

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE) RESOLUTION NO. 03-3358
CHIEF OPERATING OFFICER TO ISSUE A)
METRO SOLID WASTE FACILITY LICENSE) Introduced by: Michael Jordan, Chief
TO MT. HOOD METALS, INC., D.B.A.) Operating Officer, with the concurrence of
RIVERGATE RECLAMATION, INC.) David Bragdon, Council President

WHEREAS, under the Metro Code, a non-putrescible dry waste material recovery facility must obtain a Solid Waste Facility License in order to operate; and,

WHEREAS, Mt. Hood Metals, Inc., d.b.a. Rivergate Reclamation, Inc., wishes to engage in material recovery from non-putrescible dry waste and to reload yard debris; and,

WHEREAS, Metro Code section 5.01.045 requires a facility engaging in material recovery from non-putrescible dry waste to obtain a Metro Solid Waste Facility License; and,

WHEREAS, Metro Code section 5.01.045 also requires a facility engaging in yard debris processing and reloading to obtain a Metro Solid Waste Facility License; and,

WHEREAS, Mt. Hood Metals, Inc., d.b.a. Rivergate Reclamation, Inc., has applied for a Metro Solid Waste Facility License under the provisions of Metro Code Chapter 5.01; and,

WHEREAS, 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 grant or deny the application; and,


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

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

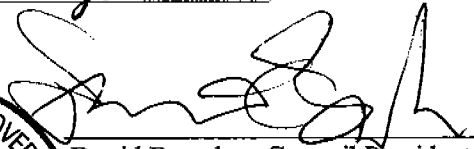
BE IT RESOLVED that the Metro Council grants the Solid Waste Facility License application of Mt. Hood Metals, Inc., d.b.a. Rivergate Reclamation, Inc., and authorizes the Chief Operating Officer to issue a license substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this 14th day of August, 2003.

Approved as to form:


Daniel B. Cooper, Metro Attorney




David Bragdon, Council President



METRO

Exhibit A to Resolution No. 03-3358

METRO SOLID WASTE FACILITY LICENSE
Number L-107-03

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

LICENSEE: Mt. Hood Metals, Inc. dba Rivergate Reclamation, Inc. 9645 N. Columbia Blvd. P.O. Box 31077 Portland, OR 97283 Bert Bors Phone: (503) 283-3323 Fax: (503) 283-0158	FACILITY NAME AND LOCATION: Rivergate Reclamation, Inc. 9645 N. Columbia Blvd. Portland, OR 97283 Bert Bors Phone: (503) 283-3323 Fax: (503) 283-0158
COMPANY OWNER Bert Bors P.O. Box 31077 Portland, OR 97283 Phone: (503) 283-3323 Fax: (503) 283-0158	PROPERTY OWNER Bert P. Bors and George J. Bors P.O. Box 31077 Portland, OR 97283 Phone: (503) 283-3323 Fax: (503) 283-0158

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 non-putrescible dry waste processing and material recovery and 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

Michael Jordan, Metro Chief Operating Officer

Print name and title

Date

Date



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1.0 ISSUANCE

- 1.1 Licensee** Mt. Hood Metals, Inc. dba Rivergate Reclamation, Inc.
9645 N. Columbia Blvd.
P.O. Box 31077
Portland, OR 97283
- Bert Bors
Phone: (503) 283-3323
Fax: (503) 283-0158
- 1.2 Contact** Authorized Representative: Bert Bors (503) 283-3323; Fax: (503) 283-0158;
Registrant: Mt. Hood Metals, Inc.
- 1.3 License Number** When referring to this license, please cite:
Metro Solid Waste Facility License Number L-107-03.
- 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 on the date this license is signed by Metro.
- 1.5 Facility name and mailing address** Rivergate Reclamation, Inc.
9645 N. Columbia Blvd.
P.O. Box 31077
Portland, OR 97283
- 1.6 Operator** Bert Bors; (503) 283-3323; Fax: (503) 283-0158
- 1.7 Facility legal description** Map Tax Lot: 2N1W36CB – 00200
- 1.8 Property owner** Bert P. Bors and George J. Bors: (503) 283-3323; Fax: (503) 283-0158
- 1.9 Permission to operate** The Licensee has obtained the property owner's 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 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 3.0. 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 for reloading** The Licensee is authorized to accept yard debris and landscape waste that has not reached a state of decomposition sufficient to produce malodors detectable beyond the boundaries of the facility. Yard debris and landscape waste may be accepted for reloading to an authorized composting facility. All yard debris and landscape waste must be removed from the site within 24 hours after it has been received.
- 3.5 **Acceptance of Source-separated recyclables** The Licensee is authorized to accept source-separated recyclable materials for purposes of sorting, classifying, consolidating, baling, temporary storage, transfer and performance of other similar functions related to preparing these materials for marketing.
- 3.6 **Acceptance of Non-putrescible dry waste for material recovery** The Licensee is authorized to accept non-putrescible “dry” wastes such as construction and demolition debris (concrete, wood, steel and metal pipe), cardboard, and paper products from commercial and residential sources for processing and material recovery only.

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 non-putrescible “dry” waste for the purpose of material recovery and yard and landscape waste for the purpose of reloading, as described in Section 3.0 of this license.
- 4.3 **Composting** The Licensee shall not keep yard debris on site long enough for more



- prohibited** than negligible biological decomposition to occur, and shall not produce malodors detectable beyond the boundaries of the facility.
- 4.4 **No disposal of recyclable materials** Source-separated recyclables and recyclable materials recovered from other dry waste accepted at the facility may not be disposed of by landfilling or incineration.
- 4.5 **Limits not exclusive** Nothing in this section of the license shall be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this license document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

5.0 OPERATING CONDITIONS

- 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 non-putrescible dry waste, source-separated recyclables, landscape waste or yard debris feedstock/waste shall not park or queue on public streets or roads except under emergency conditions. Adequate off-street parking and queuing for vehicles shall be provided.
- 5.5 **Managing prohibited wastes** The Licensee shall make reasonable efforts to identify prohibited and unauthorized wastes. Upon discovery, all prohibited or unauthorized wastes shall be removed or managed in accordance with the facility operating plan and DEQ procedures.
- 5.6 **Storage** Stored materials shall be removed at sufficient frequency to avoid creating nuisance conditions or safety hazards. Storage areas must be maintained in an orderly manner and kept free of litter. 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 $\frac{1}{4}$ 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 non-putrescible "dry" waste with stormwater runoff. Methods must be consistent with all applicable local, state, and federal laws and regulations.
- 5.12 Public Access** Public access to the facility shall be controlled as necessary to prevent unauthorized entry and dumping.
- 5.13 Signage** The Licensee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, legible, and shall contain at least the following information:

 - a. Name of the facility
 - b. Address of the facility;
 - c. 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 the Director of the Metro Solid Waste & Recycling Department.

6.2 Access to operating plan

The Licensee shall maintain a copy of the operating plan on the facility’s premises and in a location where facility personnel and Metro representatives have ready access to it.

6.3 Procedures for inspecting loads

The operating plan shall establish:

- a. Procedures for inspecting incoming loads for the presence of prohibited wastes; and
- b. A set of objective criteria for accepting and rejecting loads, including asbestos testing protocol.

6.4 Procedures for processing loads

The operating plan shall establish procedures for:

- a. Processing authorized solid wastes,
- b. Storing authorized solid wastes; and
- c. Minimizing storage times, avoiding delay in processing and managing yard debris and landscape waste during all weather conditions.

6.5 Procedures for managing prohibited

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



- wastes** managing:
- a. Hazardous wastes;
 - b. Decomposing yard debris that is generating malodors;
 - c. Special wastes; and
 - d. 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 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 Reporting requirements of material received** The Licensee shall keep and maintain accurate records of the amount of materials the Licensee is authorized to receive under Section 3 of this license. 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), 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. 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 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.
- 9.7 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 AND TERMINATION

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; and
- h. Compliance history of 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 license. 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 recovered materials and solid waste transferred from the facility goes to the appropriate destination under Metro Code chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits
- 12.4 Right of inspection and audit** Authorized representatives of Metro may take soil and water samples and perform such inspection or audit as the Chief Operating Officer deems appropriate and shall be permitted access to the premises of the facility during normal business hours without notice or at such other times 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 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 as confidential any information submitted to or reviewed by Metro under Section 8.0 or under this Section 12.0. 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.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3358 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A METRO SOLID WASTE FACILITY LICENSE TO MT. HOOD METALS, INC., D.B.A RIVERGATE RECLAMATION, INC.

July 17, 2003

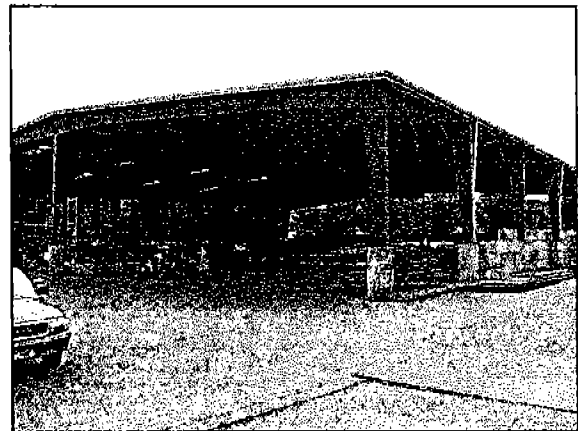
Prepared by: Robert A. Hillier

BACKGROUND

Description of the Resolution

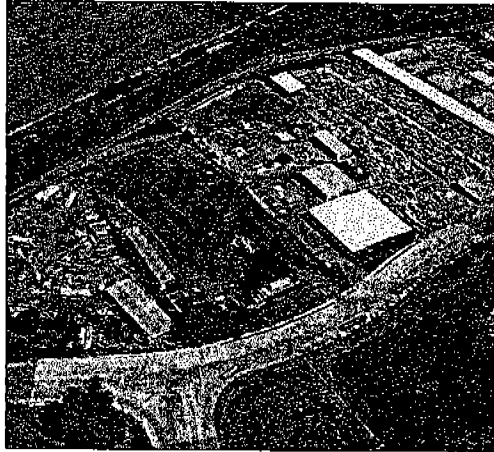
Approval of Resolution No. 03-3358 will authorize the Chief Operating Officer to issue a new Solid Waste Facility License to Mt. Hood Metals, Inc., doing business as Rivergate Reclamation, Inc., to operate a non-putrescible dry waste material recovery and yard debris reload facility. Rivergate Reclamation is located at 9645 N. Columbia Blvd., Portland, Oregon (Metro District 5). Issuance of this license will authorize Rivergate Reclamation to accept the following types of non-putrescible dry wastes from commercial and residential sources for processing, material recovery, and reload:

- construction and demolition debris (concrete, wood, steel and metal pipe),
- cardboard and paper products,
- source-separated recyclables (paper, glass, metals), and
- yard debris.



Views of the Proposed Rivergate Reclamation Facility

The proposed Rivergate Reclamation facility will accept inert construction and demolition debris and dry wastes from commercial sources as feedstock prior to material recovery, and yard debris for reload to an authorized composting facility. Rivergate Reclamation will initiate its material recovery operations within an existing covered structure, followed by the construction of a planned 8,000 square-foot building. The new building will contain a receiving area and a source separation and processing area. Recoverable materials will be sorted and then stored in transportable containers, which will be resold and transported into the recyclables market. Unrecoverable residual materials will be stored in containers at the end of the source separating area prior to transport to an authorized landfill for disposal. All material



Aerial View of American Compost (Center),
Rivergate Reclamation Facility (Right), and American Roof Recycling (Top)

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license.

2. Legal Antecedents

Section 5.01.045(b)(1) of the Metro Code requires a solid waste facility to have a Metro solid waste facility license if it processes non-putrescible waste such that it has processing residuals of more than ten percent. The applicant proposes to accept loads of non-putrescible dry wastes for the purpose of material recovery that will generate processing residuals that will exceed ten percent. On that basis, the applicant must have a Solid Waste Facility License in order to operate.

Section 5.01.045(b)(2) of the Metro Code requires a solid waste processing facility to have a Metro solid waste license if its activities include processing or reloading of yard debris. The applicant proposes to accept yard debris for reloading and, on that basis, also must have a Solid Waste Facility License in order to operate.

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 April 25, 2003 on forms and in the format provided by the Chief Operating Officer.

5.01.060(b) Description of proposed activities

A description of the proposed activities and the wastes sought to be accepted was submitted to Metro on April 25, 2003.

5.01.060(c)(1) Insurance

A certificate of liability insurance was provided to Metro on April 25, 2003 for Mt. Hood Metals, Inc., and Rivergate Reclamation.

5.01.060(c)(2) DEQ permits

A copy of the DEQ Solid Waste Disposal Permit (Permit Number 498) was provided to Metro on May 27, 2003 for Rivergate Reclamation.

5.01.060(c)(3) Closure/Operating plan

A closure/operating plan was provided to Metro on April 22, 2003. Staff has determined that the closure/operating plan is adequate to address any potential concerns related to the proposed activities.

5.01.060(c)(4) Financial assurance

The DEQ does not require financial assurance for this facility. However, applications for a Metro Solid Waste Facility License requires a form of financial assurance adequate to clean up the site should it cease operations. The amount of financial assurance is generally based on the worst-case scenario of having to load, transport, and dispose of the accumulated material at an authorized landfill. The applicant is requesting to accept non-putrescible dry wastes (concrete, wood, steel, metal pipe, cardboard, and paper products) and limited amounts of yard debris for material recovery. These materials already have established processing infrastructure and readily available markets in place, which reduces the likelihood that they would be stockpiled for extended periods of time at this facility. In addition, the proposed Solid Waste Facility License is subject to Metro's enforcement authority and Metro will conduct periodic inspections of this operation to assure that no materials are accumulated in excess or abandoned. For these reasons, staff recommends that a form of financial assurance not be required for this facility.

5.01.060(c)(5) Property owner consent

According to the Multnomah County Property Records, the registered property owners of the proposed facility site located at 9645 N. Columbia Blvd., Portland, are Bert P. Bors (the applicant) and George J. Bors. A signed Property Use Consent Form signed by both registered property owners was provided to Metro on July 1, 2003.

5.01.060(c)(6) Local land use approval

A Conditional Use Permit issued by the City of Portland for the activities proposed by the applicant was provided to Metro on May 27, 2003.

5.01.060(c)(7) Other required permits

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

Conclusion

The only requirement of Section 5.01.060 that the applicant has not clearly satisfied is the requirement that it provide financial assurance. On the basis of staff's recommendation that financial assurance is not necessary for this facility, the Chief Operating Officer finds that the proposed license satisfies the requirements of Metro Code Section 5.01.060 for the requested Solid Waste Facility License.

3. Anticipated Effects

The effect of Resolution No. 03-3358 will be to grant a new Solid Waste Facility License to Mt. Hood Metals, Inc., doing business as Rivergate Reclamation, Inc., for the operation of a non-putrescible dry waste recovery and yard debris reload facility. The proposed facility anticipates receiving 8,700 tons of non-putrescible dry waste annually and recovering approximately 3,480 tons (40 percent) per year. The applicant estimates 6,000 tons will be generated from construction and demolition projects, 2,700 tons will be generated from local area residents, and the remaining 300 tons will be yard debris waste.

In October 2001, the Metro Council adopted an ordinance that removed non-putrescible waste from inclusion in facility caps at transfer stations. Additionally, since 1998 the Metro Council has placed no market barriers that would limit the entry of new material recovery facilities in the region, provided the Metro Code requirements in 5.01 can be met. As with the approval of any new dry waste recovery facility in the region, there are many variables affecting waste flow and material recovery rates. As new dry waste recovery facilities enter the marketplace, each facility will compete against other non-putrescible waste recovery and disposal facilities for market share, making it difficult to predict to what extent waste flow will change in the Metro region. Furthermore, competition between solid waste facilities can also affect, in varying degree, the level of dry waste material recovery and the ensuing fiscal impact on future Metro budgets. Waste diverted from the Metro transfer stations, other existing Metro-licensed material recovery facilities, regional landfills, and waste drawn from outside the Metro boundary can all affect the level of material recovery and the amount of regional system fees and excise taxes collected by Metro. Therefore, because of these variables, the effects on dry waste recovery and tonnage flow cannot be reliably estimated at this time.

4. Budget Impacts

The regional system fee and excise tax are collected by Metro on disposed (landfilled) waste. When waste is recovered, Metro receives no fees or taxes on the recovered waste, only on the disposed residuals, regardless of the facility doing the recovery. We assume that much of the dry waste accepted at the facility would have been recovered elsewhere since Rivergate will be targeting fairly rich loads with high recoverability potential. Therefore, regional system fee and excise tax collected by Metro would be about the same with or without licensing this new operation, as long as the new facility recovers waste at about the same rate as other facilities. The average system-wide recovery rate for dry waste (excluding the two Metro transfer stations) is about 33 percent. However, if the new facility achieves a higher recovery rate of the 40 percent (as estimated by the applicant), then Metro would not receive fees and taxes on that additional amount of waste that was recovered. In such a case, Metro's net revenue in FY 2003-04 could decrease by \$16,000 to \$56,000, depending on the origin of the incoming waste.

We assume that some portion of the dry waste likely will be diverted from the Metro transfer stations. However, it is very unlikely that all of the waste would be diverted from the Metro transfer stations if the license were granted. Therefore, because of the market forces referenced above, the estimated impact on Metro's budget was based on the following assumed rates of incoming dry tonnage:

Potential Sources of Rivergate's Waste

- 10% from Wastech
- 10% from Metro Transfer Stations
- 20% from Lakeside Landfill
- 20% from Hillsboro Landfill
- 20% from ECR
- 20% from outside the Metro region (e.g., Clark County)¹

Furthermore, the new facility will likely be eligible for seeking regional system fee and excise tax credits. The total amount of regional system fee and excise tax credits is already budgeted for the coming fiscal year. Therefore, issuing the proposed license will not impact the FY 2003-04 budget for credits. The total amount of regional system fee and excise tax credits are capped by the Metro Council (at \$750,000 for regional system fee and about \$200,000 for excise tax in FY 2003-04.) The new facility is eligible to compete for its share of the credits if it chooses to do so. Only the Council can modify the total payout of credits, however. If Rivergate achieved the recovery rate on the waste it projects it will receive, Metro could grant up to \$52,096 in credits (\$39,881 in regional system fee credits and \$12,215 in excise tax credits.) A more detailed cost analysis has been placed in the facility's regulatory files.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 03-3358.

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¹ The residual from any waste attracted to Rivergate from outside the Metro region would be subject to Metro fees and taxes. This waste would reduce the overall budget impact to Metro since revenue from this waste is not included in any current budget projections.