

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO) ORDINANCE NO. 14-1333
CODE CHAPTER 5.05 TO DELETE LAKESIDE)
RECLAMATION FROM THE LIST OF METRO) Introduced by Chief Operating Officer Martha
DESIGNATED FACILITIES) Bennett in concurrence with Council
President Tom Hughes

WHEREAS, Metro Code Section 5.05.030 authorizes the Metro Council to add and delete facilities from the list of designated facilities included in that section; and

WHEREAS, in Metro Ordinance No. 89-319, the Metro Council adopted Metro Code Section 5.05.030 and added Lakeside Reclamation as a designated facility of the system; and

WHEREAS, in Metro Resolution No. 08-4009, the Metro Council terminated the Designated Facility Agreement with Lakeside Reclamation, effective December 31, 2008; and

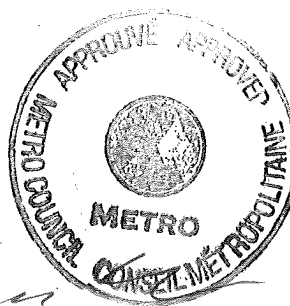
WHEREAS, Metro Code Section 5.05.030(b) requires the Metro Council to consider seven criteria when deciding whether to amend or delete an existing designation; and

WHEREAS, as set forth in the staff report accompanying this Ordinance, the Chief Operating Officer analyzed the criteria set forth in Metro Code Section 5.05.030(b) and recommends that the Metro Council delete Lakeside Reclamation from the list of designated facilities; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Section 5.05.030 (a) (4) listing Lakeside Reclamation as a Designated Facility of the System is deleted.
2. The remaining provisions are renumbered as provided in Ordinance No. 14-1337.

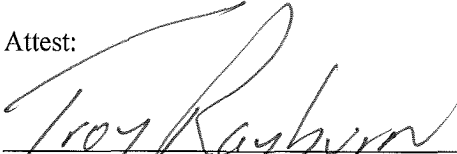
ADOPTED by the Metro Council this 24th day of July, 2014.



Tom Hughes

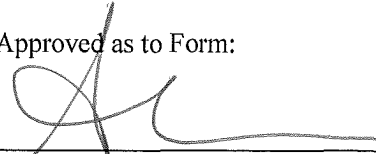
Tom Hughes, Council President

Attest:



Troy Rayburn, Recording Secretary

Approved as to Form:



Alison R. Kean, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1333, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.05 TO DELETE LAKESIDE RECLAMATION FROM THE LIST OF METRO DESIGNATED FACILITIES

Date: July 1, 2014

Prepared by: Bill Metzler, 503-797-1666

The proposed Ordinance, if approved by Council, will delete Lakeside Reclamation from the list of designated facilities of the system described in Metro Code Chapter 5.05.

BACKGROUND

Metro solid waste flow control provisions (Chapter 5.05 of the Code) allow Council to “designate” facilities located outside the Metro boundary to be part of the Metro solid waste system. Metro Code Section 5.05.030 describes the designated facilities of the system. Once designated, these facilities enter into contracts (designated facility agreements) with Metro to receive specific waste streams from in the Metro region without the need for individual haulers to obtain a Metro non-system license (NSL). Designated facilities also collect and remit to Metro Regional System Fee and Excise Tax on waste when applicable. Designated facility agreements are a way for Metro and the private sector to cooperatively allow the free flow of certain wastes, and gives Metro some level of regulatory oversight at the facility; thereby ensuring proper management of the waste generated in the Metro region.

Lakeside Reclamation has been listed as a designated facility in Metro Code Chapter 5.05 since 1989 (Ordinance No. 89-319) and was subject to the terms of an agreement with Metro. Metro Ordinance No. 93-483 modified the designated facility listing of Lakeside Reclamation in Metro Code Chapter 5.05. As a result, Metro and Lakeside Reclamation entered into a designated facility agreement in April 1993 (Metro Contract No. 902857), until it was terminated by the Metro Council on December 31, 2008 (Resolution No. 08-4009). During this time the landfill received primarily construction and demolition debris generated in the Metro region.

On July 1, 2009, Lakeside Reclamation initiated closure of the landfill and ceased accepting solid waste for disposal in accordance with its Solid Waste Disposal Site Closure Permit No. 214 issued by the Oregon Department of Environmental Quality (DEQ).

Deleting an existing designated facility

Metro Code Section 5.05.030(a) contains a list of designated facilities. Metro Code Section 5.05.030(b) states that, pursuant to a duly enacted ordinance, the Metro Council may add facilities or delete them from the list. In deciding whether to designate an additional facility, or amend or delete an existing designation, the Council shall consider several factors listed in Code.

These factors may be relevant when considering whether or not to designate an additional facility or amend an existing designation. However, these factors are not particularly relevant for deleting an existing designation for a closed disposal site such as Lakeside Reclamation. Lakeside Reclamation is no longer an active disposal site and it has been closed since July 1, 2009 in accordance with its DEQ Solid Waste Disposal Site Closure Permit No.214.

Below is a list of the factors listed in Section 5.05.030(b), followed by staff consideration.

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

Lakeside Reclamation has been a designated facility since 1993. Metro and Lakeside Reclamation held a designated facility agreement from April 1993 (Metro Contract No. 902857) until it was terminated by the Metro Council on December 31, 2008 (Resolution No. 08-4009). During this time the landfill received primarily construction and demolition debris generated in the Metro region.

The disposal site is closed. On July 1, 2009, Lakeside Reclamation Landfill ceased accepting solid waste for disposal in accordance with its Solid Waste Disposal Site Closure Permit No. 214 issued by the DEQ. The permit no longer authorizes Lakeside accept solid waste for disposal and required the landfill to close in accordance with DEQ specifications and protocols set forth in its Closure Permit.

- 2) *The record of regulatory compliance of the 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 disposal site is closed. On July 1, 2009, Lakeside Reclamation ceased accepting solid waste for disposal in accordance with its Solid Waste Site Closure Permit No. 214 issued by the DEQ.

Lakeside Reclamation operated under a Solid Waste Disposal Site Permit and closed in accordance with its Solid Waste Disposal Site Closure Permit No.214 issued by the DEQ. According to DEQ reports, during the DEQ permit period from 1998 through 2008, DEQ compliance inspectors cited Lakeside Reclamation several times for accepting prohibited materials for disposal.

The Metro Council terminated the designated facility agreement between Lakeside Reclamation and Metro on December 31, 2008 (Resolution No. 08-4009) because Lakeside Reclamation failed to establish a modified agreement with the Chief Operating Officer by the required deadline established in Metro Code which constituted good cause for termination of the agreement.

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

The disposal site is closed. On July 1, 2009, Lakeside Reclamation ceased accepting solid waste for disposal in accordance with its Solid Waste Site Closure Permit No. 214 issued by the DEQ.

Lakeside Reclamation operated under a Solid Waste Disposal Site Permit and closed in accordance with its Solid Waste Disposal Site Closure Permit No.214 issued by the DEQ. According to DEQ reports, during the DEQ permit period from 1998 through 2008, DEQ compliance inspectors cited Lakeside Reclamation several times for accepting prohibited materials for disposal.

The Metro Council terminated the designated facility agreement between Lakeside Reclamation and Metro on December 31, 2008 (Resolution No. 08-4009) because Lakeside Reclamation failed to establish a modified agreement with the Chief Operating Officer by the required deadline established in Metro Code which constituted good cause for termination of the agreement.

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

The disposal site is closed. On July 1, 2009, Lakeside Reclamation ceased accepting solid waste for disposal pursuant to its Solid Waste Site Closure Permit No. 214 issued by the DEQ.

The Metro Council terminated the designated facility agreement between Lakeside Reclamation and Metro on December 31, 2008 (Resolution No. 08-4009) because Lakeside Reclamation failed to establish a modified agreement with the Chief Operating Officer by the required deadline established in Metro Code which constituted good cause for termination of the agreement.

Starting on January 1, 2009, any landfill accepting non-putrescible waste (such as construction and demolition debris) from the Metro region has been prohibited from accepting and disposing of non-putrescible waste that has not first undergone material recovery. This has resulted in an increase in the region's recycling and waste reduction efforts.

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

Deleting Lakeside Reclamation from the list of designated facilities in Metro Code Section 5.05.030(a) does not conflict with Metro's disposal contract or any other of Metro's existing contractual arrangements.

6) *The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement;*

The Metro Council terminated the designated facility agreement between Lakeside Reclamation and Metro on December 31, 2008 (Resolution No. 08-4009) because Lakeside Reclamation failed to establish a modified agreement with the Chief Operating Officer by the required deadline established in Metro Code which constituted good cause for termination of the agreement.

7) *Other benefits or detriments accruing to residents of the region from Council action in designating a facility, or amending or deleting an existing designation.*

There are no other benefits or detriments regarding deleting the existing designation other than providing consistency with the following actions taken by Metro and the DEQ: (1) the Metro Council's action to terminate the designated facility agreement between Lakeside Reclamation and Metro on December 31, 2008 (Resolution No. 08-4009), and (2) on July 1, 2009, Lakeside Reclamation ceased accepting solid waste for disposal pursuant to its Solid Waste Site Closure Permit No. 214 issued by the DEQ. There are no regional impacts since Lakeside Reclamation has not accepted waste from the Metro region for disposal since January 1, 2009.

The proposed Ordinance No. 14-1333 serves as a companion to Ordinance No. 14-1334 and Ordinance No. 14-1335 in which it is recommended that Cedar Grove Composting, Inc. and Weyerhaeuser Regional Landfill also be removed from the list of designated facilities of the system in Metro Code Section 5.05.030 (a).

ANALYSIS/INFORMATION

1. Known Opposition. There is no known opposition to this Ordinance.

2. **Legal Antecedents.** Metro Code Section 5.05.030 (b) provides that Metro Council may, from time to time, acting pursuant to a duly enacted ordinance, may remove a facility from the list of designated facilities described in Metro Code Section 5.05.030 (a).
3. **Anticipated Effects.** Adoption of Ordinance 14-1333 will delete Metro Code Section 5.05.030 (a) (4) that lists Lakeside Reclamation as a Designated Facility of the System. The remaining provisions will be renumbered as provided in Ordinance No. 14-1337.
4. **Budget Impacts.** There are no budget impacts associated with the adoption of this Ordinance.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Ordinance No. 14-1333

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