

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO. 02-3225
EXECUTIVE OFFICER TO GRANT A METRO SOLID)	
WASTE FACILITY LICENSE TO PACIFIC LAND)	Introduced by Mike Burton,
CLEARING COMPANY, INC., FOR THE)	Executive Officer
OPERATION OF A ROOFING RECOVERY AND)	
YARD DEBRIS PROCESSING AND RELOAD)	
FACILITY)	

WHEREAS, under the Metro Code, a solid waste facility that will be processing roofing waste and yard debris, and that will be reloading yard debris, must obtain a Solid Waste Facility License in order to operate; and,

WHEREAS, the applicants, Pacific Land Clearing Company, Inc., have received land use approval from the City of Portland; and,

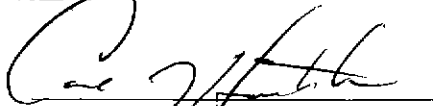
WHEREAS, the application is in conformance with the requirements of Chapter 5.01 of Metro Code; and,

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 proof of financial assurance and an operating plan that meets the approval of the Executive Officer within 60 days of the Council's approval of this resolution; and,

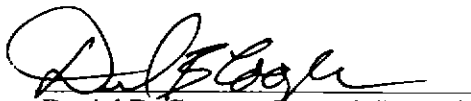
WHEREAS, the resolution was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

BE IT RESOLVED that the Executive Officer is authorized to grant a Solid Waste Facility License for roofing recovery and yard debris processing and reload to Pacific Land Clearing and Recycling Company, Inc., that shall be substantially similar to the license attached as Exhibit A. Issuance of this license is conditioned on the receipt of final proof of financial assurance and 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 19 day of September, 2002.


 Carl Hostjeka, Presiding Officer

Approved as to Form:


 Daniel B. Cooper, General Counsel





METRO SOLID WASTE FACILITY LICENSE

Number L-102-02

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>LICENSEE:</p> <p>Pacific Land Clearing Company, Inc. 34800 South Wilhoit Rd Molalla, OR 97038</p> <p>Jack Botkin (503) 656-7793 Fax: (503) 656-8094</p>	<p>FACILITY NAME AND LOCATION:</p> <p>Pacific Land Clearing & Recycling Center III 4044 N Suttle Road Portland, OR 97217</p> <p>(503) 774-6939 Fax: (503) 649-0198</p>
<p>COMPANY OWNER</p> <p>Jack Botkin 15704 SE 34th Circle Vancouver, WA 98683</p> <p>(360) 944-6600</p>	<p>PROPERTY OWNER</p> <p>Daniel & Colleen Obrist 6431 SE Jenne Road Portland, OR 97236</p> <p>(503) 661-2455</p>

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

METRO

Licensee's Acceptance & Acknowledgement of Receipt:

Signature

Signature of Licensee

Mike Burton, Metro Executive Officer

Print name and title

Date

Date



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1.0 ISSUANCE

- 1.1 Licensee** Pacific Land Clearing Company, Inc.
34800 South Wilhoit Rd
Molalla, OR 97038
- 1.2 Contact** Jack Botkin (503) 656-7793; Fax: (503) 656-8094
- 1.3 License Number** When referring to this license, please cite:
Metro Solid Waste Facility License Number L-102-02.
- 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** Pacific Land Clearing & Recycling Center III
4044 N Suttle Road
Portland, OR 97217
- 1.6 Operator** Jack Botkin (503) 656-7793
503-656-8094(fax)
- 1.7 Facility legal description** Section 32 of Township 02N of Range 01E
Tax lot(s): R237942 & R237943
Partition Plat 1993-83, lot 1 map 3 22N1E
- 1.8 Property owner** Daniel & Colleen Obrist.
- 1.9 Permission to operate** The licensee has obtained the property owner's (Daniel & Colleen Obrist) 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 solid wastes or other materials at the direction of Metro during the term of the license.
- 2.2 Non-exclusive license** The granting of this license shall not in any way limit Metro from granting other solid waste licenses within the District.



- 2.3 Property rights** The granting of this license does not convey any property rights in either real or personal property, nor does it authorize any injury to private property or invasion of property rights.
- 2.4 No recourse** The licensee shall have no recourse whatsoever against Metro, its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this license or because of the enforcement of the license or in the event the license or any part thereof is determined to be invalid.
- 2.5 Release of liability** Metro, its elected officials, employees, or agents do not sustain any liability on account of the granting of this license or on account of the construction, maintenance, or operation of the facility pursuant to this license.
- 2.6 Binding nature** The conditions of this license are binding on the licensee. The licensee is liable for all acts and omissions of the licensee's contractors and agents.
- 2.7 Waivers** To be effective, a waiver of any terms or conditions of this License must be in writing and signed by the Metro Executive Officer.
- 2.8 Effect of waiver** Waiver of a term or condition of this license shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- 2.9 Choice of law** The license shall be construed, applied and enforced in accordance with the laws of the State of Oregon.
- 2.10 Enforceability** If any provision of this license is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this license shall not be affected.
- 2.11 License not a waiver** Nothing in this license shall be construed as relieving any owner, operator, or licensee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
- 2.12 License not limiting** Nothing in this license is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to the solid waste facility that it is authorized or required to enforce or administer.
- 2.13 Definitions** Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01. The Metro Code definition of "solid waste" includes source separated yard debris, landscape wastes, and clean



wood wastes. In the event that the Metro Code is amended, the latest amended version shall apply to this license.

3.0 AUTHORIZATIONS

- | | | |
|------------|---|--|
| 3.1 | Purpose | This section of the license describes the wastes that the licensee is authorized to accept at the facility, and the waste-related activities the licensee is authorized to perform at the facility. This license is not intended to regulate non-waste-related activities such as the management of bark chips and other finished products. |
| 3.2 | General conditions on acceptable materials | The licensee is authorized to accept at the facility only the solid wastes described in Section 3.0. The licensee is prohibited from knowingly receiving any solid waste not authorized in this section, and shall not accept any other waste at the facility 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 Section 3.0. |
| 3.4 | Acceptance of yard debris and clean untreated wood | The licensee is authorized to accept for grinding and reloading, source-separated yard debris and landscape waste that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. Other green or non-green wastes may only be accepted as specifically authorized in writing by the Director of the Metro Regional Environmental Management Department or by amending this license. The licensee is also authorized to accept clean wood wastes (e.g. untreated lumber and wood pallets). |
| 3.5 | Acceptance of roofing and related materials | The licensee is authorized to accept wood shingles, shakes, and composition shingles from roof tearoffs; trimmings from the manufacture of composition roof shingles; wood trim and roof support structures, 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). |
| 3.6 | Processing of roofing for recovery | The licensee is authorized to process composition roofing for use as fuel, engineered fill, engineered road base, or any use approved by the DEQ. At Metro's request, the licensee will provide Metro with information on uses approved by the DEQ. Metal shall be separated and recycled. |



- 3.7 **Processing of clean wood and yard debris for recovery** The licensee is authorized to grind clean untreated wood wastes and yard debris for use as fuel, mulch, or for use as a feedstock at a Metro-authorized composting facility.

4.0 LIMITATIONS AND PROHIBITIONS

- 4.1 **Purpose** This section of the license describes limitations and prohibitions on the wastes handled at the facility and waste-related activities performed at the facility.
- 4.2 **Prohibited waste** The licensee is prohibited from receiving, processing or disposing of any solid waste not authorized in this License. The licensee shall not knowingly accept or retain any material amounts of the following types of wastes: asbestos containing built-up roofing; non-green feedstocks, special wastes as defined in Chapter 5.02 of the Metro Code, materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; medical waste; infectious, biological or pathological waste; radioactive waste; hazardous waste; any waste prohibited by the DEQ; putrescible waste other than that allowed by Sections 3.0 of this license; and any non-putrescible waste.
- 4.3 **Accumulation limited** This license limits the quantity of composition waste roofing material that may be accumulated at the facility at any one time to no more than 3,000 (THREE THOUSAND) total tons unless the licensee has been granted written authorization to accumulate a greater amount of composition roofing 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.
- 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.
- 4.5 **Composting prohibited** The licensee shall not keep yard debris on site long enough for more than negligible biological decomposition to begin.
- 4.6 **No disposal of recyclable** Yard debris and organic materials accepted at the facility may not be disposed of by landfilling.



materials

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 Personnel** The licensee shall provide an operating staff qualified to carry out the functions required by this license and to otherwise ensure compliance with Metro Code Chapter 5.01. Facility personnel shall be familiar with the provisions of this license and the procedures contained within the facility's 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 yard debris and wood wastes shall be suitably contained and removed at sufficient frequency to prevent nuisance conditions or safety hazards. Storage areas must be maintained in an orderly manner and kept free of litter. Yard debris may not be stored for more than 24 hours before being removed from the facility.
- 5.7 Litter and airborne debris** The licensee shall operate the facility in a manner that prevents the generation of litter and airborne debris. The licensee shall:
- a. Take reasonable steps to notify and remind persons delivering yard debris and wood wastes to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit;
 - b. Construct, maintain, and operate all vehicles and devices transferring or transporting yard debris and wood wastes from the facility to prevent leaking, spilling or blowing of such material on-site or while in transit;
 - c. Conduct grinding operations in such a manner as to prevent dust and debris from blowing off-site; and
 - d. Keep all areas within the site and all vehicle access roads



within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operations.

- 5.8 Vector prevention** The licensee shall operate the facility in a manner that prevents infestations of rodents, insects, or other animals capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.
- 5.9 Noise minimization** The licensee shall conduct Metro-authorized activities at the facility in a manner that prevents the creation of excessive noise to the extent necessary to meet applicable regulatory standards and land-use regulations.
- 5.10 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 operate and maintain the facility to prevent contact of yard debris and wood wastes with stormwater runoff. Methods must be consistent with the controlling agency (local jurisdiction and DEQ).
- 5.12 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. Emergency telephone number for the facility;
 - d. Operating hours during which the facility is open for the receipt of authorized waste;
 - e. Fees and charges;
 - f. Metro's name and telephone number (503) 797-1650; and
 - g. A list of authorized and prohibited wastes.
- 5.14 Complaints** The licensee shall respond to all written complaints of nuisances (including, but not limited to, blowing debris, fugitive dust, odors, noise, and vectors). If licensee receives a complaint, licensee shall:
- a. Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or



unsuccessful); and

- b. Log all such as provided on Section 8.4 of the license. 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

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 materials authorized under Section 4.3 accumulated on-site, the



amount of materials received, the amount of outgoing materials, the ultimate disposition of all outgoing materials (whether recovered or disposed), and the results of the required asbestos testing for waste roofing. 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. 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.

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
- d. Any actions taken by the operator in response to the complaint (whether successful or unsuccessful).

Records of such information shall be made available to Metro and local governments upon request. 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 an instrument of financial assurance to help assure site clean-up in the event of abandonment or long-term cessation of operations. If the licensee has been authorized under Section 4.3 of this license to accumulate more than 3,000 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 certificate to that effect may be provided in lieu of the certificate showing current Workers' Compensation.
- 9.8 **Notification** The licensee shall give at least 30 days prior written notice to the Director of the Metro Regional Environmental Management Department of any lapse or proposed cancellation of insurance coverage.

10.0 ENFORCEMENT

- 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 vested in Metro** The power and right to regulate, in the public interest, the exercise of the privileges granted by this license shall at all times be vested in Metro. Metro reserves the right to establish or amend rules,



regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against licensee.

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

11.0 MODIFICATIONS

- 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 the law** Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. 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 waste to appropriate destinations** The licensee shall ensure that processed materials 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 inspection and audit** Authorized representatives of Metro may take soil and water samples and perform such inspection or audit as the Regional Environmental Management Director deems appropriate and shall be permitted access to the premises of the facility during normal working hours upon giving reasonable advance notice (not less than 24 hours). Subject to the confidentiality provisions of this license, Metro's right to inspect shall include the right to review, at an office of licensee located in the Portland metropolitan area, all information from which all required reports are derived including all books, records, maps, plans, income tax returns, financial statements, contracts, and other like materials of licensee that are directly related to the operation of the Facility.



12.5 Confidential information

Licensee may identify any information submitted to or reviewed by Metro under this Section 12.0 as confidential. Licensee shall prominently mark any information which it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt, of any request for disclosure of information identified by licensee as confidential, Metro shall provide Licensee written notice of the request. Licensee shall have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. Licensee shall pay 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 Section 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. 02-3225, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO GRANT A METRO SOLID WASTE FACILITY LICENSE TO PACIFIC LAND CLEARING COMPANY, INC., FOR THE OPERATION OF A ROOFING RECOVERY AND YARD DEBRIS PROCESSING AND RELOAD FACILITY

Date: September 18, 2002

Presented by: Councilor

Committee Recommendation: At its September 18 meeting, the Solid Waste and Recycling Committee voted 3-0 to recommend Council adoption of Resolution No. 02-3225. Voting in favor: Councilors Park, McLain and Chair Atherton. Voting against: None. Absent: Councilors Bragdon and Monroe.

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.

Yard debris processing and reload facilities are also required to obtain a solid waste processing facility license under Metro Code Chapter 5.01.

Committee Issues/Discussion: Roy Brower, REM Regulatory Affairs Manager, presented the staff report. He explained that the proposed resolution would authorize the Executive Officer to issue a license to Pacific Land Clearing to operate a roofing recycling and yard debris processing and reloading facility on Suttle Road in North Portland. Pacific Land Clearing currently operates two other similar licensed facilities in the region, one in Southeast Portland and another in Oregon City near the Metro South Transfer Station. The southeast Portland facility had some initial operational and odor issues that resulted in the issuance of non-compliance notices by Metro, however these problems have been corrected.

Speyfly, Inc previously used the site for the proposed facility as an unlicensed roofing recycling facility. When Speyfly obtained a license to operate a facility on N. Columbia Blvd., the license required that the stockpile of material at the Suttle Road site be removed. Speyfly subsequently abandoned both sites and Metro has revoked the company's facility license. Following the abandonment of the site, a third party cleared the remaining material stockpile.

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 3,000 tons under the terms of the proposed license.

Councilor McLain asked why the proposed stockpile for this facility was significantly higher than that for the American Roofing facility whose license application had been considered earlier by the committee. Brower indicated that the Suttle Road site was about three times larger than the American Roofing site and that the level of site cleanup financial assurance being offered by Pacific Land Clearing would justify a higher stockpile limitation.

Key Public Testimony: Jack Botkin, a principal in Pacific Land Clearing, appeared on behalf of the applicant. He noted that the roofing material would be used for road base and other proprietary uses under the terms of two long-term contracts with potential end-users. He noted that the company's other two licensed facilities are currently in compliance with all applicable Metro regulatory requirements.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 02-3225 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO GRANT A METRO SOLID WASTE FACILITY LICENSE TO PACIFIC LAND CLEARING COMPANY, INC., FOR THE OPERATION OF A ROOFING RECOVERY AND YARD DEBRIS PROCESSING AND RELOAD FACILITY

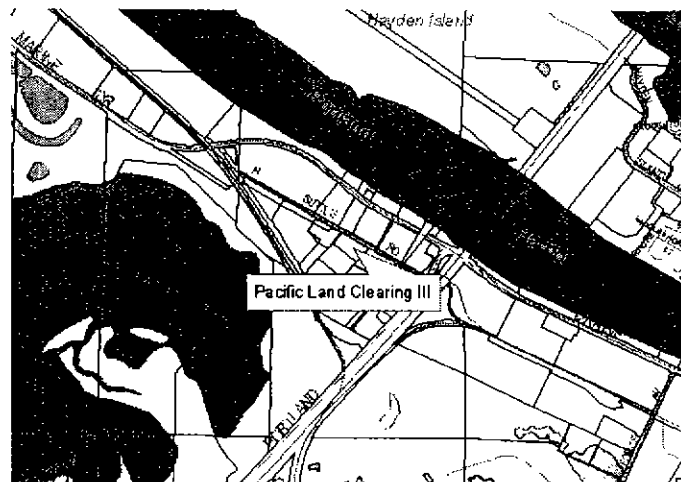
August 23, 2002

Presented by: Terry Petersen

BACKGROUND

Description of the Resolution

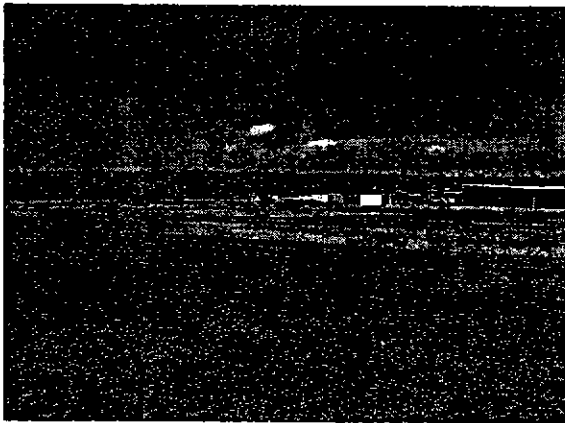
Approval of Resolution No. 02-3225 will authorize the Executive Officer to issue a new Solid Waste Facility License to Pacific Land Clearing Company, Inc., (PLC) for the operation of a waste roofing processing and yard debris reload facility located at 4044 N. Suttle Road, Portland, Oregon (Metro District 5). PLC refers to this facility as Pacific Land Clearing and Recycling Center III (PLCIII). Issuance of the license will authorize the facility to accept wood shakes and composition roofing from roof tear-offs, trimmings from the manufacture of composition roofing, metal flashing, rain gutters, wooden roof structures, tar paper, and other materials directly associated with roofing and re-roofing of buildings for the purpose of processing for use as fuel, engineered fill, or engineered road base. Metal will be separated and recycled. All materials accepted shall be certified as being free of asbestos through a protocol approved by the Oregon Department of Environmental Quality (DEQ). In addition to roofing-related materials, the proposed facility will be authorized to accept clean wood waste (i.e., pallets), chip and particle board and woody land clearing and yard debris for the purpose of processing it into hogged fuel. Processing of incoming yard debris will be limited to grinding and/or reloading it for delivery to an authorized composting facility. PLCIII will not be authorized to conduct composting operations on-site at this time.



Proposal Site Location

History of the Site Where the Facility Will Be Located

The proposed facility is located on a 5.6 acre site that was previously part of an old stockyard area. Beginning in April 1999, Speyfly, Inc. (dba RoofGone) started operating a roofing recycling facility on the site, without obtaining a Metro license or a DEQ permit. In April 2000, RoofGone moved its roof recycling operation to 9645 N. Columbia Boulevard in Portland while a substantial stockpile of waste roofing materials still remained at the N. Suttle Road site. On April 12, 2001, Metro granted RoofGone a solid waste facility license for its N. Columbia Boulevard facility on the condition that all waste roofing that had been left at the N. Suttle Road site be removed within 120 days. RoofGone failed to comply with its license agreement and subsequently abandoned both sites by January 2002. The Metro Council approved a final order revoking RoofGone's license on July 3, 2002. Since the time that RoofGone abandoned the Suttle Road site, most of the waste roofing materials have been removed by a third party operator. The site is currently zoned IH (heavy industrial) and the uses proposed by the applicant comply with the applicable local land use regulations.



View of the Proposed Site

History of the Applicant

The applicant currently owns and operates two other Metro-licensed solid waste facilities that process waste roofing materials, and clean wood and yard debris, which are described below.

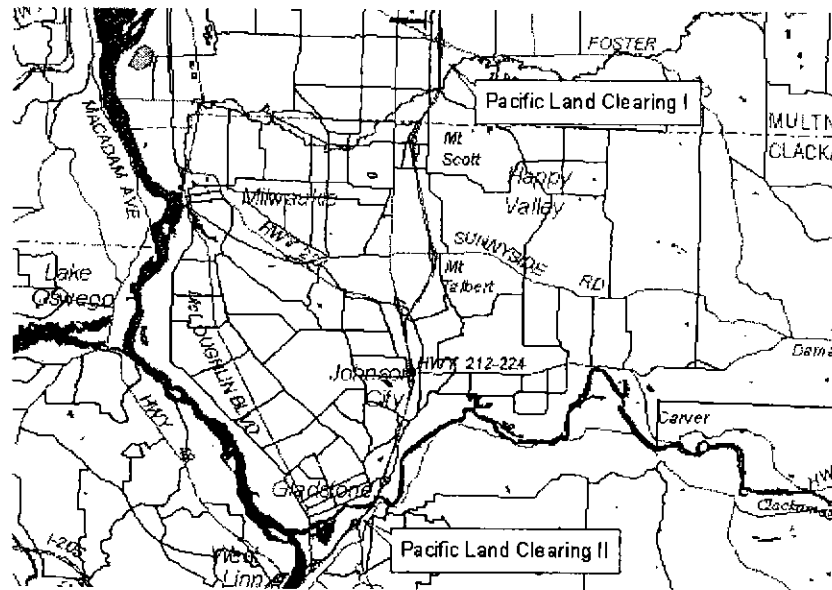
Pacific Land Clearing and Recycling Center I (PLCI):

This facility was originally opened in November 1996 under the name Roofing Recycling Center by a previous owner until acquired by the applicant in May 2000 and issued a license on April 13, 2001. PLCI is located at 6400 SE 101st Avenue, Portland in Metro District 6 and is currently licensed to accept waste roofing materials, clean wood waste and yard debris for processing into hogged fuel or for delivery to an authorized composting facility. PLCI is a well-run facility with a good compliance history under the applicant's management. PLCI has not yet provided financial assurance for the existing stockpile of waste roofing on site.

Pacific Land Clearing and Recycling Center II (PLCII):

This facility is located at 16020 S. Park Place Court in Oregon City (Metro District 2). The site was originally leased from the Southern Pacific/Union Pacific Railroad by Oregon/California Lumber Recycling, Inc. (OCLRI) which operated a wood processing facility. The site was then purchased by the applicant in June 2000 and was issued a Metro Solid Waste Facility License on April 13, 2001. PLCII is currently licensed to accept waste roofing, clean wood waste and yard debris but, because of its flood

potential, is limited by the City of Oregon City to accumulate no more material than can be removed within a 48 hour period. PLCII has had some previous compliance issues related to odor problems primarily stemming from its yard debris operations (see Compliance History below) but has operated without incident since January 2002.



Other Solid Waste Facilities Operated by the Applicant

Compliance History of the Applicant

The following is a brief compliance history of the two other solid waste facilities operated by the applicant:

Pacific Land Clearing and Recycling Center I (PLCI):

This facility has operated in compliance with its license agreement since it was issued on April 13, 2001.

Pacific Land Clearing and Recycling Center II (PLCII):

On June 6, 2001, Metro issued PLCII a Finding of Violation and Notice of Non-Compliance (NON) for the following: A) Accepting prohibited (putrescible) waste; B) Failure to provide a qualified grinder operator for processing yard debris; C) Non-compliance with local law for storing putrescible waste in an open storage container; and D) Improper storage of yard debris resulting in odor problems. On June 15, 2001, Metro issued PLCII a Finding of Continued Violation and Notice of Imposition of Penalty for failure to cure its June 6, 2001, violations by not removing all decomposing organic materials from the site. On June 19, 2001, based on continuing on-site inspections, Metro issued PLCII a Finding of Violation and Notice of Imposition of Penalty for continued violations through June 15, 2001. As a result, PLCII was issued a penalty of \$100. The relatively low amount of the penalty reflects Metro's recognition of PLCII's effort and progress to significantly diminish the magnitude of the violations. On January 22, 2002, Metro issued PLCII a Finding of Violation and Modification of Solid Waste Facility License for continued odor problems related to its yard debris operation. As a result, Metro modified PLCII's license to reflect its primary function as a yard debris reload facility by stipulating more explicit requirements regarding its acceptance of yard debris and by requiring the operation to provide a more detailed operating plan for processing yard debris.

The compliance issues experienced during PLCII's first year of operation have since been resolved and they have operated without incident throughout the current year. Both of the applicant's existing facilities are well run and operated in compliance with Metro Code.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed PLCIII 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 5.01.045(b)(2) requires a solid waste processing facility to have a Metro solid waste facility license if its activities include processing and reloading of yard debris. The applicant proposes to operate a yard debris processing and reload facility and, on that basis, will require a solid waste facility license.

Metro Code Section 5.01.055 requires license applicants to participate in a pre-application conference and to file an application within one year from the date of that conference. Metro staff held a pre-application conference with the applicant on May 14, 2002, and received an application on June 7, 2002. On July 3, 2002, the application fee was submitted as required by Metro Code 5.01.062. On July 11, 2002, the application was determined to be complete. 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 11, 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.

All Solid Waste Licenses are subject to approval by the Metro Council [Metro Code 5.01.067(a)]. A decision to approve or deny is made following an investigation and recommendation by the Executive Officer [5.01.067(c,d)].

Metro Code Section 5.01.060 provides:

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

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

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

The application contains a description of the activities proposed to be conducted and a description of wastes sought to be accepted. The proposed activities consist of accepting waste roofing materials, clean

wood waste and yard debris for processing into hogged fuel or for delivery to an authorized composting facility. Metal flashing and rain gutters will be separated and recycled as scrap metal.

(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. The applicant has proposed his personal annuity account with Jackson National Life for \$50,000 as financial assurance for a requested 6,000 to 8,000 tons of roofing material to be stored on-site at any one time. While this amount is not adequate to clean up the entire site should it cease operations, staff balanced several factors in arriving at an appropriate level of financial assurance. Based on the applicant's track record of operating a similar facility for the last two years that is well run and has a good compliance history with Metro and DEQ factor positively in the applicant's favor. The applicant requested a maximum accumulation of 6,000 to 8,000 tons of roofing but failed to provide adequate financial assurance for that tonnage. However, staff believes the proposed financial assurance of \$50,000, balanced with a lower tonnage accumulation limit of 3,000 tons, would be a reasonable arrangement. As the applicant continues to operate a compliant facility, he may want to seek a larger accumulation limit. Staff would be willing to consider increasing the tonnage limit by evaluating various factors such as compliance history, success of markets for the roofing material, and the ability to provide proof of additional financial assurance in the future. Staff recommends that prior to the issuance of this license, the applicant must provide final proof of financial assurance within 60 days of the date of approval of the accompanying resolution, or this application shall be denied.

- (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 site is zoned IH (heavy industrial) and the uses proposed by the applicant comply with the applicable local land use regulations in the City of Portland. 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.

3. Anticipated Effects

Approval of Resolution No. 02-3225 will authorize the Executive Officer to issue a new Solid Waste Facility License to Pacific Land Clearing Company, Inc. for the operation of a waste roofing processing and yard debris reload facility located at 4044 N. Suttle Road, Portland, Oregon (Metro District 5). Issuance of the proposed license will authorize the facility to accept wood shakes and composition roofing from roof tear-offs, trimmings from the manufacture of composition roofing, metal flashing, rain gutters, wooden roof structures, tar paper, and other materials directly associated with roofing and re-roofing of buildings for the purpose of processing for use as fuel, engineered fill, engineered road base, or other approved uses. Metal will be separated and recycled. In addition to roofing-related materials, the proposed facility will be authorized to accept clean wood waste and woody land clearing for the purpose of processing it into hogged fuel. Processing of incoming yard debris will be limited to grinding and/or reloading it for delivery to an authorized composting facility. PLCIII will not be authorized to conduct composting operations on-site at this time.

4. Budget Impacts

The applicant estimates that 35,000 tons of waste roofing materials and 35,000 tons of wood, yard debris, and concrete, currently being source-separated, will be delivered to the proposed PLCIII facility annually. Since the 35,000 tons of source-separated wood, yard debris, and concrete is not disposed off and,

therefore, exempt from Metro user fees, it will not have a significant financial impact. Based on the information provided by the applicant, approximately 20,000 tons of roofing materials will come from the currently licensed PLCI facility. This tonnage has already been factored into the projections on which the current year's budget is based and, therefore, is not anticipated to have a significant financial impact. Approximately 5,000 tons of roofing materials is anticipated to come from the Vancouver, Washington area. This tonnage is currently being disposed in Clark County and is not subject to Metro fees. The applicant estimates that another 10,000 tons of roofing materials will be generated from the Beaverton, West Portland, and Northwest Portland areas. This tonnage is presently going directly to landfills (non-Metro facilities). The applicant does not anticipate a reduction in tonnage at the Metro transfer stations.

However, while data on the amount of waste roofing materials currently being delivered to the Metro transfer stations is limited, previous waste-composition studies and other data indicate that measurable amounts of waste roofing are currently being delivered to the Metro transfer stations. For that reason, it is the opinion of Metro staff that there will likely be some level of diversion of waste roofing from the Metro transfer stations. Therefore, for the purpose of estimating the potential budget impacts on Metro, this analysis was based on a reasonable scenario that assumes: of the 10,000 being diverted to the PLCIII facility, 5,000 tons of roofing materials would be diverted directly from the Metro transfer stations and 5,000 tons would be diverted directly from landfills.

Impact on the Solid Waste Fund

Under this scenario, approval of the license would result in the loss of the Regional System Fee of \$15 per ton on the 10,000 tons that are now assumed will be recovered. This translates to a \$150,000 loss to the Solid Waste Fund. There would be no corresponding reductions in budgeted expenditures related to granting this license.

Under this scenario, because 5,000 tons are assumed to be diverted away from Metro's transfer station operations, Metro's operations cost will be affected. However, the economics of Metro's disposal operations are affected in a different manner than Regional System Fee collections. Because of the structure of the contracts and recovery of fixed costs in the rate, Metro's costs of disposal operations decline more slowly than revenue when tons leave the transfer stations. The resulting loss of *net operating revenue* is shown in the following table:

Net Impact on Metro's Operations Revenue in the Event that 5,000 Tons are Diverted from Metro Central to PLC III in FY 02-03	
Revenue loss	(\$158,450)
Costs reduced	\$93,337
<u>Net Gain (Loss)</u>	<u>(\$65,113)</u>

Adding together the Regional System Fee losses (\$150,000) and the operating losses (\$65,113), the net revenue shortfall for the Solid Waste Revenue Fund is estimated to be \$215,113 for the full 2002-03 fiscal year. The corresponding shortfall in future years should be recovered through the annual rate setting process.

Impact on the General Fund

Under this scenario, approval of the license would also result in the loss of the excise tax of \$6.39 per ton on the 10,000 tons that are now assumed will be recovered at PLC III. This translates to a \$63,900 loss of expected General Fund revenues. Of this \$63,900, \$10,000 is dedicated to the Parks program. There

would be no corresponding reductions in budgeted General Fund expenditures as a result of granting this license.

Outside of the \$10,000 loss to Parks, granting this license would have no impact on the ability of excise tax revenues in FY 02-03 to cover other budgeted general fund expenditures. However, there could be a potential \$53,900 reduction (\$63,900 minus \$10,000) in the projected ending balance in the Recycling Rate Stabilization reserve.

The per-ton excise tax rate is recalculated for each successive year to help make up for any unanticipated solid waste excise tax losses in the previous year. However, as a \$1 per ton add-on, the Parks tax is not a part of the annual rate recalculation; therefore, the unanticipated \$10,000 shortfall to Parks will reduce Parks revenue in future years.

Summary of Net Revenue Impacts

<u>Fund</u>	<u>Scenario</u>
	5,000 tons diverted from landfills, plus 5,000 tons diverted from Metro transfer stations
Solid Waste Fund	
Regional System Fee	\$150,000
Disposal operations	\$65,113
Total, Solid Waste Fund	\$215,113
General Fund	
Parks	\$10,000
Recycling Rate Stabilization (ending balance)	\$53,900
Total, General Fund	\$63,900
Total Net Revenue Impact	\$279,013
<i>Total impact per diverted ton</i>	<i>*\$55.80</i>

*This \$55.80 per ton is the combined effect of diverting 5,000 tons from a privately owned landfill (\$21.39 per ton) and 5,000 tons from a Metro owned facility (\$34.41 per ton) to a facility that exclusively takes source-separated recyclable materials. The high per-ton impact of the tonnage diverted from Metro stems from the relatively minor increase in marginal operating costs at Metro's transfer station and the major loss of revenue due to Metro's policy to forego all fees and taxes from recovered materials. If the tonnage were instead diverted to a local transfer station, where recovery rates are substantially less than 100%, then Metro would continue to collect fees and taxes on most of the tonnage; hence, the per-ton impact would be reduced.

RECOMMENDED ACTION

The Executive Officer recommends approval of Resolution No. 02-3225, granting a Solid Waste Facility License to PLC for the operation of Pacific Land Clearing and Recycling Center III. The facility is

subject to the terms and conditions incorporated into the license document attached as "Exhibit A" to Resolution No. 02-3225.

In addition, the Executive Officer recommends that the Metro Council condition the issuance of this license on the applicant providing acceptable, final proof of financial assurance and an operating plan approved by the Executive Officer within 60 days of approval of this resolution. In the event the license is not issued within 60 days of the date of approval of this resolution, then this application should be deemed denied.

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