

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF) RESOLUTION NO. 03-3393A
OPERATING OFFICER TO ISSUE A NON-SYSTEM)
LICENSE TO WILLAMETTE RESOURCES, INC., FOR) Introduced by Michael Jordan,
DELIVERY OF PUTRESCIBLE SOLID WASTE TO) Chief Operating Officer, with the
THE COFFIN BUTTE LANDFILL) concurrence of David Bragdon,
) Council President

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

WHEREAS, Willamette Resources, Inc., (WRI) currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the Coffin Butte Landfill, which license will expire on December 31, 2003; and,

WHEREAS, WRI has applied for a new non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

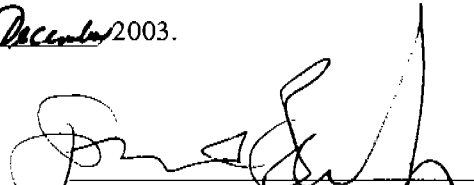
WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,

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

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to WRI in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this 4th day of December 2003.


David Bragdon, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney





METRO

LICENSE NO. N-005-04(3)

SOLID WASTE NON-SYSTEM LICENSE

Issued pursuant to Metro Code § 5.05.035.

1. Licensee:

LICENSEE: Willamette Resources, Inc. 10295 S.W. Ridder Rd. Wilsonville, OR 97070 Contact person: Mike Huycke Phone: (503) 570-0626 Fax: (503) 570-0523 E-Mail: mike.huycke@awin.com	FACILITY NAME AND LOCATION: Willamette Resources, Inc. 10295 S.W. Ridder Rd. Wilsonville, OR 97070 Contact person: Mike Huycke Phone: (503) 570-0626 Fax: (503) 570-0523 E-Mail: mike.huycke@awin.com
PARENT COMPANY: Allied Waste Industries, Inc. 15880 N. Greenway-Hayden Loop Scottsdale, AZ 85260 Phone: (602) 423-2946 Fax: (602) 423-9424	PROPERTY OWNER: Willamette Resources, Inc. 10295 S.W. Ridder Rd. Wilsonville, OR 97070 Contact person: Mike Huycke Phone: (503) 570-0626 Fax: (503) 570-0523 E-Mail: mike.huycke@awin.com

2. Nature Of Waste Covered By License:

Solid waste, including putrescible waste, generated within the boundaries of Metro.

3. Calendar Year Tonnage Limitation:

This license grants the Licensee the authority to dispose of up to 45,000 tons per calendar year of the waste described in section 2 of this license.

4. Non-System Facility:

The licensee hereunder may deliver the solid waste specified in this non-system license only to:

Coffin Butte Landfill
28972 Coffin Butte Road
Corvallis, OR 97330

5. Term of License:

The term of this license will commence on January 1, 2004 and expire on December 31, 2006.

6. Reporting of Accidents and Citations:

Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the licensee.

7. Additional License Conditions:

This non-system license shall be subject to the following conditions:

- (a) The permissive transfer of solid waste to the Coffin Butte Landfill authorized by this license will be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to another facility.
- (b) Reporting of tonnage delivered under the authority of this license at frequency intervals to be determined by Metro. Such reporting may be required on a weekly or daily basis should the licensee approach the tonnage limit stipulated in section 3 of this license or the combined tonnage of all NSLs issued by Metro approach the tonnage not obligated under Metro's disposal contract. Likewise, Metro reserves the right to direct the licensee's waste flow to system facilities with a minimum of 24 hours notice.
- (c) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines, at his or her sole discretion, that:
 - (i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,
 - (ii) the provisions of this license are actually or potentially in conflict with any of Metro's contractual obligations under the terms of a contract that became effective before the effective date of this license, 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 2 be

transferred to, and disposed of at, a facility other than the facility described in section 4, above.

- (d) This license shall, in addition to subsections (i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.
- (e) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:
 - (i) submit to Metro’s Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and
 - (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.
- (f) Licensees shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.

8. 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 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.

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.

Signed:

Acknowledgement & Acceptance of the
Terms and Conditions of this License:

Signature

Signature of Licensee

Michael Jordan, Chief Operating Officer
Print name and title

Print name and title

Date

Date

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3393A FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO WILLAMETTE RESOURCES, INC., FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE COFFIN BUTTE LANDFILL

December 4, 2003

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 03-3393A will authorize the Chief Operating Officer to issue a non-system license (NSL) to Willamette Resources, Inc., (WRI) to annually deliver up to a maximum of 45,000 tons of mixed solid waste, including putrescible waste, to the Coffin Butte Landfill located in Corvallis, Oregon. The WRI facility is located in Wilsonville, Oregon (Metro District 3). The existing license will expire on December 31, 2003.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license renewal.

2. Legal Antecedents

Changes to Code Chapter 5.05 approved by the Council with an emergency clause on October 9, 2003, made the issuance of NSLs for putrescible waste subject to approval by the Council rather than subject to approval by the Chief Operating Officer as was previously the case. 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;*

The Coffin Butte Landfill (CBLF) first came into use during the 1940s or 50s when it served as the landfill for the nearby Adair Village Military base. Later, the landfill accepted industrial wastes from the Wah Chang facility located in Albany, Oregon. When the CBLF became a Subtitle D landfill in 1992, the original unlined cells were capped. However, there remains a problem of leachate contamination of groundwater that is presently being monitored by the DEQ. Since 1992, the landfill has been filling only lined cells and operating with the required environmental controls required by the Oregon Department of Environmental Quality (DEQ). (The Coffin Butte Landfill is a Metro designated facility authorized to receive non-putrescible solid waste without the need for haulers to obtain non-system licenses.)

- (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;*

The Coffin Butte Landfill is permitted by the DEQ to take unlimited amounts of authorized wastes (putrescible, non-putrescible, special and cleanup wastes). The facility was issued a Notice of Noncompliance (NON) by DEQ in 1998 for failure to immediately report a landfill fire. Another NON was issued in July 2001 when too high a level of non-methane gasses was detected in the landfill gas power generation system. The problem was promptly remedied. These are considered to be relatively minor violations; both DEQ and Benton County considers the landfill to be a well-run facility that is in compliance with federal, state and local requirements. Benton County and the landfill executed an agreement in December 2000 establishing the parameters to be monitored by the Benton County Environmental Health Division, and authorizing the landfill to accept quantities of waste consistent with the DEQ permit. The facility has a good compliance record with public health, safety and environmental rules and regulations.

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

The Coffin Butte Landfill uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment.

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

The waste to be covered by the proposed license is putrescible waste and post-recovery residual. WRI already performs recovery on non-putrescible commercial and industrial waste at an average recovery rate of 33 percent. Approval of the license 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 committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management. WRI seeks authority to transfer waste that meets the definition of "acceptable waste" as used in Metro's waste disposal contract. This license is one of several that are coming before the Council at the same time. If all of the proposed licenses are approved, then the total amount of "acceptable waste" authorized under NSLs for delivery to non-Waste Management landfills will amount to an estimated 9.9 percent of Metro waste delivered to general purpose landfills based on a very conservative projection of the total amount of "acceptable waste" that will be delivered to general purpose landfills next year.* The NSLs contain provisions that can be used to increase the frequency of tonnage reports and amend tonnage authorizations should projections indicate a likelihood of a conflict or potential conflict with Metro's waste disposal contract.

These applications, in total, will place Metro very close to the ten percent of waste not obligated under the disposal contract. Staff tracks the tonnage "trajectory" of each licensee on an ongoing basis and believes there are sufficient "triggers" to enable Metro to adjust NSL tonnage allocations, if necessary, toward the end of each calendar year should there be a potential for exceeding the ten percent contractual limitation.

* The 9.9 percent is calculated by taking the sum of the tonnages in the NSL applications and dividing by amount of waste that is subject to the 90 percent flow guarantee. The latter amount is based on Metro's FY 2004-05 tonnage forecast (prepared October 2003).

- (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*

WRI and United Disposal Service have a joint NSL authorizing delivery of a maximum of 5,500 tons of waste to the Covanta waste-to-energy facility located in Marion County, Oregon. In FY 2002-03 the tonnage cap on this NSL was exceeded by 3,531 tons. Metro did not issue a formal Notice of Violation. In FY 2003-04 the cap on this NSL was exceeded again, this time by 243 tons. For the second incident WRI was issued a formal notice of violation but no fine was imposed.

In addition, WRI has twice violated its solid waste facility franchise tonnage cap. The first time was in calendar year 1999 when WRI exceeded its 50,000-ton cap by 2,219 tons. For this violation, WRI was issued a formal notice of violation and fined \$2,219. WRI contested the penalty, which was upheld by a hearings officer and the Metro Council, and WRI paid the fine. The second time occurred in fiscal year 2002-03 after the tonnage cap had been increased to 65,000 tons and changed from a calendar year to a fiscal year basis. In this incident WRI exceeded its cap by 1,246 tons. Metro responded by issuing a formal notice of violation and imposing a fine of \$6,000. WRI paid the second penalty without contesting Metro's decision.

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

WRI also has another NSL to deliver this same waste stream to the Riverbend Landfill. In 2002, WRI shifted its waste flow to the Rivebend Landfill toward the end of the year after reaching the cap on its Coffin Butte Landfill NSL. It intends to do so again this year.

Conclusion

The Chief Operating Officer finds that the proposed license satisfies the requirements of Metro Code Section 5.05.035 for the requested Solid Waste Facility License.

3. Anticipated Effects

The effect of Resolution No. 03-3393A will be to issue an NSL for delivery of up to 45,000 tons per calendar year of solid waste, including putrescible waste, to the Coffin Butte Landfill.

4. Budget Impacts

The regional system fee and excise tax will continue to be collected on waste delivered under authority of the proposed NSL. Approval of all the NSLs presented to the Council will result in a total tonnage authorization nearly identical to the current authorization and is expected to maintain the status quo.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 03-3393A, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF)	RESOLUTION NO. 03-3393
OPERATING OFFICER TO ISSUE A NON-SYSTEM)	
LICENSE TO WILLAMETTE RESOURCES, INC., FOR)	Introduced by Michael Jordan,
DELIVERY OF PUTRESCIBLE SOLID WASTE TO)	Chief Operating Officer, with the
THE COFFIN BUTTE LANDFILL)	concurrence of David Bragdon,
)	Council President

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

WHEREAS, Willamette Resources, Inc., (WRI) currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the Coffin Butte Landfill, which license will expire on December 31, 2003; and,

WHEREAS, WRI has applied for a new non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,

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

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to WRI in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2003.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney



METRO

LICENSE NO. N-005-04(3)

SOLID WASTE NON-SYSTEM LICENSE

Issued pursuant to Metro Code § 5.05.035.

1. Licensee:

<p>LICENSEE:</p> <p>Willamette Resources, Inc. 10295 S.W. Ridder Rd. Wilsonville, OR 97070</p> <p>Contact person: Mike Huycke</p> <p>Phone: (503) 570-0626 Fax: (503) 570-0523 E-Mail: mike.huycke@awin.com</p>	<p>FACILITY NAME AND LOCATION:</p> <p>Willamette Resources, Inc. 10295 S.W. Ridder Rd. Wilsonville, OR 97070</p> <p>Contact person: Mike Huycke</p> <p>Phone: (503) 570-0626 Fax: (503) 570-0523 E-Mail: mike.huycke@awin.com</p>
<p>PARENT COMPANY:</p> <p>Allied Waste Industries, Inc. 15880 N. Greenway-Hayden Loop Scottsdale, AZ 85260</p> <p>Phone: (602) 423-2946 Fax: (602) 423-9424</p>	<p>PROPERTY OWNER:</p> <p>Willamette Resources, Inc. 10295 S.W. Ridder Rd. Wilsonville, OR 97070</p> <p>Contact person: Mike Huycke</p> <p>Phone: (503) 570-0626 Fax: (503) 570-0523 E-Mail: mike.huycke@awin.com</p>

2. Nature Of Waste Covered By License:

Solid waste, including putrescible waste, generated within the boundaries of Metro.

3. Calendar Year Tonnage Limitation:

This license grants the Licensee the authority to dispose of up to 45,000 tons per calendar year of the waste described in section 2 of this license.

4. Non-System Facility:

The licensee hereunder may deliver the solid waste specified in this non-system license only to:

Coffin Butte Landfill
28972 Coffin Butte Road
Corvallis, OR 97330

5. Term of License:

The term of this license will commence on January 1, 2004 and expire on December 31, 2006.

6. Reporting of Accidents and Citations:

Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the licensee.

7. Additional License Conditions:

This non-system license shall be subject to the following conditions:

- (a) The permissive transfer of solid waste to the Coffin Butte Landfill authorized by this license will be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to another facility.
- (b) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines that:
 - (i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,
 - (ii) the provisions of this license are actually or potentially in conflict with any of Metro's contractual obligations under the terms of a contract that became effective before the effective date of this license, 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 2 be transferred to, and disposed of at, a facility other than the facility described in section 4, above.
- (c) This license shall, in addition to subsections (i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.
- (d) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:

- (i) submit to Metro’s Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and
 - (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.
- (e) Licensees shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.
- (f) This license shall terminate upon the execution of a designated facility agreement between Metro and the Riverbend Landfill.

8. 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 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.

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.

Signed:

Acknowledgement & Acceptance of the
Terms and Conditions of this License:

Signature

Signature of Licensee

Michael Jordan, Chief Operating Officer
Print name and title

Print name and title

Date

Date

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3393 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO WILLAMETTE RESOURCES, INC., FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE COFFIN BUTTE LANDFILL

December 4, 2003

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 03-3393 will authorize the Chief Operating Officer to issue a non-system license (NSL) to Willamette Resources, Inc., (WRI) to annually deliver up to a maximum of 45,000 tons of mixed solid waste, including putrescible waste, to the Coffin Butte Landfill located in Corvallis, Oregon. The WRI facility is located in Wilsonville, Oregon (Metro District 3). The existing license will expire on December 31, 2003.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license renewal.

2. Legal Antecedents

Changes to Code Chapter 5.05 approved by the Council with an emergency clause on October 9, 2003, made the issuance of NSLs for putrescible waste subject to approval by the Council rather than subject to approval by the Chief Operating Officer as was previously the case. 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;*

The Coffin Butte Landfill (CBLF) first came into use during the 1940s or 50s when it served as the landfill for the nearby Adair Village Military base. Later, the landfill accepted industrial wastes from the Wah Chang facility located in Albany, Oregon. When the CBLF became a Subtitle D landfill in 1992, the original unlined cells were capped. However, there remains a problem of leachate contamination of groundwater that is presently being monitored by the DEQ. Since 1992, the landfill has been filling only lined cells and operating with the required environmental controls required by the Oregon Department of Environmental Quality (DEQ). (The Coffin Butte Landfill is a Metro designated facility authorized to receive non-putrescible solid waste without the need for haulers to obtain non-system licenses.)

- (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;*

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

The Coffin Butte Landfill uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment.

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

The waste to be covered by the proposed license is putrescible waste and post-recovery residual. WRI already performs recovery on non-putrescible commercial and industrial waste at an average recovery rate of 33 percent. Approval of the license 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 committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management. WRI seeks authority to transfer waste that meets the definition of "acceptable waste" as used in Metro's waste disposal contract. This license is one of several that are coming before the Council at the same time. If all of the proposed licenses are approved, then the total amount of "acceptable waste" authorized under NSLs for delivery to non-Waste Management landfills will amount to an estimated 9.9 percent of Metro waste delivered to general purpose landfills based on a very conservative projection of the total amount of "acceptable waste" that will be delivered to general purpose landfills next year.* The NSLs contain provisions that can be used to increase the frequency of tonnage reports and amend tonnage authorizations should projections indicate a likelihood of a conflict or potential conflict with Metro's waste disposal contract.

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* The 9.9 percent is calculated by taking the sum of the tonnages in the NSL applications and dividing by amount of waste that is subject to the 90 percent flow guarantee. The latter amount is based on Metro's FY 2004-05 tonnage forecast (prepared October 2003).

- (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*

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In addition, WRI has twice violated its solid waste facility franchise tonnage cap. The first time was in calendar year 1999 when WRI exceeded its 50,000-ton cap by 2,219 tons. For this violation, WRI was issued a formal notice of violation and fined \$2,219. WRI contested the penalty, which was upheld by a hearings officer and the Metro Council, and WRI paid the fine. The second time occurred in fiscal year 2002-03 after the tonnage cap had been increased to 65,000 tons and changed from a calendar year to a fiscal year basis. In this incident WRI exceeded its cap by 1,246 tons. Metro responded by issuing a formal notice of violation and imposing a fine of \$6,000. WRI paid the second penalty without contesting Metro's decision.

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

WRI also has another NSL to deliver this same waste stream to the Riverbend Landfill. In 2002, WRI shifted its waste flow to the Rivebend Landfill toward the end of the year after reaching the cap on its Coffin Butte Landfill NSL. It intends to do so again this year.

Conclusion

The Chief Operating Officer finds that the proposed license satisfies the requirements of Metro Code Section 5.05.035 for the requested Solid Waste Facility License.

3. Anticipated Effects

The effect of Resolution No. 03-3393 will be to issue an NSL for delivery of up to 45,000 tons per calendar year of solid waste, including putrescible waste, to the Coffin Butte Landfill.

4. Budget Impacts

The regional system fee and excise tax will continue to be collected on waste delivered under authority of the proposed NSL. Approval of all the NSLs presented to the Council will result in a total tonnage authorization nearly identical to the current authorization and is expected to maintain the status quo.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 03-3393, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.