



DATE: July 24, 2013

TO: Scott Robinson, Deputy Chief Operating Officer

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

FROM: Warren Johnson, Solid Waste Compliance Supervisor

RE: Renewed Solid Waste Facility License No. L-026-13 for McFarlane's Bark, Inc.

---

Attached for your signature is renewed Solid Waste Facility License No. L-026-13 for McFarlane's Bark, Inc. which carries forward the same conditions of the current license with an expiration date of January 31, 2014. The proposed short-term license is intended to allow time for McFarlane's Bark to: 1) focus on and address violations that were recently identified by the Oregon Department of Environmental Quality (DEQ); and 2) implement corrective actions and operational changes at the facility that will help inform the future course of the license.

#### **BACKGROUND**

McFarlane's Bark is a Metro-licensed yard debris composting facility located at 13345 SE Johnson Road in Milwaukie, Oregon (Metro District 2). The facility accepts and processes yard debris, leaves, and land clearing debris for composting and wood waste for producing boiler fuel. The facility also operates as a retail outlet for landscaping products.

McFarlane's Bark is a locally-owned facility that is located on light industrial-zoned land in unincorporated Clackamas County. This yard debris composting facility was established in 1972 and has operated under a Metro license since 1998. The facility currently holds a Metro-issued license<sup>1</sup> that will expire on August 1, 2013. On May 7, 2013, McFarlane's Bark submitted an application to Metro requesting the renewal of its license. On May 21, 2013, Metro issued public notice of the license renewal application and provided an opportunity for the public to submit comments. The public comment period ended on June 21, 2013.

Public notice was mailed to about 370 property owners located near the facility. Notice was also posted on the Metro web site and emailed to a list of Metro-area stakeholders that have a general interest in solid waste issues. In response to the public notice, Metro received a total of 37 comments regarding the proposed license renewal. Thirty one of the above comments, primarily from facility customers, were generally supportive of the operation and the renewal of its license.

Whereas, the other six comments that Metro received expressed general concerns about the facility's operation and cited ongoing issues with odors, dust, traffic, and insects. These commenters consist primarily of business owners and property management groups located adjacent to and nearby the facility.

---

<sup>1</sup> Metro Solid Waste Facility License No. YD-026-08

On July 3, 2013, Metro and DEQ staff met with a group of these commenters to discuss their concerns and issues. Metro and DEQ staff also met with representatives of McFarlane's Bark later the same day in order to inform the facility of the concerns and discuss potential corrective actions and timelines.

On July 3, 2013, DEQ issued a *Warning Letter with Opportunity to Correct* to McFarlane's Bark for four violations of its regulatory requirements including the failure to: 1) submit an updated operating plan and environmental monitoring plan, 2) operate the facility in a manner that sufficiently controls and minimizes odors, 3) meet pathogen reduction requirements for finished compost material, and 4) operate the facility in accordance with its approved operating plan.

The DEQ's warning letter also specified a list of corrective actions which the facility must complete to address the cited violations. The DEQ required McFarlane's Bark to complete and submit an updated: 1) operating plan, 2) odor minimization plan, 3) environmental monitoring plan, 4) pathogen analysis results for May and June, and 5) plan and timeline to address material management practices and odor control measures associated with the stormwater detention pond. McFarlane's Bark has been directed to submit all of the above-mentioned information to the DEQ by August 1, 2013. However, the DEQ could extend that submittal deadline if it determines that additional time is warranted.

The proposed license renewal includes a six-month term, commencing on August 1, 2013, and terminating on January 31, 2014. Although license renewals are typically issued for a five-year period, staff recommends that the COO establish a six-month term in this instance in order to allow the facility time to address and correct the violations that were recently cited by the DEQ. This proposed license renewal maintains the same license conditions in the short-term which will allow McFarlane's Bark to focus its efforts on implementing corrective actions at the site.

Under Metro Code Section 5.01.087, the proposed license renewal 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 (the "Deputy") authority to carry out the COO's responsibilities under Metro Code Title V. As such, the Deputy is authorized to approve this request for a renewal.

## **STAFF RECOMMENDATION**

In light of the violations recently identified by the DEQ and the facility's pending action plan, staff recommends the approval and issuance of a short-term license<sup>2</sup> to McFarlane's Bark which renews the current license until January 31, 2014. Except as provided above, there are no other substantive changes in the proposed license. A copy of the proposed license, which commences on August 1, 2013 and expires on January 31, 2014, is attached for your signature.

Prior to the expiration date of the proposed license, Metro staff will evaluate the information that McFarlane's Bark subsequently submits to the DEQ and use it to inform the conditions and requirements of a potentially longer-term license extension in 2014. Metro staff recommends that the COO consider this pending information with respect to potentially extending the term for a longer period and incorporating pertinent DEQ requirements, facility operating plan procedures, and other standardized conditions in the future license.

---

<sup>2</sup> Solid Waste Facility License No. L-026-13