

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF WITHHOLD- ) RESOLUTION NO. 87-800  
ING FURTHER ACTION ON THE )  
209TH/T.V. HIGHWAY SITE ) Introduced by the  
 ) Executive Officer  
 )

WHEREAS, The Council of the Metropolitan Service District (Metro) adopted Resolution No. 86-671, a resolution "For the purpose of selecting and authorizing acquisition of the 209th/T.V. Highway Site for the purpose of constructing the West Transfer and Recycling Center;

WHEREAS, Metro has adopted Resolution No. 87-740, a resolution "For the Purpose of Designating Solid Waste as an Area and Activity Appropriate for Development of a Functional Plan";

WHEREAS, the functional planning process adopted in Resolution No. 87-740 will address, among other things, the transport of solid waste within the metropolitan area;

NOW, THEREFORE, BE IT RESOLVED,

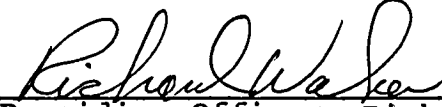
1. That the Executive Officer shall cease further implementation of Resolution No. 86-671 involving the 209th/T.V. Highway Site and the location of the West Transfer and Recycling Center thereon.

2. That the Council, having adopted the planning procedures for the development of a functional plan for solid waste pursuant to Resolution No. 87-740 which

functional plan will, among other things, develop a regionally coordinated system of solid waste transportation, shall defer further consideration of the 209th/T.V. Highway Site as a solid waste facility until it has considered the results of the functional planning process or until after December 31, 1988, whichever first occurs. Any subsequent utilization of the 209th/T.V. Highway Site for solid waste purposes shall await future Council action.

3. That the Council concludes that the action hereinabove taken will render moot the proceedings which involve Resolution No. 86-671, presently pending before the Oregon Land Use Board of Appeals referred to as LUBA No. 86-071 and the Writ of Review proceeding pending before the Washington County Circuit Court under Case No. 86-0992C. The Executive Officer is directed to take appropriate actions consistent with this resolution to terminate those matters without further costs to METRO.

ADOPTED by the Council of the Metropolitan Service District this 13th day of August, 1987.

  
\_\_\_\_\_  
Presiding Officer, Richard Waker

LAWRENCE R. DERR

ATTORNEY AT LAW

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August 13, 1987

Robert D. Rankin  
McEwen, Gisvold, Rankin & Stewart  
Attorneys at Law  
1408 Standard Plaza  
1100 S.W. Sixth Avenue  
Portland, Oregon 97204

RE: Aloha-Raedville et al. v. METRO

Dear Bob:

I have reviewed the proposed Resolution and revised proposed Settlement Agreement containing the changes I requested. In return for participating in dismissal of the LUBA and Circuit Court cases, the petitioners will have the assurance of Metro (set forth in Section 2 of the Agreement) that Metro will not authorize any solid waste use of the 209th site, except as is consistent with its Solid Waste Management Plan and not before competition of the functional planning process or December 31, 1988, whichever occurs first.

My clients named in the Agreement will execute the Agreement and participate in dismissing the cases if the Resolution and Agreement are approved tonight by the Metro Council.

Very truly yours,

  
Lawrence R. Derr

LRD:djr  
1156D/3

- cc: Mr. Rick Foland
- Mr. Glen Gordon
- Mr. Steve Larrance
- Ms. Eleanor Peyton

## AGREEMENT

THIS AGREEMENT entered into this \_\_\_ day of August, 1987, by and between Metropolitan Service District, an Oregon municipal corporation and Aloha-Reedville Citizens Association, Inc., an Oregon non-profit corporation, Glen R. Gordon, David Dimeo, Darlene A. Dimeo and Steve Larrance herein collectively referred to as "PETITIONERS".

### RECITALS:

1. On August 14, 1986, METRO, by Resolution No. 86-671 selected a site at SW 209th Avenue and SW Tualatin Valley Highway in Washington County, Oregon ("the 209th Site") for the location of the West Transfer and Recycling Center to serve Washington County.
2. PETITIONERS filed a Petition for Review of METRO's actions in connection with Resolution No. 86-671 before the Oregon Land Use Board of Appeals ("LUBA") referred to as LUBA No. 86-071 and a Writ of Review proceeding with the Circuit Court for the State of Oregon for the County of Washington ("Circuit Court") under case No. 86-0992C. Neither LUBA nor the Circuit Court has issued a decision.
3. METRO has previously initiated a functional planning process involving its entire three county service district to review METRO's Solid Waste Management Plans and develop consensus for solid waste management goals and objectives and means of implementation.

4. In view of its new functional planning initiative, METRO concludes that it will not pursue further implementation of its Resolution No. 86-671 regarding the 209th Site until and if that site is formally proposed or adopted by METRO through the functional planning process or other METRO action. In support of its conclusions, METRO adopted Resolution No. 87-\_\_\_\_\_ which rescinded that portion of Resolution No. 86-671 designating the 209th Site as the West Transfer and Recycling Center.

5. METRO and PETITIONERS agree that METRO's adoption of Resolution No. 87-\_\_\_\_\_ makes moot the pending LUBA and Washington County Circuit Court proceedings.

**AGREEMENT:**

In consideration of the foregoing and the terms hereinafter set forth, METRO and PETITIONERS agree:

1. LUBA proceeding No. 86-071 and the Writ of Review pending in the Circuit Court of the State of Oregon for the County of Washington as No. 86-0992C shall each be dismissed without prejudice and without costs to either party and each party shall execute such necessary stipulated motions or other documents as are necessary to complete the respective dismissals.

2. METRO shall not use the 209th Site for a solid waste transfer and recycling station or for any other solid waste purposes under the authority of METRO Resolution No. 86-671. Any subsequent decision to locate a solid waste

transfer station or other solid waste or recycling facility on the 209th Site will require new METRO action, shall be made only following consideration of results of the functional planning process created and initiated by Resolution 87-740 or further METRO action taken after December 31, 1988, and shall be consistent with METRO's then existing Solid Waste Management Plans.

3. PETITIONERS, by entering into this Agreement, expressly retain and reserve all of their rights, individually and collectively, to remonstrate, petition, or seek review of any of METRO's subsequent decisions and actions regarding the 209th Site through all available jurisdictions.

The parties or their authorized representatives have executed this agreement effective the day and year set forth above.

METROPOLITAN SERVICE DISTRICT

By \_\_\_\_\_

PETITIONERS:

ALOHA-REEDVILLE CITIZENS ASSOCIATION, INC.

By \_\_\_\_\_

\_\_\_\_\_  
David Dimeo

\_\_\_\_\_  
Glen R. Gordon

\_\_\_\_\_  
Darlene A. Dimeo

\_\_\_\_\_  
Steve Larrance

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8.5 Consideration of Resolution No. 87-800, for the Purpose of Withholding Further Action on the 209th/T.V. Highway Site (Relating to the West Transfer & Recycling Center)

Presiding Officer Waker called the meeting back into regular session at 9:00 p.m.

Presiding Officer Waker announced that Metro's counsel on the above matter, Robert Rankin (with the legal firm of McEwen, Gisvold, Rankin & Stewart), had received word from Lawrence R. Derr, attorney for the Aloha-Reedville neighborhood group, that the group was requesting Metro 1) cease further implementation of Resolution No. 86-671 involving the 209th/TV Highway site and the location of WTRC thereon; 2) defer further consideration of the 209th/TV Highway site as a solid waste facility until it had considered the results of the functional planning process or until after December 31, 1988, whichever first occurred; and 3) conclude that the first two actions would render moot the proceedings which involve Resolution No. 86-671, presently pending before the Oregon Land Use Board of Appeals (LUBA Case No. 86-071) and the Writ of Review proceeding pending before the Washington County Circuit Court (Case No. 86-0992C), and that the Executive Officer take appropriate actions to terminate those matters without further costs to Metro. Resolution No. 87-800, introduced by the Executive Officer, addressed those requests to the satisfaction of the Aloha-Reedville neighborhood group.

Councilor Knowles asked if the Resolution No. 87-800 would prohibit Metro from other uses related to solid waste but not designated through the functional planning process. Mr. Rankin said such activities would be prohibited before the date of December 31, 1988.

Councilor Knowles said he was concerned the resolution could restrict Metro if the functional planning process were to change or if Metro decided to use different words to describe the process now called functional planning. Mr. Rankin said the resolution could be changed to refer to the specific statutes which gave Metro functional planning authority.

Councilor Gardner asked if the Bacona Road site were selected, could the 209th/TV Highway site be used to store heavy construction equipment for the Bacona project. Mr. Rankin thought such use would be permitted, although it would be "close to the line." He thought storing garbage trucks on the property would be a cause for concern.

Motion: Councilor Ragsdale moved to adopt Resolution No. 87-800. Councilor Bonner seconded the motion.

Councilor Ragsdale qualified his motion by saying he did not necessarily agree, nor did Metro agree, with the arguments presented in Section 1 of the Resolution. He had made the motion because the Aloha-Reedville group would comply with Metro's functional planning process and as such, decisions from LUBA and the Circuit Court on the 209th/TV Highway site would serve no relevant benefit.

Councilor DeJardin said he would reluctantly support the resolution. He thought the process to site WTRC had been an exercise in futility. He hoped Metro would succeed with the functional planning process.

Councilor Van Bergen recalled when he first became a Metro Councilor the plan for a regional transfer station collection system was deemed a good idea. Councilors left, others took their places, and that consensus eroded. Metro conducted a study to determine where Washington County's transfer station should be sited and a central Beaverton location was recommended. A central site was selected but due to citizen protest, local government objections and the Governor's intervention, the site was ultimately moved to the 209th/TV Highway location. Councilor Van Bergen said Metro would renege on other Metro communities if it believed -- after all that had happened -- the false promise that a consensus could finally be reached through functional planning. He said on July 23, 1987, the Council decided not to appeal the Washington County Hearings Officer's decision. No other action had been implied. Now, he said, the Council was deciding otherwise.

Councilor Van Bergen thought the regional collection system continued to be a good plan and a lot of money had been spent on that plan. To sit on that plan until December of 1988 was not beneficial, he said. He questioned what had been offered to Metro in exchange for the concessions requested in Resolution No. 87-800. He urged the Council not to adopt the resolution and to have LUBA and the Circuit Court do its job. When those opinions were rendered, he said, Metro would know the facts.

Vote: A vote on the motion to adopt Resolution No. 87-800 resulted in:

Ayes: Councilors Bonner, Gardner, Hansen, Kelley, Ragsdale and Waker

Nays: Councilors DeJardin, Knowles and Van Bergen

Absent: Councilors Collier, Cooper and Kirkpatrick

The motion carried and Resolution No. 87-800 was adopted.



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There being no further business, the meeting was adjourned at  
9:25 p.m.

Respectfully submitted,



A. Marie Nelson  
Clerk of the Council

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08/31/87