

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A) RESOLUTION NO. 12-4387
RENEWED NON-SYSTEM LICENSE TO FOREST GROVE)
TRANSFER STATION FOR DELIVERY AND DISPOSAL OF) Introduced by Martha J. Bennett,
PUTRESCIBLE WASTE AT THE RIVERBEND LANDFILL) Chief Operating Officer, with the
LOCATED IN YAMHILL COUNTY, OREGON) concurrence of Tom Hughes,
) Council 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 disposal facility; and

WHEREAS, Forest Grove Transfer Station ("FGTS") holds Metro Solid Waste Facility Non-System License No. N-010-11, which expires on December 31, 2012; and

WHEREAS, FGTS has filed a complete application seeking renewal of the non-system license to deliver putrescible waste to the Riverbend Landfill for disposal under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" 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 renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

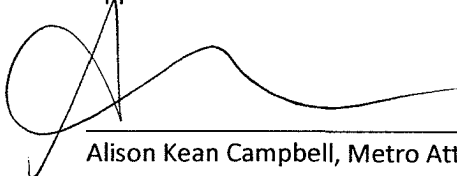
THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The non-system license renewal application of FGTS 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 FGTS a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 29 day of November 2012.


Tom Hughes, Council President
COUNCIL
Metro Council

Approved as to Form:


Alison Kean Campbell, Metro Attorney

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METRO

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

No. N-010-13

LICENSEE:
Forest Grove Transfer Station 1525 B Street Forest Grove, OR 97116
CONTACT PERSON:
Kirk Duncan Phone: (503) 992-3015 Fax: (503) 357-4822 E-mail: kduncan2@wm.com
MAILING ADDRESS:
Forest Grove Transfer Station 1525 B Street Forest Grove, OR 97116

ISSUED BY METRO:

Scott Robinson, Deputy Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste generated within the Metro boundary and received at Forest Grove Transfer Station in accordance with Metro Solid Waste Facility Franchise No. F-004-08.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility described in Section 3 of this license up to 130,000 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:</p> <p style="text-align: center;">Riverbend Landfill 13469 SW Highway 18 McMinnville, OR 97128</p> <p>This license is issued on condition that the non-system facility named 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 local regulatory authority that this non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2013 and expire at midnight on December 31, 2014, unless terminated sooner under Section 7 of this license.
5	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.



6	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described 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 facility:</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; andvi. 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:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; andiii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) 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 facility named in Section 3, above.</p>

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



	<p>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.; or 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 facilities listed in Section 3. <p>(c) This license shall, in addition to subsections (b)(i) through (b)(iii), above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code.</p> <p>(d) The 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 terminate upon the execution of a designated facility agreement with the 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 the delivery of solid waste 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> <p>(g) If the Licensee exceeds the calendar year limitation set forth in Section 2 of this license, each ton or portion thereof by which the Licensee exceeds the limitation constitutes a separate violation subject to a penalty of up to \$500.</p>
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8	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 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.</p>



9	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. 12-4387 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO FOREST GROVE TRASFER STATION FOR DELIVERY AND DISPOSAL OF PUTRESCIBLE WASTE AT THE RIVERBEND LANDFILL LOCATED IN YAMHILL COUNTY, OREGON

November 20, 2012

Prepared by: Warren Johnson
503-797-1836

Approval of Resolution No. 12-4387 will authorize the Chief Operating Officer (COO) to issue a two-year non-system license (NSL) to Forest Grove Transfer Station (FGTS) to annually deliver up to 130,000 tons of putrescible waste from the Metro region to Riverbend Landfill (Riverbend) located in Yamhill County, Oregon. The proposed NSL renews the current license that is set to expire on December 31, 2012, and it continues the same authorization that the transfer station has held since 1990. The applicant (FGTS) and the disposal site (Riverbend) are both owned and operated by Waste Management of Oregon, Inc.

BACKGROUND

FGTS currently holds a Metro-issued franchise¹ to operate a transfer station authorized to receive putrescible waste. As a regional transfer station, the franchise does not limit the amount of waste that FGTS may receive on an annual basis. On August 30, 2012, FGTS submitted to Metro an application seeking to renew its NSL with a tonnage authorization of 130,000 tons per calendar year – which is 53,000 tons less than that currently authorized. Resolution No. 12-4387 would renew that NSL to FGTS and allow continued delivery of Metro-area putrescible waste to Riverbend through 2014. The tonnage limit established under the proposed NSL is intended to provide sufficient authorization to cover the total amount of solid waste that FGTS expects to receive on an annual basis.

In November 2010, the Metro Council granted FGTS an NSL² to deliver a maximum of 183,000 tons per calendar year of putrescible waste to Riverbend for disposal. The term of the current NSL commenced on January 1, 2011 and is set to expire on December 31, 2012. FGTS delivered about 109,000 tons of putrescible waste to Riverbend during calendar year 2011 and about 79,000 tons to the landfill between January and September 2012.

NSLs are the main vehicles by which Metro manages its contractual obligation to deliver a minimum of 90 percent of the region's putrescible waste ("wet waste"), which is delivered to general purpose landfills during the calendar year, to landfills owned by Metro's contract disposal company, Waste Management. This contractual obligation is known as "*the flow guarantee*." NSLs allow Metro to closely monitor and potentially guide waste flows to authorized facilities in order to comply with the contract. Metro has a long-standing policy of allowing privately-owned waste haulers and transfer stations to select their disposal sites provided that: 1) the use of such disposal site does not violate Metro Code or any of Metro's waste-related contracts, 2) all appropriate Regional System Fee and Excise Tax is remitted to Metro for the waste delivered to the disposal site, and 3) the receiving disposal site is appropriately authorized and allowed to operate by the local and state regulatory authorities (e.g., Yamhill County and Oregon Department of Environmental Quality (DEQ) in the case of Riverbend).

¹ Metro Solid Waste Facility Franchise No. F-004-08.

² Metro Non-System License No. N-010-11.

On March 1, 2009, Metro and Waste Management entered into a designated facility agreement (DFA)³ for Riverbend which is set to expire on December 31, 2013. The DFA allows generators and haulers to deliver certain types of Metro-area waste directly to the landfill, such as non-putrescible processing residual (“dry waste”), contaminated soil from cleanups, and special wastes, without the need to obtain an NSL from Metro. Since putrescible waste deliveries are primarily managed through NSLs, this DFA does not allow the landfill to accept putrescible waste from the Metro region. As such, privately-owned haulers and transfer stations must obtain a separate NSL from Metro in order to legally deliver Metro-area putrescible waste to any landfill.

Metro Council is scheduled to consider five resolutions that will authorize five privately-owned transfer stations and haulers to deliver putrescible waste to Riverbend during the next two calendar years. In addition to this action for FGTS, the Council is scheduled to consider similar resolutions for Hoodview Disposal and Recycling, Inc. (Res. No. 12-4390), Willamette Resources, Inc. (Res. No. 12-4388), Pride Recycling Company (Res. No. 12-4389), and West Linn Refuse and Recycling, Inc. (Res. No. 12-4391) at its meeting on November 29, 2012.

ANALYSIS/INFORMATION

1. Known Opposition

The waste subject to the proposed NSL will be delivered to Riverbend for disposal. There is no known opposition within the Metro region for delivery of Metro-area waste to authorized disposal sites located outside of the region, including Riverbend. Within Yamhill County, there is known local public opposition to the disposal of waste generated outside of the County, including Metro-area waste, at Riverbend.

As part of its authorization process for NSLs, Metro asks local host governments whether the destination facility is in compliance with local laws and whether it has any issues, concerns or objections to Metro-area waste flowing to disposal sites within their jurisdiction. Yamhill County is responsible for local land use decisions regarding Riverbend. The County has informed Metro that the landfill is in compliance with state and local requirements. Riverbend became permitted as a Subtitle D⁴ landfill in 1993 which put in place new requirements to minimize risk of future environmental contamination at the site. On September 20, 2012, the County’s director of planning and development also reported to Metro via email that the County’s Board of Commissioners are “in agreement that Riverbend continues to meet their expectations regarding its environmental record and overall performance.” In addition, in June 2012, Yamhill County entered into a new five-year licensing agreement with Riverbend which replaced the previous agreement from 1994. The term of the County’s new agreement became effective on July 1, 2012 and will extend beyond the two-year term of this proposed NSL renewal.

Riverbend is permitted to accept solid waste and the appropriate state and local jurisdictions do not object to the landfill receiving Metro-area waste for disposal. Although approval of Resolution No. 12-4387 would authorize FGTS to deliver waste to the landfill, the proposed NSL does not obligate Riverbend to accept Metro-area waste. This is noted for Council’s consideration because the landfill is facing some capacity-related issues which are further discussed in Attachment 1 to this staff report.

³ Metro Contract No. 929082.

⁴ In the 1990’s, the federal Resource Conservation and Recovery Act required all general purpose solid waste landfills to install synthetic liners, leachate collection systems, groundwater monitoring and gas collection systems to lessen the impact on surrounding communities and the environment..

2. Legal Antecedents

Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council shall consider the following factors to the extent relevant to such determination.

- (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;*

Riverbend first came into use during the mid-eighties and became a Subtitle D landfill in 1993. At that time, the original unlined cells were capped and the landfill has been filling only lined cells and operating with the environmental controls required by the DEQ. The environmental risk associated with the use of Riverbend is expected to be minimal as the landfill is fully regulated 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;*

FGTS and Riverbend are both owned and operated by Waste Management, which is a national integrated solid waste company that is well known to Metro regulatory staff. The transfer station and the landfill are permitted by DEQ. Metro staff's investigation of Waste Management has revealed no documented outstanding compliance issues with local or state agencies responsible for health, safety, and environmental regulations.

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

Riverbend uses operational practices and management controls that are typical of Subtitle D landfills. Staff at the DEQ, the landfill's regulator, considers the operational practices and controls in place at Riverbend to be appropriate for the proper management of waste disposal and adequate for the protection of health and the environment.

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

The proposed NSL to FGTS covers putrescible solid waste, which currently has limited recovery potential. This proposed NSL puts no long-term constraint on the waste should recovery alternatives emerge for the region. Thus, approval of the proposed NSL renewal is not expected to impact the region's recycling and waste reduction efforts.

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

Metro has a contractual obligation to deliver a minimum of 90 percent of the region's putrescible waste, which is delivered to general purpose landfills during the calendar year, to landfills owned by Waste Management. The proposed NSL covers putrescible waste that will be delivered to Riverbend, which is owned and operated by Waste Management. Thus, approval of this NSL renewal will 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*

FGTS is currently in compliance with its Metro-issued franchise and NSL. FGTS has not had any compliance issues with regard to Metro regulations within the last two years. Additionally, the applicant has had no violations related to public health, safety or environmental regulations during the term of the current NSL.

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

An additional factor that is indirectly related to this NSL application and the proposed NSL is the available future disposal capacity of Riverbend. At the current fill rate, Waste Management estimates the landfill has capacity to operate through mid-2014 without some expansion approval or waste diversion. Although the landfill's capacity-issues are not directly relevant to this NSL decision, Attachment 1 to this staff report provides background information which updates Council on waste flow, expansion matters, and pending government decisions relative to the landfill. Should conditions change, Metro may modify, suspend, or terminate NSLs or redirect waste flow to other landfills.

3. Anticipated Effects

The effect of Resolution No. 12-4387 will be to issue a two-year NSL authorizing FGTS to deliver up to 130,000 tons per calendar year of putrescible waste to Riverbend for disposal.

4. Budget/Rate Impacts

Since Riverbend is owned and operated by Waste Management there is not an impact to Metro's obligation under the disposal contract. In addition, the Regional System Fee and Excise Tax will continue to be collected on Metro-area waste delivered to Riverbend under the authority of the proposed NSL. The application under consideration is the renewal of a current NSL therefore; any financial impact of this NSL to Metro has already been factored into the budget.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 12-4387, finding that the license renewal satisfies the requirements of Metro Code Section 5.05.035. Approval of Resolution No. 12-4387 will authorize the COO to issue an NSL, substantially similar to the one attached to the resolution as Exhibit A, to FGTS for a two-year period commencing on January 1, 2013 and expiring on December 31, 2014.

Summary of Riverbend Landfill Expansion Information

Riverbend Landfill, located in Yamhill County, is used as a primary disposal site for several privately-owned haulers and transfer stations within the Metro region. Riverbend's ongoing disposal capacity is indirectly germane to Metro Council's decision regarding whether to approve non-system licenses (NSLs) authorizing the use of the landfill as a disposal site.

At the current fill rate, Waste Management estimates that Riverbend has capacity to operate through mid-2014 without the need for expansion or waste diversion. Should a landfill expansion not occur or be delayed beyond that time, Metro's existing NSLs could be modified, suspended, or terminated as necessary to redirect waste flows to other landfills. NSLs contain a standard provision that allows Metro to take such action based upon a change in any circumstance under which Metro initially issued the license (for instance, if Metro later determines that there is a lack of capacity at Riverbend or Yamhill County requests that Metro stop further waste deliveries to the landfill, Metro could immediately modify, suspend, or terminate the NSL). In addition, a Metro-approved NSL does not require Riverbend to accept solid waste from its customers should it encounter capacity limitations. It is also plausible that new issues about the landfill expansion could be raised during the two-year term of this license – in which case Metro could take necessary action.

Riverbend Landfill

The current landfill footprint is 85 acres and the company owns over 702 acres on the site of which 145 acres are potentially slated for landfilling. In the short term, Riverbend has proposed to build a mechanically stabilized earthen berm to raise the perimeter height of the landfill enough to allow it to continue to take waste at its current rate for 2-3 years. Riverbend is considering seeking a longer-term lateral expansion to the landfill – potentially up to 60 additional acres. Waste Management is engaged in a series of public meetings in Yamhill County to discuss the potential expansion, future green waste technology and use of land not designated for land disposal for other community uses such as parks or agriculture. A 60 acre lateral expansion could provide as much as 20 years of capacity to the landfill.

Waste Management has also pursued other options to lessen dependency on the landfill, including diversion of non-putrescible waste from the landfill to the Tualatin Valley Waste Recovery facility in Hillsboro and relocation of the public recycling center to a more convenient location at the landfill site.

Waste Facts

In calendar year 2011, about 583,000 tons of solid waste were delivered to Riverbend from all sources (Table 1). Of these 583,000 tons, about 237,000 tons (41 percent) originated inside the Metro district. The balance came from areas outside of Metro.

In addition to the solid waste received for disposal, Riverbend accepted about another 75,000 tons of contaminated soils that were used for landfill operations, mainly alternative daily cover (Table 1). Of these 75,000 additional tons, about 21,000 originated inside the Metro boundary (Table 2).

Table 1	
Materials Received at Riverbend Landfill in 2011	
Solid Waste	
From inside Oregon	573,000 *
From out-of-state	10,000
Total Solid Waste	583,000
ADC/Soils	75,000
Total from all sources	658,000
<i>Source: DEQ, Solid Waste Disposal Report (quarterly). All tonnage amounts are rounded to the nearest 1000.</i>	

Table 2	
Materials Generated in the Metro District and Received at Riverbend Landfill in 2011	
Putrescible waste	208,000
Non-putrescible waste	29,000
Total Solid Waste	237,000 (41% of total waste at Riverbend)
ADC/soils	21,000
Total from Metro	258,000 (39% of total materials at Riverbend)
<i>Source: Metro, SWIS, based on reports filed by Riverbend. All tonnage amounts are rounded to the nearest 1000.</i>	

Of the 237,000 tons of Metro-area solid waste disposed at Riverbend in 2011, about 208,000 tons was putrescible waste collected from residential and commercial generators in Washington and northern Clackamas counties, delivered to one of four privately-owned transfer stations, and transported in large transfer trailers to Riverbend under the authority of a Metro-issued NSL (Table 3). The balance, 29,000 tons, was miscellaneous solid waste – mainly industrial waste, and non-putrescible processing residual directly delivered to the landfill from within the Metro region and delivered under the authority of the designated facility agreement with Riverbend. An additional 21,000 tons of contaminated soils originated in the Metro district, and were used for landfill operations, mainly alternative daily cover.

Table 3			
Metro-Area Putrescible Waste to Riverbend Landfill in 2011 by Transfer Station			
Transfer Station	Location	Putrescible Waste	
		Tons	Percent
Canby TS (Hoodview/West Linn)	Canby	13,008	6%
Forest Grove TS	Forest Grove	108,958	52%
Pride Recycling	Sherwood	63,472	31%
Willamette Resources	Wilsonville	22,487	11%
Total putrescible waste	In-District	207,925	100%

Metro transfer stations and the Troutdale Transfer Station send their waste to Columbia Ridge Landfill, not Riverbend. However, Riverbend serves as a back-up for these facilities whenever the Columbia Gorge is closed due to weather or other emergency situations. Metro transfer stations have not sent waste to Riverbend since 2007. Troutdale Transfer Station has delivered approximately 489 tons of waste to Riverbend within the last two calendar years.

Other Government Decisions

Numerous governments are involved in the oversight of landfills during consideration of a landfill expansion. Following is brief summary of each of the major entities responsible for decisions regarding aspects of the landfill expansion:

* Metro's Solid Waste Information System (SWIS) shows 571,000 tons (as previously reported), which is almost 2,000 fewer tons than shown in the DEQ reports. The difference is apparently due to corrections to deliveries from out-of-Metro counties, which SWIS does not track.

- **Yamhill County.** As part of its authorization process for NSLs and DFAs, Metro asks local host governments whether the destination facility is in compliance with local laws and whether it has any issues, concerns or objections to Metro-area waste flowing to disposal sites within their jurisdiction. Yamhill County is responsible for local land use decisions regarding the landfill. The County has informed Metro that the landfill is in compliance with state and local requirements and there is minimal risk of future environmental contamination at the site. On September 20, 2012, the County's director of planning and development also reported to Metro via email that the County's Board of Commissioners are "in agreement that Riverbend continues to meet their expectations regarding its environmental record and overall performance."

In addition, in June 2012, Yamhill County entered into a new five-year licensing agreement with Riverbend which replaced the previous agreement from 1994. The term of the County's new agreement became effective on July 1, 2012 and will extend beyond the two-year term of this proposed NSL renewal. The new agreement increases fees, based on volume, paid to the county and could increase County revenue by 60 percent based on previous waste disposal volumes. The County has also recently determined that both the short-term expansion (berm) and longer-term expansion (horizontal expansion) of the landfill are outright allowable uses.

- **DEQ.** As the chief agency responsible for permitting and environmental oversight of the landfill, DEQ must approve any expansion at Riverbend as well as continually monitor the landfill's environmental performance and compliance. DEQ is presently reviewing Waste Management's application for the proposed berm expansion. The key issues under review with the expansion proposal pertain to seismic stability and review of flood way and flood plain boundaries by FEMA (see below). DEQ originally received the application for a large lateral expansion in 2009. Waste Management's most recent permit application, which seeks approval to install a mechanically stabilized earthen berm at the site, was submitted to the DEQ in 2012 as a result of opponents appealing the landfill's previous expansion application in 2009. DEQ's decision on the berm will be subject to a 35-day public comment period and likely involve a public hearing. DEQ does not currently have any outstanding enforcement actions at the landfill. DEQ considers the operational practices and controls in place at the landfill to be appropriate for the proper management of waste disposal and adequate for the protection of health and the environment.
- **Federal Emergency Management Agency (FEMA).** FEMA is the agency responsible for mapping flood and riparian zones. Current flood maps issued by FEMA show both the flood way and the flood plain passing through the landfill even though the landfill has been there since the 1980s. Waste Management submitted technical information to FEMA in May 2012 in support of a request to revise these maps. FEMA is currently reviewing this information and is expected to render a decision soon.
- **Department of State Lands (DSL).** As the state agency responsible for wetland preservation and mitigation, DSL conducted an investigation of the impact of the landfill on wetlands in the area. Thus far, DSL has been satisfied that Waste Management is not disturbing the wetlands.
- **State Historic Preservation Office (SHPO) and Grand Ronde Tribe.** Excavation of soil at the site for daily cover resulted in finding some archeological artifacts but did not find human bones or bone fragments. The situation is being assessed by SHPO and its contractors. The local tribe is also being consulted.

- **Land Use Board of Appeals (LUBA).** Local opponents of the landfill and its expansion have routinely appealed Yamhill County land use decisions and determinations to LUBA. So far all appeals have been in the County's favor, including an October 30, 2012 decision that concluded the proposed expansion of the existing landfill is compatible with the County's comprehensive plan and land use regulations.

Impact of Landfill Closure or Waste Diversion

If Metro-area solid waste could no longer be delivered to Riverbend for disposal for whatever reason, at least 208,000 tons of putrescible waste would have to be shifted to the Columbia Ridge Landfill each year under Metro's disposal contract. Each round trip to Columbia Ridge Landfill is 280 miles longer, on average, than current trips to Riverbend. This increase in transport time and distance would increase costs and reduce environmental sustainability in the region. The change in transport dominates all other economic and environmental effects. The additional transport cost would be about \$5 million per year. This translates to an average increase of almost \$24 on each ton shifted to Columbia Ridge Landfill from Riverbend. Ratepayers in Washington County and northwest Clackamas County would bear virtually all of the cost and residential ratepayers in these counties could see increases of \$1.40 to \$1.80 per month on their garbage bills.

Summary

The future capacity of Riverbend and any decisions that might impact its expansion are indirectly relevant to Metro's decision to allow solid waste to be disposed at the landfill. It is a factor that will be monitored by staff; however, waste delivery to the landfill is ultimately a business transaction between privately-owned companies. Capacity does not appear to impinge on the landfill's ability to accept Metro-area waste from the current group of NSLs under consideration by Metro Council. Metro generally regards these types of requests from the private sector as a market decision – provided that: 1) the use of such disposal sites does not violate Metro Code or any of Metro's waste-related contracts, 2) all appropriate Regional System Fee and Excise Tax is remitted to Metro for the waste delivered to the disposal site, and 3) the receiving disposal site is appropriately authorized and allowed to operate by the local and state regulatory authorities. Metro has the authority to modify, suspend, or terminate its NSLs at any time if the landfill's capacity becomes constrained or if Yamhill County requests that Metro restrict the flow of solid waste away from Riverbend.