

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 17-4840 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE JOINTLY TO WILLAMETTE RESOURCES, INC. AND REPUBLIC SERVICES OF CLACKAMAS AND WASHINGTON COUNTIES FOR TRANSPORT OF COMMERCIAL FOOD WASTE TO THE PACIFIC REGION COMPOST FACILITY LOCATED IN MONMOUTH, OREGON

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Approval of Resolution No. 17-4840 will authorize the Chief Operating Officer (COO) to issue a renewed non-system license (NSL) jointly to Willamette Resources, Inc. (WRI) and Republic Services of Clackamas and Washington Counties (Republic) to annually transport a maximum of 20,000 tons of commercial food waste to the Pacific Region Compost facility (PRC) located at 29969 Camp Adair Road in Monmouth, Oregon. The proposed NSL is a renewal of an existing license that is set to expire on December 31, 2017.¹

BACKGROUND

1. Overview

The applicant seeks to renew its NSL to transport commercial food waste generated within the Metro region to PRC. PRC is a non-system composting 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).²

2. The Applicant

Republic Services Inc., is the parent company of WRI, Republic, and PRC. Republic Services Inc. is a waste management company headquartered in Phoenix, Arizona. Republic Services Inc. is also the contract operator for the Metro South Transfer Station.

WRI and Republic have transported waste to PRC under Metro authorization since 2009.³ Under the current NSL, the licensee delivered about 15,275 tons of food waste to PRC in calendar year 2016 and approximately 9,800 tons through September of calendar year 2017. The current license will expire on December 31, 2017. On September 20, 2017, the applicant submitted to Metro a complete application requesting that Metro renew its existing NSL with a tonnage authorization of 20,000 tons per calendar year – the same amount in its current authorization.

ANALYSIS/INFORMATION

1. Known Opposition

¹ Non-System License No. N-005-16(4)

² Metro Code Section 5.05.110

³ Non-System License No. N-005-09(4)

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 will 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 non-system facility identified in this proposed license is a yard debris and food waste composting facility that is well known to Metro staff. The facility accepts composting feedstock that consists primarily of source-separated food waste, yard debris, and wood waste.

The facility initially began accepting food waste from its affiliated haulers within the Willamette Valley (i.e., Corvallis, Albany and Salem) in November 2009. Prior to this, PRC accepted only wood waste and yard debris for composting. In early 2010, PRC began accepting Metro-area food waste that was delivered under authority of NSLs. In 2011, the facility began accepting commercial food waste from the Metro South Transfer Station.

The environmental risk from the use of this non-system facility is presumed to be minimal because the facility is fully regulated and monitored by the appropriate local and state authorities as described below.

- (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 rules and regulations;*

PRC is permitted by the Oregon Department of Environmental Quality (DEQ). DEQ staff report that the facility is currently in compliance with the terms of its solid waste permit.⁴ Additionally, PRC operates under a franchise agreement with Benton County. Benton County staff report that the facility is compliance with the terms of its franchise. Metro staff's investigation of the applicant, destination facility, and parent company revealed a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations during the term of the current NSL.

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

PRC operates under the authority of a Solid Waste Disposal Site Permit issued by DEQ. The facility manages all of the waste it receives, including commercial food waste, in accordance with the requirements of its DEQ-issued permit.

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

⁴ Solid Waste Disposal Site Permit: Composting Facility No. 1418

The waste subject to the proposed NSL will be delivered to PRC for the purpose of composting 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, approval 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 composted and not be disposed at a general-purpose landfill. Therefore, approval of the proposed license will not conflict with Metro's disposal contract.

In addition, Republic Services Inc. currently serves as Metro's contractor for processing organic waste received at the Metro South Transfer Station – including commercial food waste.

- (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 rules and regulations; and*

Metro issued a Notice of Violation (NOV) to the applicant in March 2016.⁵ The violation was cited for WRI exceeding its annual tonnage limit in 2015 for waste transported to Coffin Butte under authority of another NSL⁶ and is unrelated to the requirements of NSL No. N-005-16(4). The violation has since been resolved and the applicant is currently in compliance with all of Metro's solid waste regulations. Notwithstanding the above-referenced NOV, 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.

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

The proposed NSL will renew the applicant's current authorization. PRC provides important processing and composting capacity for the region that supports Metro's goal of diverting organics away from disposal and into recovery outlets.

3. Anticipated Effects

The effect of Resolution No. 17-4840 will be to issue a renewed NSL jointly to WRI and Republic to transport up to 20,000 tons per calendar year of source-separated commercial food waste to PRC for composting.

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

⁵ NOV No. NOV-394-16

⁶ NSL No. N-005-15(3)B

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 WRI and Republic, the source-separated food waste that will be transported to PRC under authority of this proposed NSL will continue to be exempt from the fee and tax because it will be composted.

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 recommend that Council approve Resolution No. 17-4840, finding that the license renewal application satisfies the requirements of Metro Code chapter 5.05. Resolution No. 17-4840 will authorize the COO to issue a renewed NSL, similar to the one attached to the resolution as Exhibit A, to WRI and Republic.

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