

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A) RESOLUTION NO. 12-4369
NON-SYSTEM LICENSE TO RECOLOGY OREGON MATERIAL)
RECOVERY, INC. FOR DELIVERY OF RESIDENTIAL YARD DEBRIS) Introduced by Martha J. Bennett
MIXED WITH FOOD WASTE FROM THE SUTTLE ROAD RECOVERY) Chief Operating Officer, with the
FACILITY TO NW GREENLANDS COMPOSTING FACILITY LOCATED) concurrence of Tom Hughes, Council
IN AUMSVILLE, OREGON) President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro Region to a non-system facility; and

WHEREAS, Recology Oregon Material Recovery, Inc. has filed a complete application seeking a non-system license to deliver residential yard debris mixed with food waste from the Suttle Road Recovery Facility (SRRF) to the NW Greenlands Composting Facility located in Aumsville, Oregon, under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, on October 21, 2011 the Chief Operating Officer issued amended Solid Waste Facility License No. L-102-11A to SRRF authorizing it to accept and reload residential yard debris mixed with food waste; and

WHEREAS, such residential yard debris mixed with food waste will be collected from the city of Portland residential curbside food waste collection program and delivered to SRRF for consolidation, reload and transport to the NW Greenlands Composting Facility; and

WHEREAS, the NW Greenlands Composting Facility is authorized by the Oregon Department of Environmental Quality to accept and compost food wastes that include post-consumer meat and dairy products; and

WHEREAS, Metro Code Chapter 5.05 provides that applications for non-system licenses for putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be issued together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

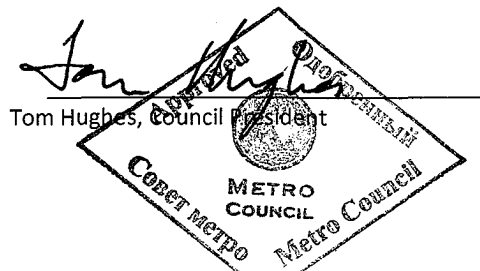
1. The non-system license application of Recology Oregon Material Recovery, Inc. is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to Recology Oregon Material Recovery, Inc. a Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 11 day of October 2012.

Approved as to Form:

Alison Kean Campbell, Metro Attorney

BM:bjl
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METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

No. N-102-12

LICENSEE:
Recology Oregon Material Recovery, Inc. 4044 N. Suttle Road Portland, OR 97217
CONTACT PERSON:
Larry Wilkins Phone: (503) 226-6161 E-Mail: lwilkins@recology.com
MAILING ADDRESS:
4044 N. Suttle Road Portland, OR 97217

ISSUED BY METRO:

Scott Robinson, Deputy Chief Operating Officer

Date

1	NATURE OF WASTE COVERED BY LICENSE
	Source-separated residential yard debris mixed with food waste from municipal curbside collection programs generated within the Metro boundary and received at Suttle Road Recovery Facility in accordance with Metro Solid Waste Facility License No. L-102-11A.

2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 16,000 tons per calendar year of the waste described in Section 1 of this license.

3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder is authorized to deliver the waste described above in Section 1 to the following non-system facility for the purpose of processing and composting:</p> <p style="text-align: center;">NW Greenlands Aumsville Composting Facility 8715 Aumsville Highway SE Aumsville, OR 97325</p> <p>This license is issued on the condition that the non-system facility listed in this section is authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality or the city of Aumsville that this non-system facility is not authorized to accept such waste, Metro may immediately modify or terminate this license pursuant to Section 10 of this license.</p>

4	TERM OF LICENSE
	The term of this license will commence on October 22, 2012 and expire at midnight on December 31, 2014 unless terminated sooner under Section 10 of this license.

5	COVERED LOADS
	Licensee shall suitably contain and cover, on all sides, all loads of source-separated residential yard debris mixed with food waste that are delivered under

	authority of this license to prevent spillage of waste while in transit to the non-system facility listed in Section 3.
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6	MATERIAL MANAGEMENT
	<p>The Licensee is authorized to deliver the waste described in Section 1 of this license to the non-system facility listed in Section 3 under the following conditions:</p> <ul style="list-style-type: none"> (a) The non-system facility shall accept all solid waste that is delivered under authority of this license for the sole purpose of processing and composting on-site. The Licensee shall not dispose of any source-separated recyclable material, except as provided in Section 7; and (b) The non-system facility shall receive, manage, process, and compost all solid waste that is delivered under authority of this license in accordance with all applicable local, state and federal laws, rules, regulations, ordinances, orders, and permits.

7	REGIONAL SYSTEM FEE AND EXCISE TAX
	<p>The Licensee shall be subject to the following conditions:</p> <ul style="list-style-type: none"> (a) Source-separated residential yard debris mixed with food waste that is delivered under authority of this license and is accepted and composted, in accordance with all applicable regulations, at the non-system facility listed in Section 3 is exempt from Regional System Fees and Excise Tax. (b) If the Licensee delivers waste under this license to the non-system facility listed in Section 3 but the material does not meet the facility's acceptance criteria (for example, the material is too contaminated for processing or composting) or the non-system facility fails to process and compost the material as required as a condition of this license, the Licensee shall pay to Metro an amount equal to the Regional System Fee, as provided in Metro Code Title V, for each ton or portion thereof of waste delivered to the non-system facility that is ultimately delivered to a disposal site. (c) If the Licensee delivers waste under this license to the non-system facility listed in Section 3 but the material does not meet the facility's acceptance criteria (for example, the material is too contaminated for processing or composting) or the non-system facility fails to process and compost the material as required as a condition of this license, the Licensee shall pay to Metro an amount equal to the Excise Tax, as provided in Metro Code Title VII, for each ton or portion thereof of waste delivered to the non-system facilities that is ultimately delivered to a disposal site.

8	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.

9	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid wastes that the Licensee delivers to the non-system facility listed in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facilities:</p> <ul style="list-style-type: none"> i. Ticket or weight slip number from the non-system facility; ii. Material category designating the type of material transferred to the non-system facility; iii. Date the load was transferred to the non-system facility; iv. Time the load was transferred to the non-system facility; v. Net weight of the load; and vi. Fee charged by the non-system facility. <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee shall transmit the records required under Section 9(a) above, that covers the preceding month, to Metro's Finance and Regulatory Services Department in an electronic format prescribed by Metro.</p> <p>(c) Licensee shall make all records from which Section 9(a) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) business days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facilities listed above in Section 3.</p>

10	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license shall be subject to the following conditions:</p> <p>(a) The permissive transfer of solid waste to the non-system facility, listed in</p>

	<p>Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.</p> <p>(b) This license shall be subject to amendment, modification, or termination by Metro’s Chief Operating Officer (the “COO”) in the event that the COO determines that:</p> <ul style="list-style-type: none"> i. There has been sufficient change in any circumstances under which Metro issued this license; ii. The provisions of this license are actually or potentially in conflict with any provision in Metro’s disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc; iii. Metro’s solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facility listed in Section 3; iv. The non-system facility listed in Section 3 fails to manage the waste subject to this license in accordance with the material management requirements described in Section 6; or v. The non-system facility listed in Section 3 generates malodors that are detectable off-site. <p>(c) This license shall, in addition to subsections (b)(i) through (b)(v), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.</p> <p>(d) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(e) This license shall be subject to modification or termination by the COO upon the execution of a designated facility agreement with a facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.</p> <p>(f) This license authorizes delivery of solid waste only to the facility listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.</p>
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11	COMPLIANCE WITH 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 Metro Code Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the licensee shall be deemed part of this license as if specifically set forth herein.
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12	INDEMNIFICATION
	Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 12-4369 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO RECOLOGY OREGON MATERIAL RECOVERY, INC. FOR DELIVERY OF RESIDENTIAL YARD DEBRIS MIXED WITH FOOD WASTE FROM THE SUTTLE ROAD RECOVERY FACILITY TO NW GREENLANDS COMPOSTING FACILITY LOCATED IN AUMSVILLE, OREGON

October 1, 2012

Prepared by: Bill Metzler
(503) 797-1666

Approval of Resolution No. 12-4369 will authorize the Chief Operating Officer (COO) to issue a non-system license (NSL) to Recology Oregon Material Recovery, Inc. (ROMR), to annually deliver a maximum of 16,000 tons of source-separated residential yard debris mixed with food waste (residential food waste) from Suttle Road Recovery Facility (SRRF) located at 4044 North Suttle Road in Portland (Metro Council District 5) to NW Greenlands Composting Facility located at 8715 Aumsville Highway in Aumsville, Oregon (NWGA).

BACKGROUND

1. Overview

The applicant seeks authorization to transport residential food waste generated within the Metro region to a non-system facility, NWGA, located outside of the region. Metro Code Section 5.05.025 prohibits any person from transporting solid waste to non-system facilities without an appropriate license from Metro. The proposed NSL is subject to Metro Council approval because it involves putrescible waste (food waste).

2. The Applicant

Recology, Inc., headquartered at 50 California Street, 24th Floor, in San Francisco California, is the parent company that owns ROMR and NWGA. Recology, Inc. is also the contract operator for the Metro Central Transfer Station.

ROMR owns and operates three material recovery facilities in the region that are licensed by Metro. They are: 1) SRRF (a material recovery and residential food waste reload facility), 2) Foster Road Recovery Facility (a material recovery facility and residential food waste reload facility), and 3) Oregon City Recovery Facility (not currently operational). In addition, Recology, Inc. owns and operates three DEQ-approved composting facilities in Oregon: 1) NWGA, 2) NW Greenlands composting facility located in McMinnville, and 3) Nature's Needs composting facility located in North Plains.

On October 21, 2011, SRRF was issued an amended Solid Waste Facility License (L-102-11A) to accept, consolidate and reload residential yard debris mixed with food waste, from the city of Portland's residential curbside collection program.

On August 15, 2012, SRRF submitted a complete application to Metro requesting authorization to transport up to 16,000 tons of residential food waste to the NWGA facility for composting. NWGA also receives Metro-area food waste from Metro Central Transfer Station under a separate contract with Recology, Inc.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition.

2. Legal Antecedents

Metro Code Section 5.05.035 provides that a waste hauler may transport solid waste generated within Metro to any non-system facility only by obtaining an NSL. Metro Code further requires applications for NSLs for putrescible waste (such as residential food waste) to be reviewed by the COO and are subject to approval or denial by the Metro Council. Under Metro Code Subsection 5.05.035(c), the Council shall consider the following factors when determining whether to approve an NSL application:

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The non-system facility identified in this proposed license is an established yard debris and food waste composting facility rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. Since the facility has accepted only wood waste, yard debris, and limited amounts of food waste for composting, staff is not aware of any other wastes accepted at NWGA that could pose a risk of environmental contamination. The environmental risk from the use of this non-system facility is presumed to be minimal because the facility will be fully regulated and monitored by the appropriate local and state authorities.

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including, but not limited to, public health, safety and environmental rules and regulations;*

As previously noted in this report, Recology, Inc. is the parent company of NWGA (the non-system composting facility) and ROMR (the applicant). In regard to the overall compliance record of the applicant within the last two years, on February 17, 2011 Metro issued a Field Notice of Violation to ROMR's Oregon City Recovery Facility for failure to remove yard debris from the site within the required timeframe. The matter has since been resolved. In addition, on February 1, 2012, the Oregon Department of Environmental Quality (DEQ) issued a Warning Letter with Opportunity to Correct to the Nature's Needs composting facility for odor control and material management issues. The matter is in the process of being resolved.

With the exception of the above-mentioned compliance issues at its affiliated companies, Recology, Inc. has not had any significant compliance issues with regard to Metro's regulations. In addition, based on recent communication with the DEQ and the city of Aumsville staff, the NWGA composting facility operates in compliance with all federal, state, and local requirements, rules and regulations and has had no violations related to public health, safety or environmental regulations with the current owners.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

NWGA will accept and compost the residential food waste under the authority of the city of Aumsville Conditional Use permit, and under authority of a Solid Waste Disposal Site Permit: Composting Facility issued by the DEQ. The DEQ permit expires on December 30, 2018.

NWGA is required by the city of Aumsville and DEQ to implement measures to control and minimize odors through site design and operations. The odor control measures include processing incoming mixed food waste feedstock in a timely manner, blending of feedstocks, good housekeeping, and monitoring moisture and temperatures of composting feedstock. More importantly, the use of a forced aeration system and a biofilter system will help control and minimize odors. The system will pull air through the composting piles and direct the air to a biofilter consisting of organic material such as wood chips or compost overs. Biofilters are commonly used at composting facilities due to their success in effectively treating odors associated with composting.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

Approval of the proposed NSL is likely to have a positive impact on the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro's existing contractual arrangements;*

Metro is contractually obligated to deliver a minimum of 90 percent of the region's putrescible waste that is delivered to general purpose landfills during the calendar year, to landfills owned by Metro's disposal contractor, Waste Management of Oregon. The waste subject to the proposed license will be delivered to a composting facility rather than disposed at a general-purpose landfill. Thus, approval of the requested license does not conflict with Metro's disposal contract or any other of its existing contractual arrangements.

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including, but not limited to, public health, safety and environmental rules and regulations; and*

ROMR has received one citation from Metro within the last two years as previously summarized above in response to factor (2). However, all of the Metro-regulated ROMR facilities are currently in compliance with Metro's Code and license requirements. As a solid waste hauling company, Recology, Inc. has a good record of compliance with local and state agencies responsible for public health, safety, and environmental rules and regulations.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

Reloading residential food waste at SRRF will provide additional recovery capacity which benefits the region's organics recovery program. Further, the NWGA composting facility provides another alternative for food waste composting to the region.

The duration of the proposed license is set to align its expiration date with similar NSLs on a calendar year basis. The term of the proposed NSL expires on December 31, 2014.

3. Anticipated Effects

The effect of Resolution No. 12-4369 will be to issue an NSL to ROMR for delivery of up to 16,000 tons per calendar year of residential food waste from SRRF to the NWGA composting facility.

This proposed NSL is one of many organics-related action items currently under consideration by Metro and other local jurisdictions which contributes to a decline in the amount of solid waste disposed in landfills. The decisions on this and other similar items will have the effect of further shrinking the pool of waste available for allocation to certain non-system licensees by increasing the availability of non-disposal options i.e. recycling and composting.

4. Budget Impacts

The residential food waste mixed with yard debris that will be transported under authority of this NSL is exempt from paying the Metro Regional System Fee and Excise Tax (RSF and ET). The overall impact of the city of Portland's food waste composting program has already been factored into Metro's budget.

The RSF and ET rates depend on the amount of waste that is disposed. Any waste that is diverted from the disposal stream, such as the composting of food waste, will in general increase those RSF and ET rates. Waste diversion will also affect other disposal prices (tip fees) at Metro transfer stations and other solid waste facilities due to fixed and capital costs, etc. being spread over less tonnage. The effects of these individual price changes will depend on facility-specific factors. However, the effect on the RSF and ET is universal across all ratepayers and waste disposed.

The residential yard debris mixed with food waste that will be delivered to SRRF in FY 2012-13 will most likely be tonnage diverted away from the Metro Central Transfer Station. This tonnage shift will cause a small increase in the per-ton cost of disposal for Metro's customers mainly because Metro's fixed operating costs will be spread over fewer tons. The impact of the tonnage shift away from Metro's transfer station to SRRF would decrease the Parks and Environmental Services budget in the future because Metro would no longer incur the cost of transferring, transporting, and composting the residential compostable materials diverted to SRRF. The impact of the diverted tons will be fully factored into the budget and rates for FY 2013-14.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 12-4369 finding that the license application satisfies the requirements of Metro Code Section 5.05.035, and issuance of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

BM:bjl
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