

# Memo



**Metro**

600 NE Grand Ave.  
Portland, OR 97232-2736

DATE: May 31, 2018

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

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

RE: Issuance of New Solid Waste Facility License No. L-057-18 for CORE Recycling Material Recovery Facility

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Attached for your signature is new Solid Waste Facility License No. L-057-18 for CORE Recycling Material Recovery Facility (CORE) located at 4530 NE 138<sup>th</sup> Ave. in Portland, Oregon (Metro District 1). CORE currently owns and operates a Metro-licensed material recovery facility (MRF) located at 5726 NE 109<sup>th</sup> Ave. in Portland, Oregon (Metro District 5). CORE seeks to cease operations at its current facility and relocate in phases to the proposed site located at 138<sup>th</sup> Ave. This memo provides background information on the applicant's request and recommends that Metro issue a new license to CORE.

## BACKGROUND



Photo 1: CORE proposed site

The applicant, CORE, is a locally-owned company that operates a waste hauling service (City of Roses Disposal & Recycling, Inc.) and a Metro-licensed MRF currently located at 5726 NE 109<sup>th</sup> Ave. in Portland. At its current location, CORE primarily accepts and processes mixed non-putrescible (dry) waste collected by its hauling company. The facility is authorized to accept up to 3,500 tons of dry waste per calendar year from select third-party haulers. CORE does not currently accept waste from the general public. CORE specializes in the recovery of waste generated during construction projects that seek to obtain LEED (Leadership in Energy and Environmental Design) certification. LEED projects require that the solid waste resulting from construction activities be recovered to a higher

degree and be more extensively documented than from standard construction projects.

CORE applied to the Oregon Department of Environmental Quality (DEQ) for authorization to relocate its current MRF operations to 4530 NE 138<sup>th</sup> Ave. in Portland (the former site of Oregon Recycling Systems). DEQ subsequently issued Solid Waste Disposal Site Permit No. 1606 to CORE on October 30, 2017.



**Photo 2: Southeastern view of the proposed CORE facility**

On December 6, 2017, CORE filed a complete solid waste facility license application with Metro for the proposed site. The application included an updated operating plan describing CORE's proposed procedures for managing dry waste. As explained in this staff report, CORE currently seeks to operate a dry waste MRF at the proposed site; however, the applicant has indicated to Metro staff that it intends to seek authorization to also transfer putrescible waste at the site at some point in the future. If the applicant seeks to operate a transfer station at the site in the future, then it will be required to apply for and obtain a Metro-issued franchise at that time. In addition to the above, the applicant also holds a Metro Solid Waste Facility Non-System License (NSL)<sup>1</sup> that authorizes it to transport up to 472 tons of putrescible waste per calendar year to Wasco County Landfill. However, to date, no waste has been sent to Wasco County Landfill under this NSL.

Under Metro Code Section 5.01.080, the Chief Operating Officer (COO) may determine whether to approve or deny a license application. On October 9, 2017, the COO delegated authority to the Solid Waste Information Compliance and Cleanup (SWICC) Director to determine whether to approve or deny these types of applications. As such, the SWICC Director is authorized to grant this license.

## **PUBLIC NOTICE AND OPPORTUNITY TO COMMENT**

On January 9, 2018, Metro issued public notice of the license application and provided an opportunity for the public to submit comments. Public notice was mailed to about 1,185 property owners and residents located near the proposed site. Notice was also posted on the Metro website and emailed to a list of Metro-area stakeholders that have a general interest in solid waste issues. The public comment period ended on February 9, 2018. Metro received five comments regarding the license application. The comments that Metro received during the notice period and the applicant's responses to those comments are summarized below. The full comments are also attached.

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<sup>1</sup> COR Transfer, LLC. Metro Non-System License No. N-134-16B

*Summary of Written Public Comments on Application*

This section includes a summary of the written comments that Metro received during the public notice period, the applicant's response, and Metro staff's response to the corresponding comments.

1. Matt Stern, Area Director of Recycling Operations for Waste Management of Oregon, stated that "CORE" is a registered trademark of Waste Management and requests that the applicant not use that name in any public way including signage, advertising, etc.

Applicant response to comment: CORE declined to respond to this comment.

Metro staff response to comment: This appears to be a potential trademark dispute that is outside the scope of Metro's current license requirements. Staff does not recommend any action by Metro on this matter at this time.

2. Terrell Garrett, Manager of GreenWay Recycling, stated that the CORE application satisfies Metro Code provisions and GreenWay supports the issuance of a MRF license to CORE with the exception that CORE should be required to pave all operating surfaces prior to initiating operations.

Applicant response to comment: The applicant has initiated the permitting process with the city of Portland for various scopes of work at the proposed site which include the installation of impervious surfaces. The proposed scope of work includes surveying, site excavation/demolition, grading, backfill, installation of catch basins for pretreatment of stormwater runoff, installation of stormwater drainage, and paving traffic areas for inbound and outbound scale users.

Metro staff response to comment: As of the date of this report, Metro staff has confirmed that CORE intends to pave vehicle use areas of the site by the end of September 2018. Metro has included a condition in the license requiring the licensee to complete the paving of vehicle use areas by October 31, 2018, in order to minimize the generation of dust and other airborne debris on site.

3. Deanne Englund, Argay Terrace Neighborhood resident, stated that she is concerned about traffic increase on 138<sup>th</sup> Ave. Ms. Englund explained that trains run on the tracks several times a day and at all hours and that this can cause queuing of traffic, including recycling trucks. Ms. Englund proposed several ideas to increase the safety of that intersection including; slowing the trains, make the crossing gate come down sooner, new signage, and new striping.

Applicant response to comment: The applicant completed and submitted a Transportation Impact Study (TIS) to the city of Portland. The City determined that the TIS adequately address all transportation approval criteria. Additionally, the applicant will direct customers to use NE Airport Way, when possible, to minimize congestion at the intersection of NE 138<sup>th</sup> and Sandy Blvd. CORE will take all necessary steps to ensure that the operation is a positive benefit to the community by creating jobs, practicing innovative recycling, and minimizing carbon impacts.

Metro staff response to comment: Metro relies on the city of Portland to determine the traffic allowances for this proposed facility. Metro staff has referred this comment to PBOT and ODOT.

Based upon the information that Metro has received from Portland Bureau of Transportation (PBOT) staff, the proposed operation complies with the City's traffic requirements. Oregon Department of Transportation (ODOT) reported to Metro that it reviewed the TIS and did not have any comments.

Additionally, the rail issues raised by the commenter are outside the scope of Metro's current license requirements. Union Pacific Railroad offers a railroad safety presentation for those interested in enhancing railroad safety in their community. Union Pacific inspects crossing signals regularly for a variety of safety checks. If a malfunctioning signal is noted, the public should report it via the Union Pacific Grade Crossing Hot Line (1-800-848-8715).

4. Lee & Violeta Acevedo, Argay Neighborhood residents, stated that they have four primary concerns with approving this application. These include; the location is not an industrial park where this activity can take place, safety concerns for residents and children in housing, parks, and schools within a mile of the facility, excessive traffic, and health impacts of construction and demolition materials which could include lead based paints, asbestos, radon, and other chemicals.

Applicant response to comment: 4530 NE 138<sup>th</sup> Ave is zoned General Industrial 2 (IG2) per the city of Portland. CORE has a history of working with Parkrose area schools and neighborhood associations to engage in educational outreach opportunities about recycling and intends to continue this work. See response #3 above in response to traffic concerns. Metro and DEQ will not allow CORE to accept hazardous debris which contain materials such as lead based paint, asbestos, radon, and other hazardous materials and/or wastes. Metro and DEQ require CORE to have a Special Waste Management Plan in place prior to beginning operations.

Metro staff response to comment: Metro relies on the determination of its government partners for land use allowances. The applicant provided Metro with a Land Use Compatibility Statement (LUCS) signed by the city of Portland which states that the proposed use is allowed outright at this site. This industrially-zoned property has been the site of several industrial, commercial, and waste-related businesses since 1959. Additionally this site has been used as a recycling material recovery facility under previous ownership from 1995 until 2016. Metro staff has not found any information showing safety impacts on neighboring residents resulting from previous operations at the site. As noted above, PBOT and ODOT have reviewed the TIS and determined that the proposed operation complies with traffic requirements. Metro staff has also referred this comment to PBOT and ODOT.

5. Mike Connors, an attorney representing Resource Recovery Systems, stated that Metro should deny the license because CORE does not have the required land use approval from the city of Portland to perform the activities described in the application. Mr. Connors explained that CORE did not submit to Metro its most recent LUCS issued by city of Portland. Mr. Connors further explained that several material requirements were missing from the application including facility design and site plans prepared by licensed engineers, etc. as appropriate, and omissions in the site plan including failing to identify vegetative buffer zones and berms and load checking receiving/tipping, mixing, processing, reloading, and storage for all materials. Finally, Mr. Connors stated that the property owner consent forms provided had inconsistent information regarding property ownership.

Applicant response to comment: William Rasmussen, an attorney representing the applicant, stated that the city of Portland has issued three LUCS to CORE for the proposed site. He further stated that

all three satisfy the Metro Code and application requirements. Mr. Rasmussen stated that neither the City's Code nor Oregon State Law requires local land use approval prior to obtaining a Metro license. Mr. Rasmussen asserts that CORE provided sufficiently detailed information to Metro about the proposed operations including a site plan prepared by a team of scientists, engineers, and planners at Herrera Environmental Consultant showing vegetative buffer zones and berms, material stockpiles, and the location for storage of inadvertently received prohibited waste. Finally, Mr. Rasmussen explained that multiple property use consent forms were submitted because the property was under a purchase and sale agreement in 2017 and that NE 138<sup>th</sup> LLC now owns the property and is leasing it to CORE and submitted a property use consent form signed by NE 138<sup>th</sup> LLC and CORE.

Metro staff response to comment: Metro staff received three LUCS<sup>2</sup> for CORE's proposed operations at 4530 NE 138<sup>th</sup> Ave signed by the city of Portland. Metro relies on the determination of its government partners for land use allowances. In this case, the city has determined that the proposed use is allowed outright which satisfies Metro's local land use requirements.

Metro deemed the application to be complete on December 6, 2017. This determination was based on review of the materials submitted including the current facility design and site plans. The information that CORE submitted to Metro in its application was sufficient because the applicant intends to use the existing buildings for its operations with no major structural modifications.

Metro received three property use consent forms,<sup>3</sup> which are discussed in the Metro Code Requirements section of this staff report. The purpose of this form is to document the property owner's consent to the applicant's proposed use of the property. CORE has sufficiently demonstrated that the required consent is in place.

#### **COMPLIANCE HISTORY OF THE APPLICANT**

Metro has conducted 12 inspections of CORE's current facility during the term of its license. CORE is currently in compliance with Metro's requirements and has not had any significant compliance issues during the term of its current license. In addition, DEQ staff has reported that there are no enforcement or compliance issues associated with this site.

Staff finds that the operator has a good compliance history and material recovery facilities play an important role in the region's solid waste recovery efforts. As such, it is in the public interest to issue CORE's license as described in this staff report.

#### **METRO CODE REQUIREMENTS**

Metro Code states that an applicant seeking to obtain a solid waste facility license must participate in a pre-application conference with Metro before submitting an application. CORE participated in a

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<sup>2</sup> (1) Land Use Compatibility Statement issued by city of Portland, signed by J. Malia Slusarenko, June 2, 2017

(2) Land Use Compatibility Statement issued by city of Portland, signed by J. Malia Slusarenko, September 21, 2017

(3) Land Use Compatibility Statement issued by city of Portland, signed by Jason Richling, March 14, 2018

<sup>3</sup> (1) Property Use Consent Form, NE 138<sup>th</sup> LLC, signed by Alonzo Simpson, May 3, 2017

(2) Property Use Consent Form, Columbia Development Enterprises, LLC, signed by Matt Miller, September 28, 2017

(3) Property Use Consent Form, NE 138<sup>th</sup> LLC, signed by Alonzo Simpson, March 14, 2018

pre-application conference with Metro on May 2, 2017. CORE subsequently submitted to Metro a complete license application and the appropriate application fee of \$300. The application was deemed complete on December 6, 2017.

#### 5.01.070 Applications for Licenses

A license application must also include the following information:

- 1) *Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the license term;*

CORE has provided documentation demonstrating that it has met Metro's insurance requirements.

- 2) *A copy of all applications for necessary DEQ permits, any other information required by or submitted to DEQ, and a copy of any DEQ permits;*

CORE has provided copies of all necessary information and permits required by DEQ.<sup>4</sup>

- 3) *A copy of any closure plan that DEQ requires, including documents demonstrating financial assurance for the costs of closure. If DEQ does not require a closure plan, the applicant must provide a closure document describing closure protocol for the solid waste facility at any point in its active life;*

CORE has provided the necessary closure plan. DEQ does not require financial assurance for this facility.

- 4) *Signed consent by the property owner(s) agreeing to the proposed property use. The consent must also disclose the applicant's property interest and the duration of that interest. The consent must include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.320(f) if Metro revokes the license or refuses any license renewal;*

As mentioned earlier, CORE provided three property use consent forms during the application process due to changing ownership over the course of the application review period. The form signed by the current property owner, dated March 14, 2018 states that the property owner consents to the proposed use of the site. CORE has provided the necessary signed property use consent form.

- 5) *Proof that the applicant has received proper land use approval; or, if the applicant has not obtained land use approval, then a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. The recommendation may include, but is not limited to, a statement of compatibility of the site, the solid waste disposal facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning*

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<sup>4</sup> DEQ Solid Waste Disposal Site Permit No. 1606; DEQ NPDES 1200-Z application

*requirements or with the statewide planning goals of the Land Conservation and development Commission;*

As mentioned earlier in the report, CORE provided three separate LUCS during the course of the application process. The city of Portland approved each of those LUCS and stated the applicant's proposed use of the site was allowed outright. Metro relies on the determination of its government partners for land use allowances and does not independently interpret a local jurisdiction's land use code. CORE has provided the necessary land use approval.

- 6) *Any current permit and a list of anticipated permits that a governmental agency may require. If the applicant has previously applied for a permit, the applicant must provide a copy of that permit application and any permit that any other government agency granted.*

CORE has provided copies of all necessary permits.

#### **STAFF RECOMMENDATION**

Staff recommends issuing new Solid Waste Facility License No. L-057-18 to CORE authorizing it to accept and process mixed dry waste for material recovery. The proposed license becomes effective on June 1, 2018, and expires on June 30, 2023. A copy of the proposed license is attached for your signature.

HR  
Queue  
Attachment

## Hila Ritter

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**From:** Alando Simpson <alando@cityofrosesdisposal.com>  
**Sent:** Friday, March 16, 2018 2:46 PM  
**To:** Hila Ritter  
**Cc:** Warren Johnson; Will Ennis  
**Subject:** RE: Public comments regarding MRF application to Metro  
**Attachments:** Metro MRF Public Comment Response\_Deanne Englund.pdf; Metro MRF Public Comment Response\_Greenway.pdf; Metro MRF Public Comment Response\_Lee\_Violeta Acevedo.pdf

Hila,

Please see the following responses to the public comments. Please note that you should have received one response yesterday regarding the public comments submitted by Michael Connors on behalf of Vince Gilbert. Per this email there are only 3 attached responses as we are choosing not to respond to the 4<sup>th</sup> comment.

Let me know if you have any questions.

Thank You!

Alando Simpson, LEED® Green Associate  
Vice President  
City of Roses Disposal & Recycling | CORE  
p. 503-285-9940 f. 503-249-5096 c. 503-522-2933  
w. [www.cityofrosesdisposal.com](http://www.cityofrosesdisposal.com)



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This message and any attachments are intended only for the use of the addressee and may contain information that is privileged and confidential. If the reader of the message is not the intended recipient or an authorized representative of the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, notify the sender immediately by return email and delete the message and any attachments from your system.

**From:** Hila Ritter <Hila.Ritter@oregonmetro.gov>  
**Sent:** Friday, February 16, 2018 1:29 PM  
**To:** Alando Simpson <alando@cityofrosesdisposal.com>  
**Cc:** Warren Johnson <Warren.Johnson@oregonmetro.gov>; Will Ennis <Will.Ennis@oregonmetro.gov>  
**Subject:** Public comments regarding MRF application to Metro

Hello Alando,

As we discussed, attached are the 5 comments Metro received during the public comment period regarding the application CORE submitted to Metro for its new proposed MRF.

If you would like to respond to comments, please submit the response to me at your earliest convenience, and no later than March 16, 2018. Metro will include CORE's response to comments in the staff report.

Please let me know if you have any questions.

Thanks,

\*Hila

**Hila Ritter**

Solid Waste Authorization Coordinator  
Property and Environmental Services

*My gender pronouns: she, her, hers.*

Metro | [oregonmetro.gov](http://oregonmetro.gov)

600 NE Grand Ave.

Portland, OR 97232-2736

503-797-1862

**From:** Stern, Matthew  
**To:** [Hila Ritter](#)  
**Subject:** WM - Comment regarding CORE MRF name  
**Date:** Thursday, January 11, 2018 9:25:13 AM  
**Attachments:** [CORE Trademark Registration.pdf](#)

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CORE is a registered trademark of Waste Management. WM respectfully requests that the applicant not use the CORE name in any public way including signage, advertising, etc. WM expects to be awarded the service contract from Metro for commercial organics processing and intend to use our CORE name for that facility.

Attached please find trademark registration verification.

Thank you for your attention to this matter. I am available to discuss further as needed.

Matt.

**Matt Stern**  
Area Director of Recycling Operations, Pacific Northwest BC Area  
[mstern@wm.com](mailto:mstern@wm.com)

Waste Management  
13469 SW Highway 18  
McMinnville, Oregon 97128  
Tel 503.894.1160

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**Recycling is a good thing. Please recycle any printed emails.**



Ben D. Tobor  
Tel. 713.374.3568  
Fax 713.754.7568  
toborb@gtlaw.com

May 5, 2014

**CERTIFIED MAIL 7196 9008 9111 7759 4820  
RETURN RECEIPT REQUESTED**

Ms. Chantelle Reynolds  
Waste Management, Inc.  
1001 Fannin, Suite 4000  
Houston, Texas 77002

Re: U.S. Service Mark Registration No. 4,516,027  
Service Mark: CORE  
Our File: 069245.036300/US

Dear Chantelle:

We are pleased to inform you that the registration of the above-captioned mark has now been granted by the U.S. Patent and Trademark Office. The official Certificate of Registration is enclosed for safekeeping in your files, or preferably in a safe or safe deposit box.

Please note that the registration number is 4,516,027, and the date of registration is April 15, 2014. The registration covers the specific services listed on the certificate: material treatment services in connection with recycling; recycling of organic waste.

Between April 15, 2019, and April 15, 2020, an affidavit of continued use must be filed in the U.S. Patent and Trademark Office in order to keep the registration from becoming abandoned. We have made a notation on our docket to remind you of the necessity for filing this affidavit and will attempt to do so at the proper time. We recommend that you also make an entry for this action in your own calendaring system, in the event we are not able to contact you to remind you of this deadline.

Please let us know if there is any change in either the design form in which the mark is used, or in the products which are sold under the mark. Such changes may require amendment of the registration or obtaining additional registrations to adequately protect your interest in this mark.

Please let us know if there is any change in either the design form in which the mark is used, or in the services which are rendered under the mark. Such changes may require amendment of the registration or obtaining additional registrations to adequately protect your interest in this mark.

HOU 408015790v1

GREENBERG TRAUIG, LLP ■ ATTORNEYS AT LAW ■ WWW.GTLAW.COM

1000 Louisiana Street ■ Suite 1700 ■ Houston, TX 77002 ■ Tel 713.374.3500 ■ Fax 713.374.3505

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\*OPERATES AS  
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Ms. Chantelle Reynolds  
May 5, 2014  
Page 2

Also be sure to let us know if for any reason you should cease to use the mark with the intention of retaining rights in the mark. Nonuse of a service mark over a certain period of time can result in loss of rights to the mark even though there is no intention to abandon such rights.

**All occurrences of the service mark as shown on the registration should be marked with appropriate notation to indicate that the mark is registered. The preferable notation is the symbol "®", but either "Registered in U.S. Patent and Trademark Office", or "Reg. U.S. Pat. and T.M. Off." is also acceptable. Such notation should be used with the mark in at least the more prominent uses of the mark in brochures, catalogs, advertisements, letterheads, etc. Failure to give such notice of registration will preclude the recovery of profits and damages in a suit for service mark infringement, unless the infringer had actual notice of your registration.**

We trust that the foregoing information is sufficient for your purposes; however, if you have any questions or require any further information, please do not hesitate to contact us.

Best regards.

Very truly yours,

GREENBERG TRAUIG LLP



Ben D. Tobor

BDT/llg

Enclosure

cc: [IPMarks@wm.com](mailto:IPMarks@wm.com)  
Dan Hagen – [dhagen@wm.com](mailto:dhagen@wm.com)  
Lisa Gordon – [Lgordon3@wm.com](mailto:Lgordon3@wm.com)  
Tia Daniel – [Tdaniel1@wm.com](mailto:Tdaniel1@wm.com)

HOU 408015790v1

United States of America  
United States Patent and Trademark Office

CORE

Reg. No. 4,516,027

Registered Apr. 15, 2014

Int. Cl.: 40

SERVICE MARK

PRINCIPAL REGISTER

WASTE MANAGEMENT, INC. (DELAWARE CORPORATION)  
1001 FANNIN, SUITE 4000  
HOUSTON, TX 77002

FOR: MATERIAL TREATMENT SERVICES IN CONNECTION WITH RECYCLING; RECYCLING OF ORGANIC WASTE, IN CLASS 40 (U.S. CLS. 100, 103 AND 106).

FIRST USE 12-31-2013; IN COMMERCE 12-31-2013.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 85-848,214, FILED 2-12-2013.

ARETHA SOMERVILLE, EXAMINING ATTORNEY



*Michelle K. Lee*

Deputy Director of the United States  
Patent and Trademark Office

TERRELL GARRETT  
GREENWAY RECYCLING, LLC  
PO BOX 4483  
PORTLAND, OR 97208  
(503) 793-9238  
11 January 2018

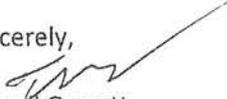
Ms. Hila Ritter  
Solid Waste Information Compliance and Cleanup  
Metro  
Portland, OR 97232

Dear Ms. Ritter:

GreenWay Recycling, LLC has reviewed the CORE application and believes it satisfies all relevant Metro Code provisions. GreenWay also believes that with one exception the proposed license mirrors other licenses issued by Metro. The exception is paving of all operating surfaces. All other similar facilities have been required to pave all operating surfaces prior to operation while CORE is not being required to do same.

GreenWay Recycling, LLC is committed to a level playing field for all market participants. As long as CORE is required to pave all operating surfaces just like competing facilities, GreenWay supports the issuance of a Metro dry MRF license to CORE. Should Metro not require CORE to pave all operating surfaces prior to operations, GreenWay will oppose such license to include filing of a Contested Case.

Sincerely,

  
Terrell Garrett  
Manager



March 16, 2018

To: Ms. Hila Ritter  
Solid Waste Authorization Coordinator  
Property and Environmental Services  
600 N.E. Grand Avenue  
Portland, Oregon 97232

Re: Response to public comment from Terrell Garrett regarding CORE Recycling Material Recovery Facility

Dear Ms. Ritter,

As Greenway Recycling has become a major asset to the recycling industry on the west side of Portland, we too support a level playing field in the marketplace today as well as in the future for all operators of facilities in the Metro Region. To clarify the concern related to paving of operating surfaces, property owner NE 138<sup>th</sup>, LLC has already begun its permitting process with the City of Portland for various scopes of work that complement the installation of impervious cover which include the following:

- a. Surveying
- b. Site Excavation/Demolition
- c. Grading
- d. Backfill
- e. Installation of Catch Basins for pretreatment of stormwater runoff
- f. Installation of storm drainage
- g. And of course, paving truck traffic areas for inbound and outbound users of the truck scale

Given the current site conditions of being predominately paved, we felt it was necessary to ensure our vehicular areas that are being used for operations were installed with impervious cover as well, not only to minimize dust generation but to guarantee we are collecting and directing as much stormwater runoff as possible to our bioswale therefore it could be treated prior to discharge.

We look forward to working with Metro or any other stakeholders to assist in the review of the CORE Recycling Facility application as well as providing any additional information requested. Please feel free to contact me if you have and questions.

Thank you!

A handwritten signature in black ink, appearing to read "A. Simpson".

Alando Simpson  
Vice President

**From:** [Solid Waste Information Compliance and Cleanup](#)  
**To:** "Deanne Englund"  
**Subject:** RE: Comments regarding CORE Recycling opening up at 4530 NE 138th Ave  
**Date:** Friday, January 19, 2018 10:25:00 AM

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Hello,

Thank you for your comment. Metro will respond to comments in the staff report, which will be available online as an update to the [CORE Recycling public notice webpage](#) after the close of the public comment period.

Thanks again,

\*Hila

**Hila Ritter**

Solid Waste Authorization Coordinator  
Property and Environmental Services

*My gender pronouns: she, her, hers.*

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600 NE Grand Ave.  
Portland, OR 97232-2736  
503-797-1862

**From:** Deanne Englund [mailto:[deanne.englund@modahealth.com](mailto:deanne.englund@modahealth.com)]  
**Sent:** Friday, January 19, 2018 9:08 AM  
**To:** Solid Waste Information Compliance and Cleanup <[SWICC@oregonmetro.gov](mailto:SWICC@oregonmetro.gov)>  
**Subject:** Comments regarding CORE Recycling opening up at 4530 NE 138th Ave

Greetings,

I wanted to comment regarding the decision for CORE Recycling to open up a new solid waste license to operate a facility that receives and processes construction and demolition debris. I live in the Argay Terrace Neighborhood and drive in this area frequently. I am concerned about the traffic that will be entering the facility on 138<sup>th</sup> Ave especially in lieu of the railroad crossing at the intersection of Sandy Blvd/NE 138<sup>th</sup> Ave. The Costco on 138<sup>th</sup> Ave already brings in a lot of traffic and if there are more larger trucks waiting (stuck) in traffic waiting to either turn on 138<sup>th</sup> Ave to enter the facility, or turn back onto Sandy Blvd after having dropped off their load, especially those not familiar with this area. They may not realize that trains do run on those tracks several times a day, and at all hours of the day.

I would like to see the City work with the railroad to see if they can either slow those trains traveling in that area, make the crossing gates come down sooner when a train is approaching, new signage, striping, etc... Anything that can be done to help prevent a tragedy at that particular railroad crossing.

Thank you for all you do and for allowing me to comment,

Deanne Englund, Argay resident

503-719-6045 home

*Deanne Englund, CPC-A, CPB*

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March 16, 2018

To: Ms. Hila Ritter  
Solid Waste Authorization Coordinator  
Property and Environmental Services  
600 N.E. Grand Avenue  
Portland, Oregon 97232

Re: Response to public comment from Deanne Englund regarding CORE Recycling opening up at  
4530 NE 138<sup>th</sup> Ave

Dear Ms. Ritter,

Property owner NE 138<sup>th</sup>, LLC & Facility Operator City of Roses Disposal & Recycling has completed and submitted a Transportation Impact Study (TIS) to the City of Portland regarding the impacts the proposed operations will have on the existing infrastructure. The City has determined that the TIS adequately addresses all transportation approval criteria within the relevant zoning code

City of Roses Disposal & Recycling will be taking all necessary steps to ensure that our operational impacts will be nothing less than a positive benefit to the local community in the form of jobs as well as recycling efforts that will be innovative and minimize our overall carbon impact. Our use of NE Airport Way will be vital to minimizing congestion issues related to the intersection of NE 138<sup>th</sup> & Sandy Blvd.

We look forward to working with Metro or any other stakeholders to assist in the review of the CORE Recycling Facility application as well as providing any additional information requested. Please feel free to contact me if you have and questions.

Thank you!

A handwritten signature in black ink, appearing to read "A. Simpson".

Alando Simpson  
Vice President

**From:** [Solid Waste Information Compliance and Cleanup](#)  
**To:** ["Acevedo, Lee"](#)  
**Subject:** RE: CORE Recycling application  
**Date:** Wednesday, February 14, 2018 8:37:00 AM

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Hello,

Thank you for your comment. Metro will respond to comments in the staff report, which will be available online as an update to the [CORE Recycling public notice webpage](#) after the close of the public comment period.

Thanks,

\*Hila

**Hila Ritter**

Solid Waste Authorization Coordinator  
Property and Environmental Services

*My gender pronouns: she, her, hers.*

Metro | [oregonmetro.gov](http://oregonmetro.gov)  
[600 NE Grand Ave.](#)  
Portland, OR 97232-2736  
[503-797-1862](tel:503-797-1862)

**From:** Acevedo, Lee [mailto:[lee.acevedo@countryfinancial.com](mailto:lee.acevedo@countryfinancial.com)]  
**Sent:** Friday, February 09, 2018 11:18 AM  
**To:** Solid Waste Information Compliance and Cleanup <[SWICC@oregonmetro.gov](mailto:SWICC@oregonmetro.gov)>  
**Cc:** Violeta Figueroa <[violeta\\_figueroa@yahoo.com](mailto:violeta_figueroa@yahoo.com)>; [dragnstarr10@gmail.com](mailto:dragnstarr10@gmail.com)  
**Subject:** CORE Recycling application

SUBJECT:

Resident comments on a proposed submitted application.

NAME AND LOCATION:

CORE Recycling Material Recovery Facility  
4530 NE 138<sup>th</sup> Ave, Portland, Oregon

RESIDENT INFO:

Acevedo  
14025 NE Beech St  
Portland, OR 97230

EMAIL TO:

METRO SWICC – Hila Ritter  
600 NE Grand Ave, Portland, OR 97232

Metro SWICC – Hila Ritter,

Thank you for allowing us to comment on the newly proposed application for CORE Recycling. As residents of the Argay Neighborhood, we have major concerns and fears that if approved, will not benefit us and could cause harm to our health, and deteriorate our neighborhood. I've listed our concerns and fears below.

- 1 I don't believe the location of 4530 NE 138<sup>th</sup> Ave is considered an industrial park area where this type of processing could/should take place. It is too close to our neighborhoods, and stores, parks, schools, etc. This type of business would be better suited in a industrialized area like North Portland, away from neighborhoods.
- 2 Within a mile of this location, we have residential housing, a few parks and schools. I fear that the safety of residents and children will be at risk due to this type of business being so close.
- 3 Overabundance of traffic. If approved, this area will overflow with additional traffic, which is already seeing a negative impact in our community.
- 4 "receiving and processing construction and demolition debris" is a major concern to the health of residents nearby as this type of material can have lead base paints, asbestos, radon carrying materials, among other chemicals, that would flow into our air, and have a negative impact on our quality of air, and health risk factors.

Thank you for taking the time to consider our concerns. Please let us know if you need additional information.

Lee & Violeta Acevedo



March 16, 2018

To: Ms. Hila Ritter  
Solid Waste Authorization Coordinator  
Property and Environmental Services  
600 N.E. Grand Avenue  
Portland, Oregon 97232

Re: Response to public comment Lee & Violeta Acevedo regarding CORE Recycling application

Dear Ms. Ritter,

Please see our responses below to the 4 concerns raised:

1. 4530 NE 138<sup>th</sup> is in fact zoned General Industrial 2 (IG2) per the City of Portland
2. This type of business poses no harm or safety concerns for residents and most importantly children of the community. In fact, City of Roses Disposal & Recycling has in the past and will be working with all Parkrose area schools and neighborhood associations to make sure we are heavily engaged in the educational outreach and messaging around recycling and the importance of recycling on our local economy as well as the environmental impacts if recycling is not an option.
3. Property owner NE 138<sup>th</sup>, LLC & Facility Operator City of Roses Disposal & Recycling has completed and submitted a Transportation Impact Study (TIS) to the City of Portland regarding the impacts the proposed operations will have on the existing infrastructure. The City has determined that the TIS adequately addresses all transportation approval criteria within the relevant zoning code

City of Roses Disposal & Recycling will be taking all necessary steps to ensure that our operational impacts will be nothing less than a positive benefit to the local community in the form of jobs as well as recycling efforts that will be innovative and minimize our overall carbon impact. Our use of NE Airport Way will be vital to minimizing congestion issues related to the intersection of NE 138<sup>th</sup> & Sandy Blvd.

4. Based on the regulatory authority of Metro and the Department of Environmental Quality (DEQ) this facility will not be allowed to accept hazardous debris which contain materials such as lead based paints, asbestos, radon carrying materials and other non-acceptable hazardous materials and or wastes. Furthermore, Metro and DEQ both require that Recycling operators such as this one, have a Special Waste Management Plan in place prior to being authorized to operate.

We look forward to working with Metro or any other stakeholders to assist in the review of the CORE Recycling Facility application as well as providing any additional information requested. Please feel free to contact me if you have any questions.

Thank you!

Alando Simpson  
Vice President

William L. Rasmussen, P.C.  
william.rasmussen@millernash.com  
503.205.2308

March 15, 2018

**VIA E-MAIL**

[hila.ritter@oregonmetro.gov](mailto:hila.ritter@oregonmetro.gov)

Ms. Hila Ritter  
Metro SWICC  
600 N.E. Grand Avenue  
Portland, Oregon 97232

Subject: Response to public comment dated February 9, 2018, from  
E. Michael Connors, attorney for Resource Recovery Systems

Dear Ms. Ritter:

Our law firm is retained by the City of Roses Disposal & Recycling Inc. (CRDR) to assist in the permitting of its new CORE Recycling Material Recovery Facility ("CORE Facility"). We are writing to respond to the factual and legal assertions made by Mr. E. Michael Connors in his February 9, 2018, letter representing CRDR's competitor Resource Recovery Systems, LLC<sup>1</sup> ("RRS"), an affiliate of Environmentally Conscious Recycling, Inc.

In short, RRS's claim that "Metro must deny the Application because CORE does not have the required City land use approval" is without legal basis. Metro's Code<sup>2</sup> (the "Code") does not require an applicant to have final land use approval prior to applying for or receiving a Solid Waste Facility License. Under the multi-jurisdiction regulatory regime for solid waste facilities, an entity may obtain the necessary state, regional, and local permits in any chronological order. Each jurisdiction is responsible for determining compliance with their own application criteria, and each level has separate enforcement powers.

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<sup>1</sup> Mr. Connors represents Resource Recovery Systems, LLC. This company is located at the same site as, and managed by the president for, Environmentally Conscious Recycling, Inc. (ECR). ECR operates a solid waste facility (Metro Permit No L-003-13) less than three miles from the proposed CORE site.

<sup>2</sup> "Code of the Metropolitan Service District."

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As you know, all that the Code requires regarding City compliance at this juncture is a general statement of land use compatibility from the City. As outlined below, CORE has previously submitted a sufficient LUCS, and to eliminate any potential doubt on this issue of whether Metro needs to look behind the LUCS at City code, applicant provides an additional LUCS with this letter. Metro is not required or allowed to look behind the LUCS and make an independent interpretation of City code as suggested by RRS.

As set forth in detail below, CRDR's application is more than sufficient for Metro to determine CRDR's eligibility for a facility license. In fact, the proposed CORE Facility is the very type of innovative recycling operation that is necessary to meet Metro's ambitious solid waste recovery goals. Nevertheless, in response to assertions made by RRS, we enclose two supplemental documents to assist the reviewer. First, we submit a supplemental Land Use Compatibility Statement (LUCS) from the City of Portland (the "City") that (A) indicates the compatibility of the site's zoning and the proposed facility, and (B) deletes the prior potentially ambiguous comment regarding transfer of non-recyclable waste. We also submit a supplemental Property Use Consent form further showing that the proposed CORE site is supported by the property owner.

**1. All three LUCSs submitted by CRDR satisfy the Code for application requirements and approval.**

Pursuant to Code Section 5.01.030, an entity is required to obtain a facility license from Metro before establishing and operating a solid waste material recovery facility. *See also* Code § 5.01.050(a). This requires a preapplication conference with Metro, and the completion and submission of a facility license application. Code § 5.01.060-070. Following the submission of application materials, Metro "make[s] any investigation regarding the application information as [it] considers appropriate[,]" (Code § 5.01.080(b)), and allows for public comment on the proposed facility. Code § 5.01.080(c). Metro then determines if the license should be issued based on the information from the application, its own investigation, and comments from the public. Code § 5.01.080(a), (c).

The license application requires the applicant to submit a "copy of a completed Metro LUCS or DEQ LUCS." But neither the application form, nor the Code require the LUCS to make any particular finding. As explained in Code Section 5.01.070(c)(5), the applicant has the option to provide proof that it has land use approval, or:

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if the applicant has not obtained land use approval, then a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites[.] \* \* \* The recommendation may include, but is not limited to, a statement of compatibility of the site, the solid waste disposal facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the statewide planning goals. . . .

In this application, CRDR submitted the DEQ LUCS that it obtained from the City. In the portion to be filled out by the applicant, CRDR fully explained its long-term plan for operations. CRDR also provided additional information to Portland Senior City Planner, Don Kienholz, who worked with CRDR during the LUCS request process.<sup>3</sup> In response, the City completed the LUCS for the CORE facility by marking that the proposed facility was "allowed outright" for the salvage of building materials (classified as Industrial Service), and stated in the Additional Comments section that the "transfer of non-recyclable waste products is considered a Waste-Related Use and requires a Type III Conditional Use Review (approved & recorded) prior to performing Waste-Related activities. . . ."<sup>4</sup>

During its application and review process, DEQ requested clarification from Mr. Kienholz about the comments in the City's LUCS.<sup>5</sup> Mr. Kienholz explained that because the initial use of the facility would be for salvage and recyclable operations, the LUCS designation for the facility was appropriately marked as an "allowed outright" use. The City also confirmed that it was aware that even the initial salvage/recycling activities would create incidental waste, as all such facilities do. Finally, the City explained to DEQ that it was aware of and had no objection to CRDR's plans to subsequently apply for a Conditional Use permit to engage in Waste-Related activities—but only after receiving state/regional licenses to operate the facility in a limited fashion that would comply with City-outright-allowed-use restrictions.

Following this communication, DEQ requested—and the City provided—a revised LUCS that explicitly recognized CRDR's ability to create incidental waste in its Industrial Service operations. The LUCS retained the original additional comments, but

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<sup>3</sup> See DEQ letter to RRS, dated October 30, 2017, at page 2, attached to Mr. Connors' subject comment.

<sup>4</sup> LUCS, June 2, 2017, attached as Exhibit D to application.

<sup>5</sup> DEQ letter to RRS, dated October 30, 2017, at page 2.

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added: "Note also that trace amounts of incidental waste that arrives with recyclable loads (up to 5% unintended wastes) is allowed to be transferred for disposal."

RRS implies that CRDR concealed information from Metro because it submitted only the first LUCS (that it, not DEQ, obtained). RRS states that CRDR failed to "provide accurate information about the LUCS and related land use issues[,] and that "[t]his was no small oversight, but rather a material misrepresentation about the status of the local land use approval."<sup>6</sup> It is not readily apparent, how CRDR failing to provide the second LUCS—which *expanded* the proposed facility's ability to transfer non-recyclable waste products from 0 to 5 percent of materials received prior to conditional use approval from the City—misleads Metro.

CRDR seeks a phased approach that will allow some uses of the site prior conditional use approval from the City (as evidenced by its waste forecast compared to the 5 percent allowance). But as set forth below, there is no mandatory order for obtaining permits for a solid waste facility, nor a prohibition on operating a site in code compliant development phases as additional approvals are obtained.

RRS's conclusion that because "CORE does not have the required City land use approval to operate the proposed facility, Metro must deny the Application for failure to comply with the Code 5.01.070(c)(5)" fails to acknowledge that 9 out of the 10 lines in 5.01.070(c)(5) allow and describe a substitute "recommendation" when the applicant does not have land use approval. There are no strict mandates for the "recommendation" but it "may include" a statement of the proposed facility's "compatibility" with the site under local zoning and state planning goals. This is exactly what the first and second LUCS provide. Even without the expanded language in the second LUCS allowing for incidental waste transfer, the first LUCS satisfies Code Section 5.01.070(c)(5). As set forth in the next section of this letter, Metro is not tasked with interpreting or enforcing the City's zoning code. The City has ample authority and resources to do so on its own.

RRS stated in its February 9 comment that it was forwarding that comment to the City. In response, and to assist Metro in its review, CRDR obtained the enclosed LUCS from the City dated March 14, 2018. Like the previous forms, it clearly demonstrates CRDR's disclosure and the City's knowledge of CRDR's long-term operational plans, and that the City does not object to the CORE Facility receiving a

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<sup>6</sup> Subject comment letter at 3.

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Metro license prior to seeking a conditional use approval that will be necessary for certain planned operations in the future. It omits potentially ambiguous statements referenced in the earlier LUCSs that RRS attacked in its February 9 comment.

**2. CRDR is not required under Portland city code or Oregon state law to obtain local land use approval prior to obtaining the Metro permit.**

RRS' premise that a proposed solid waste facility must first receive local land use approval before obtaining a state or regional license is also unsupported under state law.

Siting a material recovery facility in Portland requires approval from the Oregon DEQ, Metro Solid Waste Compliance & Cleanup, and the City. State law provides the typical hierarchal approach to this coordinated regulation. DEQ has rulemaking and general authority over the entire solid waste system, but is charged with coordinating with regional and local authorities. *See* ORS Chapter 459; ORS 459.055. Local and regional bodies are allowed to regulate certain aspects of solid waste sites, but must cooperate with DEQ and not conflict with DEQ regulations. *Id*; ORS 459.095(1). In turn, Metro has statutory authority to regulate and license solid waste facilities within its jurisdiction. ORS 268.317(5). Again, local code may not conflict with Metro's regulations or its Regional Solid Waste Management Plan (RSWP). ORS 459.095(1). The coordination of facility regulation and the respective roles for each jurisdiction is summarized in the RSWP (page 17):

Metro is responsible for licensing, franchising, inspecting and monitoring activities conducted by the private solid waste industry in receiving, managing and disposing solid waste. Metro works closely with other governments to assure an appropriate level of regulatory oversight at facilities without redundancy. For instance, local governments are charged with zoning, land use, and local traffic impacts; the DEQ focuses on reducing environmental and human health risk from the waste management activities of both public and private facilities.

Given this complex and integrated system, it is not surprising that there is no state, regional, or local rule that mandates the order for obtaining necessary licenses from each jurisdictions. The Code acknowledges this lack of chronological regulation by allowing applicants to supply permits, applications, recommendations, or even lists of

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anticipated permits from other agencies. Code § 5.01.070. Further, the Code explicitly disclaims that its regulation or license issuance does not displace or impact the enforcement powers and licensing requirements for local and state bodies. Code § 5.01.350 (g)-(h).<sup>7</sup> Accordingly, there is no reason for Metro to engage in the interpretation and enforcement of the City zoning regulations as requested by RRS. If the operations at the CORE Facility were to exceed local land use restrictions, any party can request an enforcement action by the City.

CRDR plans to expand and relocate aspects of its operations from its existing facility to the CORE Facility in stages. Fortunately, the multi-jurisdictional regulation of solid waste facilities allows CRDR to delay local approval until it is necessary. The previous and new LUCS satisfy the requirements of the Code 5.01.070(c)(5), and accomplish the underlying purpose of coordination with local land use authorities. The Core Facility can engage in the narrow salvage and recycling operations as an outright allowed use, and then expand operations to accept and transfer unsorted and non-recyclable solid wastes upon receiving conditional use approval from the City.

### **3. CRDR provided sufficiently detailed site and operation plans.**

RRS also claims that CRDR failed to provide information required by the Metro facility license application form. First, RRS writes that CRDR should have submitted design and building plans prepared by licensed professionals. This assertion fails to acknowledge that the site plan was prepared by Herrera Environmental Consultants, Inc., by its team of scientists, engineers, and planners.<sup>8</sup> As recognized by DEQ (in its written response to RRS<sup>9</sup>), no other technical plans or designs were required

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<sup>7</sup> "(g) Nothing in this chapter limits the power of a federal, state, or local agency to enforce any provision of law relating to any solid waste facility or disposal site that it is authorized or required to enforce or administer.

"(h) Nothing in this chapter should be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies, including but not limited to, local health departments, regional water quality control boards, local land use authorities, and fire authorities. [Ord. 98-762C, Secs. 52-53; Ord. 02-974; Ord. 03-1018A, Sec. 24; Ord. 14-1332; Ord. 16-1387.]"

<sup>8</sup> <https://www.herrerainc.com/about/>

<sup>9</sup> DEQ letter to RRS, dated October 30, 2017, at page 2, attached to Mr. Connors' subject comment.

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because CRDR will conduct its operations within existing buildings, and that no major modifications are necessary for its use of these buildings.

RRS also states that the submitted site plan fails to identify (1) "the vegetative buffer zones and berms," (2) the height for "exterior material stockpiles," and (3) the location where "inadvertently prohibited waste storage will be temporarily stored[.]"<sup>10</sup> But the photographic site plan from Herrera clearly shows and labels the existing vegetation and berm, as well as the buildings where operations will be conducted indoors.

RRS tacitly admits that even if such information was missing from the application, the omission would not be grounds for denial of the license. Rather, Metro in conducting its review of the application can request supplemental information from CRDR. To the extent Metro deems this necessary, we look forward to aiding its review by providing all requested supplemental information. Based on the extensive information provided by CRDR to date though, it appears such supplemental review would be unnecessary.

**4. The CORE Facility site is owned by a subsidiary of CRDR.**

Finally, RRS complains that application submissions include two Property Use Consent forms, and that they are confusing. The confusion arises because the property was under a purchase and sale agreement between the previous owner, Columbia Development Enterprises, LLC, and NE 138<sup>th</sup> LLC, until the transaction was completed in late 2017. NE 138<sup>th</sup> LLC now leases the facility to CRDR for an indeterminate period, but at least ten years. Enclosed with this letter is an updated Property Use Consent form signed by NE 138<sup>th</sup> LLC and CRDR.

**5. Conclusion.**

As set forth above, CRDR has submitted all necessary materials, which demonstrate the CORE Facility's compliance with the Code for licensing a material recovery facility. DEQ has already rejected the attacks by CRDR's competitor and found the CORE Facility to be in the best interests of the public. We respectfully request that Metro do the same, and issue a Solid Waste Facility License for the CORE Facility. Local

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<sup>10</sup> Letter at 4.

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land use review and compliance is better left to the City, which has issued sufficient LUCSs. The City, and not Metro, is empowered to enforce such obligations.

We look forward to aiding Metro's review of the CORE Facility application, and providing any additional information requested. Please contact me if you have any questions regarding CRDR's application or the analysis set forth above.

Very truly yours,



William L. Rasmussen, P.C.

Enclosures: Supplemental City of Portland LUCS dated March 14, 2018  
Supplemental Metro Property Use Consent Form

Oregon Department of Environmental Quality  
**LAND USE COMPATIBILITY STATEMENT (LUCS)**

17-168669-PR

p. 1 of 2

**SECTION 1 - TO BE COMPLETED BY APPLICANT**

<b>1A. Applicant Name:</b> City of Roses Disposal & Recycling	<b>1B. Project Name:</b> CORE Recycling
<b>Contact Name:</b> Alando Simpson	<b>Physical Address:</b> 4530 NE 138th Ave
<b>Mailing Address:</b> PO Box 301427	<b>City, State, Zip:</b> Portland, OR 97230
<b>City, State, Zip:</b> Portland, OR 97294	<b>Tax Lot #:</b> 1N2E23D-00100
<b>Telephone:</b> 503-285-9940	<b>Township:</b> 1N <b>Range:</b> 2E <b>Section:</b> 23D
<b>Tax Account #:</b> R318510	<b>Latitude:</b> 45.555232
	<b>Longitude:</b> -122.516216

**1C. Describe the project, include the type of development, business, or facility and services or products provided (attach additional information if necessary):**

Processing, Recycling and Transfer of Co-mingled and sort separated Construction & Demolition Debris. CORE Recycling is planning to move operations to newly proposed location in order to accommodate and sustain current and future growth. CORE Recycling is the leading Material Recovery Facility in terms of recycling rates in the Portland Metro Region. There has been continuous demand for recycling services for Sustainable, Green Built & LEED type of Construction projects which our current facility simply does not have adequate space nor capacity for and we feel that this is the necessary move and addition that is needed in order to serve this regions aspirations to recycle more debris and support more innovative uses. Furthermore, City of Roses in partnership with Metropolitan Contractors Improvement Partnership (MCIP) was awarded a materials management grant from DEQ to investigate down stream supply chain markets for reclaimed and reusable dimensional lumber. This site and operation supports the much needed space for sorting, processing, salvage and storage.

**1D. Check the type of DEQ permit(s) or approval(s) being applied for at this time.**

- |   |  |
|---|--|
| <input type="checkbox"/> Air Quality Notice of Construction   | <input type="checkbox"/> Pollution Control Bond Request  |
| <input type="checkbox"/> Air Contaminant Discharge Permit ( <i>excludes portable facility permits</i> ) | <input type="checkbox"/> Hazardous Waste Treatment, Storage, or Disposal Permit  |
| <input type="checkbox"/> Air Quality Title V Permit   | <input type="checkbox"/> Clean Water State Revolving Fund Loan Request   |
| <input type="checkbox"/> Air Quality Indirect Source Permit   | <input type="checkbox"/> Wastewater/Sewer Construction Plan/Specifications ( <i>includes review of plan changes that require use of new land</i> ) |
| <input type="checkbox"/> Parking/Traffic Circulation Plan   | <input type="checkbox"/> Water Quality NPDES Individual Permit   |
| <input type="checkbox"/> Solid Waste Land Disposal Site Permit  | <input type="checkbox"/> Water Quality WPCF Individual Permit ( <i>for onsite construction-installation permits use the DEQ Onsite LUCS form</i> ) |
| <input type="checkbox"/> Solid Waste Treatment Facility Permit  | <input type="checkbox"/> Water Quality NPDES Stormwater General Permit ( <i>1200-A, 1200-C, 1200-CA, 1200-COLS, and 1200-Z</i> )                   |
| <input type="checkbox"/> Solid Waste Composting Facility Permit ( <i>includes Anaerobic Digester</i> )  | <input type="checkbox"/> Water Quality General Permit ( <i>all general permits, except 600, 700-PM, 1700-A, and 1700-B when they are mobile.</i> ) |
| <input type="checkbox"/> Conversion Technology Facility Permit  | <input type="checkbox"/> Water Quality 401 Certification for federal permit or license   |
| <input type="checkbox"/> Solid Waste Letter Authorization Permit  |  |
| <input checked="" type="checkbox"/> Solid Waste Material Recovery Facility Permit                       |  |
| <input type="checkbox"/> Solid Waste Energy Recovery Facility Permit                                    |  |
| <input type="checkbox"/> Solid Waste Transfer Station Permit  |  |
| <input type="checkbox"/> Waste Tire Storage Site Permit   |  |

**1E. This application is for:**     Permit Renewal     New Permit     Permit Modification     Other:

**SECTION 2 - TO BE COMPLETED BY CITY OR COUNTY PLANNING OFFICIAL**

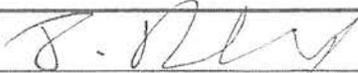
**Instructions:** Written findings of fact for all local decisions are required; written findings from previous actions are acceptable. For uses allowed outright by the acknowledged comprehensive plan, DEQ will accept written findings in the form of a reference to the specific plan policies, criteria, or standards that were relied upon in rendering the decision with an indication of why the decision is justified based on the plan policies, criteria, or standards.

**2A. The project proposal is located:**     Inside city limits     Inside UGB     Outside UGB

**2B. Name of the city or county that has land use jurisdiction (the legal entity responsible for land use decisions for the subject property or land use):**  
 City of Portland, Oregon

**Oregon Department of Environmental Quality  
LAND USE COMPATIBILITY STATEMENT (LUCS)**

p. 2 of 2

<b>SECTION 2 - TO BE COMPLETED BY CITY OR COUNTY PLANNING OFFICIAL</b>		
<b>Applicant Name:</b> City of Roses Disposal & Recycling	<b>Project Name:</b> CORE Recycling	
<b>2C. Is the activity allowed under Measure 49 (2007)?</b> <input checked="" type="checkbox"/> No, Measure 49 is not applicable <input type="checkbox"/> Yes; if yes, then check one:		
<input type="checkbox"/> Express; approved by DLCDC order #:		
<input type="checkbox"/> Conditional; approved by DLCDC order #:		
<input type="checkbox"/> Vested; approved by local government decision or court judgment docket or order #:		
<b>2D. Is the activity a composting facility?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes; Senate Bill 462 (2013) notification requirements have been met.		
<b>2E. Is the activity or use compatible with your acknowledged comprehensive plan as required by OAR 660-031?</b> <i>Please complete this form to address the activity or use for which the applicant is seeking approval (see 1.C on the previous page). If the activity or use is to occur in multiple phases, please ensure that your approval addresses the phases described in 1.C. For example, if the applicant's project is described in 1.C as a subdivision and the LUCS indicates that only clearing and grading are allowed outright but does not indicate whether the subdivision is approved, DEQ will delay permit issuance until approval for the subdivision is obtained from the local planning official.</i>		
<input type="checkbox"/> The activity or use is specifically exempt by the acknowledged comprehensive plan; explain:		
<input type="checkbox"/> YES, the activity or use is pre-existing nonconforming use allowed outright by (provide reference for local ordinance):		
<input checked="" type="checkbox"/> YES, the activity or use is allowed outright by (provide reference for local ordinance): <small>Recycling operations are classified as Industrial Service Uses per PCC 33.920.310.C. Industrial Service Uses are allowed by right in the IG2 zone per PCC Table 140-1.</small>		
<input type="checkbox"/> YES, the activity or use received preliminary approval that includes requirements to fully comply with local requirements; findings are attached.		
<input type="checkbox"/> YES, the activity or use is allowed; findings are attached.		
<input type="checkbox"/> NO, see 2.C above, activity or use allowed under Measure 49; findings are attached.		
<input type="checkbox"/> NO, (complete below or attach findings for noncompliance and identify requirements the applicant must comply with before compatibility can be determined): Relevant specific plan policies, criteria, or standards:  Provide the reasons for the decision:		
Additional comments (attach additional information as needed): <small>PCC 33.910 defines a Recycling Operation as a use where one or more recycling materials are accumulated, stored, sorted, or processed. A recycling operation may get recycling materials from drop-off centers, from a household or business pick-up operation, or from commercial or industrial uses. Materials may be processed on site or accumulated in large quantities for eventual sale or transfer to other processors. Recycling operation does not include the processing of yard debris or other decomposable material except for clean paper products.</small>		
<b>Planning Official Signature:</b> 	<b>Title:</b> City Planner	
<b>Print Name:</b> Jason Richling	<b>Telephone #:</b> 503-823-7509	<b>Date:</b> 3/14/18
<i>If necessary, depending upon city/county agreement on jurisdiction outside city limits but within UGB:</i>		
<b>Planning Official Signature:</b>	<b>Title:</b>	
<b>Print Name:</b>	<b>Telephone #:</b>	<b>Date:</b>

**From:** [Solid Waste Information Compliance and Cleanup](#)  
**To:** ["Mike Connors"](#)  
**Subject:** RE: CORE Recycling - Solid Waste Facility Application - Proposed Material Recovery Facility – 4530 NE 138th Ave., Portland OR  
**Date:** Wednesday, February 14, 2018 8:37:00 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)

---

Hello,

Thank you for your comment. Metro will respond to comments in the staff report, which will be available online as an update to the [CORE Recycling public notice webpage](#) after the close of the public comment period.

Thanks,

\*Hila

**Hila Ritter**

Solid Waste Authorization Coordinator  
Property and Environmental Services

*My gender pronouns: she, her, hers.*

Metro | [oregonmetro.gov](http://oregonmetro.gov)

[600 NE Grand Ave.](#)

Portland, OR 97232-2736

[503-797-1862](tel:503-797-1862)

**From:** Mike Connors [mailto:mike@hathawaylarson.com]

**Sent:** Friday, February 09, 2018 11:19 AM

**To:** Hila Ritter <Hila.Ritter@oregonmetro.gov>; Solid Waste Information Compliance and Cleanup <SWICC@oregonmetro.gov>

**Subject:** CORE Recycling - Solid Waste Facility Application - Proposed Material Recovery Facility – 4530 NE 138th Ave., Portland OR

Ms. Ritter,

This firm represents Resource Recovery Systems, LLC (“Resource Recovery Systems”). We are submitting the attached comment letter in response to the above-referenced Solid Waste Facility License Application for CORE Recycling’s (“CORE”) proposed material recovery dry waste facility (the “Application”). For the reasons set forth in the letter, Metro should deny the Application because CORE does not have the required City land use approval to operate the facility and the Application does not comply with Metro Code Section 5.01.

As we noted in our comments letter, the most significant defect with the Application is that it does not include the City’s most recent LUCS, dated September 21, 2017 (the “Revised LUCS”). The City issued the Revised LUCS in response to DEQ’s request for clarification during DEQ’s permitting review process for this facility regarding how much non-recyclable waste the facility can accept as an allowed use. The Revised LUCS clearly states that if this facility accepts and transfers more than 5%

of non-recyclable waste, it cannot qualify as an allowed Industrial Services use and must first obtain a conditional use permit as a Waste-Related use. The Application acknowledges that the proposed facility will be accepting and transferring approximately 45% non-recyclable waste, well in excess of the 5% threshold. Therefore, this facility is clearly not an allowed use and cannot be approved until it obtains a conditional use permit from the City.

We presume that Metro was not aware of the Revised LUCS since it was not included with the Application material and our concerned that this omission has led Metro to incorrectly believe that CORE can operate without a conditional use permit. Metro's public comment page for this Application incorrectly states that the City determined that the "proposed use is allowed." As you can see, the City has not made that determination and clearly does not believe that the facility qualifies as a allowed use in light of the Revised LUCS and the Application. We are providing a copy of our comment letter and sending an email to the City of Portland as well. I will copy you on my email to the City. We want to clear up any confusion that CORE may have created and make sure that neither Metro nor the City inadvertently allow CORE to start operating this facility without the require land use approval.

If you have any questions, please let me know. We appreciate your consideration of our comments. Thanks, Mike

**E. Michael Connors**  
**Partner**



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Named as one of "America's Leading Lawyers for Business" (Oregon)  
by *Chambers USA* in Real Estate: Zoning/Land Use  
Selected to "Oregon Super Lawyers" in Land Use/Zoning  
Selected to "Best Lawyers in America" in Land Use/Zoning Law



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HATHAWAY LARSON

Koback Connors · Heth

February 9, 2018

VIA EMAIL

Hila Ritter  
Metro SWICC  
600 NE Grand Avenue  
Portland, OR 97232  
[hila.ritter@oregonmetro.gov](mailto:hila.ritter@oregonmetro.gov)

Re: CORE Recycling  
Solid Waste Facility Application  
Proposed Material Recovery Facility – 4530 NE 138<sup>th</sup> Ave., Portland OR

Dear Ms. Ritter:

This firm represents Resource Recovery Systems, LLC (“Resource Recovery Systems”). We are submitting this comment letter in response to the above-referenced Solid Waste Facility License Application for CORE Recycling’s (“CORE”) proposed material recovery dry waste facility (the “Application”). For the reasons set forth in this letter, Metro must deny the Application because CORE does not have the required City land use approval to operate the proposed facility and the Application does not comply with Metro Code Section 5.01.

**A. CORE did not submit the most recent City Land Use Compatibility Statement which makes it clear that the proposed facility requires a conditional use permit approval from the City before it can begin operating.**

Metro Code 5.01.070(c)(5) requires CORE to provide proof that the proposed facility has the required local land use approval and will operate in compliance with the local zoning regulations. Metro Code 5.01.070(c)(5) requires the Application to include the following:

“Proof that the applicant has received proper land use approval; or, if the applicant has not obtained land use approval, then a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. The recommendation may include, but is not limited to, a statement of compatibility of the site, the solid waste disposal facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning

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requirements or with the statewide planning goals of the Land Conservation and Development Commission.”

In response to this requirement, CORE claims that the proposed facility is a “use permitted outright” and attached a City Land Use Compatibility Statement, dated June 2, 2017 (the “Original LUCS”) in support of this contention. The Original LUCS provides that the “salvage of building material” is allowed as a permitted “Industrial Services” use in the IG2 zone per Portland City Code (“PCC”) 33.140.100, Table 140-1, but expressly limited the scope of that use. The Original LUCS concluded that “Any proposed development must meet all applicable requirements of Title 11 and Title 33” and specifically noted that “transfer of non-recyclable waste product is considered a Waste-Related Use and requires a Type III Conditional Use Review (approved & recorded) prior to performing waste-related activities per 33.140.100, table 140-1, 33.815.200 and 33.920.350.” Original LUCS, p.2. A Waste-Related use is defined as follows: “Waste-Related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location \* \* \*.” PCC 33.920.350(A). (Emphasis added).

During the DEQ permitting review process for this facility, Resource Recovery Systems asserted that the proposed facility qualifies as a Waste-Related use, not an Industrial Services use, because it will accept and transfer solid waste to another location. Resource Recovery Systems noted that CORE’s Operations Plan acknowledged that it will receive some solid waste that cannot be recycled or salvaged and it will be required to transfer such non-recyclable waste to another disposal site. Therefore, CORE cannot begin operating the proposed facility until it obtains a conditional use permit from the City for a Waste-Related use.

In response to Resource Recovery Systems’ comment, DEQ requested clarification from the City as to whether the proposed facility qualifies as an Industrial Services or Waste-Related use. We attached a copy of DEQ’s letter, dated October 30, 2017, addressing this issue (“DEQ Response”). The DEQ Response noted that the City explained that the Original LUCS was based on CORE’s description of the types of waste it will accept: “The LUCS was signed off for the industrial services component based on the (business) description (that Mr. Simpson provided us).” DEQ Response, p.2. DEQ also noted that “both CORE and the City explained to DEQ that CORE will be going through the conditional land use process to transfer waste but will not do so until the land use process and land use approval are received from the City of Portland.” DEQ Response, p.2. Based on this clarification, DEQ required the City to submit a revised LUCS that clarified what amount of incidental waste transfer is allowed under the Industrial Services use.

In response to DEQ’s request, the City issued a revised LUCS, dated September 21, 2017 (the “Revised LUCS”), a copy of which is attached. The Revised LUCS concluded as follows:

“Note that transfer of non-recyclable waste is considered a waste related use and requires a Type III Conditional Use Review (transfer of putrescible waste). Note also that trace amounts of incidental waste that arrives with recyclable loads (up to 5% unintended wastes) is allowed to be transferred for disposal.” Revised LUCS, p.2 & DEQ Response, p.2. (Emphasis Added).

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So the Revised LUCS expressly limited the Industrial Services use to a facility that accepts and transfers no more than 5% of non-recyclable waste. Any facility that accepts and transfers more than 5% of non-recyclable waste is a Waste-Related use and must obtain a conditional use permit.

Surprisingly, CORE did not include the Revised LUCS with the Application and makes no mention of it in the narrative.<sup>1</sup> Instead, CORE only included the Original LUCS in the Application and gave Metro the impression that this document was the applicable LUCS. It is clear from the DEQ Response and the Revised LUCS that the Revised LUCS is the applicable City determination for purposes of the local land use approval. CORE clearly was aware of the Revised LUCS since and was required to include it with the Application.

Reviewing Section 14 of Part 1 of the Application, it is apparent why CORE did not include the Revised LUCS. Section 14 of the Application makes it clear that the proposed facility will significantly exceed the 5% limitation on non-recyclable waste. Section 14 confirms that the annual tonnage of waste will be 9,570 tons recovered/recyclable and 7,680 tons of residual waste, for a total of 17,250 tons. Application, p.6. Section 14 also states that the 7,680 tons of residual waste will be transferred to "Wasco County Landfill" for "Disposal." Application, p.6. Based on CORE's own numbers, the proposed facility will be accepting and transferring approximately 45% non-recyclable waste. Therefore, the proposed facility is clearly a Waste-Related use and requires a conditional use permit from the City before it can begin operating. CORE does not have a conditional use permit approval from the City.<sup>2</sup>

Given that CORE does not have the required City land use approval to operate the proposed facility, Metro must deny the Application for failure to comply with Metro Code 5.01.070(c)(5). Metro Code 5.01.080(d). Additionally, Metro should deny the Application due to CORE's failure to provide accurate information about the LUCS and related land use issues. This was no small oversight, but rather a material misrepresentation about the status of the local land use approval. We are copying the City of Portland on this letter so the City is aware of the situation as well.

**B. CORE failed to provide required information or comply with the Application submittal requirements in several respects.**

Metro Code 5.01.070(a) requires CORE to file the application on approved Metro forms and provide the information required by those application forms. There are several material requirements in the Application form that CORE failed to comply with or provide.

Part 2 of the Application requires the following: "Application submittals such as facility design, building plans, site plans and specifications must be prepared, as appropriate, by persons licensed in engineering, architecture, landscape design, traffic engineering, air quality control, and design of structures." Application, p.7. Other than the site plan, the Application does not include any of this information. None of the information provided was prepared by a person licensed in the

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<sup>1</sup> There is no question that CORE was aware of the Revised LUCS and related issues because it obtained the DEQ permit and was cc'd on the DEQ Response.

<sup>2</sup> CORE filed a conditional use permit application with the City, but the City deemed that application incomplete on January 10, 2018.

respective fields. Metro cannot adequately evaluate this proposal without this required information.

Part 2, Attachment A of the Application requires several items in the site plan that are not include in CORE's site plan. Application, pp.7-8. Subsection (3)(e) requires the applicant to identify the vegetative buffer zones and berms, which are not include in the site plan. Subsection (4) requires the applicant to provide the maximum height of each exterior material stockpile, which is not include in the site plan. Subsection (10) requires the applicant to identify where and how inadvertently prohibited waste storage will be temporarily stored, which is not include in the site plan. Subsection (11) requires the applicant to identify the location of all commercial and residential structures within a one mile radius of the facility, which is not include in the site plan. Metro cannot adequately review the site plan without this required information.

Part 2, Attachment B, Subsection (2)(a) of the Application requires the applicant to provide: "a proposed design or existing design plan that identifies the location of all areas for load checking, receiving/tipping, mixing, processing, reloading, and storage for all materials." Application, p.9. CORE failed to provide this required design plan.

**C. CORE did not provide the required property owner consent form and provided inconsistent information regarding the property ownership.**

Metro Code 5.01.070(c)(4) requires the applicant to provide a signed consent by the property owner agreeing to the proposed facility and "must also disclose the applicant's property interest and the duration of that interest." Metro requires a Property Use Consent form, dated June 2016. CORE failed to satisfy this requirement in several respects.

The Application includes an outdated form. The Application includes the old form, dated August 2010, which does not list all of the information required by Metro Code 5.01.070(c)(4).

The Application includes two Property Use Consent forms that provide inconsistent and confusing information. One form lists NE 138<sup>th</sup>, LLC as the owner and the other form lists Columbia Development Enterprises, LLC as the owner. Both forms state that "the property interest held by the licensee is ownership." So it is unclear who the property owner is - NE 138<sup>th</sup>, LLC, Columbia Development Enterprises, LLC or CORE?

The Application is required to list the duration of the property interest held by the licensee. Both forms list the duration of the property interest held by the licensee as "10-15 years," but they also state that licensee is the owner. It doesn't make sense that an ownership interest would be limited to 10-15 years.

CORE must clarify these issues and submit the correct Property Use Consent form.

**D. Conclusion.**

As explained above, Metro must deny the Application. CORE clearly does not have the required City land use approval to operate the proposed facility. The fact that CORE failed to provide the most recent LUCS (Revised LUCS) or accurately explain the local land use issue is troubling

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Page 5

and should definitely be looked into by Metro. Moreover, the Application is missing important required by Metro Code Section 5.01 and/or requires clarification.

We appreciate your consideration of our comments and look forward to discussing this issue with you in greater detail.

Very truly yours,

HATHAWAY LARSON LLP

A handwritten signature in cursive script that reads "E. Michael Connors".

E. Michael Connors

EMC/pl  
Enclosures

cc: Resource Recovery Systems, LLC  
Don Kienholz, City of Portland Planner *(via email)*  
J. Malia Slusarenko, City of Portland Planner *(via email)*



# Oregon

Kate Brown, Governor

Department of Environmental Quality  
Northwest Region  
700 NE Multnomah Street, Suite 600  
Portland, OR 97232  
(503) 229-5263  
FAX (503) 229-6945  
TTY 711  
Hathaway Larson LLP

October 30, 2017

NOV 03 2017

Michael Conners  
1331 NW Lovejoy Street, Suite 950  
Portland, Oregon 97209

RECEIVED

Dear Mr. Conners:

DEQ received your comments dated Sept. 8, 2017 on the draft DEQ solid waste permit for City of Roses. DEQ has responded to your comments in this letter. Your comments are listed followed by DEQ's response to each set of comments.

**Comment 1: CORE failed to demonstrate that the proposed facility is compatible with the City comprehensive plan and zoning requirements.**

OAR 340-093-0070(3)(b) provides that an application for a new disposal site permit must include written recommendations of the local government with jurisdiction over the proposed disposal site and "a statement of compatibility with the acknowledged local comprehensive plan and zoning requirements." The Land Use Compatibility Statement, dated June 2, 2017 ("LUCS"), provided for this proposed facility demonstrates that CORE does not have all of the required land use and zoning permits to operate its proposed facility and therefore it is not compatible with the acknowledged local comprehensive plan and zoning requirements.

Although the LUCS notes that the use is allowed outright, that statement is expressly limited to only a portion of the proposed facility's operations. The LUCS states that the following activity is allowed outright in the IG2 zone "salvage of building material," which "is classified as Industrial Services per 33.140.100, table 140-1, 33.920.310 [sic]." LUCS, p.2. Portland City Code ("PCC") 33.920.310(A) provides that "Industrial Service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products." As noted in the LUCS, the example of Industrial Services listed in the code that could apply in files case are the "salvage or wrecking of heavy machinery, metal, and building materials." PCC 33.920.310(C). (Emphasis added).

However, the LUCS also concluded that "transfer of non-recyclable waste product is considered a Waste-Related Use and requires a Type III Conditional Use Review (approved & recorded) prior to performing waste-related activities per 33.140.100, table 140-1, 33.815.200 and 33.920.350." LUCS, p.2. A Waste Related use is defined as follows: "Waste-Related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods from the biological decomposition of organic material." PCC 33.920.350(A). (Emphasis added). So the LUCS expressly provides that if the proposed facility will be accepting any solid or liquid waste that will be transferred to another location, it qualifies as a Waste Related use and requires a Type III Conditional Use Review under PCC 33.815.200.

There is no question that the proposed facility qualifies as a Waste Related use because it will accept and transfer solid waste to another location. On the DEQ permit application, CORE checked the "Transfer Station/Material Recovery Facility Permit" as the type of permit it is requesting. CORE's Operations Plan acknowledges that not all of the solid waste it will receive can be recycled or salvaged and that it will transfer non-recyclable material to another disposal site. Resource Recovery Systems also discovered that CORE recently had a pre-application conference with the City on August 2, 2017, to "discuss establishing a Waste-Related Use on this site" which "must be approved through a Conditional Use Review." We attached a copy of the reference to this pre-application conference available at [www.portlandmaps.com](http://www.portlandmaps.com). So even CORE is acknowledging that the proposed facility qualifies as a Waste Related use and will require a Type III Conditional Use Review under PCC 33.815.200.

As set forth in the LUCS, DEQ cannot conclude that the proposed facility is compatible with the City comprehensive plan and zoning requirements unless and until CORE obtains a Type III Conditional Use Review approval. Therefore, DEQ should deny the permit until CORE obtains the required local land use approval.

DEQ Response:

After receiving this comment, DEQ requested and received a clarifying email from Don Kienholz, City of Portland Senior City Planner, on September 18, 2017. Mr. Kienholz has worked with CORE throughout the Land Use Compatibility Statement (LUCS) process.

Mr. Kienholz states: "The LUCS was signed off for the industrial service component based on the (business) description (that Mr. Simpson provided to us). The overwhelming focus of the operation is on salvage and recycling, with the understanding that there will be some trace amounts of other materials that will be waste products and unrecyclable that get caught up with the loads brought in - but they are residual in nature."

In addition both CORE and the City explained to DEQ that CORE will be going through the conditional land use process to transfer waste but will not do so until the land use process and land use approval are received from the City of Portland.

DEQ asked the City of Portland to revise the LUCS to acknowledge that incidental waste transfer would be allowed under the current land use approval. The City of Portland provided a revised LUCS (dated September 21, 2017) to provide clarity to the question of incidental waste. The revised LUCS states: "Note that transfer of non-recyclable waste is considered a waste related use and requires a Type III Conditional Use Review (transfer of putrescible waste). Note also that trace amounts of incidental waste that arrives with recyclable loads (up to 5% unintended wastes) is allowed to be transferred for disposal."

Because CORE clearly identified to the City and the City was aware that there would be incidental waste transfer under the current land use, DEQ will not deny the permit. DEQ has added a reference to the revised LUCS to the permit and clarified that the permit activities are for a material recovery facility on page 1 of the permit.

**Comment 2: CORE failed to provide the required site characterization report.**

OAR 340-093-0070(3)(e) provides that an application for a new disposal site must include "a site characterization report prepared in accordance with OAR 340-093-0130." The site characterization report "must describe existing site conditions and a conceptual engineering proposal in sufficient detail to determine whether the facility is feasible and protects the environment." OAR 340-093-0130. OAR 340-093-0130 imposes extensive and detailed requirements for a site characterization report, including "A site location description, including a location map and list of adjacent landowners," "An Existing Conditions Map of the area showing land use and zoning within 1/4 mile of the disposal site," "Identification of any siting limitations and how those limitations will be addressed," "Estimated capacity and projected life of the site," "Summary of general design criteria and submittal of conceptual engineering plans," "Description of how the proposed technology compares to current technological practices, or to similar proven technology, including references to where similar technology has been effectively implemented," "Planned future use of the disposal site after closure," "Key assumptions used to calculate the economic viability of the proposed facility," and "The public involvement process that has been and will be implemented." OAR 340-093-0130(1)(a)-(c), (2)(a), (d), (e), (g), (h) and (i).

CORE failed to provide a site characterization report or provide any of the specific information noted above that is required by OAR 340-093-0130(1)(a)-(c), (2)(a), (d), (e), (g), (h) and (i). DEQ cannot approve the proposed facility until CORE provides a site characterization report consistent with OAR 340-093-0130.

**DEQ Response:**

When reviewing and requesting information from CORE regarding the CORE application and while drafting the permit, DEQ determined that most of the information required for site characterization had been provided. As CORE intends to conduct most operations within an existing building, there is no need for extensive design and engineering plans. After receiving this comment, DEQ re-reviewed the information received with the application and confirmed that some of the information identified in rule was not relevant to the type of facility being built. In response to this comment, DEQ asked the applicant for 1) an existing conditions map of the land use and zoning within ¼ mile of the disposal site, 2) a description of the public involvement process that has been or will be implemented, and 3) a statement that CORE knows of no siting limitations for the facility. After receiving and reviewing this information, DEQ has determined that no changes are needed to the permit. DEQ intends to issue the permit to CORE.

**Comment 3: CORE failed to provide the required engineering plans and specifications.**

OAR 340-093-0070(f) and OAR 340-093-0140 require an applicant to "submit plans and specifications conforming with current technological practices, and sufficiently detailed and complete so that the department may evaluate all relevant criteria before issuing a permit." OAR 340-093-0140(1). These plans must include "engineering plans and specifications" that are "prepared and stamped by a professional engineer with current Oregon registration." OAR 340093-0140(2).

CORE did not submit these required plans and specifications. The only thing CORE submitted was a very general site plan that does not include any engineering plans and specifications, and is not

prepared and stamped by a professional engineer. Additionally, DEQ confirmed that it has not received any construction documents. Even if CORE intends to use the existing structures on the property, we know there will need to be some construction activity because the existing buildings have been vandalized, stripped of electrical components and had other damages.

CORE failed to provide the engineering plans and specifications required by OAR 340-093-0140. DEQ cannot approve the proposed facility until CORE provides the engineering plans and specifications required by OAR 340-093-0140.

**DEQ Response:**

The applicant intends to use the existing structures without completing major modifications to the structures so no detailed plans and specifications are needed in order for DEQ to issue a solid waste permit to CORE. The permit has conditions that require the submittal of engineering plans and specifications for DEQ review and approval if future construction is planned.

**Comment 4: CORE failed to provide the information specifically required of transfer stations and material recovery facilities.**

OAR 340-096-0040 imposes specific application requirements for transfer stations and material recovery facilities. These requirements include plans and specifications that must include "the location and physical features of the facility such as contours, surface drainage control, access and on-site roads, traffic routing, landscaping, weigh stations, fences and specifications for solid waste handling equipment, truck and area washing facilities and wash water disposal, and water supply and sanitary waste disposal." OAR 340-096-0040(2).

As previously noted, CORE failed to provide any plans and specifications. The very general site plan provided by CORE does not provide the level of specificity and detail required by OAR 340-096-0040(2). Nor does the site plan include most of the information required by OAR 340-096-0040(2), including information regarding property contours, surface drainage control, traffic routing, landscaping, weigh stations, specifications for solid waste handling equipment, truck and area washing facilities and wash water disposal, or sanitary waste disposal.

CORE failed to provide the specific information required for transfer stations and material recovery facilities as set forth in OAR 340-096-0040(2). DEQ cannot approve the proposed facility until CORE provides this information consistent with OAR 340-096-0040(2).

**DEQ Response:**

DEQ has approved a preliminary site plan and operations plan. The submitted plans include surface drainage controls, access and on-site roads, traffic routing, landscaping, weigh station, fences and specifications for solid waste handling equipment. The permit requires that CORE update its plans to be specific to its site as CORE completes construction and begins operations at its new location.

**Comment 5: At a minimum, DEQ should schedule a public hearing for this proposed facility.**

If DEQ is not willing to deny the application at this time, notwithstanding CORE's failure to comply with several requirements in OAR Chapter 340, divisions 93 through 97, at a minimum DEQ should schedule

October 30, 2017

Mr. Conners

Page 5 of 6

a public hearing. 340-093-0100(2)(c) provides that DEQ shall schedule a hearing to allow interested persons to submit oral or written comments if DEQ receives written requests from ten persons, or from an organization representing at least ten persons, for a hearing, or DEQ determines that a hearing is necessary. DEQ should require a public hearing for this permit application for both reasons.

Resource Recovery Systems specifically requests a public hearing. Resource Recovery Systems is an organization of at least ten people and therefore this request alone requires a public hearing.

Additionally, a public hearing is necessary for this proposed facility. As previously noted, CORE failed to provide a significant amount of the plans, specifications and information required by OAR Chapter 340, divisions 93 through 97. The ambiguity in the LUCS regarding the nature of the use and CORE's plans to file for local land use approval of the proposed facility as a Waste Related use require additional clarification and information. The fact that the proposed site is bordered by residential apartments, with tenants who presumably are not aware of this proposal, mandates the need for additional public process and opportunity to review and comment on the proposal.

#### DEQ Response:

According to OAR 340-093-0100, DEQ provided public notice of the proposed solid waste permit for a minimum of 35 days. The department is to provide notice to the applicant, those requesting notice of the permitting action, local news media and other interested persons as identified by the department.

For public notice of the draft CORE solid waste permit, DEQ met the requirements of the rule. DEQ published the public notice on the DEQ website, sent notification to over 300 adjacent properties within a quarter mile of the proposed facility including the apartments across the street, placed notice in both the Oregonian and the Portland Tribune and sent a link to the public notice via email to those who have signed up to receive information on DEQ's solid waste permits.

DEQ sent out the public notice email for CORE's draft permit to 1902 email addresses of people and organizations that signed up to receive the email. DEQ sent out that email on July 28, 2017 at 11:47 am.

OAR 340-093-100(2)(c) states that the department will schedule a hearing to allow interested persons to submit oral or written comments if: "Within 14 days of the mailing of the notice, the department receives written requests from ten person, or from an organization representing at least ten persons, for a hearing OR if the department determines that a hearing is necessary."

DEQ received Resource Recovery Systems request for a public hearing on September 8, 2017, which was greater than 14 days after the mailing of the notice.

DEQ has determined that a public hearing is not necessary.

October 30, 2017

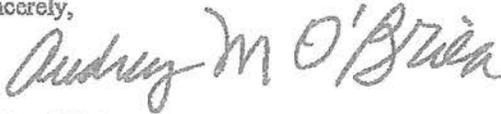
Mr. Conners

Page 6 of 6

Thank you for your comments on the draft DEQ solid waste material recovery facility permit #1606 for City of Roses Disposal and Recycling (CORE). DEQ has issued the permit to CORE. A copy of the transmittal letter, permit, permit evaluation memo and response to comments is enclosed for your information.

If you have questions, you may contact Gary Vrooman of the Oregon Department of Justice at 971-673-1878 or via email at [Gary.L.VROOMAN@state.or.us](mailto:Gary.L.VROOMAN@state.or.us). He is DEQ's DOJ attorney.

Sincerely,



Audrey O'Brien  
Manager, Environmental Partnerships Section  
Oregon Department of Environmental Quality  
Northwest Region-Portland Office  
700 NE Multnomah St., Suite #600,  
Portland, OR 97232  
(503) 229-5072 office  
(503) 209-9182 cellphone  
(503) 229-6945 fax

Cc: Gary Vrooman, DOJ  
File  
Alando Simpson, City of Roses Disposal and Recycling  
Vince Gilbert, Resource Recovery Systems, LLC

Land Use Compatibility Statement

17-1686619 LUCS

SECTION 1 - TO BE COMPLETED BY APPLICANT			
<b>1A. Applicant Name:</b> City of Roses Disposal	<b>1B. Project Name:</b> CORE Recycling		
<b>Contact Name:</b> Alando Simpson	<b>Physical Address:</b> 4530 NE 138th Ave		
<b>Mailing Address:</b> PO Box 301427	<b>City, State, Zip:</b> Portland, OR 97230		
<b>City, State, Zip:</b> Portland, OR 97294	<b>Tax Lot #:</b> 1N2E23D-00100		
<b>Telephone:</b> 503-285-9940	<b>Township:</b> 1N <b>Range:</b> 2E <b>Section:</b> 23D		
<b>Tax Account #:</b> R318510	<b>Latitude:</b> 45.555232		
	<b>Longitude:</b> -122.516216		
<b>1C. Describe the project, include the type of development, business, or facility and services or products provided (attach additional information if necessary):</b> Processing, Recycling and Transfer of Dry Waste and Construction & Demolition Debris. CORE Recycling is planning to move operations to newly proposed location in order to accommodate and sustain current and future growth. CORE Recycling is the leading Material Recovery Facility in terms of recycling rates in the Portland Metro Region. There has been continuous demand for recycling services for Sustainable, Green Built & LEED type of Construction projects which our current facility simply does not have adequate space for and we feel that this is the necessary move and addition that is needed in order to serve this regions aspirations to recycle more waste and support more innovaive uses. Furthermore, City of Roses in partnership with Metropolitan Contractors Improvement Partnership (MCIP) was awarded a materials management grant from DEQ to investigate down stream supply chain markets fer reclaimed and reusable dimensional lumber. This site and operation supports the much needed space for sorting, processing, salvage and storage.			
<b>1D. Check the type of DEQ permit(s) or approval(s) being applied for at this time.</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> Air Quality Notice of Construction  <input type="checkbox"/> Air Contaminant Discharge Permit <i>excludes portable facility permits</i>  <input type="checkbox"/> Air Quality Title V Permit  <input type="checkbox"/> Air Quality Indirect Source Permit  <input type="checkbox"/> Parking/Traffic Circulation Plan  <input type="checkbox"/> Solid Waste Land Disposal Site Permit  <input type="checkbox"/> Solid Waste Treatment Facility Permit  <input type="checkbox"/> Solid Waste Composting Facility Permit (includes Anaerobic Digester)  <input type="checkbox"/> Conversion Technology Facility Permit  <input type="checkbox"/> Solid Waste Letter Authorization Permit  <input checked="" type="checkbox"/> Solid Waste Material Recovery Facility Permit  <input type="checkbox"/> Solid Waste Energy Recovery Facility Permit  <input type="checkbox"/> Solid Waste Transfer Station Permit  <input type="checkbox"/> Waste Tire Storage Site Permit                             </td> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> Pollution Control Bond Request  <input type="checkbox"/> Hazardous Waste Treatment, Storage, or Disposal Permit  <input type="checkbox"/> Clean Water State Revolving Fund Loan Request  <input type="checkbox"/> Wastewater/Sewer Construction Plan/Specifications <i>(includes review of plan changes that require use of new land)</i>  <input type="checkbox"/> Water Quality NPDES Individual Permit  <input type="checkbox"/> Water Quality WPCF Individual Permit <i>(for onsite construction-installation permits use the DEQ Onsite LUCS form)</i>  <input type="checkbox"/> Water Quality NPDES Stormwater General Permit <i>(1200-A, 1200-C, 1200-CA, 1200-COLS, and 1200-Z)</i>  <input type="checkbox"/> Water Quality General Permit <i>(all general permits, except 600, 700-PA, 1700-A, and 1700-B when they are mobile.)</i>  <input type="checkbox"/> Water Quality 401 Certification for federal permit or license                             </td> </tr> </table>		<input type="checkbox"/> Air Quality Notice of Construction <input type="checkbox"/> Air Contaminant Discharge Permit <i>excludes portable facility permits</i> <input type="checkbox"/> Air Quality Title V Permit <input type="checkbox"/> Air Quality Indirect Source Permit <input type="checkbox"/> Parking/Traffic Circulation Plan <input type="checkbox"/> Solid Waste Land Disposal Site Permit <input type="checkbox"/> Solid Waste Treatment Facility Permit <input type="checkbox"/> Solid Waste Composting Facility Permit (includes Anaerobic Digester) <input type="checkbox"/> Conversion Technology Facility Permit <input type="checkbox"/> Solid Waste Letter Authorization Permit <input checked="" type="checkbox"/> Solid Waste Material Recovery Facility Permit <input type="checkbox"/> Solid Waste Energy Recovery Facility Permit <input type="checkbox"/> Solid Waste Transfer Station Permit <input type="checkbox"/> Waste Tire Storage Site Permit	<input type="checkbox"/> Pollution Control Bond Request <input type="checkbox"/> Hazardous Waste Treatment, Storage, or Disposal Permit <input type="checkbox"/> Clean Water State Revolving Fund Loan Request <input type="checkbox"/> Wastewater/Sewer Construction Plan/Specifications <i>(includes review of plan changes that require use of new land)</i> <input type="checkbox"/> Water Quality NPDES Individual Permit <input type="checkbox"/> Water Quality WPCF Individual Permit <i>(for onsite construction-installation permits use the DEQ Onsite LUCS form)</i> <input type="checkbox"/> Water Quality NPDES Stormwater General Permit <i>(1200-A, 1200-C, 1200-CA, 1200-COLS, and 1200-Z)</i> <input type="checkbox"/> Water Quality General Permit <i>(all general permits, except 600, 700-PA, 1700-A, and 1700-B when they are mobile.)</i> <input type="checkbox"/> Water Quality 401 Certification for federal permit or license
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<b>1E. This application is for:</b> <input type="checkbox"/> Permit Renewal <input checked="" type="checkbox"/> New Permit <input type="checkbox"/> Permit Modification <input type="checkbox"/> Other:			
SECTION 2 - TO BE COMPLETED BY CITY OR COUNTY PLANNING OFFICIAL			
<b>Instructions:</b> Written findings of fact for all local decisions are required; written findings from previous actions are acceptable. For uses allowed outright by the acknowledged comprehensive plan, DEQ will accept written findings in the form of a reference to the specific plan policies, criteria, or standards that were relied upon in rendering the decision with an indication of why the decision is justified based on the plan policies, criteria, or standards.			
<b>2A. The project proposal is located:</b> <input checked="" type="checkbox"/> Inside city limits <input type="checkbox"/> Inside UGB <input type="checkbox"/> Outside UGB			
<b>2B. Name of the city or county that has land use jurisdiction (the legal entity responsible for land use decisions for the subject property or land use):</b> <u>City of Portland</u>			

Land Use Compatibility Statement

SECTION 2 - TO BE COMPLETED BY CITY OR COUNTY PLANNING OFFICIAL		
Applicant Name:	City of Roses Disposal	Project Name: CORE RECYCLING
2C. Is the activity allowed under Measure 49 (2007)? <input checked="" type="checkbox"/> No, Measure 49 is not applicable <input type="checkbox"/> Yes; if yes, then check one:		
<input type="checkbox"/> Express; approved by DLCD order #:		
<input type="checkbox"/> Conditional; approved by DLCD order #:		
<input type="checkbox"/> Vested; approved by local government decision or court judgment docket or order #:		
2D. Is the activity a composting facility? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes; Senate Bill 462 (2013) notification requirements have been met.		
2E. Is the activity or use compatible with your acknowledged comprehensive plan as required by OAR 660-031? Please complete this form to address the activity or use for which the applicant is seeking approval (see 1.C. on the previous page). If the activity or use is to occur in multiple phases, please ensure that your approval addresses the phases described in 1.C. For example, if the applicant's project is described in 1.C. as a subdivision and the LUCS indicates that only clearing and grading are allowed outright but does not indicate whether the subdivision is approved, DEQ will delay permit issuance until approval for the subdivision is obtained from the local planning official.		
<input type="checkbox"/> The activity or use is specifically exempt by the acknowledged comprehensive plan; explain:		
<input type="checkbox"/> Yes, the activity or use is pre-existing nonconforming use allowed outright by (provide reference for local ordinance):		
<input checked="" type="checkbox"/> Yes, the activity or use is allowed outright by (provide reference for local ordinance): In the IER zone, for the salvage of building materials, this is classified as Industrial Service per 33.140.100, Table 140-1; 33.120.310.		
<input type="checkbox"/> Yes, the activity or use received preliminary approval that includes requirements to fully comply with local requirements; findings are attached.		
<input type="checkbox"/> Yes, the activity or use is allowed; findings are attached.		
<input type="checkbox"/> No, see 2.C above, activity or use allowed under Measure 49; findings are attached.		
<input type="checkbox"/> No, (complete below or attach findings for noncompliance and identify requirements the applicant must comply with before compatibility can be determined): Relevant specific plan policies, criteria, or standards:  Provide the reasons for the decision:		
Additional comments (attach additional information as needed): Any proposed development must meet all applicable requirements of Title 11a-Title 33. Note that transfer of non-recyclable waste is considered a Related Use and requires a Type III Conditional Use Review (transfer of putrescible waste). Note trace amounts of incidental waste that arrives with recyclable loads (up to 5% unintended) is allowed to be transferred for disposal. See 33.140.100, 33.815.220, 33.920.350. (waste - also that wastes)		
Planning Official Signature:	<i>T. Malia Slusarek</i>	Title: City Planner
Print Name:	T. Malia Slusarek	Telephone #: (503) 823-7353 Date: 9/21/2017
If necessary, depending upon city/county agreement on jurisdiction outside city limits but within UGB:		
Planning Official Signature:		Title:
Print Name:		Telephone #: Date: