

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF) RESOLUTION NO. 03-3394
OPERATING OFFICER TO ISSUE A NON-SYSTEM)
LICENSE TO CROWN POINT REFUSE &) Introduced by Michael Jordan,
RECYCLING SERVICE, INC., FOR DELIVERY OF) Chief Operating Officer, with the
PUTRESCIBLE SOLID WASTE TO THE WASCO) concurrence of David Bragdon,
COUNTY LANDFILL) 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, Crown Point Refuse & Recycling Service, Inc., has applied for a 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,

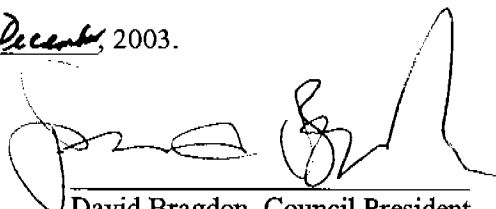
WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,

WHEREAS, the 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:

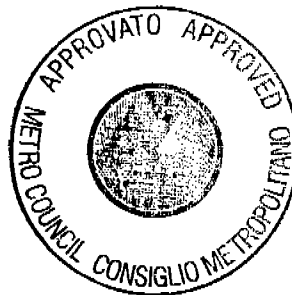
The Chief Operating Officer is authorized to issue a non-system license to Crown Point Refuse & Recycling Service, Inc., in a form substantially similar to the license attached as Exhibit A.

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-108-04

SOLID WASTE NON-SYSTEM LICENSE

Issued pursuant to Metro Code § 5.05.035.

1. Licensee:

LICENSEE: Crown Point Refuse & Recycling, Inc. PO Box 360 Corbett, OR 97019 Contact person: Randall S. Burbach Phone: (503) 695-3239 Fax: (503) 661-7216 E-Mail: crownpoint@teleport.com	FACILITY NAME AND LOCATION: Crown Point Refuse & Recycling, Inc. 1525 NE Crestview Lane Corbett, OR 97019 Contact person: Randall S. Burbach Phone: (503) 695-3239 Fax: (503) 661-7216 E-Mail: crownpoint@teleport.com
PARENT COMPANY Crown Point Refuse & Recycling, Inc. PO Box 360 Corbett, OR 97019 Contact person: Randall S. Burbach Phone: (503) 695-3239 Fax: (503) 661-7216 E-Mail: crownpoint@teleport.com	PROPERTY OWNER: N/A

2. Nature of Waste Covered by License:

Solid waste, including putrescible waste, generated within the boundaries of Metro and collected by the licensee.

3. Calendar Year Tonnage Limitation:

This license grants the Licensee the authority to dispose of up to 324 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:

Wasco County Landfill
2550 Steele Road
The Dalles, OR 97058.

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 North Wasco County 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 of this license 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.
- (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.
- (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

SK:bjl
M:\rem\od\projects\Legislation\2003NSLrenewals\CPNSL.doc

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3394 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO CROWN POINT REFUSE & RECYCLING SERVICE INC., FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE WASCO COUNTY LANDFILL

December 4, 2003

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 03-3394 will authorize the Chief Operating Officer issue a new non-system license (NSL) to Crown Point Refuse & Recycling Service to deliver solid waste, including putrescible waste, from its garbage collection routes located within the Metro boundary for delivery to the Wasco County Landfill located in The Dalles, Oregon. Crown Point Refuse & Recycling Service's hauling franchise is located in Metro District 1. The applicant has requested an annual authorization of 324 tons.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license renewal.

2. Legal Antecedents

The Council recently voted to list the Wasco County Landfill (WCLF) in Code section 5.05.030 as a facility designated to accept non-putrescible waste generated from within the Metro boundary. However, for purposes of putrescible waste disposal, WCLF remains a non-system facility. Code section 5.05.025 prohibits any person from utilizing such non-system facilities without an appropriate license from Metro. Code section 5.05.035 stipulates that a person may utilize a non-system facility only by obtaining a non-system license from Metro. On that basis, the applicant must have a Metro non-system license in order to utilize these facilities.

Section 5.05.035(c) of the Metro Code requires the Chief Operating Officer to make recommendations as to whether any application for a non-system license for putrescible waste should be approved. Such recommendation is based on the following factors:

- (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 Wasco County Landfill first came into use during the 1940s by area farmers. A tepee burner was added in the 1950s with the ash going into a canyon that was closed and capped in the early 1970s. The Oregon Department of Environmental Quality (DEQ) first permitted and began regulating the site in 1972. Presently, 213 acres are permitted of which 78 acres are dedicated to closed or active cells. The landfill is sited in a low rainfall area and has the environmental controls required by the DEQ for a RCRA

Subtitle D landfill.¹ DEQ and Metro staff are not aware of any waste types accepted at the landfill that would pose an unusual risk of future environmental contamination. (The Wasco County 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 Wasco County Landfill has been owned and operated by Waste Connections, Inc. since 1999. The company also operates the Finley Buttes Landfill, two transfer stations located in Clark County, Washington, and several franchised hauling companies within the Metro region. The Wasco County Landfill received a Notice of Noncompliance (NON) from the DEQ in September 2000, for failure to notify the DEQ within the required time period of the results of a monitoring well sampled that showed exceedance of parameters on total dissolved solids, iron, and manganese. The operator challenged the appropriateness of the NON as the test results pertained only to background levels of these contaminants. Since then, the Wasco County Landfill has operated in compliance with the DEQ and has no other known compliance issues regarding public health, safety and environmental rules and regulations.

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

The Wasco County 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 the health, safety, and the environment. The landfill's DEQ permit, along with the details of its waste screening, operations, closure, and special waste handling procedures have been reviewed and are on file with Metro.

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

The majority of the waste to be covered by the proposed license is putrescible waste without significant potential for recovery. Thus, approval of the license is not expected to significantly 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. Crown Point Refuse & Recycling Service 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.² The NSLs contain provisions that can be used to

¹ RCRA (Resource Conservation and Recovery Act) is the federal law that regulates hazardous and solid waste in the U.S.

² 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).

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.

- (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*

The applicant is a solid waste hauling company that operates under local requirements within eastern Multnomah County and has a good record of compliance with public health, safety and environmental rules and regulations. In early 2003, it was discovered by Metro investigators that the applicant was delivering waste from inside the Metro boundary to the Wasco County Landfill without having acquired the necessary license and without paying regional system fees and excise taxes. The applicant asserted that the violation was inadvertent and had resulted from mistaking the urban growth boundary for the Metro jurisdictional boundary. The applicant freely cooperated with the investigation and is making restitution to Metro through a negotiated settlement.

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

The applicant's hauling franchise straddles the eastern edge of the Metro boundary. The tonnage being requested is a very small amount and will enable the applicant to consolidate its in-Metro waste with its larger volume of waste collected from outside the boundary.

3. Anticipated Effects

The effect of Resolution No. 03-3394 will be the issuance of a new NSL for delivery of up to 324 tons annually of solid waste, including putrescible, to the North Wasco County Landfill.

4. Budget Impacts

The regional system fee and excise tax will 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. 03-3394, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.