

IN CONSIDERATION OF RESOLUTION NO. 19-5032 FOR THE PURPOSE OF
AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-
SYSTEM LICENSE AUTHORIZING SWAN ISLAND DAIRY TO TRANSPORT AND
DISPOSE NON-RECOVERABLE SOLID WASTE, INCLUDING PUTRESCIBLE WASTE AT
THE COVANTA WASTE-TO-ENERGY FACILITY LOCATED IN BROOKS, OREGON.

Date: November 1, 2019
Department: PES
Meeting Date: November 21, 2019

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ISSUE STATEMENT

Swan Island Dairy is requesting renewal of its Metro Solid Waste Facility Non-System License to transport up to 110 tons per calendar year of non-recoverable solid waste, including putrescible waste, from its facility located at 4950 N. Basin Ave. in Portland to the Covanta Waste-to-Energy facility (Covanta) in Brooks, OR.

Metro Code Section 5.05.110(c) requires the Metro Council to approve or deny a non-system license (NSL) to transport putrescible waste to a disposal site.

ACTION REQUESTED

Approve Resolution No. 19-5032 which will authorize the Chief Operating Officer to issue a renewed Metro Non-System Facility License to Swan Island Dairy for a term of two years.

IDENTIFIED POLICY OUTCOMES

Approval of the proposed NSL renewal will support Metro's longstanding practice to allow solid waste generated in the Metro region to be transported to disposal sites located outside of the region provided that the transporter applies for and receives Metro authorization.

POLICY QUESTION

Should Metro Council approve the resolution and grant the Chief Operating Officer authority to issue a renewed NSL, as provided in Metro Code Chapter 5.05.110, to Swan Island Dairy to deliver up to 110 tons of putrescible waste per calendar year to Covanta?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Approve the resolution as proposed to authorize the Chief Operating Officer to issue a renewed NSL to Swan Island Dairy.
2. Approve the resolution with conditions in addition to or other than those recommended by staff.

3. Do not approve the resolution.

STAFF RECOMMENDATIONS

Staff recommends Metro Council approve of Resolution 19-5032 to authorize the Chief Operating Officer to issue a renewed Metro Solid Waste Facility Non-System License to Swan Island Dairy.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

NSLs are the main vehicles by which Metro manages the flow of solid waste transported to facilities located outside of the Metro regional boundary because they allow Metro to closely monitor and potentially guide waste flows to authorized facilities.

Known Opposition/Support/Community Feedback

There is no known opposition to the proposed NSL.

Legal Antecedents

Metro Code Chapter 5.05, "Solid Waste Flow Control." Specifically, Section 5.05.140 describes the factors the Chief Operating Officer may consider to determine whether to issue a non-system license:

- (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 those wastes pose a future risk of environmental contamination;*

The proposed disposal site is a waste-to-energy facility rather than a landfill and thus does not pose the same potential environmental risk from waste delivered from prior users. Air emissions from the facility are controlled through the use of high efficiency combustion within the furnace/boiler as well as by selective non-catalytic reduction, spray dryer absorbers, fabric filter baghouses and an activated carbon injection system. The ash generated at the facility is then disposed, or used beneficially, in accordance with Oregon Department of Environmental Quality (DEQ) requirements.

- (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;*

Covanta holds a DEQ Solid Waste Energy Recovery Permit. No formal enforcement actions have been taken at Covanta by DEQ in the last five years and Covanta is in compliance with federal, state, and local requirements. Staff has also received confirmation that Covanta has a good compliance record with respect to public health, safety and environmental regulations.

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

Covanta screens incoming waste for hazardous, radioactive, and other unacceptable materials and has a state-of-the-art emissions control system to minimize the risk of

future environmental contamination. In addition, Covanta uses operational practices and management controls that are considered by the DEQ to be appropriate for the protection of health, safety, and the environment.

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

Swan Island Dairy has an aggressive internal recycling program and it seeks to deliver only its non-recyclable waste, including putrescible solid waste, to Covanta instead of a landfill.

The Metro-area waste that is delivered to Covanta is not included in Metro's recovery rate calculation because state statute (ORS 465A.010(4)(f)(B)) stipulates that only those wastesheds that burn mixed solid waste for energy recovery within their watershed boundaries may count a portion of it towards their DEQ recovery rate calculation. Marion County is the only watershed within Oregon that hosts a waste-to-energy facility within its boundaries; therefore, it is the only watershed that is currently allowed to include a portion of the in-County waste that is delivered to Covanta in its recovery rate. Approval of the proposed license is not expected to impact the Metro 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 87 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 proposed NSL is not effective until January 1, 2020, after the expiration of Metro's contractual agreement and 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

In February 2019, Metro issued a Notice of Violation to Swan Island Dairy for exceeding the tonnage authorization of its NSL in calendar year 2018 by 19 tons (Notice of Violation No. NOV-414-19). The tonnage authorization of the facility's current NSL is 85 tons per calendar year. The applicant has requested a renewed NSL with an increase to 110 tons per calendar year. Swan Island Dairy is currently in compliance with the terms of its NSL.

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

Covanta is the primary disposal site for solid waste generated within Marion County. Marion County generally supports the Metro-authorized flow of solid waste to Covanta.

Anticipated Effects

Adoption of Resolution 19-5032 will authorize the Chief Operating Officer to issue a renewed NSL, as provided in Metro Code Chapter 5.05.110, to Swan Island Dairy to deliver up to 110 tons of putrescible waste per calendar year to Covanta.

Financial Implications

The application under consideration is the renewal of an existing NSL. The financial impact of this NSL has already been factored into the budget. The regional system fee and excise tax will continue to be collected on Metro-area waste delivered to Covanta under the authority of the proposed NSL.

BACKGROUND

The applicant seeks to renew its NSL to transport non-recoverable solid waste and putrescible waste generated within the Metro region to Covanta. Covanta is a non-system waste-to-energy facility located outside of the region. Metro Code Section 5.05.040 prohibits any person from transporting solid waste to a non-system facility without an appropriate license from Metro. The proposed NSL renewal is subject to Metro Council approval because it involves putrescible waste.

The applicant, Swan Island Dairy, is a dairy processing plant owned by Kroger Company, located at 4950 N. Basin Avenue in Portland, Oregon (Metro District 5). Swan Island Dairy routinely generates miscellaneous non-recoverable wastes which consist primarily of non-recyclable ingredient bags, label backings, excess ingredient powders, garbage bags, plastics and non-recoverable food waste. The facility makes efforts to reduce, reuse, and recycle waste whenever possible. For example, the facility separates out HDPE and PET plastics, cardboard, shrink wrap and wood waste which are delivered to recycling operations. As part of these sustainability efforts, Swan Island Dairy prefers to send its non-recoverable waste to waste-to-energy facilities instead of landfills for disposal.

Swan Island Dairy has been authorized to transport non-recoverable waste to Covanta since 2015 under a Metro NSL. The current license will expire December 31, 2019. The licensee transported approximately 104 tons to Covanta in calendar year 2018, and about 76 tons through September of 2019.

ATTACHMENTS

Exhibit A to Resolution No. 19-5032: Draft Solid Waste Non-System License No. N-167-20.