

# Memo

Date: December 5, 2022  
To: Pam Peck, Policy and Compliance Program Director  
From: Will Ennis, Senior Solid Waste Planner  
Subject: Renewed Solid Waste Facility License No. L-067-23 for S&H Cornelius

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Attached for your signature is renewed Solid Waste Facility License No. L-067-23 for S&H Cornelius (S&H), a yard debris composting facility located at 1045 North 4<sup>th</sup> Avenue in Cornelius (Metro Council District 4). 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 S&H.

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

S&H is a Metro-licensed solid waste facility that accepts and processes yard debris for composting. The facility is also authorized to accept wood waste and land clearing debris to produce boiler fuel. The facility also operates as a retail outlet for landscaping products.



S&H Cornelius is located at 123 N 4th Ave in Cornelius, Ore.

S&H is a family-owned business that has operated as a Metro-licensed facility since 2013. Previously the facility operated as Northwest Environmental & Recycling, Inc. and held a Metro license since 1988. S&H purchased the facility in 2013. S&H holds Metro Solid Waste Facility License No. L-067-18A that will expire on December 31, 2022. The facility also holds a Solid Waste Disposal Site Permit (No. 1440) issued by the Department of Environmental Quality (DEQ) and a Stormwater Discharge General Permit No. 1200-Z also issued by DEQ.

On September 9, 2022, S&H submitted an application and an application fee of \$300 to Metro requesting the renewal of its license. The applicant did not propose any changes to its operation or request any new authorizations. The application was deemed complete on September 15, 2022.

As part of Metro's ongoing efforts to improve clarity and establish more uniform requirements, staff is proposing various updates and additions to the S&H license that will better align it with other Metro authorizations where appropriate. All the proposed new and updated standard requirements 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 adds new standard conditions that will be included in all new and renewing licenses as follows:

- **Prohibition on mixing** (Section 4.3): Adds section prohibiting the facility from mixing source-separated recyclable material with any other waste unless approved by Metro. This section is included in other facility licenses and is proposed here to increase uniformity across licenses.
- **General Performance Standards** (Section 5.1): Adds section requiring the facility to operate in a manner that avoids undue nuisance conditions, threats to the environment, or conditions that degrade public health and safety. This section is included in other facility licenses and is proposed here to increase uniformity across licenses.
- **Employment Standard** (Section 5.16): Adds 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): Updates closure protocol to 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): Adds 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 8.6): Updates 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): Adds 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 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): Updates 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): Updates 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 October 21, 2022, Metro issued public notice of the proposed license renewal and provided an opportunity for the public to submit comments. A description of the proposed facility and the license application were made 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 34 businesses, residents, and property owners located within approximately one-quarter mile of the facility. Notice was also emailed to 14 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 November 21, 2022. Metro received two comments and both were in support of the license renewal.

#### **METRO CODE 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.*

S&H filed a renewal application on September 9, 2022 accompanied by payment of the \$300 application fee. The application was deemed complete on September 15, 2022. The license renewal application included a description of its operation and the solid waste it accepts. The proposed license does not include any new authorizations and, if approved, will replace the current license that expires on December 31, 2022.

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

When evaluating a license application, Metro considers an applicant’s compliance history with Metro and other regulatory entities like DEQ and local jurisdictions.

DEQ staff reported that during an inspection conducted at S&H on April 21, 2002, facility staff failed to provide the inspector with current compost monitoring records. In response, DEQ issued a warning letter to S&H on November 29, 2022. DEQ staff also reported that the agency has not received any complaints regarding the facility during the term of the current license.

City of Cornelius staff reported their Public Works department receives seasonal complaints regarding odor. Cornelius Fire Department and Forest Grove Fire Department report responding to two fires (August 2018 and September 2022) over the course of the current license.

Metro staff conducted 13 inspections of S&H during the term of its current license. S&H is currently in compliance with its Metro-issued license and it has not had any significant compliance issues with regard to Metro regulations within the term of the license. However, during a Metro inspection

conducted on September 23, 2022, Metro learned that there had been a fire at the facility five days prior on September 18, 2022. The facility failed to notify Metro within 12 hours of the fire as required by the license. On November 3, 2022, Metro issued a warning letter (WL-448-22) to S&H for the facility's failure to notify Metro within the required timeframe. In addition, Metro has not received any complaints regarding the facility during the last five years.

Staff finds that S&H plays an important role in the region's solid waste recovery efforts and it is in the public interest to renew the facility's license.

**STAFF RECOMMENDATION**

Staff recommends approval of Solid Waste Facility License No. L-067-23 to renew S&H's authority to accept and process yard debris to produce compost. If approved, the proposed license would take effect on January 1, 2023 and expire on December 31, 2027. A copy of the proposed license is attached for your signature.

ATTACHMENT