

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF) RESOLUTION NO. 14-4572A
OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM)
LICENSE TO WEST LINN REFUSE AND RECYCLING, INC. FOR) Introduced by Chief Operating
DELIVERY OF PUTRESCIBLE WASTE TO CANBY TRANSFER) Officer Martha Bennett in
AND RECYCLING, INC. FOR THE PURPOSE OF TRANSFER) concurrence with Council
AND DISPOSAL AT THE RIVERBEND LANDFILL LOCATED IN) President Tom Hughes
YAMHILL COUNTY, OREGON)

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, West Linn Refuse and Recycling, Inc. ("WLR") holds Metro Solid Waste Facility Non-System License No. N-119-13, which expires on December 31, 2014; and

WHEREAS, WLR has filed a complete application seeking renewal of the non-system license to deliver putrescible waste to Canby Transfer and Recycling, Inc. for the purpose of transfer 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, Riverbend Landfill is in the process of seeking expansion of the landfill to increase capacity by approximately 15 years; and


WHEREAS, the Metro Council finds that disposing of putrescible waste generated within the Metro region in Riverbend Landfill after 2016 may not be in the best interests of the region; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in this Resolution and Exhibit A ~~to this Resolution~~; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The non-system license renewal application of WLR is approved subject to the terms, conditions, and limitations contained in this Resolution and Exhibit A ~~to this Resolution~~.
2. The Chief Operating Officer is authorized to issue to WLR a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.
- 2.3. The Chief Operating Officer should consider any future application to send putrescible waste to Riverbend Landfill as a new application, not a renewal, and should evaluate landfill capacity when determining whether a non-system license should be issued.


ADOPTED by the Metro Council this 4th day of December 2014.



Tom Hughes, Council President



Approved as to Form:



Afison R. Kean, Metro Attorney

BEFORE THE METRO COUNCIL

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DELIVERY OF PUTRESCIBLE WASTE TO CANBY TRANSFER)	Officer Martha Bennett in
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YAMHILL COUNTY, OREGON)	

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WHEREAS, WLR has filed a complete application seeking renewal of the non-system license to deliver putrescible waste to Canby Transfer and Recycling, Inc. for the purpose of transfer 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 WLR 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 WLR a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 4th day of December 2014.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney



METRO

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

No. N-119-15

LICENSEE:
West Linn Refuse & Recycling, Inc. 1600 SE 4 th Avenue Canby, OR 97013
CONTACT PERSON:
Andy Kahut Phone: (503) 936-3743 Fax: (503) 263-6477 E-mail: akahut@kahutwasteservices.com
MAILING ADDRESS:
West Linn Refuse & Recycling, Inc. P.O. Box 550 Canby, OR 97013

ISSUED BY METRO:

Scott Robinson, Deputy Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste that is generated by residential and commercial customers within the Metro region and collected by West Linn Refuse & Recycling, Inc.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 9,000 tons per calendar year of the waste described in Section 1 of this license.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in Section 1, above, only to the following non-system facility for the purpose of transfer to the Riverbend Landfill for disposal:</p> <p style="text-align: center;">Canby Transfer & Recycling, Inc. 1600 SE 4th Avenue Canby, OR 97013</p> <p>This license is issued on condition that the non-system facility and disposal site named in this section are 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 the non-system facility or disposal site are 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, 2015 and expire at midnight on December 31, 2016, 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 by Metro's Chief Operating Officer (the "COO") in the event that the COO</p>



	<p>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.; oriii. 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 facility described in Section 3. <p>(c) This license shall, in addition to subsections (b)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.</p> <p>(d) 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 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
	<p>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.</p>

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 14-4572 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO WEST LINN REFUSE AND RECYCLING, INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO CANBY TRANSFER AND RECYCLING, INC. FOR THE PURPOSE OF TRANSFER AND DISPOSAL AT THE RIVERBEND LANDFILL LOCATED IN YAMHILL COUNTY, OREGON

November 25, 2014

Prepared by: Roy W. Brower
503-797-1657

Approval of Resolution No. 14-4572 will authorize the Chief Operating Officer (COO) to issue a two-year non-system license renewal (NSL), similar to the proposed license attached to this resolution as Exhibit A, to West Linn Refuse and Recycling, Inc. (WLR). The proposed NSL will authorize WLR to deliver up to 9,000 tons per calendar year of putrescible waste from the Metro region to Canby Transfer and Recycling, Inc. (Canby Transfer) for the purpose of transfer and disposal at Riverbend Landfill (Riverbend) located in Yamhill County, Oregon. The proposed NSL, which is set to expire on December 31, 2016, renews the same authorization that WLR has held since 2005.

The applicant (WLR) and the destination facility (Canby Transfer) are both affiliated with KB Recycling, Inc. headquartered in Canby, Oregon. KB recycling also owns and operates a Metro-licensed material recovery facility¹ located at 9602 SE Clackamas Road, in Clackamas (Metro Council District 2).

INTRODUCTION

(1) Background

Metro is responsible for regulating and managing the disposal of solid waste generated in the region.² NSLs are the main authorization vehicle by which Metro authorizes the delivery of putrescible solid waste to facilities located outside the Metro region. NSLs are also used by Metro to manage its contractual obligation to deliver a minimum of 90 percent of the region's *putrescible* waste, which is delivered to general purpose landfills, to landfills owned by Waste Management (also known as "*the flow guarantee*"). NSLs allow Metro to closely monitor and potentially guide waste flows to other authorized facilities in order to comply with the flow guarantee.

Metro has a practice of allowing waste haulers and transfer stations located within the Metro region to select their disposal sites provided that the:

- 1) Use of such disposal site does not violate Metro Code or any of Metro's waste-related contracts,
- 2) Appropriate Regional System Fee and Excise Tax is collected and remitted to Metro for the waste delivered to the disposal site, and
- 3) Disposal site is appropriately authorized by the local and state regulatory authorities. (In the case of the Riverbend Landfill, the primary authorizing agencies would include Yamhill County and the Oregon Department of Environmental Quality (DEQ)).

¹ Metro Solid Waste Facility License No. L-007-12

² Oregon Revised Statute Chapters 268 and 459; Metro Charter and Metro Code Chapter 5.05.

In December 2013, Metro entered into a designated facility agreement with Riverbend.³ This agreement, which expires at the end of 2019, allows certain types of Metro-area waste (such as non-putrescible processing residual, cleanup waste and special waste) to be delivered to the landfill without the need for haulers or persons delivering the waste to obtain an NSL. Designated facility agreements (DFAs) do not include the acceptance of Metro-area putrescible waste. Therefore, NSLs are required for any hauler to deliver such waste to any landfill, including Riverbend. NSLs are typically issued for a period of two years; while DFAs generally have 5-year terms.

Resolution No. 14-4572 would grant an NSL to WLR to deliver Metro-area putrescible waste to a land disposal site owned by Waste Management located in Yamhill County. This NSL controls a portion of the 90 percent of waste that is guaranteed to Waste Management under Metro's disposal contract which runs through 2019. Metro Council is scheduled to consider five such resolutions that will authorize the delivery of putrescible waste to Riverbend during the next two years. In addition to this action for WLR, the Council is scheduled to consider similar resolutions for Pride Recycling Company (Res. No. 14-4569), Willamette Resources, Inc. (Res. No. 14-4570), Hoodview Disposal and Recycling, Inc. (Res. No. 14-4573), and Forest Grove Transfer Station (Res. No. 14-4571) at its meeting on December 4, 2014.

(2) The Applicant

In November 2012, the Metro Council granted WLR an NSL⁴ to deliver a maximum of 9,000 tons per calendar year of putrescible waste, collected from its routes located inside the Metro region, to Canby Transfer for the purpose of consolidation and transfer to Riverbend for disposal. The term of the NSL commenced on January 1, 2013, and is set to expire on December 31, 2014. WLR delivered approximately 6,800 tons of putrescible waste to Riverbend in 2013 and about 5,750 tons to the landfill so far in 2014 (through October).

On June 10, 2014, WLR submitted an application to Metro seeking to renew its NSL with the same tonnage authorization. Adoption of Resolution No. 14-4572 would authorize the COO to issue an NSL to WLR to annually deliver up to 9,000 tons of Metro-area putrescible waste to Canby Transfer, for ultimate disposal at Riverbend through 2016.

ANALYSIS/INFORMATION

1. Known Opposition

The putrescible 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. Within Yamhill County, there is known local public opposition to expanding the capacity of the landfill and general concern expressed by some local citizens about the disposal of waste generated outside of the County, including Metro-area waste, at Riverbend especially if Metro-area waste contributes to the need for expanded capacity at the landfill.

³ Metro Contract No. 932399

⁴ NSL No. N-119-13

As part of its authorization process for NSLs, Metro asks the local host government whether the destination facility is in compliance with local laws and whether it has any issues, concerns, or objections to the delivery of Metro-area waste to the disposal site within its jurisdiction.

Yamhill County is responsible for local land use decisions regarding Riverbend. On October 22, 2014, the County's solid waste staff sent a letter to Metro stating that the County had no issues with Riverbend's acceptance of Metro-area waste (see Attachment 2). The letter also indicated that the landfill has a history of operating in compliance with the County's license agreement.

On November 13, 2014, the Yamhill County Board of Commissioners sent a letter to the Metro Council responding to Metro's request for input on the proposed NSL renewals (see Attachment 2). The County Commissioners informed Metro that the landfill has a history of operating in compliance with the County and DEQ requirements and that the landfill has met the County's licensing agreement and regulatory requirements related to environmental protection. The County also indicated that Waste Management has demonstrated a commitment to work in partnership with the County in the development of green technology, ongoing operational improvements at the landfill, waste diversion, implementation of a public recycling center and development of a stewardship plan for lands that will not be used for land disposal.

On September 10, 2014, the City Manager of McMinnville provided Metro with a letter expressing the City's concerns about the importation of Metro-area waste to Riverbend (see Attachment 2). While the landfill is not located within the City's jurisdiction, the landfill is located in close proximity to its boundary and some waste haulers travel on the City's roads en route to the landfill.

In addition to the above, Riverbend is permitted by DEQ to accept solid waste and DEQ has not objected to the landfill receiving Metro-area waste for disposal.

Currently, the Riverbend Landfill is expected to reach capacity sometime during 2016 or early 2017 based on Waste Management's projection of solid waste tons disposed at the landfill and without additional approval to expand the landfill's capacity. Waste Management is pursuing an expansion in order to lengthen the life of the landfill. Although approval of Resolution No. 14-4572 would authorize WLR to deliver waste to the landfill, via Canby Transfer, the proposed NSL does not obligate Riverbend to accept Metro-area waste. This is noted for Council's consideration because the landfill seeks to expand its capacity. Attachment 1 provides a more in depth overview of the expansion request and approval process

2. Legal Antecedents

Metro Code Section 5.05.025 prohibits any person from utilizing non-system facilities without an appropriate license from Metro. Additionally, Code Section 5.05.043 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 proposed non-system facility is a transfer station rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. Canby Transfer began operations in 1996 and services only affiliated hauling companies including WLR and Hoodview Disposal and Recycling, Inc. located in the Metro region. Staff is not aware of any wastes collected by WLR and accepted at Canby Transfer that could pose a risk of environmental contamination.

Riverbend first came into use during the mid-eighties and became a permitted RCRA Subtitle D⁵ 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 DEQ. The environmental risk associated with the use of this disposal site is regulated by the appropriate local and state authorities. It has been Metro's practice to rely on the local land use authority and the state environmental agency to determine whether environmental or human health risks posed are known, reasonable and appropriate. Riverbend had two compliance issues during 2014 that are detailed in (2) below.

- (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;*

KB Recycling owns and operates Canby Transfer and Waste Management owns and operates Riverbend (as well as the Forest Grove Transfer Station, Troutdale Transfer Station, Tualatin Valley Waste Recovery Facility, Hillsboro Landfill, Newberg Transfer Station, and the Columbia Ridge Landfill). Metro staff's investigation of these companies has revealed a generally good record of compliance with local and state agencies responsible for health, safety, land use, and environmental regulations.

However, DEQ issued two pre-enforcement notices to Waste Management for violations at Riverbend in 2014. One of these enforcement actions has been resolved and the other has not. A copy of the DEQ notices and Waste Management's responses are provided in Attachment 3. These notices are also summarized below:

- March 17, 2014, Pre-Enforcement Notice (Resolved).
 - On January 28, 2014, DEQ inspectors observed leachate escaping from the north side of the landfill. The leachate migrated beyond the perimeter of the landfill but did not appear to travel far. The leachate appeared to originate from an old French drain along the landfill's perimeter that was clogged as the result of recent construction of a stormwater diversion swale. (Class 2 Violation)
 - On February 10, 2014, landfill personnel observed and reported leachate escaping from the landfill's northern boundary. The leachate incident appeared to have been unrelated to the earlier release. The leachate observed at that time was primarily liquid that had collected in the landfill's gas extraction wells and migrated to a creek about 300 feet from the landfill. (Class 1 Violation)

⁵ Subtitle D landfill standards are established nationally under the Resource Conservation and Recovery Act (RCRA).

- Waste Management took several corrective actions to address the migration of leachate past the landfill boundary and DEQ considers this matter to be resolved. (See March 28, 2014 letter from Waste Management to DEQ listing corrective actions taken.)
- November 3, 2014, Pre-Enforcement Notice (Unresolved).
 - In Riverbend's 2013-14 *Discharge Monitoring Report*, Waste Management reported exceeding its daily maximum limit for total zinc and the landfill was subsequently unable to perform the follow-up monitoring as required. (Class 1 Violation).
 - This matter has been referred to DEQ's Office of Compliance and Enforcement for formal enforcement action, which may include assessment of civil penalties or issuance of an Order.

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

Canby Transfer and Riverbend are permitted by the DEQ. Canby Transfer uses operational practices and management controls that are typical of transfer stations and that Metro considers adequate for the protection of health and the environment.

In addition, Riverbend uses operational practices and management controls that are typical of RCRA Subtitle D landfills. Riverbend became permitted as a Subtitle D landfill in 1993 which put in place new requirements⁶ to minimize risk of future environmental contamination at the site. Staff at the DEQ 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 but have had two recent enforcement actions as detailed in (2) above.

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

The proposed license covers the disposal of putrescible solid waste, which currently has limited recovery potential. This license 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 issuing the license with Metro's existing contractual arrangements;*

Through 2019, 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. The denial of this NSL would require WLR to either deliver its putrescible waste to one of the region's transfer stations or obtain an NSL to deliver this waste to Waste Management's Columbia Ridge Landfill located in Gilliam County.

⁶ In the 1990's, RCRA 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.

- (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*

WLR is currently in compliance with its Metro-issued NSL. The applicant has not had any compliance issues with regard to Metro regulations within the last two years.

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

An additional factor that is related to this NSL application and the proposed NSL is the available future disposal capacity of Riverbend. In 2013, Riverbend received approval to build a mechanically stabilized earthen berm (MSE), similar to berms used in road construction projects. The berm will give the landfill additional short-term capacity. At the current fill rate, Waste Management estimates the landfill has capacity to operate through 2016 or early 2017 without some additional expansion approval or waste diversion. On November 5, Waste Management submitted a landfill expansion application to Yamhill County for site design approval. The application includes a lateral expansion of 37 acres. 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's expansion. 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. 14-4572 will be to issue a two-year NSL authorizing WLR to deliver up to 9,000 tons per calendar year of putrescible waste to Canby Transfer for the purpose of consolidation and transfer to Riverbend for disposal.

4. Budget/Rate Impacts

Since Riverbend is owned and operated by Waste Management there is no 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. 14-4572, finding that the license renewal satisfies the requirements of Metro Code Section 5.05.043. Approval of Resolution No. 14-4572 will authorize the COO to issue an NSL, similar to the one attached to the resolution as Exhibit A, to WLR for a two-year period commencing on January 1, 2015 and expiring on December 31, 2016.

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 (generally located in Washington and northern Clackamas Counties). Riverbend's ongoing disposal capacity is germane to Metro Council's decision regarding whether to approve non-system licenses (NSLs) that authorize the use of the landfill as a disposal site since there is some uncertainty about future available capacity and how quickly pending approvals for expanded capacity will be processed.

In 2014, Waste Management received approval to construct a mechanically stabilized earthen berm (MSE). This berm was constructed in 2014 and solid waste was disposed within the berm area starting in October 2014. At the current fill rate, Waste Management estimates that Riverbend now has capacity to operate through 2016 or early 2017 without additional expansion. On November 5, 2014, Waste Management submitted a site design request to Yamhill County to construct a 37-acre lateral expansion of the landfill footprint. Waste Management also submitted a Floodplain Development Permit Application to the County. Approval of this site design expansion request by Yamhill County would move the request to the next stage of the approval process. DEQ must also approve the expansion request. An expansion decision is expected to be completed by the two agencies at the end of 2015 or early 2016. If DEQ approves the landfill expansion, it will provide the landfill with approximately 15 years of additional capacity.

Should the 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 and would be up for reconsideration by Metro Council at the end of 2016. If Riverbend was no longer a disposal option, Metro would likely divert the tonnage going there to the Columbian Ridge Landfill in order to maintain compliance with its disposal contract – both landfills are owned by Waste Management. NSLs contain a standard provision that allows Metro to take such action based on 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 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 these proposed licenses – in which case Metro could take necessary action to modify the NSLs.

Riverbend Landfill

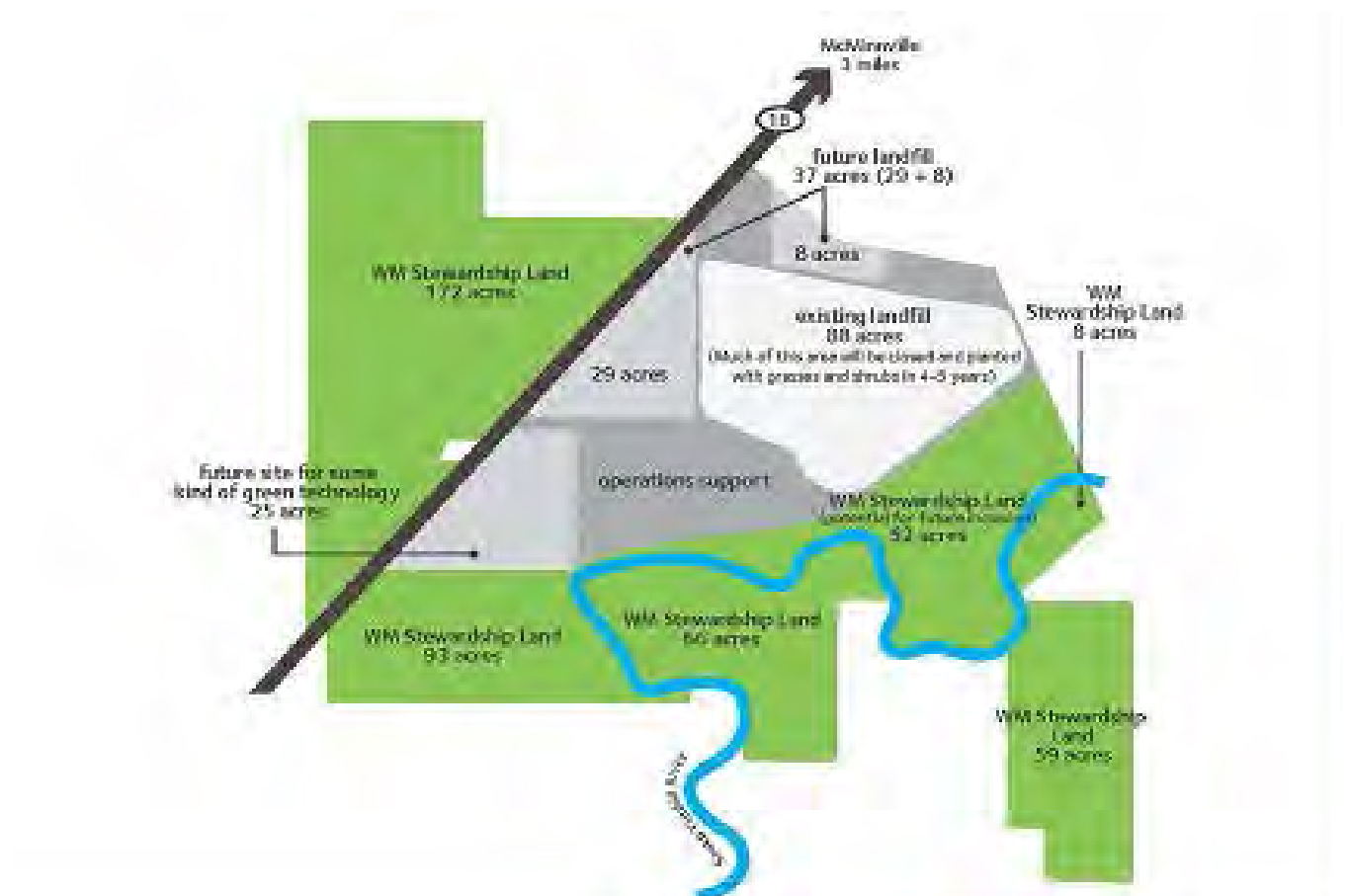
The current landfill footprint is 85 acres and the company owns over 702 acres on the site of which 145 acres are potentially slated for landfilling. Waste Management is holding a series of public meetings in Yamhill County to discuss various site issues including the potential expansion, future green waste technology and the community's use of other portions of its site that are not designated for disposal (such as park or agricultural use). Yamhill County and DEQ are expected to hold 2-3 public hearings on the landfill expansion decision over the next year.

Waste Management has also pursued other options to lessen dependency on the landfill, including diversion of non-putrescible waste away from the landfill and directing it 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.

Figure 1 provides a general overview map of the landfill indicating the existing landfill, expansion areas and stewardship lands.

Figure 1: Riverbend Landfill
(Source: Waste Management)



Waste Facts

In calendar year 2013, Waste Management reported about 465,000 tons of solid waste was delivered to Riverbend from all sources (Table 1). Of these 465,000 tons, about 223,000 tons (48 percent) originated inside the Metro district. The balance came from areas outside of Metro (52 percent).

In addition to the solid waste received for disposal, Riverbend accepted about another 57,000 tons of contaminated soils that were used for landfill operations, mainly alternative daily cover (Table 1). Of these 57,000 additional tons, about 42,000 originated inside the Metro boundary (Table 2).

Table 1	
Materials Received at Riverbend Landfill in 2013	
Solid Waste	
From inside Oregon	464,000
From out-of-state	1,000
Total Solid Waste	465,000
ADC/Soils	57,000
Total from all sources	522,000
<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 2013	
Putrescible waste	214,000
Non-putrescible waste	9,000
Total Solid Waste	223,000 <i>(48% of total waste at Riverbend)</i>
ADC/soils	42,000
Total from Metro	265,000 <i>(51% of total materials at Riverbend)</i>
<i>Source: NSL reports filed with Metro, and data reported to Metro by Riverbend. All tonnage amounts are rounded to the nearest 1000.</i>	

Of the 223,000 tons of Metro-area solid waste disposed at Riverbend in 2013, about 214,000 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 top-loaded transfer trailers to Riverbend under the authority of Metro-issued NSLs (Table 3). The balance, 9,000 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 Metro’s designated facility agreement with Riverbend. The Metro region delivered about 20,000 fewer tons of non-putrescible waste to Riverbend in 2013 than in 2011, but the Region accounted for a slightly larger percentage of putrescible waste in 2013 (41 percent in 2011 versus 48 percent in 2013). An additional 42,000 tons of contaminated soils originated in the Metro district in 2013, and were mostly used for landfill operations, mainly alternative daily cover versus about 21,000 tons of soil in 2011.

Table 3			
Metro-Area Putrescible Waste to Riverbend Landfill in 2013 by Transfer Station			
Transfer Station	Location	Putrescible Waste	
		Tons	Percent
Canby TS (Hoodview/West Linn)	Canby	12,861	6%
Forest Grove TS	Forest Grove	105,155	49%
Pride Recycling	Sherwood	70,827	33%
Willamette Resources	Wilsonville	25,528	12%
Total putrescible waste	In-District	214,371	100%
<i>Source: NSL reports filed with Metro.</i>			

Metro’s 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 weather problems or other emergency situations. Metro’s transfer stations have

not delivered 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 decision and oversight of landfills during consideration of a landfill expansion. Following is brief summary of the two entities primarily responsible for decisions regarding aspects of the landfill expansion:

- **Yamhill County.** As part of its authorization process for NSLs and DFAs, Metro asks the local host government whether the destination facility is in compliance with local laws and whether it has any issues, concerns, or objections to the delivery of Metro-area waste to the disposal site within its 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. See a fuller discussion in the staff report and see Attachment 2 for copies of relevant letters from the county.

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 extends 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 under its land use designation authority.

Waste Management submitted a *Site Design Review Application* and a *Floodplain Development Permit Application* to the County on November 5, 2014. Yamhill County staff will review the applications for compliance with its requirements. Waste Management has already conducted a public meeting to explain the plan on November 11, 2014. The County's Planning Commission will hold a public hearing on December 4 and is expected to vote on the plan at its January 8, 2015 meeting. Once findings are written and adopted, the Yamhill County Board of Commissioners will review the plan and recommendation. The Board is expected to make its decision during the spring of 2015. It is expected that the Board's decision will be appealed to the Land Use Board of Appeals (LUBA).

- **DEQ.** The chief agency responsible for permitting and environmental oversight of the landfill, DEQ must also approve any expansion at Riverbend as well as continually monitor the landfill's environmental performance and compliance. DEQ will begin its review of Waste Management's expansion application for the proposed 37-acre lateral expansion once Yamhill County has rendered a site design review decision. It is not clear what the key issues regarding the expansion proposal will be for DEQ. During the approval of the MSE berm, issues regarding seismic stability and flood way/flood plain boundaries were raised as issues previously. DEQ originally received the application for a large lateral expansion in 2009 which was subsequently withdrawn. DEQ's decisions on the landfill expansions typically are subject to a minimum 35-day public comment period and will most certainly involve a public hearing.

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 2011 levels at least 208,000 tons of putrescible waste would ultimately 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 costs resulting from a longer transport distance would result in the majority of increase in costs and environmental impact by increased carbon emissions. The additional transport cost would be about \$5 million per year based on 2011 estimates. 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 if the increases were passed along to the consumer.

Summary

The future long-term capacity of Riverbend and any decisions that might impact its expansion are relevant to Metro's decision to allow solid waste to be disposed at the landfill. It is a factor that will be continually monitored by staff. Capacity limitations do 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 during the next two-year cycle – through 2016. Metro has generally regarded these requests from the private sector as a market decision – provided that the: 1) use of such disposal sites does not violate Metro Code or any of Metro's waste-related contracts, 2) appropriate Regional System Fee and Excise Tax is remitted to Metro for the waste delivered to the disposal site, and 3) receiving disposal site is appropriately authorized and allowed to operate by the relevant 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.

Attachment 2 to Staff Report for Resolution No. 14-4571

Attachment 2 includes comment letters received by Metro from local governments regarding Riverbend Landfill. The following are included in this attachment:

- Letter from Sherrie Mathison, Yamhill County Solid Waste, addressed to Roy W. Brower, Metro, dated October 22, 2014.
- Letter from Yamhill County Board of Commissioners addressed to the Metro Council dated November 13, 2014.
- Letter from Richard J. Olson, Mayor of City of McMinnville, addressed to the Yamhill County Board of Commissioners dated January 27, 2014.
- Letter from Kent L. Taylor, City Manager of City of McMinnville, addressed to Roy W. Brower, Metro, dated September 10, 2014.



Yamhill County Solid Waste
525 NE 4th Street
McMinnville, OR 97128
YCSW Hotline: (503) 434-7445
Fax: 503-434-7544
www.ycsw.org

October 22, 2014

Roy W. Bower, Manager
Solid Waste Compliance & Cleanup
Metro
600 NE Grand Ave
Portland, Oregon 97232

Re: Non-System License Renewal Applications to Transport Metro-Area Solid Waste to Riverbend Landfill

Dear Roy,

Your letter of September 9, 2014, asks if Yamhill County would have any issues with the renewal of Non-System Licenses ("NSLs") currently taking waste to Riverbend Landfill Incorporated (RLI).

The license agreement Yamhill County has with Riverbend Landfill has allowances for out of county waste. Riverbend Landfill continues to make plans for the tonnages they accept both in county and out of county.

Yamhill County does not have issues with the acceptance by Riverbend Landfill of this waste from the NSLs.

I would also like to report that RLI has a history of operating in compliance with the Yamhill County license agreement and their DEQ permitting. Working under a Title V permit helps to assure the county environmental issues are dealt with in the everyday working of the landfill. It has been the experience over the past several years that RLI management has kept Yamhill County informed of any significant issues related to their day-to-day operation.

Please do not hesitate to contact me at 503-434-7445 if you have further questions.

Sincerely,

Sherrie Mathison
Yamhill County
Solid Waste





BOARD OF COUNTY COMMISSIONERS

KATHY GEORGE • ALLEN SPRINGER • MARY STARRETT

535 NE Fifth Street • McMinnville, OR 97128-4523

(503) 434-7501 • Fax (503) 434-7553

TTY (800) 735-2900 • www.co.yamhill.or.us

November 13, 2014

The Honorable Tom Hughes, Metro Council President
The Honorable Shirley Craddick, Metro Councilor District 1
The Honorable Carlotta Collette, Metro Councilor District 2
The Honorable Craig Dirksen, Metro Councilor District 3
The Honorable Katherine Harrington, Metro Councilor District 4
The Honorable Sam Chase, Metro Councilor District 5
The Honorable Robert Stacey, Metro Councilor District 6

Dear President Hughes and Metro Councilors:

Thank you for requesting comment from Yamhill County regarding the renewal of the non-system license for the transport of Metro-area solid waste to Riverbend Landfill.

Yamhill County Solid Waste Coordinator Sherrie Mathison has already provided input regarding factors set forth in Metro Code 5.05.035. The Yamhill County Commissioners would like to provide additional input.

Riverbend has a history of operating in compliance with the County and DEQ requirements – including meeting the requirements of the County licensing agreement and the regulatory requirements related to environmental protections. As a result of this, in 2012 the Board of Commissioners demonstrated their commitment to Riverbend's continued operation by renewing the facility's licensing agreement for a five year term. This was extended through the approval of a zone change in 2014 allowing for Riverbend to submit a detailed expansion application.

Through the intervening years, Waste Management has demonstrated a commitment to work in partnership with the County as shown through their attention to ideas from citizens in the community and requests from the commissioners. This includes a requirement for development of a landfill alternative ("green technology") on the Riverbend property, and ongoing operational improvements in response to community feedback. Additionally, Waste Management and Riverbend have demonstrated a commitment to waste reduction by significantly increasing waste diversion at the WM-Newberg Transfer Station and the implementation of a new million dollar public recycling center at Riverbend. Finally, Riverbend's community-driven Stewardship Plan to allow for 450 acres of its land to benefit the community has led to the expected 2015 launch of the Community Farm Collaboration which will provide land, mentoring and resources to help small farmers' success and educate the public about the value of community food systems.

The Yamhill County Board of Commissioners offers this input to the Metro Council as we move forward in this partnership with Waste Management and Riverbend Landfill.

Sincerely,

Allen Springer
Chair

Kathy George
Vice-Chair

Mary Starrett
Commissioner



230 NE Second Street • McMinnville, Oregon 97128-4831 • www.ci.mcminnville.or.us

September 10, 2014

Metro
600 NE Grand Avenue
Portland OR 97232-2736

ATTN: Roy W. Bower
Solid Waste Compliance and Cleanup Manager

RE: Non-System License Renewal Applications to Transport Metro-Area Solid
Waste to Riverbend Landfill

Dear Mr. Bower:

Thank you for the opportunity given to the City of McMinnville to comment on the proposed renewal of various Metro-issued Non-System Licenses. Simply put, METRO's renewal of the NSL's involving hauling of solid waste to Riverbend Landfill would be inconsistent with the City of McMinnville's position on the future of Riverbend Landfill.

In January of this year the Mayor, on behalf of the McMinnville City Council, sent a letter to the Yamhill County Board of Commissioners, in which the City stated its concerns over Riverbend Landfill, including the importation of solid waste. The letter states that the City does not see continued operation of Riverbend Landfill as being in the best interests of the community for the long term. A copy of that letter is attached.

The City of McMinnville understands that it has no jurisdiction over Riverbend Landfill and is providing this input as part of the public testimony to be received.

Sincerely,

Kent L. Taylor
City Manager

cc: Mayor and City Council
Yamhill County Board of Commissioners



230 NE Second Street • McMinnville, Oregon 97128-4831 • www.ci.mcminnville.or.us

January 27, 2014

Yamhill County Board of Commissioners
434 NE Evans Street
McMinnville OR 97128

RE: Riverbend Landfill

Dear Chair Stern and Commissioners:

I am writing on behalf of the McMinnville City Council. First, we would like to recognize the very difficult position you are in with regard to decision-making on landfill issues like that involving Riverbend Landfill. The voices from both sides of the issue are many and come from very organized fronts and developed positions on the matter. The McMinnville City Council recognizes that the legally required task of applying relevant land-use criteria to a land-use decision and the testimony you hear is a very real challenge.

Given that the County Planning Commission voted to recommend against the zone change proposed by Waste Management, Inc. and the County Planning Director's neutral statement that there was sufficient evidence and testimony presented to support either approval or denial, we had hoped to see a vote for denial of the zone change. We are pleased that there is a condition attached that requires some form of green technology facility to be initiated at the site within seven years. We look forward to hearing more of what the details are to this condition and hope that implementation of such technology will begin sooner than later and the implementation and startup will be within the seven-year period.

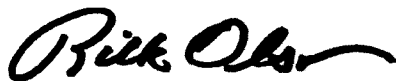
Over the past several years the McMinnville City Council has grown increasingly concerned that continued operation and growth of the Riverbend Landfill are contrary to sustaining a high quality of life for the current and future citizens and children of McMinnville. The concerns and objections that we have increasingly heard from a range of our constituents can be summarized as follows:

- **Negative impacts on the quality of life** – Much of the year McMinnville is downwind of the landfill. Despite efforts to control odors, the landfill **odor** can still be smelled in many different parts of McMinnville. This is particularly an issue on the south and west sides of the City. Outdoor activities are negatively affected. McMinnville's residents and visitors are frequent users of Highway 18, and the **size and height** of the landfill have grown substantially over the years – more than anyone ever imagined. Tree barriers and earthen berms have had little impact on what is more and more often referred to as a significant "eyesore." Increasing large **truck traffic** on the City's perimeter roads, such as Lafayette Avenue and surrounding highways, being used by haulers of imported garbage is also generating increased complaints and concerns. The substantial increase in the volume of garbage being imported has also increased **highway litter**. Despite good faith efforts to control it, the amount of litter seems to be increasing rather than subsiding.
- **Negative impacts on a growing tourism sector of the local economy** – Simply put, the negative quality of life impacts discussed above are not consistent with the effort to grow the City's and the County's tourism economy, one centered on the wine industry, and are having a major impact on the Council's vision of McMinnville in the future. There is a growing sense that we could soon reach a tipping point, and the growth in the tourism sector begins to flatten or diminish as potential visitors choose to avoid the negative conditions. The International Pinot Noir Celebration (IPNC), held annually at Linfield College, is a world-class event, drawing industry representatives and visitors from around the world. Representatives from the IPNC have expressed their concerns about the landfill's negative impacts on the future viability of the Linfield outdoor venue. The loss of these types of events, along with other major tourism events and venues, more than likely would have a negative impact on the County's agri-tourism effort and McMinnville's tourism-related businesses.
- **Environmental & public health concerns** – While the technical experts can battle the specifics of how large and when it will occur, there seems to be very little disagreement that a large-scale Cascadia subduction zone earthquake is in northwest Oregon's future. The age of the landfill, its original construction techniques and codes, and its proximity to the South Yamhill River give rise to citizen concerns about the potential environmental damage and threats to public health that could arise when such an earthquake occurs. The South Yamhill River flows along the easterly edge of McMinnville. While not an issue directly affecting City residents, they express concern about long-term groundwater impacts due to landfill leachate leaking below the surface.
- **Importation of solid waste from outside Yamhill County** – Importation of huge volumes of garbage exacerbate the problems discussed above and have reduced the life of the landfill. What was once envisioned as a small county landfill has become a large regional landfill receiving refuse from not only Yamhill County but from all of northwest Oregon, including the Portland Metropolitan

area. As the need for additional landfill disposal continues to increase in areas outside of Yamhill County, it is a concern that the anticipated 20 years of additional capacity that expansion would bring would be recognized in a much shorter period of time. Although the Council recognizes that there may be trade-offs in garbage rates for less volume, parties on both sides of the issue have difficulty stating exactly what that rate would be if Riverbend is not expanded.

In summary, the City Council does not envision Riverbend Landfill being part of our vision for a vibrant McMinnville and Yamhill County for the long term. As we move forward together, it is our hope that: implementation and construction of a viable green technology alternative takes place as soon as is possible; that Waste Management significantly reduces the amount of garbage that is imported to the landfill from outside of Yamhill County; that proactive steps to abate the odor and litter problems be put on a fast track; that the County and the Riverbend operator support increased efforts to reduce the amount of local solid waste entering the waste stream in the first place. And, finally, with regard to the last item, we hope County solid waste revenues will be allocated to help develop and administer this waste reduction effort and that Waste Management, Inc. will support it, working with other local partners such as Recology.

Sincerely,



Richard J. ("Rick") Olson
Mayor

Attachment 3 to Staff Report for Resolution No. 14-4571

Attachment 3 includes pre-enforcement notices issued by the Oregon Department of Environmental Quality (DEQ) and related correspondence regarding Riverbend Landfill. The following are included in this attachment:

- Pre-Enforcement Notice from Bob Schwarz, DEQ, addressed to James L. Denson Jr., Waste Management, dated March 17, 2014.
- Letter from James L. Denson Jr., Waste Management, addressed to Bob Schwarz, DEQ, dated March 28, 2014.
- Pre-Enforcement Notice from Mark Riedel-Bash, DEQ, addressed to Paul Burns, Waste Management, dated November 3, 2014.



Oregon

John A. Kitzhaber, MD, Governor

Department of Environmental Quality

Eastern Region-The Dalles Office
400 East Scenic Drive, Suite 307
The Dalles, OR 97058
(541) 298-7255
FAX (541) 298-7330

March 17, 2014

James L. Denson Jr.
Oregon Environmental Protection Manager
Waste Management
7227 NE 55th Ave.
Portland, OR 97218

RE: Pre-Enforcement Notice
Riverbend Landfill
PEN – LQ-ERD-2014-0020
Solid Waste Disposal Site Permit # 345
Yamhill County

Dear Mr. Denson:

During a January 28, 2014 inspection, DEQ inspectors and landfill personnel observed leachate escaping from the north side of the landfill. This leachate migrated beyond the perimeter of the landfill, but did not appear to travel far from the landfill perimeter. Waste Management concluded that this release was the result of an old perimeter French drain that was clogged as the result of recent construction of a stormwater diversion swale. The drain had been installed during construction of the cell to convey leachate to the leachate collection line that runs to the onsite leachate storage pond.

Later that day, the site engineer directed the landfill contractor to remove all drain rock from the French drain along that portion beneath the stormwater diversion berm. Between January 28 and 29, this rock was removed and the area was backfilled with compacted clay. Four vertical 12-inch sump pipes were installed and backfilled with drain rock. Soil from the impacted area north of the landfill was sampled on January 29. Soil impacted by the leachate release was then excavated, and a vactor truck was used to remove standing stormwater that may have been contaminated by the release. Soil from this area was resampled on January 31. Results were provided in a technical memorandum dated March 14, 2014. These results indicate that residual contaminant concentrations are below safe levels.

On February 10, 2014, landfill personnel observed leachate escaping from the landfill's northern boundary. Waste Management reported this leachate release to the DEQ on February 10 and stated that this leachate reached a creek approximately 300 feet from the landfill. This leachate release was near but not related to the release first observed on January 28. This leachate was primarily liquid that had collected in the landfill's gas extraction wells. To keep the extraction wells working properly, this leachate is routinely pumped from the wells to three 21,000-gallon storage tanks near the north side of the landfill. This leachate is kept separate from the majority of the landfill's leachate, which is pumped to the onsite leachate pond. The reason for this separation is that leachate associated with the gas extraction wells is more concentrated than the rest of the landfill leachate, and is therefore sent to a different offsite facility for treatment and



disposal. The Department conducted an inspection on February 13, 2014 to document the release and the actions taken to address the release.

Impacts to the creek were evaluated in a March 11, 2014 report prepared by Waste Management's consultant. The report concludes that "No mortality of aquatic flora or fauna was observed during either site visit [conducted on February 12 and 21, 2014]. Overall, the impact to aquatic biota was estimated to be minimal on the basis of the high flows of the unnamed creek and the South Yamhill River, and the comparison to aquatic water quality criteria and human health criteria."

Impacts to the area between the landfill and the creek are also being investigated. Waste Management has not yet provided results of that investigation to DEQ.

Based upon DEQ's observations and information provided by you regarding your facility, the Department has concluded that Waste Management is responsible for the following violations of Oregon environmental law:

VIOLATIONS:

- 1) The leachate seep found on January 28, 2014 was a violation of Section 9.9 of Riverbend Landfill's Solid Waste Disposal Facility permit, which states that "Leachate must be prevented from escaping to local drainage ways and to other unlined areas of the site." This is a Class 2 violation.
- 2) The leachate release that occurred on February 10, 2014 was a violation of ORS 468B.025(1): "Except as provided in ORS 468B.050 or 468B.053, no person shall:

(a) Cause pollution of any waters of the state or place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means." This is a Class 1 violation.

Class I violations are the most serious violations; Class III violations are the least serious.

CORRECTIVE ACTIONS REQUESTED:

1. Effective immediately, inspect the entire perimeter of the landfill daily for leachate seeps. Particular attention is essential during periods of heavy or prolonged precipitation. Any problems noted must be reported to DEQ within 24 hours.
2. Submit the report now being prepared concerning impacts to the area between the landfill and the creek. This report must be submitted by Friday, March 21, 2014.
3. Prepare a report that identifies what measures have already been taken and what additional measures will be taken, along with a schedule for implementation of those measures to avoid these problems in the future. This report must be submitted by Friday, March 28, 2014.

The violations cited above posed the risk of significant environmental harm and the matter is being referred to the Department's Office of Compliance and Enforcement for formal enforcement action. Formal enforcement action may result in assessment of civil penalties and/or a Department order. A formal enforcement action may include a civil penalty assessment for each day of violation.

If you believe any of the facts in this Pre-Enforcement Notice are in error, you may provide written information to me at the address shown at the top of the letter. The Department will consider new information you submit and take appropriate action.

The Department intends to assist you in your compliance efforts. Should you have any questions about the content of this letter, feel free contact me in writing or by phone at 541-298-7255 x230.

Sincerely,

A handwritten signature in black ink, appearing to read "B Schwarz", with a long, sweeping horizontal line extending to the right.

Bob Schwarz, PE
Permit Engineer

Copy: Office of Compliance and Enforcement, DEQ Headquarters



James L Denson Jr.
7227 NE 55th Ave
Portland OR, 97218

(602) 757-3352
FAX 713-286-7406

March 28, 2014

VIA U.S. MAIL & E-MAIL

Bob Schwartz P.E.
Oregon Department of Environmental Quality
Eastern Region-The Dalles Office
400 East Scenic Drive, Suite 307
The Dalles, OR 97058

**RE: Pre-Enforcement Notice Riverbend Landfill
PEN - LQ-ERD-2014-0020
Solid Waste Disposal Site Permit # 345**

Dear Mr. Schwartz:

Riverbend Landfill Co. (RBLF) in compliance with the March 17th, 2014 ODEQ Pre-Enforcement Notice (PEN) is submitting this report addressing PEN Requested Corrective Action item # 3 that requires RBLF to identify *“what measures have already been taken and what additional measures will be taken, along with a schedule for implementation of those measures to avoid these problems in the future”*.

This report outlines the corrective actions taken by RBLF to manage the re-occurrence of leachate migrating past the landfill boundary.

Actions Completed to date;

1. Removed 150 feet of existing French drain trench and piping underneath stormwater control berm, backfilled trench and installed Four (4) sumps that extend 1 foot below perimeter road elevation.
2. Reinstalled and extended existing stormwater control berm at toe of North Slope
3. Excavated impacted soils outside of landfill footprint from the Jan 28th seep incident and repaired impacted area.
4. Implemented post mitigation observations of the area multiple times per day to ensure no additional leachate seeps occurred in the area and mitigation measures were effective.
5. As a result of the Feb 19th Seep event; vacuumed impacted area between landfill and creek removed approx. 12k gallons of leachate/snowmelt mixture and properly disposed.
6. Implemented post mitigation observations of the area each day to ensure no additional leachate seeps are occurring in the area.
7. Installed 250 feet of diversion berm at toe of North Slope and installed two (2) collection sumps.
8. Installed North Leachate tank overflow alarms with auto dialer
9. Installed North Tank Leachate tank bypass line to leachate pond
10. Placed additional 7,000 yards of cover soils on North slope
11. Initiated and finalized third party creek impact assessment, assessment indicated no impacts to wildlife or the environment
12. Initiated third party soils assessment for impacted soils in the between the landfill and the creek.

March 28, 2014

Actions in process;

1. Finalize impacted soils assessment by SCS with recommendations. Due April 1st
2. Placing additional 15,000 yards of cover soils on North Slope to achieve 24" cover soil thickness on entire North Slope. Placement of the remainder of the cover will be completed by May 30th, weather permitting.
3. Add fourth 22K storage tank to North Leachate tank area. Planned for installation by May 30th weather permitting.

We appreciate the opportunity to respond to with the actions taken on this issue. RBLF believes that the actions outlined above have served to;

- Identify all potential impacts to the environment as a result of the two incidents, and
- Significantly increased the margin of safety for ensuring the events identified in the PEN do not re-occur.

Thank you again for your assistance with this important issue. If you have any questions or concerns, please feel free to contact me at (602) 757-3352 or by email at jdenson@wm.com.

Sincerely,

A handwritten signature in black ink, appearing to be 'JDenson', with a large loop at the end.

James Denson
Oregon Environmental Protection Manager

CC

Facility File
Lissa Druback, ODEQ via E-mail



Oregon

John A. Kitzhaber, MD, Governor

Department of Environmental Quality

Western Region Eugene Office

165 East 7th Avenue, Suite 100

Eugene, OR 97401

(541) 686-7838

FAX (541) 686-7551

TTY 711

Certified Mail: 7014 1200 0000 3483 0878

November 3, 2014

Paul Burns
Riverbend Landfill Co.
13469 SW Highway 18
McMinnville, OR 97218

RE: Pre-Enforcement Notice
File Number: 106959
WQ/SW-PEN-WRE-2014-0074
Common Name: Riverbend Landfill
Yamhill County

Dear Mr. Burns:

The Department of Environmental Quality (DEQ) reviewed the 2013-2014 Discharge Monitoring Report for Riverbend Landfill Co. In this DMR, you reported exceeding the daily maximum limit for total zinc. It also appears that you were unable to perform the required follow-up monitoring in *Schedule B.2.e.iii* due to a lack of discharge at Outfall 2.

DEQ has concluded that this facility is responsible for the following violation of Oregon Environmental Law:

VIOLATION(S)

Oregon Revised Statute 468B.025(2) requires compliance with DEQ permits. The reported concentration of total zinc on May 9, 2014 was 0.42 mg/L. This discharge level exceeds the permit numeric effluent limit of 0.20 mg/L (permit *Schedule A.2*) by 50 percent or more. This is a Class I violation in accordance with OAR 340-012-0055(1)(k)(A). Class I violations are considered to be the most serious, and Class III violations are the least serious.

CORRECTIVE ACTION(S):

If you have not already performed the required follow up monitoring in *Schedule B.2.e.iii* of the permit, please perform the follow up sampling and, if necessary, submit an exceedance report in accordance with *Schedule B.9* of the permit within 60 days.

Schedule B.2.e.iii requires that the permittee conduct follow-up monitoring of any pollutant that exceeds the numeric effluent limit(s) within 30 days (or during the next measurable storm event should none occur within 30 days) of receiving the monitoring results.

Exceeding total zinc permit limits can negatively impact stream habitat and aquatic species. Therefore, the violation listed above has been referred to DEQ's Office of Compliance and Enforcement for formal enforcement action, which may include assessment of civil penalties and/or issuance of a Department Order. A formal enforcement action may include a civil penalty assessment for each day of violation.

If you believe any of the facts in this Pre-Enforcement Notice are in error, you may provide written information to me at the address shown at the top of the letter. DEQ will consider new information you submit and take appropriate action.

DEQ endeavors to assist you in your compliance efforts. Should you have any questions about the content of this letter or if you desire any follow-up technical assistance, feel free contact to me in writing or by phone at (541) 687-7343.

Sincerely,



Mark Riedel-Bash, RG
Stormwater Specialist

cc: Source File - DEQ Eugene
Zach Loboy, Water Quality Manager – DEQ Eugene Office
Denise Miller- DEQ Eugene
Office of Compliance and Enforcement- DEQ Headquarters