

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING A CHANGE OF)	Resolution No. 03-3333A
AUTHORIZATION AND AUTHORIZING THE CHIEF)	
OPERATING OFFICER TO ISSUE A REPLACEMENT)	
SOLID WASTE FACILITY LICENSE TO PACIFIC)	Introduced by: Michael Jordan, Chief
LAND CLEARING COMPANY, INC., FOR THE)	Operating Officer, with the concurrence
OPERATION OF THE PLC I FACILITY)	of David Bragdon, Council President

WHEREAS, Pacific Land Clearing Company, Inc. ("Licensee"), is currently operating its PLC I facility under authority of a Metro Solid Waste Facility License to process waste roofing material, clean wood, and yard debris; and,

WHEREAS, the initial Metro Solid Waste Facility License granted to Licensee for its PLC I facility was for a five-year term and will expire on April 13, 2006; and,

WHEREAS, the Metro Code requires a person holding a Solid Waste Facility License to submit an application pursuant to Section 5.01.060 when seeking to accept waste or perform activities other than those authorized by the applicant's Solid Waste Facility License; and,

WHEREAS, Licensee has filed an application for a Change of Authorization of its Solid Waste Facility License to allow its PLC I facility to accept creosote-treated wood for reload in conformance with the requirements of chapter 5.01 of the Metro Code; and,

WHEREAS, the Metro staff has analyzed the application and recommends approval of the change in authorization by replacing the current PLC I Solid Waste Facility License with one substantially similar to that attached as Exhibit A; and,

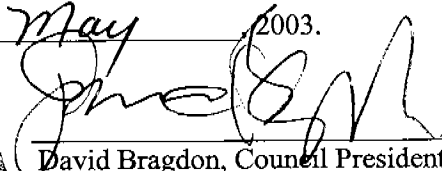
WHEREAS, issuance of this license will authorize Licensee to accept creosote-treated wood for reload at its PLC I facility and provides the Chief Operating Officer with discretionary authority to authorize the PLC I facility to accept other, new waste streams in the future, if so requested; and,

WHEREAS, the Metro Code requires the Chief Operating Officer to make recommendations as to whether the Licensee's application for a change in authorization meets the requirements of Metro Code section 5.01.060 and whether the Council should approve or deny the application; and,

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


BE IT RESOLVED that the Metro Council grants Licensee's application for a change of authorization, and authorizes the Chief Operating Officer to issue to the Licensee a replacement Solid Waste Facility License substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this 29th day of May, 2003.

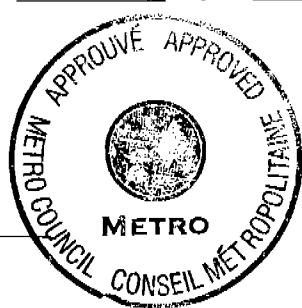


 David Bragdon, Council President

Approved as to form:



 Daniel B. Cooper, Metro Attorney



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METRO

METRO SOLID WASTE FACILITY LICENSE Number L-036-01B

Issued in accordance with the provisions of Metro Code Chapter 5.01.

LICENSEE: Pacific Land Clearing Company, Inc. dba Pacific Land Clearing & Recycling Center I P.O. Box 2860 16020 S. Park Place Ct. Oregon City, OR 97045 Jack Botkin (503) 656-7793 Fax: (503) 656-8094	FACILITY NAME AND LOCATION: Pacific Land Clearing & Recycling Center I 6400 SE 101 st Ave Portland, OR 97266 (503) 774-6939
COMPANY OWNER Jack Botkin 15704 SE 34 th Circle Vancouver, WA 98683 (360) 944-6600	PROPERTY OWNER Freeway Land Company 6400 SE 101 st Ave. Portland, OR 97266 (503) 774-6939

This license is granted to the Licensee named above and may not be transferred without the prior written approval of the Chief Operating 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.

This license replaces Solid Waste Facility License No. L-036-01, which was issued to PLCI for a period of five years commencing April 13, 2001. This license will expire on April 13, 2006.

METRO

**Licensee's Acceptance &
Acknowledgement of Receipt:**

Signature

Signature of Licensee

Michael Jordan, Metro Chief Operating Officer

Print name and title



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1.0 ISSUANCE

- 1.1 Licensee** Pacific Land Clearing Company, Inc.
dba Pacific Land Clearing & Recycling Center I
P.O. Box 2860
16020 S. Park Place Ct.
Oregon City, OR 97045
- 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-036-01B.
- 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 commenced on April 13, 2001 and will expire on April 13, 2006.
- 1.5 Facility name and mailing address** Pacific Land Clearing & Recycling Center I
6400 SE 101st Ave
Portland, OR 97266
- 1.6 Operator** Jack Botkin (503) 656-7793
503-656-8094(fax)
- 1.7 Facility legal description** Tax lot: 152E, 21A, 100
- 1.8 Property owner** Jack Botkin (503) 656-7793
503-656-8094(fax)
- 1.9 Permission to operate** Through a separate corporation (Freeway land Co.), the Licensee owns the property on which the facility is sited.

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 Chief Operating 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 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. The Chief Operating Officer may authorize the Licensee to accept solid wastes not otherwise described in Section 3.0, but any such authorization must specifically describe the additional type of acceptable solid waste and must be in writing. The Licensee is prohibited from knowingly receiving any solid waste not authorized in this section.
- 3.3 General conditions on activities** The Licensee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0.
- 3.4 Acceptance of yard debris and clean untreated wood** The Licensee is authorized to accept 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. 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 and reload clean, untreated wood wastes and yard debris for use as fuel, mulch, or for use as a feedstock at a Metro-authorized composting facility.



- 3.8 Acceptance and reload of creosote-treated wood; processing prohibited** The Licensee is authorized to accept non-hazardous creosote-treated railroad ties, telephone poles, and creosote-treated timbers previously used in fresh water or land locations for the purpose of reloading the material for transport to a facility authorized to utilize creosote-treated wood for fuel or for reuse and recycling in accordance with OAR 340-101-0040(2). The total accumulation of unprocessed creosote-treated wood is limited to no more than 16 tons at any one time. No grinding or other processing of the material will be permitted at this facility. No other types of treated wood, such as creosote-treated timbers from salt water sources (i.e., marine pilings), wood treated with Pentachlorophenol (PCP or “penta,”), Copper Chromium Arsenic (CCA), sawdust from any treated wood, and other non-creosote wood preservatives shall be accepted at this facility without approval of the Chief Operating Officer as specified in Section 3.2 of this license. In the event that the Licensee unintentionally accepts any prohibited wastes, they shall be managed in conformance with the facility’s approved operating plan and in accordance with OAR 340-101-0040(2), if applicable.

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 shall be prohibited from knowingly accepting or retaining material amounts of any wastes other than roofing, clean wood, creosote-treated wood and yard debris as described in Section 3 of this license. (Prohibited wastes include, for example, built-up roofing containing asbestos, special waste as defined in chapter 5.02 of the Metro Code, materials contaminated with or containing friable asbestos, lead acid batteries, liquid waste for disposal, putrescible wastes, household garbage, construction/demolition debris, creosote-treated timbers from salt water sources (i.e., marine pilings), telephone poles treated with Pentachlorophenol (PCP) or Copper Chromium Arsenic (CCA), and loads consisting primarily of non-recyclable packaging.).
- 4.3 Accumulation limited** This license limits the quantity of authorized material that may be accumulated at the facility at any one time to the lesser of the amount specified by a DEQ permit if such a permit is required or any amount that may be specified by the City of Portland. In the absence of a DEQ or City of Portland limitation, no more than 10,000 total tons of waste roofing material may be on site unless the Licensee has been



granted a written variance by the Chief Operating Officer. 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 or ground wood wastes on site long enough for more than negligible biological decomposition to begin.
- 4.6 **No disposal of recyclable materials** Yard debris and organic materials accepted at the facility may not be disposed of by landfilling.
- 4.7 **Delivery of creosote-treated wood to an authorized facility** The Licensee is authorized to accept creosote-treated wood, as provided in section 3.8 of this license, only if:
 - (a) the Licensee has pre-arranged to deliver such wood to a facility authorized to accept it; and
 - (b) the Licensee provides Metro with documentation of the authorization required by subsection (a) of this section prior to Licensee's acceptance of creosote-treated wood.

If, for any reason, the Licensee becomes unable to deliver creosote-treated wood to a facility authorized to accept it, the Licensee shall immediately cease accepting creosote-treated wood, and any creosote-treated wood remaining on the Licensee's site shall be delivered to a Metro-authorized disposal site.

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

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- 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 Sections 3.8 and 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 waste roofing materials that it is authorized to accept under Section 3.5 in order to insure Licensee's compliance with Section 4.3. Such records shall include the amount of such materials received, the amount of outgoing materials, the ultimate disposition of all outgoing materials (whether recovered or disposed), the results of the required asbestos testing for waste roofing, and the amount of such materials that remain on-site at any given time. 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 on-site accumulation of composition roofing waste 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 INSURED.
- 9.6 Financial Assurance** The Licensee shall, throughout the life of the facility, maintain an instrument of financial assurance in an amount adequate to assure site cleanup in the event of abandonment or long-term cessation of operations. If the DEQ requires such an instrument of financial



assurance, then the DEQ-approved financial assurance shall be sufficient to fulfill this requirement. Any change in the form or amount of required financial assurance shall be approved in writing by the Chief Operating Officer.

- 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 Solid Waste & Recycling 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 Chief Operating Officer or the Licensee may propose amendments or modifications to this license. The Chief Operating Officer has the authority to approve



or deny any such amendments or modifications provided that the activities authorized in the amended or modified license do not require a Metro Solid Waste Facility Franchise under Metro Code chapter 5.01. No amendment or modification pursuant to this section shall be effective unless it is in writing and executed by the Chief Operating Officer.

11.2 Modification, suspension or revocation by Metro

The Chief Operating 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
Operation or maintenance of a roofing processing facility without land use approval from the City of Portland.

11.3 Council Review of Additional Solid Waste

Prior to authorizing the acceptance of additional types or quantities of solid waste in accordance with Section 3.2 of this license, the Chief Operating Officer shall inform the Council President and all members of the Council in writing of the proposed authorization. The Council may determine whether the proposed authorization requires Council review within 10 days of receipt of the notice from the Chief Operating Officer. If the Council determines that the proposed authorization requires Council review, the Council President will notify the Chief Operating Officer of the Council's decision to review the proposed authorization and execution by the Chief Operating Officer shall be subject to Council authorization. If the Council determines that the proposed authorization does not require Council review or does not respond within 10 days to the notice from the Chief Operating Officer, the Chief Operating Officer may execute the proposed authorization.



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 Chief Operating Officer 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.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING A CHANGE OF) Resolution No. 03-3333
AUTHORIZATION AND AUTHORIZING THE CHIEF)
OPERATING OFFICER TO ISSUE A REPLACEMENT)
SOLID WASTE FACILITY LICENSE TO PACIFIC) Introduced by: Michael Jordan, Chief
LAND CLEARING COMPANY, INC., FOR THE) Operating Officer, with the concurrence
OPERATION OF THE PLC I FACILITY) of David Bragdon, Council President

WHEREAS, Pacific Land Clearing Company, Inc. ("Licensee"), is currently operating its PLC I facility under authority of a Metro Solid Waste Facility License to process waste roofing material, clean wood, and yard debris; and,

WHEREAS, the initial Metro Solid Waste Facility License granted to Licensee for its PLC I facility was for a five-year term and will expire on April 13, 2006; and,

WHEREAS, the Metro Code requires a person holding a Solid Waste Facility License to submit an application pursuant to Section 5.01.060 when seeking to accept waste or perform activities other than those authorized by the applicant's Solid Waste Facility License; and,

WHEREAS, Licensee has filed an application for a Change of Authorization of its Solid Waste Facility License to allow its PLC I facility to accept creosote-treated wood for reload in conformance with the requirements of chapter 5.01 of the Metro Code; and,

WHEREAS, the Metro staff has analyzed the application and recommends approval of the change in authorization by replacing the current PLC I Solid Waste Facility License with one substantially similar to that attached as Exhibit A; and,

WHEREAS, issuance of this license will authorize Licensee to accept creosote-treated wood for reload at its PLC I facility and provides the Chief Operating Officer with discretionary authority to authorize the PLC I facility to accept other, new waste streams in the future, if so requested; and,

WHEREAS, the Metro Code requires the Chief Operating Officer to make recommendations as to whether the Licensee's application for a change in authorization meets the requirements of Metro Code section 5.01.060 and whether the Council should approve or deny the application; and,

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

BE IT RESOLVED that the Metro Council grants Licensee's application for a change of authorization, and authorizes the Chief Operating Officer to issue to the Licensee a replacement Solid Waste Facility License substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this _____ day of _____, 2003.

David Bragdon, Council President

Approved as to form:

Daniel B. Cooper, Metro Attorney

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
 TEL 503 797 1650 | FAX 503 797 1795



METRO

METRO SOLID WASTE FACILITY LICENSE
Number L-036-01B

Issued in accordance with the provisions of Metro Code Chapter 5.01.

<p>LICENSEE:</p> <p>Pacific Land Clearing Company, Inc. dba Pacific Land Clearing & Recycling Center I P.O. Box 2860 16020 S. Park Place Ct. Oregon City, OR 97045</p> <p>Jack Botkin (503) 656-7793 Fax: (503) 656-8094</p>	<p>FACILITY NAME AND LOCATION:</p> <p>Pacific Land Clearing & Recycling Center I 6400 SE 101st Ave Portland, OR 97266</p> <p>(503) 774-6939</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>Freeway Land Company 6400 SE 101st Ave. Portland, OR 97266</p> <p>(503) 774-6939</p>

This license is granted to the Licensee named above and may not be transferred without the prior written approval of the Chief Operating 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.

This license replaces Solid Waste Facility License No. L-036-01, which was issued to PLCI for a period of five years commencing April 13, 2001. This license will expire on April 13, 2006.

METRO

**Licensee's Acceptance &
 Acknowledgement of Receipt:**

 Signature

 Michael Jordan, Metro Chief Operating Officer

 Date

 Signature of Licensee

 Print name and title

 Date



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1.0 ISSUANCE

- 1.1 Licensee** Pacific Land Clearing Company, Inc.
dba Pacific Land Clearing & Recycling Center I
P.O. Box 2860
16020 S. Park Place Ct.
Oregon City, OR 97045
- 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-036-01B.
- 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 commenced on April 13, 2001 and will expire on April 13, 2006.
- 1.5 Facility name and mailing address** Pacific Land Clearing & Recycling Center I
6400 SE 101st Ave
Portland, OR 97266
- 1.6 Operator** Jack Botkin (503) 656-7793
503-656-8094(fax)
- 1.7 Facility legal description** Tax lot: 152E, 21A, 100
- 1.8 Property owner** Jack Botkin (503) 656-7793
503-656-8094(fax)
- 1.9 Permission to operate** Through a separate corporation (Freeway land Co.), the Licensee owns the property on which the facility is sited.

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 Chief Operating 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 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. The Chief Operating Officer may authorize the Licensee to accept solid wastes not otherwise described in Section 3.0, but any such authorization must specifically describe the additional type of acceptable solid waste and must be in writing. The Licensee is prohibited from knowingly receiving any solid waste not authorized in this section.
- 3.3 General conditions on activities** The Licensee is authorized to perform at the facility only those waste-related activities that are described in Section 3.0.
- 3.4 Acceptance of yard debris and clean untreated wood** The Licensee is authorized to accept 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. 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 and reload clean, untreated wood wastes and yard debris for use as fuel, mulch, or for use as a feedstock at a Metro-authorized composting facility.



3.8 Acceptance and reload of creosote-treated wood; processing prohibited The Licensee is authorized to accept non-hazardous creosote-treated railroad ties, telephone poles, and creosote-treated timbers previously used in fresh water or land locations for the purpose of reloading the material for transport to a facility authorized to utilize creosote-treated wood for fuel or for reuse and recycling in accordance with OAR 340-101-0040(2). The total accumulation of unprocessed creosote-treated wood is limited to no more than 16 tons at any one time. No grinding or other processing of the material will be permitted at this facility. No other types of treated wood, such as creosote-treated timbers from salt water sources (i.e., marine pilings), wood treated with Pentachlorophenol (PCP or "penta,"), Copper Chromium Arsenic (CCA), sawdust from any treated wood, and other non-creosote wood preservatives shall be accepted at this facility without approval of the Chief Operating Officer as specified in Section 3.2 of this license. In the event that the Licensee unintentionally accepts any prohibited wastes, they shall be managed in conformance with the facility's approved operating plan and in accordance with OAR 340-101-0040(2), if applicable.

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 shall be prohibited from knowingly accepting or retaining material amounts of any wastes other than roofing, clean wood, creosote-treated wood and yard debris as described in Section 3 of this license. (Prohibited wastes include, for example, built-up roofing containing asbestos, special waste as defined in chapter 5.02 of the Metro Code, materials contaminated with or containing friable asbestos, lead acid batteries, liquid waste for disposal, putrescible wastes, household garbage, construction/demolition debris, creosote-treated timbers from salt water sources (i.e., marine pilings), telephone poles treated with Pentachlorophenol (PCP) or Copper Chromium Arsenic (CCA), and loads consisting primarily of non-recyclable packaging.).

4.3 Accumulation limited This license limits the quantity of authorized material that may be accumulated at the facility at any one time to the lesser of the amount specified by a DEQ permit if such a permit is required or any amount that may be specified by the City of Portland. In the absence of a DEQ or City of Portland limitation, no more than 10,000 total tons of waste roofing material may be on site unless the Licensee has been



granted a written variance by the Chief Operating Officer. 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 or ground wood wastes on site long enough for more than negligible biological decomposition to begin.
- 4.6 No disposal of recyclable materials** Yard debris and organic materials accepted at the facility may not be disposed of by landfilling.
- 4.7 Delivery of creosote-treated wood to an authorized facility** The Licensee is authorized to accept creosote-treated wood, as provided in section 3.8 of this license, only if:
- (a) the Licensee has pre-arranged to deliver such wood to a facility authorized to accept it; and
 - (b) the Licensee provides Metro with documentation of the authorization required by subsection (a) of this section prior to Licensee's acceptance of creosote-treated wood.

If, for any reason, the Licensee becomes unable to deliver creosote-treated wood to a facility authorized to accept it, the Licensee shall immediately cease accepting creosote-treated wood, and any creosote-treated wood remaining on the Licensee's site shall be delivered to a Metro-authorized disposal site.

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 Sections 3.8 and 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 waste roofing materials that it is authorized to accept under Section 3.5 in order to insure Licensee's compliance with Section 4.3. Such records shall include the amount of such materials received, the amount of outgoing materials, the ultimate disposition of all outgoing materials (whether recovered or disposed), the results of the required asbestos testing for waste roofing, and the amount of such materials that remain on-site at any given time. 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 on-site accumulation of composition roofing waste 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 INSURED.
- 9.6 Financial Assurance** The Licensee shall, throughout the life of the facility, maintain an instrument of financial assurance in an amount adequate to assure site cleanup in the event of abandonment or long-term cessation of operations. If the DEQ requires such an instrument of financial



assurance, then the DEQ-approved financial assurance shall be sufficient to fulfill this requirement. Any change in the form or amount of required financial assurance shall be approved in writing by the Chief Operating Officer.

- 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 Solid Waste & Recycling 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 Chief Operating Officer or the Licensee may propose amendments or modifications to this license. The Chief Operating Officer has the authority to approve



or deny any such amendments or modifications provided that the activities authorized in the amended or modified license do not require a Metro Solid Waste Facility Franchise under Metro Code chapter 5.01. No amendment or modification pursuant to this section shall be effective unless it is in writing and executed by the Chief Operating Officer.

11.2 Modification, suspension or revocation by Metro

The Chief Operating 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
Operation or maintenance of a roofing processing facility without land use approval from the City of Portland.

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 Chief Operating Officer 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.

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3333, FOR THE PURPOSE OF GRANTING A CHANGE OF AUTHORIZATION AND AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A REPLACEMENT SOLID WASTE FACILITY LICENSE TO PACIFIC LAND CLEARING COMPANY, INC., FOR THE OPERATION OF THE PLC I FACILITY

May 5, 2003

Prepared by: Bob Hillier

BACKGROUND

Pacific Land Clearing and Recycling Center I (PLCI) has been operating under authority of a Metro Solid Waste Facility License since April 13, 2001 and has requested a change in authorization under its current solid waste facility license. PLCI is located at 6400 SE 101st Avenue, Portland in Metro District 6. If approved, this license will replace PLCI's current license (L-036-01), which was granted for a period of five years by the Metro Council and will expire on April 13, 2006. The replacement license will allow PLCI to accept a new type of waste (creosote-treated wood), which the facility is not currently permitted to accept. The new license will also allow the Chief Operating Officer to authorize PLCI to accept additional waste streams, provided that such acceptance does not require a franchise. The new PLCI license is consistent with the language contained in the licensee's other two facility licenses (PLCII and PLCIII).



PLC I Facility

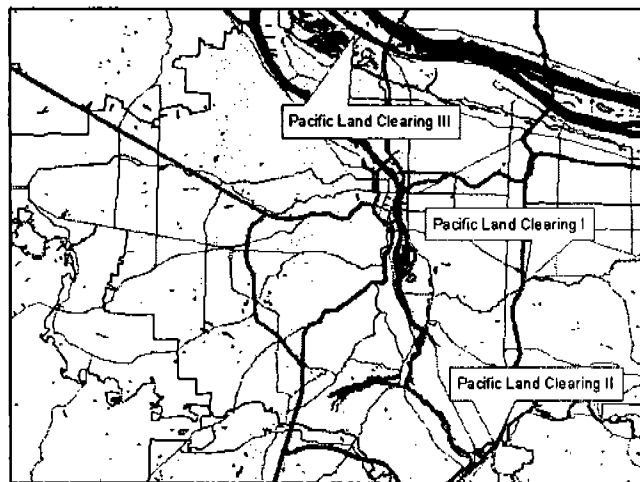
The new license will specifically authorize the licensee to conduct the following additional activity:

- Accept creosote treated wood (i.e., railroad ties, telephone poles, and creosote-treated timbers used in fresh water locations) for the purpose of reloading the material for transport to a facility authorized to process it for reuse, energy recovery or disposal. The facility may store no more than 16 tons of unprocessed creosote-treated wood on-site at any one time. No grinding or other processing of the material will be permitted at this facility.

No other types of treated wood, such as creosote-treated timbers from salt water sources (i.e., marine pilings), wood treated with Pentachlorophenol (PCP or “penta,”), Copper Chromium Arsenic (CCA), sawdust from any treated wood, or other non-creosote wood preservatives can be accepted at this facility without additional approval by the Chief Operating Officer.

The licensee currently owns and operates two other Metro-licensed solid waste facilities that process waste roofing material, clean wood and yard debris:

- Pacific Land Clearing and Recycling Center II (PLCII) located at 16020 South Park Place Court in Oregon City; and
- Pacific Land Clearing and Recycling Center III (PLCIII) located at 4044 North Suttle Road in Portland.



MAP OF THE PLC FACILITIES

Compliance History of the Applicant

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

Pacific Land Clearing and Recycling Center I (PLCI):

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

Pacific Land Clearing and Recycling Center II (PLCII):

On June 6, 2001, Metro issued PLCII a Notice of Non-Compliance (NON) for keeping yard debris long enough to create nuisance odors. PLCII failed to cure the violation in a timely manner and was issued a second NON, which imposed a penalty of \$100 per day. The violation was cured with only a one-day penalty being imposed. On January 22, 2002, Metro issued PLCII a Finding of Violation and Modification of Solid Waste Facility License for 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 since that time.

Pacific Land Clearing and Recycling Center III (PLCIII):

During a routine inspection, it was noted that PLCIII had accepted creosote-treated wood (railroad ties and telephone poles) without being authorized to accept this material. On December 12, 2002, PLCIII was ordered by Metro not to accept any additional creosote-treated wood until its license was amended to authorize such acceptance. On February 3, 2003, Metro sent a letter to the operator of PLCIII notifying him that during a routine inspection on January 31, 2003, it was noted that the facility had continued to accept creosote-treated railroad ties without authorization. The letter informed PLCIII that Metro does not intend to take formal enforcement action for this violation, provided that it immediately ceases accepting this material. On March 18, 2003, PLCIII's license was amended to allow the facility to accept creosote-treated wood. No other compliance issues have been noted and PLCIII has been in compliance with its license since it was issued on October 15, 2002.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed Change of Authorization for this facility.

2. Legal Antecedents

Section 5.01.095 of the Metro Code requires a person holding a solid waste license to submit an application pursuant to Section 5.01.060 when seeking to accept waste or perform activities other than those authorized by the applicant's license. The applicant proposes to accept creosote-treated wood for the purpose of reloading the material to a facility authorized to use it for fuel or for reuse or disposal and, on that basis, will require a Change of Authorization pursuant to Section 5.01.095 and 5.01.060 of the Metro Code. Section 5.01.067 of the Metro Code requires the Chief Operating Officer to make recommendations as to whether the application meets the requirements of Section 5.01.060 and whether the Council should approve or deny the application.

Chief Operating Officer's Recommendations Regarding Whether the Application Meets the Requirements of Metro Code Section 5.01.060

Metro Code Section 5.01.060 provides:

5.01.060(a) Metro application form

An application was filed on December 16, 2002 on forms and in the format provided by the Executive Officer.

5.01.060(b) Description of proposed activities

The following description of the activities proposed to be conducted and the wastes sought to be accepted was submitted to Metro on December 16, 2002: Accept creosote treated wood (i.e., railroad ties, telephone poles, and creosote-treated timbers used in fresh water locations) for the purpose of reloading the material for transport to a facility authorized to process it for reuse, energy recovery or disposal. No grinding or other processing of the material is proposed for this facility.

5.01.060(c)(1) Insurance

A certificate of liability insurance was provided to Metro on May 21, 2002 for Pacific Land Clearing Company, Inc. This policy covers all three of the currently licensed PLC facilities.

5.01.060(c)(2) DEQ permits

A DEQ Hazardous Waste Permit is not required for the uses proposed by the applicant for this facility, per a January 17, 2003 letter from Rick Volpel, DEQ Hazardous Waste Policy and Program Development.

A DEQ Solid Waste Disposal Facility Permit is not required for the uses proposed by the applicant for this facility, per a January 30, 2003 letter from Dave Kunz, DEQ Natural Resource Specialist.

5.01.060(c)(3) Closure/Operating plan

The DEQ does not require a permit for this facility since Metro issues a license. However, the applicant's current operating plan contains a closure protocol stipulating 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. In addition, the applicant has provided an updated operating plan that address:

- a) Objective criteria for accepting and rejecting loads of creosote and non-creosote-treated wood.
- b) Methods of verifying accepted loads of creosote-treated wood and methods of record keeping.
- c) Methods of managing and transporting for disposal any unauthorized treated wood inadvertently received.
- d) Methods of separating and managing stockpiles of creosote-treated wood to assure that they remain within the authorized volume.
- e) Methods of suppressing dust and drift from the grinding of creosote-treated wood and the management of any runoff that might occur (this applies to the PLCIII facility only).
- f) Methods of loading and transporting processed creosote-treated wood to an authorized facility for use as fuel or for other approved uses (this applies to the PLCIII facility only).
- g) Acceptable documentation to demonstrate that a facility is authorized to accept creosote-treated wood for use as fuel or other approved uses and how this information will be updated.

Staff has determined that the proposed revisions to the operating plan, submitted to Metro on January 28, 2003, are adequate.

5.01.060(c)(4) Financial assurance

To date, the applicant has not provided financial assurance for PLCI. Staff is currently working with the applicant to provide an acceptable form of financial assurance for this facility and expects to have this in place in the next few weeks.

5.01.060(c)(5) Property owner consent

Through a separate corporation (Freeway Land Co.), the applicant owns the property on which the PLCI facility is sited.

5.01.060(c)(6) Local land use approval

An updated Land Use Compatibility Statement for PLCI was provided to Metro on January 30, 2003.

5.01.060(c)(7) *Other required permits*

The proposed change of authorization contains a provision that the licensee is only able to accept creosote-treated wood if a valid market exists and the end market has received authority from the appropriate authorizing agencies to receive this type of material. The licensee proposes to transport the processed wood to the Kimberly-Clark Corporation in Everett, Washington for use as fuel. A copy of the variance, issued by the Washington Department of Ecology, authorizing Kimberly-Clark to burn this material for fuel was provided to Metro on January 28, 2003. This variance, which expired on February 7, 2003, must be renewed on a yearly basis. A copy of the updated variance, which went into effect on February 25, 2003, and expires on February 25, 2004, was provided to Metro on March 4, 2003. Should the authorization for Kimberly-Clark become invalid, PLC can only continue to receive creosote-treated wood if they provide documentation that a legitimate alternative market exists.

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

Conclusion

The Chief Operating Officer finds that the proposed license meets the requirements of Section 5.01.060 of the Metro Code, except for the requirement for financial assurance. Nevertheless, on the basis of staff's commitment to continue working with the Licensee on the financial assurance requirement and on the Licensee's generally positive operating history, the Chief Operating Officer finds that the proposed license satisfies the requirements of Metro Code Section 5.01.060 for the requested change in authorization.

3. Anticipated Effects

The effect of Resolution No. 03-3333 will be to replace PLCI's current Solid Waste facility License with one that will allow PLCI to accept a new type of waste (creosote-treated wood), which the facility is not currently permitted to accept and allow the Chief Operating Officer to authorize PLCI to accept additional waste streams.

4. Budget Impacts

The total impact of licensing this facility on the solid waste system and Metro, based on the applicants projected diversion of waste from existing landfills, would be negligible (less than \$8,000). A full cost analysis has been filed in the facility's regulatory files.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 03-3333.