

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 17-4795 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM LICENSE TO GRESHAM SANITARY SERVICE FOR TRANSPORT AND DISPOSAL OF PUTRESCIBLE WASTE AT THE COLUMBIA RIDGE LANDFILL LOCATED IN GILLIAM COUNTY, OREGON, AND UNDER CERTAIN UNUSUAL CIRCUMSTANCES TO COFFIN BUTTE LANDFILL LOCATED IN BENTON COUNTY, OREGON

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Approval of Resolution No. 17-4795 will authorize the Chief Operating Officer (COO) to issue a new non-system license (NSL), to Gresham Sanitary Service (GSS) to annually transport up to 23,000 tons of putrescible waste to the Columbia Ridge Landfill located in Arlington, Oregon and under certain unusual circumstances and emergency conditions to the Coffin Butte Landfill located in Benton County, Oregon. The term of the proposed NSL will commence on June 1, 2017 and expire on December 31, 2018.

BACKGROUND

Overview

The applicant, GSS, is a local family-owned business established in 1948. GSS owns and operates a Metro-franchised¹ solid waste transfer station located at 2131 NW Birdsdale Avenue, in Gresham (Metro Council District 1). The applicant is also one of the franchised haulers that collects waste within the city of Gresham, as well as collecting commercial waste from the Portland Airport (Metro Council District 5).

In addition to the above, GSS currently holds an NSL that authorizes the facility to annually transport putrescible waste to the Wasco County Landfill.² This NSL is to expire on December 31, 2018. GSS seeks to obtain a second NSL because it will likely reach its allocated tonnage amount at the Wasco County Landfill by early June 2017. The applicant seeks an additional NSL to provide greater flexibility with regard to disposal options – these NSLs do not increase the total tonnage that GSS is authorized to accept under its transfer station franchise.

On March 14, 2017, GSS submitted an NSL application seeking authorization to transport waste primarily to Columbia Ridge Landfill. The waste transported under authority of this NSL to the Columbia Ridge Landfill meets Metro's contractual obligation to deliver at least 90 percent of the region's putrescible waste destined for disposal to a landfill owned and operated by Waste Management. The applicant also requested authority to transport waste to Coffin Butte Landfill in the case of an unusual circumstance (such as the closure of Interstate 84, equipment failure, or driver and equipment shortages) that would otherwise prevent GSS from transporting waste through the Columbia Gorge. If the licensee transports waste to Coffin Butte Landfill, it is required to report a detailed description of the unusual circumstance, including its expected duration, to Metro within twelve hours of its discovery.

Columbia Ridge Landfill, which is the primary disposal site authorized under this proposed NSL, is owned and operated by Waste Management of Oregon, Inc. (WMO) which is headquartered in Houston, Texas.

¹ Metro Solid Waste Facility Franchise No. F-019-16

² Metro Non-System License No. N-019-16A which authorizes the delivery of up to 10,426 tons during calendar year 2017.

Coffin Butte Landfill, which would be used only under unusual circumstances, is owned and operated by Allied Waste Industries, Inc. a wholly owned subsidiary of Republic Waste Systems, Inc. (Republic) headquartered in Phoenix, Arizona.

1. Special Provisions of the NSL for Managing Risk

The proposed license includes two conditions that are intended to address disposal at Columbia Ridge and further minimize Metro's risk of breach of its disposal contract by providing Metro with additional controls for monitoring and managing fluctuating waste tonnage in the system. Metro also includes these conditions in the other NSLs that cover similar waste.

A. Redirection of Waste Flow

In the event of a decline in system-wide putrescible waste, the proposed NSL authorizes the COO to immediately redirect the licensee's waste to any system facility, if necessary, to prevent a violation of the disposal contract's 90 percent flow guarantee. Section 8 of the proposed NSL allows the COO to redirect the licensee's waste flow with a minimum of 24 hours written notice. By adopting this resolution, the Metro Council authorizes the COO to redirect the licensee's waste, as described above, if necessary to comply with the disposal contract flow guarantee.

B. Disposal Charges for use of Columbia Ridge Landfill

In accordance with Metro Code Chapter 5.02, GSS is required to remit to Metro a per ton disposal charge for all solid waste transported under authority of this proposed NSL. Upon arrival at Columbia Ridge Landfill, WMO will charge GSS' waste disposal cost to Metro's disposal account, and then GSS will reimburse Metro directly for those costs. Metro will invoice GSS for remittance of the disposal costs.

ANALYSIS/INFORMATION

A. Known Opposition

There is no known opposition to the proposed new license.

B. Legal Antecedents

Metro Code Section 5.05.040 prohibits any person from utilizing non-system facilities without an appropriate license from Metro. Additionally, Metro Code Section 5.05.140 provides that, when determining whether or not to approve an NSL application, the Metro Council must consider the following factors to the extent relevant to such determination.

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

The applicant (Gresham Sanitary Services) and the disposal sites (Columbia Ridge Landfill and Coffin Butte Landfill) are well known to Metro staff. Metro has an established Designated Facility Agreements

with Columbia Ridge Landfill³ and Coffin Butte Landfill,⁴ to receive non-putrescible, special and cleanup waste. Both of the landfills are owned and operated by major, nationally-integrated solid waste companies. The environmental risks from the use of the disposal site are minimal because the landfills are fully authorized and regulated by the appropriate local and state authorities.

- (2) *The non-system facility owner's and operator's regulatory compliance record with federal, state, and local requirements, including but not limited to public health, safety, and environmental regulations;*

WMO owns and operates Columbia Ridge Landfill and Republic owns and operates Coffin Butte Landfill. Metro staff's investigation of WMO and Republic have revealed a good record of compliance with regard to local, state, and Metro requirements. Additionally, Oregon Department of Environmental Quality ("DEQ") staff has indicated the facilities are in compliance with their Solid Waste Disposal Site Permits.

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

The Columbia Ridge and Coffin Butte Landfills use operational practices and management controls that are typical of other RCRA Subtitle D landfills.⁵ Staff at DEQ, the landfill's environmental regulator, considers the operational practices and management controls in place at the landfill to be appropriate for the protection of health and the environment.

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

The proposed NSL authorizes the transport of putrescible solid waste, which currently has limited recovery potential. The NSL puts no long-term constraint or commitment on the waste should recovery alternatives emerge for the region. Thus, approval of the proposed NSL is not expected to impact the region's recycling and waste reduction efforts.

- (5) *The proposed non-system license's effect with Metro's existing contractual arrangements;*

Metro has a contractual agreement to deliver a minimum of 90 percent of the region's putrescible waste, which is delivered to general purpose landfills during the calendar year, to landfills owned by WMO. The proposed NSL covers putrescible waste that will be transported primarily to Columbia Ridge, which is owned and operated by WMO. Notwithstanding this primary authority, this proposed NSL also authorizes the licensee to transport a portion of the 10 percent of uncommitted waste not guaranteed to WMO under the disposal contract to Coffin Butte Landfill under unusual circumstances that would prevent the use of Columbia Ridge Landfill. Metro's contract with Waste Management expires at the end of 2019. Since the proposed NSL authorizes the use of Coffin Butte Landfill only under unusual circumstances, staff finds that approval of this license will not conflict with Metro's disposal contract or any other of its existing contractual arrangements. Staff will continue to closely monitor and manage regional waste flows to comply with Metro's contractual agreements.

³ Metro Contract No. 932396

⁴ Metro Contract No. 932397

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

- (6) *The applicant's record regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements, including but not limited to public health, safety and environmental regulations;*

GSS is currently in compliance with its Metro-issued Franchise and NSL. The applicant has not had any compliance issues with regard to Metro regulations since its authorization as a transfer station in 2016. Additionally, GSS has had no violations related to public health, safety or environmental regulations during the term of the existing license.

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

In addition to the special conditions previously described in this staff report, the proposed license includes a 19-month term, commencing on June 1, 2017, and expiring on December 31, 2018. Although NSLs are typically issued for a two-year period, staff recommends that the Metro Council establish a 19-month term in this instance to align its expiration date with another similar contract expiration date.

C. Anticipated/Potential Effects

The effect of Resolution No. 17-4795 will be to issue a new NSL to GSS to transport up to 23,000 tons per calendar year of putrescible waste to Columbia Ridge Landfill for disposal, and under certain unusual circumstances and emergency conditions to Coffin Butte Landfill. The NSL will commence on June 1, 2017 and expire on December 31, 2018.

D. Budget/Rate Impacts

The price that Metro pays for disposal at Columbia Ridge Landfill is a “declining block rate” — meaning that the more waste that is delivered to any landfill owned by Waste Management (i.e., Columbia Ridge Landfill and Riverbend Landfill), the lower the per-ton cost paid by Metro.

The Metro Regional System Fee and Excise Tax will continue to be collected on all waste delivered under authority of the proposed NSL.

RECOMMENDED ACTION

The COO recommends that the Metro Council adopt Resolution No. 17-4795. Approval of this resolution will authorize the COO to issue an NSL to GSS subject to the requirements listed in Metro Code Chapter 5.05, as well as the special conditions that are incorporated into the proposed NSL (attached as Exhibit A to the proposed resolution).