

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE) RESOLUTION NO. 03-3395
CHIEF OPERATING OFFICER TO ISSUE A NON-)
SYSTEM LICENSE TO THE FOREST GROVE) Introduced by Michael Jordan,
TRANSFER STATION FOR DELIVERY OF) Chief Operating Officer, with the
PUTRESCIBLE SOLID WASTE TO THE) concurrence of David Bragdon,
RIVERBEND 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, the Forest Grove Transfer Station's existing non-system license to deliver mixed solid waste, including putrescible waste, to the Riverbend Landfill, a non-system facility, will expire on December 31, 2003; and,

WHEREAS, the Forest Grove Transfer Station 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,

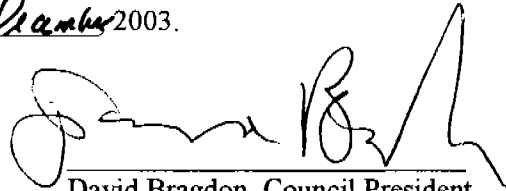
WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request a license; and,

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 the Forest Grove Transfer Station that shall be 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-010-04

SOLID WASTE NON-SYSTEM LICENSE

Issued pursuant to Metro Code § 5.05.035.

1. Licensee:

LICENSEE: Forest Grove Transfer Station 1525 "B" St. Forest Grove, OR 97116 Contact: Dean Kampfer Phone: (503) 672-4040 Fax: (503) 357-4822 E-mail: dkampfer@wm.com	FACILITY NAME AND LOCATION: Forest Grove Transfer Station 1525 "B" St. Forest Grove, OR 97116 Contact: Dean Kampfer Phone: (503) 672-4040 Fax: (503) 357-4822 E-mail: dkampfer@wm.com
COMPANY OWNER Waste Management of Oregon, Inc. 7227 NE 55 th Ave. Portland, OR 97218 Phone: (503) 331-2221 Fax: (503) 528-0673	PROPERTY OWNER Forest Grove Transfer Station 1525 "B" St. Forest Grove, OR 97116 Contact: Dean Kampfer Phone: (503) 672-4040 Fax: (503) 357-4822 E-mail: dkampfer@wm.com

2. Nature Of Waste Covered By License:

Mixed solid waste, including putrescible waste, received at the Forest Grove Transfer Station from commercial refuse haulers and public customers.

3. Tonnage Not Limited:

The quantity of solid waste delivered to the non-system facility listed under section 4 of this license shall not be limited except to the extent that it may be limited under section 7 of this license or by any applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this license.

4. Non-System Facility:

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

Riverbend Landfill
13469 S.W. Highway 18
McMinnville, OR 97128

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 Riverbend 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, 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.
- (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

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Date

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3395 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO THE FOREST GROVE TRANSFER STATION FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE RIVERBEND LANDFILL

December 4, 2003

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 03-3395 will authorize the Chief Operating Officer to issue a non-system license (NSL) to the Forest Grove Transfer Station to deliver an unrestricted quantity of mixed solid waste, including putrescible waste, to the Riverbend Landfill located in McMinnville, Oregon. The Forest Grove Transfer Station is located in Metro District 4. An NSL has been in place since 1990. The existing license will expire on December 31, 2003. The Forest Grove Transfer Station and the Riverbend Landfill are both subsidiaries of Waste Management of Oregon.

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 Riverbend Landfill first came into use during the mid-eighties. When the Riverbend became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, 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 landfill has no known history of landfilling wastes that pose a future risk of environmental contamination.

- (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 Riverbend Landfill is permitted by the DEQ. The facility was issued an notice of non-compliance (NON) by DEQ in 1997 when an out-of-tune gas flare caused vibrations that were heard in a residential area nearby. The problem was considered to be relatively minor violation and was promptly remedied. The DEQ considers the landfill to be a well-run facility that is in compliance with federal, state and local requirements. 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 Riverbend 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 Forest Grove Transfer Station toploads mixed solid waste, including putrescible waste, directly into transfer trailers for delivery to a general purpose landfill. The facility does not perform materials recovery. Granting the requested license will not impact the region's recycling and waste reduction efforts.

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

Riverbend Landfill is a Waste Management facility. Thus, under a disposal agreement that has been in force since 1999, waste delivered under the proposed license is included as waste delivered to Metro's contract operator for purposes of Metro's disposal contract. The requested license does not appear to conflict with Metro's disposal contract or any other of its existing contractual arrangements. Nevertheless, in the event that Waste Management were to sell the Riverbend Landfill, staff recommends that the NSL include a condition providing that the Metro Chief Operating Officer may amend, modify, or terminate the license if the Chief Operating Officer determines, at his or her discretion, that its provisions are, at any point in time, actually or potentially in conflict with any of Metro's 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*

In 1999, Waste Management of Oregon (at that time called USA Waste of Oregon, Inc.) acquired the Forest Grove Transfer Station. Since that time there have been no incidents of non-compliance with its NSLs or its facility franchise. The applicant is also in compliance with its Department of Environmental Quality solid waste facility permit and local land use authority.

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

Solid waste delivered to the Riverbend Landfill counts toward the declining block fee schedule stipulated in Metro's disposal contract with Waste Management. FGTS has been disposing of solid waste at the Riverbend Landfill under the authority of a Metro-issued NSL since 1990.

Conclusion

The Chief Operating Officer finds that the proposed license satisfies the requirements of Metro Code Section 5.03.035 for the requested Solid Waste Facility License.

3. Anticipated Effects

The effect of Resolution No. 03-3395 will be to authorize the Chief Operating Officer to issue a NSL to the Forest Grove Transfer Station's NSL to deliver putrescible waste to the Riverbend Landfill.

4. Budget Impacts

The Forest Grove Transfer Station's NSL will continue the status quo with no additional budget impact. The regional system fee will continue to be collected by the transfer station on all solid waste received from within the Metro boundary. The excise tax is collected on all waste regardless of where it is generated.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 03-3395.

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