



Agenda

September 4, 1985

METROPOLITAN SERVICE DISTRICT 527 S.W. HALL ST., PORTLAND, OREGON 97201 503 221-1646
Providing Zoo, Transportation, Solid Waste and other Regional Services

Date: September 9, 1985 (Regular meeting moved up one week-see minutes)

Day: Monday

Time: Noon

Place: A-1, A-2, Metro

AGENDA ITEMS

I. Minutes of August 19, 1985; July 15; June 17th. *Approved*

II. Rate Study Discussion

III. Solid Waste Department Update

SOLID WASTE POLICY ADVISORY COMMITTEE

SWPAC

August 19, 1985

Committee Members Present: John Trout, Chairman; Shirley Coffin, Gary Newbore, Bob Harris, (Ruth Selid for Delyn Kies)
Bob Brown - Ex Officio

Staff Present: Norm Wietting, Wayne Rifer, Rich McConaghy, Mary Jane Aman, Dennis Mulvihill, Doug Drennen, Dan Durig, Debbie Gorham, Eric Dutson, Chuck Geyer, Bonnie Langford

Minutes: A quorum was not present so the official approval of minutes was not taken to vote. Those attending found no additions or corrections of minutes for July 15, or June 17, meetings.

Agenda Item: Report on the Resource Recovery Symposium

Debbie Gorham reported that the Friday meeting on August 2nd provided an Overview of Mass Incineration Technologies; Incineration at Sea; and Refuse Derived Fuel. The Saturday meeting had talks on Power Alcohol; Overview of Processing Systems for Material and Energy Recovery; RDF/Compost and Preparation; Integrated Recycling and Refuse Transfer Systems and Ethanol Conversion. Ms. Gorham added it was a very informative two days. The reports were presented with enthusiasm and the participation from the community was fairly good. It wasn't covered by the press but Metro was exploring what methods are out there to provide solutions to the solid waste disposal problems in our three-county region and the proceedings were video-taped and available to interested parties. Emphasis was placed on reducing the quantity of waste buried in landfills through resource recovery which includes the topics above including energy recovery, materials recovery and recycling (reuse). Between now and January 1, 1986, Metro must develop a plan for reducing the amount of waste that's landfilled in this region and together the Council and the people of the region will choose (1) methods to increase recycling in the home and workplace and (2) technologies for recovering resources from garbage. In July they defined the options which resulted in the Symposium. In September they will evaluate the options and by November the Council will make a decision after holding public hearings. By January 1, 1986, Metro will present our Waste Reduction Program to the Department of Environmental Quality. The Panel, who listened and reviewed the various technologies in order to refer their recommended plan to the Council, considered the Symposium a worthwhile and informative aid in reaching a decision which would best fit the region's waste reduction needs. Gary Hansen and Hardy Myers represented the Council on the Panel with Dennis Heidtmann from Tektronix, Gail Katz from Seton, Johnson and Odell, Rebecca Marshall of Foster & Marshall, Warren Rosenfeld, Calbag Metals, Ernest Schmidt, DEQ, and John Spencer from Riedel Environmental Services. These knowledgeable engineers and officers represent an interested public and industry and will help ascertain the best solution.

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Debbie showed a matrix of the criteria used to assess the various technologies and reviewed the information. The Panel eliminated the incineration at sea, the ethanol, and flame oxidation. The other technologies are still under consideration. A summary of the Presenter's talks at the Symposium, will be compiled and available to those requesting them.

Agenda Item

Update of Solid Waste Department

SWPAC REORGANIZATION

Dan Durig stated letters had gone out asking if the present SWPAC members would like to be considered for continued membership on the reorganized SWPAC recently approved by the Council. Dan encouraged the members to respond to those if they would still like to work with solid waste issues. He also asked the members to recommend anyone they knew that would be interested in serving on the SWPAC Committee.

CTRC

Mr. Durig said we are still dealing with the CTRC tonnage problem. We will have two staff members representing Metro Tuesday night, August 27th, at the Oregon City Planning Commission. The tonnage is starting to come down because we are coming out of the peak summer months. Norm Wietting added that Metro will show the Commission the figures and tell them what our intentions are, through the rates and other actions, for decreasing the tonnage at CTRC. Dan commented the Rate Study would address this problem. Norm said the Planning Commission's key interest was in WTRC and wanting to make sure Metro is moving ahead with the siting process in Washington County. The commission was also concerned with the WTRC Advisory Group's recommendation and the Metro Council's reaction.

WTRC

Dan Durig reported on the Washington County Transfer and Recycling Center (WTRC) progress and declared the Advisory Group for siting (eight people) has been excellent to work with. The group has been together on this issue for over a year and they have heard every possible argument for or against the transfer station and are very knowledgeable on the subject. The Advisory Group will meet August 28th, to review the final three sites and find out whether the owner is willing to sell--we are getting mixed signals from two of the owners. Our letters to them state we are approaching the decision point and want their reply on whether they would be interested in entertaining an option on the property. The top sites were reviewed, "N" - Allen Blvd. and Western Avenue, Beaverton; "56" - TV Highway and 160th, Beaverton; "59" - Highway 26/Cornelius Pass Road, Washington County. (N, 56, and 59 denote the area on the map under consideration.) Metro does not want to condemn land where there is an existing business in operation, such as "N". Maps were reviewed and discussed, and Shirley Coffin offered some of the information gleaned by the Committee during this siting process. The Resolution and Staff report will go to the Council on September 12th at their regularly scheduled meeting on September 12th and it will be held in Washington County at Highland Park School --7:00 p.m. The Council is expected to take action on the recommended site or sites at that time. Dan felt we had good involvement from those who would be affected--citizens, recyclers, haulers, etc. In answer to a question by Gary Newbore, Dan stated the transfer station should be as close to the center of waste as possible. Transfer stations are located not where the waste is going, but ideally, where it is being generated. Recyclables, for instance, go in all directions. Norm Wietting added any landfill sited outside the urban growth boundary has to

use transfer stations when it's in an Exclusive Farm Use (EFU) zone. Mr. Trout stated some of the haulers were concerned with what system we would be using-- such as those mentioned at the Symposium; the DANO system, etc., which would have a bearing on what we are doing now because some systems wouldn't need a transfer system. Dan stated it was a good point because the CTRC was designed with the idea it would be used with an ERF facility, but it was safe to assume there would never be a landfill near the future WTRC because of the growth in that area. Norm said they were looking at sites that would allow room for some processing on the site. Dan stated we would see some initial outburst from those affected in the neighborhood, but it should settle down and people will say that Metro and the Advisory Group went through a good process; the press was knowledgeable and understanding in saying it needs to be done, and eventually the transfer station will be well received and well used. Gary Newbore asked about the timeline for building the station and Dan answered the condemnation process was fairly easy in Oregon, you make your case and can assume possession of the land and begin construction rather easily and the contention is mainly over what you are going to pay for it--this can be determined after you have taken over the property. It could take about 120 days in the land use process but it also depends on the site, said Doug Drennen. The design and construction issues could be ready by next spring.

Agenda Item

1986 Rate Study

Doug Drennen stated we weren't asking for any decisions from the SWPAC group today but they would review the study with the Committee and discuss various aspects of the material. Metro staff will be presenting the formal report on August 22; and September 5, another draft ordinance will be offered at a Council special meeting. The first reading of the rate ordinance will be September 12, and the second meeting September 26th. The rates are intended to go into effect by January 1, 1986. This is the first major rate study done in two years. Last year Metro did a review of revenues and expenses and decided there would be no changes at that time. Since then Metro's lease payments to the City of Portland have almost doubled, and payments to DEQ have gone up; SB 662 collection of \$1.50 at sites; the WTRC operation and other issues have contributed to a need for rate adjustments. Rich McConaghy, Analyst, and Project Manager, explained there were five chapters: (1) Purpose, Methodology and Basic Assumptions; (2) Disposal Costs/Base Rate; (3) Transfer Costs/RTC and Convenience Charge; (4) User Fee Program Costs/User Fee Rate; (5) Rate Options and Rate-Related Issues; plus other relevant information. SWPAC members reviewed a comparison chart with Rich. Staff recommendations for consideration are: (1) Waste Quantities; (2) Diversion of Wastes; (3) Special Waste Fees; (4) SB 662 Fees; (5) Alternatives for treatment of the fund balance. Mr. Trout suggested that SWPAC members, not at the meeting, be mailed the copy of the rate study and they could meet on Monday, September 9, (which would be prior to the 12th when the study would go to Council). SWPAC could form their recommendation(s) at their special meeting on September 9th, at noon; which would be one week earlier than the regularly scheduled meetings. Those present agreed this would be a satisfactory solution to getting their opinions to the Council on this issue. The Rate Review Committee is also going to meet prior to the Council meeting so both Advisory Committees will be able to give their recommendation before the Council meeting. Discussion of the Rate Study followed. Gary Newbore was concerned about the extra book-keeping involved in making change on 92¢ and wondered if the figure couldn't be rounded off for easier handling. Dan stated they would look at this issue. Rich said if there were any questions to give him a call.

SOLID WASTE POLICY ALTERNATIVES COMMITTEE

SWPAC REGULAR MEETING

July 15, 1985

Committee Members Present: John Trout, Chairman; Shirley Coffin, Gary Newbore, Howard Grabhorn, James Cozzetto, Ruth Selid (for Delyn Kies)

Committee Members Absent: Robert Harris, Dick Howard, Paul Johnson, Dave Phillips, Mike Sandberg

Guest: Bill Culham, Citizen-Washington County

Staff Present: Norm Wietting, Debbie Gorham, Dennis Mulvihill, Wayne Rifer, Mary Jane Aman, Ray Barker, Bonnie Langford

Minutes of June 17, 1985 Will be sent with next month's packet

Agenda Item

SWPAC Reorganization

Ray Barker, Council Assistant, reviewed a background and analysis of SWPAC Bylaws, revised with staff and Council Management Committee in June, and passed by the Council of the Metropolitan Service District on the 27th of June, 1985. Changes in the Bylaws included: (1) Change the name of the Committee to the Solid Waste Policy Advisory Committee, (2) Increase the number of citizens on the Committee from four to eight; decrease the number of solid waste industry representatives from six to four, (3) Revise the Committee purpose section to more clearly reflect the Metro Council's desire to have more citizen participation and greater communication regarding solid waste issues.

The name change, which is slight, was to bring it in line with other advisory committees. It doesn't mean SWPAC can't consider alternatives.

Ray stated anything within brackets was deleted from the Bylaws and anything underlined was added to the Bylaws.

There is no longer any reference to the Regional Services Committee since that Committee no longer exists.

The purpose of SWPAC is reworded but little is actually changed. SWPAC still will be advising the Metro Council and will provide a forum for citizens, industry, and local government. The Council is happy with the way the Committee has been functioning and SWPAC should continue as it has been operating.

The biggest change was in the membership; the City and Counties will remain with the same representation--one from each. The general public was increased to two (one from each county jurisdiction and one from the City of Portland). The haulers still have two representatives--one commercial and one residential. Land-fill operators were reduced from two representatives to one, trying to balance with industry, government and general public Reps. The construction industry was eliminated. Recycling retains the one originally written in the Bylaws. Ex officio members, without vote, may serve on the Committee upon nomination by the Presiding Officer of the Metro Council. SWPAC can give input on membership to the presiding officer.

Two of the members appointed to represent the public shall also be appointed to serve as the public members on the Rate Review Committee.

Bylaws are effective now since they were signed on June 27, 1985 and it will probably take a month or so to establish the membership. For public representatives, we will advertise and ask for suggestions from SWPAC and Metro Staff. We hope to gain people that will have some background and knowledge in this area and a lot of interest. Councilor Gardner wanted suggestions from SWPAC as to how they would like to proceed with the Industry representative--reappointment or someone new?

Shirley Coffin mentioned that meeting at noon might eliminate some people and perhaps that wouldn't be the best time to meet. Teachers, for instance, cannot get away at noon, and there would be others.

Ray stated he would keep SWPAC informed of the appointments and any other pertinent information.

Agenda Item

Waste Reduction/Resource Recovery

Wayne Rifer called the attention of the Committee to the materials before them. He also introduced Debbie Gorham, who has joined the team on the Systems Plan as an Analyst.

Wayne gave a general overview of the Planning process. Senate Bill 662 says that Metro should make alternative decisions by December and submit these to the DEQ. These decisions are primarily a method of disposal as an alternative to landfilling. The direction is to substantially reduce the reliance of the region on landfilling, so it will include technologies for alternative disposal and will include programs for source reduction and recycling. The two major issues to decide are (1) the technology for disposal and (2) ways we will use to encourage people to recycle. Wayne referred to an overview of Metro's process. The first phase is the technical review--the feasibility of several technologies; source reduction programs defined. From September to November Metro will be evaluating these options according to a range of values including their cost impact, environmental impact, etc. There will be public involvement meetings in the region. Wayne stated the time-line was inadequate to make these important decisions. Therefore, we need to ask people involved with these perspectives to talk about it and get feedback for the staff and Council; SWPAC members need to be involved in this gathering of opinions. The third phase, from the end of November through December is when we make the decisions and package the product. Again, there are two major things. One is the Resource Recovery technology and the second is the source reduction and recycling document that describes the program. The time-line diagram notes the series of presentations, decision packages and documents to the Council and the public hearing(s). There is public involvement in all phases of this process.

On August 2-3rd, is the Resource Recovery Symposium and that is Metro's important project of the moment. Debbie Gorham stated pamphlets and invitations had been sent out and it looked like there would be an interesting two-day symposium. A number of people will come in to talk on various alternative technologies to landfilling waste. A panel of nine people will be listening as well as staff and any interested parties, including SWPAC if you have time to come. It is open to the public but it will be a work day--Friday, beginning at 9:00 a.m. in the Council Chambers. The presentations will be a series of 30-45 minute presentations including mass incineration technologies, refuse-derived fuel,

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processing systems, power alcohol: Cellulose conversion to ethanol, flame oxidation process, and integrated recycling and refuse transfer systems, and other technologies---all ways of solving our solid waste dilemma. The Panel consists of two members from Metro Council; one from DEQ; three engineers; and several citizen-members are represented. These people will take their findings to the Metro Council so they can make a decision about which type of technology they feel will serve the region best. There will be question and answer periods following each presentation. Interested SWPAC members are urged to attend.

Agenda Item: Department Update

St. Johns Contract Bid

Chuck Geyer gave a brief overview of the main steps taken to bid on the St. Johns Contract. Metro required mandatory prequalification for this contract. Nine firms submitted for this contract and all nine were approved to submit bids. The next mandatory item was to attend our pre-bid conference and six of the nine attended that and Friday, four out of the six firms submitted proposals to Metro. One of those was considered "non-responsive" because it did not include a Bid Bond. The sheet was reviewed by Chuck; Browning-Ferris Industries was the lowest bidder and the proposal is being examined to be sure it is responsive. The sequence of events following the bid opening was outlined. The next major item will be when the Council awards the contract on August 8th..

Mr. Trout asked if the Bid price was for the entire term or for each year. Mr. Geyer answered it was for the term of 3½ years --the life of the existing landfill. Mr. Wietting mentioned there were some areas of the contract where Metro uses tonnage categories for weighting factors in Bid evaluation, so the contract price and the actual cost over a 3½-year period may not be the same but in the general vicinity. It's all dependent on the tonnage that comes in through those periods. John Trout asked about the other figures. Norm stated they were all based on unit prices, so as final cover is put down, the contractor is paid on a unit cost or yardage basis for what they actually do. Mr. Trout asked if the contractor would be held to that figure or would there be deviations? Chuck explained the only deviations from the unit prices bid would be if there were changes in the prices by inflation. Norm added the sanitary landfill disposal subtotal is made up of unit prices that range in BFI's proposal, all the way from \$11.00 per ton up to 10,000 tons per month. On the high end was 2.51 a ton for anything over 80,000. All of the unit prices are paid as needed. It was bid, basically, as a 3½-year contract with an option to extend at our option, for up to seven years. If we could, for instance, go up ten feet and add that to the landfill, that cost would all be in excess of this estimate. So with the exception of the final cover stripping and replacement, all of these items are expected to happen, at those levels, within the next 3½-years. Norm said we tried to be as clear as possible on all the specifications--they are quite well detailed.

Mr. Trout stated he was concerned with the way the Bid was written. Is it something where someone is able to get a foot in the door through a low bid like this and later on come back and be able to "up the price" so to speak because all of a sudden circumstances are different? Norm answered he didn't believe so because all the circumstances were written into the Bid specs. Metro identified potential diversion away from St. Johns; potential for expansion; vertical expansion; and

tried to cover anything that was conceivable and build it in writing and into the numbers. The specs are very detailed, and more so than they were five years ago.

Update: CTRC

Norm Wietting reported the meeting last month on the 25th of June, which was an extension of Metro's annual review with the Oregon City Planning Commission. They renewed our permit at the 800 ton-per-day level, although for the past two months Metro has exceeded the 800 ton-per-day limit. Our application to have that limit lifted was interpreted by the Commission as a conditional use permit change which we submitted for the annual review and they didn't think that was enough time to advertise for a legal meeting to review that permit. Since the 25th, we've submitted a formal letter requesting that the limit on the tonnage be eliminated completely at CTRC, and that will be heard July 23th. Oregon City is very concerned about the Washington Transfer Station not proceeding faster than it is. In fact, the Oregon City Planning Staff and Commission will be at the WTRC meeting this week. Metro had a lot of support from the Industry and Clackamas County --Dave Phillips, Mike Borg, Carl Miller and Dick Bloom, and that probably helped last time. If there is a roomfull of people all wanting the same thing it's easier to be heard. The July tonnage may go below the 800 limit and that will help. Other than that, CTRC is running fine. Mr. Trout asked what time the 23rd meeting started with the Oregon City Planning Commission and Norm answered usually at 7:30 and they were probably going to be first on the agenda.

Update: WTRC

Shirley Coffin, reaffirmed the public meeting on July 16 at the PGE building on Scholls Ferry and Murray Rd. They expect a lot of people. In three weeks they have had five meetings with the areas on the nine sites under consideration for the transfer station. She mentioned Doug Drennen and Randi Wexler had been on the firing line at each meeting, since the people wanted the station in someone else's area. They expect an extensive meeting with Clackamas people also submitting their opinions. Metro staff is getting cost figures for these various sites and the Committee will have their recommendation for the Council's final decision by the middle of August. Shirley added it had taken the Committee a year of diligent work to get this far. In answer to a question from John Trout Shirley answered that yes, the Sunset Corridor group had recommended some other sites and the Committee went back to the original criteria and revamped it and started over with 79 sites this spring and they have it down to nine sites in five areas. SWPAC was invited to the meeting(s). Norm interjected that some of the sites recommended by the Sunset Corridor were among the top ten selected by the Committee.

Mary Jane Aman mentioned the next meeting was Monday, August 19th. Any members are urged to let us know if they can't attend--especially if they have a standing order for a sandwich.

Meeting Adjourned

Written by Bonnie Langford

SOLID WASTE POLICY ALTERNATIVES COMMITTEE
SWPAC REGULAR MEETING
June 17, 1985

Committee Members Present: John Trout, Chairman; Shirley Coffin, Mike Sandberg, David Phillips, Bob Harris, Ruth Selid (for Delyn Kies)

Committee Members Absent: James Cozzetto, Howard Grabhorn, Dick Howard, Paul Johnson, Gary Newbore

Ex Officio Present: Bob Brown, DEQ

Guests: Bill Webber, Valley Landfills; Jack Schwab, Sunset Garbage Collection, Inc. Paula Bentley, Jim Kirksey of Goodwill

Staff Present: Dan Durig, Doug Drennen, Rich McConaghy, M. J. Aman, Bonnie Langford

Minutes: Minutes were approved as written with the exception of page three. The first paragraph should read 30-35 dollars per ton, and the second-to-last paragraph should read "Dave Phillips said (instead of Mike Sandberg.

Ruth Selid was introduced as a substitute for Delyn Kies at the meeting.

Paula Bentley and Jim Kirksey of Goodwill Industries, addressed the committee on disposal problems at their drop-off centers.. With rates going up and a burning ban in effect, the public will leave their garbage in the middle of the night at the unattended Goodwill donation stations--there are 22 in the region--and their "donation" consists of leaves, trimmings from trees, old unuseable couches and mattresses and other items of no use to anyone. This means Goodwill is responsible for disposing of this debris and this is costing them about \$56,000 a year at just the Portland plant--up from \$36,000 the previous year and with a possible projection of \$70,000 for 1985. Goodwill sends out one compacted load a day (about 18,000 pounds) and they have cleaned out all they can from it for recycling. scrap metal, corrugated, newspring, glass, rags, etc. Mr. Kirksey said they were appealing to SWPAC for suggestions to get the volume down and the most inexpensive way to deal with the problem. He stated the 22 sites are attended eight hours per day and some for seven days a week. Illicit items are dumped after 5:30 p.m. Attendants do make refusals when they are on duty; signs are posted; local police have been very cooperative and have caught people stealing or illegally dumping at the sites.

John Trout advised that the drop boxes were probably the best they could do. Possibly separating putrescibles from that which could be sent to a demolition landfill would be a lot cheaper. However he was unaware of any compactor that would compact furniture. Mr. Bently stated Goodwill collects about eight-million pounds a year and 30 to 40 percent of this goes to the dump.

Dave Phillips said this is a common problem at stores and recycling depots when they are unattended. Clackamas County is looking for some severe ordininace amendments to deal with illegal dumping. This might be part of the solution.

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John Trout added that closing some depots where this problem exists, might be a savings. Ms. Bentley answered that those depots where more garbage is dumped are also the areas where most reusable items are left. Mr. Trout questioned why the past system of collection by trucks from door-to-door, where Goodwill might be more selective, was discontinued. Mr. Kirksey responded that the escalation of gas prices had caused them to abandon this method. In answer to the suggestion of manning the stations for 24 hours, he advised it would amount to more than the disposal cost. Doug Drennen suggested that a change in the hours--shortening morning shifts and extending evening shifts--might discourage some of the illegal dumping.

Dave Phillips advised that the State Highway Department had to eliminate public containers on the highways due to the dumping of illegal/household garbage. Bill Webber of A.O.R., affirmed that this is a frequent problem in the recycling business too. Educating the public through signs, and keeping the areas cleaned, seem to be the most effective methods of curbing the dumping.

Ms. Bentley thanked the committee and requested that any further ideas be referred to them at the Goodwill offices.

Agenda Item

Landfill Siting Legislation

Dan Durig referred to the handouts of SB 662, the Landfill Siting Legislation, commenting that the amendments had covered the whole bill. Dan reported the Metro staff had been working with the Legislature for some months on the problem of siting a landfill because of the land use process. We ended up with more than we asked for. Mr. Durig commented the Bill before SWPAC was entirely different from the Bill originating in the Senate. The House Committee made substantial changes and it is expected to pass in this form when it is sent to the Senate. Several parties had an influence on the changes; Vera Katz, the Speaker of the House, played a major role in this Bill; D.E.Q. was requested to make recommendations particularly on those items relating to D.E.Q. Mr. Durig broke the Bill into three sections for explanation. First, the emergency-siting sections--what Metro really went down for; a second section dealing with policy direction was discussed--where they want Metro to go in Solid Waste; and third, the emergency-siting section that goes beyond landfill siting. The State would like to initiate a state-wide policy which would move away from putting materials into landfills. The Bill would enable D.E.Q./E.Q.C., to identify sites that can ultimately be used as disposal sites, either landfills or alternative technology sites. Metro staff clearly pointed out the immediate need is a landfill. Fred Hanson, Director of D.E.Q., also recognized this but the Bill doesn't specifically say that a landfill has to be sited. A process could result in siting a landfill and a site for resource recovery. D.E.Q. is to conduct a study and complete it by July 1, 1986, recommending to the E.Q.C., three preferred locations within the three-county area. A site outside the three counties can be recommended but concurrence of the jurisdiction on the site and method must be obtained. Recommendation of the sites must be completed by January 1, 1987. By July 1, 1987, the E.Q.C. will issue an order to D.E.Q., to establish a disposal site(s). Metro has never had the authority to site--only the authority to apply for a site, so in many ways, this does not change our role, only makes the rules clearer.

Bob Harris asked Dan about the significance of a phrase in Section 4 which says "including an area of forest land designated for protection under state-wide planning goals".

Dan answered there had been some question, under state-wide planning goals, whether you could site in forest land. Each county has individual rules, so this phrase in Section 4 was put in so forest land could be considered. The goal was to make as many sites as possible available. The whole issue of land use is dealt with in this Section. It lists a series of standards that look reasonable. Rather than prohibit or have absolute standards--which is what Metro ran into in Multnomah County with Wildwood--you can mitigate these standards--do things that lessen the impact.

Dan reviewed Section 5, page 4, paragraph 3, as being the key part of the bill. When findings are issued by the department under subsection (4) of this section, the commission in selecting a disposal site under this 1985 Act must comply with the state-wide planning goals adopted under ORS 197,005 to 197.430 and with the acknowledged comprehensive plan and land use regulations of the local government unit with jurisdiction over the area in which the disposal site is located. However, when findings are not issued under subsection (4) the standards established by Section 4 of this 1985 Act, take precedence over provisions in the comprehensive plan or land use regulations of the affected local government unit, and the commission may select a disposal site in accordance with those standards instead of, and without regard to, any provisions for locating and establishing disposal sites that are contained in the comprehensive plan or land use regulations of the affected local government unit. Any provision in a comprehensive plan or land use regulation that prevents the location and establishment of a disposal site that can be located and established under the standards set forth in Section 4 of this 1985 Act shall not apply to the selection of a disposal site under this 1985 act." Dan explained when you get outrageous standards built into land use regulations which prohibit the siting of landfills or they don't make sense, they are then overridden by the standards of Section 4.

Dave Phillips voiced a concern that, while Clackamas County's standards for siting a landfill come straight out of the L.C.D.C. goals and guidelines, D.E.Q. has had the Attorney General look at those and said Clackamas County's standards are inconsistent or too severe. Yet the language follows the LCDC goals and guidelines. This Bill requires that this conform to the goals and guidelines and Phillips advised that the LCDC goals need to be changed so they conform to the Bill. Dan agreed this Bill did require conformance with the state-wide goals. Phillips commented that the counties had conformed with the state-wide goals and were stuck with them. Dan said that any legislation would have to recognize the planning goals. Phillips agreed but advised that the wording of the goals needs to be changed. Clackamas County followed the state-wide goals and are still unable to site a landfill under its plan. Bob Brown, from D.E.Q., noted that D.E.Q. was aware of the problem and they were discussing this.

Dan continued with the review, stating the heart of the Act was on page 5, paragraph 6, giving D.E.Q. the power to establish a site or sites without obtaining license, permits and franchise or other form of approval from the local governments. Once findings are made, sites identified and in conformance, siting can move forward. Section 6, page 6, is another effort to step up the process. This section provides that appeals can go directly to the Supreme Court.

Dan commented that Section 7, page 7, is essentially reiterating the parameters that D.E.Q. will be working under to carry out this act. In this section, Metro is given the responsibility for operating the site(s). The gray area is in the ownership of the site(s). Who does preliminary design and final design? Discussion with people interested in this legislation, including Fred Hanson of D.E.Q., seem to feel that Metro will be carrying on operating functions and that Metro will move into the process at some logical point like final design or the preliminary design. Bill Webber asked why the owner of the property would not have this responsibility. Dan said that depended on when ownership turned over from D.E.Q. to Metro. Metro, as the operator, will need to have some input into the design and felt D.E.Q. was aware of this.

Section 8, is a clear indication by the State that dependence on a landfill be reduced. It requires that Metro provide to EQC/DEQ a program that reduces the dependence on landfills by January 1, 1986. Mike Sandburg asked if Metro would have the operational responsibilities if the site was out of the Metro boundaries? Dan answered that this applies "in or out". This Bill is to serve the three-county area as stated in Section 2. It could be a model for other areas in the state.

Summarizing the bill, Dan stated Metro is required to have a waste-reduction plan to D.E.Q. by January 1, 1986. The D.E.Q. has 90 days to approve this. The waste-reduction plan, most likely will be a combination of the two chapters the Solid Waste staff is working on now as an update to the Solid Waste Management Plan. The Alternative Technologies and Source Reduction/Recycling chapters will be completed; taken to the Council; and submitted to D.E.Q. by January 1, 1986. If this is not done, duties, functions and powers relating to solid waste will be transferred to D.E.Q. Dan noted that in discussions in Salem, the emphasis was to get away from landfills and that there was not a great deal of sensitivity to the cost of this.

Section 9, deals with the immediate cost of carrying out this Bill. This Section provides for a "pot" of 50¢ per ton for every ton that goes into a general-purpose landfill operated by Metro and will be earmarked for "rehabilitation and enhancement of the area in and around the landfill". The reading of this seems to leave the disposition of the money up to the Metro Council.

John Trout, noted that using the current figures this would generate around \$400,000 annually. Dan answered the figure would be around \$300,-350,000 based on what actually goes into the landfill. The money wouldn't be used for things that are typically involved in operations (i.e., litter control, leachate control systems, final cover, etc.). It may be used for end-use projects, transportation improvement over and above operation needs, signage at Oregon City entrance, etc. Don said this type of compensation to communities is being done around the country.

Bob Brown, raised the question on the collection of this fee at other region landfills, like Riverbend. Dan felt that this 50¢ per ton would not apply to Riverbend but only to sites within the three-county area or those operated by Metro out of the district.

Mike Sandberg asked if this fee would be applied to facilities other than landfills, like resource recovery even though there had been discussion including other facilities like transfer stations. The Bill refers only to general-purpose landfills. If waste is not landfilled but sent to a resource recovery facility, the amount of the fund could be drastically reduced. This policy is outlined in the Bill to reduce landfill dependency.

Section 9.2 effectively says that though D.E.Q. will be doing the siting process, Metro will be paying the cost. A fee of \$1.00 per ton was established to cover the D.E.Q. costs. D.E.Q. is estimating it will need 1.2 million over the biennium to look at least three sites in detail. This doesn't appear terribly unrealistic. Up to this point, Metro has spent \$600,000 for the Wildwood decision. This is not cheap. The \$1.00 a ton will be put aside in a fund. The \$1.00 and the 50¢ fee will be effective immediately. Metro will need to go through an emergency process to raise the rates \$1.50 per ton as soon as possible. John Trout wanted to know if D.E.Q. could use Pollution Control Bond money and charge back the actual costs. Bob Brown said that DEQ would have to issue contracts right away and would have to do that. Dan responded that it is set up to pay just the actual costs of the process. If too much money is put in, the money will be returned. The Bill requires that there be an accounting of the money at the end of the process with only actual costs paid.

Mike Sandburg asked about the money that has been budgeted in the FY 85-86 Landfill-Siting Budget. Dan said that currently there is about \$167,000 in landfill siting. We had \$400,000 in the Capitol fund to pay for additional engineering studies. This was to come from Pollution Control Bonds.

Section 9.3 requires that money budgeted in the Landfill Siting Program that is not used for that, be used in the Waste Reduction Program. Some of the money budgeted will be kept in the Landfill Siting Program to cover Metro's staff time involved in the process with D.E.Q. John Trout asked if there wasn't an amount already identified in the rate structure to cover planning and siting development? Dan responded we could calculate the amount of the User Fee used in landfill siting. Mike Sandburg asked if this change would affect the amount of solid waste staff. Dan said that only 1.3 people were budgeted in that program and we didn't see any change. The budget indicated if we became involved in a full siting process more money would be needed in the program budget and a hold-back conservative amount was budgeted. It basically said that Metro would continue to work with the County. Our level in landfill siting this year was very modest. We will continue to have one staff member staying very close to the project, probably Dennis O'Neil who has the background.

Dave Phillips wanted to know which fee would include the \$1.00 per ton. Dan responded that a separate fee would be identified as the D.E.Q. fee, not as part of the disposal or user fees. This fee should end in a couple of years when the process is finished and the bills paid--it being a clearly identified fee it can be dropped. The way the bill is written, the 50 cents per ton will go on as part of the disposal fee so that increase will have to be immediate. Metro is looking at a new transfer station in the coming months. If we end up with the excise tax, we can very quickly be looking close to \$20 per ton. Bob Brown commented D.E.Q. is preparing a budget. A staff member will track it and consultants will do most of the work. They will take a second look at the 46 sites which will take about three months and probably one-hundred grand. Realistically, Wildwood will probably be one of the top sites. D.E.Q. cannot go to the EQC with one site. A detailed feasibility site will be necessary for these two or three sites--it could run into a million dollars. Dan remarked that essentially the D.E.Q. will go through the level of detail that Metro did for one site. Since 1979 this has cost Metro from \$600-700,000. John Trout said there had been quite a bit spent before that time. Dave Phillips said \$370,000 was spent on the original Cor-Met study and around one-million on energy recovery.

John Trout voiced concern that a lot of people are going to be upset when the rates are increased, knowing the true cost of disposal before plugging in all bureaucratic costs. Dan said Metro would continue to do its part to keep the fees identified separately. Dan clarified that the Disposal Fee did not include development costs for the transfer stations. Dan concluded by commending Fred Hanson and Stan Biles of D.E.Q. and the other interest groups at the Legislature. Bill Webber asked what groups were involved and Dan directed any who were interested in these groups to contact Phil Fell, Metro's Legislative representative.

Agenda Item: Solid Waste Update

ST. JOHNS OPERATIONS CONTRACT

Dan Durig reported the contract documents are 99 percent done and undergoing final review. They will be mailed out to the bidders June 18th. A list of the pre-qualified firms was provided in a handout. A selection committee reviewed these firms and found all to be qualified. Dave Phillips sat on this committee as SWPAC's representative. Chuck Geyer, project manager; Dan Durig, Norm Wietting; and a representative from the City of Portland made up the rest of the prequalification Committee. The nine firms include some major national firms and some good-sized regional firms. One firm, Roadway Constructors, did not meet the deadline on submittal of the prequalification forms and appealed to the Council to reopen the process. The Council voted not to reopen. A prebid conference is scheduled for June 28, 1985. All prequalified firms will be required to send a representative. Questions will be answered at that time. The formal bid opening is scheduled for July 12th at 4:00 p.m.

Clackamas Transfer & Recycling
Center

The 800 ton limit at CTRC has been exceeded. This is due to several factors. Woodburn Landfill had a substantial increase in its price that brought them almost up to CTRC. CTRC continues to be very popular with Washington County haulers and a substantial amount of waste is coming in from Washington County. The economy is picking up enough to be making some difference in the amount of waste in general. Metro is on the agenda in Oregon City for June 25th at 7:15 to explain our plight and ask that there be some consideration given to us in raising that limit for a short term until we can get the Washington County facility up and operating. Metro went through a meeting with the Washington County haulers and they made some good points: (1) It's a regional facility (2) we're paying for it and should have access to it, etc. so Metro will be sharing this with Oregon City Commissioners.

WTRC Progress

Shirley Coffin stated the Committee had studied the previous sites and come up with ten sites in six areas and are holding public meetings in each area. The meeting at the Beaverton Library involves a zoning change. Another site the committee would like to drop because there is only about an acre and a half of useable land. July 16th is a public meeting and the Committee will then meet and make a recommendation to the Council. Dan added it was important to make a decision since Oregon City was quite adamant that Washington County contribute their share of the facilities for solid waste in the area. Shirley described the sites now under consideration and discussed these with the SWPAC members. Doug Drennen commented the people and commissions were always picking on the garbage haulers, but Wood Products Industries were running about 84,000 pounds as an average, out of the Beaverton Industrial Park and this was from the State Scales. Dave Phillips said also, if a facility is closer, the trucks don't pack them so tight because it's also easier on their equipment. Washington County has had to go for bigger equipment because they have a long haul.

SWPAC Meeting
June 17, 1985

Methane Gas Recovery

Doug Drennen stated Metro was probably 80-90 percent through on negotiation of the contract with BioGas for Methane gas recovery. We will probably get construction started this year and see some revenue this year. Metro is about within the timeline expected for this project and it's going to be a good deal for Metro.

Rate Issue

Doug Drennen stated we were studying rate issues. Last year Metro we didn't analyze or look at too many issues and decided we didn't need to make any adjustments. This year we have had a number of issues our Council has raised and you will note these in the handout "Scope-of the 1986 Rate Study" which the Council will study and discuss at the June 30th meeting. Rich McConaghy, who is working on the Rate project, reviewed the report with the SWPAC members. Metro is trying to keep to an early time-frame so the haulers will have a chance to know what is coming up in rate issues. Metro hopes to have rates approved by September 26, 1985. The D.E.Q. fees are listed--which were discussed earlier, and the Senate Bill also requires that we look at the Rate structure for encouraging resource recovery and recycling, or diverting away from landfills. We will offer several options and combinations of options for consideration with the seven points listed on the Scope sheet. Extending St. Johns may have to be taken into consideration and also some legal work is being pursued in handling the problem of out-of-state dumping at St. Johns.

Mr. Trout stated a possible solution, which shouldn't be a legal problem, might be to restrict those dumping from outside of the region to those hours when there isn't a heavy backup at St. Johns waiting to unload. In other words those from Washington wouldn't have entree until after 4:00 p.m. Doug answered he felt that might have legal ramifications as well as operational changes. Their may be legal or technical options we can impose and it will be reviewed.

One of the seven points was that a possible fee could be charged either for special waste permits or an extra fee for dumping special wastes at St. Johns. There are several hundred of these permits issued every year and we need to recover our costs for special handling from the persons who require the special permit. We aren't trying to outcharge them so it ends up on the street or highway, but we're trying to recoup that cost to provide the service.

Mr. McConaghy asked that the SWPAC members bring any suggestions or questions and recommendations to the Council.

Old Business

Dave Phillips mentioned he had heard a number of comments about uncovered loads and the double charge or selling of tarps. He felt a news release or some type of information should be repeated, saying we are charging double for uncovered loads. The public still doesn't seem to be aware of this. Mary Jane Aman said there was a sign but it didn't seem to be that visible from the road and it should be out front. There has been discussion about this and also including the information in the yellow pages. Mr. Phillips suggested they should be charged the double fee and give them the tarp instead of offering the option that they buy or leave without disposing of their load---they feel coerced--so just give them the tarp with a double charge.

The next meeting is July 15th.

Written by Bonnie Langford

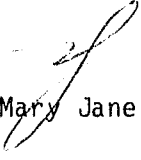


Memo

METROPOLITAN SERVICE DISTRICT 527 S.W. HALL ST., PORTLAND, OREGON 97201-5287 503 221-1646
Providing Zoo, Transportation, Solid Waste and other Regional Services

Date: August 27, 1985

To: SWPAC Members

From:  Mary Jane Aman, Administrative Assistant

Regarding: Change of Meeting Date for the September SWPAC Meeting

In order to present the appraisal of SWPAC members on the 1986 rate study for Solid Waste Disposal, Transfer and User Fee Programs, in time for the next Council meeting, we have changed the September SWPAC meeting to noon on September 9, 1985.

We have enclosed the new rate information for your review and hope that all members can be present to discuss the proposed rate changes and reach an opinion to offer the Council as our recommendation on the new rates.*

Also enclosed is a letter and information sheet from the Waste Reduction Division of Solid Waste which they would like you to be aware of. You are also invited to attend the Regional Forum on SB 405, as mentioned in the letter, on September 4th from 3 - 5 p.m. at Metro.

We hope you can make the change of meeting for SWPAC in September. See you on September 9th at Noon. Please let us know if you cannot attend the meeting.

b1

*Enclosures have minor revisions of the information handed out at the August SWPAC meeting.



VICTOR ATIYEH
Governor

Department of Environmental Quality

822 S.W. FIFTH AVENUE, BOX 1780, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

August 20, 1985

Rick Gustafson
Metropolitan Service District
527 S.W. Hall
Portland, OR 97201

Dear Rick:

There have been several discussions between our respective solid waste staffs on the implementation of Senate Bill 662. In addition, Dan Durig of your staff has written me asking detailed questions about the Department's approach to the bill. I wanted to share with you the Department's thoughts on Senate Bill 662 which will set a direction for METRO in preparing the waste reduction plan called for in the bill.

First, let me explain that we will be approaching the solid waste crisis in the Portland/Metropolitan area by following the priorities set in Oregon's Recycling Opportunity Act (ORS 459.015). REDUCTION of waste, REUSE of waste, RECYCLING, resource RECOVERY, and finally, land disposal. METRO's waste reduction program should chart the course for the first four alternatives. It should set out to show in a positive, creative, and specific program, how, by the year 1991, a substantial majority of the garbage in the region can be eliminated by reduction, reuse, recycling and recovery. METRO's program should specify the exact percentage of waste reduction to be achieved by the year 1991. As part of the overall solid waste management program for the region called for in Senate Bill 662, our Department is seriously considering siting resource recovery facilities, along with a landfill.

The types of solid waste disposal facilities sited by the EQC and their interrelationships will be based upon the waste reduction program developed by METRO. Therefore, the plan is critical to the siting process and must concentrate on successful implementation. The program must be specific and geared to action. Because of the importance of the plan, it must include commitments from local governments in the region and the METRO Council to work for its success. These commitments must be gathered prior to submittal of the plan to the Environmental Quality Commission.

A strong public education program is another essential element of the plan. The general education requirements included in the Recycling Opportunity Act (ORS 459.165-200 and OAR 340, Division 60) should be built upon for the Waste Reduction Plan. Long-term funding of and responsibility for the education plan will need to be included.

Strong markets for salvaged, used, or recycled materials drives those materials out of the garbage can and back into useful life. The Waste Reduction Plan should include a market development element for materials which can be salvaged, reused or recycled.

But an even stronger force to driving materials from the dump to the recycler is the cost of disposal. To be successful, METRO's Waste Reduction Plan must be able to reward recycling and reuse through the rate structure. This includes both the rates that are set at the disposal sites and what residential, commercial, and industrial customers pay for recycling and garbage service. Rates that discourage unseparated garbage and encourage recycling must be included in the Waste Reduction Plan. This stresses the need for local government involvement and commitment to the recycling program.

An aggressive commercial recycling program should be included, and the rate structure portion of the plan should include recycling incentives for business and industry as well as residential.

Additional elements which need to be incorporated in the Waste Reduction Plan include:

1. Recycling, Reduction, Reuse, or Recovery (beyond what is already being accomplished) of these special types of waste:
 - a. yard debris
 - b. scrap paper
 - c. compostable material
 - d. tires
 - e. household quantities of hazardous waste
 - f. hazardous wastes which can legally be landfilled from companies which generate less than 200 pounds of waste per month
 - g. industrial waste which could be reused by another industry (Waste Exchange type system)
 - h. plastics
 - i. motor oil
 - j. construction debris
2. Unseparated garbage should be reduced, separated waste streams should be encouraged to facilitate recycling, and separated waste streams which could be recycled or reused should not be mixed for a lower priority use, such as energy recovery.

3. The plan should include strategies to build on existing institutions to improve recycling, reuse, or recovery such as the park system, schools, or service groups and programs such as city composting or industrial co-generation capability.
4. The plan should show the benefit of additional waste reduction requirements such as programs to reduce excess packaging, requiring space for recycling containers be set in building code requirements, or other similar strategies.
5. The plan should be action-based, including a detailed implementation schedule which shows who does what and when. Start of implementation should be geared to no more than six to nine months after plan approval.
6. The plan should build upon innovative and proven solid waste reduction techniques in use in other parts of the nation and world.

We have reviewed the Alternative Technology Chapter developed by METRO with these guidelines in mind. Clearly, standing alone, it will not be acceptable as the Waste Reduction Plan called for in Senate Bill 662.

There is no doubt that the Waste Reduction Plan we have outlined is very aggressive, and will be difficult but not impossible to achieve within the deadline set in the legislation. However, with St. Johns Landfill slated to close in a little over 4 years, the region must face up to the garbage crisis and quickly get the programs in place that will solve it. METRO's waste reduction plan is a very important part of the solution, and I look forward to working with you to build a very successful recycling/reduction based solid waste system in the Portland/metropolitan area.

Sincerely,



Fred Hansen
Director

FH:b
SB4977
cc: Environmental Quality Commission
METRO Council
Pat Amedeo



Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

SEP 06 1985

RECEIVED SEP 10 1985

Mr. Daniel Durig
Solid Waste Director
Metro
527 S.W. Hall Street
Portland, OR 97201

Re: SB662

Dan
Dear Mr. Durig:

This correspondence will address questions in your letter of July 9, 1985 regarding the disposal siting and financial portions of SB662. The questions relating to the Waste Reduction Program portion (Section 8) of SB662 has been addressed separately in my August 20, 1985 letter to Rick Gustafson. An item by item response to your interpretations and questions follows:

- Are the fees listed in Section 7(1)(1) the same as the fees listed in Section 9(2)?

No, the fees listed in Section 7(1)(1) are not the same as those listed in Section 9(2). This general authority existed previously in ORS459.053(9) and was simply extended to cover SB662 activity.

- Will any money remaining in the Land Disposal Mitigation Account be returned to Metro?

Our intent is to not have an ending balance in this account. However, should this occur it is the Department's intent to return the funds to Metro unless there is some legal obstacle we cannot overcome.

- Does the \$1.00 per ton fee in Section 9(2) only apply to waste disposed of in the St. Johns landfill?

No, the language of the act does not limit the \$1.00 per ton fee to any specific disposal site. The act states "That portion of the service and user charges set aside by the district for the purpose of this subsection shall be \$1.00 for each ton of solid waste." The Department assumes that this \$1.00 per ton will be set aside for each ton, but it is up to Metro to determine the fee structure necessary to generate these monies.

- Does DEQ intend to limit their siting authority to landfills?

No, it is the Department's intent to site a solid waste disposal facility or facilities which could include an alternative technology facility as well as landfill.

- Must DEQ have formal land use approval for a site outside the three counties?

Section 5(3)(a) and (b) determine whether local comprehensive plan and land use regulations must be complied with. If findings are made under Section 5(4) that the standards of the county are identical to or consistent with the standards in Section 4 then formal land use approval must be obtained. In any event, Section 3(2) indicates that the city or county having jurisdiction over the site approves the site and the method of solid waste disposal recommended for the site.

- Can the EQC order the establishment of more than one disposal site?

The Department feels that the language of the act does not limit the Environmental Quality Commission to the selection of only one site.

- If DEQ finds additional land use standards over and above those listed in SB662 in the local comprehensive plans, could the Department find these standards inconsistent?

Yes, the plans could be found inconsistent. The Department will evaluate each comprehensive plan and will approve any plan we find to be identical to or consistent with the standards in Section 4.

- Does the \$.50 per ton fee in Section 9(1) apply only to St. Johns landfill and a successor operated by Metro?

Apparently the legislative intent was to collect this fee at St. Johns and any new general purpose landfill within or for the district. However, since Metro is to collect and administer the fee, Metro counsel should be consulted for a ruling on your question.

- Does Section 5 allow the EQC to order DEQ to issue any permits required by state agencies?

Your question has been forwarded to the Department of Justice. When a reply is received you will be supplied with the legal interpretation.

- Which agency, DEQ or Metro, has responsibility for design and construction of any disposal site?


The Department agrees that Metro as the operating agency should have the responsibility for design (operational plans) and construction (unless, of course, those responsibilities have transferred to the Department under Section 8(4)). In any event, the preliminary feasibility study on the top candidate disposal sites will be the responsibility of the Department.

- How should the \$1.00 per ton fee be transferred from Metro to DEQ?

Because of the difficulty of projecting the amount and timing of charges against the Land Disposal Mitigation Account established by the act, the Department is requesting that monthly payments be made to the Department by Metro. The Department will, however, allow the first payment to be made on a quarterly basis. The first payment would therefore be due on or before October 15, 1985, and cover the time period July 13 - October 1, 1985. Payments should be made monthly thereafter on the 15th of each month for the previous month.

The Department would be happy to meet with you to discuss any of the questions in further detail.

Sincerely,



Fred Hansen
Director



CITY OF
PORTLAND, OREGON
OFFICE OF PUBLIC WORKS

Dick Bogle, Commissioner
1220 S.W. Fifth Ave.
Portland, Oregon 97204
(503) 248-4682

August 15, 1985

RECEIVED AUG 16 1985

Dan Durig
Director, Solid Waste
Metropolitan Service District
527 SW Hall
Portland, OR 97201

Dear Dan:

Thank you for your letter of August 5, which sets down Metro's agenda items for our forthcoming discussions on solid waste issues. The following is a list of issues the City would like to resolve in those discussions.

1. Establish a joint City-Metro process for setting policy to manage the St. Johns Landfill until a replacement facility is in operation.
2. Establish a process for citizen involvement and public participation in making management decisions affecting the St. Johns Landfill.

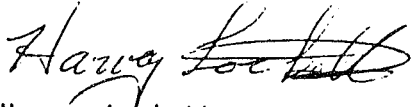
Commissioner Bogle and I believe that the above are the only items that need to be added to the four in your letter. In the interest of clarity, however, we would like to point out certain elements of those issues that the City wishes to address in our discussion.

1. 50¢/ton Surcharge
Clarify the uses to which the proceeds of this charge will be put, and determine who is to administer those funds.
2. End Use
Clarify the City's and Metro's responsibilities in preparing, financing and implementing an end-use plan for St. Johns.
3. Methane Gas Contract
No clarification needed.
4. Solid Waste Reduction Plan
Ensure that Metro's solid waste reduction plan and the City's recycling plan are compatible.

August 15, 1985
Page 2

I look forward to our meeting on Thursday, August 22, and remain confident that we can forge a speedy resolution of these issues.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harvey Lockett".

Harvey Lockett
Executive Assistant to Commissioner Dick Bogle

CS:a1
35:cs-durig

cc: John Lang

METRO COUNCIL WASTE REDUCTION TASK FORCE
DECISION MAKING PROCESS

Framework and Sequence for Addressing the Policy Issues

- Step 1: Agree on a set of goals and objectives--the vision of what we want to achieve. (See attached goals.)
- Step 2: Diagnose what's wrong with the present system according to those objectives.
- Step 3: Examine the options and determine whether they will move us toward the goal.
- Step 4: Analyze the costs and benefits for each option and make decisions.

The sequence of issues and options addressed in steps 2, 3 and 4 should be based on the HIERARCHY OF PRIORITIES in State law:

- 1) Reduce
- 2) Reuse
- 3) Recycle materials
- 4) Recover energy
- 5) Landfill.

Each priority level shall be fully explored in sequence within the constraints of technical and economic feasibility.

WORK SCHEDULE

Cycle Through This Hierarchy Twice

- First cycle: Step 2: For each level of the hierarchy diagnose the problems and impediments in the present system which prevent an increase of waste reduction.
Step 3: Examine and understand the full range of options, considerations, and decisions to be made. Task Force will define what it needs to know in order to make decisions and direct staff to provide this information.
- Second cycle: Step 4: Evaluate the options for each level in the hierarchy based on input from public involvement and cost/benefit analysis. Select options.

To conclude, develop an integrated "strategy" which combines the options previously selected and includes a waste allocation formula and policies.

GOALS

FOR THE WASTE REDUCTION PLANNING PROCESS DEVELOPED BY THE METRO COUNCIL TASK FORCE

- I. In order to conserve energy and natural resources and to protect the environment, the goal of the solid waste management system for the tri-county region shall be to achieve maximum feasible reduction of landfilled solid waste in accord with the State mandated priorities of action:
 - Reduce the amount of solid waste generated;
 - Reuse material for the purpose for which it was originally intended;
 - Recycle material that cannot be reused;
 - Recover energy from solid waste that cannot be reused or recycled, so long as the energy recovery facility preserves the quality of air, water and land resources; and
 - Dispose of solid waste that cannot be reused, recycled or from which energy cannot be recovered by landfilling or other method approved by the Department of Environmental Quality.

- II. The solid waste management system for the region shall develop and maintain consistency and equity of services throughout the region.



METROPOLITAN SERVICE DISTRICT
Providing Zoo, Solid Waste and Local Government Services

August 29, 1985

527 S. W. Hall St.
Portland, Oregon
97201-5287
(503) 221-1646

Dear Customer or Interested Party:

The Metro staff will be recommending to the Metro Council that the following changes be made in solid waste disposal rates at the St. Johns Landfill and the Clackamas Transfer and Recycling Center (CTRC). If approved by the Metro Council these rates will go into effect January 1, 1986.

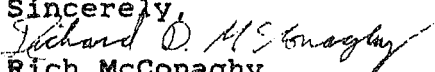
Based on the staff recommendation, commercial rates at the St. Johns Landfill would increase from \$13.48 per ton to \$14.38 per ton. The St. Johns Landfill minimum charge for pickups would increase from \$7.25 to \$7.50 per trip. At CTRC, the total rates would increase from \$15.73 to \$17.38 per ton for commercial users. The minimum charge for pickups at CTRC would increase from \$8.00 to \$8.50 per trip.

Also under the staff recommendation, new extra fees will be charged for special wastes. These wastes include mainly liquids, sludges, asbestos or other materials which require special management. The fees charged for special wastes in addition to other fees would be: a \$25 permit application fee, a \$3.65 per ton surcharge, a minimum charge of \$50 per trip, and lab fees when necessary.

The attached overview summarizes the reasons for these rate increases and provides a description of the rate study document. The 1986 rates will be considered at the following meetings:

- September 3, 1985 - Metro Rate Review Committee
- September 5, 1985 - Metro Council work session
- September 9, 1985 - Solid Waste Policy Advisory Committee

The September 5th work session, which will begin at 5:30 in the Metro offices, would provide interested individuals with the best opportunity to provide comment on rate policy options. A public hearing will be held with the first reading of the rate ordinance at the September 12th Metro Council Meeting which is scheduled to begin at 6:00 p.m., at the Highland Park School in Beaverton. A second reading of the ordinance will occur on September 26th in the Metro Council chambers(5:30). Copies of the complete rate study can be obtained by calling Rich McConaghy at 221-1646.

Sincerely,

Rich McConaghy
Analyst

Rick Gustafson
Executive Officer

Metro Council
Ernie Bonner
Presiding Officer
District 8

Richard Waker
Deputy Presiding
Officer
District 2

Bob Oleson
District 1

Jim Gardner
District 3

Corky Kirkpatrick
District 4

Tom DeJardin
District 5

George Van Bergen
District 6

Sharon Kelley
District 7

Hardy Myers
District 9

Larry Cooper
District 10

Marge Kafoury
District 11

Gary Hansen
District 12

OVERVIEW OF 1986 RATE STUDY

The 1986 Rate study of Disposal Fees, Regional Transfer Charges, and User Fees, has recently been completed. This study considers rates which are proposed for 1986 at the St. Johns Landfill and the Clackamas Transfer and Recycling Center (CTRC). The amount of the User Fees and Regional Transfer Charges (RTC) collected at non-Metro disposal sites is also dealt with in the study. (New fees, totaling \$1.50/ton, required in 1986 by the Legislature as a result of Senate Bill 662 will be figured into the Metro Base Disposal Rate). The 68 page document examines the costs of operating Metro solid waste facilities and programs and projects waste quantities for 1986.

Chapters 1 through 4 of the study develop in detail a set of rates which would be appropriate under certain basic assumptions and current policies. (Rates developed for the base case are \$14.34 per ton for commercial disposers and \$8.20 per trip for public disposers at St. Johns.) Chapter 5 presents several options for variations on the rates if alternative policies or assumptions are considered. The options discussed are the following:

Option 1: The impact of alternative waste quantity projections - The rates developed in the first four chapters are based on the conservative assumption that waste quantities which have been received from outside of the Metro region and which have recently increased, won't be received in 1986. Option 1 indicates that rates could be lower if it is assumed that these quantities will continue to flow into the region in 1986.

Option 2: Alternatives for applying Special Waste Fees - For several years, Metro has had a program for permitting and evaluating special wastes such as liquids, sludges, and asbestos which require special consideration or handling before being disposed at the St. Johns Landfill. The study considers possible rate mechanisms for recovering the costs of special waste management from special waste disposers rather than from all disposers. Possible options presented are a per ton surcharge, partial payment of special waste costs by special waste disposers, a trip fee, a permit application fee, fees based on the nature of the particular waste, or a combination of these types of fees.

A. Waste Quantities - Rates should be set on the basis of the waste quantities generated in the Metro region. It is conservative for ratesetting purposes to assume that wastes which have been generated outside of the region will not be received. Option 1 of rate study Chapter 5 presents an alternative to this recommendation.

B. Diversion of Wastes - The commercial RTC should not be collected at limited use sites and the CTRC convenience charges for commercial and public users should be increased by 33 percent over the current amounts. These actions, considered in Options 3 and 4 would provide some diversion of non-food wastes from St. Johns to limited use landfills and would maintain CTRC waste flows within permitted limits. In the near future, consideration should be given to mandatory flow controls to divert all dry drop box loads from St. Johns and CTRC to limited use landfills.

C. Special Waste Fees - Special waste disposers should pay 100 percent of the costs identified as special waste related. Fees for special waste users should include:

- a \$25.00 special waste permit application fee
- a \$3.65 per ton surcharge on special wastes in addition to other fees
- a per trip minimum charge of \$50.00
- a provision for recovering lab and testing expenses paid by Metro from those disposers whose wastes require chemical analysis

D. SB662 Fees - It is recommended that the \$1.00 per ton and \$.50 per ton fees required by the Legislature in SB662 be collected through rates on all wastes disposed at St. Johns or CTRC starting on January 1, 1986. Until that time, the estimated \$543,000 expense of this requirement can be met through the existing fund balance resource (\$200,000) and estimated savings in the newly awarded St. Johns Disposal Operations Contract (\$345,000). The \$1.50 per ton commercial charge and \$.18 per cubic yard public rates should be identified as an add-on charge to the base disposal rate.

E. Fund Balance - A small portion of the fund balance should be applied towards minimizing total 1986 rate increases to about 7 percent above the 1985 rates. It is estimated that total rate increases may be 30 percent over the next 5 years. The fund balance can be used to make projected increases as gradual as possible. About 80 percent of the fund balance should be retained as an operating reserve to provide for contingent expenses and for financial stability. In the suggested rates which follow,

\$500,000 of the fund balance has been applied to costs in order to reduce rate increases and to establish cash rates which are divisible by \$.25 amounts. User fees and RTC rates are each subsidized by \$150,000 from the fund balance while the commercial and public base disposal rates are each subsidized by \$100,000. This application of the fund balance results in a \$.55 per ton savings for commercial users and a \$.74 per trip savings for public users.

F. Suggested Rates - Adoption of the foregoing staff recommendations would yield the following rates:

	Base Rate	SB662 Fees	RTC	User Fee	Conven. Charge	Total Rate
<u>St. Johns Landfill</u>						
Commercial (per ton)	\$7.86	\$1.50	\$2.98	\$2.04	-	\$14.38
Public:						
2 yd	3.84	.36	1.36	.44	-	6.00
2.5 yd	4.80	.45	1.70	.55	-	7.50
extra yd	1.92	.18	.68	.22	-	3.00
<u>CTRC</u>						
Commercial (per ton)	7.86	1.50	2.98	2.04	3.00	17.38
Public:						
2 yd	3.84	.36	1.36	.44	.80	6.80
2.5 yd	4.80	.45	1.70	.55	1.00	8.50
extra yd	1.92	.18	.68	.22	.40	3.40
<u>Non-Metro Facilities</u>						
<u>Limited Use Sites</u>						
Commercial (per yd)	-	-	-	.25	-	.25
Public:						
2 yd	-	-	1.36	.44	-	1.80
extra yd	-	-	.68	.22	-	.90
<u>General Purpose Sites</u>						
Commercial (per yd)	-	-	.37	.25	-	.62

Changes in staff recommended commercial and public rates over current rates are displayed on the attached two pages. For each rate, the current rate is shown on the left and the staff recommended rate is shown on the right. The dollar or percent change is noted below the staff recommended rate. Brief explanations identify factors which tend to increase (+) or decrease (-) the recommended rates in comparison with the current rates.

Questions or comments on the rate study or requests for copies of the complete rate study, should be directed to Rich McConaghy or Brian Keefe at 221-1646.

COMPARISON OF CURRENT COMMERCIAL RATES
WITH 1986 STAFF RECOMMENDATION
(dollars /ton)

BASE DISPOSAL RATE

Current	\$9.80	Staff recommendation	\$7.86
	- lower cost of operations contract		(- \$1.94)
	- change in projected quantities		
	+ increased lease payments and DEQ payments		
	+ greater contributions to Reserve & Final Improvement Funds		
	- special waste fees reduce allocation		

RTC

Current	\$2.00	Staff recommendation	\$2.98
	+ add WTRC engineering, planning & loan payment		(+ \$.98)
	+ take off RTC at limited use sites		
	+ greater CTCRC waste quantities, increased costs		
	+ greater commercial proportion of CTCRC wastes		
	- increase in convenience charge		

CONVENIENCE CHARGE (CTRC only)

Current	\$2.25	Staff recommendation	\$3.00
	+ plus \$.75 to encourage direct haul to St Johns		(+ \$.75)

USER FEE

Current	\$1.68	Staff recommendation	\$2.04
	+ increase in program costs		(+ \$.36)
	* less involvement in landfill siting, greater involvement in waste reduction planning		

SB662 FEES

Current	\$0.00	Staff recommendation	\$1.50
	+ rehabilitation/enhancement \$.50/ton		
	+ DEQ landfill siting \$1.00/ton		

SPECIAL WASTE FEES

Current	\$0.00	Staff recommendation	\$3.65
	+ new surcharge	also a \$25 permit application fee	
		\$50 minimum trip fee and lab fees	

TOTAL

St. Johns	Current	\$13.48	Staff recommendation	\$14.38
				(+ 7%)
	CTRC	\$15.73		\$17.38
				(+ 10%)

COMPARISON OF CURRENT PUBLIC RATES
WITH 1986 STAFF RECOMMENDATION
(dollars/2.5 yd trip)

BASE DISPOSAL RATE

Current	\$5.37	Staff recommendation	\$4.80
	- lower cost of operations contract		(- \$.57)
	+ WTRC debt service		
	+ increased lease payments and DEQ payments		
	+ greater contributions to Reserve & Final Improvement Funds		
	+ higher identified cost of operating St Johns transfer station		

RTC

Current	\$1.34	Staff recommendation	\$1.70
	+ add WTRC planning & engineering		(+ \$.36)
	+ greater CTCR waste quantities, increased costs		
	- lower public proportion of CTCR wastes		
	- increase in convenience charge		

CONVENIENCE CHARGE (CTRC only)

Current	\$0.75	Staff recommendation	\$1.00
	+ plus \$.25 to encourage direct haul to St Johns		(+ \$.25)

USER FEE

Current	\$0.54	Staff recommendation	\$0.55
	+ increase in program costs		(+ \$.01)
	+ continued level of public waste quantity flows projected		
	* less involvement in landfill siting, greater involvement in waste reduction planning		

SB662 FEES

Current	\$0.00	Staff recommendation	\$0.45
	+ rehabilitation/enhancement \$.15/trip		
	+ DEQ landfill siting \$.30/trip		

TOTAL

St. Johns	Current	\$7.25	Staff recommendation	\$7.50
				(+ 3%)
CTRC		\$8.00		\$8.50
				(+ 6%)

Dan D.

Draft Final

Date: July 29, 1985
To: Dan Durig, Director of Solid Waste
From: Eleanore S. Baxendale, General Counsel
Regarding: Excluding Waste Generated Outside the Metro Region

You asked for an update on whether Metro can exclude from the St. Johns Landfill waste generated outside the Metro boundaries ("the region").

In 1980 some research was undertaken for Metro which indicated that perhaps the "market participant" legal theory would be applicable to allow Metro to distinguish between regional and extra-regional users. Since then, one state court and one federal district court have applied that theory in favor of allowing a local government which operates a landfill to exclude the disposal of solid waste generated outside the local government's boundaries. As a precaution, however, Metro should exercise this power in its capacity as a business owner rather than as a government regulator, limiting itself to private remedies rather than regulatory fines: a recent case from our own federal district (the 9th) found the market participant theory inapplicable to a Washington nuclear waste initiative measure because the exercise of authority was in the form of government regulation rather than a business decision, in part because of the ability to impose penalties for violations.

The Commerce Clause and Market Participant Theory

In Philadelphia v. New Jersey, 437 US 617, (1978), the leading case on the disposal of waste from another state, the U. S. Supreme Court held that a New Jersey statute prohibiting the importation of solid waste which originated or was collected outside the territorial limits of the state violated the Commerce Clause of the Constitution. The Court stated that unless there is some reason for the exclusion of material others than the origin of the material, a state cannot block the movement of that material in commerce. A measure which has as its purpose or its effect economic protectionism is virtually per se invalid. However, in footnote 6 of the opinion the Court states:

"We express no opinion about New Jersey's power, consistent with the Commerce Clause, to restrict to state residents access to state-owned resources...." (emphasis added)

This theory is known as the market participant theory. It has been reaffirmed by the Supreme Court in a subsequent case on state sale of cement and has been applied successfully to exclusion of waste from landfills in a Maryland state court decision and in Federal District Court (District of Columbia) decision. It has not been rejected in any landfill case.

The market participant theory recognizes that the Commerce Clause applies only to state taxes and regulatory measures and not to the ability of the state to operate as a participant in the free market exercising "its independent discretion as to the parties with whom it will deal." Reeves, Inc. v. State, 447 US 429 at 439. Thus, the key to applying the market participant theory is whether the government is a regulator or a participant. Four cases illustrate the distinction.

In Reeves, Inc. v. State, 447 US 429 (1980). The U.S. Supreme Court considered a decision by a state run cement plant in South Dakota to prefer South Dakota buyers during a cement shortage and to honor all other commitments on a first come, first served basis. The Court analyzed in depth a recent earlier Supreme Court decision and cited in extensive footnotes earlier cases in which State participation in free enterprise had been distinguished from state regulation. The Court found that South Dakota was a market participant, a supplier selecting with whom it would deal. The dissent to this decision attempted to limit the market participant theory to only traditional government functions. Managing a solid waste landfill would likely meet this standard as well, both because it is traditional and because it is a specific statutory mandate to Metro.

In County Commission of Charles Co. v. Stevens, 473 A2d 12 (Md 1984) the Maryland Court of Appeals applied Reeves to a county operating a landfill site. Charles County owns and operates the only sanitary landfill in Charles County, Maryland. The landfill is part of the County's Waste Management Plan and the County is authorized by statute to "prescribe and enforce rules and regulations concerning the operation and manner of use of the disposal areas or facilities." The landfill is primarily funded out of the County's tax revenues, although fees are charged for users. The County adopted a regulation prohibiting the disposal of material collected outside county in any public landfill in the County. The County suspended the permit of a commercial hauler collecting material within and beyond the County boundaries when he dumped non-county refuse in the County landfill. The hauler sued.

The Court of Appeals distinguished this case from Philadelphia v. New Jersey, supra, and an earlier Maryland case in which governments sought to regulate the flow of solid waste to both public and private landfills. Focusing on footnote 6 in Philadelphia (quoted above), the Court found the Commerce Clause does not apply when the government is a participant in the market. In this case the Court found the markets to be landfill services. Haulers could construct their own landfill or dispose of their waste at other landfills. The Charles Co rules apply to only one participant in the market, the County itself.

Similarly, in Shayne Bros Inc. v. District of Columbia, 592 F. supp 1128 (D.C. 1984) the Court found that a District of Columbia health regulation prohibiting the disposal of non-city waste at District operated landfills did not violate the Commerce Clause. After a thorough analysis of the U.S. Supreme Court cases on market participation, the Court relied on Stevens, supra, and found that the District was offering a service and was regulating the use of that service as a market participant.

The case of Washington State Bldg & Const Trades v. Spellman, 684 F2d 627 (9th Cir. 1982) demonstrates the circumstances under which the market participant theory is inapplicable. It is an important decision because it is made by the Court which will review Metro's action on this issue. In that case an initiative measure was passed which prohibited the transportation and storage in Washington of radio active waste produced outside the state. (Initiative measure 383). Commercial users of the Hanford Reservation challenged the statute on grounds of federal preemption (not discussed here) and violation of the Commerce Clause.

The Court found Initiative 383 violated the Commerce Clause. The Court first analyzed the legislation under the Supreme Court's three-part test for violating the Commerce Clause: does the state law (1) regulate even handedly, (2) accomplish a legitimate local public purpose, (3) have only an incidental effect on interstate commerce. The Court's analysis is helpful to Metro because, notwithstanding Philadelphia, Metro's answers would be significantly different from Washington's. This suggests that there could be a stumbling block for opponents of a regional ban, even before the market participant issue is considered.

On the first issue, even handed regulation, the Court considered the treatment of in-state versus out-of-state waste. As in Philadelphia, the initiative obviously favored in-state waste, invoking strict scrutiny of the remaining elements. The Metro action, however, affects in-state and out-of-state user equally: both Marion and Clark County users are banned. In fact, because Metro is now threatened by both in-state and out-of-state users, it can demonstrate an even

handedness that the City of Portland lacked in 197_____ when the City lost a contest of a similar law. The Court in Stevens, supra, distinguished the Maryland Co. ordinance from this Washington initiative case on exactly this basis.

On the issue of public purpose, the Court examined the public safety argument raised by the state. The Court found that the public is equally threatened by radioactive waste generated in-state as out-of-state.

On the third element of the test, incidental effect on interstate commerce, the initiative also failed. The Court found that Washington receives 2/5ths of the country's low level waste and is the sole site nationwide for absorbed liquid low level waste.

Metro's proposed action differs in its public purpose and impact on interstate commerce. Metro can point to its statutory charge to regulate landfills within its jurisdiction. The issue is depletion of Metro's landfill, not the health hazard of the entry of the waste itself. An impact on interstate commerce exists but is not overwhelming because solid waste from out-of-state may still travel to Oregon, because other sites may be established in Oregon, or in the region outside of Multnomah County (which requires Metro operation), and because other sites exist in Clark County. Although it is difficult to show an effect is only "incidental" once a court begins to believe it is not, Metro does have an opportunity to do so.

Having found a violation of the Commerce Clause, the Court then considered the applicability of the market participant theory. In three short sentences the Court found the state failed to qualify. The Court found the state was a regulator rather than a participant because "the measure is based on public safety rather than on economic considerations. The measure denies entry of waste at the state borders rather than at the site the state is operating as a market participant. The measure establishes civil and criminal penalties which only a state and not a mere proprietor can enforce." Washington State, supra at 631.

Metro's proposed ordinance must be based on both public safety and economic reasons. This combination should not be fatal in this instance, however. In none of the recent cases in which the market participant theory has been applied have the "economic reasons" been purely the economic reasons of the state as a proprietary entity. In Reeves, the state wanted to give its citizens the ability to do cement construction, not merely give the state the ability to save on its own cement construction. In Hughes v. Alexandria Scrap, 426 US 794, 96 S Ct 2488, 49 LEd 2d (1976), the state was a market participant by paying for the processing of car hulks by scrap metal processors. The state had less burdensome procedures for

paying in-state scrap metal processors than for paying out-of-state processors. The statute was based on promoting state aesthetics by bidding up the price of car hulks, rather than economics. In Shayne, supra, the court stated that preserving solid waste landfills, a scarce commodity, is in fact based on economics: "The district is expending a public resource, as much so as the money in its treasury...." This logic is clearly applicable in Metro's situation. This statement is also helpful in establishing Metro's stake in the St. Johns Landfill as compared to the facts in Stevens where the taxpayers paid for the operation of the landfill.

On the issue of penalties, it is clear from Shayne that Metro has an effective penalty available to all businesses: prohibition from the landfill. Thus, the issue of civil or criminal penalties need not be taken on. Furthermore, in Shayne that Court did not deny the District its market participant status even though it did have the ability to impose criminal fines. The Court found the District had done by ordinance that which it could have achieved by contract, and dismissed this obstacle.

Conclusion

Metro would be likely to prevail on a constitutional challenge to an ordinance barring disposal of non-regional waste at the St. Johns Landfill. The ordinance adopting such a bar should recite the relevant factors: Metro's statutory obligations, its operation of the St. Johns Landfill, the existence of other landfills in-state and out-of-state, the increase in both in-state, extra regional waste and out-of-state waste, the fact that these other landfills charge higher fees, the lack of other less radical alternatives, for example.

ESB/gl
4040C/421-2
07/29/85

COMMITTEE MEETING TITLE

SWPAC Meeting

DATE

September 9, 1985

NAME

AFFILIATION

Dick Haccorrod

Melt Co

Delwyn Kies

City of Portland

x Ruth Selida

Shirley Coffin

Wash. Co. Public

John W. Papp

Collection Industry

Jack Schaub

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Joe McLaughlin

P.A.S.S.O.

Henry A. Nield

Rate Review

BOB BROWN

TEA

Timothy Baker

Metro

Committee Stamps

Metro

Chuck Gezie

"

Eric Outson

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Norm Whitting

Metro

DAN DURIG

METRO

Doug Drenner

Metro

Wayne Papp

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Tommy

Metro

Rich McLaughlin

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D. Mulvihill

Metro

James F. Cozzello

MDC. Collection Industry

~~Frank W. ...~~

Sundberg

J. W. Neal

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COMMITTEE MEETING TITLE SWPAC

DATE 9-9-85

NAME

AFFILIATION

Ernest Koch

Riverhead Landfill Co. McMinerale

Jack Wilcox Dienes

Self

FRANK SEMIOT

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