

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 17-4838 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO NEW EARTH FARM FOR TRANSPORT OF SOURCE-SEPARATED FOOD WASTE TO ITS PROCESSING FACILITY LOCATED IN HILLSBORO, OREGON

November 1, 2017

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Approval of Resolution No. 17-4838 will authorize the Chief Operating Officer (COO) to issue a renewed non-system license (NSL) to New Earth Farm (NEF) to annually transport a maximum of 264 tons of source-separated food waste to its processing facility located at 11000 NW Jackson Quarry Road in Hillsboro, Oregon. The proposed NSL is a renewal of an existing license that is set to expire on December 31, 2017.

BACKGROUND

Overview

The applicant seeks authorization to renew its NSL to transport source-separated food waste generated by businesses and schools within the Metro region to its own facility located outside of the region. Metro Code Section 5.05.040 prohibits any person from transporting solid waste to non-system facilities without an appropriate license from Metro. The proposed NSL renewal is subject to Metro Council approval because it involves putrescible waste (food waste).¹

The Applicant

NEF, which is owned and operated by Scott Olsen, is comprised of a 16-acre farmed plot that is part of a larger, 24-acre site. Produce grown at NEF is sold to the public, area restaurants and business cafeterias. Post-consumer vegetative food waste generated at commercial facilities, in addition to some meat and dairy waste, is then delivered to NEF for processing.

NEF uses the bokashi method to process the food waste. Bokashi is an in-vessel anaerobic fermentation process that converts the majority of food waste delivered to the facility into liquid and solid soil amendments. The liquid component resulting from the process is land applied at NEF and neighboring farms. The remaining solid materials are tilled into the soil at NEF. The facility processes a smaller amount of food waste using vermicomposting and black soldier fly larvae. Solids from these processes are also used at NEF.

NEF has operated under Metro authorization since 2012, when the Metro Council granted the applicant an NSL² to annually deliver a maximum of 264 tons of source-separated food waste to NEF. The current license will expire on December 31, 2017. The licensee delivered approximately 65 tons of food waste to NEF in 2016 and temporarily ceased operations in October 2016 due to an injury sustained by Mr. Olsen. NEF would like to resume operations and on October 12, 2017, NEF submitted to Metro an application requesting that Metro renew its existing NSL with a tonnage authorization of 264 tons per calendar year – the same amount in its current authorization.

¹ Metro Code Section 5.05.110

² NSL No. N-137-12

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed NSL.

2. Legal Antecedents

Metro Code Section 5.05.040 prohibits any person from utilizing a non-system facility 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 shall consider the following factors to the extent relevant to such determination.

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

Metro staff has visited NEF and is aware of how feedstocks are managed at the facility. Since NEF accepts only limited amounts food waste for processing, the waste does not pose the same potential environmental risk as waste being delivered for landfill disposal. There is no known evidence of any other wastes currently being accepted at NEF that could pose a risk of environmental contamination. The environmental risk from the use of this non-system facility is presumed to be minimal because the facility is regulated and monitored 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;*

Metro staff's investigation of the applicant revealed a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations. The Oregon Department of Environmental Quality (DEQ) and Washington County have not received any complaints or taken any enforcement actions at NEF during the term of the current license.

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

Metro and DEQ consider the operational practices and management controls in place at NEF to be adequate and consistent with other food waste processing facilities. Waste accepted at NEF is delivered in sealed containers and the majority of processing at NEF takes place in-vessel. NEF has obtained a DEQ compost facility registration permit for its processing operation.³ In 2012 Washington County determined that NEF qualifies as an agricultural operation and is not required to obtain a county-issued franchise.

³ Composting facility Registration Permit Number 1514
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(4) The expected impact on the region's recycling and waste reduction efforts;

The waste subject to the proposed NSL will be delivered to NEF for use as feedstock in a composting-like process⁴ rather than disposal. Based on the waste management hierarchy, composting is considered to be a higher and better management option than land disposal. As such, renewal of the proposed NSL is likely to continue having a positive impact on the region's recycling and waste reduction efforts.

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

Through 2019, Metro has a contractual agreement to deliver a minimum of 90 percent of the region's putrescible waste that is delivered to general purpose landfills during the calendar year, to landfills owned by Waste Management. The waste subject to the proposed license will be transported to a composting facility rather than disposal. Therefore, approval of the proposed license will not conflict with Metro's disposal contract.

(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; and

The applicant is currently in compliance with its Metro-issued NSL and has not had any compliance issues with regard to Metro regulations during the term of the current license. Additionally, the applicant has a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations.

(7) Any other factor the Chief Operating Officer considers appropriate.

NEF will provide processing capacity for the region that supports Metro's goal of diverting organics away from disposal and into recovery outlets and is providing an innovative approach to processing organics (the bokashi method).

3. Anticipated Effects

The effect of Resolution No. 17-4838 will be to issue a renewed NSL to NEF to deliver up to 264 tons per calendar year of source-separated food waste to its own facility for processing.

4. Budget/Rate Impacts

It is Metro's policy to manage the region's waste according to the waste management hierarchy. Metro's regional system fee and excise tax rates are based on the amount of waste that is anticipated to be disposed, in conjunction with Metro's budget for the next fiscal year. Anytime waste is diverted from Metro transfer stations, and further diverted from disposal, there will be some impact in the current fiscal year to Metro's tonnage charge, enhancement fee, and the solid waste fee and tax revenues. In the case of NEF, the source-separated food waste that will continue to be transported to NEF under

⁴NEF uses the bokashi method to process the food waste. Bokashi is an in-vessel anaerobic fermentation process and converts the majority of food waste delivered to the facility into liquid and solid soil amendments.

authority of this proposed NSL and will continue to be exempt from the fee and tax because it will be composted using the bokashi method.

The historical diversion authorized under this proposed NSL has already been factored into Metro's rates and budget – which further reduces any fiscal impact of granting this license renewal.

RECOMMENDED ACTION

Staff recommends approval of Resolution No. 17-4838 finding that the license application satisfies the requirements of Metro Code Section 5.05.140, and issue an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

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