

 **Metro** | *Memo*

DATE: June 20, 2016

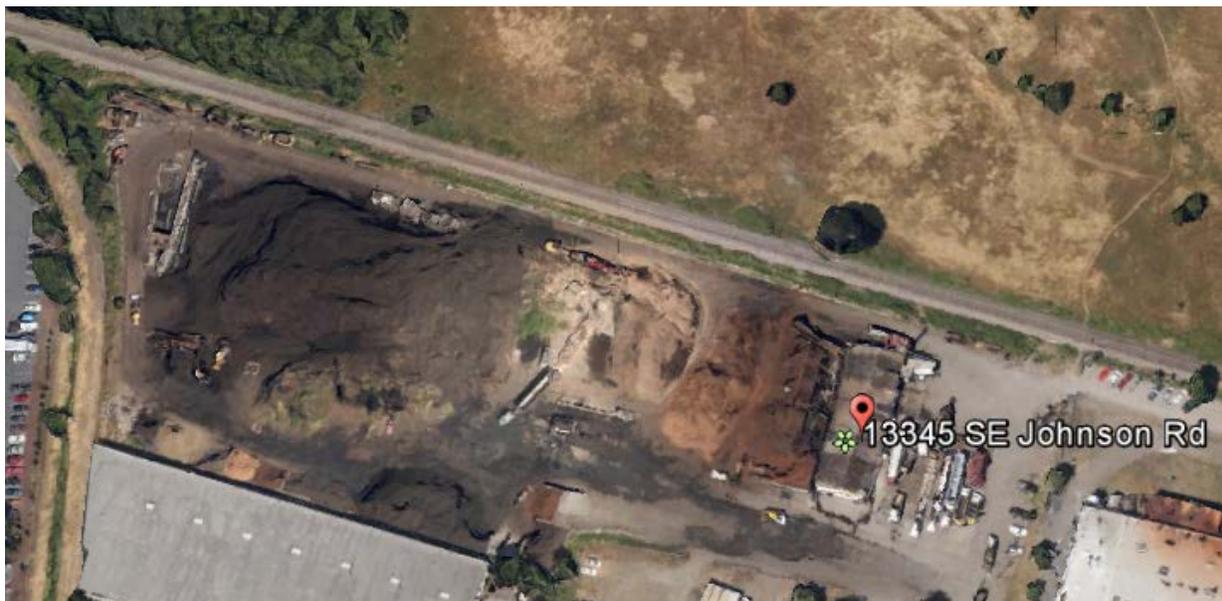
TO: Roy W. Brower, Solid Waste Compliance and Cleanup Program Director

FROM: Hila Ritter, Solid Waste Authorization Coordinator
Juan Garcia, Solid Waste Authorization Coordinator

RE: Renewed Solid Waste Facility License No. L-026-16 for McFarlane's Bark, Inc.

Attached for your signature is renewed Solid Waste Facility License No. L-026-16 for McFarlane's Bark, Inc, a locally owned and operated yard debris composting facility located at 13345 SE Johnson Road in Milwaukie, Oregon (Metro District 2). This memo provides background information on the applicant's request and recommends that Metro issue a renewed license to McFarlane's Bark with specific conditions carried over from the current license to address concerns expressed by neighbors during the public comment period.

BACKGROUND



McFarlane's Bark is a Metro-licensed yard debris composting facility that accepts and processes yard debris, leaves, and land clearing debris for composting and wood waste for producing boiler fuel. The facility also operates as a retail outlet for landscaping products.

McFarlane's Bark is located on light industrial-zoned land in unincorporated Clackamas County. This yard debris composting facility was established in 1972. The facility has operated under a Metro license since 1998 and an Oregon Department of Environmental Quality (DEQ) permit since 1999. The facility currently holds a Metro-issued license¹ that will expire on June 30, 2016. On March 21, 2016, McFarlane's Bark submitted a completed application to Metro requesting the renewal of its license.

Under Metro Code Section 5.01.055, the proposed license renewal is to be approved or denied by the Chief Operating Officer ("COO"). On July 1, 2015, the COO delegated authority to the Solid Waste Compliance and Cleanup ("SWCC") Director to carry out license renewals. As such, the SWCC Director is authorized to grant this license renewal.

PUBLIC NOTICE AND OPPORTUNITY TO COMMENT

On March 30, 2016, Metro issued public notice of the license renewal application and provided an opportunity for the public to submit comments. The public comment period ended on April 29, 2016. Public notice was mailed to about 375 property owners located near the facility. 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. In response to the public notice, Metro received a total of three comments regarding the proposed license renewal. One commenter submitted two emails describing his concerns, both of which are about the facility's operations and cited ongoing issues with odors, dust, and insects. The other commenter expressed similar concerns regarding the facility's operation and issues with odors, dust, and insects. The commenters represent property management groups that oversee business parks located nearby McFarlane's Bark. In addition, the applicant provided a response to these comments. The public comments and the applicant's response are summarized below. The source documents are attached.

Summary of Written Public Comments on Application

This section is a summary of the written public comments received by Metro, including a response from the applicant and the Metro staff response to the written public comments.

1. Metro reviewed two emails from Steven Klein, the manager of a business park adjacent to McFarlane's Bark on April 7 and April 14, 2016. Mr. Klein described the impacts of dust generated at McFarlane's Bark that settles on his property and his concerns for the health risks of breathing dust particulates as well as the damage it causes to facility systems such as HVAC. He also cited the difficulty of leasing office spaces due to malodors, dust and insects.
2. Metro also received an e-mail from Beverly Chesnut Foster, the manager of a business park adjacent to McFarlane's Bark on April 21, 2016. Ms Foster reported that odors from the facility are especially strong certain at times of year and they negatively impact her business' tenants, customers, and visitors. She also described the additional building maintenance and cost required to clean gutters and HVAC systems due to dust generated at McFarlane's Bark. She

¹ Metro Solid Waste Facility License No. L-026-13A

requested that additional operating procedures or processes be implemented to reduce the emissions of odors and dust at the facility.

Applicant response to comments. In response to these comments, Kathleen and Dan McFarlane (McFarlane's Bark owner-operators) described the long-term measures that the facility has taken to control fugitive odors and dust emissions. These control measures include: directing packer truck loads away from the facility during the months of June through October due to malodorous grass clippings, providing annual odor control training courses for facility staff, installing 8,700 square feet of asphalt paving in December 2014 to minimize dust and track out, performing road sweeping at least weekly, planting evergreen trees and installing additional sprinklers (in 2013) along portions of the western and northern property lines to help screen for dust (see photos on page 1), and upgrading the grinding equipment with misters to minimize dust emissions. McFarlane's also intends to install new signage enforcing the 5 mph speed limit as well as additional tree plantings in June to assist with dust control.

Metro staff response to comments. With the exception of the complaints received as part of the public comment period, Metro has not received any complaints regarding McFarlane's Bark during their current license term which began on August 1, 2013. Similarly, staff at both DEQ and Clackamas County have reported that they have not received any complaints about the facility during that same period. Based upon staff's investigation of the facility's compliance history and operational practices, staff finds that McFarlane's Bark has generally improved its operations during the term of the license and currently has adequate dust and odor control measures in place. These improvements include reducing inbound tonnage, restricting certain malodorous loads, and making site improvements such as installing a vegetative screen and increasing aeration in its stormwater holding pond. Staff finds that these control measures have had a positive result on operations and staff will continue working closely with McFarlane's Bark to sustain these efforts. When Metro receives information about odor, dust, or other nuisance conditions, staff will take action to promptly investigate and resolve the issues to ensure regulatory compliance as appropriate. The proposed license renewal carries forward the current license conditions

COMPLIANCE HISTORY OF THE APPLICANT

On September 10, 2014, Metro issued a Notice of Violation² to McFarlane's Bark, Inc. for violating the terms of its Metro-issued license by failing to submit an operational capacity assessment report by September 1, 2014. The facility was afforded an opportunity to correct the violation without the imposition of a monetary penalty by submitting the operational capacity assessment report by September 22, 2014. Metro requested the report, in part, to better understand McFarlane's operational capacity and to ensure the facility was successfully addressing operational concerns and meeting compliance requirements. The facility subsequently submitted the report to Metro as required on September 10, 2014 and the violation was deemed corrected.

During an inspection of McFarlane's Bark on November 19, 2014, Metro staff observed dust generated by the facility's screening operation blowing onto the neighboring property to the west. The dust was observed throughout the lot in this area and on vehicles parked in the lot. The facility received a Field Notice of Violation³ for failing to control dust generated at the facility from settling on neighboring properties. The facility subsequently updated its operating plan to include more extensive dust

² NOV No. NOV-370-14

³ FNOV-349-14

mitigation procedures including using water on roadways, a mister on the grinder, sprinklers and trees on the western and northern sides of the site, and other procedures to control windblown debris generated during facility operations. The violation was subsequently deemed corrected. The facility is currently in compliance with its Metro-issued license.

METRO CODE RENEWAL CRITERIA

Metro Code Section 5.01.055 states that:

The Chief Operating Officer shall renew a Solid Waste Facility License unless the Chief Operating Officer determines that the proposed renewal is not in the public interest, provided that the Licensee files a completed application for renewal accompanied by payment of an application fee of three hundred dollars (\$300) not less than 120 days prior to the expiration of the License term, together with a statement of proposed material changes from its initial application for the License and any other information required by the Chief Operating Officer. The Chief Operating Officer may attach conditions or limitations to any renewed License.

On March 21, 2016, McFarlane's Bark filed a complete application for renewal of its existing license and provided payment of an application fee of \$300. Metro Code provides that the COO shall renew a solid waste facility license unless the COO determines that the proposed renewal is not in the public interest. McFarlane's Bark conducts resource recovery of materials including yard debris and wood and, as such, it plays an important role in the region's solid waste recovery efforts.

STAFF RECOMMENDATION

Staff recommends issuing Solid Waste Facility License No. L-026-16, with the proposed standard and special conditions, in order to renew McFarlane's Bark authority to accept and process yard debris, leaves, and land clearing debris for composting and wood waste for producing boiler fuel. The proposed license includes conditions carried over from the current license intended to minimize potential off-site impacts on adjacent properties and various housekeeping updates for clarification and standardization purposes, however there are no substantive changes. A copy of the proposed license, which commences on July 1, 2016 and expires on June 30, 2021, is attached for your signature.