



Memo

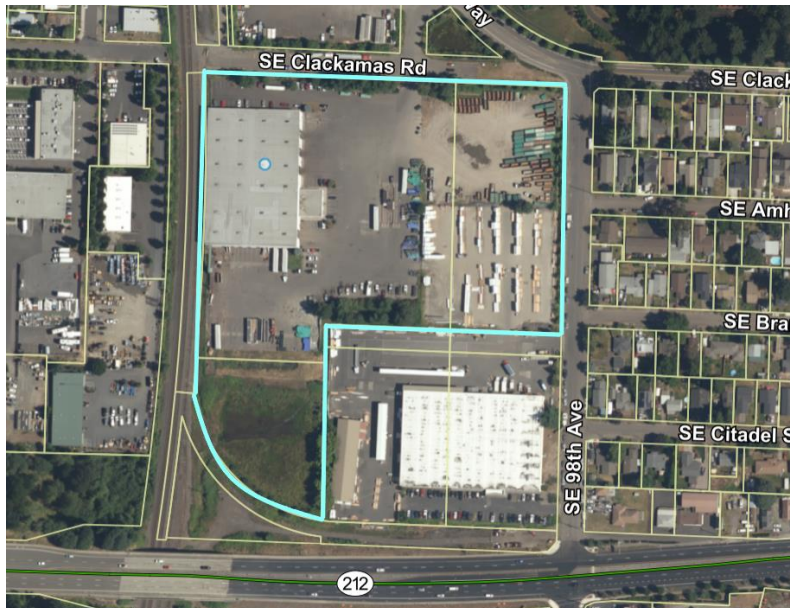
Date: June 15, 2022
To: Pam Peck, Policy and Compliance Program Director
From: Will Ennis, Senior Solid Waste Planner
Subject: Renewed Solid Waste Facility License No. L-007-22 for K.B. Recycling

Attached for your signature is renewed Solid Waste Facility License No. L-007-22 for K.B. Recycling Inc. (K.B.), a material recovery facility located at 9602 SE Clackamas Road in unincorporated Clackamas County (Metro District 2). This memo provides background information on the applicant's request, a description of proposed changes to the license, and staff's recommendation to renew Metro's authorization for K.B.

Under Metro Code Section 5.01.080, the proposed license is to be approved or denied by the Chief Operating Officer (COO). On March 16, 2020, the COO delegated to the Policy and Compliance Director (the Director) authority to carry out the COO's responsibilities under Metro Code Chapter 5.01 for approving or denying a solid waste facility license. As such, the Director is authorized to approve this proposed license.

OVERVIEW

K.B. is a Metro-licensed material recovery facility that accepts mixed non-putrescible waste for the purpose of resource recovery. The facility also accepts and processes source-separated recyclable materials. K.B. is owned and operated by Waste Connections, Inc. which is headquartered in The Woodlands, Texas. Waste Connections purchased K.B. and affiliated Canby Transfer Station, a Metro designated facility, in 2021.



K.B. Recycling, Inc.

K.B. has operated as a Metro-licensed facility since 2002. The facility holds Metro Solid Waste Facility License No. L-007-17 which expires on June 30, 2022. The facility also holds a Solid Waste Disposal Site Permit (No. 480) issued by the Department of Environmental Quality (DEQ) that expires on March 20, 2030 and a 1200-Z Stormwater Discharge Permit that expires on June 30, 2026.

On February 24, 2022, K.B. submitted an application to Metro requesting the renewal of its license. The applicant did not propose any changes to its operation or request any new authorizations. As part of Metro's ongoing efforts to improve clarity and establish more uniform requirements, staff is proposing various updates and additions to the K.B. license that will better align it with other Metro authorizations where appropriate. The updates and additions are standard requirements that will be included in all new and renewing licenses. In addition to the updates outlined below, the proposed license includes various non-substantive housekeeping changes for clarity and consistency.

Updates and additions to standard license requirements

Certain license requirements are standard across all licenses and franchises. This proposed license updates language in some existing standard conditions and also adds new standard conditions that will be included in all new and renewing licenses as follows:

- **Pile size limits** (Section 4.1): Add pile size limits that align with Oregon Fire Code. Metro has already added this requirement to Metro-licensed compost facilities and is now expanding to facilities that are authorized to accept yard debris or wood waste.
- **Employment Standard** (Section 5.16): Add a new section requiring that the licensee be in compliance with Oregon's "ban the box" law (ORS 659A.360). Oregon's "ban the box" law makes it illegal for an employer to inquire about criminal convictions before the interview stage of hiring. This advances progress on the 2030 Regional Waste Plan and the Waste Prevention and Environmental Services Diversity, Racial Equity and Inclusion Work Plan goals. This requirement was added to the franchises in 2020 and will be added to all licenses as they are renewed.
- **Closure protocol** (Section 6.11): Update closure protocol to distinguish between a short-term and long-term closure of the facility and require a licensee to notify Metro within one business day of a short-term or long-term closure. This standardizes the closure protocol across licenses and formalizes the expectation that Metro is notified of any short-term or long-term closure.
- **Reporting requirements** (Subsection 8.2.2): Add a new subsection stating that Metro may require reporting on a weekly or daily basis in the event of a significant disruption to the solid waste system. This was created in response to the COVID-19 pandemic and Metro's need for more real-time data. This subsection will be added to all relevant authorizations.
- **Changes in ownership** (Section 8.9): Update language to require notification to Metro of any change in ownership. This change will be standard across new and renewing licenses and aligns with Metro Code Chapter 5.01.
- **Certificate of insurance** (Section 9.5): Add a new section to formalize the expectation and the long-standing practice that licensees submit a certificate of insurance (CERT) to Metro. Licensees must name Metro as an additional insured on the CERT, and also include the *additional insured endorsement* from the general liability policy as recommended by Metro's risk manager.
- **Right of inspection and audit** (Section 12.3): Update language to require access to the facility by Metro authorized personnel to perform research. This update was made to the franchises in 2020 and will be made to all licenses as they are renewed.
- **Confidential Information** (Section 12.4): Update language to reflect current state public records law which has more restrictive timelines for responding to a requestor. This update was made to the franchises in 2020 and will be made to all licenses as they are renewed.

PUBLIC NOTICE AND OPPORTUNITY TO COMMENT

On April 15, 2022, Metro issued notice of the proposed license renewal application and provided the public with an opportunity to submit comments. A description of the proposed facility and the license application was available on Metro's website. Interested parties could submit comments via an online form or leave a voicemail on a multi-language phone line. Postcards with information in six languages about the proposed license and comment period were mailed to 310 businesses, residents and owners of properties located within approximately one-quarter mile of the facility. Notice was also emailed to community based organizations and neighborhood associations located within one mile of the facility, and emailed to stakeholders with general interest in solid waste issues. The public comment period ended on May 16, 2022.

Metro received three comments in response to the public notice and all three were supportive of the license renewal.

METRO CODE LICENSE RENEWAL CRITERIA

Metro Code Section 5.01.110 states:

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

K.B. filed a complete renewal application along with the \$300 application fee payment on February 24, 2022. Metro deemed the application complete on February 25, 2022. The license renewal application included a description of the facility's operation and the solid waste it accepts. The proposed license does not include any new authorizations and, if approved, will replace the current license expires on June 30, 2022.

COMPLIANCE HISTORY OF THE APPLICANT

K.B. has a good record of compliance with respect to Metro's regulations and the facility is currently in compliance with the conditions of its license. Metro conducted 18 inspections of K.B. between July 2017 and April 2022 and no issues of non-compliance were identified during that time.

During the term of the current license, Metro has not received any complaints regarding the facility and no compliance issues have been reported by DEQ staff. Clackamas County staff informed Metro that, as of June 1, 2022, K.B. has an open building code violation for having a new diesel tank/truck fueling station installed without permits. Metro will continue to monitor this issue. Staff finds the facility plays a positive role in the region's solid waste recovery efforts and it is in the public interest to renew this license.

STAFF RECOMMENDATION

Staff recommends approving Solid Waste Facility License No. L-007-22 to renew K.B.'s authority to accept mixed non-putrescible waste and source-separated recyclables for the purpose of resource recovery. If approved, the proposed license would take effect on July 1, 2022 and expire on June 30, 2027. A copy of the proposed license is attached for your signature.