

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF GRANTING A)	RESOLUTION NO. 87-812
FRANCHISE TO K. B. RECYCLING, INC.)	
FOR THE PURPOSE OF OPERATING A)	Introduced by the
SOLID WASTE PROCESSING FACILITY)	Executive Officer

WHEREAS, Section 5.01.030 of the Metropolitan Service District Code requires a Metro Franchise for any person to establish, operate, maintain or expand a disposal site, processing facility, transfer station or resource recovery facility within the District; and

WHEREAS, K. B. Recycling, Inc. (K.B.) has applied for a non-exclusive franchise to operate a processing center at 8277 S. Deer Creek Lane, Milwaukie, Oregon; and

WHEREAS, K.B. has submitted evidence of compliance with Metro Code Section 5.01.060 requirements for franchise applications and operational plans, except those relating to rate requests as discussed in the Staff Report; and

WHEREAS, K.B. has applied for a variance from Metro Code Section 5.01.080 relating to rate regulation pursuant to Metro Code Section 5.01.110; and

WHEREAS, K.B. has met the purpose and intent of Metro Code Section 5.01.180 and has met variance criterion (3) under Metro Code Section 5.01.110 as set out in its application for a variance from rate regulation; and

WHEREAS, The variance is granted subject to the District retaining the right to impose rate-setting authority at any time because the changeable nature of the proposed operation makes

impossible the determination that the criteria of the Metro Code will continue to be met; now, therefore,

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District authorizes the District to enter into the attached Franchise Agreement with K. B. Recycling, Inc. within ten (10) days of the adoption of the Resolution.

2. That the requested rate regulation variance from the Metro Code is granted, but shall be reviewed by the Executive Officer one (1) year from the date of issuance of the Franchise. If, in the opinion of the Executive Officer, the variance warrants review it shall be reconsidered by the Council. The rates charged shall not exceed the rates at the Clackamas Transfer & Recycling Center without prior Metro approval.

3. That the franchisee be allowed to dispose of his residuals outside the District at the operator's transfer facility in Canby or the Riverbend Landfill.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1987.

Richard Waker, Presiding Officer

SR/sm
7914C/513
09/25/87

Franchise No. 7
Date Issued October 8, 1987
Expiration Date October 8, 1992

SOLID WASTE FRANCHISE
issued by the
METROPOLITAN SERVICE DISTRICT
2000 S. W. First Avenue
Portland, Oregon 97201-5398
(503) 221-1646

ISSUED TO: K. B. Recycling, Inc.

NAME OF FACILITY: K. B. Recycling

ADDRESS: 8277 S. E. Deer Creek Lane, Milwaukie, Oregon 97222

LEGAL DESCRIPTION: Lots 1700 and 1790, Section 5DA Township T25
Range R2E Willamette Meridian

CITY, STATE, ZIP: Milwaukie, Oregon 97222

NAME OF OPERATOR: K. B. Recycling, Inc.

PERSON IN CHARGE: Fred Kahut, President

ADDRESS: 8277 S. E. Deer Creek Lane

CITY, STATE, ZIP: Milwaukie, Oregon 97222

TELEPHONE NUMBER: (503) 659-7004

This Franchise will automatically terminate on the expiration date shown above, or upon modification or revocation, whichever occurs first. Until this Franchise terminates, K. B. Recycling, Inc. is authorized to operate and maintain a solid waste processing facility located at 8277 S. E. Deer Creek Lane, Milwaukie, Oregon 97222, for the purpose of accepting and processing solid waste in accordance with the Metro Code and the attached Schedules A, B, C, D and E, and in accordance with the provisions specified in the Solid Waste Disposal Site Permit to be issued by the State of Oregon, Department of Environmental Quality. This Franchise may be revoked at any time for any violation of the conditions of this Franchise or the Metro Code. This Franchise does not relieve the Franchise Holder from responsibility for compliance with ORS Chapter 459 or other applicable federal, state or local laws, rules, regulations or standards.

Fred A. Kahut
President
K. B. Recycling, Inc.

Rena Cusma
Executive Officer
Metropolitan Service District

SR/sm
7914C/513/09/25/87

FRANCHISE CONDITIONS

Franchise Number: 7

Expiration Date: October 8, 1992

SCHEDULE A

AUTHORIZED AND PROHIBITED ACTIVITIES

- SA-1 The Franchise Holder is authorized to accept loads of mixed solid waste containing at least 30 percent recyclable material by weight, for processing in order to recover recyclable materials. No other wastes shall be accepted unless specifically authorized in writing by Metro supplementary to this Franchise.
- SA-2 The following types of materials are specifically prohibited from being accepted at the processing facility:
- a. Bulky combustible materials, car bodies, dead animals, sewage sludges, septic tank pumpings and hospital wastes.
 - b. All chemicals, liquids, explosives, infectious materials and other materials which may be hazardous or difficult to manage, unless specifically authorized by Metro.
- SA-3 Disposal of mixed wastes by commercial solid waste haulers is allowed. No commercial hauler will be excluded from this site except when the load contains a small percentage of recyclables. Public dumping of mixed waste is not allowed.
- SA-4 Salvaging and hand or mechanical sorting of mixed waste on a tipping floor to recover materials is authorized. Piles of mixed waste on the tipping floor shall be maintained to a reasonable size and shall be controlled so as to not create unsightly conditions or vector harborage. No wastes shall be allowed to remain on the tipping floor for longer than a 24-hour period.
- SA-5 Non-recoverable material shall be removed from the processing tip floor and shall be transported to a franchised or authorized disposal site on a weekly basis or more often if necessary. Storage and transportation shall be carried out to avoid vector production and bird attraction.
- SA-6 Materials separated and recovered for recycling (such as newsprint, waste paper, cardboard, glass, metals, yard debris, tires, appliances, and wood) shall be neatly stored in containers or areas provided for this purpose and shall be transported off-site to materials markets as often as necessary.

- SA-7 The Franchise Holder shall perform litter patrols to keep the facility free of blowing paper and other material on at least a daily basis or more often if necessary.
- SA-8 The Franchise Holder shall operate the processing facility in accordance with the Application and Operation Plan dated January 9, 1987.
- SA-9 The Franchise Holder shall not, by act or omission, discriminate against, treat unequally or prefer any user of the processing facility in the fees or the operation of the facility.
- SA-10 All solid waste transferring vehicles and devices using public roads shall be constructed, maintained, and operated so as to prevent leaking, sifting, spilling, or blowing of solid waste while in transit.
- SA-11 The Franchise Holder may dispose of his residual wastes at the operator's transfer facility in Canby or the Riverbend Landfill provided that the Metro User Fee and Regional Transfer Charge are collected and forwarded to Metro.
- SA-12 The Franchise Holder may accept no more than 10,000 tons of mixed waste per year nor more than 20 drop box loads of mixed waste per day without amendment to this Franchise Agreement.

FRANCHISE CONDITIONS

Franchise Number: 7

Expiration Date: October 8, 1992

SCHEDULE B

MINIMUM MONITORING AND REPORTING REQUIREMENTS

SB-1 The Franchise Holder or his/her Contractor shall effectively monitor the processing facility operation and maintain records of the following required data to be submitted to Metro:

- a. Name and address of the Franchisee
- b. Month and year of each report

<u>Item or Parameter</u>	<u>Minimum Monitoring Frequency</u>
c. Tons or cubic yards of solid waste delivered by commercial collection vehicles	Daily
d. Number of commercial collection vehicles	Daily
e. Unusual occurrences affecting processing facility operation	Each Occurrence
f. Tons or cubic yards of reject material disposed at an authorized disposal site	Monthly
g. Disposal rate charged for mixed solid waste	Daily
h. Tons or cubic yards of waste salvaged by type of material	Monthly
i. Signature and title of the Franchisee or its agent	

SB-2 Monitoring results shall be reported on approved forms. The reporting period is the calendar month. Reports must be submitted to Metro by the 20th day of the month following the end of each month.

SB-3 The Franchise Holder shall pay the annual franchise fee established in Metro Code Section 5.03.030 within 30 days of the effective date of the Franchise Agreement and each year thereafter.

- SB-4 The Franchise Holder shall report to the District any changes in excess of five (5%) percent of ownership of the Franchisee's corporation or similar entity, or of the partners of a partnership within ten (10) days of such changes of ownership.
- SB-5 The Franchisee may contract with another person to operate the disposal facility only upon ninety (90) days prior written notice to the District and the written approval of the Executive Officer. If approved, the Franchisee shall remain responsible for compliance with this Franchise Agreement.
- SB-6 The Franchisee shall establish and follow procedures designed to give reasonable notice prior to refusing service to any person. Copies of notification and procedures for such action will be retained on file for three (3) years by each Franchisee for possible review by the District.
- SB-7 The Franchisee shall maintain during the term of the franchise public liability insurance in the amounts set forth in SC-1 and shall give thirty (30) days written notice to the District of any lapse or proposed cancellation of insurance coverage or performance bond.
- SB-8 The Franchisee shall file an Annual Operating Report detailing the operation as outlined in this Franchise on or before October 8 (anniversary date of Franchise) of each year for the preceeding year.
- SB-9 The Franchise Holder shall submit a duplicate copy to the District of any information submitted to, or required by the Department of Environmental Quality pertaining to the solid waste permit for this facility.
- SB-10 The Franchise Holder shall report to Metro the names of solid waste credit customers which are sixty (60) days or more past due in paying their disposal fees at the processing facility. Such report shall be submitted in writing each month on Metro approved forms. For the purposes of this section sixty (60) days past due means disposal charges due, but not paid on the first day of the second month following billing.
- SB-11 In the event a breakdown of equipment, fire or other occurrence causes a violation of any conditions of this Franchise Agreement or of the Metro Code, the Franchise Holder shall:
- a. Immediately take action to correct the unauthorized condition or operation.
 - b. Immediately notify Metro so that an investigation can be made to evaluate the impact and the corrective actions taken and determine additional action that must be taken.

- SB-12 In the event that the processing facility is to be closed permanently or for an indefinite period of time during the effective period of this Franchise, the Franchise Holder shall provide Metro with written notice, at least ninety (90) days prior to closure, of the proposed time schedule and closure procedures.
- SB-13 The Franchisee shall file a monthly report on forms approved by the District indicating the types (wood, paper, cardboard, metal, glass, etc.) and quantities (tonnage/cubic yards) of solid wastes accepted and recovered at the facility.
- SB-14 Authorized representatives of Metro shall be permitted to inspect recyclable quantity information during normal working hours or at other reasonable times with notice.

FRANCHISE CONDITIONS

Franchise Number: 7

Expiration Date: October 8, 1992

SCHEDULE C

GENERAL CONDITIONS AND COMPLIANCE SCHEDULES

- SC-1 The Franchise Holder shall furnish Metro with proof of public liability insurance, including automotive coverage, in the amounts of not less than \$300,000 for any number of claims arising out of a single accident or occurrence, \$50,000 to any claimant for any number of claims for damage to or destruction of property, and \$100,000 to any claimant for all other claims arising out of a single accident or occurrence, or such other amounts as may be required by State law for public contracts. The District shall be named as an additional insured in this insurance policy.
- SC-2 The term processing facility is used in this Franchise as defined in Section 5.01.010(n) of the Metro Code.
- SC-3 The conditions of this Franchise shall be binding upon, and the Franchise Holder shall be responsible for all acts and omissions of, all contractors and agents of the Franchise Holder.
- SC-4 The processing facility operation shall be in strict compliance with the Metro Code regarding storage, collection, transportation, recycling and disposal of solid waste.
- SC-5 The Franchise Holder shall provide an adequate operating staff which is duly qualified to carry out the reporting functions required to ensure compliance with the conditions of this Franchise Agreement.
- SC-6 Metro may reasonably regulate the hours of site operation as it finds necessary to ensure compliance with this Franchise Agreement.
- SC-7 At least one sign shall be erected at the entrance to the processing facility. This sign shall be easily visible, legible, and shall contain at least the following:
- a. Name of facility;
 - b. Emergency phone number;
 - c. Operational hours during which material will be received;
 - d. Disposal rates;
 - e. Metro information phone number; and
 - f. Acceptable materials.

- SC-8 If the Executive Officer finds that there is a serious danger to the public health or safety as a result of the actions or inactions of a Franchisee, he/she may take whatever steps are necessary to abate the danger without notice to the Franchisee.
- SC-9 Authorized representatives of Metro shall be permitted access to the premises of the processing facility owned or operated by the Franchise Holder at all reasonable times for the purpose of making inspections and carrying out other necessary functions related to this Franchise. Access to inspect is authorized:
- a. during all working hours;
 - b. at other reasonable times with notice;
 - c. at any time without notice where, at the discretion of the Metro Solid Waste Division Director, such notice would defeat the purpose of the entry.
- SC-10 This Franchise Agreement is subject to suspension, modification, revocation or nonrenewal upon finding that:
- a. The Franchisee has violated the Disposal Franchise Ordinance, the Franchise Agreement, the Metro Code, ORS Chapter 459 or the rules promulgated thereunder or any other applicable law or regulation; or
 - b. The Franchisee has misrepresented material facts or information in the Franchise Application, Annual Operating Report, or other information required to be submitted to the District;
 - c. The Franchisee has refused to provide adequate service at the franchised site, facility or station, after written notification and reasonable opportunity to do so.
 - d. There has been a significant change in the quantity or character of solid waste received or the method of solid waste processing.
- SC-11 This Franchise Agreement, or a photocopy thereof, shall be displayed where it can be readily referred to by operating personnel.
- SC-12 The granting of a Franchise shall not vest any right or privilege in the Franchisee to receive specific types or quantities of solid waste during the term of the Franchise.
- a. To ensure a sufficient flow of solid waste to the District's resource recovery facilities, the Executive Officer may, at any time during the term of the Franchise, without hearing, direct solid wastes away from the

Franchisee. In such case, the District shall make every reasonable effort to provide notice of such direction to affected haulers of solid waste.

- b. To carry out any other purpose of the Metro Disposal Franchise Ordinance, the Executive Officer may, upon sixty (60) days prior written notice, direct solid wastes away from the Franchisee or limit the type of solid wastes which the Franchisee may receive.

Any Franchisee receiving said notice shall have the right to a contested case hearing pursuant to Code Chapter 2.05. A request for a hearing shall not stay action by the Executive Officer. Prior notice shall not be required if the Executive Officer finds that there is an immediate and serious danger to the public or that a health hazard or public nuisance would be created by a delay.

SC-13 All notices required to be given to the Franchisee under this Franchise Agreement shall be given to Fred Kahut, K. B. Recycling, Inc., 8277 S. E. Deer Creek Lane, Milwaukie, OR 97222. All notices and correspondence required to be given to Metro under this Agreement shall be given to the Solid Waste Director, Solid Waste Department, Metropolitan Service District, 2000 S. W. First Avenue, Portland, OR 97201-5398.

FRANCHISE CONDITIONS

Franchise Number: 7

Expiration Date: October 8, 1992

SCHEDULE D

WASTE REDUCTION PLAN

SD-1 To fulfill the requirements for a Waste Reduction Plan as stated in Section 5.01.120(k) of the Metro Code, the Franchisee shall provide the services described in Attachment I and other operational functions described in the Franchise Application dated January 9, 1987. The Franchisee shall participate in an annual review with Metro of the facility's performance in accomplishing waste reduction goals and shall complete annual objectives for waste reduction which may be mutually identified through the process.

FRANCHISE CONDITIONS

Franchise Number: 7

Expiration Date: October 8, 1992

SCHEDULE E

DISPOSAL RATES

- SE-1 In accordance with the variance granted by the Metro Council, the rates charged at this facility will be exempt from Metro rate-setting, Metro User Fee payments and Metro Regional Transfer Charge payments, except Metro reserves the right to exercise its authority to regulate rates pursuant to Metro Code Section 5.01.180.
- SE-2 Until Metro establishes rates which are to be charged at the facility, the Franchisee shall adhere to the following conditions in the disposal rates which are charged at K. B. Recycling, Inc.:
- a. Between the effective date of this franchise and January 1, 1988, the rates will be as follows:

For loads over 90 percent OCC	\$2.00 per ton
For loads less than 90 percent OCC	\$12.00 per ton
 - b. The Franchisee may modify rates to be charged and rate schedules on a quarterly basis. Rates may be adjusted on January 1, April 1, July 1 and October 1. Rates will not change more frequently than on these dates. Metro shall be notified ten (10) days prior to any proposed rate changes.
 - c. In no case may the franchisee charge any specific class of disposer more than what is charged at the CTRC for that class unless approval to do so is granted by the Metro Council.
 - d. Rates to be charged at the facility shall be posted on a sign near where fees are collected. All customers within a given disposal class shall receive equal, consistent and non-discriminatory treatment in the collection of fees.
 - e. The Franchisee shall maintain complete records of all costs, revenues, rates, waste flows and other information on the franchised operation which would be helpful to the Metro staff and Rate Review Committee for reviews of the operation's financial performance and for possible future rate-setting. These records shall be made available on request and summary reports shall be provided to Metro on a quarterly basis (4th quarter reports are due February 1, 1st quarter reports are due May 1, and so on).



K. B. Recycling Inc.

1184 S.W. Berg Parkway
P.O. Box 550
Canby, Oregon 97013
266-7903

Mr. Rich McConaghy
Metro
2000 S.W. 1st Ave.
Portland, Oregon 97201

Dear Rich:

K.B. Recycling is requesting that they be exempt from the following provisions of the Disposal Franchise Ordinance.

A. 501.180	Rates
B. 501.070	(E-2) Corporate Surety Bond
C. 501.070	(G) Direction of Solid Waste
D. 501.120	(B) Discontinue Service
E. 501.190	(E) Renewal
F. 501.200	Right to Condem or Purchase

I have enclosed some facts on why we need to be exempt from rate regulation and a letter from our insurance agent regarding the bond. If you need any additional information, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Fred Kahut".

Fred Kahut

RECEIVED FEB 24 1987

METROPOLITAN SERVICE DISTRICT
Attn: Solid Waste Department
~~527 S.W. Hall Street~~ 2000 S.W. First
Portland, Oregon 97201
221-1646

☐ TRANSFER STATION
☒ PROCESSING CENTER
☐ RESOURCE RECOVERY FACILITY

4. SUBCONTRACTORS - Name, address and function of franchisee's site operation subcontractors, if any None

5. SITE DESCRIPTION - Tax Lot(s) 1700 & 1790
- Section 5DA Township T25 Range R2E W.M.
6. ZONING - Present Land Use Zone _____
Restrictions _____
7. IS A CONDITIONAL USE PERMIT NECESSARY FOR THE PROPOSED FACILITY?
Yes _____ No XX
8. PUBLIC HEARING - Date(s) and nature of Public Hearing(s) held or
to be held, if any None Required
9. PERMITS ISSUED OR APPLIED FOR - List name and number of all
permits, (i.e., DEQ Solid Waste Disposal Permit, Conditional Use
Permit, Air Permit, etc.) plus name, address and contact person
at federal, state or local agency responsible for issuing
permit(s).
Permits Applied for DEQ Solid Waste Disposal Permit
Permits Received Clackamas County
10. LICENSE OR FRANCHISE - Is the solid waste facility licensed or
franchised by a city or county? Yes _____ No X.
Identify _____
11. POPULATION DATA - Estimated population to be served by site
300,000
12. ESTIMATED QUANTITY OF SOLID WASTE TO BE ACCEPTED
Annually: _____ Cubic Yards Daily: _____ Cubic Yards
Annually: 3900 Tons Daily: 15 Tons

13. TYPES OF SOLID WASTE TO BE ACCEPTED, (i.e., food waste or containers, construction/demolition waste, land clearing debris, stumps, sludges, inert rock, etc.)

a. Paper Fiber ⁸⁰ % of Total c. Food 1 % of Total
b. Const 5 % of Total d. Plastic 5 % of Total
e. Misc. 9 % of Total

14. ESTIMATED ANNUAL QUANTITY OF MATERIAL TO BE RECYCLED FROM SOLID WASTE RECEIVED

Glass _____ tons _____ % of total
Newspaper _____ tons _____ % of total
Corrugated/Kraft 1365 tons 35 % of total
Aluminum _____ tons _____ % of total
Other Metals _____ tons _____ % of total
Ledger _____ tons _____ % of total
Motor Oil _____ gallons _____ % of total
Other Mixed Office Paper 10 % of total

15. MARK ITEMS WHICH ARE TO BE EXCLUDED

None	_____	All putrescible wastes	_____
Bulky combustible	_____	(i.e., food or food	_____
material (stump, etc.)	<u>X</u>	contaminated materials)	_____
Waste oil	_____	Dead Animals	<u>X</u>
Junk Automobiles	<u>X</u>	Sewage or Industrial	_____
Demolition wastes	_____	Sludges	<u>X</u>
Hazardous materials	<u>X</u>	Large appliances	_____
		Tires	<u>X</u>

Other items to be excluded: _____

16. PUBLIC/COMMERCIAL OPERATIONS, TRAFFIC VOLUME, OPERATING HOURS
Will the facility to be open to the public? Yes _____ No X;
Commercial solid waste collectors? Yes X No _____

	<u>Public</u>	<u>Commercial</u>
<u>Operating Hours</u>		
Hours per Day	<u>N/A</u>	<u>11</u>
Days per Week	<u>N/A</u>	<u>5½</u>
Estimated Vehicles per Week	<u>N/A</u>	<u>25</u>

17. Does the owner or operator of this facility own, operate, maintain, have a proprietary interest in, or is the owner financially associated with or subcontracting the operation of the site to any individual, partnership, or corporation involved in the business of collecting residential, commercial, industrial or demolition refuse within the District?
Yes _____ No XX
18. Will the facility be open to any solid waste collection companies not wholly owned by the franchisee which collect refuse within the District? Yes X No _____
19. Will the facility be open to solid waste collection companies who collect outside the Service District other than the franchisee? Yes X No _____

Mixed loads will not be accepted from the general public.
The facility will still be opened to the general Public
for source separated recyclables only.

ATTACHMENT A

**PROJECT DESCRIPTION
AND
STATEMENT OF NEED**

ATTACHMENT A

20. K.B. Recycling, Inc. is proposing a full line recycling center which will be unique in the Clackamas area. The facility is located in the Clackamas area off of S.E. 82nd Ave. and Interstate I-205, and two blocks off Hwy 224 (Milwaukie Expressway). The property is currently zoned I-3 Industrial with a Department of Transportation and Development approval, which allows an outright use of these activities. The property includes 2.3 usable acres. All are in use as a recycling facility.

In addition to the existing operation of receiving source separated non ferrous metal, cardboard, newsprint, office paper and glass, K.B. Recycling will receive select mixed solid waste containing a high percentage of recyclable material. Mixed solid waste will be received from only commercial and industrial customers, including the refuse industry. These loads will be collected from commercial accounts such as department stores and office buildings. The intent is to keep the yield of fiber to an average of 40% on a weight basis. The materials not salvaged will consist of wood, plastics, grit, wax coated cardboard and possibly some food waste.

The mixed material will be received in commercial vehicles with self-dumping capability and unloaded on our tipping floor. The material will then be charged onto sort line conveyors after which corrugated cardboard and office paper will be sorted and placed onto our high density baling conveyor. The bales will then be shipped to a market. The remaining waste will continue on the conveyor to a garbage container and taken to an approved landfill.

21. One of Metro's highest priorities is to maximize the recovery of material from solid waste and reduce the dependency on landfills. K.B. Recycling is assisting Metro by purchasing source separated metal, corrugated cardboard, newsprint, computer and ledger paper and glass. However, a large amount of recyclable material is currently lost by landfilling because it is mixed with other types of materials. This mixing occurs because the generator of the waste, for various reasons, elects not to separate at the source or the hauler is not equipped to separate at the time of collection. According to Metro's regulations, once the material is mixed, it must be taken to an authorized facility.

K.B. Recycling's proposal is to increase the recycling of corrugated cardboard and office paper by accepting select loads of mixed waste which are currently land-filled, extracting the cardboard and office paper and disposing of the remaining materials at an approved landfill. Depending upon markets and the availability, other material such as plastic, ferrous and non-ferrous metals will also be recycled. It is anticipated that approximately 1365 tons per year will be recovered once the

franchise is granted.

The impacts of K.B.'s proposal are all positive. First, the hauler will be able to dump at a lesser cost than at other disposal facilities and they will be able to dump on a hard surface within an enclosed building. Second, at least 1365 tons annually of corrugated cardboard and office paper which has been landfilled will be recovered and recycled, and finally, at least 2 new jobs will be created.

Depending upon one's point of view, the only possible negative impact of K.B.'s proposal is that approximately 1365 tons annually will be removed from the area's landfills. While an argument may be made that the removal of this tonnage from the landfill could cause dump fees to increase, K.B. believes an increase, if any, would be very slight and should be viewed as saving valuable landfill capacity in addition to retrieving a resource.

Metro's franchise ordinances prohibits discriminatory practices by the franchisee. This prohibition was necessary because of problems experienced by haulers at disposal facilities in the past. K.B. will be open to all haulers, but will be restrictive by requiring at least 50% by weight, of paper fiber in each load received. This discrimination will be against the type of material received and not against the hauler and will be similar to restrictions contained in previous permits and franchises granted by DEQ and Metro. For example, Killingsworth Fast Disposal and the old LaVelle landfills were prohibited from receiving food waste. The Grabhorn Landfill in Washington County can only receive demolition material while Metro's Clackamas Transfer and Recycling Center does not receive liquids and sludges.

K.B.'s proposal meets the Findings and Purpose stated in Section 3 of Metro's Disposal Franchise Ordinance 81-111. In addition, the proposal will assist Metro to achieve both its short and long term goals as stated in the adopted Waste Reduction Plan and is consistent with elements 2, 3, 4, 6 and 7 of the adopted Waste Reduction Policy Statement.¹ Further, the proposal is also in keeping with the provisions and intent of SB 405, The Recycling Opportunity Act of 1983.

¹ Metro's Waste Reduction Plan, January 1981, page 4.

ATTACHMENT B
PUBLIC LIABILITY INSURANCE



CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)
7/31/87

PRODUCER

KBI INSURANCE, INC.
P. O. BOX 888
TUALATIN, OR 97062
(503) 692-1520

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY LETTER **A** Security Insurance Co. of HartfordCOMPANY LETTER **B**COMPANY LETTER **C**COMPANY LETTER **D**COMPANY LETTER **E**

INSURED

K.B. RECYCLING, INC.
CANBY DISPOSAL COMPANY ET AL
P. O. BOX 550
CANBY, OR 97013

COVERAGES

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS, AND CONDITIONS OF SUCH POLICIES

	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	ALL LIMITS IN THOUSANDS	
A	GENERAL LIABILITY	MLP88-72-59	5-15-87	5-15-88	GENERAL AGGREGATE	\$ 1,000,
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				PRODUCTS COMP OPS AGGREGATE	\$ 1,000,
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCURRENCE				PERSONAL & ADVERTISING INJURY	\$ 500,
	<input type="checkbox"/> OWNERS & CONTRACTORS PROTECTIVE				EACH OCCURRENCE	\$ 500,
					FIRE DAMAGE (ANY ONE FIRE)	\$ 50,
					MEDICAL EXPENSE (ANY ONE PERSON)	\$ 5,
A	AUTOMOBILE LIABILITY	MLP 88-72-59	5-15-87	5-15-88	CSL	\$ 500,
	<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (PER PERSON)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (PER ACCIDENT)	\$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE	\$
	<input type="checkbox"/> HIRED AUTOS					
	NON OWNED AUTOS					
	GARAGE LIABILITY					
	EXCESS LIABILITY				EACH OCCURRENCE	AGGREGATE
	<input type="checkbox"/> OTHER THAN UMBRELLA FORM				\$	\$
	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY	
					\$	(EACH ACCIDENT)
					\$	(DISEASE-POLICY LIMIT)
					\$	(DISEASE-EACH EMPLOYEE)
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

Metropolitan Service District
2000 S.W. First
Portland, Oregon 97201
Attn: Steve Rapp

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES

AUTHORIZED REPRESENTATIVE

C H Kilhefner

C. H. Kilhefner

ATTACHMENT C

ATTACHMENT C

There are two stockholders in K.B. Recycling, Inc. They are Fred A. Kahut, President, with 50% of the stock and Jerald A. Kahut, Vice President & Secretary/ Treasurer with 50% of the stock.

ATTACHMENT D
PROPOSED RATES

ATTACHMENT D

RATE REQUEST

In order to maximize the recovery of recyclables from the waste stream, the K.B. operation must be able to offer a rate that is lower than conventional disposal, meets operational costs, is flexible enough to reward those haulers for loads with fewer contaminants and recognizes higher than anticipated recovery rates.

Based on experience of the current recycling operation and our financial analysis, K.B. is requesting that a maximum fee of \$17.38 per ton be approved for mixed loads received at the facility. The \$17.38 per ton rate is based on a disposal fee at the CTRC of \$17.38 per ton. Since the majority of the K.B. rate pays for disposal of non-recyclable material, it will "float" with any adjustment to the CTRC rate.

In addition, we are requesting that K.B. be allowed to raise or lower this rate of \$17.38 per ton if certain conditions exist. The rate reduction will be based on material flow, markets and the percent of recovered material. The rate increase would not be more than that charged at CTRC.

ATTACHMENT D

VARIANCE RATE SETTING REQUEST

In order to maximize the recovery of recyclables from the waste stream, the K.B. operation must be able to offer a rate that is lower than conventional disposal, meets operational costs, is flexible enough to reward those haulers for loads with fewer contaminants and recognizes higher than anticipated recovery rates.

Based on experience of the current recycling operation and our financial analysis, K.B. is requesting that there be no set fee at their facility. In order to attract selected material, we must provide a rate low enough that would be an adequate incentive. Estimated rates based on current markets would be: Loads over 90% OCC \$2.00 per ton. Loads 50 - 90% OCC \$12.00 per ton. See facts below:

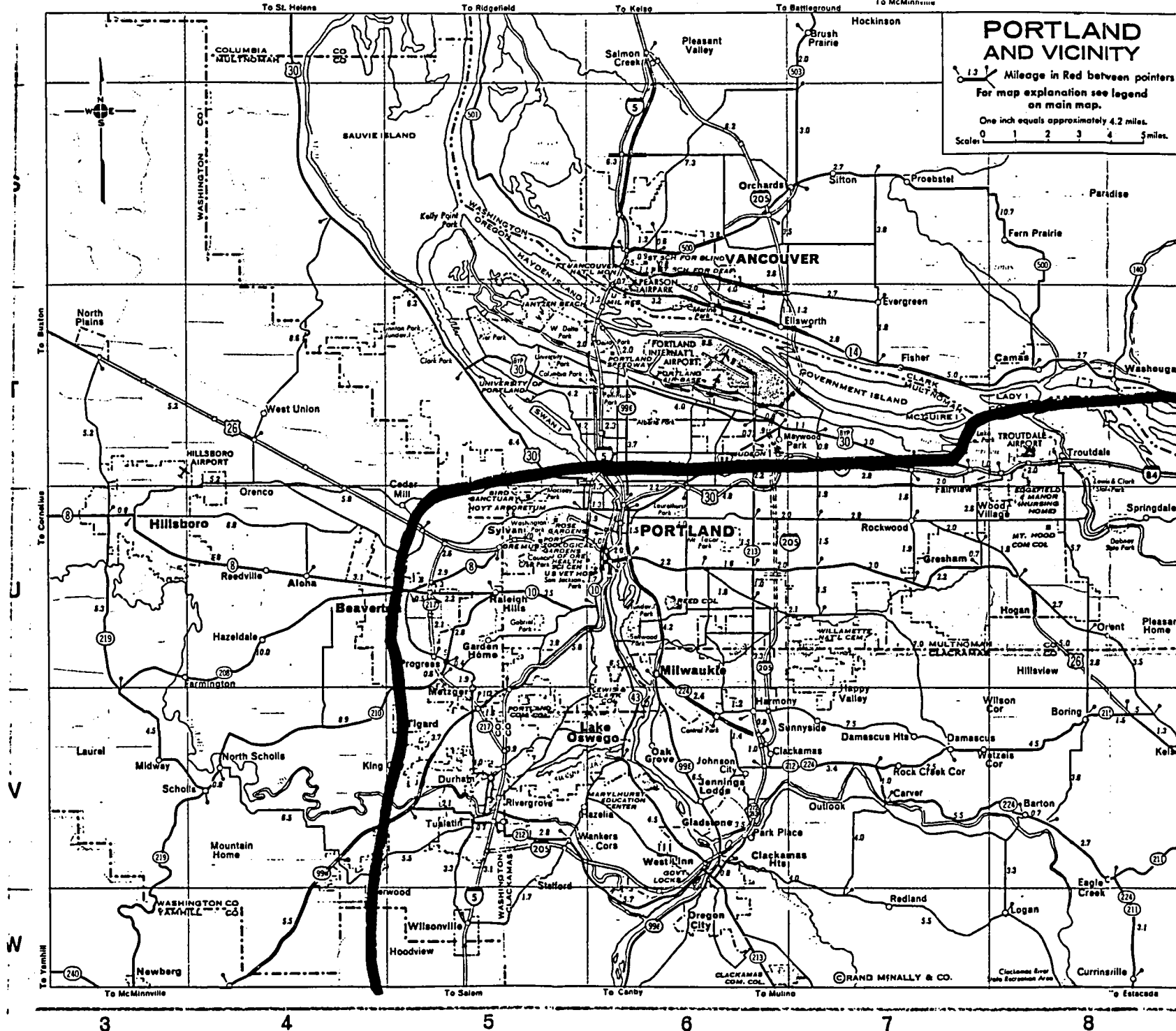
1. FACT: K.B. Recycling is an experimental facility which is still evaluating the costs and revenues of handling various materials.
2. FACT: The price of recyclables can vary greatly and change quickly as the market for a particular material responds to supply and demand.
3. FACT: Precise prediction of recyclable commodities is not possible.
4. FACT: If tipping fees cannot be changed rapidly to respond to large changes in prices for recycled materials, the facility will experience financial losses.
5. FACT: Metro is instituting many ways to encourage and require recycling. With greater recycling, operational costs may be less, allowing a reasonable profit with lower tipping fees.
6. FACT: Requests for other processing center franchises have received variances from rate setting.
7. FACT: The majority of the business revenue is derived from the sale of secondary materials and not from disposal fees.
8. FACT: K.B. Recycling's proficiency at generating greater revenues lies in its ability to negotiate the best purchasing contracts with the buyers of the recovered material.

9. FACT: Public disclosure of these contracts will damage K.B. Recycling's ability to maintain the proprietary value of such agreements. Further, buyers have prohibited such disclosures.
10. FACT: K. B. Recycling is not requesting a monopoly or an exclusive franchise. Competition exists to moderate prices.

ATTACHMENT E

GEOGRAPHICAL SERVICE AREA

1.3 Mileage in Red between pointers
For map explanation see legend on main map.
One inch equals approximately 4.2 miles.
Scale: 0 1 2 3 4 5 miles.



ATTACHMENT F

MAJOR EQUIPMENT

ATTACHMENT F

Major equipment currently in use include the following:

<u>Equipment</u>	<u>Age</u>	<u>Replacement Schedule</u>	<u>Value</u>
Baler, NSB 350	4	1995	\$200,000
Powell Scale	4	1995	20,000
Bobcat Loader	6	1988	6,000
Forklift	15	1988	6,500
Forklift	1	1990	22,000
Forklift	12	1988	5,500
Conveyor	4	1990	18,000

Major new equipment includes conveyor, pit & compactor. All new equipment is on a five year replacement schedule and has an estimated value of \$75,000.

ATTACHMENT G

FACILITY LAYOUT PLAN

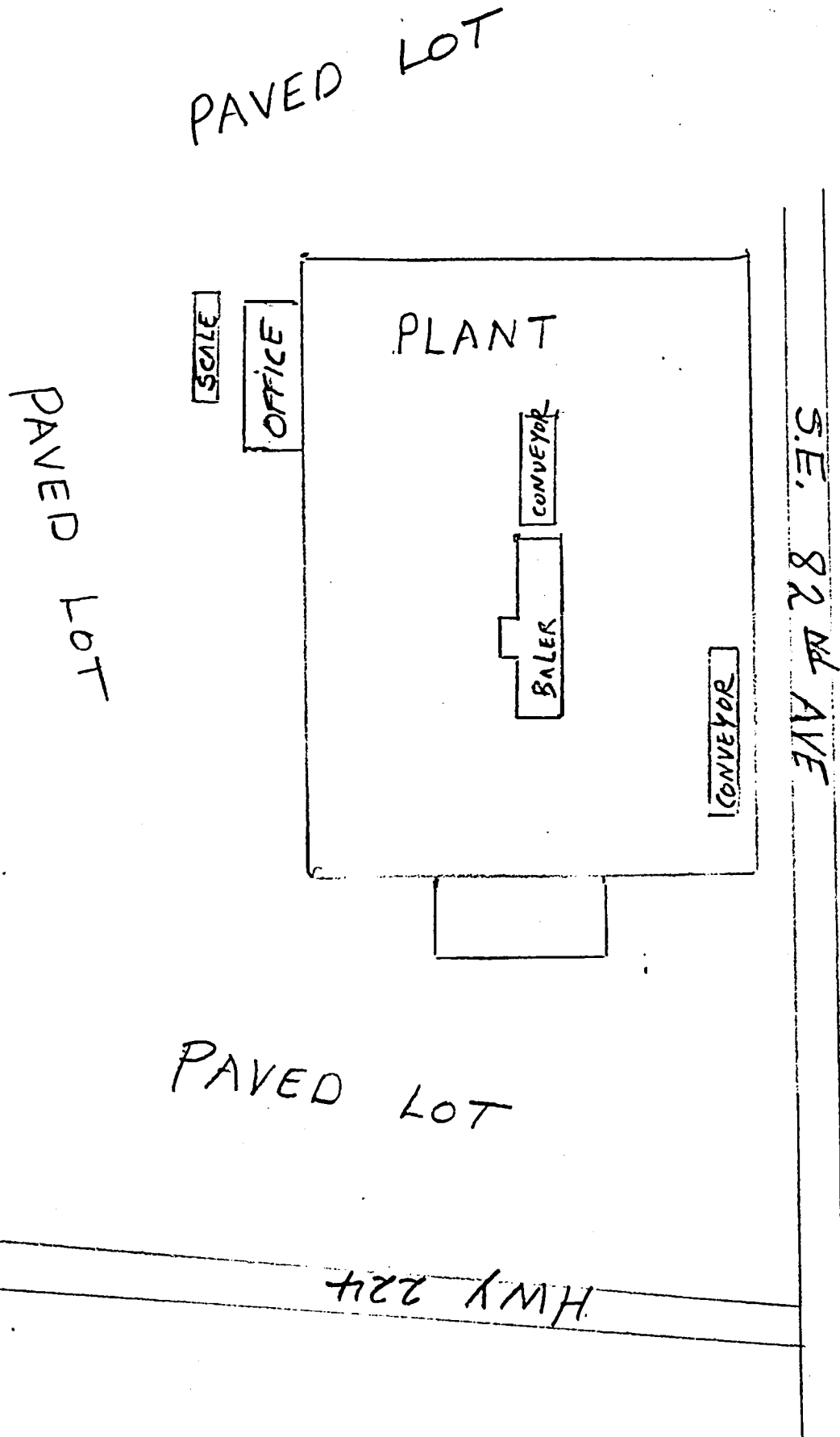
AND

SITE BOUNDARIES

K.B. Recycling, Inc.
8277 S.E. Deer Creek Lane
Milwaukie, Or 97222

NOT TO SCALE

Total Acres = 2.3
Usable Acres = 2.3



ATTACHMENT H

DEPARTMENT OF ENVIRONMENTAL QUALITY
PERMIT



Rob
RECEIVED AUG 24 1987
Department of Environmental Quality

811 S.W. SIXTH AVENUE, PORTLAND, OREGON 97204 PHONE: (503) 229-5696

August 21, 1987

Mr. Fred Kahut
K-B Recycling Center
P.O. Box 550
Canby, OR 97013

Re: K-B Recycling Center
Clackamas County
SW Permit No. 389

Dear Mr. Kahut:

On July 31, 1987, the Department issued Solid Waste Permit No. 389 for operation of the K-B Recycling Processing Center.

The permit was issued to defer any delay in your operation once a Metro franchise was granted. Since you are within Metro boundaries and will be receiving waste from the Metro area, you must have permission from Metro before you begin operation.

If you have questions regarding the above, please contact me at 229-6237.

Sincerely,

Robert L. Brown
Environmental Analyst
Hazardous and Solid Waste Division

RLB:f
cc: Metro

ATTACHMENT I

WASTE REDUCTION GUIDELINES

ATTACHMENT I

WASTE REDUCTION PLAN ACCEPTANCE OF SOURCE SEPARATED RECYCLABLES

Metro adopted the Waste Reduction Guidelines to insure that all regulated disposal facilities, i.e. landfills and transfer stations, provided an opportunity for recycling of source separated materials. Unlike other Metro franchised facilities, K.B. Recycling's primary purpose is recycling and waste reduction and not disposal. Currently K.B. operates a full line recycling "buy back" center, accepting cardboard, newsprint, office paper, glass and non-ferrous metals, tin cans and aluminum cans. K.B.'s proposal will further enhance Metro's waste reduction program by removing more material from the waste stream. The following is a narrative describing the acceptance of source separated material and compliance with Metro's Waste Reduction Guidelines.

Access to the site is from Hwy 224. Upon entering the property, the customer approaches the scale house where materials are weighed. The existing area used for recycling is paved.

A sign has been erected at the corner of Deer Creek Lane and Johnson Rd. stating the Company's name and major materials accepted. Signs at the scale house indicate hours of operation, types and prices for all material recycled site rules and commodity specifications.

Current operating hours are 8:00AM to 4:30 PM Monday thru Friday and 8:00AM to 3:00 PM on Saturday. The facility is closed Sunday.

Upon entering the property, the vehicle is weighed on a 34 foot, 60,000 pound capacity scale. Depending on the type of material, the customer is then directed to the proper deposit area and informed of the rules regarding contaminants.

FRANCHISE APPLICANT

I hereby certify that the information contained in this application is true and correct to the best of my knowledge. I agree to notify Metro within 10 days of any change in the information submitted as a part of this application. I am enclosing the required \$200.00 non-refundable franchise application fee. (Make check payable to Metro.)

Signature and title of person completing form:

SIGNATURE Fred A. Kahut TITLE President
DATE 2-19-87 PHONE 659-7004

TA/srb
7258B/322
01/17/83

PROPERTY OWNER AGREEMENT

I have read Section 20(5)(a) and (b) of the Disposal Franchise Ordinance and agree to be bound by the requirements of the Section if the applicant's franchise is revoked or renewal is denied. I consent to the prospective franchisee's proposed use of the property. The nature and terms of the property interest held between myself and the prospective franchisee is (example, lease, lease option, land contract, etc.) LEASE CONTRACT

The duration of the property interest is _____

Atul A. Kharut
Signature of property owner

Date

2-19-87

Signature of property owner

Date



CLACKAMAS COUNTY

Department of Transportation & Development

WINSTON KURTH
EXECUTIVE DIRECTOR

RICHARD DOPP
DIRECTOR
OPERATIONS & ADMINISTRATION

TOM VANDERZANDEN
DIRECTOR
PLANNING & DEVELOPMENT

December 9, 1986

Metro
200 S.W. First
Portland, OR 97201

SUBJ: K.B. Recycling's High Grade Sorting

The new K.B. Recycling operation at 8277 S.E. Deer Creek Lane is located in an I-3 zone and is subject to the Clackamas County Zoning and Development Ordinance. The Ordinance allows the operation of a facility that would recover paper from select commercial loads of a mixed waste.

Section 603.03 of the Zoning Ordinance permits outright "primary uses, recycling collection depots and transfer stations and processing or treatment of paper, glass, metal or rags". So, the proposed use is permitted.

There are some constraints, however. The site and its building is not very large, so a tight control over the number of trucks using the site is a must. At least during the initial phase, the operation should be limited to Clackamas County haulers until the County, Metro and K.B. Recycling can see how it will work and smooth out any glitch in the system before the operation is expanded to include out of County waste.

The County is looking forward to having the facility operational to be able to begin producing high grade loads to further reduce our waste stream.

A handwritten signature in cursive script, reading "David G. Phillips".

DAVID G. PHILLIPS - Administrator
Community Environment Section

/mb

RECEIVED SEP 09 1987



CLACKAMAS COUNTY

Department of Transportation & Development

WINSTON KURTH
EXECUTIVE DIRECTOR

RICHARD DOPP
DIRECTOR
OPERATIONS & ADMINISTRATION

TOM VANDERZANDEN
DIRECTOR
PLANNING & DEVELOPMENT

September 8, 1987

Metro
2000 S.W. First
Portland, OR 97201

Att: Steve Rapp

SUBJ: KB Recycling Franchise Application

Clackamas County when granting its approval for past collection sorting operation of K. B. Recycling expressed a desire to confine the flow to that originating in Clackamas County. The reason for this was that the County has concerns that the capacity of the building is not sufficient to have an open ended volume arriving there.

The County will withdraw that stipulation as long as a maximum volume limit is placed on the volume and the amount of that maximum should be worked out with Fred Kahut.

A handwritten signature in cursive script, reading "David G. Phillips".

DAVID G. PHILLIPS - Administrator
Community Environment Section

/mb

STAFF REPORT

Agenda Item No. 8.1

Meeting Date Oct. 8, 1987

CONSIDERATION OF RESOLUTION NO. 87-812, FOR THE
PURPOSE OF GRANTING A PROCESSING FACILITY
FRANCHISE TO K. B. RECYCLING, INC.

Date: September 25, 1987

Presented by: Richard Owings
Steve Rapp

FACTUAL BACKGROUND AND ANALYSIS

The purpose of this staff report is to introduce Resolution No. 87-812, which grants a processing facility franchise to K. B. Recycling, Inc. (K.B.). More detailed information is provided in the attached staff report, and the operator's application. K.B., owned by Fred and Jerald Kahut, have applied to operate a processing facility near the intersection of 82nd Avenue and Highway 224. The primary considerations for issuance of a non-exclusive franchise (Metro Code Section 5.01.070) are as follows.

Qualifications of the Applicant: Fred and Jerald Kahut have operated a solid waste hauling company since 1968 and a buy-back center in Canby since 1978. Staff has viewed their facilities and considers the applicants qualified to operate their proposed processing facility.

Compliance with the Solid Waste Management Plan: Metro is currently in the process of updating its Solid Waste Management Plan, which includes the already adopted Solid Waste Reduction Program. K.B.'s franchise request conforms with the Reduction Program by promoting recycling by private owners and operators. The franchise term is five years, and tonnage processed is expected to be small, thus, not effect the long-term system design. Recently, the East County Recycling franchise was approved for a similar facility. The Solid Waste Reduction Program may be interpreted strictly to preclude more processing centers (Work Plan, pp. 19 and 45) until staff determines the need for such facilities with analysis of the Waste Composition Study. However, denial of the franchise would be contrary to the goals of the Reduction Program. Metro has recourse if the analysis indicates the franchise is not needed -- the District can restrict the flow to the operation by Metro Code Section 5.01.070(g), and the term is short. Therefore, staff finds no compelling reason to determine the proposal inconsistent with the Plan.

Need and Compatibility: K.B. will lower the volumes at CTRC and St. Johns. Also, the system design will take some time to develop. Although the applicant indicates the facility has a capacity of 17,000 tons annually, he expects to actually process 3,900 tons per year. Staff estimates the effect on other recycling facilities will be minimal.

Conformity with Regulatory Requirements: The applicant has complied with applicable regulatory requirements.

VARIANCE REQUESTS

Bond: The applicant has requested not to be required to secure a surety bond. Using the method stipulated in Resolution No. 86-672 for calculating the bond amount, no bond is required, and he need not pursue this request. If waste flows exceed projections, a bond or other coverage may be required.

Flow Authority: The applicant has requested the District relinquish its authority to direct waste to or from his facility. The purpose of flow authority is to assure adequate volumes at franchised facilities in the region. Staff recommends denial of this request.

Prior Notice: The applicant has requested he not be required to provide the District 90 days written notice prior to discontinuing service. Advance notice would be important if a program to curtail volumes at CTRC is implemented, since K.B. may then provide a vital service in the area. Staff recommends denial of this request.

Rates: The applicant is requesting a variance from the District's rate-setting authority. Other franchises have received similar variances. The franchise agreement specifies his rates shall not exceed those at CTRC without Metro approval. Metro reserves the right to impose rate regulation at any time. Staff recommends approval of this variance with the above-mentioned restrictions.

Franchisee Rights: If the franchise is revoked or not renewed, the District may require the owner sell his interest to allow the facility to continue operating. The applicant is requesting a variance from this provision. Staff recommends his request be denied.

Right to Condemn or Purchase: Metro reserves the right to purchase property of the franchisee in case the public is not being served adequately. The operator has requested an exemption from this section, but staff recommends the applicant's request be denied in order to preserve the District's power to use this remedy if needed.

RATE REVIEW COMMITTEE RECOMMENDATION

The Rate Review Committee recommends approval of the franchise agreement as written.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 87-812, and issuance of a franchise to K. B. Recycling, Inc.

SR/sm
7914C/513
09/25/87

ATTACHMENT

By Steve Rapp

K.B. Recycling Franchise September 4, 1987

K. B. Recycling, Inc. applied to Metro for a non-exclusive franchise to operate a solid waste processing facility at 8277 S. E. Deer Creek Lane, Milwaukie, Oregon, on February 24, 1987. The District has the authority by Metro Code Section 5.01.020 to grant such franchises, which are required for private facilities accepting mixed waste.

K.B. is owned by Fred A. Kahut and Jerald A. Kahut and currently operates a source-separated drop center for recyclable materials at the above-named location. According to information provided, the operator intends to accept loads of mixed waste which have been high-graded for corrugated and waste paper (at least 50 percent). Mixed loads will be placed on a tipping floor, then transferred to conveyors, where hand-sorters will pick out recyclables. The recyclable materials will then be warehoused for sale, and the residue will be taken to a disposal site. The operator intends to continue to function as a buy-back center for source-separated recyclables.

Although the residues may be disposed at CTRC, the increase in volume at K.B. will presumably reduce the flow at CTRC. The operator projects 3,900 tons per year of high-grade mixed waste will be processed initially, resulting in 1,365 tons recycled, and indicates he has 17,000 tons of processing capacity.

FRANCHISE

After receiving supporting information, the application was accepted as complete on April 23, 1987. Staff has drafted a franchise agreement which will be issued to the applicant within ten (10) days following Council approval of the franchise request.

Since the franchise will be non-exclusive, the primary considerations for issuance (Metro Code Section 5.01.070) are qualifications of the applicant, compliance with the District's Solid Waste Management Plan, compatibility and need in the region's disposal system, and conformity with applicable regulatory requirements. Appropriate operating restrictions necessary to protect the health, safety, and welfare of District residents have been included in the draft franchise agreement.

Qualifications of the Applicant

Fred and Jerald Kahut jointly operate the facility, which has been a buy-back center since October 1986. They have operated another buy-back center in Canby since 1978. They are owners of Canby Disposal, a hauling company outside Metro boundaries.

Canby Disposal was preceded by Kahut Brothers Sanitary, a Portland hauling company begun in 1968 and no longer in existence.

Compliance with the Solid Waste Management Plan

Although the Council authorized the development and establishment of interim franchising policies (Resolution No. 87-773), the Solid Waste Management Plan provides the guiding rules regarding granting KB a franchise since the operator applied before the resolution was passed. But the proposed franchise would not be in conflict with the yet-to-be-developed interim franchising policies anyway because 1) the proposal conforms with the Solid Waste Reduction Program by promoting waste processing and recycling, and 2) the volume would be a relatively small portion of the waste stream.

Denying the permit would be contrary to the Solid Waste Reduction Program goals. The Reduction Program, which is a part of the Solid Waste Management Plan, could be interpreted to say the District will strictly not grant more processing centers (Solid Waste Reduction Program, Work Plan, pp. 19 and 45) until staff determines the need for such facilities with the Waste Composition Study. But the proposal should not be viewed in conflict with the Reduction Program for three reasons. One is the facility will accomplish waste reduction by recovering materials otherwise bound for the landfill. Two is the facility will be owned and operated privately, a positive factor as stated on p. 22 of the Work Plan. Three, the term of the franchise is only five years, and the effect during that period is expected to be small, and thus is not expected to effect the system design. The East County Recycling franchise was approved on August 14, 1986, for largely the same reasons. The agency has recourse if the analysis of the Waste Composition Study indicates the franchise is in conflict with the Solid Waste Reduction Program -- the District can restrict the waste flow to the operation by Metro Code Section 5.01.070(g).

Need and Compatibility

The K.B. franchise will lower the volumes at CTRC and the St. Johns Landfill. Also, the system design called for in the Solid Waste Reduction Program will take some time to develop. Besides the time lost in waiting for the system design, this opportunity may be lost as well.

With the K.B. franchise and a high-grade modification of CTRC, two facilities would exist in the area to accept loads of predominantly fiber. The waste composition study indicates between 10,000 and 30,000 tons per year of cardboard and office paper are disposed from the region. If each facility can operate successfully, then the public will benefit by having two disposal locations in the region. In addition to paper and cardboard, K.B. will process other recyclables such as glass, metals, and plastic depending on markets. Presently there is no facility in the area providing full recycling services of mixed waste.

K.B. may be an important element in the solid waste disposal system if the Council adopts a policy of banning drop boxes at CTRC in order to reduce volumes at the transfer station and St. Johns. The facility would be an alternative disposal option for such loads, the waste composition study indicates. The study, performed by SCS Engineers, indicates nearly half of compacted drop box loads (44.7 percent at St. Johns and 49.4 percent at CTRC) and almost a third of loose drop box loads (35.5 percent at St. Johns and 27.2 percent at CTRC), based on the fall and winter sorts, are paper. If 50 percent of the paper is uncontaminated and can be high-graded, then a substantial portion of drop box loads may go to K.B. If K.B. receives 80 percent of processible paper formerly going to CTRC, and 5 percent formerly going to St. Johns, then the franchisee's expected tonnage increase will be:

	<u>Loose Drop Box</u>	<u>Compacted Drop Box</u>	<u>Total</u>
St. Johns	546	177	723
CTRC	6,436	2,038	8,474
Total	6,982	2,215	9,197

(If a partial ban is implemented, then the appropriate columns or rows should be considered rather than the total.)

Although the applicant projects processing 3,900 tons, he says his capacity is 17,000 tons per year based on 20 drop box loads per day, three tons per load.

At the 3,900 ton volume projected by the applicant, effects at other facilities will be minimal. The proposed franchise's service area is within the area served by CTRC. Staff projects the facility will reduce volumes at Metro's transfer station by roughly 3,900 tons per year, since the applicant will take waste formerly going almost exclusively to CTRC, and plans to take his residuals to the Riverbend Landfill in McMinnville. (Resolution No. 87-812 includes language, pursuant to Code Section 5.01.030(c), to allow the franchisee to dispose his residuals outside the District at his transfer facility in Canby or the Riverbend Landfill.) Other franchises in the region are not expected to be effected. OPRC attracts most of its loads from downtown, rather than the Clackamas area; East County Recycling and Killingsworth Fast Disposal service an overlap area where disposers might be attracted to K.B. also, but diversion to K.B. from those facilities is expected to be minimal because of K.B.'s focus on high-graded loads and the paucity of opportunity for collection of high-grade loads in that overlap area.

The term of the franchise is recommended to be five years. Metro Code Section 5.01.080 states the term of the franchise shall be the lesser of five years or the site longevity. The population served, existing franchise locations, probable use, and any other relevant information are the factors to consider the site longevity. The facility is expected to be useful for longer than five years

since the area population is stable or increasing and no other franchises serve the immediate region.

Conformity with Regulatory Requirements

The operator understands the regulations imposed on franchises, and has been responsive in addressing all requirements. Neither owner is involved in the collection of solid waste in the District. The applicant secured public liability insurance, including automotive coverage, in the necessary amounts. The permit from DEQ has been approved and is included at the end of this report. A permit from the city of Milwaukie is unnecessary. Clackamas County has issued a permit with a condition limiting the volume at the facility. County personnel have indicated a condition limiting the maximum number of drop box loads is sufficient. The County restriction is higher than the operator's projected capacity and Metro staff's recommended limit before review, and thus is not itself binding on the operation.

The applicant has requested variances to several provisions of the franchising regulations, and those issues are discussed below.

VARIANCES

As indicated in the attached letter accompanying the franchise application, K.B. is requesting it be exempt from the following provisions of the Disposal Franchise Ordinance:

- | | | |
|---|----------------|-------------------------------------|
| - | 5.01.070(e)(2) | Corporate surety bond |
| - | 5.01.070(g) | Flow authority of solid waste |
| - | 5.01.120(b) | Prior notice to discontinue service |
| - | 5.01.180 | Rates |
| - | 5.01.190(e) | Divestiture of rights of franchisee |
| - | 5.01.200 | Right to condemn or purchase |

Code Section 5.01.110(a) allows variances if "strict compliance is inappropriate because of conditions beyond the control of person(s) requesting the variance;...or would result in substantial curtailment or closing down of a business, plant, or operation which furthers the objectives of the District." A discussion on each variance request follows.

Bond

The applicant has requested a variance from Metro Code Section 5.01.070(E2), which states a corporate surety bond is required. Resolution No. 86-672 adopts criteria for determining the amount of bond to be required, should Metro need to provide for continued operations or cleanup after closure, or in the event of failure to perform, by the franchisee. Using the method stipulated, no bond is required. The resolution details the calculation for funds needed to assure continued operation if needed and to provide for cleanup and maintenance. Continued operations would not be necessary. But Metro could conceivably be responsible for cleaning up a week's

worth of waste. The cost of projected cleanup is estimated to be \$7,500, including equipment rental, labor, haul and disposal of wastes, and administration. Since the figure is less than \$10,000, no bond is required and the franchisee need not pursue a variance request. If waste flows exceed projections though, a bond or other coverage may be required in the future.

Flow Authority

The applicant has requested a variance from Metro Code Section 5.01.070(g), which gives the Council the power to direct waste away from or to the franchisee. The purpose of the Metro flow authority is to assure adequate flows at franchised facilities throughout the region. It is thought unlikely that material would be diverted away from the facility since materials recovery is a high priority in the Solid Waste Management Plan. But staff recommends denial of this variance request to maintain its power to direct flows in the region.

Prior Notice

The franchisee has requested he be exempt from Metro Code Section 5.01.120(b), which states he may discontinue service only upon 90 days written notice to the District. The purpose of this requirement is to assure Metro that facilities providing service in areas where disposal options are limited will not be closed abruptly with little or no notice. Metro has the responsibility to assure all residents, businesses, and manufacturers have disposal options. Since Metro may implement a program to curtail the volume at the CTRC, K.B. may provide a vital service to the Clackamas area, a service which may require some time to replace if the franchisee were to halt or alter operations. Staff expects CTRC would absorb the flow from K.B. should K.B. interrupt operations, and prior notice would help the District minimize the impact on volume going to the landfill. Staff recommends denial of this request.

Rates

Although Metro Code Section 5.01.180 requires the Council to set rates for franchised facilities, the applicant is requesting a variance from that provision. He claims that his facility meets the variance guidelines because (1) he will be operating in a competitive environment; (2) disclosure of proprietary agreements as part of rate-setting would be detrimental to the business; and (3) the nature and complexity of the business makes rate-setting too inflexible. Detailed arguments are presented in the operator's attached application.

This variance has precedence with similar actions for Oregon Processing and Recovery Center, Sunflower Recycling, and East County Recycling franchises. A key factor in the applicant's successful operation will be to charge less than other disposal facilities in order to attract the volume he anticipates. The franchise agreement includes wording which requires the franchisee to charge no more than the fee at CTRC, unless he submits justification, and gains

Metro approval, for a higher fee. The District needs to ensure disposers are not required to pay inflated tipping fees if drop boxes are banned at CTRC and are forced to go to K.B. Staff recommends approval of this variance with the condition that the franchisee's rates will not exceed the rates at CTRC.

Staff proposes Metro reserve the right to impose rate authority at any time. There are two reasons for this recommendation. One, the District needs to ensure the public that franchisees don't disrupt the recycling or disposal systems by charging too much or too little. Two, information to be collected in the future from the applicant and other enterprises may indicate rate-setting should be considered.

Rights of Franchisee

Metro Code Section 5.01.190(e) states that if the franchise is revoked or not renewed, the District may require the owner to sell his interest to allow for the continued operation of the facility. The applicant requests a variance from this provision. This assurance has categorically been put into all franchise agreements, though for practical purposes it may never be exercised. Staff recommends this variance request be denied. The franchisee has the right, however, to a contested case hearing, as provided in Code Section 5.01.190(c), before any sale of property related to the franchise.

Right to Condemn or Purchase

Metro has the responsibility to the public to ensure adequate and reasonable disposal options exist in the region. If a facility is not serving the public adequately, one option Metro may exercise under Code Section 5.01.200, is to condemn or purchase property of the franchisee. The applicant is requesting Metro not retain the right of condemnation or purchase. But the District needs to protect itself against possible inadequacies of public service, and should keep its powers of remedy. Staff recommends denial of this variance request.

The applicants have the right to a contested case hearing pursuant to Metro Code Chapter 2.05 regarding any denied variance request.

Metro Fees

Processing centers formerly were required to pay User Fees and the Regional Transfer Charge, unless they were exempt by a variance. Ordinance No. 86-214 changed the Metro Code to exempt processing centers that accomplish materials recovery and recycling as a primary objective, from User Fees and the Regional Transfer Charge. K.B. fits those qualifications and would be exempt from such disposal charges.

Recommendations

The Rate Review Committee recommends approval of the franchise request, and added that rates should be required to be less than or equal to the rates charged at CTRC. The Executive Officer recommends approval of the resolution.

SR/sm
7914C/513
09/25/87

10.3 Consideration of Resolution No. 87-812, for the Purpose of Granting a Processing Facility Franchise to K.B. Recycling, Inc.

The Presiding Officer announced the resolution had been removed from the agenda at the request of K.B. Recycling, Inc.

10.4 Consideration of Resolution No. 87-826, for the Purpose of Establishing Rental Rates, Terms and Conditions for the Oregon Convention Center

Neil McFarlane, Public Facilities Analyst, reported the resolution would be an integral part of the convention center marketing plan and referred the Council to information contained in staff's written report.

Councilor Ragsdale, Chair of the Council Convention Center Committee, explained the Committee had unanimously recommended adoption of the resolution.

Motion: Councilor Ragsdale moved, seconded by Councilor Cooper, to adopt Resolution No. 87-826.

Vote: A vote on the motion resulted in all eleven Councilors present voting aye. Councilor Kirkpatrick was absent.

The motion carried and the resolution was adopted.

10.5 Consideration of Resolution No. 87-821, for the Purpose of Amending Resolution No. 87-744, Revising the FY 1987-88 Budget & Appropriations Schedule for the Aquarium Study, Interim Task Force on Regional Metropolitan Governments, Health Impact Review Panel (Relating to the Resource Recovery Project), Two Copier Purchases and Council Needs

Aquarium Study. Presiding Officer Waker referred Councilors to Councilor Kirkpatrick's memo dated November 12, 1987, requested the Aquarium Study portion of the budget amendment be withdrawn from consideration at this time. Don Carlson, Council Administrator, explained the Council Zoo Planning Committee would review the Aquarium Study matter further and make a recommendation to the Council on November 24, 1987.

Motion: Councilor Bonner moved, seconded by Councilor Collier, to delete the Aquarium Study portion from the resolution and to consider it separately on November 24, 1987.

Metro Council
October 8, 1987
Page 5

Council to deal with the problem and expressed willingness to work together with Councilors toward a solution.

Councilor Gardner requested Mr. Martizsus indicate the quantities of special wastes disposed in his written communications to Councilors.

Patricia Jensen, Vernonia, Oregon, was concerned that a landfill liner would not be able to contain leachate and other hazardous materials disposed at the Bacona Road landfill site due to the unstable nature of the land. A landslide would result in water contamination, she said. Ms. Jensen also objected to building a mass incinerator in Columbia County. She proposed Metro encourage recycling and ship garbage to a drier climate for landfilling.

Presiding Officer Waker noted Metro was developing a request for bids document to operate a landfill in Eastern Oregon.

8. RESOLUTIONS

8.1 Consideration of Resolution No. 87-812, for the Purposer of Granting a Processing Facility to K.B. Recycling, Inc.

The Presiding Officer announced the item was being removed from the agenda at the request of K.B. Recycling. The item would be continued to a future meeting.

8.2 Consideration of Resolution No. 87-811, for the Purpose of Promoting Bi-State Cooperation Toward Regional Solutions to Solid Waste Disposal Facilities and Solid Waste Management

Ray Barker, Council Assistant, reviewed staff's written report. Councilor Hansen added that information was already being shared and new areas of cooperation would soon occur, especially in marketing.

Motion: Councilor Hansen moved to adopt Resolution No. 87-811 and Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in all eleven Councilors present voting aye. Councilor Cooper was absent.

The motion carried unanimously and Resolution No. 87-811 was adopted.