

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE) RESOLUTION NO. 02-3223
EXECUTIVE OFFICER TO GRANT A METRO SOLID)
WASTE FACILITY LICENSE TO MT. HOOD) Introduced by Mike Burton,
METALS, INC., AND AMERICAN COMPOST &) Executive Officer
RECYCLING, LLC, JOINTLY DOING BUSINESS AS)
AMERICAN ROOF RECYCLING FOR THE)
OPERATION OF A ROOFING RECOVERY)
FACILITY.)

WHEREAS, under the Metro Code, a roofing waste processing facility must obtain a Solid Waste Facility License in order to operate; and,

WHEREAS, Mt. Hood Metals, Inc., and American Compost & Recycling, LLC, have jointly applied for a Solid Waste Facility License under the provisions of Metro Code Chapter 5.01; and,

WHEREAS, the applicants have received land use approval from the City of Portland; and,

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

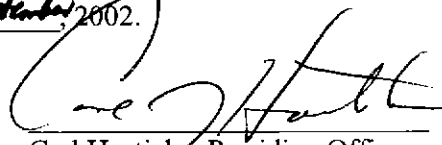
WHEREAS, Metro staff has analyzed the application and recommended approval of the applicant's request for a Solid Waste Facility License on the condition that the applicant provide an operating plan that meets the approval of the Executive Officer within 60 days of the Council's approval of this resolution; and,

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

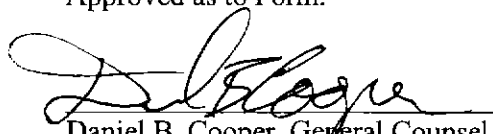
THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Executive Officer is authorized to grant a Solid Waste Facility License for roofing recovery to Mt. Hood Metals, Inc., and American Compost & Recycling, LLC, that shall be substantially similar to the license attached as Exhibit A. Issuance of this license is conditioned on the receipt of an operating plan approved by the Executive Officer. This application shall be deemed denied if the Executive Officer does not issue this license within 60 days of the date this resolution is adopted.

ADOPTED by the Metro Council this 19th day of September, 2002.


Carl Hosticka, Presiding Officer

Approved as to Form:


Daniel B. Cooper, General Counsel



METRO SOLID WASTE FACILITY LICENSE

Number L-038-02

Issued by

Metro

600 NE Grand Avenue

Portland, OR 97232

Telephone: (503) 797-1650

Issued in accordance with the provisions of Metro Code Chapter 5.01

<p>LICENSEES:</p> <p>Mt. Hood Metals, Inc. 9645 N. Columbia Blvd. PO Box 31077 Portland, OR 97283</p> <p>American Compost & Recycling, LLC 9707 N. Columbia Blvd. Portland, OR 97283</p>	<p>FACILITY NAME AND LOCATION:</p> <p>American Roof Recycling 9645 N. Columbia Blvd. Portland, OR 97213</p>
	<p>PROPERTY OWNER</p> <p>Bors Brothers Limited Partnership P.O. Box 31077 Portland, OR 97283</p>

This license is granted to the licensee named above and is not transferable. Subject to the conditions stated in this license document, the licensee is authorized to operate and maintain a roofing processing facility, and to accept the materials and perform the activities authorized herein.

Signed:
METRO

Acceptance & Acknowledgement of Receipt:
AMERICAN COMPOST & RECYCLING, LLC

Signature
Mike Burton, Metro Executive Officer

Print name and title

Signature of Licensee
Casey Stroupe,

Print name and title

Date

Date

MT. HOOD METALS, INC.

Signature of Licensee
Bert Bors,

Print name and title

Date



TABLE OF CONTENTS

SECTION	TITLE	PAGE
1.0	Issuance.....	3
2.0	Conditions and Disclaimers	4
3.0	Authorizations.....	5
4.0	Limitations and Prohibitions	6
5.0	Operating Conditions	7
6.0	Operating Plan.....	9
7.0	Fees and Rate Setting	10
8.0	Record Keeping and Reporting.....	11
9.0	Insurance Requirements	11
10.0	Enforcement	13
11.0	Modifications.....	13
12.0	General Obligations.....	14



1.0 ISSUANCE

- 1.1 Licensees**
- Mt. Hood Metals, Inc.
9645 N. Columbia Blvd.
PO Box 31077
Portland, OR 97283
- American Compost & Recycling, LLC
9707 N. Columbia Blvd.
Portland, OR 97283
- Jointly doing business as American Roof Recycling, herein referred to in the singular as "Licensee."
- 1.2 Contacts**
- Bert Bors
Phone: 503-283-3323
Fax: 503-283-0150
- Casey Stroupe
Phone: 503-638-1011
Fax: 503-638-0754
- Rick Franklin
Phone: 800-428-1516
Fax: 541-258-6444
- 1.3 License Number**
- When referring to this license, please cite:
Metro Solid Waste Facility License Number L-038-02
- 1.4 Term of License**
- This license shall remain in force for a term of five (5) years unless modified, suspended, or revoked under the provisions of Section 11.2 of this license. The term commences from the date this license is signed by Metro.
- 1.5 Facility name and mailing address**
- American Roof Recycling
9645 N. Columbia
Portland, OR 97213
- 1.6 Operator**
- Casey Stroupe
Phone: 503-638-1011
Fax: 503-638-0754



- 1.7 **Facility legal description** Township 2N, Range 1W, Section 36CB, Tax Lot 200
- 1.8 **Facility owner** Mt. Hood Metals
9645 N. Columbia Blvd.
PO Box 31077
- 1.9 **Permission to operate** The licensee has obtained the property owner's (Bors Brothers Limited Partnership) consent to operate the facility as specified in this license.

2.0 CONDITIONS AND DISCLAIMERS

- 2.1 **Guarantees** The granting of this license shall not vest any right or privilege in the licensee to receive specific quantities of material at the direction of Metro during the term of the license.
- 2.2 **Non-exclusive license** The granting of this license shall not in any way limit Metro from granting other solid waste licenses within the District.
- 2.3 **Property rights** The granting of this license does not convey any property rights in either real or personal property, nor does it authorize any injury to private property or invasion of property rights.
- 2.4 **No recourse** The licensee shall have no recourse whatsoever against the District or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this license or because of the enforcement of the license or in the event the license or any part thereof is determined to be invalid.
- 2.5 **Release of liability** Metro, its elected officials, employees, or agents do not sustain any liability on account of the granting of this license or on account of the construction, maintenance, or operation of the facility pursuant to this license.
- 2.6 **Binding nature** The conditions of this license are binding on the licensee. The licensee is liable for all acts and omissions of the licensee's contractors and agents.
- 2.7 **Waivers** To be effective, a waiver of any terms or conditions of this license



must be in writing and signed by the Metro Executive Officer.

- 2.8 Effect of waiver** Waiver of a term or condition of this license shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- 2.9 Choice of law** The license shall be construed, applied and enforced in accordance with the laws of the State of Oregon.
- 2.10 Enforceability** If any provision of this license is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this license shall not be affected.
- 2.11 License not a waiver** Nothing in this license shall be construed as relieving any owner, operator, or licensee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
- 2.12 License not limiting** Nothing in this license is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to the solid waste facility that it is authorized or required to enforce or administer.
- 2.13 Definitions** Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01.

3.0 AUTHORIZATIONS

- 3.1 Purpose** This section of the license describes the materials that the licensee is authorized to accept at the facility, and the activities the licensee is authorized to perform at the facility.
- 3.2 General conditions on acceptable materials** The licensee is authorized to accept at the facility only the materials described in Section 3.0. The licensee is prohibited from knowingly receiving any materials not authorized in this section unless specifically authorized in writing by the Director of the Metro Regional Environmental Management Department.
- 3.3 General conditions on activities** The licensee is authorized to perform at the facility only those waste-related activities that are described in this section.



- 3.4 **Acceptance of roofing and related materials** The licensee is authorized by this license to accept the following materials on-site: loads of roofing waste comprised predominantly of wood shingles, shakes, composition shingles from roof tearoffs, trimmings from the manufacture of composition roof shingles, and wood trim and roof support structures. Such loads may also contain small quantities of metal flashing, rain gutters, tar paper, and packaging from new roofing materials. All composition roofing accepted shall be certified as being free of asbestos through a protocol approved by the Oregon Department of Environmental Quality (DEQ).
- 3.5 **Acceptance of clean wood** The licensee is authorized to accept pallets and other clean untreated and unpainted wood wastes.
- 3.6 **Processing for recovery** The licensee is authorized to process roofing for use as fuel, engineered fill, engineered road base, or any use approved by the DEQ or Metro. The licensee will provide Metro with information on uses approved by the DEQ.

4.0 LIMITATIONS AND PROHIBITIONS

- 4.1 **Purpose** This section of the license describes limitations and prohibitions on the materials handled at the facility and activities performed at the facility.
- 4.2 **Prohibited waste** The licensee shall be prohibited from knowingly accepting or retaining material amounts of any wastes other than residential roofing, roofing related wastes, and clean wood as described in Section 3 of this license. (Prohibited wastes include, for example, putrescible wastes, household garbage, construction/demolition debris, yard debris, and loads consisting primarily of non-recyclable packaging.) In the event that the licensee unintentionally accepts any prohibited wastes, they shall be managed in conformance with the facility's approved operating plan.
- 4.3 **Accumulation limited** Effective October 1, 2003, and thereafter, this license limits the quantity of authorized material that may be accumulated at the facility at any one time to no more than 500 (FIVE HUNDRED) total tons unless the licensee has been granted written approval to accumulate more material by the Director of the Metro Regional Environmental Management Department. Prior to approving any



such authorization, the licensee must provide any additional financial assurance necessary to remove the entire accumulation of on site material in the event of facility closure. Prior to October 1, 2003, the licensee shall ensure that all roofing materials on-site at the time this license was granted and all incoming roofing materials are processed each month so that the total tonnage of outgoing roofing is greater than the total tonnage of incoming roofing, or until the total accumulated tonnage at any one time is 500 tons or less.

- 4.4 Limits not exclusive** Nothing in this section of the license shall be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this license document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

5.0 OPERATING CONDITIONS

- 5.1 Purpose** This section of the license describes criteria and standards for the operation of the facility.
- 5.2 Qualified Operator** The licensee shall provide an operating staff qualified to carry out the functions required by this license and to otherwise ensure compliance with Metro Code Chapter 5.01. Facility personnel shall be familiar with the provisions of this license and the procedures contained within the facility operating plan (see Section 6.0.)
- 5.3 Fire prevention** The operator shall provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from the processing area.
- 5.4 Adequate vehicle accommodation** Vehicles containing landscape waste or yard debris feedstock/waste shall not park or queue on public streets or roads except under emergency conditions. Adequate off-street parking and queuing for vehicles shall be provided.
- 5.5 Managing prohibited wastes** The licensee shall make reasonable efforts to identify prohibited and unauthorized wastes. Upon discovery, all prohibited or unauthorized wastes shall be removed or managed in accordance with the facility operating plan and DEQ procedures.
- 5.6 Storage** Stored materials shall be removed at sufficient frequency to avoid



creating nuisance conditions or safety hazards. Storage areas must be maintained in an orderly manner and kept free of litter.

- 5.7 Litter, dust, and airborne debris** The licensee shall operate the facility in a manner that is not conducive to the generation of litter and airborne debris. The licensee shall:
- a. Take reasonable steps to notify and remind persons delivering roofing material to the facility that all loads must be suitably secured to prevent any material from falling off the load during transit.
 - b. Construct, maintain, and operate all vehicles and devices transferring or transporting roofing from the facility to prevent sifting, spilling or blowing of the material on-site or while in transit.
 - c. Keep all areas within the site and all vehicle access roads within $\frac{1}{4}$ mile of the site free of roofing related litter and debris.
 - d. Take reasonable steps to suppress the generation of dust from the moving and processing of roofing debris.
- 5.8 Vectors** The licensee shall operate the facility in a manner that is not conducive to infestation of rodents, insects, or other animals capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.
- 5.9 Noise** The licensee shall operate the facility in a manner that controls the creation of excessive noise to the extent necessary to meet applicable regulatory standards and land-use regulations.
- 5.10 Odor prevention** The licensee shall operate the facility in a manner that prevents the generation of odors. The licensee shall establish and follow procedures for preventing odors at the facility. Specific measures an operator shall take to prevent odors include but are not limited to adherence to the contents of a required operating plan (see Section 6.0).
- 5.11 Water quality** The licensee shall:
- a. Operate and maintain the facility to prevent submersion of roofing material in water.
 - b. Dispose of contaminated water and sanitary sewage generated onsite in a manner complying with local, state, and federal laws and regulations.



- 5.12 Public Access** Public access to the facility shall be controlled as necessary to prevent unauthorized entry and dumping.
- 5.13 Signage** The licensee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, legible, and shall contain at least the following information:
- a. Name of the facility
 - b. Address of the facility;
 - c. Telephone number(s) of persons who can provide information about the facility in case of an emergency;
 - d. Operating hours during which the facility is open for the receipt of authorized material;
 - e. Metro's name and telephone number (503) 797-1650.
- 5.14 Complaints** The licensee shall respond to all written complaints on nuisances (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors). If licensee receives a complaint, licensee shall:
- a. Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of unsuccessful attempts; and
 - b. Log all such complaints by name, date, time and nature of complaint. Each log entry shall be retained for one year and shall be available for inspection by Metro.
- 5.15 Access to license document** The licensee shall maintain a copy of this Metro Solid Waste Facility License on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.

6.0 OPERATING PLAN

- 6.1 Purpose** This section lists the procedures that must be included in the required facility operating plan. The operating plan may be amended from time to time subject to approval by Metro.
- 6.2 Access to operating plan** The licensee shall maintain a copy of the operating plan on the facility's premises and in a location where facility personnel and Metro representatives have ready access to it.



- 6.3 Procedures for inspecting loads** The operating plan shall establish:
- a. Procedures for inspecting incoming loads for the presence of prohibited wastes; and
 - b. A set of objective criteria for accepting and rejecting loads, including asbestos testing protocol.
- 6.4 Procedures for processing loads** The operating plan shall establish procedures for:
- a. Processing authorized solid wastes,
 - b. Storing authorized solid wastes; and
 - c. Managing stockpiles to ensure that they remain within the authorized volumes.
- 6.5 Procedures for managing prohibited wastes** The operating plan shall establish procedures for managing and transporting to appropriate facilities any prohibited wastes discovered at the facility. The plan shall include procedures for managing:
- a. Hazardous wastes;
 - b. Special wastes; and
 - c. Other prohibited solid wastes.
- 6.6 Procedures for odor prevention** The operating plan shall establish procedures for preventing all odors, including odors produced by grass clippings. The plan must include:
- a. A management plan that will be used to monitor and manage all odors of any derivation including malodorous loads delivered to the facility; and
 - b. Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility.
- 6.7 Procedures for noise minimization** The operating plan shall establish procedures for minimizing the volume and duration of noise produced in the course of Metro-authorized activities.
- 6.8 Procedures for emergencies** The operating plan shall establish procedures to be followed in case of fire or other emergency.
- 6.9 Procedures for managing stockpiles** The operating plan shall establish procedures for managing stockpiles to assure that they remain within the volumes authorized in Section 4.3.
- 6.10 Closure Protocol** The operator shall establish protocol for closure and restoration of the site in the event of a long-term cessation of operations.



7.0 FEES AND RATE SETTING

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

8.0 RECORD KEEPING AND REPORTING

- 8.1 Purpose** This section of the license describes the record keeping and reporting requirements. The Licensee shall effectively monitor facility operation and maintain accurate records of the information described in this section.
- 8.2 Feedstocks received** The licensee shall keep and maintain accurate records of the amount of roofing materials accumulated on-site, the amount of material received, the amount of outgoing material, the ultimate disposition of all outgoing material (whether recovered or disposed), and the results of the required asbestos testing. This information shall be reported to Metro on a monthly basis. Each monthly report shall be provided by the 15th day of the following month. After September 30, 2002, if the total accumulation of composition roofing reaches 80 percent of the capacity authorized in Section 4.3 of this license, then the licensee shall provide weekly reports. The report shall be signed and certified as accurate by an authorized representative of licensee. Prior to October 1, 2003, the licensee shall ensure that all roofing materials on-site at the time



this license was granted and all incoming roofing materials are processed each month so that the total tonnage of outgoing roofing is greater than the total tonnage of incoming roofing, or until the total accumulated tonnage at any one time is 500 tons or less.

8.3 Unusual occurrences The licensee shall keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. Licensee shall report any facility fires, accidents, emergencies, and other significant incidents to Metro at (503) 797-1650 within two hours of the discovery of their occurrence.

8.4 Nuisance complaints For every nuisance complaint (e.g. odor, noise, dust, vibrations, litter) received, the licensee shall record:

- a. The nature of the complaint;
- b. The date the complaint was received;
- c. The name, address, and telephone number of the person or persons making the complaint; and

Any actions taken by the operator in response to the complaint (whether successful or unsuccessful).
 Records of such information shall be made available to Metro and local governments upon request. The licensee shall retain each complaint record for a period of not less than two years.

8.5 Changes in ownership The licensee must, in accordance with Metro Code Section 5.01.090, submit a new license application to Metro if the licensee proposes to transfer control or ownership of (1) the license, (2) the facility property, or (3) the name and address of the operator.

9.0 INSURANCE REQUIREMENTS

9.1 Purpose The section describes the types of insurance that the licensee shall purchase and maintain at the licensee's expense, covering the licensee, its employees, and agents.

9.2 General liability The licensee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.

9.3 Automobile The licensee shall carry automobile bodily injury and property



damage liability insurance.

- 9.4 Coverage** Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- 9.5 Additional insureds** Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS.
- 9.6 Financial Assurance** The licensee shall, throughout the life of the facility, maintain financial assurance adequate to assure the removal of accumulated roofing and related materials in the event of abandonment or long-term cessation of operations. By October 1, 2003, if the licensee has been authorized under Section 4.3 of this license to accumulate more than 500 tons of authorized materials, the licensee shall provide any additional financial assurance necessary to remove the entire accumulation. Any change in the form or amount of required financial assurance shall be approved by the Director of the Metro Regional Environmental Management Department.
- 9.7 Worker's Compensation Insurance** The licensee, its subcontractors, if any, and all employers working under this license, are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Licensee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If licensee has no employees and will perform the work without the assistance of others, a license to that effect may be attached in lieu of the license showing current Workers' Compensation.
- 9.8 Notification** The licensee shall give at least 30 days written notice to the Executive Officer of any lapse or proposed cancellation of insurance coverage.

10.0 ENFORCEMENT

- 10.1 Generally** Enforcement of this license shall be as specified in Metro Code and in this Section 10.0 of this license.
- 10.2 Authority** The power and right to regulate, in the public interest, the exercise



vested in Metro of the privileges granted by this license shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against licensee.

10.3 No Enforcement Limitations Nothing in this license shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this license be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this license or the licensee's operation of the facility.

11.0 MODIFICATIONS

11.1 Modification At any time during the term of the license, either the Executive Officer or the licensee may propose amendments or modifications to this license.

11.2 Modification, suspension or revocation by Metro The Executive Officer may, at any time before the expiration date, modify, suspend, or revoke this license in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:

- a. Violation of the terms or conditions of this license, Metro Code, or any applicable statute, rule, or standard;
- b. Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this license;
- c. Failure to disclose fully all relevant facts;
- d. A significant release into the environment from the facility;
- e. A significant change in the character of the material received or in the operation of the facility;
- f. Any change in ownership or control, excluding transfers among subsidiaries of the licensee or licensee's parent corporation;
- g. A request from the local government stemming from impacts resulting from facility operations;
- h. Compliance history of the licensee; and
- i. Operation or maintenance of a roofing processing facility without land use approval from the City of Portland.



11.3 Change to volume limitation A change to the volume limitation set forth in Section 4.3 of this license may be granted by the Director of the Metro Regional Environmental Management Department in response to a written request by the licensee.

12.0 GENERAL OBLIGATIONS

12.1 Compliance with law Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. Such applicable laws, rules, regulations, ordinances, orders and permits include, without limitation, all laws, rules, regulations, ordinances, orders and permits adopted or made applicable during the term of this Franchise. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this license as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the license document, as well as any existing at the time of the issuance of the license but not cited or attached, and permits or conditions issued or modified during the term of the license.

12.2 Indemnification The licensee shall indemnify and hold Metro, its employees, agents and elected officials harmless from any and all claims, damages, actions, losses and expenses including attorney's fees, or liability related to or arising out of or in any way connected with the licensee's performance or failure to perform under this license, including patent infringement and any claims or disputes involving subcontractors.

12.3 Deliver processed roofing to appropriate destinations The licensee shall ensure that processed roofing transferred from the facility goes to the appropriate recovery uses, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits.

12.4 Right of Authorized representatives of Metro may take soil and water



inspection and audit samples and perform such inspection or audit as the Regional Environmental Management Director deems appropriate and shall be permitted access to the premises of the facility during normal working hours upon giving reasonable advance notice (not less than 24 hours). Subject to the confidentiality provisions of this license, Metro's right to inspect shall include the right to review, at an office of licensee located in the Portland metropolitan area, all information from which all required reports are derived including all books, records, maps, plans, income tax returns, financial statements, contracts, and other like materials of licensee that are directly related to the operation of the Facility.

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

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

SOLID WASTE AND RECYCLING COMMITTEE REPORT

CONSIDERATION OF **RESOLUTION NO. 02-3223**, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO GRANT A METRO SOLID WASTE FACILITY LICENSE TO MT. HOOD METALS, INC., AND AMERICAN COMPOST AND RECYCLING, LLC, JOINTLY DOING BUSINESS AS AMERICAN ROOF RECYCLING FOR THE OPERATION OF A ROOFING RECOVERY FACILITY

Date: September 18, 2002

Presented by: Councilor McLain

Committee Recommendation: At its September 18 meeting, the Solid Waste and Recycling Committee voted 3-0 to recommend Council adoption of Resolution No. 02-3223. Voting in favor: Councilors Monroe, McLain and Chair Atherton. Voting against: None. Absent: Councilors Bragdon and Park.

Background: Metro Code Chapter 5.01 requires that solid waste processing facilities obtain a license from Metro if the facility will produce residual of more than ten percent. Roofing processing facilities were initially not licensed. However, after Metro found that some facility operators were processing only a limited amount of material or had abandoned sites leaving large stockpiles of material behind, the licensing program was extended to include such facilities. Staff now requires such facilities to have an approved operations plan and provide adequate financial assurance related to site cleanup prior to the issuance of a license.

Committee Issues/Discussion: Roy Brower, REM Regulatory Affairs Manager, presented the staff report. He explained that the proposed resolution would grant a solid waste processing facility license to Mt. Hood Metals and American Compost and Recycling, jointly doing business as American Roof Recycling. The proposed facility is located on N. Columbia Blvd and, if granted a license, would accept wood and composite roofing materials from material manufacturers and roofing installation and removal projects. These materials will be processed as an additive to hog fuel, soil amendments, compost additives, ground cover and recycled asphalt products. The facility also could accept clean wood waste for processing into hog fuel.

The proposed site is owned by Mt. Hood Metals and is adjacent to a yard debris site operated by American Compost on land leased from Mt. Hood Metals. A roofing recycling facility had been previously operated on the site under a Metro license issued to Speyfly, Inc. However, Speyfly was unable to develop an acceptable operations plan or provide adequate financial assurance for site cleanup. It subsequently abandoned the site, leaving a stockpile of 10,000 tons of unprocessed material. The Council recently revoked Speyfly's license. The applicants for the new license that would be authorized under the proposed resolution have reduced the stockpile by about one-half.

Brower noted the resolution contains a provision that the license will not be issued until the applicants submit an acceptable operations plan and an appropriate level of financial assurance for site cleanup. If this requirement is not met within 60 days after the adoption of the resolution the license shall be deemed denied. Brower indicated that the applicants have submitted a proposed operations plan and financial assurance that are currently under review by staff.

Brower indicated that the stockpile of unprocessed material at the site would be limited to 500 tons under the terms of the proposed license.

Key Public Testimony: Bert Bors, a principal of Mt. Hood Metals, and Casey Stroupe, a principal of American Compost, appeared for the purpose of answering questions.

Chair Atherton asked about the types of products that would be produced from the roofing material. Bors responded that the principal product would be an additive to hog fuel, but that other uses are possible depending on the marketplace at any given time.

Council Analyst Houser asked about how long it would take to eliminate the current material stockpile. Stroupe responded that it was their intent to eliminate the stockpile in about six months. He and Mr. Brower noted that the license requires that the 500-ton stockpile limit will become effective in October 2003.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 02-3223 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO GRANT A METRO SOLID WASTE FACILITY LICENSE TO MT. HOOD METALS, INC., AND AMERICAN COMPOST & RECYCLING, LLC, JOINTLY DOING BUSINESS AS AMERICAN ROOF RECYCLING FOR THE OPERATION OF A ROOFING RECOVERY FACILITY

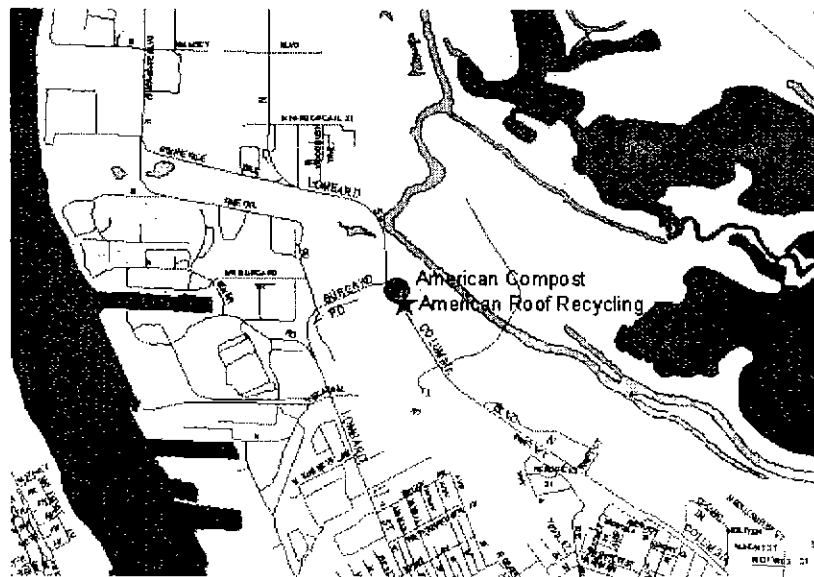
August 15, 2002

Presented by: Terry Petersen

BACKGROUND

Description of the Resolution

Approval of Resolution No. 02-3223 will authorize the Executive Officer to issue a new Solid Waste Facility License jointly to Mt. Hood Metals, Inc. ("Mt. Hood Metals"), and American Compost & Recycling, LLC, ("American Compost") for the operation of a waste roofing processing facility located at 9645 N. Columbia Blvd., Portland, Oregon (Metro District 5). The facility will be known as American Roof Recycling. This site was formerly licensed by Metro to Speyfly, Inc., which operated on the site as "RoofGone" from April 2001 to May 2002, when Metro revoked its license. During this period, RoofGone accumulated approximately 10,000 tons of waste roofing and subsequently abandoned the site. Issuance of the proposed license will authorize the facility to resume operations under a new operator.



Proposed Site Location

American Roof Recycling is an alternative business name registered with the Oregon Secretary of State, Corporation Division, by Bert Bors, Casey Stroupe, and Rick Franklin. Mr. Bors is the president and owner of Mt. Hood Metals. Mr. Stroupe is an owner and operator of American Compost and Mr. Franklin is co-owner of American Compost. American Roof Recycling proposes to be co-located with Mt. Hood Metals, a portion of which property was formerly leased to Speyfly, Inc., dba RoofGone ("Speyfly".) Mt. Hood Metals was left with 10,000 tons of waste roofing when Speyfly abandoned the

site. American Compost is a Metro-licensed compost facility located immediately adjacent to Mt. Hood Metals. American Compost produces yard debris compost and hog fuel and its owner, Mr. Stroupe, is also an owner of Clackamas Compost, Landscape Products & Supply, and S & H Logging Co., three other Metro-licensed facilities. Mr. Stroupe has proven to be a capable facility operator at American Compost.

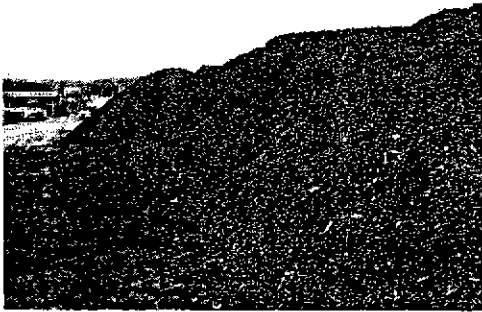
If this license is approved, American Roof Recycling would be authorized to accept wood shakes and composition shingles from roof tear-offs, trimmings from the manufacture of composition roofing, and other materials directly associated with the roofing and re-roofing of buildings. The previous operator abandoned about 10,000 tons of waste roofing. There is about 6,000 tons currently remaining on site. The license would also require American Roof Recycling to reduce the amount of roofing materials in site to 500 tons or less by October 1, 2003. Prior to that time, if the facility had more than 500 tons of material on site, it would be prohibited from accepting more material in each month than the amount of material that was removed from the site. If American Roof Recycling wishes to accumulate more than 500 tons of roofing material on site at any one time after October 1, 2003, the facility would have to request a written authorization from the Metro Regional Environmental Management (REM) Director. Prior to approving any such authorization, the facility would also provide any additional financial assurance necessary to remove the entire accumulation of on site material in the event of facility closure. All material accepted shall be certified as being free of asbestos through a protocol approved by the Oregon Department of Environmental Quality (DEQ). In addition, the facility will be authorized to accept clean wood wastes (such as pallets) to be processed into hog fuel. The applicant intends to use waste roofing as a component of its hog fuel, soil amendments, compost additives, ground cover, and for recycled asphalt products.

History of the Site Where the Facility Will Be Located

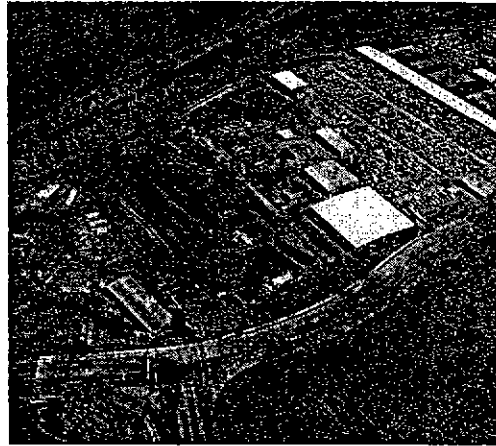
Speyfly began operating a roofing recycling facility on Suttle Road in Northeast Portland in April 1999, without obtaining a DEQ permit or Metro license. In April 2000, Speyfly moved its operation to 9645 N. Columbia Boulevard in Portland, the site where the American Roof Recycling facility will be located, and began to stockpile roofing there, although a substantial stockpile still remained at the Suttle Road site. Shortly thereafter, Metro staff became aware of Speyfly's activities and informed the company that a Metro solid waste facility license was required to operate a facility of that kind within the Metro region. On April 12, 2001, Metro issued a license for the Speyfly facility under the name "RoofGone." The DEQ also required RoofGone to obtain a solid waste disposal site and material recovery facility permit (Permit Number 493). One of the conditions of the Metro license was that RoofGone remove all the waste roofing that had been left at the Suttle Road site within 120 days of the issuance of the license. The license also included a standard condition requiring RoofGone to provide Metro with an operating plan for Metro's review and approval.

RoofGone did not provide the operating plan required by its license and did not clean up the Suttle Road site. Metro provided guidance regarding an operating plan but RoofGone still did not provide an acceptable plan. Ultimately Metro found it necessary to issue RoofGone notices of noncompliance. Still, RoofGone failed to cure its violations and, through frequent inspections by Metro, it became apparent that, although the facility was continuing to accumulate waste roofing, little or none of it was leaving the site. Metro subsequently amended the license to reduce the facility's maximum allowable accumulation. RoofGone never cured its violations; failed to pay its fines; became non-responsive to communications from Metro; and abandoned the site in January, 2002, leaving an accumulation of approximately 10,000 tons of waste roofing. Shortly thereafter, Metro suspended RoofGone's authority to accept additional roofing material, and, on May 15, 2002, RoofGone's license was revoked by the REM Director. RoofGone did not contest the revocation and the Metro Council approved the Final Order permanently revoking its license on August 8, 2002. Since January 2002, in order to facilitate the removal of the

stockpiled waste roofing materials, Metro has allowed Mt. Hood Metals to process and remove approximately 3,000 tons of waste roofing from the site without accepting any new materials.



Processed Roofing



**Aerial View of American Compost (Center),
Mt. Hood Metals (Right), and the former
RoofGone Facility (Top)**

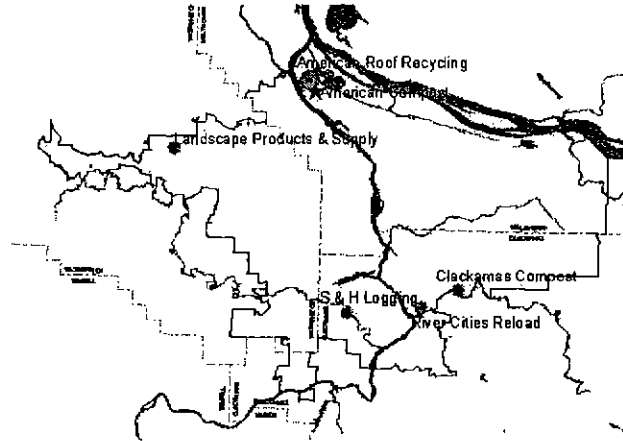
Compliance History of the Applicant

As noted above, one of the owners of American Compost, Mr. Stroupe, is also an owner of Clackamas Compost, a large composting facility, S & H Logging Co. ("S&H"), a yard debris reload facility located in Tualatin, and Landscape Products & Supply, a recently licensed yard debris reload facility located in Hillsboro. Mr. Stroupe has also contracted with the River Cities Environmental Services Board to process yard debris at the River Cities Reload facility in West Linn. Though American Compost, Clackamas Compost, and S&H are well-run operations, they have some history of non-compliance with Metro and DEQ regulations.

- On August 23, 2000, the DEQ issued a Notice of Noncompliance to S&H for allowing particulate matter from its hogged fuel grinding operations to drift off-site.
- On October 4, 2000, before S&H had applied for and received a Metro license, it was directed to cease its unauthorized yard debris reload operations. S&H agreed to do so. However, on June 13, 2001, S&H was discovered to have resumed reloading operations in violation of the order.
- On June 25, 2001, Metro issued S&H a Notice of Noncompliance for resuming yard debris reloading activities without the appropriate Metro license and in violation of the order issued on October 4, 2000. Upon issuance of the Notice of Noncompliance, S&H ceased its yard debris reloading activities until it received a Metro license, which was issued on January 17, 2002 (License Number YD-045-01).
- On May 29, 2002, Metro staff discovered that S&H had begun a new yard debris reload operation in Hillsboro (Landscape Products and Supply) without notifying Metro or applying for the required solid waste facility license. On June 12, 2002, Metro sent S&H a notice to cease yard debris reload operations at the Hillsboro site until a Metro license was obtained. Based on subsequent staff visits to

that facility, S&H has complied with Metro's notice and was issued a license on July 25, 2002 (License Number YD-103-03).

Despite these past regulatory issues, staff believes that American Roof Recycling will be well-run and operated in substantive compliance with Metro Code due to the manner in which Mr. Stroupe operates the other licensed solid waste facilities in the Metro region.



Other Solid Waste Facilities Operated by one of the Applicants

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed American Roof Recycling facility.

2. Legal Antecedents

Metro Code section 5.01.045(b)(1) requires a solid waste processing facility to have a Metro solid waste facility license if its activities will result in processing residual of more than ten percent. Roofing waste processing facilities in the Metro region have had an extremely mixed track record (see "Background"), and have frequently resulted in operations with nearly 100 percent "processing residual." On that basis, Metro staff has concluded that such facilities must obtain a Metro solid waste facility license in order to operate within the region.

Metro Code section 5.01.067 requires Council approval of applications for solid waste facility licenses. Pursuant to that section, the Executive Officer has made an investigation of this application and, as provided in greater detail below, recommends that this application meets the requirements of Metro Code section 5.01.060 and that a license should therefore be issued with conditions. Pursuant to Metro Code section 5.01.067(e), the Council must now issue an order granting or denying this application. If the Council does not act to grant or deny the application by November 13, 2002, Metro Code section 5.01.067(f) provides that a License shall be deemed granted for the solid waste facility requested in the application.

Executive Officer's Investigation Regarding Applicable Metro Code Provisions

5.01.055 Pre-Application Conference

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

Staff held a pre-application conference with the applicants on April 12, 2002.

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

The applicant submitted an incomplete application on April 19, 2002. The application was determined to be complete on July 16, 2002, when Metro received the applicant's proposal for financial assurance. Proof of financial assurance was provided on August 15, 2002.

5.01.060 Applications for Certificates, Licenses or Franchises

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

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

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

The application contains a description of the activities proposed to be conducted and a description of wastes sought to be accepted. The proposed activities consist of shredding roofing to use as a component in hog fuel. Metal flashing and rain gutters will be separated and recycled as scrap metal. The types of waste sought to be accepted are wood shakes and composition shingles from roof tear-offs, trimmings from the manufacture of composition roofing, and other materials directly associated with the roofing and re-roofing of buildings.

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

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

A certificate of insurance was provided with the application.

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

The DEQ will not require a permit for this facility per a July 31, 2002, letter from Sally Puent, DEQ Solid Waste and Site Assessment Manager to Roy Brower, REM Regulatory Affairs Manager.

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

The DEQ does not require a permit for this facility. However, the proposed Metro license contains a provision that all material accumulated under the authority of the license must be removed and properly disposed of in the case of a long-term closure of the facility.

- (4) *A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents, proof of financial assurance for the costs of closure of the facility;*

The DEQ does not require a permit for this facility. However, the proposed Metro license requires a form of financial assurance adequate to clean up the site should it cease operations.

The amount of financial assurance is based on the worst-case scenario of having to load, transport and dispose the accumulated roofing material at a landfill, which has been estimated at \$55 per ton. Based on the proposed authorization to accumulate no more than 500 tons of roofing material on site at any one time, the amount of financial assurance required is \$27,500. On August 15, 2002, the applicant has provided an automatically renewing, payment bond certificate for \$27,500, issued by Union Bank of California and naming Metro as the beneficiary as its proof of an acceptable form and amount of financial assurance.

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

A copy of the required consent form signed by the property owners was included with the application.

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

The facility is in an IH (heavy industrial) zone. It is co-located with a scrap steel yard on a lot directly adjacent to a large yard debris composting facility. A Land Use Compatibility Statement is on file with Metro.

- (7) *Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously*

made, a copy of such permit application, and any permit that has been granted shall be provided.

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

5.01.062 Application Fees

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

The applicant has submitted the required application fee.

3. Anticipated Effects

Approval of Resolution No. 02-3223 will authorize the Executive Officer to issue a new Solid Waste Facility License jointly to Mt. Hood Metals, Inc. and American Compost and Recycling, LLC, for the operation of a waste roofing processing facility located at 9645 N. Columbia Blvd., Portland, Oregon (Metro District 5). The facility will be known as American Roof Recycling. If this license is approved, American Roof Recycling would be authorized to accept wood shakes and composition shingles from roof tear-offs, trimmings from the manufacture of composition roofing, and other materials directly associated with the roofing and re-roofing of buildings. The previous operator abandoned about 10,000 tons of waste roofing. There is about 6,000 tons currently remaining on site. The license would require American Roof Recycling to reduce the amount of roofing materials on site to 500 tons or less by October 1, 2003. The applicant intends to use waste roofing as a component of its hog fuel, soil amendments, compost additives, ground cover, and for recycled asphalt products.

4. Budget Impact

The facility anticipates diverting 6,000 tons of roofing annually from existing facilities that do not currently collect Metro fees or taxes. Because flows to these facilities have already been factored into projections on which the current year's budget is based, approval of the applicant's proposed license is not anticipated to have a significant budget impact.

OUTSTANDING QUESTIONS

None

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 02-3223, granting a solid waste facility license to Mt. Hood Metals, Inc., and American Compost & Recycling, LLC, jointly doing business as American Roof Recycling, subject to the terms and conditions incorporated into the license document attached as "Exhibit A" to Resolution No. 02-3223. In addition, the Executive Officer recommends that the Metro Council condition the issuance of this license on the applicant providing an operating plan approved by the Executive Officer and that in the event the license is not issued within 60 days of the date of approval of this resolution, then this application shall be denied.

RH:bjl:mca
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