at the time of the submittal. Payment of this fee shall be made in the form of a check or money order, made payable in U.S. funds to the National Flood Insurance Program, or by credit card (Visa or MasterCard only). The payment, along with the revision application, must be forwarded to the following address:

FEMA National Service Provider
3601 Eisenhower Avenue
Alexandria, VA 22304-6425

- As-built plans, certified by a registered professional engineer, of all proposed project elements
- Community acknowledgment of the map revision request
- A copy of the public notice distributed by your community stating its intent to revise the regulatory floodway, or a statement by your community that it has notified all affected property owners and affected adjacent jurisdictions
- Evidence of notification of all property owners who will be affected by any increases in width and/or shifting of the base floodplain and/or increases in BFEs. This documentation may take the form of certified mailing receipts or certification that all property owners have been notified, with an accompanying mailing list and a copy of the letter sent.

After receiving appropriate documentation to show that the project has been completed, FEMA will initiate a revision to the FIRM, FBFM, and FIS report. Because the BFEs would change as a result of the project, a 90-day appeal period would be initiated, during which community officials and interested persons may appeal the revised BFEs based on scientific or technical data.

The basis of this CLOMR is, in whole or in part, a channel-modification/culvert project. NFIP regulations, as cited in Paragraph 60.3(b)(7), require that communities assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. This provision is incorporated into your community’s existing floodplain management regulations. Consequently, the ultimate responsibility for maintenance of the modified channel and culvert rests with your community.

This CLOMR is based on minimum floodplain management criteria established under the NFIP. Your community is responsible for approving all floodplain development and for ensuring all necessary permits required by Federal or State law have been received. State, county, and community officials, based on

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knowledge of local conditions and in the interest of safety, may set higher standards for construction in the SFHA. If the State, county, or community has adopted more restrictive or comprehensive floodplain management criteria, these criteria take precedence over the minimum NFIP criteria.

If you have any questions regarding floodplain management regulations for your community or the NFIP in general, please contact the Consultation Coordination Officer (CCO) for your community. Information on the CCO for your community may be obtained by calling the Director, Mitigation Division of FEMA in Denver, Colorado, at (303) 235-4830. If you have any questions regarding this CLOMR, please call our Map Assistance Center, toll free, at 1-877-FEMA MAP (1-877-336-2627).

Sincerely,



Beth A. Norton, CFM, Program Specialist
Engineering Management Branch
Mitigation Directorate

For: William R. Blanton Jr., CFM, Chief
Engineering Management Branch
Mitigation Directorate

Enclosures

cc: Mr. Michael Brandt
Planning Director
Yamhill County

Mr. George Duvendack
Waste Management
Riverbend Landfill Company

Shane Latimer, Ph.D., CSE
Jones & Stokes

**EMCON** Northwest, Inc.

15055 SW Sequoia Parkway • Suite 140 • Portland, Oregon 97224 • (503) 624-7200 • Fax (503) 620-7658

February 14, 1994
Project 258-001.20/11Mr. Scott Bradley
13469 SW Highway 18
McMinnville, Oregon 97128

Re: Riverbend Landfill—Floodway Analysis

Dear Scott:

This letter addresses the two outstanding issues in the Riverbend Landfill Solid Waste Permit Number 345, Schedule C, Item 2 regarding the relocation of the floodway berm. Schedule C, Item 2 has four conditions that need to be met before initiating landfill expansion to the east (i.e. movement of the floodway berm). It is our understanding that information previously submitted on items (a) and (c) has been accepted by the Oregon Department of Environmental Quality (DEQ).

To respond to the DEQ concerns over the change in the 100-year floodway boundaries from the development in the watershed and the relocation of the floodway berm, the Army Corps of Engineers (COE) HEC-2 Model was used. The HEC-2 output should resolve both items C.2(b) and C.2(d). EMCON uses ProHEC-2 version 4.6 developed by Dodson and Associates of Houston, Texas. Original input files for the South Yamhill River were obtained from the Ken McGowen at the COE, Portland office.

Schedule C, Item 2(b)

Item C.2(b) of the permit states, ". . . a demonstration that the 100-year floodplain boundaries have not changed since 1983, as a result of development activities in the water shed."

EMCON's alternative approaches to demonstrating the impact of development activities in the watershed since 1983 included:

- Checking the COE and Federal Emergency Management Agency (FEMA) to see if a more recent evaluation of the floodplain boundaries had been accomplished.
- Evaluating development activities upstream and in nearby downstream to estimate probable impact to the floodplain boundaries from increased flow.

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Mr. Scott Bradley
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The first alternative proved to be fruitless. The second alternative was chosen and discussed generally with Mr. Monty Morshed of the DEQ.

To assess the development activities that occurred in the South Yamhill the following step were taken:

- 1) The watershed contributing to the South Yamhill River, upstream from the landfill site, was interpreted (see Figure 1).
- 2) The townships within the defined watershed with the greatest population and building density were specified (Townships 5s/5w, 5s/6w, 5s/7w, 6s/6w, and 6s/7w).
- 3) To assess the development within Yamhill County's selected townships (5s/5w, 5s/6w, and 5s/7w), Yamhill County Court House was visited. Mike Brent (Director of Planning for Yamhill County) was interviewed concerning development in the watershed over the last 10 years. Yamhill County maintains a listing, by township and range, of all building permits issued. These listings were reviewed to assess development within the last 10 years. Table 1 lists the building permits issued by type and township for the specified townships in Yamhill County.
- 4) Mr. Brent also stated that there had been no major development downstream of the landfill that would constrict flow.
- 5) To assess the development within Polk County's selected townships (6s/6w and 6s/7w), Polk County Court House was visited. Gene Clemmens (Administrator of Community Development for Polk County) was interviewed concerning development in the water shed over the last 10 years. Polk County maintains a file, by township and range, for each permit issued. These files were also reviewed to assess development within the last 10 years. Table 1 also lists the building permits issued for the specified townships in Polk County.

Table 1
Building Permits Located in S. Yamhill River Watershed

County	Township/ Range	Year	Single Family Dwellings	Mobile Home	Commerical	Barn/Shop/Garage Ag. Building	
Yamhill County	5s/5w	1983	2	3	1	5	
		1984	1	6	0	2	
		1985	2	2	1	6	
		1986	5	3	0	4	
		1987	4	4	0	3	
		1988	0	2	0	8	
		1989	2	6	1	5	
		1990	0	2	1	5	
		1991	3	5	0	3	
		1992	1	5	0	12	
	5s/6w	1993	4	2	1	2	
		1983	2	3	1	1	
		1984	2	9	2	7	
		1985	1	5	0	4	
		1986	5	1	0	5	
		1987	1	2	0	2	
		1988	4	7	2	7	
		1989	5	3	3	4	
		1990	4	13	0	9	
		1991	8	11	5	10	
	5s/7w	1992	10	15	3	19	
		1993	21	23	1	13	
		1983	3	3	0	4	
		1984	1	0	0	2	
		1985	0	2	0	3	
		1986	0	2	0	2	
		1987	0	1	0	1	
		1988	0	1	0	5	
		1989	0	7	0	1	
		1990	1	2	0	1	
	Subtotal Yamhill County			95	159	22	159
	Polk County	6s/6w	1983	1	4	1	1
			1984	3	2	0	1
			1985	1	1	0	2
			1986	1	1	1	1
1987			0	1	0	3	
1988			2	5	0	1	
1989			1	6	0	0	
1990			2	2	1	1	
1991			2	2	1	2	
1992			1	0	0	4	
6s/7w		1993	0	1	0	1	
		1983	1	2	0	1	
		1984	0	0	1	1	
		1985	1	0	0	1	
		1986	0	0	0	0	
		1987	0	2	0	0	
		1988	0	1	1	0	
		1989	1	1	0	1	
		1990	0	4	0	2	
		1991	0	1	0	0	
Subtotal Polk County			18	36	7	24	
Grand Total			113	195	29	183	

Mr. Scott Bradley
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- 6) To translate the development within the watershed into discharge increase to the South Yamhill River the following conservative rational was used.
- Approximately 3,000 square feet of developed surface was estimated per permit type.
 - All surfaces were considered impervious and discharging directly to the South Yamhill River.
 - Rainfall data from the 100-year, 24-hour storm was established at 6.5 inches.

The following calculations were derived from the rational:

$$\text{Flow} = 520 \text{ permits} \times 3000 \text{ square feet/permit} \times 6.5 \text{ inches}/24 \text{ hours}$$

$$\text{Flow} = 9.78 \text{ cubic feet per second (cfs)} \text{ (approximately 10 cfs)}$$

The COE was contacted to estimate potential increased flow to the South Yamhill River due to logging within the watershed. It is their conclusion, after much study on the Willamette River, that no correlation between logging and increased river flows can be proven through measuring stream flows and the corresponding flood elevations relative to logging within the contributing watershed. Therefore, this was not accounted for in the input file.

The estimated increase in flow, 10 cfs, was added to each flow value used for the 100-year flood input file by the COE (i.e. a flow of 50,000 cfs was increased to 50,010 cfs). This input file uses the encroachment locations (floodway boundaries) used by the COE when modeling the proposed landfill siting in 1981-1983 (see Drawing 1). The model was run with the landfill's encroachment as set-up by the COE, with and without the increased flow. Table 2 shows that no increase in flow elevation is found from increased development within the watershed upstream or downstream of the landfill when compared to the 1983 COE revised floodway boundary. Appendix A contains the two output files for the HEC-2 computer runs.

Mr. Scott Bradley
 February 14, 1994
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Table 2
100-Year Flood Elevations

River Mile	Original 100-year Flood Elevation	100-year Flood Elevation with Increased Flow
20.04	136.73	136.73
20.20	137.02	137.02
20.50	137.43	137.43
21.01	138.01	138.01
22.15	139.00	139.00

Schedule C, Item 2 (d)

Item C.2(d) states, ". . . hydrologic and hydraulic analysis, if necessary to demonstrate that future landfill expansions will not reduce the temporary floodplain storage capacity such that a hazard would be posed to human health and the environment."

To appropriately model the landfill site and the effect that the relocation of the floodway berm will have on the 100-year flood elevation, the following steps were taken:

- 1) The cross section for RM 20.04 was left as input by the COE (see Drawings 1 and 2).
- 2) The cross section for RM 20.13 was developed by EMCON from a topographic map dated 10-9-92. The river bottom at this section was interpolated from the COE cross sections at RM 20.04 and 20.20.
- 3) The cross section for RM 20.20 was left as input by the COE and later modified from the original COE input file to include the future floodway berm extension.
- 4) The cross section at RM 20.28 was developed by EMCON from a topographic map dated 10-9-92. The river bottom at this section was

Mr. Scott Bradley
 February 14, 1994
 Page 6

Project 258-001.20/11

interpolated from COE cross sections at RM 20.20 and 20.50. This cross section included the existing floodway berm south of Module 4.

- 5) The cross section at RM 20.50 was modified from the original COE input file to include the existing development of Module 3b.
- 6) The cross section at RM 21.01 was modified from the original COE input file to include the existing development of Module 2.

The model was run with the data simulating conditions before and after relocation of the floodway berm with the actual landfill topography included. The HEC-2 output file showed minimal increase in the 100-year flood elevation (see Table 3). Appendix B contains the two output files for the HEC-2 computer runs.

Table 3

100-Year Flood Elevations Before and After Floodway Berm Relocation

Rivermile	Elevation Before Floodway Berm Relocation	Elevation After Floodway Berm Relocation	Change in 100-Year Flood Elevation
20.04	135.79	135.79	0.00
20.13	135.92	135.92	0.00
20.20	136.05	136.04	-0.01
20.28	136.11	136.15	0.04
20.50	136.50	136.55	0.05
21.01	137.30	137.33	0.03

Conclusion

From the results obtained from the HEC-2 program, EMCON concludes that development within the water shed from 1983-1993 has not changed the 100-year flood boundary.

EMCON also concludes that relocating the floodway berm, as proposed by Riverbend Landfill will not significantly change the 100-year flood boundary, nor will it reduce the

Mr. Scott Bradley
February 14, 1994
Page 7

Project 258-001.20/11

temporary floodplain storage capacity such that a hazard would be posed to human health or the environment.

If you have questions concerning the input, output, or conclusions of this study, please call.

Sincerely,

EMCON Northwest, Inc.



Bob Cochran
Engineer

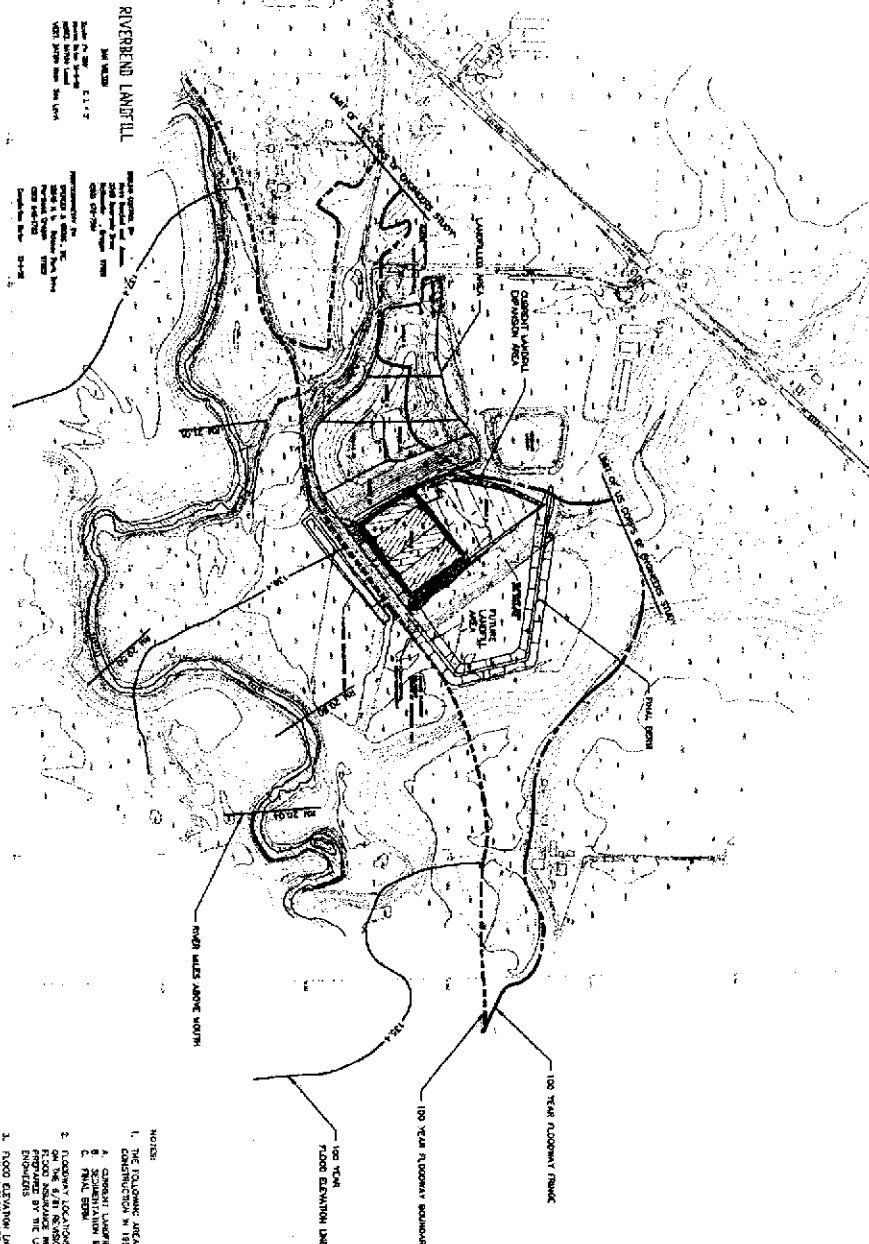


Neil R. Alongi, P.E.
VP/Director of Engineering



Attachments: Figure 1
Drawings 1 and 2
Appendices A and B

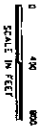
cc/att: Bruce McIntosh



RIVERBEND LANDFILL

DATE: 11/17/03
 DRAWN BY: J. L. BROWN
 CHECKED BY: J. L. BROWN
 PROJECT NO.: 03-001

PROJECT NO.: 03-001
 PROJECT NAME: RIVERBEND LANDFILL
 CLIENT: VANALL COUNTY
 DATE: 11/17/03
 DRAWN BY: J. L. BROWN
 CHECKED BY: J. L. BROWN



NO.	DATE	DESCRIPTION	BY	CHECKED
1	11/17/03	ISSUED FOR PERMITTING	J. L. BROWN	J. L. BROWN
2				
3				
4				
5				
6				
7				
8				
9				
10				



RIVERBEND LANDFILL COMPANY
 RIVERBEND LANDFILL
 VANALL COUNTY, OREGON
FLOODWAY LOCATIONS

- NOTES:
1. THE FOLLOWING AREAS ARE PLANNED FOR DEMONSTRATION IN 1999:
 - A. GARRETT AIRPORT EXPANSION AREA
 - B. RIVERBEND LANDFILL
 - C. FILL AREA
 2. FLOODWAY LOCATIONS ARE AS SHOWN ON THE 6.51 REVISION 2 TO THE 10/00 FLOODWAY LOCATIONS MAP PREPARED BY THE US ARMY CORPS OF ENGINEERS.
 3. FLOOD ELEVATION LINES SHOWN INCLUDE:
 - 100 YEAR FLOODWAY BOUNDARY
 - 100 YEAR FLOODWAY TRUNK
 - 100 YEAR FLOODWAY LINK
- REVISION 2 TO THE 10/00 FLOODWAY LOCATIONS MAP IS A SUPPLEMENT TO THE 10/00 FLOODWAY LOCATIONS MAP. THE 10/00 FLOODWAY LOCATIONS MAP IS THE BASIS FOR THE 10/00 FLOODWAY LOCATIONS MAP. THE 10/00 FLOODWAY LOCATIONS MAP IS THE BASIS FOR THE 10/00 FLOODWAY LOCATIONS MAP.

Yamhill County

DEPARTMENT OF PLANNING AND DEVELOPMENT

525 NE 4TH STREET • McMINNVILLE, OREGON 97128

Phone: (503) 434-7516 • Fax: (503)434-7544 • TTY: (800) 735-2900

Internet Address: <http://www.co.yamhill.or.us/plan/>

Date: October 10, 2008

To: Metro Solid Waste Division
 Marion County Solid Waste Division
 Army Corp of Engineers
 City of Newberg
 City of Amity
 City of Lafayette
 City of Sheridan
 City of Dundee
 City of Dayton
 City of Yamhill
 City of Carlton
 City of Willamina
 City of Grand Ronde
 Clatsop County Solid Waste Division

Re: **Docket PAZ-05-08/FP-04-08/SDR-16-08**
 Riverbend Landfill Company Inc.
 Tax Lot # 5501-101, -200, -400, -401 and 5511-600

The referenced docket is scheduled to be heard at a public hearing held by Yamhill County's Planning Commission on Thursday, November 6, 2008 at 6:30 p.m. in Room 103 of the McMinnville Community Center, 600 NE Evans St., McMinnville, OR.

The request involves three applications to allow for the eventual expansion of the Riverbend Landfill. The first application is for a comprehensive plan amendment and zone change. The second is for a floodplain development permit. The third is for a site design review of the proposed landfill expansion.

The comprehensive plan amendments and zone changes are as follows:

A comprehensive plan amendment for an approximately 82.7 acre portion of Tax Lot 5501-200 to be changed from Public to Agriculture/Forestry Large Holding; a zone change from PWS Public Works Safety to EF-80 Exclusive Farm Use. The purpose is to shift the landfill zoning away from the South Yamhill River. Riverbend Landfill plans to do some wetlands mitigation in this area.

A comprehensive plan amendment for approximately 74 acres made up of Tax Lot 5501-400 and a portion of Tax Lot 5501-401 to be changed from Agriculture/Forestry Large Holding to Public; a zone change from EF-80 Exclusive Farm Use to PWS Public Works Safety. The request includes an exception to Goal 3. The purpose of rezoning this property is for eventual expansion of the landfill over 20 to 30 years.

A comprehensive plan amendment for approximately 25 acres, made up of the southern portion of Tax Lot 5501-401, to be changed from Commercial to Public; a zone change from RC Recreation Commercial to PWS Public Works Safety. The purpose of the rezoning of this property is for eventual expansion of the landfill.

A comprehensive plan amendment for approximately 19.3 acres, made up of a portion of Tax Lot 5501-101, to be changed from Agriculture/Forestry Large Holding to Public; a zone change from EF-80 Exclusive Farm Use to PWS Public Works Safety. The request includes an exception to Goal 3. The purpose of the rezoning of this property is for ancillary facilities, including but not limited to, public drop/recycling area, gas-to-energy facility and surface water facilities. This land would not be used for waste disposal.

A comprehensive plan amendment for approximately 10 acres made up of a portion of Tax Lot 5511-600 to be changed from Agriculture/Forestry Large Holding to Public; a zone change from EF-80 Exclusive Farm Use to PWS Public Works Safety. The request includes an exception to Goal 3. The purpose of the rezoning of this property is for ancillary facilities, including but not limited to, landfill maintenance/storage yard and future leachate management facilities. This land would not be used for waste disposal.

A floodplain development permit to allow for the relocation of a small, unnamed tributary of the South Yamhill River that currently bisects the proposed landfill expansion area. The request would allow for the placement of two earthen berms. One berm is to be near the mouth of the stream but well outside of the floodway and one is to be just east of Highway 18 where the stream emerges from its culvert under the highway.

A site design review application to review the development of the 98 acres proposed for landfill expansion and ancillary facilities.

The request in property located at 13465, 13469, 13965 and 14325 SW Highway 18, McMinnville. The enclosed material has been referred to you for your inspection and official comments. A copy of the application can also be found on the Yamhill County website at:

<http://www.co.yamhill.or.us/plan/index.asp?sel=95> .

Your recommendations and suggestions will be used to guide the decision-maker when reviewing this request. If you wish to have your comments on the enclosed material considered, please return this form by this date: **October 28, 2008**

Your prompt reply will facilitate the processing of this application and will ensure consideration of your recommendations. Please check the appropriate space below, and provide any comments you wish in the space provided, or on additional sheets.

PLEASE NOTE

If a comment is not received by the deadline indicated, the decision-making authority will assume that there is no conflict between the request and the interests of your agency or organization, and make its decision accordingly.

- | | |
|---|--|
| <input type="checkbox"/> 1. We have reviewed the file and find no conflicts with our interests. | <input type="checkbox"/> 4. We would like to suggest some changes to the proposal. |
| <input type="checkbox"/> 2. A formal recommendation is under consideration and will be submitted to you by: _____ | <input type="checkbox"/> 5. Please refer to the enclosed letter. |
| <input type="checkbox"/> 3. Please contact our office immediately. | <input type="checkbox"/> 6. All existing and proposed primary and repair drainfield sites must be within the property lines that they serve or a recorded easement must be provided. |

Comments:

Signed _____ Title _____

Yamhill County

DEPARTMENT OF PLANNING AND DEVELOPMENT

525 NE FOURTH STREET • McMinnville, OREGON 97128-4523

Phone:(503) 434-7516 • Fax:(503)434-7544 • TTY: (800) 735-2900 •Web: <http://www.co.yamhill.or.us/plan/>

NOTICE OF PUBLIC HEARING

November 6, 2008, 6:30 p.m.

Room 103 of the McMinnville Community Center

600 NE Evans St.

McMinnville, Oregon

The YAMHILL COUNTY PLANNING COMMISSION will hold a public hearing at the above time and place to consider the request described below. The request may be heard later than the time indicated, depending on the agenda schedule. Interested parties are invited to send written comment or may appear and testify at the hearing. All issues and concerns should be raised for consideration by the Planning Commission prior to the close of the hearing. Failure to raise an issue, either in person or in writing, or failure to provide statements or evidence sufficient to allow the Planning Commission and/or Board of Commissioners an opportunity to respond to the issue precludes an affected party's appeal of the decision to the Land Use Board of Appeals on that issue.

The application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection, and copies may be purchased at a reasonable cost. A copy of the application can also be found on the Yamhill County website at: <http://www.co.yamhill.or.us/plan/index.asp?sel=95> A staff report will be available for inspection at no cost seven days prior to the hearing, and copies will be available for purchase at a reasonable cost. The location of the hearing is accessible to persons with disabilities. Please call if you will need any special accommodations to attend or participate in the meeting. For further information, contact Ken Friday at the Yamhill County Department of Planning and Development, 525 N.E. Fourth Street, McMinnville, 97128, or at (503) 434-7516.

DOCKET NO.: PAZ-05-08/FP-04-08/SDR-16-08

REQUEST: The request involves three applications to allow for the eventual expansion of the Riverbend Landfill. The first application is for a comprehensive plan amendment and zone change. The second is for a floodplain development permit. The third is for a site design review of the proposed landfill expansion.

The comprehensive plan amendments and zone changes are as follows:

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A comprehensive plan amendment for approximately 25 acres, made up of the southern portion of Tax Lot 5501-401, to be changed from Commercial to Public; a zone change from RC Recreation Commercial to PWS Public Works Safety. The purpose of the rezoning of this property is for eventual expansion of the landfill.

A comprehensive plan amendment for approximately 19.3 acres, made up of a portion of Tax Lot 5501-101, to be changed from Agriculture/Forestry Large Holding to Public; a zone change from EF-80 Exclusive Farm Use to PWS Public Works Safety. The request includes an exception to Goal 3. The purpose of the rezoning of this property is for ancillary facilities, including but not limited to, public drop/recycling area, gas-to-energy facility and surface water facilities. This land would not be used for waste disposal.

A comprehensive plan amendment for approximately 10 acres made up of a portion of Tax Lot 5511-600 to be changed from Agriculture/Forestry Large Holding to Public; a zone change from EF-80 Exclusive Farm Use to PWS Public Works Safety. The request includes an exception to Goal 3. The purpose of the rezoning of this property is for ancillary facilities, including but not limited to, landfill maintenance/storage yard and future leachate management facilities. This land would not be used for waste disposal.

A floodplain development permit to allow for the relocation of a small, unnamed tributary of the South Yamhill River that currently bisects the proposed landfill expansion area. The request would allow for the placement of two earthen berms. One berm is to be near the mouth of the stream but well outside of the floodway and one is to be just east of Highway 18 where the stream emerges from its culvert under the highway.

A site design review application to review the development of the 98 acres proposed for landfill expansion and ancillary facilities.

APPLICANT: Riverbend Landfill Company, Inc.

TAX LOTS: 5501-101, -200, -400, -401 and 5511-600

LOCATION: 13465 SW Highway 18, McMinnville, Oregon
13469 SW Highway 18, McMinnville, Oregon
13965 SW Highway 18, McMinnville, Oregon
14325 SW Highway 18, McMinnville, Oregon

CRITERIA: Sections 402, 601, 802, 901, 1101 and 1208.02 of the Yamhill County Zoning Ordinance (YCZO). Section 904, Limited Use Overlay may also be applied. Comprehensive Plan policies may be applicable. Oregon Administrative Rule 660-004, related to exceptions. OAR 660-12-0060 Transportation Planning Rule. The floodplain development permit is subject to Section 901 of the YCZO. The site design review is subject to Section 1101 of the YCZO.

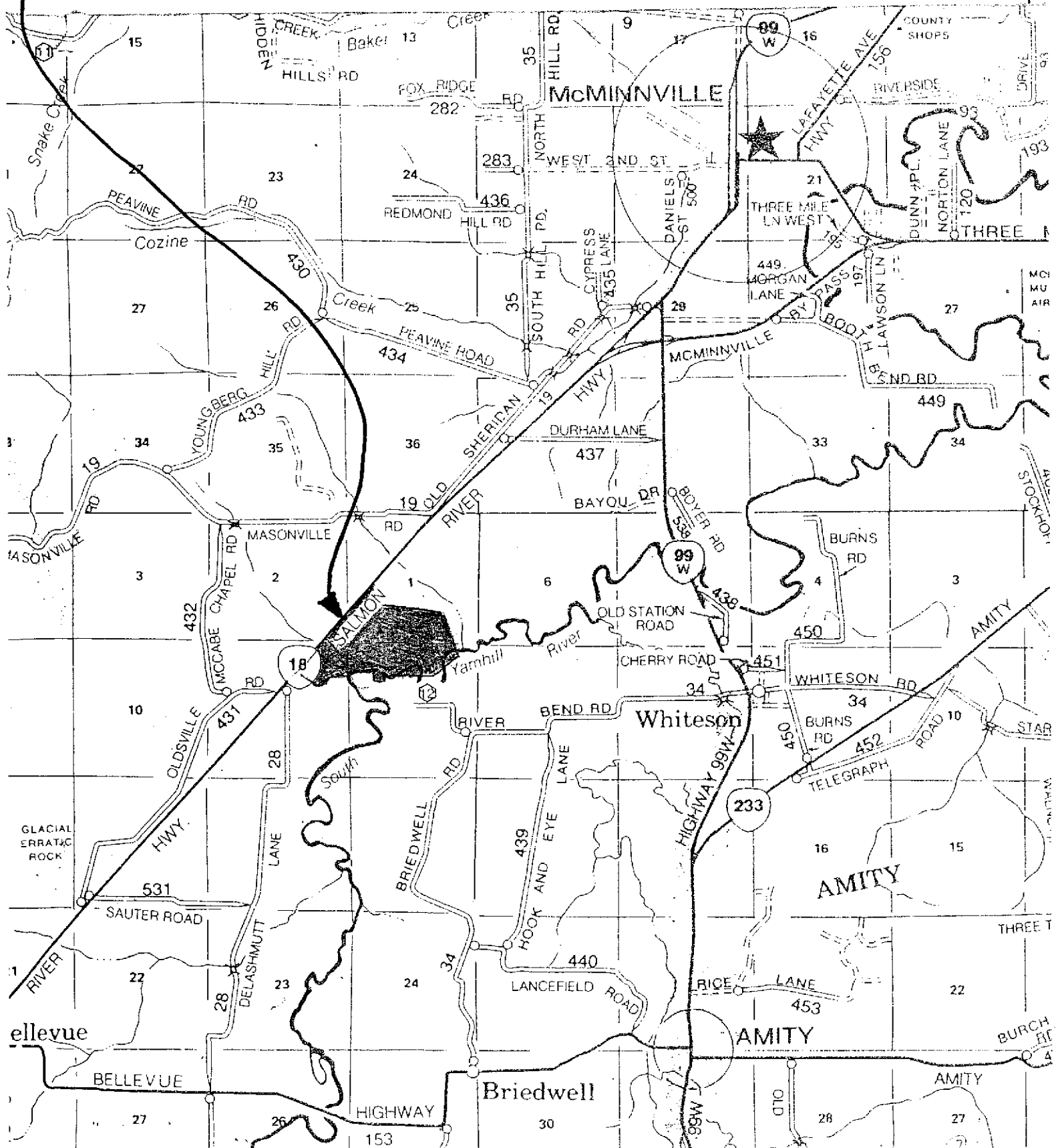
NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLERS: ORS Chapter 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

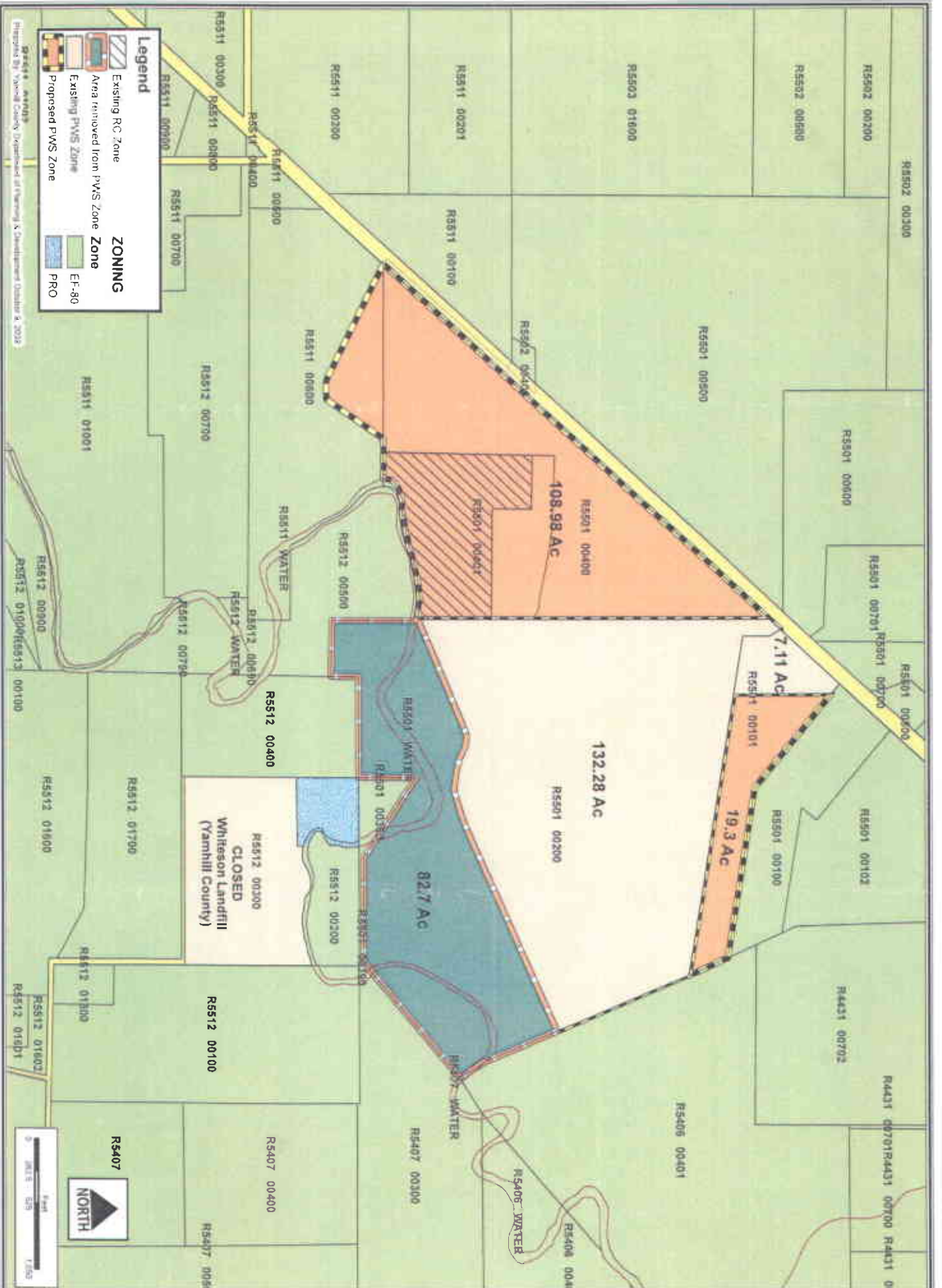
VICINITY MAP

Part 2



LOCATION OF PROPERTY





Willamette RIVERKEEPER®

Part 2

Mrs. Brewer,

I received your name from Ramsey McPhillips as the Metro contact regarding the proposed contract with Riverbend Landfill. At the last hearing on the issue, the Council wanted to ensure the landfill was complying with all local and State laws. I've attached my recent comments on the facility's Stormwater plan, which explain how the landfill has been exceeding effluent limits for years. Please include this in the record for the contract discussion.

Sincerely,
Brenna Bell

Willamette Riverkeeper
1515 SE Water Ave #102 ~ Portland, Oregon 97214
503-223-6418 ~ www.willamette-riverkeeper.org

00 OCT 27 AM 10:43

Willamette RIVERKEEPER®

October 14, 2008

Re: Permit renewal for facility #106959

Travis Williams
*Riverkeeper &
Executive
Director*

To whom it may concern,
Please accept these comments on the Riverbend Landfill's permit renewal under the 1200-Z Industrial Stormwater General Permit.

BOARD OF
DIRECTORS

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Scott Fogarty
Secretary

Gayle Killam
Treasurer

John Haines

Gary Miniszewski

Amy Schoener

Russ Smith

Dennis Wiley

To begin with, I experienced considerable difficulty in getting access to this permit file for public review. I offer this experience as feedback for the DEQ to use to better streamline the public review process for 1200-Z stormwater permits. The DEQ website listed Kathy Jacobsen & Jennifer Claussen as contact people for this permit. When I called Kathy in at the Eugene DEQ office, she said that neither she nor Jennifer was not the right person to talk to for permit review, and directed me to the Salem office. The person I spoke with there directed me to Fran, who does solid waste permitting, who then directed me to Christine, who did have the public review file. I drove from Portland to Salem, to find that only half of the file was in Salem, and that the other half - all the Data Monitoring Reports since 2001 and the Storm Water Pollution Control Plan (SWPCP) from 2007 - were in Eugene. With the assistance of the Salem & Eugene front desk employees, I got emailed the DMRs for 2007 & 2008. Still, I never had access to all the information in the file.

I understand that DEQ covers a lot of areas and is geographically dispersed, but I think it is necessary that during a public review period that the entire permit file be in one location and easily accessible to the public. Otherwise the period of public review is fairly meaningless. As I was not able to review the entire file, the following comments may have some gaps in them.

A pattern of exceeding benchmarks

From the Data Monitoring Reports I did have access to, 1996-2001 and 2007-8, Riverbend has a pattern of exceeding its benchmarks for e.coli and Total Suspended Solids. In 1998, 1999, 2001, 2007 & 2008, Riverbend exceeded its benchmarks for TSS in at least one, and commonly two or more, outfalls. Many of these exceedences were significant, including samples as high as 570 mg/L. Each letter from Riverbend accompanying the DMR stated that Riverbend will work to correct the problem, yet clearly it is not being corrected as levels are being exceeded year after year. Also, the SWPCP that was available for public review is from 2006 - and the levels of TSS were exceeded in both 2007 & 2008 reports. Clearly, the current SWPCP does not set out adequate mitigation measures to remedy the elevated levels of TSS, and must be amended to do so.

Similarly, e.coli exceedences occurred in 1999, 2000, 2001, 2007 and 2008, with some huge exceedences, up to 2420 counts per mL. While letters from the facility rest all the blame on the "local wildlife" especially the birds, they do not acknowledge that, but for the landfill, the birds would likely not congregate in that area. Thus, the landfill is still the proximate cause of the stormwater pollution and should take even greater measures to reduce e.coli levels.

Current Storm Water Pollution Control Plan

The SWPCP available for public review was filed with the DEQ on December 19, 2006. As every year previous the facility had sent DEQ a updated SWPCP, I found it odd that the SWPCP for public review was two years old. Has the facility been relying on this SWPCP since early 2007? Were there no changes to address the exceeded benchmarks for e.coli and TSS?

The SWPCP stated that permit coverage extends through June, 2012. Which begs the questions: Why is the public commenting now? Has the timeline changed? If so, that information should have been available for public review. Also, Riverbend is currently proposing a significant expansion of its facilities. The current SWPCP does not take this expansion into account, and DEQ must include a specific re-opener in the permit if and when the expansion does occur.

The SWPCP claims that stormwater from Outfall pipes 2, 4, 6, & 7 discharge to small drainages that flow to South Yamhill River. In the next sentence, the SWPCP states "stormwater is diffused to vegetated areas and disperses as sheet flow." *SWPCP*, 5-3. These sentences are in conflict - does the stormwater flow directly into the drainages or is it diffused? From visiting the site, I know that at least one outfall, Outfall 4, is a point source that drains directly into an unnamed stream, which flows into the S. Yamhill River a few hundred yards away. This outfall has no filtration and pours stormwater directly from the landfill into the tributary stream - and has also exceeded benchmarks for a number of years. Of interest is that the maps submitted with the DMRs (that is, the older maps that had much more specificity) show that Outfall 4 is not located on Riverbend Landfill's property, but rather on the property of the adjacent landowner. See *Riverbend Landfill Site Drainage Map, 1998*. This seems to raise concerns over property rights and trespass that DEQ may want to consider before giving Riverbend a permit an outfall on land not owned by Riverbend.

In sum, the current SWPCP is not adequate, as the facility continues to exceed benchmarks and is inconsistent in its discussion of outfalls and mitigation measures. Also, Riverbend should not be able to expand under its current 1200-Z Industrial Stormwater Permit without significant improvements to its stormwater management.

Please contact me if you have any questions, and/or answers to my questions above. Thanks for the opportunity to comment on this permit, and I hope that future public reviews will go more smoothly.

Sincerely,


Brenna Bell, Esq.

Attorney for Willamette Riverkeeper

Willamette RIVERKEEPER[®] Part 2

Hi Steve,

here is a copy of the comments I sent on behalf of Willamette Riverkeeper and the Northwest Environmental Defense Center about Riverbend Landfill's current Clean Water Act violations. Thanks for considering these comments as you write your staff report.

~ Brenna

Willamette Riverkeeper
1515 SE Water Ave #102 - Portland, Oregon 97214
503-223-6418 ~ www.willamette-riverkeeper.org

Willamette RIVERKEEPER®

NORTHWEST ENVIRONMENTAL DEFENSE CENTER
10015 S.W. Terwilliger Blvd., Portland, Oregon 97219
Phone: (503) 768-6673 Fax: (503) 768-6671
www.nedc.org



October 27, 2008

Travis Williams
*Riverkeeper &
Executive Director*

Mary Stern, Leslie Lewis & Kathy George
Yamhill County Commissioners
535 NE Fifth Street
McMinnville, OR 97128
fax: (503)434-7553

BOARD OF
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Gary Miniszewski

Amy Schoener

Russ Smith

Dennis Wiley

Re: Riverbend Landfill's proposed expansion
Docket No. PAZ-05-08/FP-04-08/SDR-10-08

Dear Yamhill County Commissioners,

I write on behalf of the Northwest Environmental Defense Center and Willamette Riverkeeper (collectively "Commentors") to raise some concerns about the proposed expansion of the Riverbend Landfill, as well as support for Riverbend's proposed habitat restoration project.

Rather than closing in 2014 as originally anticipated, Riverbend now plans to expand and move operations even closer to the South Yamhill River. Because of the current degraded quality of water in the South Yamhill River, as well as Riverbend's failure to comply with its Stormwater Pollution Control Permit, Commentors encourage you to ensure that Riverbend is in compliance with all state and federal laws regarding water quality before approving such expansion.

Yamill River Water Quality

The Riverbend Landfill is directly adjacent to the South Yamhill River, which is currently listed as water quality limited on the state's 303(d) list for the following parameters: dissolved oxygen, fecal coliform, iron, phosphorous, & temperature.

Elevated levels of iron & phosphorous, and decreased dissolved oxygen are all associated with landfill leachate. The South Yamhill is also water quality limited for flow modification which means the creation of tastes or odors or toxic or other conditions that are deleterious to fish or other aquatic life or affect the potability of drinking water or the palatability of fish or shellfish. These elevated levels of pollution in the South Yamhill may be related directly to the Riverbend and/or Whiteson landfills, and must be a consideration when deciding whether the landfill can expand. Should the county approve the expansion while the river is currently violating water quality standards associated with landfills? Commentors advise that it would not be prudent for the county to make such an approval before a plan was in place to address the existing pollution.

Commentors acknowledge that Riverbend Landfill has a good system of liners and leachate, yet we know that although liners and leachate collection systems minimize leakage, liners can fail and leachate collection systems may not collect all the leachate that escapes from a landfill. Leachate collection systems require maintenance

of pipes, and pipes can fail because they crack, collapse, or fill with sediment. (United States Geological Survey, 2003) The EPA has concluded that all landfills eventually will leak into the environment (U.S. Environmental Protection Agency, 1988). Thus, the fate and transport of leachate in the environment, from both old and modern landfills, is a potentially serious environmental problem and must be considered before the landfill expands to cover more riverfront property.

1200-Z NPDES Permit Violations

The 1200-Z NPDES general storm water permit was issued by Oregon Department of Environmental Quality (DEQ) on July 22, 1997. Commentors believe that Riverbend Landfill has repeatedly violated the terms of its 1200-Z NPDES permit and has been discharging stormwater without a permit each day of measurable precipitation since its permit expired on June 30, 2007. If Riverbend Landfill obtains permit coverage under the new 1200-Z permit prior to the close of this 60-day notice period, there is a reasonable likelihood of ongoing violation since the new permit conditions are substantially similar to Riverbend Landfill's past permit.

Commentors believe that Riverbend Landfill has violated the following effluent limitations and other conditions contained in its 1200-Z NPDES permit on at least the following occasions:

I. Failure to Sample and Submit Required Data

Contrary to the requirements under Schedule B of the 1200-Z NPDES permit, there is no record in DEQ's files since 2006 that Riverbend Landfill conducted either a monthly visual inspection or took designated outfall samples (four times per year). Riverbend Landfill is required by Schedule B of the 1200-Z permit to monitor and report parameters set by DEQ four times a year at designated stormwater outfalls. The 1200-Z permit also requires monthly visual observations of floating solids, and oil and grease sheen parameters.

II. Failure to Submit a Methodology for Asserted Background Conditions

Riverbend Landfill failed to account for its assertions that natural conditions were the cause of its benchmark exceedances. Schedule A, Condition 9 of the 1200-Z NPDES permit requires the permittee to submit an Action Plan in response to benchmark exceedances. If the permittee asserts that "the benchmark exceedance resulted from natural or background conditions," Section d of Condition 9 mandates that "the Action Plan must propose a sampling plan and methodology for demonstrating that the elevated pollutant levels are due to background or natural conditions." From its file review, NEDC find no evidence that a sampling plan or methodology was proposed or conducted in satisfaction of the 1200-Z permit.

III. Failure To Revise Storm Water Pollution Control Plan

Riverbend Landfill routinely exceeds benchmark requirements for E. coli and total suspended solids (TSS). See Exhibit A and section VI of this notice. Riverbend Landfill itself has reported it has violated benchmark requirements on at least forty times. Condition 9 of Schedule A of the 1200-Z permit stipulates that any benchmark exceedance must result in an investigation into elevated pollution sources and a review, and if necessary, a revision of the Stormwater Pollution Control Plan (SWPCP). Considering Riverbend Landfill's systematic failure to achieve benchmarks, it is evident that if any revisions were made to the SWPCP, they are inadequate.

Commentors' extensive file review has uncovered no evidence concerning the cause or potential remedy for Riverbend Landfill's high pollutant readings. Failure to conduct an investigation concerning the cause of Riverbend Landfill's frequent benchmark exceedances has resulted in at least forty permit violations.

IV. Failure to Properly Implement Best Management Practices

Schedule C of the 1200-Z permit requires that Riverbend Landfill fully implement the measures in its SWPCP within 90 days after completion and subsequent revision of the SWPCP.

Riverbend Landfill's consistent benchmark exceedances indicate substantive flaws in the Best Management Practices (BMPs) set forth in the SWPCP. Because of Riverbend Landfill's failure to investigate the sources of these benchmark exceedances and submit revised SWPCPs, it is unclear which specific BMPs are inadequate.

Despite Commentors' file search, there is no evidence that Riverbend Landfill has implemented the BMPs laid out in its SWPCP. Riverbend Landfill's failures to implement BMPs are ongoing violations subject to penalties for every day that Riverbend Landfill has failed to act in compliance with its permit.

V. Insufficient SWPCP

Riverbend Landfill's inadequate BMPs as discussed in section IV and consistent benchmark exceedances indicate flaws in Riverbend Landfill's SWPCP. The purpose of the SWPCP as set forth in Schedule A of the 1200-Z permit is to eliminate or minimize the exposure of pollutants to stormwater. The systematic benchmark exceedances in Riverbend Landfill's file indicate that the SWPCP is clearly insufficient as a means to eliminate pollution.

VI. Benchmark Exceedances

Riverbend Landfill has consistently exceeded its benchmarks in every winter sampling event. The following table is list of benchmark exceedances based on data on file at Oregon DEQ, including data submitted by Riverbend Landfill to Oregon DEQ. These highly polluted discharges violate state water quality standards, the terms of Riverbend Landfill's SWPCP and the benchmark limits.

Exhibit A

Pollutant	BM	Event	Point 1	Point 2	Point 3	Point 4	Point 5	Point 6	Point 7
Copper	0.1mg/l	1-12-05	0.120						
E. Coli	406counts/100ml	1-7-02	2420	2420		2420	2420		
		5-17-02	2420	1730		2420			
		1-30-03	2420	2420		2420			
		4-24-03	2420			2420			
		1-19-04			649				
		3-25-04	>2420	>2420	>2420	980	866		
		1-12-05	>2420			>2420			
		3-26-05	>2420	1550		>2420			>2420
		12-2-05		X*		X*		X*	X*
		4-17-06				X*			
TSS	130 mg/l	1-30-03	1400	620		720			
		4-24-03	460						
		1-19-04	170						

	3-25-04		180	380			
	1-12-05	410					
	12-2-05				620		160
	4-17-06						

- Exceedences were identified in Riverbend Landfill's 2005/2006 Storm Water Monitoring Report but the specific values were not given.

Between the reporting and compliance violations, Commentors believe that Riverbend Landfill has violated its 1200-Z permit conditions over a forty times. While the proposed expansion includes more advanced stormwater management controls, we believe that it is telling that Riverbend has failed to live up to the conditions in its current permit and is in violation of the Clean Water Act. Before approving the expansion of its facilities, Yamhill County should require that Riverbend demonstrate that it is in full compliance will all applicable environmental regulations.

Proposed Wetland Mitigation and Habitat Creation

Commentors do appreciate Riverbend's proposed plan to restore a large portion of the land bordering the South Yamhill River. We encourage the county to approve the comprehensive plan amendment for the 82.7 acre portion of Tax Lot 5501-200 to be changed from Public to Agriculture/Forestry Large Holding to allow Riverbend to do a wetlands mitigation and habitat restoration in the area. From our conversations with Riverbend staff, Commentors understand that this portion of the project is not contingent upon the landfill expansion and encourage the county to approve the change at this time.

Thank you for the chance to comment and your attention to these matters. Please don't hesitate to contact me at Willamette Riverkeeper if you have any further questions.

Sincerely,



Brenna Bell, Esq.

on behalf of Willamette Riverkeeper and Northwest Environmental Defense Center



RIVERBEND LANDFILL CO., INC.

13469 SW Hwy. 18
McMinnville, OR 97128
(503) 472-8788
(503) 434-9770 Fax

November 5, 2008

Western Region Permit Coordinator
DEQ Eugene Office
1102 Lincoln St
Eugene, OR 97401

RE: 1200-Z permit renewal
Riverbend Landfill Company
Yamhill County, Oregon

Permit Coordinator:

Riverbend Landfill Company, Inc. (RLC) recently became aware of a letter sent to your agency by the organization, Willamette Riverkeepers (WR), that provides comments regarding RLC's 1200-Z Industrial Stormwater Permit renewal. WR's letter contains allegations about our site's stormwater program and suggests denying approval of our facility expansion, which we are currently pursuing.

RLC wishes to provide this written response to your agency to address the allegations and misinformation contained in the WR letter.

Background

As you probably know, RLC is a Municipal Solid Waste Landfill, fully-permitted by the Oregon Department of Environmental Quality (DEQ). RLC has been issued a Solid Waste Disposal Permit, Title-V Air Operating Permit, and 1200-Z Industrial Stormwater Permit from DEQ. In conjunction, or in addition, RLC has several environmental programs, policies, and procedures in place to ensure regulatory compliance and protection of human health and the environment. As a Waste Management Company, one of RLC's key commitments is environmental stewardship, which means meeting all regulatory criteria and aligning our environmental priorities with those of our customers, communities, and regulators. RLC is proud to foster and maintain a culture that respects the environment in every business decision.

Stormwater Management

Historically, RLC has implemented a proactive stormwater protection program. An integral part our program is our Stormwater Pollution Control Plan (SWPCP), which contains guidelines and other elements we use consistently and continually. The SWPCP is routinely reviewed and updated in accordance with Condition A.2 of our permit, to reflect significant changes in facility operations, pollution sources, or pollutant types/quantities. We encourage communication of this information among our staff, including educating employees about the contents of the SWPCP, spill prevention, and response measures, good housekeeping procedures, and material management

From everyday collection to environmental protection, Think Green® Think Waste Management.

practices. In conjunction with the above, RLC conducts routine monitoring activities and management of materials and equipment at the facility that have the potential to impact stormwater. We maintain inspection records that document tracking and follow-up procedures to ensure adequate corrective actions have been taken in response to any stormwater issues (see attached summary of benchmark exceedences and documented mitigation measures taken) Finally, RLC consistently utilizes a suite of erosion and sediment control Best Management Practices (BMPs) to help prevent impacts to stormwater.

RLC feels it's important to note that precipitation is managed one of two ways on site, depending on operations. Precipitation that comes into contact with refuse being actively buried is retained and managed as leachate. Leachate is actively collected and pumped into RLC's leachate collection system for subsequent proper management. Precipitation that does not come into contact with refuse being actively buried (non-contact stormwater; water from areas where refuse has been already buried and covered, or other areas where buried refuse does not exist) is actively collected and conveyed to various detention structures/areas to allow for particulate settling and filtering, using accepted BMPs, prior to outfall discharge. RLC maintains ongoing measures in its day-to-day operations to see that both leachate and non-contact stormwater are properly managed and separate to prevent pollution to the non-contact discharge.

Benchmark Exceedences

RLC has experienced periodic exceedences of our permit's E. coli benchmark. Upon occurrence, these exceedences have been investigated (and reported accordingly) to determine the source. We determined the cause to be local wildlife that frequents the site, particularly birds during certain times of the year. There are frequent sightings of seagulls, starlings, waterfowl, deer, turkeys, beavers, and pheasants that frequent the areas surrounding the landfill. RLC has instituted controls for bird populations at the site by incorporating audio deterrents and taking of seagulls under a US Department of Fish and Wildlife depredation permit.

RLC also has experienced exceedences of the benchmark for Total Suspended Solids (TSS). When sampling has indicated an exceedence, RLC has responded and documented with sediment control BMPs depending on the nature of the exceedence. It should be noted that the landfill operations and development are constant and dynamic. Therefore, RLC is always adding sediment control BMPs and adjusting operations to minimize TSS concentrations.

RLC's 1200-Z permit states, "Benchmarks are guideline concentrations, not limitations. They are designed to assist the permittee in determining if the implementation of their SWPCP in reducing pollutant to concentrations below levels of concerns." It should be noted that RCL has not exceeded water quality standards. RLC has exceeded benchmarks and have made and documented appropriate modifications with BMPs consistent with our current permit requirements.

Outfall 4 Location

RLC also disputes the WR allegation the location of our Outfall 4 is not located on RLC's property, but rather on the property of the adjacent landowner. This is entirely false. RLC has had the outfall surveyed to confirm the location and is in fact on RLC property (see attached survey). All site stormwater outfalls are located on RLC property and not on other properties.

November 5, 2008

DEQ Permit Coordinator

Page 3 of 3

Landfill Expansion

Finally, WR's letter also stated that RLC should not be able to expand under its current 1200-Z Industrial Stormwater Permit, due to inadequacies of the previously submitted SWPCP included with our renewal application. RLC's strongly believes there is no connection whatsoever between the DEQ's stormwater and solid waste permitting programs, from the standpoint of expansion approval under the state and federal regulations. As such, we believe the requirements contained in the DEQ-issued Industrial Stormwater permits are irrelevant with regard to facility size. Regardless, RLC will continue to implements continuous and consistent measures to comply with all our permits, including that for stormwater, regardless of the facility size.

In summary, RLC takes its environmental protection responsibility very seriously. We have, and will continue to take proactive approaches for environmental protection with facility operations and development.

Sincerely,

RIVERBEND LANDFILL COMPANY, INC.



George Duvendack

District Manager

copy: Tim Spencer, DEQ

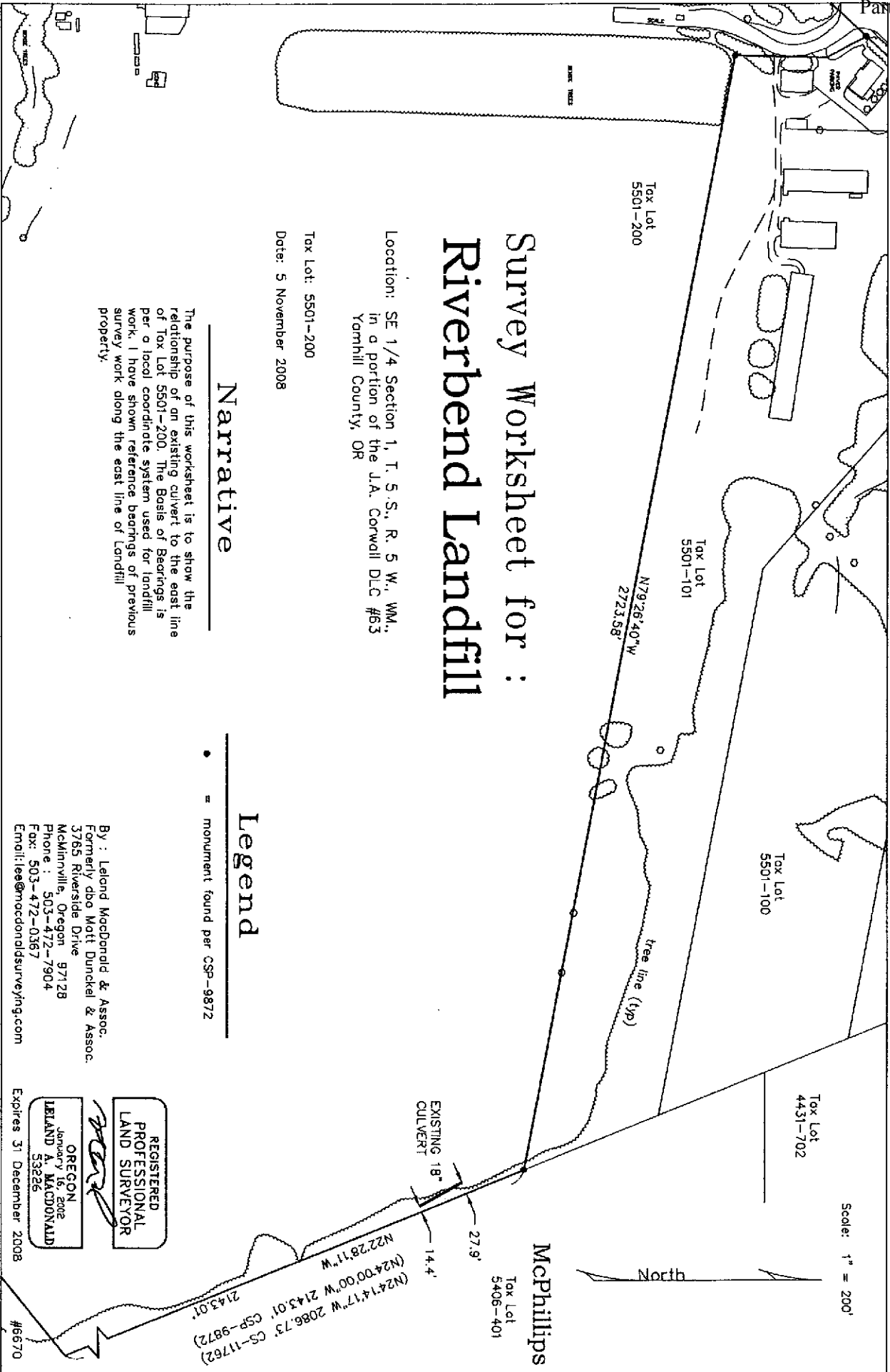
Steve Kraten, METRO

RBLF Stormwater Exceedences Response Summary

Reporting Period		Exceeded Parameter	Exceedence location(s)	BMP/Corrective Action Implemented	Notes
2007/08	Winter (12/18/07)	E. Coli	Outfall No. 2, 5 and 7	RLC reviewed site operations and the RLC SWPCP. RLC increased our activity to control bird populations around the working area, including audio deterrents, and "taking" of Sea-Gulls as allowed under RLC's United States Department of Fish and Wildlife depredation permit. Based on visual observations, these measures were very effective in reducing the number of birds that populated the site. Based on results from samples collected on 03-26-08, these measures were not effective in reducing levels to below benchmark values. Outfall 2, and 4 both exceeded benchmark values but collect only storm water from portions of the site that are under intermediate or final closure.	Discharge from outfall 7 was diverted to flow into outfall 6 in order to better manage this limited flow. Throughout the year RLC inspects and documents the condition of all elements of the storm-water control system. Based on the inspections, any required repairs or actions are made immediately. Throughout the year, RLC inspects and documents the condition of all elements of the storm-water control system. Based on the inspections, any required repairs or actions are made immediately.
		TSS	Outfall No. 2 and 8	As required by our permit, RLC reviewed site operations and the RLC SWPCP. Based on this review RLC implemented additional sediment control measures for areas that discharged to outfall No. 2. These measures included regrading and compacting site access roads, placing straw bales (check dams) in ditch flow lines, and placing additional straw mulch over limited areas that did not have adequate protection to prevent the erosion of soil. Based on visual observations most of the TSS was associated with the roads. In order to better manage TSS associated with outfall No. 7 this flow was diverted to outfall No. 6. This provided additional bio-filtration prior to the discharge. Based on results from samples collected on 03-26-08 and observations these measures effectively reduced the discharge concentrations below the benchmark concentrations.	
	Spring (3/26/2008)	E. Coli	Outfalls 2, 4, and 6.	Based on visual observations and site review of site operations, the elevated e-coli concentrations are attributed to site wildlife and not with site operations. Outfall 2, and 4 both exceeded benchmark values but collect only storm water from portions of the site that are under intermediate or final closure.	
2006/07	Winter (12/14/06)	E. Coli	Outfall No. 2, 6 and 7	As required by our permit RLC reviewed site operations and the RLC SWPCP. RLC implemented additional measures to control bird populations on-site that tend to gather in the area of waste placement. These measures included full time implementation of audio deterrents, and reducing the size of the waste placement area. Additionally RLC obtained a "depredation" permit from the U.S. Department of Fish and Wildlife that allows a limited taking of Seagulls to control nuisance populations. Based on results from samples collected on 04-9-07 and observations these measures effectively reduced the discharge concentrations below the benchmark levels at all locations except Outfall No. 7.	Outfall locations No. 3 and No. 5 are non-point source discharge locations. Additionally, catch basins that previously drained storm water to Outfall No. 1 were eliminated, eliminating all storm water flow to Outfall No. 1. Throughout the year, RLC inspects and documents the condition of all elements of the storm-water control system. Based on the inspections any required repairs or actions are made immediately.
		TSS	Outfall No. 4 and 7	As required by our permit, RLC reviewed site operations and the RLC SWPCP. Based on this review, RLC implemented additional sediment control measures for areas that discharged to outfall No. 4. These measures included placing straw mulch on slope areas that had been hydro seeded in September to better stabilize soil conditions and diverting the majority of the flow going to outfall No. 4 to outfall No. 6 by installing a pumping system. In order to minimize TSS at outfall No. 7, the drainage area was re-graded and fresh gravel placed in portions of this area, additional straw bale check dams were installed, and traffic in this area was minimized. Based on results from samples collected on 04-9-07 and observations, these measures effectively reduced the discharge concentrations below the benchmark concentrations.	
	Spring (4-8-07)	NONE			
2005/06	Winter (12-2-05)	E. Coli	Outfall No. 2, 4, 6 and 7	As required by our permit, RLC reviewed site operations and the RLC SWPCP. RLC implemented significant additional measures to control bird populations on-site that tend to gather in the area of waste placement. These measures included full time implementation audio deterrents, and reducing the size of the waste placement area. Based on results from samples collected on 04-17-06 and observations these measures effectively reduced the discharge concentrations below the benchmark levels at all locations except Outfall No. 4.	Throughout the year RLC inspects and documents the condition of all elements of the storm-water control system. Based on the inspections any required repairs or actions are made immediately.
		TSS	Outfall No. 4 and 7	Measured concentrations were 620 milligrams per liter (mg/l), and 160 mg/l respectively. As required by our permit RLC reviewed site operations and the RLC SWPCP. Based on this review RLC implemented additional sediment control measures for areas that discharged to outfall No. 4, and minimized traffic in the area around outfall No. 7 to minimize impacts. Based on results from samples collected on 04-17-06 and observations these measures effectively reduced the discharge concentrations below the benchmark levels.	
2004/05	Winter (1/12/05)	E. Coli	Outfall No. 1, and 4	As required by our permit, RLC reviewed site operations and the RLC Storm Water Pollution Control Plan (SWPCP). In accordance with our SWPCP, additional samples were collected during separate sampling event on 03-27-05.	E-Coli monitoring is only required for landfills that accept bio-solids. During the 2004-2005 monitoring period RLC accepted 178 tons of bio-solids at the facility. Throughout the year RLC inspects and documents the condition of all elements of the storm-water control system. Based on the inspections, any required repairs or actions are made immediately. Throughout the year, RLC inspects and documents the condition of all elements of the storm-water control system. Based on the inspections, any required repairs or actions are made immediately.
		TSS	Outfall No. 1	As required by our permit, RLC reviewed site operations and the RLC SWPCP. Based on this review, RLC modified the two storm water catch basins that discharge storm water to Outfall No. 1. These modifications included installation of catch basin filter bags and sediment control weirs with graded filters. Additionally, RLC implemented a storm water pumping system to divert storm water into the existing site poplar tree farm area prior to the water draining to the catch basins. This system provided significant natural filtration prior to storm water discharging into the catch basins. Based on sample results and observations, these modifications performed effectively.	
	Spring (3/26/05)	E. Coli	Outfall No. 2, and 7	Sample results for Verification -01 and Verification -02 were 1990 MPN/100ml and 579 MPN/100 ml respectively. Verification -01 and Verification -02 were both collected from areas that are not impacted by landfill waste placement and indicate that the elevated levels are a result of wild life occurring at the facility.	

2000/01	Winter (12/1/01)	E. Coli	Outfall No. 1, 4 and 5	RLC reviewed operations and current stormwater management practices that may impact E-Coli at these outfalls. Based on observations and review of the operations, RLC believes that these elevated E-Coli concentrations were not a direct result of current landfilling activities and do not indicate water is being contaminated by the waste management process. The elevated concentrations were most likely a result of significant bird populations that frequent at the facility. In order to reduce these values, RLC maintains a significant effort to minimize the bird populations on the site by utilizing "bird cannons" and other devices to discourage birds from inhabiting the working portions of the landfill. Based on site observations, these measures are quite successful, however, bird populations do still exist around the working face and the surrounding areas.	Outfall No. 2 was resampled on 4-30-01 for Total Recoverable Oil and Grease (TO&G) because the sample bottle for the original sample was broken during shipping. Throughout the year RLC inspects and documents the condition of all elements of the storm-water control system. Based on the inspection reports any required repairs or actions are made immediately.
	Spring (4/2/01)	E. Coli	Outfall No. 1 and 4	E-Coli concentrations at Outfall No. 4 decreased between the two sampling events. Based on current site configuration, this outfall does drain areas that are adjacent to waste management activities and indicates that measures taken by RLC between the two sampling events to minimize the population of birds was effective.	
		Total Oil & Grease	Outfall No. 4	As required by our permit, RLC reviewed operations and current stormwater management practices that may impact TO&G at outfall No. 4. Based on operational records and review with site personnel, no significant event was noted. Additionally, no signs of potentially contaminated discharge were noted during routine site inspections. RLC works very diligently to maintain high storm water quality and views this event as being anomalous. To assure the future quality of stormwater discharge in that area, RLC inspected the entire area for potential sources, replaced and installed additional oil sorbet booms, and retrained site personnel.	
		TSS	Outfall No. 1	As required by our permit, RLC reviewed operations and current storm water management practices that may impact TSS at outfall No. 1. Based on operational records and review with site personnel, no significant event was noted. This area does not drain any portion of the site that is directly associated with active waste management activities. It does drain portions of the site that are permanently closed, temporarily closed, site access roads, and areas in agricultural use. Based on site observations, it is most likely that the elevated TSS level is due to fine aggregate material that exists in the gravel site access roads. During the winter months, RLC occasionally re-grades our roads to minimize maintenance on vehicles that deliver waste to our facility. The elevated TSS level is most likely due to the regrading process prior to the sampling event. In an effort to minimize this potential in the future, RLC will work to properly re-compact the roads utilizing a smooth drum roller after the regrading process. This will create a surface that is less likely to discharge fines to outfall No. 1.	
1999/00	Winter (12/10/00)	E. Coli	Outfall No. 1, 2, and 5	As required by our permit RLC reviewed operations, and current stormwater management practices that may impact E-Coli at these outfalls. Based on observations, and review of the operations RLC determined that these elevated E-Coli concentrations were not a result of active landfilling activities. The elevated concentrations were a result of significant bird populations, and other wildlife that exist at the facility. In order to reduce these values RLC increased efforts to reduce bird populations on the site by purchasing and installing additional "bird cannons", and worked to reduce the size of our active working face. These measures significantly reduced the E-Coli concentrations at outfalls No.s 4 and 5, which drain areas, near the working face.	E-Coli concentrations increased slightly at outfall No.s 1 and 2 between the two sampling events. Both of these outfalls do not drain areas associated with active land filling. E-Coli concentrations in these areas are believed to result from wild life that naturally inhabits our facility. Throughout the year RLC inspects and documents the condition of all elements of the storm-water control system. Based on the inspection reports any required repairs or actions are made immediately. Inspection records are maintained at the site available for review upon request.
		Oil & Grease	Outfall No. 2	The measured TO&G concentration was 12.7 mg/l (permit benchmark concentration 10 mg/l). As required by our permit RLC reviewed operations, and current stormwater management practices that may impact TO&G at outfall No. 2. Based on operational records and review with site personnel no significant event was noted. Additionally RLC adjusted storm water drainage, replaced and installed additional oil sorbet booms, and retrained site personnel.	
	Spring (4-13-00, 4-14-00, 4-28-00)	E. Coli	Outfall No. 1 and 2	As required by our permit RLC reviewed operations, and current stormwater management practices that may impact E-Coli at these outfalls. Based on observations, and review of the operations RLC determined that these elevated E-Coli concentrations were not a result of active landfilling activities. The elevated concentrations were a result of significant bird populations, and other wildlife that exist at the facility. In order to reduce these values RLC increased efforts to reduce bird populations on the site by purchasing and installing additional "bird cannons", and worked to reduce the size of our active working face.	
1998/99	Winter (12-10-99)	Total Oil & Grease	Outfall No. 2	The measured TO&G concentration was 12.7 mg/l (permit benchmark concentration 10 mg/l). As required by our permit, RLC reviewed operations and current stormwater management practices that may impact TO&G at outfall No. 2. Based on operational records and review with site personnel, no significant event was noted. Additionally, RLC adjusted storm water drainage, replaced and installed additional oil sorbet booms, and retrained site personnel.	Samples were collected on 12-10-99, 4-13-00, 4-14-00, and 4-28-00.
		E. Coli	Outfall No. 1, 2, and 5	The elevated E-coli concentrations were measured at outfall No. 1, 2 and 5 on 12-10-99, and outfall No. 1, and 2 on 4-28-00. The measured E-Coli concentrations at 770, and 980 on 4-14-00 (permit benchmark concentration 406 MPN/100ml). As required by our permit, RLC reviewed operations and current stormwater management practices that may impact E-Coli at these outfalls. Based on observations and review of the operations, RLC determined that these elevated E-Coli concentrations were not a result of active landfilling activities. The elevated concentrations were a result of significant bird populations and other wildlife that exist at the facility. In order to reduce these values, RLC increased efforts to reduce bird populations on the site by purchasing and installing additional "bird cannons" and worked to reduce the size of our active working face. These measures significantly reduced the E-Coli concentrations at outfalls No.s 4 and 5, which drain areas near the working face. E-Coli concentrations increased slightly at outfall No.s 1 and 2 between the two sampling events. Both of these outfalls do not drain areas associated with active landfilling. E-Coli concentrations in these areas are believed to result from wildlife that naturally inhabits our facility.	
	Spring (4/14/00, 4/28/00)	E. Coli	Outfall No. 1		

2003/04	Winter (1/19/04)	E. Coli	Outfall No. 3	As required by our permit, RLC reviewed operations and current stormwater management practices that may impact E-Coli at these outfalls. Based on observations and review of the operations, RLC believes that these elevated E-Coli concentrations were not a direct result of current landfilling activities and do not indicate water is being contaminated by the waste management process. The elevated concentrations were most likely a result of bird populations that fluctuate at the facility based on surrounding climatic conditions and other wildlife that exist at the facility. In order to reduce these values, RLC maintains a significant effort to minimize the bird populations on the site by utilizing "bird cannons", and other devices to discourage birds from inhabiting the working portions of the landfill. Outfall No. 1 does not collect any surface water from portions of the site where waste placement occurs.	Throughout the year, RLC inspects and documents the condition of all elements of the storm-water control system. Based on the inspections, any required repairs or actions are made immediately.
		TSS	Outfall No. 1	As required by our permit, RLC reviewed operations and current storm water management practices that may impact outfall location No. 1. As a result of this review, additional straw bale dams were placed in the storm water drainage ditch along the main site entrance road, additional straw was placed on stockpiled soils, and roads were regraded and compacted. Based on subsequent sampling on 3-25-04, these measures appear to have reduced the TSS concentration at this outfall. Benchmark concentrations for TSS were also exceeded during the 3-25-04 sampling event at outfall No. 2 and 3. Both of these outfalls drain areas that are predominantly covered with temporary plastic and include portions of the main site access road. As required by our permit, RLC has reviewed operations and current storm water management practices. RLC has determined that it may reduce sediment load to outfall No. 2 by placing straw bale check dams in the drainage ditches prior to entering the site storm water sedimentation basin. In order to address TSS concentration benchmark exceedences at outfall No. 3, RLC has revised its road maintenance procedures to assure that after grading occurs all graded areas are compacted utilizing a smooth drum vibratory roller.	
	Spring (3/25/04)	E. Coli	Outfalls 1, 2, 3, 4, and 5	Based on observations and review of the operations, RLC believes that these elevated E-Coli concentrations were not a direct result of current landfilling activities and do not indicate water is being contaminated by the waste management process. The elevated concentrations were most likely a result of bird populations that fluctuate at the facility based on surrounding climatic conditions and other wildlife that exist at the facility. In order to reduce these values, RLC maintains a significant effort to minimize the bird populations on the site by utilizing "bird cannons", and other devices to discourage birds from inhabiting the working portions of the landfill.	
		TSS	Outfall No. 2 and 3	Both of these outfalls drain areas that are predominantly covered with temporary plastic and include portions of the main site access road. As required by our permit, RLC has reviewed operations and current storm water management practices. RLC has determined that it may reduce sediment load to outfall No. 2 by placing straw bale check dams in the drainage ditches prior to entering the site storm water sedimentation basin. In order to address TSS concentration benchmark exceedences at outfall No. 3, RLC has revised its road maintenance procedures to assure that after grading occurs all graded areas are compacted utilizing a smooth drum vibratory roller.	
2002/03	Winter (1/30/03)	E. Coli	Outfall No. 1, 2, and 4	As required by our permit RLC reviewed operations, and current stormwater management practices that may impact E-Coli at these outfalls. Based on observations, and review of the operations RLC believes that these elevated E-Coli concentrations were not a direct result of current landfilling activities and do not indicate water is being contaminated by the waste management process. The elevated concentrations were most likely a result of bird populations that fluctuate at the facility based on surrounding climatic conditions and other wildlife that exist at the facility. In order to reduce these values RLC maintains a significant effort to minimize the bird populations on the site by utilizing "bird cannons", and other devices to discourage birds from inhabiting the working portions of the landfill. RLC was effective in minimizing the E-coli concentrations at Outfall No. 2, which currently drains the majority of the facility. Outfall No. 1 does not collect any surface water from portions of the site where waste placement occurs.	Throughout the year RLC inspects and documents the condition of all elements of the storm-water control system. Based on the inspections any required repairs or actions are made immediately.
		TSS	Outfalls 1, 2, and 4	As required by our permit and SWPCP these data were reviewed and measures taken to minimize the discharge. These measures included, re-grading roads to remove dirt that had built up as a result of hauling soil material, protecting areas that were not fully vegetated with straw mulch, and placing straw bales in ditch lines to lower the flow velocity, and filter sediment load. Based on the results of the 04-24-03 sampling event, these measures were effective in reducing the sediment load associated with these areas.	
	Spring (4/24/03)	NONE			
2001/02	Winter (1/7/02)	E. Coli	Outfall No. 1, 2, 4, and 5	As required by our permit, RLC reviewed operations and current stormwater management practices that may impact E-Coli at these outfalls. Based on observations and review of the operations, RLC believes that these elevated E-Coli concentrations were not a direct result of current landfilling activities and do not indicate water is being contaminated by the waste management process. The elevated concentrations were most likely a result of significant bird populations that fluctuate at the facility based on surrounding climatic conditions and other wildlife that exist at the facility. In order to reduce these values RLC maintains a significant effort to minimize the bird populations on the site by utilizing "bird cannons" and other devices to discourage birds from inhabiting the working portions of the landfill. During the fall and early winter, bird populations were noted to be higher than normal at the facility. During this period, RLC was not able to utilize tools implemented in the past due to new purchasing regulations for explosive deterrent devices.	During the 2001/2002 monitoring period, surface water diverted to Outfall No. 5 was largely eliminated. This outfall remains in-place as during future site operations more significant portions of the site's surface water may be diverted to this location. Throughout the year, RLC inspects and documents the condition of all elements of the storm-water control system. Based on the inspections, any required repairs or actions are made immediately.
	Spring (5/17/02)	E. Coli	Outfall No. 1, 2, and 4	Outfall 5 was not sampled during the May sampling event. Based on the current grading configuration of the facility outfall 5 only generates discharge during extreme weather events.	



Survey Worksheet for : Riverbend Landfill

Location: SE 1/4 Section 1, T. 5 S., R. 5 W., WM.,
in a portion of the J.A. Cornwall DLC #63
Yamhill County, OR

Tax Lot: 5501-200
Date: 5 November 2008


Narrative

The purpose of this worksheet is to show the relationship of an existing culvert to the east line of Tax Lot 5501-200. The Basis of Bearings is per a local coordinate system used for landfill work. I have shown reference bearings of previous survey work along the east line of Landfill property.

Legend

● = monument found per CSP-9872

By : Leland Macdonald & Assoc.
Formerly dba Mott Dunckel & Assoc.
3765 Riverside Drive
McMinnville, Oregon 97128
Phone : 503-472-7904
Fax: 503-472-0367
Email: lee@macdonaldsurveying.com

REGISTERED PROFESSIONAL LAND SURVEYOR

 OREGON
 January 16, 2006
LELAND A. MACDONALD
 53226

Expires 31 December 2008

#66570

Scale: 1" = 200'

North

McPhillips
Tax Lot
5406-401

EXISTING 18"
CULVERT

14.4'
27.9'
2143.01'
(N24°14'17"W 2086.73' CS-11762)
(N24°00'00"W 2143.01' CSP-9872)
N22°28'11"W

Steve Kraten

From: Shane Latimer [SLatimer@jsanet.com]
Sent: Thursday, November 06, 2008 8:41 AM
To: Steve Kraten
Subject: FW: Metro response

Hi Steve,

As we discussed, please note that the dotted line labeled "current effective floodway" refers to the original floodway boundary mapped by FEMA in 1980 based on USGS topography from the 1970's and does not reflect actual current conditions, nor did it accurately portray the location of the floodway back in 1980 when the Flood Insurance Study was completed. Work conducted by the US Army Corps of Engineers later in the early 1980's, and repeated in the early 1990's by EMCON, confirmed the location of the floodway (see "existing floodway") and the landfill was built out to that boundary. We have again confirmed the floodway location via our FEMA-approved Conditional Letter of Map Revision.

Here are some slides that will be presented at the hearing tonight. I hope they might be helpful.

- Only a small portion of the floodplain will be removed, all of which will be mitigated (i.e., replaced via stream realignment) and overall flood storage and habitat enhanced
- FEMA has confirmed that the actual rise in the 100-year floodplain due to both Riverbend and Whiteson landfills, plus the small rise due to the proposed expansion, are all well within the applicable standards of one foot.
- For reasons unknown, following Riverbend's original permit in the 1980's, the floodplain map was not updated to reflect that the landfill berm effectively removed the landfill from the floodplain
- As part of this current expansion process, Riverbend was required to determine what impact the expansion would have on the floodplain and to show that it would not encroach the floodway
- That process revealed that the floodplain maps had actually not been updated with FEMA since the early 1980s, before much of the landfill was constructed
- Riverbend has completed the FEMA process which shows the following:
 - Changes of no more than ± 0.2 foot (2.4 inches) have occurred in the 100-year floodplain since the early 1980s from all sources
 - There has been no encroachment on the floodway
 - The proposed expansion would cause a rise between the new and old tributary mouths of 0.05 foot or about 0.5 inch
- This process effectively updates all previous and existing FEMA maps, although the County must eventually submit a Letter of Map Revision to FEMA to initiate map updates

If you have any additional questions please feel free to call. Also, Jon Wolf (phone 970.375.9729; mobile 970.903.0558), the FEMA reviewer, will be able to confirm this information, as he did, in fact do for Ramsey McPhillips, directly. He also reviewed the memo I submitted for accuracy.


Thanks,
 Shane



Passion. Expertise. Results.

jonesandstokes.com | icfi.com

Shane Latimer, PhD, CSE	ICF Jones & Stokes
Ecologist / Project Manager	317 SW Alder, Suite 800
p 503-248-9507 ext 226	Portland, OR 97204
e slatimer@jsanet.com	c 503-381-6178
	f 503-228-3820

 Please consider our environment before printing this message

Yamhill SWCD Position - Riverbend Landfill Expansion

Yamhill Soil and Water Conservation District (SWCD) is obligated to comment on issues that can impact natural resources such as water, soil, air quality and wildlife. Yamhill SWCD has seven elected directors representing county landowners. Expansion of Riverbend Landfill from its current size (86 acres) to 184.7 acres at its Yamhill county site located three miles south of McMinnville certainly has the potential to impact water resources due to its location in the floodplain of the Yamhill River. This is the primary reason Yamhill SWCD opposes the current expansion proposal.

Background

Over six million tons of municipal waste is disposed of annually in Oregon. The amount of waste to be disposed has risen about 3 to 4% per year since 1990. During the same period, the number of municipal landfills has dropped from 53 in 1997 to 30 in 2006. Oregon Department of Environmental Quality (ODEQ) that regulates landfills now monitors more closed landfills than operational ones. Disposal has been concentrating on fewer but larger facilities and now close to 77% of all waste in Oregon is disposed in seven regional landfills with Riverbend in Yamhill County being one of these facilities. Another dynamic that has occurred during the 1990's was the dramatic increase in the amount of imported waste. Prior to 1990, relatively little out-of-state waste was imported into Oregon for disposal. Imports quickly rose in the early 1990's and continue to rise. In 2004, imported waste made up 35% of the total waste being stored in Oregon. In contrast, relatively little of Oregon's waste (1.3%) is exported to facilities outside of Oregon. Riverbend started as a site to serve local needs and has grown to serve regional and out-of-state needs. The expansion proposal is about serving those needs.

Landfill space is much needed in western Oregon, home to the majority of Oregon's population. Landfill operations in western Oregon must contend with high annual rainfall which becomes contaminated when it percolates through the landfill waste. Recovery systems help with this but must operate continuously after the landfill is closed to prevent ground and surface water impacts. Research on landfills conducted by U.S. Geological Survey indicates that although modern landfills are designed to minimize groundwater contamination, there are many ways that landfills may eventually leak. The proposed expansion includes areas in the Yamhill River floodplain and impacts to the river or ground water at some point in the future are likely. Riverbend is only responsible for negative impacts for 30 years after closing – after that Yamhill county citizens will be responsible as they currently are for several landfills throughout the county. The soils in the expansion area are classified by USDA as being limited or very limited for use as a landfill.

Directly across the river, within site of the proposed expansion, is the abandoned Whiteson landfill which provides insight for Riverbend. Oregon DEQ monitoring of the Whiteson landfill indicate groundwater lead levels near the site are 2.9 ppm – over 190 times higher than the level whereby water treatment is required to meet drinking water standards (0.015 ppm). The potential for ground and surface water impacts from a landfill increase if the landfill is located in the floodplain. This issue was debated prior to the 1992 Riverbend expansion proposal and it is still the primary reason Yamhill SWCD opposes the current expansion.

Yamhill SWCD directors are also concerned about the increasing footprint that this regional landfill is having in our county. Several surrounding farms have been purchased by Riverbend Landfill. We are using valuable farmland to bury trash from other communities and other states. The site is located along the busiest travel corridor in our state – Highway 18 – making it difficult to leave visitors with the impression of our county as productive farmland and wine country.

**METRO**

August 7, 2008

Mr. Kent Taylor, City Manager
City of McMinnville
230 NE Second Street
McMinnville, OR 97128

RE: Designated Facility Status for Riverbend Landfill

Dear Mr. Taylor:

It is Metro's practice to provide local governments with an opportunity to comment on proposed changes to the regional solid waste system that may affect their jurisdiction. This letter informs you of such a proposed change and offers you an opportunity to provide input to Metro.

Riverbend Landfill ("RLF"), a solid waste facility located within your jurisdiction, is seeking to become part of the Metro regional solid waste system through listing by the Metro Council. Through a Designated Facility Agreement ("DFA"), Metro would authorize the landfill to accept non-putrescible solid waste processing residual and cleanup material from Metro-area haulers/generators. Such a DFA would eliminate Metro's need to issue the non-system licenses ("NSLs") that are currently required of generators and haulers that deliver non-putrescible waste to RLF. Presently, 72,000 tons of non-putrescible waste are authorized to be delivered to RLF under these types of NSLs but, during 2007, only 36,130 tons of non-putrescible waste were actually delivered.

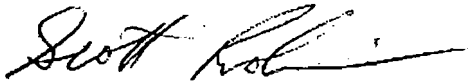
Metro will continue to issue individual non-system licenses to persons seeking to dispose of putrescible waste at RLF. Presently, a total of 467,000 tons of putrescible waste from the Metro area are authorized for delivery to the RLF through various NSLs but, during 2007, only 252,783 tons of putrescible waste were actually delivered. These NSLs are scheduled for renewal at the end of 2008.

Section 5.05.030(b) of the Metro Code sets forth the factors that the Metro Council shall consider in deciding whether to designate an additional facility. These factors include the adequacy of the facility's management practices, its regulatory compliance history, and the degree to which the wastes accepted may pose a risk of future environmental contamination. Any comments you may have on those factors will be helpful in conducting our analysis of RLF.

Mr. Kent Taylor, City Manager
City of McMinnville
August 7, 2008
Page two

Any comments would be appreciated no later than August 20, 2008. If you would like to discuss or meet with Metro staff to provide input regarding any of these matters, or to discuss the impact on your jurisdiction, please call Roy Brower, Regulatory Affairs Manager, at (503) 797-1657 or have your attorney contact Michelle Bellia, Assistant Metro Attorney at (503) 797-1526.

Sincerely,



for Michael G. Hoglund
Solid Waste and Recycling Director

MH:SK:gbc

cc: Roy Brower, Regulatory Affairs Manager
John Gray, Yamhill County Counsel
George Duvendack, Riverbend Landfill
Michelle Bellia, Assistant Metro Attorney

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Queue

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1797



METRO

August 7, 2008

Mr. John M. Gray, Yamhill County Counsel
Yamhill County
535 NE Fifth Street
McMinnville, OR 97128

RE: Designated Facility Status for Riverbend Landfill

Dear Mr. Gray:

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Mr. John M. Gray, Yamhill County Counsel
August 7, 2008
Page two

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Sincerely,



for Michael G. Hoglund
Solid Waste and Recycling Director

MH:SK:gbc

cc: Roy Brower, Regulatory Affairs Manager
Sherrie Mathison, Management Analyst, Yamhill County
Kent Taylor, City Manager, City of McMinnville
George Duvendack, Riverbend Landfill
Michelle Bellia, Assistant Metro Attorney

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Querc

Steve Kraten

From: grayj@co.yamhill.or.us
Sent: Wednesday, September 17, 2008 10:20 AM
To: Roy Brower; mathisons@co.yamhill.or.us
Cc: Steve Kraten
Subject: RE: Riverbend Landfill

Thanks, Roy. jmg

John M. Gray, Jr.
Yamhill County Legal Counsel
535 NE Fifth Street
McMinnville, Oregon 97128
(503) 434-7502 (voice)
(503) 434-7553 (fax)
<grayj@co.yamhill.or.us>

-----Original Message-----

From: Roy Brower [<mailto:Roy.Brower@oregonmetro.gov>]
Sent: Wednesday, September 17, 2008 10:18 AM
To: John Gray; mathisons@co.yamhill.or.us
Cc: Steve Kraten
Subject: Riverbend Landfill

Attached is the staff report and ordinance that would list the Riverbend Landfill as a Metro-designated facility within the Metro Code. The listing of Riverbend would allow for the disposal of certain Metro-generated solid waste. There will be two public hearings on this matter: one on September 18 and one on September 25. Both meetings start at 2:00 pm in the Metro Council Chambers at the Metro Building in Portland.

The Metro Council is expected to decide the matter at their Sept 25 meeting. Any member of the public is free to provide comments at either of the public hearings or may provide written comments by Sept 25 or earlier. Should you have questions, please don't hesitate to contact myself or Steve Kraten (503) 797-1678.

Roy W. Brower
Regulatory Affairs Manager
Metro
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Portland, OR 97232
(503) 797-1657 (voice)
(503) 813-7544 (fax)
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Yamhill County

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OFFICE OF COUNTY COUNSEL

January 23, 2002

JOHN M. GRAY, JR.
COUNTY COUNSEL

RICK SANAI
ASSISTANT COUNTY COUNSEL

CAROL ANN WHITE
PARALEGAL

Steve Kraten
Deputy Regulatory Affairs Administrator
METRO
600 NE Grand Avenue
Portland, OR 97232-2736

RE: Riverbend Landfill in Yamhill County, Oregon; Pride Recycling Company's application for renewal of Metro non-system license

Dear Mr. Kraten:

Thank you for your November 28, 2001 letter regarding the application of Pride Recycling Company to renew its existing non-system license with Metro to divert waste collected within the Metro region to Riverbend Landfill in Yamhill County, a disposal site outside the Metro system. I understand the application seeks annual authorization to divert 65,000 tons of putrescible solid waste and 15,000 tons of non-putrescible waste, the latter being mostly non-recoverable residue from the processing of construction/demolition debris.

In 1999, Pride applied to Metro for a non-system license authorizing diversion of 50,000 tons of solid waste to Riverbend Landfill each year. Our office and the Yamhill County solid waste staff requested that Metro defer a decision on the application until we could meet with Riverbend representatives to explore the impact of the potential non-system license on the county's solid waste disposal license agreement with Riverbend. In my September 3, 1999 letter to the Metro's Office of General Counsel, I withdrew our request for deferral of a decision by Metro based on assurances provided by Riverbend that (a) capacity at Riverbend would likely exist for county waste through the effective date of the license agreement in 2014 and (b) in the event capacity did not exist, Riverbend would dispose of eligible county waste FOB at Riverbend at rates set forth in

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RE: Riverbend/Pride Disposal
January 23, 2002
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the license agreement I also asked Metro for notice if it received future applications for non-system licenses impacting Riverbend. Your November 28, 2001 letter was in response to our 1999 request.

In early December, 2001 the county's solid waste division manager and I met with Riverbend's manager to discuss the impact of Pride's 2001 application on disposal of county waste at Riverbend. We were advised the non-system license, if renewed in accordance with Pride's 2001 request, would not adversely impact disposal of county waste at rates established in our license agreement with Riverbend. The company reiterated the position stated in its September 1, 1999 letter that eligible county waste would be "held harmless" from any adverse impact by Metro non-system waste.

On December 19, 2001 Riverbend's manager Daniel Wilson sent me a letter confirming his oral statements made in our meeting and reinforcing written statements made in Waste Management's September 1, 1999 letter to me. (The September 1, 1999 letter to me was from Scott Bradley, Northwest Region Division Vice President for Waste Management.) Mr. Wilson's December 19, 2001 letter stated as follows:

"As we discussed, Riverbend's capacity guarantee to Yamhill County goes beyond Riverbend's designed capacity. In a letter dated September 1, 1999 . . . we defined our position. We stated, and I reiterate, that if Riverbend reaches its designed capacity before Yamhill County's long-term disposal obligation is fulfilled, we will provide capacity at an alternative location for the same in-county disposal fee. Yamhill County users are further defined in the [September 1, 1999] letter."

Mr. Bradley's September 1, 1999 letter also resolved questions about transportation costs for disposal of in-county waste at alternative locations:

"The License Agreement does not say how costs of transportation would be treated if RLC is required to dispose of waste covered by the Capacity Guarantee ("Covered Waste") in facilities other than [Riverbend Landfill]. To resolve this ambiguity and expedite consideration of Pride Disposal's application to Metro, RLC and its affiliated companies agree that, if transport of Covered Waste for disposal at another facility becomes necessary, users falling within the following categories would not be required to pay an additional transportation charge, but would receive the otherwise applicable in-County rate: (i) Yamhill County residents who self-

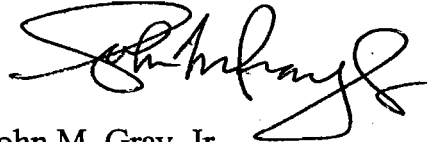
LETTER TO STEVE KRATEN
RE: Riverbend/Pride Disposal
January 23, 2002
Page 3

deliver Acceptable Waste generated within the County to the Landfill; or
(ii) Third parties who deliver Acceptable Waste generated within the County to the Landfill pursuant to a written contract between such third parties and RLC. [A footnote provided "RLC would not bear additional transportation costs that might result to potential Landfill users who did not fall within either of the specified categories."]"

Given the Riverbend and Waste Management assurances, our office and solid waste staff are satisfied the county's interests are adequately protected even though Pride seeks to increase the annual amount of waste deposited at Riverbend from 50,000 tons to 80,000 tons. If subsequent non-system license applications are made by haulers in the Metro system, we would request the opportunity to review and comment on the applications before Metro issues the licenses.

Once again, we extend our appreciation to Metro for allowing Yamhill County to participate in this process. Please feel free to contact me with any questions.

Sincerely,



John M. Gray, Jr.
Yamhill County Counsel

cc: Board of Commissioners
Michael Brandt, Planning Director
Dyke Mace, Solid Waste Division Manager
Sherrie Mathison, Solid Waste Division Management Analyst
Scott A. Bradley, Waste Management
Daniel Wilson, Riverbend Landfill
Kent Taylor, City Manager, City of McMinnville
Terrence D. Mahr, Acting City Manager, City of Newberg

METRO
SW&R DEPT
07 NOV 29 AM 10:41



Yamhill County Solid Waste
401 NE Evans Street
McMinnville, OR 97128
YCSW Hotline: (503) 434-7445
Fax: 503-434-7544
www.ycsw.org

November 16, 2007

Warren Johnson
Metro Compliance
600 NE Grand Ave.
Portland, Or 97232

Dear Mr. Johnson,

The license agreement between Yamhill County and Riverbend Landfill does not have a restriction on the amount of out of county waste that enters the landfill.

Yamhill County does not object to the issuance of a non-system license to Pride Recycling company, Forest Grove Transfer Station and/or Willamette Resources, Inc.

Thank you,

A handwritten signature in cursive script that reads "Sherrie Mathison".

Sherrie Mathison
Yamhill County Solid Waste
Management Analyst
503-434-7445

