



# Metro | Memo

DATE: November 20, 2012

TO: Scott Robinson, Deputy Chief Operating Officer

THROUGH: Roy W. Brower, Solid Waste Compliance and Cleanup Manager

FROM: Will Ennis, Senior Solid Waste Planner

RE: Issuance of Solid Waste Facility License No. L-138-12 for North River Landscape Supplies

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Attached for your signature is Solid Waste Facility License No. L-138-12 for North River Landscape Supplies ("NRLS"), a new yard debris reload facility located at 3150 SE Tualatin Valley Highway in Hillsboro (Council District 4). This memo provides background information on the applicant's request and recommends that Metro issue a license to NRLS.



## BACKGROUND

The applicant, NRLS, is located at 3150 SE Tualatin Valley Highway in Hillsboro. NRLS is located on a ten acre parcel that previously served as an asphalt and cement plant. The property is zoned M-2 (Industrial) and the use complies with all local land use requirements. The facility sells landscaping supplies including bark, rock and soil amendments. The facility is owned by Larry Olson. Mr. Olson also owns Beaver Bark ("BB"), a composting facility in Scappoose, and H & H

Wood Recyclers (“H&H”), a composting facility in Vancouver, Washington. NRLS is requesting authorization from Metro to accept and reload yard debris and clean wood waste. Both materials will be reloaded to BB or H&H for composting and hogged fuel production.

On June 13, 2012, Metro staff conducted an inspection of NRLS and learned that the facility had been operating as a yard debris reload without a Metro solid waste facility license. Metro subsequently issued a Notice of Violation (“NOV”) and imposed a civil penalty of \$300 on the facility on June 27, 2012. The NOV required NRLS to cease accepting yard debris or apply for a Metro Solid Waste Facility License by August 1, 2012. On July 9, 2012, Metro received an application from NRLS requesting authority to operate a yard debris reload facility. The application was deemed to be administratively complete on July 30, 2012. Additionally, the applicant requested, and Metro granted, approval to continue operating while the application was in process. The Oregon Department of Environmental Quality (“DEQ”) does not regulate yard debris reload facilities and NRLS is not required obtain a permit from the DEQ at this time.

Under Metro Code Section 5.01.067, the proposed license is to be approved or denied by the Chief Operating Officer (“COO”). On December 5, 2011, the COO delegated to the Deputy Chief Operating Officer (“DCOO”) authority to carry out the COO’s responsibilities under Metro Code Title V. As such, the DCOO is authorized to grant this license.

#### **METRO CODE PROVISIONS RELATED TO THE APPLICANT’S REQUEST**

Metro Code section 5.01.045(a) (3) stipulates that a Metro solid waste facility license is required in order to operate a yard debris reload facility.

Metro Code section 5.01.055(a) requires that all prospective applicants for a license shall participate in a pre-application conference. The applicant participated in a Metro pre-application conference on July 17, 2012.

#### **Code Section 5.01.060 Applications for Licenses or Franchises**

- a) *Applications for a Franchise or License or for a renewal of an existing Certificate, Franchise or License shall be filed on forms or in the format provided by the Chief Operating Officer.*

The application was filed on forms and in the format provided by the COO and was accompanied by required application fee of \$300.

- b) *In addition to any information to any information required on the forms or in the format provided by the Chief Operating Officer, all applications shall include a description of the Activities proposed to be conducted and a description of the Wastes sought to be accepted.*

The application contains a description of the activities proposed to be conducted and a description of wastes sought to be accepted. The proposed activities consist of accepting yard debris and clean wood waste and reloading it for delivery to authorized composting facilities or to wood grinding operations for the production of hogged fuel.

- c) *In addition to the information required on the forms or in the format provided by*

*the Chief Operating Officer, applications for a License or Franchise shall include the following information to the Chief Operating Officer:*

- (1) *Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the Franchise or License;*

The applicant provided proof that it has obtained the required insurance.

- (2) *A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;*

DEQ does not require this facility to obtain a permit at this time.

- (3) *A duplicate copy of any Closure plan required to be submitted to DEQ, or if DEQ does not require a Closure plan, a Closure document describing Closure protocol for the Solid Waste Facility at any point in its active life;*

The DEQ does not require this facility to submit a closure plan, therefore the applicant included a closure plan with its Metro license application.

- (4) *A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents, proof of financial assurance for the costs of closure of the facility;*

The DEQ does not require proof of financial assurance for this facility since it is not subject to DEQ solid waste permitting requirements. The applicant provided Metro with a satisfactory closure protocol as part of the application. The applicant provided written documentation that the cost to implement its closure plan will be no more than \$500. Since the cost to implement the closure plan is less than \$10,000, staff recommends that the COO waive the financial assurance requirement for this facility as provided in Metro Code Section 5.01.060 (c) (4). The proposed license includes a waiver of the financial assurance requirement.

- (5) *Signed consent by the owner(s) of the property to the proposed use of the property.*

The owner of the proposed Licensee owns the property that underlies the facility.

- (6) *Proof that the applicant has received proper land use approval.*

The applicant provided Metro with a completed Land Use Compatibility Statement signed by a representative of the city of Hillsboro indicating that the facility complies with all local land use requirements.

- (7) *Identify any other known or anticipated permits required from any other governmental agency.*

No other permits are known or anticipated by Metro staff.

## **PUBLIC NOTICE AND OPPORTUNITY TO COMMENT**

On September 27, 2012, in accordance with Metro Code Section 5.01.067(c), the COO issued notice of the proposed license application and provided the public with an opportunity to submit comments. Public notice was mailed to 44 property owners within 1/8 of a mile of the facility and the local Citizen Participation Organization (CPO9). The notice was also posted on the Metro web site, and e-mailed to a list of industry and governmental stakeholders that have a general interest in solid waste issues in the Metro region. The public comment period ended on October 19, 2012.

During the public comment period, Metro received one written response signed by two individuals. They expressed concerns related to site traffic, alleged illegal infill of an adjoining wetland, the continued operation of the facility prior to obtaining a Metro Solid Waste Facility License, and, further, they do not believe a yard debris facility is needed at that location. Staff responded to the commenters with an explanation of why the facility was allowed to continue operating during the application process. However, Metro does not have direct regulatory jurisdiction over the other issues raised in the comment, and provided the commenters with the proper contact information for the agencies with regulatory jurisdiction over the other concerns expressed in the comment. The single public comment and Metro's response are attached to this staff report.

## **STAFF RECOMMENDATION**

Staff recommends issuing Solid Waste Facility License No. L-138-12 in authorizing NRLS to accept and reload source-separated yard debris to authorized facilities for processing. A copy of the proposed license is attached for your signature.

## **Attachments**

WE:bjl  
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OCT 9 '12 PM 4:40

Mr. Will Ennis, Senior Solid Waste Planner  
Metro Finance and Regulatory Services  
600 NE Grand Avenue  
Portland, OR 97232

October 4, 2012

Re: North River Solid  
Waste License Application

Dear Mr. Ennis,

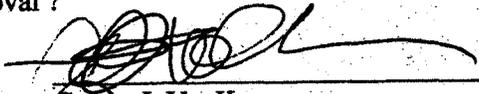
This letter is a comment on your notice of September 27, 2012 allowing public response regarding the above referenced application for a Metro Solid Waste Facility License. The application generates a number of concerns which should cause the application to be denied or at least halted to allow for studies and corrective measures.

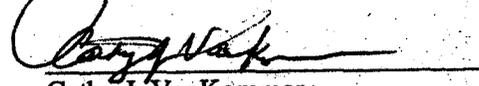
- 1) The site is in violation of both Federal and State of Oregon EPA/ Clean Water and Wetlands Preservation guidelines and restrictions. This writer has personally seen the bulldozing of industrial waste from the site into the Rock Creek wetlands which is a tributary to the Tualatin River. That material still remains where dozed and has not been cleaned up or removed. Any inspection would reveal how much the proposed site invades the Rock Creek/Tualatin River estuary to the East of the site. By referencing the western side of the railway bridge it is easy to see that the industrial waste is at least 50' into Rock Creek. This must be corrected as it impacts both the wetlands and downstream flood issues, before any application can be considered.
- 2) There is no need for a solid waste station in that location. A solid waste facility already exists within one mile of the proposed facility, namely, the Minter Bridge Landfill. Said facility is licensed and regulated by both the State and EPA. Other private waste facilities also serve this area.
- 3) The proposed application would constitute a threat to Public Safety. The access off Tualatin Valley Highway is a blind corner. It was dangerous enough with professional drivers coming out of the prior existing batch plant. The image of homeowners trying to make a left-hand turn across the highway pulling a homemade trailer full of yard debris is a picture of an accident every day. Even exiting the site with that trailer is risky. There is no need for this increased threat to drivers. The Minter Bridge Landfill access is safe for all drivers.
- 4) Finally, the application should consider The River Road Mobile Estates, a 55 or Older residential community directly to the south of the site, located off River Road and Fir Tree Mobile Ct. These are high density communities directly across the fence from the proposed site. Many of these elderly citizens already suffer issues with breath and air quality. They cannot move because of the nature of the community. Unless Metro has consulted with them and

received their informed approval as well as consulted with Singing Hills Church, one block south of the proposed site, and the two schools directly to the south there is the appearance of an impropriety. Namely that Metro is more directly concerned with revenue generation than quality of life for the citizens who make up Metro or the environment which Metro is charged to enhance.

Thank you for your time and consideration. A response is both appreciated and expected.

P.S. Why does their signage proclaim that they are already open for recycling lawn and yard debris if they are still waiting license approval ?

  
Gerritt J. VanKommer

  
Cathy J. VanKommer

2602 SE 30<sup>th</sup> Court  
Hillsboro, OR 97123

Cc: Singing Hills Church  
River Road Mobile Estates, a Senior community  
Washington County Commissioners  
State of Oregon, ODOT  
Environmental Protection Agency  
Fir Tree Mobile Ct.



**Metro** | *Making a great place*  
October 18, 2012

Gerritt & Cathy VanKommer  
2602 SE 30<sup>th</sup> Court  
Hillsboro, OR 97123

Re: North River Landscape Supplies

Dear Mr. & Mrs. VanKommer:

Thank you for your letter, dated October 4, 2012, providing comments regarding the application made by North River Landscape Supplies (NRLS) for a Metro Solid Waste Facility License to operate a yard debris reload facility. Metro will take your comments and concerns regarding the proposed yard debris operation into account when it considers the application. I would also like to briefly respond to some of the specific issues you raised in your letter.

First, with regard to the operating status of NRLS, the facility does not yet hold a Metro-issued license. Metro allowed NRLS to continue its yard debris reload operation provided it met certain conditions until Metro made a final decision on the license application.

Secondly, with respect to the wetlands and traffic-related issues, Metro does not have direct regulatory jurisdiction over these aspects of the facility. The wetlands adjacent to the facility are regulated by the Oregon Department of State Lands and the land use is regulated by the city of Hillsboro. If you have concerns regarding the wetlands you should contact Mike McCabe, Washington County Resource Coordinator (503-986-5255). If you have concerns about the safety of vehicles entering and exiting the site, please contact Dan Dias with the city of Hillsboro (503-681-6179). I have notified the above-mentioned contacts of your concerns and copied on them on this letter.

Again, thank you for your comment and I hope the information above is helpful to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Will Ennis".

Will Ennis  
Senior Solid Waste Planner

WE:bjl  
Cc: Peter Brandom, City of Hillsboro  
Dan Dias, City of Hillsboro  
Mike McCabe, Oregon Department of State Lands  
Stephanie Rawson, Oregon Department of Environmental Quality

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