

To: Rep. Brad Witt and Members of the House Committee on Natural Resources
From: Randy Tucker, Metro, (503) 481-9455
Re: House Bill 3084
Date: March 27, 2019

I urge you not to move House Bill 3084 forward. This bill, which does not mention Metro, was presented to you on March 26 by Dave Hunnicutt and his client Terrell Garrett as a response to action that Metro was “considering” and “talking about” and that needs to be “fend[ed] off” “every two years.” This testimony was misleading with respect to Metro’s actions, policies and intentions in ways that have been explained repeatedly to Mr. Hunnicutt and Mr. Garrett. I am writing to set the record straight.

Metro has not imposed, does not impose, and is not planning to impose fees or taxes on materials that are used as approved “alternative daily cover” (ADC). We recently went through a lengthy public process (nearly three years) to firmly ground our fee and tax policies with the public and solid waste and recycling stakeholders in our region. This was only the second time in 20 years that we addressed the issue. We have no plan to revisit this ADC policy in the foreseeable future.

In the fall of 2015, Metro started a public process to review a number of issues related to how we regulate solid waste and recycling in our region. In particular, we wanted to look at how we granted fee and tax exemptions for certain wastes such as tires, contaminated soils, residuals from processing lines at recovery facilities and other materials. Our policies for these materials had developed piece by piece over many years and we wanted to have an open dialogue with solid waste stakeholders and representatives from the public about ensuring those policies best reflected the public interest.

The process consisted of a subcommittee established by our regional Solid Waste Alternatives Advisory Committee. Mr. Garrett was a member of this subcommittee. A consultant was hired to review practices in other jurisdictions across the country and make recommendations for our region. The subcommittee’s discussions included specific attention to materials that, while requiring disposal at a landfill, could perform a useful function such as being used as “alternative daily cover” at the landfill. The existing rules exempted these materials from fees and taxes. The subcommittee heard from solid waste and recycling facilities how those exemptions were helpful to their businesses and promoted the recovery of materials. We also heard that a small fee and tax package (e.g., \$3-4 per ton versus the full Metro rate of about \$30 per ton) would be acceptable to some in the industry. Members of the subcommittee expressed concern that rates should not provide an incentive to manufacture ADC just to avoid disposal costs.

Having taken these considerations into account, the subcommittee made a recommendation that Metro should continue its current practice of allowing a fee and tax exemption for waste used as ADC. Metro’s Solid Waste Alternatives Advisory Committee and Metro staff also made this recommendation to the Metro Council, which supported the recommendation in May 2018.

The subcommittee also addressed the concern that when Metro Code changes are made, there should be clear rules for how they will be followed. Some stakeholders, including Mr. Garrett, have noted that in the past they had difficulty knowing how to obtain the exemption. As a result, the subcommittee

recommended, and the Metro Council agreed, that Metro staff would develop administrative rules to clarify the current process by which exemption decisions are made. This process is getting under way, but it is critical to know that **these rules will not alter Metro Code under which useful materials such as ADC are exempted from fees or taxes.**

In conclusion:

- Metro does not tax ADC
- Metro has no plans to tax ADC
- Metro does not raise the possibility of taxing ADC “every two years”
- Metro has no plans to revisit this question in the foreseeable future
- There has been no change in Metro’s intentions or policies since we have explained this to Mr. Garrett

The Metro Council has a clear legislative principle of opposing pre-emptions of local authority to manage matters of local and regional concern. Managing the region’s solid waste system is one of Metro’s most important responsibilities. **We urge you to reject HB 3084.**