



Metro | Memo

DATE: September 8, 2014

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

FROM: Will Ennis, Senior Solid Waste Planner

RE: Solid Waste Facility License No. L-162-14 for Dean Innovations

Attached for your signature is Solid Waste Facility License No. L-162-14 authorizing Dean Innovations to accept and process yard debris for reloading to composting facilities and source-separated wood waste for hogged fuel production. The site of the proposed facility is located at 6400 SE 101st Avenue in Portland (Metro Council District 6). This memo provides background information on the applicant's request and recommends that Metro issue a license to Dean Innovations to operate a new yard debris reload facility.

Under Metro Code Section 5.01.067, the application for the proposed license is to be approved or denied by the Chief Operating Officer ("COO"). On February 11, 2014, the COO delegated authority to the Solid Waste Compliance and Cleanup Director (the "Director") to carry out the COO's responsibilities under Metro Code Section 5.01.067 for yard debris reload facilities. As such, the Director has authority to issue this proposed license.



Figure 1: Dean Innovations is located at 6400 SE 101st Avenue in Portland, OR.

Background

The applicant, Dean Innovations, currently operates as a landscape supply business offering soil mixtures, compost, rock and firewood for sale to customers. The facility is owned and operated by Nigel Dean. The facility is requesting authority to operate a yard debris reload facility to provide a convenient drop off site for its customers.

On May 5, 2014, a Metro solid waste inspector determined that Dean Innovations was operating a yard debris reload facility without a Metro-issued license. On May 9, 2014 Metro issued a Notice of Violation and Imposition of Civil Penalty (No. NOV-358-14) to Dean Innovations. The NOV required the facility to remove all yard debris on site and cease accepting yard debris from its customers. Additionally the NOV imposed a penalty of \$300 with a provision to have the penalty suspended provided the facility participate in a pre-application conference and submit a completed solid waste facility license application to Metro by July 1, 2014. This due date was then extended by Metro until July 11, 2014, upon request from Dean Innovations. Metro conditionally agreed to allow the facility to continue to receive and reload yard debris from its customers.

The facility's representatives attended a pre-application conference on June 4, 2014 and submitted a completed application on July 7, 2014, seeking authorization to operate a yard debris reload facility. The property on which the facility is located is zoned IH (heavy industrial) by the city of Portland and the proposed use is allowed by right in this zone according to the Land Use Compatibility Statement ("LUCS") signed by a representative of the City.

Dean Innovations seeks authority to accept yard debris for reloading and delivery to composting facilities and wood waste for grinding and production of boiler fuel. Since the applicant proposes to accept only source-separated materials that are currently being delivered to other recovery facilities, the proposed facility is not expected to have any significant financial impact on Metro's transfer station operations.

Application

Metro Code Sections 5.01.060 and 5.01.062 stipulate that applicants seeking to obtain a solid waste facility license shall file a completed application accompanied by payment of the appropriate application fee. Dean Innovations submitted to Metro a completed license application and the appropriate application fee of \$300 on July 7, 2014.

Metro Code Section 5.01.067(f) stipulates that the COO shall determine whether or not to grant a license within 120 days of receiving a complete application. Since the application was deemed complete on July 11, 2014, then the COO must act on the application by November 7, 2014 (which is the 120th day of the review period) or the proposed license shall be deemed granted.

Approval of this proposed license will authorize Dean Innovations to accept yard debris for reloading and delivery to composting facilities. The facility will also be authorized to accept and process wood waste for use as boiler fuel. The term of the proposed license begins on September 10, 2014 and ends on June 30, 2019.

Metro Code Provisions Related to the Applicant's Request

Metro Code Section 5.01.045(a)(3) stipulates that a Metro solid waste facility license is required for facilities that perform the processing or reloading of yard debris.

Metro Code Section 5.01.055(a) stipulates that all prospective applicants for a license shall participate in a pre-application conference. The applicant participated in a Metro pre-application conference on June 4, 2014.

Metro Code Section 5.01.060 provides:

(a) Applications for a Franchise or License or for renewal of an existing Franchise or License shall be filed on forms or in the format provided by the Chief Operating Officer.

The application was filed on forms and in the format provided by the COO and was accompanied by the required application fee of \$300.

(b) In addition to any information required on the forms or in the format provided by the Chief Operating Officer, all applications shall include a description of the Activities proposed to be conducted and a description of Wastes sought to be accepted.

The application contains a description of the activities to be conducted and a description of waste sought to be accepted. In addition, the application contains the proposed site plan and operating plan.

(c) In addition to the information required on the forms or in the format provided by the Chief Operating Officer, applications for a License or Franchise shall include the following information to the Chief Operating Officer:

(1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the License.

The applicant has provided proof that it has obtained the required insurance.

(2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ.

The applicant is not required to obtain an Oregon Department of Environmental Quality ("DEQ") solid waste facility permit for the proposed facility.

(3) A duplicate copy of any closure plan required to be submitted to DEQ, or if DEQ does not require a closure plan, a closure document describing closure protocol for the solid waste facility at any point in its active life.

The DEQ does not require that the facility submit a closure plan, therefore the applicant included a closure plan with its Metro license application.

(4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of Closure, or if DEQ does not require such documents or does not intend to issue a permit to such facility, the applicant must demonstrate financial assurance or submit a proposal for providing financial assurance prior to the commencement of Metro-regulated activities for the costs of Closure of the facility. The proposal shall include an estimate of the cost to implement the Closure plan required in Section 5.01.060(c)(3). If an application is approved, the license or franchise shall require that financial assurance is in place prior to beginning any activities authorized by the license or franchise. However, regarding applications for licenses, if DEQ does not issue a permit or require such financial assurance documents, then the Chief Operating Officer may waive this requirement if the applicant provides written documentation demonstrating that the cost to implement the Closure plan required in Section 5.01.060(e)(3) will be less than \$10,000.

The DEQ does not require proof of financial assurance for this facility. The applicant provided documentation that the estimated cost to implement its closure plan would be about \$1,200. Since the applicant's estimated cost of closure is less than \$10,000, staff recommends that the COO waive the financial assurance requirement for this facility as provided in Metro Code Section 5.01.060(c)(4). As such, the proposed license includes a financial assurance waiver.

(5) Signed consent by the owner(s) of the property to the proposed use of the property.

A signed consent from the property owner and a copy of the applicant's lease agreement was included with the application.

(6) Proof that the applicant has received proper land use approval.

Proof of land use approval has been provided in the form of a LUCS, signed by a representative of the city of Portland on July 3, 2014. The LUCS states that the proposed activity is allowed by right in the IH zone.

(7) Identify any other known or anticipated permits required.

The facility is not required to obtain a solid waste permit from DEQ. Freeway Land II, the owner of the industrial park in which the facility is located, has a National Pollution Discharge Elimination System permit. The permit covers the Freeway Land Industrial park as a whole.

Public Notice and Opportunity to Comment

On August 4, 2014, Metro issued public notice of the license application and provided an opportunity for the public to submit comments. The public comment period ended on September 5, 2014. Public notice was sent to about 60 property owners and residents (located within approximately an eighth of a mile from the facility) and the Lents Neighborhood Association. 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 – which included representatives of the city of Portland, Multnomah County, and DEQ.

Metro received one comment in response to the public notice. The comment poses a general complaint about the siting of industrial facilities near to the respondent's neighborhood and specifically mentions vector issues caused by these facilities. The proposed license contains several conditions intended to minimize nuisances including dust, litter, noise and vectors. Additionally, the license limits the storage of yard debris at the facility to seven days. The facility will be routinely inspected to ensure compliance with these conditions. The property on which the facility is located is zoned IH (heavy industrial) by the city of Portland and the proposed use is allowed by right in this zone.

Recommended Action

Staff recommends approval of the application and issuance of Solid Waste Facility License No. L-162-14. Approval of this license will authorize Dean Innovations to accept and process yard debris for reloading to composting facilities and source-separated wood waste for hogged fuel production. A copy of the proposed license, which commences on September 10, 2014 and expires on June 30, 2019, is attached for your signature.

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