

Memo



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

DATE: December 18, 2017

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

FROM: Hila Ritter, Solid Waste Authorization Coordinator *H*

RE: Solid Waste Facility License Renewal No. L-124-18 for Oil Re-Refining Company

Attached for your signature is renewed Solid Waste Facility License No. L-124-18 for Oil Re-Refining Company (ORRCO), formerly known as Fuel Processors, Inc., located at 4150 North Suttle Road in Portland (Metro District 5). The proposed license renewal authorizes ORRCO to accept oil-contaminated cleanup material for the purpose of disposal. This memo provides background information on the applicant's request and recommends that Metro issue a renewed license to ORRCO.



Photo 1: Aerial map of ORRCO facility

OVERVIEW

The applicant, ORRCO, is a Metro-licensed facility that accepts and reloads oil-contaminated cleanup material for disposal. The facility no longer accepts petroleum-contaminated soils, and has decommissioned the kiln which it previously used to thermally process that waste.

ORRCO is a locally-owned facility that has been operating under a Metro license since 2008. On April 6, 2017, ORRCO submitted a complete application to Metro requesting the renewal of its license. The applicant did not request any new authorizations. The facility's current license¹ commenced on May 1, 2013, and was initially scheduled to expire on June 30, 2017. Metro extended the term of the license until December 31, 2017, in order to allow for additional evaluation of public feedback on the license renewal

¹ Metro Solid Waste Facility License No. L-124-13A

application, as well as coordination with Oregon Department of Environmental Quality (DEQ) and its solid waste permitting process.

The proposed license regulates only the acceptance and processing of oily cleanup materials at the facility; it does not regulate or prohibit the management of hazardous wastes, used oil, and universal wastes at the site. These other waste-related activities are regulated primarily by the DEQ. Additionally, the non-waste related activities performed at the site are not subject to Metro's licensing requirements.

Under Metro Code Section 5.01.110, the proposed license renewal is to be approved or denied by the Chief Operating Officer ("COO"). On October 9, 2017, the COO delegated to the Solid Waste Information, Compliance, and Cleanup Director (the "Director") authority to carry out the COO's responsibilities for approving license renewals for these types of facilities. As such, the Director is authorized to approve this proposed license.



Photo 2: ORRCO facility

PUBLIC NOTICE AND OPPORTUNITY TO COMMENT

In 2015, DEQ and the United States Environmental Protection Agency (EPA) began investigating ORRCO as a contributing source of odors in the Portland North Harbor area based on numerous citizen complaints. In consideration of this information, Metro contacted six neighborhood associations located near ORRCO to discuss Metro's regulatory role and licensing process before opening the public comment period for the license renewal application.² Metro staff offered to host meetings and attend neighborhood association meetings or other community events to answer questions about Metro's regulatory role at the facility. In response to this invitation, two individuals contacted Metro for more information. After learning that the Metro-issued license for ORRCO regulates only a small aspect of the operation that includes the consolidation and reloading of cleanup material, both individuals declined Metro's invitation. They indicated that their primary concerns were related to air quality in North Portland, not solid waste consolidation activities at the facility. Instead, Metro staff attended the DEQ's public information meeting about the facility held in North Portland in June 2017.

² The Bridgeton, East Columbia, Hayden Island, Kenton, Portsmouth, St. John's Neighborhood Associations

On April 13, 2017, Metro issued public notice of the proposed license and provided an opportunity for the public to submit comments. The public comment period ended on May 19, 2017. Public notice was mailed to about 4,300 addresses located within approximately a mile of the facility. Notice was also e-mailed to Metro's standard list of interested parties, the six neighborhood associations located near ORRCCO, and DEQ's list of interested parties regarding North Portland used oil facilities. In addition to the above, Metro also posted public notice information on its website.

In response to the public notice, Metro received 43 comments - including letters on behalf of the East Columbia Neighborhood Association General Membership and the students, families, and staff of Bridges Middle School. A summary of the comments that Metro received during the public notice period and staff's response to those comments are provided below. All comments that Metro received during the comment period and ORRCCO's response to those comments are attached to this report.

Summary of written public comments on ORRCCO's application

Most of the comments that Metro received during the public comment period urged Metro and DEQ to deny all license and permit applications for the facility, citing ongoing distrust of regulatory oversight at the site and expressing concerns about environmental and human health impacts caused by the facility. Additionally, many commenters referenced another oil refining facility, American Petroleum Environmental Services (APES), which is located nearby ORRCCO.

Commenters described a wide range of negative health impacts associated with odors, which they believe to be highly toxic, that they attribute to the oil re-refining operations at the facility. Commenters raised concerns regarding the lack of site infrastructure to safely contain spills in the event of equipment failure or natural disaster, such as an earthquake. In addition, the commenters expressed fatigue and frustration with the government agencies that regulate ORRCCO because they believe that the regulatory oversight has been inadequate to protect the public's health. Commenters said that Metro should deny ORRCCO's solid waste facility license renewal application. They also requested that Metro exercise its authority and work with other agencies to do more to protect human health and the environment.

Metro response to public comments

Although Metro has broad authority over solid waste, Metro's role for this site is limited to regulating the consolidation and transfer of cleanup material and oil-contaminated solid waste. Metro's oversight includes several unannounced inspections per year and entails close regulatory coordination with DEQ to ensure that waste received at the site is properly managed and transferred to appropriate disposal sites. DEQ is the primary regulatory authority for this facility and is responsible for monitoring and enforcing the used oil processing, hazardous waste, and air quality requirements. While Metro does not regulate air quality requirements at the facility, Metro staff will continue to investigate odor complaints, perform routine inspections, and report any concerns or compliance issues to the appropriate regulatory agency such as DEQ.

Notwithstanding the concerns raised by the commenters, the proposed license is limited to a small aspect of ORRCCO's operations. The proposed license covers only the consolidation and transfer of solid waste – it does not address the aspects of the operation that are regulated by DEQ (such as emission control equipment, the re-refining process, overall air quality and associated human health impacts of activities at the site, spill containment, hazardous waste storage and disposal, and onsite use of recycled

oil as fuel source). Metro shares DEQ's interest in ensuring that facilities managing the region's waste and recyclable materials do so in ways that protect the environment and human health while minimizing impacts on the communities in which they are located. By renewing this proposed license, Metro staff are ensuring that waste processed at the site is managed, and ultimately disposed of, properly. While the scope of Metro's proposed license at this site is specific to the activity of consolidating and reloading debris, Metro will continue to work in partnership with DEQ and other agencies to ensure these goals are achieved.

Summary of ORRCO's response to public comments

ORRCO emphasized that it is not currently affiliated with APES, and has not been since 2010. ORRCO stated that it has been proactive in reducing emissions and odors by removing the water evaporator scrubber, no longer burning solid nor off-spec fuel, and increased emissions monitoring with guidance from the EPA. Additionally, ORRCO states that it is in compliance with its air emissions permit with DEQ. ORRCO expressed that it welcomes input and questions from neighbors and is committed to being a good neighbor and responsible steward of the environment.

COMPLIANCE HISTORY

As for the facility's record of compliance with regard to Metro's requirements, ORRCO is currently in compliance with its Metro-issued license and it has not had any significant compliance issues with regard to Metro regulations within the last five years. Metro staff conducted 13 inspections of ORRCO between the dates of May 1, 2013, and November 30, 2017. During that time, Metro issued one Field Notice of Violation³ for failure to post signs at the entrance of the facility. ORRCO posted the required signs and the violation was cured on February 13, 2014.⁴

As explained above, Metro's proposed license regulates only the acceptance and processing of oil-contaminated clean-up materials at the facility. As such, this staff report addresses the facility's compliance in relation to its Metro authorization. This staff report does not consider the facility's compliance record with respect to any other activities performed at the site which are not regulated by Metro and are otherwise regulated by the EPA and DEQ (e.g., management of hazardous wastes, used oil, universal wastes, etc.).

ORRCO has had a good compliance history with respect to Metro's regulations. Staff finds that ORRCO plays an important role in the region's solid waste recovery and management efforts and it is in the public interest to renew the facility's license.

METRO CODE RENEWAL CRITERIA

Metro Code Section 5.01.110(d) states that:

The Chief Operating Officer must approve solid waste facility license renewal unless the Chief Operating Officer determines that the proposed renewal is not in the public interest. The Chief Operating Officer may attach conditions or limitations to any renewed License.

³ Field Notice of Violation No. FNOV-297-13

⁴ Cure of Violation No. CUR-297-13

ORRCO's license was set to expire on June 30, 2017 and on April 6, 2017, ORRCO filed a complete application for renewal of its current license accompanied by payment of an application fee of \$300. On June 28, 2017, Metro issued an amended license with a six-month term extension and carried forward all of the other conditions of the license until December 31, 2017. As stated above, the short-term license extension was intended to allow for additional evaluation of public feedback on the license renewal application that was submitted to Metro, as well as coordination with DEQ and its solid waste permitting process.

The proposed license would replace the current license that is set to expire on December 31, 2017, and it continues the authorization that ORRCO has held since 2008, while eliminating the authorization to thermally process waste on site as this activity has ceased. The applicant has not requested any new authorizations.

STAFF RECOMMENDATION

Although Metro has broad legal authority regarding solid waste regulatory matters (including regulatory authority over the acceptance, processing and disposal of oil contaminated material at this facility), the DEQ is the state's primary regulatory authority for the overall environmental impact of the site and its operational status. Metro's proposed license does not exert authority over either the site's overall environmental impact or its operational status. Therefore, as long as the site is allowed to operate, Metro seeks to ensure that the materials and waste generated at ORRCO are delivered to safe and authorized disposal sites. Therefore, staff recommends the approval and issuance of Solid Waste Facility License No. L-124-18 in order to renew ORRCO's authority to accept oil-contaminated cleanup materials for consolidation and disposal. A copy of the proposed license, which commences on January 1, 2018 and expires on June 30, 2022, is attached for your signature.

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