

# Benton County Talks Trash Workgroup Report

Draft 2

1-17-23



## Facilitator Notes

- 1) The purpose of this draft is to give the readers a quick snapshot as to where we are as of 1/17/22 at 9:45 PM... nothing more.
- 2) All of the sections are works-in-progress, and the subcommittees are still vetting their sections. Some material is included as a placeholder and/or is alternative language, yet to be vetted. There are several topics (issues, points, facts, charts, and tone, etc.) where the subcommittees have not yet reached agreement and may not. Ultimately, it will be for the full workgroup to make the call on the contents of the final document.
- 3) During Thursday's meeting, we will briefly tour this draft, each subcommittee will highlight key areas, and solicit workgroup input. I will send an Agenda out on 1/18, but it will look like generally like this.

Topic	Lead	Start	Duration	Materials
Welcome Review Agenda Approve Draft M6 Minutes M6 Meeting Evaluation Summary Workgroup Report D2 Overview	Facilitator	3:00	15 mins	Working M7 Agenda Draft M6 Minutes M6 Evaluations Workgroup Report D2
Comment Period	Public Workgroup	3:15	15 mins	Comments (Updated 1/XX/22) Link Expires ____) Password: Benton1!

Subcommittee Reports and Member Feedback: Topic E. Community Education (~30 mins) Topic A.1. Landfill Capacity/Longevity (~45 mins)	Subcommittee-Led Workgroup Discussions	3:45	75 mins	Workgroup Report D2, Page x-x Workgroup Report D2, Page x-x
Dinner with Subcommittee Connection Opportunity	All	5:00	30 mins	
Subcommittee Reports and Feedback, Cont.: Topic A.2. Past CUP Conditions (~40 mins) Topic A.3. Legal Issues and Topic B.1. Land Use Review (~35 mins) Topic C.1. SMMP (~35 mins)	Subcommittee-Led Workgroup Discussions	5:30	110 mins	Workgroup Report D2, Page x-x Workgroup Report D2, Page x-x Workgroup Report D2, Page x-x
Next Steps: 1) Key Dates 2) Next Meeting: 2/23/23 @ 3:00 PM 3) Last Meeting: 3/16/23 @ 3:00 PM  <b>Happy New Year!</b>	Facilitator	7:20	10 mins	Key Dates
Adjourn	All	7:30		

- 4) County staff will capture the suggestions/comments and place them as “comments” in the body of the Report for subcommittee consideration next week.
- 5) A major style edit will be done to the overall look and feel of the document.
- 6) The findings and recommendations will be hyperlinked to the subcommittee reports so readers can learn more about a particular statement.
- 7) Draft 3 will be prepared based upon your Thursday feedback and the subsequent subcommittee work. I will send the then-existing version on 1/25/23 for SWAC/DSAC and Planning Commission feedback, which will be due on 2/10/23.
- 8) During that time, the subcommittees will continue to refine their findings, recommendations, and full subcommittee reports.
- 9) Here are the key dates.

Task	Dates
Informal Member Survey on Draft 1	Completed
Draft 2 Published with Subcommittee Updates	1/17/23

Workgroup Meeting 7 to Explore Key Issues in Draft 2	1/19/23
SWAC/DSAC & PC give feedback on Draft 3, and Subcommittees Continue Refinement Process	1/25/23 to 2/10/23
Draft 4 Published	2/17/23
Workgroup Meeting 8 to Provide Feedback	2/23/23
Informal Workgroup Polling and Public Survey on Then-Existing Version of Report (Draft 5,) and Subcommittees Meet for Final Revisions	2/27/23 to 3/06/23
Final Draft (6) Published	3/13/23
Workgroup Meeting 9: Final Polling	3/16/23
Member Statements Due	3/21/23
Final Report to Board	3/24/23
BCTT Presentation to Board	On or after 3/28/23

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[List Member statements in Alpha Order]

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## Report

### Letter of Transmittal

March \_\_\_\_, 2023

To: Benton County Board of Commissioners,  
From: BCTT though Sam Imperati, Facilitator .  
RE: BCTT Workgroup Report

Please accept this final report, which summarizes the above process.

The Benton County Board of Commissioners (BOC) hired ICMresolutions to facilitate a Workgroup process for findings and recommendations for future Conditional Use Permits (CUP) and a Sustainable Materials management Plan (SMMP).

To accomplish this, the Board appointed Workgroup members that were representative of community voices. We then organized the Charter elements into different categories which later became Subcommittees. The Workgroup process began on September 8, 2022, and ended March \_\_\_\_, 2023, with the submission of this report. During that time, we conducted nine Workgroup meeting to address the following topics:

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Our role was to facilitate these meetings, organize information, help develop recommendations, and produce this approved report. Our "client" was \_\_\_\_\_. At the final Workgroup meeting on March 16, 2023, the Workgroup recommended a series of \_\_\_\_\_. The results of that meeting can be found in section \_\_\_\_ of this report.

Thank you for the opportunity to support this important project.  
*Respectfully Submitted*

*Samuel J. Imperati*

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## Executive Summary

Benton County's "Benton County Talks Trash" Workgroup met nine times between September 8, 2022, and March 16, 2023. All Workgroup meetings were open to the public, and the project hosted an open house on November 17, 2022, after the fifth Workgroup meeting. Throughout the process \_\_\_#\_\_\_ press releases were sent out and notifications for each Workgroup meeting went to \_\_\_\_\_, \_\_\_\_, and \_\_\_\_\_ channels. Recordings of the Workgroup meetings are available [here](#), as well as meeting minutes and summaries.

During its process, the Workgroup created five Subcommittees to take on various parts of the Charter Elements. Information on the Subcommittee's work product can be found on page \_\_\_\_\_ of this report, and recordings of the Subcommittee meetings are available [here](#).

The Workgroup's findings and recommendations will be provided to the Board of Commissioners on March \_\_\_\_, 2023, for their consideration. A summary of these findings and recommendations follows:

### A. Major Findings

**TO BE PROVIDED**

### B. Major Recommendations

**TO BE PROVIDED**

## Project Acknowledgments

### Board of Commissioners

Nancy Wyse – Chair  
Pat Malone  
Xan Augerot

### Workgroup Members

#### Voting Members

Brandon Bates  
Catherine Biscoe  
Christopher McMorran  
Chuck Gilbert  
Ed Piteria  
Elizabeth (Liz) Irish  
John Deuel  
Kathryn Duvall  
Louisa Shelby  
Marge Popp  
Mary Parmigiani  
Russ Knocke  
Ryan McAlister  
Shawn Edmonds

#### Non-Voting / Ex-Officio Members

Audrey O'Brian  
Brian May  
Daniel Redick  
Sean McGuire  
Shane Sanderson

#### Alternates

Andrew Johnson  
Ginger Rough  
Jen Brown

Julie Jackson

### Previous Members

Brian Fuller  
Joel Geier  
Nancy Whitcomb  
Scott Kruger

### Project Team at Benton County

Cory Grogan  
Daniel Redick  
Darren Nichols  
Greg Verret  
Inga Williams  
JonnaVe Stokes  
Linda Ray  
Sean McGuire

### Facilitation Team

Sam Imperati, Facilitator, Institute for  
Conflict Management, Inc.  
Amelia Webb, Associate Facilitator,  
Institute for Conflict Management, Inc

### Project Website

<https://www.co.benton.or.us/cd/page/solid-waste-process-work-group>

### How to read this document

For a general overview of the process and key recommendations, please see the Executive Summary (page \_\_\_\_). For more detail, please read the body of the report.



## Land Use Acknowledgment

Indigenous tribes and bands have been with the lands that we inhabit today throughout Oregon and the Northwest since time immemorial and continue to be a vibrant part of Oregon today. We would like to express our respect to the First Peoples of this land, the nine federally recognized tribes of Oregon: Burns Paiute Tribe, Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians, Confederated Tribes of Grand Ronde, Confederated Tribes of Siletz Indians, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Reservation, Coquille Indian Tribe, Cow Creek Band of the Umpqua Tribe of Indians, and The Klamath Tribes.

It is important that we recognize and honor the ongoing legal and spiritual relationship between the land, plants, animals, and people indigenous to this place we now call Oregon. The interconnectedness of the people, the land, and the natural environment cannot be overstated; the health of one is necessary for the health of all. We recognize the pre-existing and continued sovereignty of the nine federally recognized tribes who have ties to this place and thank them for continuing to share their traditional ecological knowledge and perspective on how we might care for one another and the land, so it can take care of us. We commit to engaging in a respectful and successful partnership as stewards of these lands.

## I. Process Background

### a. Context

Before the formation of the “Benton County Talks Trash” (BCTT) workgroup, the County contracted with Oregon Consensus to conduct a situation assessment with the following Scope:

Benton County and key stakeholders seek assistance identifying and implementing a constructive path forward relating to sustainable materials management and the future of solid waste disposal in the Mid-Willamette Valley, including at the Coffin Butte regional landfill. Following a [December 7, 2021] Benton County Planning Commission denial of a proposed conditional use permit to expand the landfill, key participants recognize that a constructive path forward could benefit from the assistance of a third-party facilitator. Key stakeholders believe that an objective assessment of the situation, conducted by an impartial third party, would be a good first step. (Emphasis added.)

Based on this original Scope, the County asked Oregon Consensus to complete a third-party situational assessment. The Benton County Solid Waste Situational Assessment Report (Assessment Report) can be found [here](#). The BOC accepted the Report during its July 19, 2022 meeting and approved funding for the process at its July 26, 2022 meeting.

Subsequently, on August 23, 2022 the Board approved a Charter for the BCTT workgroup, which can be found [here](#).

### b. History of Coffin Butte

#### Main Themes

- The siting of the Coffin Butte location as a landfill was random and stemmed from historical uses by Camp Adair in the 1940s. Particularly in the 1970s, alternate sites were explored.
- Its designation as a regional landfill was driven by interests beyond Benton County.
- Coffin Butte Landfill ownership morphed unobtrusively from local ownership to becoming part of a national corporate strategy.
- Historically, the interests of landfill owners and operators and those of the neighbors and other Benton County residents have not always coincided.
- Both remaining landfill capacity and lifespan have been historically overestimated.

- Issues surrounding the Coffin Butte Landfill have been subject to strong public involvement. Periodic conflicts were equably resolved with both parties reporting adequate acceptance. Sometimes expansion was allowed and sometimes not.
- Before the late 2020s, SWAC meeting notices and major upcoming Franchise Agreement renewals were regularly posted in the local papers. There was no public notice found for either the 2020 Franchise Agreement nor for the 2021 CUP application.
- Republic Services has interests beyond Benton County and our region that increase pressure for landfill expansion.

### **Timeline Coffin Butte Landfill (CBL)**

Native Kalapuyans had inhabited the Coffin Butte-Soap Creek area for over 14,000 years.

Early 1700s: European trappers associated with the fur trade were active in the area.

Mid 1800s: Pioneers appeared in the area and began settlements.

Early 1900s: Farming in the area took hold and roads were built to transport produce to markets.

Early 1940s Army begins landfilling and incinerating as part of waste disposal for Camp Adair.

1947 CBL was purchased by a local business for deposit and burning of refuse.

1950s: Bunn Brothers acquired CBL, and Corvallis residents were encouraged to use the facility.

1960s: Burning was phased out at CBL. Alternative dump sites were sought because of water pollution issues, but an extension through 1974 was approved.

1970s: Difficulties with water and soil conditions at CBL were noted by DEQ.

1973-4: Despite resident opposition, the regional Chemeketa Region Solid Waste Board approved the use of CBL as a regional disposal center.

1983: Benton County Planning Commission approved an expansion to allow waste intake from three adjoining counties.

1994: Expansion requested by Valley Landfills is unanimously denied by Benton County Board of Commissioners.

1999: Largest fire in the history of Oregon to this point erupts at CBL.

2000: Valley Landfills is acquired by Allied Waste; Landfill franchise agreement renewed to 2020.

2002: Memorandum of Understanding signed to requiring prior approval to emplace waste south of Coffin Butte Rd.

2008: Republic Services merges with Allied Waste and Valley Landfills ownership changes.

2017: Annual intake tonnage roughly doubles from 553,000 tons to 941,000 tons and remains near the 1.1 million ton cap at present.

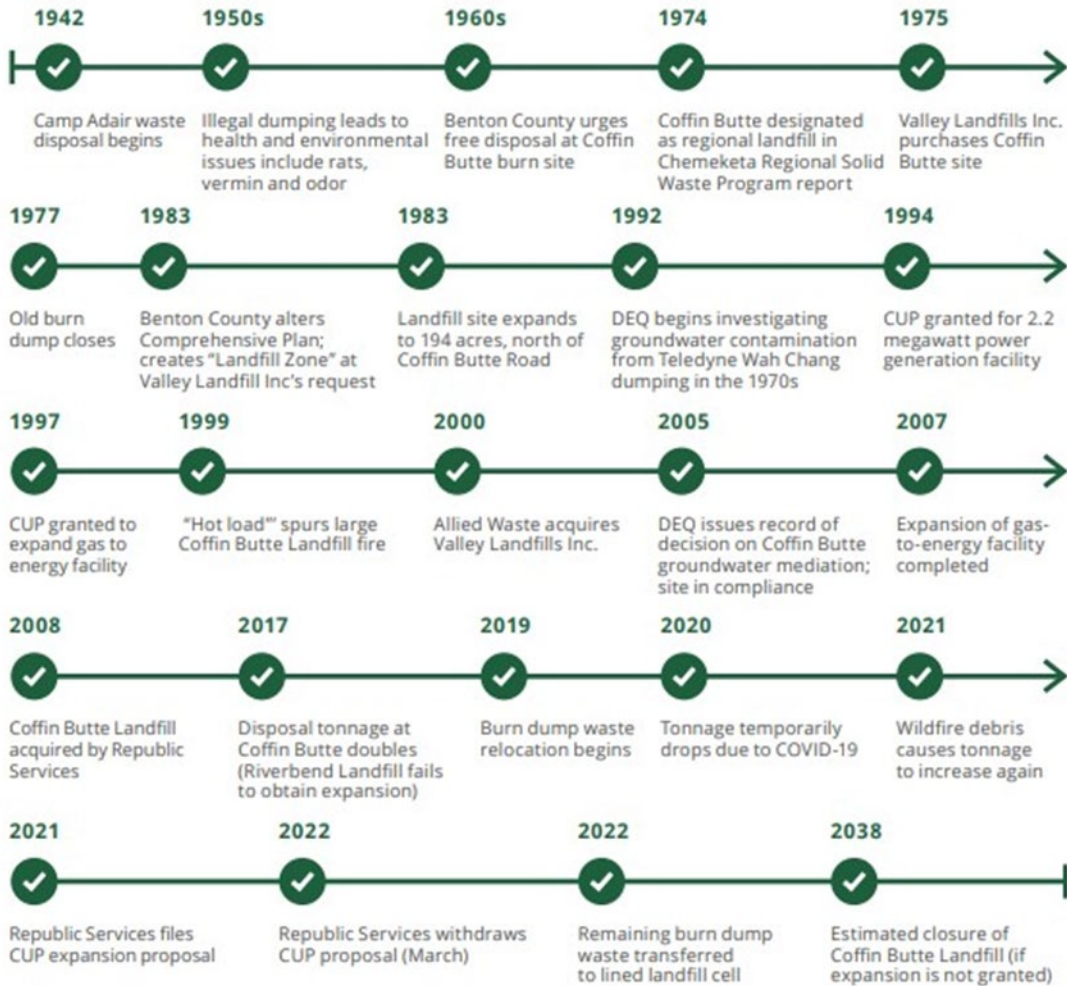
2020: Landfill Franchise Agreement is renewed through 2040 with clause removing annual tonnage cap based on a successful expansion CUP.

2021: Republic Services applies for a CUP allowing expansion south of Coffin Butte Road. After approval by Solid Waste Advisory Board, CUP is unanimously denied by Planning Commission.

2022: Republic Services withdraws CUP appeal and Benton County Talks Trash (BCTT) Workgroup is formed.

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## Coffin Butte: Key dates and ownership changes



### Historical and Geographical Context of the Coffin Butte Landfill

The Coffin Butte landfill can be thought of as a relatively random product of diverse historical factors. The current Benton County operation evolved in response to a longstanding local need for a place to dispose of refuse, the development of the specific Coffin Butte site through a series of incremental decisions, and the search for lower cost refuse sites in Western Oregon and Washington.

As the science behind landfill siting and maintenance progressed, sites with high rainfall and soils that have low compaction have lost favor. Also, as landfills increase in size, location in remote areas is preferable. Therefore, the newer large-landfills, such as Roosevelt and Columbia Ridge disposal sites, are located east of the Cascades where meteorological, geologic and

population density conditions are ideal.<sup>1</sup> Many landfills on the west side of the Cascades have been closed or are in the process of closing. However, the current issue of Coffin Butte is not about closure, but about the manner of expansion.

To explain this history, this essay has three parts: 1) a review of the geographical and historical context of the Coffin Butte location, 2) Benton County's history of landfill decision-making leading up to Coffin Butte becoming the preeminent site for the county and region, and 3) the social context surrounding specific events regarding ownership, operation, and permitting leading to the current facilities and practices found at Coffin Butte in 2023.

## **Section 1: The History and Geography of the Coffin Butte Area**

### **Geography, Geology and Climate of the Coffin Butte Area**

The Coffin Butte landfill site is located about 7 miles north of Corvallis on Highway 99W. The site is at the intersection of Highway 99 and Coffin Butte Road, immediately west of the E.E. Wilson State Wildlife Refuge. Coffin Butte is at the northern end of Soap Creek Valley, but Soap Creek and its valley continue north along the west side of Coffin Butte before entering the Willamette Valley. While the needs and concerns regarding waste disposal and associated issues affect the entire county, the area most impacted by Coffin Butte operations are the neighboring areas to the north and south along Highway 99W, Soap Creek Valley, the E.E. Wilson Wildlife Area, agricultural areas to the east. These areas are particularly affected by the odors, traffic and litter associated with the landfill.

Coffin Butte itself is approximately 738 feet above sea level. The operating landfill is on the southeastern slope of Coffin Butte, north of Coffin Butte Road, but ancillary facilities such as administrative offices, leachate ponds and a power station fueled by methane from the landfill are located south of Coffin Butte Road. The south-southwest side of Coffin Butte has a rock quarry operated by Knife River. The rock quarry area is currently planned to be the next area of expansion for the landfill unless the permits are changed to allow for Coffin Butte Road to be closed and the landfill to expand to the south to fill in the area between Coffin Butte and Tampico Ridge to the south.

The landfill is located in a topographic divide between the two valleys. Surface water drainage coming off the landfill actually flows into Soap Creek in both west and east directions before Soap Creek joins the Luckiamute River and the Willamette mainstem.<sup>2</sup> Groundwater flows both east and west from the area of Coffin Butte and Tampico Ridge, depending on the underlying

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<sup>1</sup> Republic Services, "Roosevelt Landfill Site: FAQs". <https://www.republicservices.com/roosevelt-landfill>

<sup>2</sup> Zybach, Bob. Oregon State University "Using oral histories to document changing forest cover patterns : Soap Creek Valley, Oregon, 1500-1999", Masters Thesis: Master of Arts in Interdisciplinary Studies (M.A.I.S.), Oregon State University, ScholarsArchive@OSU. 2000, pps. 8-11.

<[https://ir.library.oregonstate.edu/concern/graduate\\_thesis\\_or\\_dissertations/3197xr742?](https://ir.library.oregonstate.edu/concern/graduate_thesis_or_dissertations/3197xr742?)

geology.<sup>3</sup> Taylor et al note that there is an unnamed tributary between Coffin Butte and Tampico Ridge and that “associated wetlands drain east-ward toward the E.E. Wilson National Wildlife Refuge.”<sup>4</sup> Rainfall in the area is approximately 42 inches a year, with the majority falling between November and May.<sup>5</sup>

The earthquake hazard of this area is significant, particularly because of the Cascade subduction zone. Yu et al note that there have been over 40 great earthquakes of magnitude of over 8 and in 1700 one of magnitude 9. They calculate that, “The current calculated odds that a Cascadia earthquake will occur in the next 50 years range from 7-15 percent for a great earthquake affecting the entire Pacific Northwest ...”<sup>6</sup> The Oregon Department of Environmental Quality (DEQ) noted that the Coffin Butte landfill was one of three in Western Oregon that were designed to handle less than an 8.5 magnitude earthquake, well below the possible “Big One” predicted for the region.<sup>7</sup>

### The History of the Coffin Butte Area

The archeology and history of the region is of great importance to many people involved in Coffin Butte decision-making. In his oral history of the Soap Creek Valley, Zybach notes how before Western contact, the Pacific Northwest was one of the more densely populated nonagricultural regions of the world. However, with the introduction of smallpox, malaria, measles, influenza, and other diseases from explorers and traders, over 96% of the local Kalapuyan people died within two generations, particularly from malaria in 1831-2.<sup>8</sup>

Tools from the Kalapuyan people have been found throughout the Soap Creek and Coffin Butte area.<sup>9</sup> In 2022, the Oregon State Archeologist, John Pouley, recommended a professional archaeological survey of the proposed expansion area and consultation with all appropriate Native American tribes.<sup>10</sup> One significant cultural practice of the Kalapuyans was the use of annual prescribed fires. Zybach notes this “broadcast burning” served a variety of purposes, including control of unwanted plants (such as Douglas Fir), the enhancement of favored plants

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<sup>3</sup> Oregon Department of Environmental Quality, “Coffin Butte: Record of Decision”, October 2005, p. 4. [https://www.deq.state.or.us/Webdocs/Controls/Output/PdfHandler.ashx?p=a9aeec5b-8ac7-4658-b0e5-d475ca0c6ebd.pdf&s=CoffinButteROD\(10-05\).pdf](https://www.deq.state.or.us/Webdocs/Controls/Output/PdfHandler.ashx?p=a9aeec5b-8ac7-4658-b0e5-d475ca0c6ebd.pdf&s=CoffinButteROD(10-05).pdf)

<sup>4</sup> Taylor, Steve, Bryan Dutton, and Pete Poston. “Luckiamute River Watershed, Upper Willamette Basin: An Integrated Environmental Study for K-12 Educators”.

<sup>5</sup> Oregon Department of Environmental Quality, “Coffin Butte: Record of Decision”, October 2005, p. 3. [https://www.deq.state.or.us/Webdocs/Controls/Output/PdfHandler.ashx?p=a9aeec5b-8ac7-4658-b0e5-d475ca0c6ebd.pdf&s=CoffinButteROD\(10-05\).pdf](https://www.deq.state.or.us/Webdocs/Controls/Output/PdfHandler.ashx?p=a9aeec5b-8ac7-4658-b0e5-d475ca0c6ebd.pdf&s=CoffinButteROD(10-05).pdf)

<sup>6</sup> Yu, Q.-S, J Wilson, and Y, Yang. “Overview of the Oregon Resilience Plan for Next Cascadia Earthquake and Tsunami”. *Proceedings of the 10<sup>th</sup> National Conference in Earthquake Engineering*, Earthquake Engineering Research Institute, Anchorage, AK, 2014.

<sup>7</sup> Scott Learn, “Bigger Yamhill Landfill OK’ed”. *The Oregonian* (May 31, 2013).

<sup>8</sup> Zybach, 2000, p. 72-73.

<sup>9</sup> *Ibid.*, P. 120.

<sup>10</sup> 2022 Conditional Use Permit Staff Report. Benton County Development Department. **File No.** LU-21-047

(such as camas), easier hunting, and other benefits such as gathering grasshoppers.<sup>11</sup> The Soap Creek Valley was settled early by white pioneers, probably aided by the native American clearing of land by burning.

The area had a colorful history in the 1800s and 1900s. For example, the town of Tampico, located to the south of Coffin Butte in Soap Creek Valley on the Applegate Trail, was briefly a thriving and boisterous place until purchased by the wealthy pioneer Greenberry Smith. A local driving guide notes that, "On January 23, 1860, the pious Smith purchased Tampico and burned the entire town to the ground including stores and homes as well as the saloons, brothels, and gambling dens."<sup>12</sup>

Letitia Carson is one of the most notable pioneers to settle in Soap Creek Valley. A freed African American slave, Carson came to Oregon with David Carson in 1845. When David died in 1852 her neighbor Greenberry Smith (the same man who burned down Tampico) took advantage of her unclear legal status to sell off her property. Letitia soon moved to Douglas County, but successfully sued Greenberry for \$300 in lost wages and \$1400 for the loss of her cattle and legal costs.<sup>13</sup>

The biggest local change after white settlement occurred in 1941, when the U.S. Army chose to build a huge training base on the site of the town of Wells which was at the center of the present day E.E. Wilson Wildlife Area. Within one month, the town was vacated and houses and barns bulldozed to be replaced by barracks. The camp itself covered an area two miles wide and six miles long with 1800 buildings. The camp was the second largest city in Oregon at the time and housed roughly 40,000 troops. The area that eventually became E. E. Wilson was referred to as "Swamp Adair" due to the constant rain, mud and standing water. The Army built sewer and drainage systems which emptied wetlands and channelized streams.<sup>14</sup>

Following the war, the residential population slowly increased until the 1970s, at which time growth accelerated rapidly. By the 2020s, hundreds of people lived in the regions to the north and south of Coffin Butte and in Soap Creek Valley. Although there is extensive farming along the transit routes leading to Coffin Butte, most area adults commute to work; most homes are on lots less than 10 acres in size; and most families are not directly associated with large-scale farming or forestry practices. But the values generated by 'living on the land' are still strongly felt. Coffin Butte Road serves as the primary route for Soap Creek residents commuting north to Monmouth-Independence and Salem for work.

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<sup>11</sup> Zybach, 2000, pp. 118-119.

<sup>12</sup> "Northwest Benton County Route". Benton County, Oregon. <[https://www.co.benton.or.us/sites/default/files/fileattachments/historic\\_resources\\_commission/page/6876/driving\\_tour\\_part\\_ii.pdf](https://www.co.benton.or.us/sites/default/files/fileattachments/historic_resources_commission/page/6876/driving_tour_part_ii.pdf)>

<sup>13</sup> Leticia Carson Legacy Project. Oregon State University. <<https://letitiacarson.oregonstate.edu/about-letitia-carson/>>

<sup>14</sup> Oregon Department of Fish and Wildlife. "Visitor Guide: E.E. Wilson Wildlife Area History". <[https://www.dfw.state.or.us/resources/visitors/ee\\_wilson\\_wildlife\\_area/history.asp](https://www.dfw.state.or.us/resources/visitors/ee_wilson_wildlife_area/history.asp)>



Today, the unusually cohesive Soap Creek community works together to restore and maintain the Soap Creek Schoolhouse, a symbol of the valley. Built in 1935 and in use until 1946, the structure was restored by the community and remains a meeting place for local activities and an annual fund-raising event.<sup>15</sup>

### **The Coffin Butte Area Today: Wildlife Habitat and Protection**

Besides the vibrant community in Soap Creek Valley and the historical significance of Camp Adair, this area is noteworthy today as the home to the EE Wilson Wildlife Area, located just across Highway 99W from Coffin Butte Landfill.

#### E. E. Wilson Wildlife Area

The E.E. Wilson Wildlife Area came into existence in 1950 when the U.S. Government gave quitclaim title to the property to the Oregon Department of Fish and Wildlife. The site was originally built to serve as a US Army cantonment in 1940 and functioned as Camp Adair during the WWII era. The wildlife area covers approximately 1,788 acres of oak woodland, upland shrub, and grassland habitats. The refuge management plan's primary goal is to manage the area consistent with conservation and enhancement priorities for native wildlife and production of game species.<sup>16</sup>

The Coffin Butte Landfill and the EE Wilson Wildlife Area are located at the midpoint of a triangle of National Wildlife Refuges. This system of National Wildlife Refuges (refuges or NWRs), managed by the U.S. Fish and Wildlife Service (Service), was established in the mid-Willamette Valley during the 1960s when the Migratory Bird Commission approved establishment of three refuges: Ankeny, Baskett Slough, and William L. Finley.

The area containing Coffin Butte Landfill is part of a wildlife corridor and refuge system connecting the Basket Slough, Ankeny, Luckiamute and E. E. Wilson refuges to the William L. Finley refuge south of Corvallis on through to the Fern Ridge Wildlife area near Eugene. Soap Creek Valley, E.E. Wilson Refuge and entire area surrounding the landfill has been identified by Benton County as a high priority area for conservation actions to benefit key local species.<sup>17</sup> Tampico Ridge, the next ridge immediately south of Coffin Butte, hosts a complex mix of

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<sup>15</sup> Historic Soap Creek Schoolhouse Foundation, "Soap Creek Schoolhouse", 2021.  
<<https://soapcreekschoolhouse.org/index.html>>

<sup>16</sup> Oregon Department of Fish and Wildlife, EE Wilson Wildlife Management Plan (Updated January 2019)  
[https://www.dfw.state.or.us/wildlife/management\\_plans/wildlife\\_areas/docs/ee\\_wilson.pdf](https://www.dfw.state.or.us/wildlife/management_plans/wildlife_areas/docs/ee_wilson.pdf)


<sup>17</sup> For one example, see: "Benton County Prairie Species Habitat Conservation Program", Benton County Natural Areas and Parks Department, 2010.  
[https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/20770/BentonCo\\_001-13\\_ADOPTION.PDF?sequence=1&isAllowed=y](https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/20770/BentonCo_001-13_ADOPTION.PDF?sequence=1&isAllowed=y)

habitats, particularly Oak Savannah, and is the site of an ongoing research project looking at plant succession being conducted by Western Oregon University faculty and students.<sup>18</sup>

### **Benton County Confronts Its Waste Issues: Up to 1983**<sup>19</sup>

Waste disposal was simple in the early days of Benton County. What little waste there was could simply be deposited into rivers, ravines, or anywhere convenient. Dumping along roadsides was particularly favored. Over time, however, unsystematic dumping created health and sanitation problems, and eyesores. For example, on July 27, 1906, The *Corvallis Gazette* advised: "Another thing in connection to cleaning up, don't dump your trash, dead cats, dogs, and other rubbish onto the vacant lot just over the fence". By May 15, 1911, Corvallis residents could use a "garbage ground" available just a ferry ride across the river and in June 1921, the *Daily Gazette-Times* advised residents to burn their refuse rather than dispose of it in nearby streams. By May 7, 1937, the *Gazette-Times* was reporting on the city dump's location by Kiger Island and reminding citizens they would be fined if they continue to simply dump their trash along roads.

By April 5, 1950, Benton County had established a free dump at the Coffin Butte Site. By April 8, 1954, Robert and Daniel Bunn owned and operated Corvallis Disposal and the Coffin Butte dumpsite, and the *Gazette Times* boasted of the clean efficient service. But roadside dumping remained a problem for decades even after commercial trash pickup was extended to nearly all parts of the county by 1964, roadside dumping remained a challenge.<sup>20</sup>

The late 1960s brought changing attitudes towards traditional practices of burning and dumping. By 1967 burning was being phased out at Coffin Butte as it evolved to be a landfill operation involving covering and sealing refuse. Accordingly, the volume of waste became an increasing problem. The early 1970s brought pressure to re-locate the dump and the exploration of several alternate approaches to disposal. As early as October 9, 1969, Corvallis Disposal began looking for an alternate landfill site and had begun negotiating with Oregon State University to use lands east of Corvallis for that purpose. In the March 19, 1971 *Gazette-Times*, County Sanitarian-Roger Hayden speculated that one day soon Benton County would be barging its wastes  down river to a regional site where proper sorting and recycling could take place, but without a ready alternative, in November of 1971, the County Commissioners approved an extension of Corvallis Disposal to use the Coffin Butte area as a landfill until December 31, 1974. Still complications relating to the landfill were ongoing and in 1972, Robert Bunn, still owning and operating the Corvallis Disposal, noted that in the past he had to attend only one meeting per year on sanitation issues, but now he had sometimes 11 in a week. In

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<sup>18</sup> Dickey, Eric. "Tampico Ridge LTER Provides Research Opportunities for WOU Students." Western Oregon University. May 14, 2021. <https://wou.edu/research/2021/05/14/tampico-ridge-lter-provides-research-opportunities-for-wou-students/>. A video of this project can be found at <https://www2.wou.edu/nora/woutv.video.viewer?videoid=1754>

<sup>19</sup> Unless otherwise noted, all information here is from the *Corvallis Gazette-Times*.

<sup>20</sup> *Corvallis Gazette-Times*, June 24, 1966.

preparation for change, Corvallis Disposal negotiated a 99-year lease option on the “Granger” site on the Independence Road near Highway 20 where they hoped to develop a landfill despite some concerns about the proximity of the Willamette River.<sup>21</sup>

The push for closing Coffin Butte was reinforced by the state Department of Environmental Quality (DEQ) which encouraged the development of proper regional landfill sites. Benton County Sanitarian Roger Heyden said at the time that eventually local solid waste would have to be taken to the Eastern side of the state since Western Oregon had location, water, and soil condition difficulties.<sup>22</sup>

Despite the opposition of local residents, however, county and regional officials acting through the Chemeketa Region Solid Waste Board meeting in McMinnville, Yamhill County, approved the use of Coffin Butte as a regional disposal site because of its lower cost, present use as a disposal site, and its potential for development as a recycling center. (November 21, 1973). The County Commission hearings on whether Coffin Butte should become a regional disposal center featured significant public opposition, especially by the North Benton Citizens Advisory Group. Opposition noted concerns over water contamination issues and property values, but the Chemeketa group, which represented five counties and other officials strongly supported the Benton county site over proposed alternatives. (April 4, 1974).

Despite a meeting of over 3.5 hours in Adair Village, where 75 citizens gave testimony and the submission of a petition with over 200 signatures, the Benton County Planning Commission approved the Conditional Use Permit (CUP) for the Coffin Butte to become the regional disposal site. People in the meeting noted they had purchased their lands with the understanding the landfill would be closed and also noted that it seemed that Benton County bore the brunt of the region’s refuse problems. (March 6, 1974)

Pressures for expansion renewed by 1981, notably with the closure of the Roche Road landfill in Linn County. The next level of expansion for Coffin Butte came in 1983 when the Benton County Planning Commission approved another expansion that they estimated would “add half a century to the dump’s useful life.” (April 27, 1983) Although this expansion provoked less protest than in the early 1970s, the North Benton CAC specified that there would be no disposal of municipal solid waste on the 59.23 A(cre) property south of Coffin Butte Road, a similar stipulation as requested to the 2021 CUP application.<sup>23</sup>

During the 1980s, the landfill operator purchased several properties surrounding the landfill, some belonging to residents whose water supplies were compromised as a result of landfill operations. One household well in sediments west of the landfill, on the former Helms home

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<sup>21</sup> *Corvallis Gazette-Times*, August 26, 1972.

<sup>22</sup> *Corvallis Gazette-Times*. May 12, 1972.

<sup>23</sup> North Benton County Citizen’s Advisory Council submission, Benton County File PC-83-07-c(5)

site, received sufficient contamination from the landfill site that the well had to be decommissioned under DEQ supervision.<sup>24</sup>

### **Coffin Butte Landfill History: Operating as a Landfill, 1983-2010<sup>25</sup>**

In the early 1980s, plans for Coffin Butte began to evolve, driven by increasing demand to expand the volume embedded at the site and changes in ownership. The 1983 Benton County decision to allow Linn County waste operators to use Coffin Butte generated significant attention and a new 'landfill site' zone was created for the 266-acre CBL site and the site development plan allowed Valley Landfills to expand the dumping site by 10 acres immediately. This expansion was estimated to, "add half a century to the dump's useful life."<sup>26</sup> There was also a specification that there would be no disposal of municipal solid waste on the southside of Coffin Butte Road, a similar stipulation that citizens requested in the 2021 CUP application process.<sup>27</sup>

Notwithstanding ongoing, and continuing concerns regarding the problems of waste along Highway 99W and other roads leading to Coffin Butte, in the mid-1980s the landfill operated with relatively little controversy. The vision that the existing footprint would be adequate for decades to come was reinforced by Valley Landfills purchase of a 'Horizontal Fixed Hammer Hog' which will 'pig out' on wood, 'eating' all sorts of wood debris and scrap lumber and extend the landfill life for "another 60 or 70 years."<sup>28</sup>

In 1994, Coffin Butte seemed to be operating very well. A CT article from July 21, 1994 noted that Benton County officials increased the franchise fee for Coffin Butte Landfill from \$500 annually to approximately \$86,000 or 1% of gross revenues. Environmentalists and others were pleased to see progress on the \$2.4 million power plant that would generate electricity from the landfill's methane.<sup>29</sup> The Coffin Butte Landfill Annual Review of Operations for 1994 actually noted a decline in the amount being dumped at the site that was expected to continue, having a tonnage of 258,472 in 1994, down from a peak of 317,628 in 1992, reflecting the demolition of the James River Paper Plant in Linn County.<sup>30</sup>

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<sup>24</sup> Wilson, Bob and Gordon Brown, "1993 Coffin Butte Annual Report", July 19, 1994. P. 4  
[https://www.co.benton.or.us/sites/default/files/fileattachments/community\\_development/page/8139/1993\\_coffin\\_butte\\_landfill\\_annual\\_report.pdf](https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8139/1993_coffin_butte_landfill_annual_report.pdf)

<sup>25</sup> References in this section are from the *Corvallis Gazette Times* or *Albany Democrat Herald*, which generally share their reporting on these issues.

<sup>26</sup> *Corvallis Gazette-Times*. April 27, 1983.

<sup>27</sup> *Corvallis Gazette Times*, April 27, 1983. This is also found in: Affirmation of the "IV Workgroup Recommendations" from draft\_report\_iv\_a\_common\_understandings\_1\_a\_solid\_waste\_history, 2022

<sup>28</sup> *Corvallis Gazette-Times*. August 26, 1990.

<sup>29</sup> *Corvallis Gazette-Times*. September 1, 1994.

<sup>30</sup> Wilson, Bob and Gordon Brown, Benton County Environmental Health Division. *Coffin Butte Landfill Annual Review 1994 Operations*. August 22, 1995. P. 4

But the same year, Valley Landfill again requested to expand its Coffin Butte operations, seeking to rezone 26 rural residential acres to landfill use from its current use in hay and other fields irrigated with leachate. As noted in the *Gazette Times* on November 3, 1994, this request encountered stiff opposition by landfill neighbors and other county residents concerned about smell, noise, groundwater contamination and how the expansion would harm the natural beauty of the area. About 50 people attended a Board of Commissioners' meeting and the additional submitted comments were numerous.

The active citizen's perspectives in 1994 are similar to those generated in the 2020s. Community members argued that approval of the expansion by the County Commission after the extensive public testimony would show a lack of concern about what the community thinks. Specifically concerns regarded the potential impact on springs and water supplies of local residents, that the change would be an exception to our state land-use goals, and how it could set precedent for even more massive change in dumping wastes in the future. Citizens also testified that: 1) eventually the county would have to close Coffin Butte Road, a critical emergency route; 2) they had existing concerns about traffic, noise, smells, and roadside litter; and 3) that potential earthquake damage to liners could cause contaminants to seep into the underground water supply.<sup>31</sup> After delaying the vote at an earlier date, in a December 14, 1994 hearing, the Board of Commissioners denied the expansion unanimously. One Commissioner declared that, "the Willamette Valley is not a good place for landfills".<sup>32</sup>

Expansion of Coffin Butte landfill was on the backburner through the rest of the 1990s. Public worries about spillages and other issues regarding leachate processing seemed to be resolved through cooperation between the landfill management and neighbors.<sup>33</sup> Meanwhile, the county considered its relationship with the Landfill to be 'absolutely wonderful'.<sup>34</sup>

By 1997, the Landfill property had grown to 790 acres and was serving seven counties. Meeting tombstones regularly reported in the local paper by the county Solid Waste Advisory Committee (SWAC) show that the public was invited to hearings that were held to approve the extension of services to each of these counties

The second half of 1999 was eventful for Coffin Butte. On August 24, the 1999 landfill fire, which was reported to have been the biggest fire in Oregon history up to that date, took hold at about 6:30 PM.<sup>35</sup> Probably more notable in the long run, on December 14, 1999, after 40 years of operating Corvallis Disposal and Coffin Butte Landfill, the Bunn Family announced they had sold their operation to Allied Waste Industries, the second largest solid waste services company

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<sup>31</sup> *Corvallis Gazette-Times*. November 3, 1994, and November 14, 1994.

<sup>32</sup> *Corvallis Gazette-Times*. December 15, 1994.

<sup>33</sup> *Corvallis Gazette-Times*. April 27, 1996, also December 17, 1997.

<sup>34</sup> *Corvallis Gazette-Times*. August 12, 1996.

<sup>35</sup> *Corvallis Gazette-Times*. August 25, 1998.

in the world. Residents were assured “We’re really excited about these guys, they run pretty decentralized just like we do...you won’t see any change.”<sup>36</sup>

Operations at Coffin Butte operated with relatively little change in the early 2000s. Throughout this period, the Solid Waste Advisory Council was very active, frequently posting notices in the local paper. In November of 2002, the Benton County Board of Commissioners signed a Memorandum of Understanding with Valley Landfills stating that Valley Landfills, Inc (VLI), “will not conduct, without the prior approval of Benton County and the State of Oregon, the placement of solid waste on the approximate 56 acres, within the landfill zone which it owns south of Coffin Butte Road.”<sup>37</sup>

In 2008, Republic Services merged with Allied Waste Industries, and acquired control over the Coffin Butte facility. Republic Services, headquartered in Phoenix has managed the landfill since.

### **Coffin Butte Landfill: The Contemporary Context**

Rate increases occurred throughout the 2000s and 2010s with relatively little public concern. In 2018, that changed when Republic Services announced that the tipping rate would rise from \$28.75 a load to \$85.75. Republic Services said the rate increase sought to discourage the general public from bringing their trash to the landfill as this interfered with high-ticket commercial haulers, which outraged rural residents who had few transfer station facilities to dispose of waste.<sup>38</sup> After a testy well-attended Board of Commissioners meeting, Republic Services dropped the rate to \$40, still a 39% price hike.<sup>39</sup>

Benton County does not have authority to regulate the rates Republic charges, but there was leverage in 2018 since the county was in the process of negotiating a franchise fee for the company to operate in the county which was expiring in 2020.

The current pressure for expansion is inexorably tied to the volume emplaced in Coffin Butte. The capacity issue is discussed in great detail in another section of this report, but there is a historical component to it. This volume deposited varied somewhat from 1993 to 2016, but almost doubled in 2017 and remained at that higher level to the present. Using information from the Coffin Butte Annual PRC reports, the volume emplaced between 1993-1999 averaged about 349,000 tons, in 2001-2009 the average was 536,000 tons and between 2010-2016 the

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<sup>36</sup> *Corvallis Gazette Times*. December 15, 1999.

<sup>37</sup> “Memorandum of Understanding Relating to Land Use Issues”. Benton County and Valley Landfills, Inc (2002) [https://www.co.benton.or.us/sites/default/files/fileattachments/community\\_development/page/8136/landfill\\_mou\\_2002.pdf](https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/landfill_mou_2002.pdf)

<sup>38</sup> *Corvallis Gazette Times*. December 7, 2018.

<sup>39</sup> *Corvallis Gazette Times*. December 19, 2018.

volume averaged 497,000 tons. Between 2017-2021 the average doubled to 979,000 tons.<sup>40</sup> Some of the increase in 2017 might be explained by an unusual escalation in volume coming from Washington County that leapt from 49,000 tons in 2016 to 254,000 tons in 2017, an increase of 418%. But Washington County's share of the total tonnage received accounts for less than 10%. In terms of tonnage increase from 2000 to 2020, Marion County's contribution rose from 11% to 21%. Marion is the only county whose relative contribution increased more than one percentage point over that period when all but two of the other contributor counties' shares have fallen.<sup>41</sup>

The current Benton County Talks Trash(BCTT) process is a reaction to specific decisions made by Benton County officials and Republic Services regarding three situations. First, the public process and outcome of December 2020 franchise agreement between Benton County and Republic Services regarding the operation of Coffin Butte created the legal context and colors the current political context. Second, the BCTT process is heavily focused on the issues raised when Republic Services applied for a Conditional Use Permit to expand landfill operations south of Coffin Butte Road in 2021, an application approved by the SWAC, but unanimously rejected by the county Planning Committee. The third action leading to the creation of the BCTT process was the decision of Republic Services to not appeal the Planning Commission decision and instead request another CUP in the future and the County Commission's decision to prepare the county for the request.

In the meantime, Benton County also negotiated a separate, not directly related, franchise agreement for trash hauling with Republic Services. County officials viewed this process very positively. That franchise fee agreement was settled on June 7, 2022 with a ten-year agreement, with the possibility of re-negotiation July 1, 2024. As County Commissioner Xan Augerot observed, "... while county officials have a long-standing working relationship of trust with Republic's local staff, many members of the community haven't been party to that."<sup>42</sup> One explanation for the disconnect between county officials and their constituents is the apparent breakdown in communication between citizens and officials regarding landfill issues, as became very apparent in the process creating a new franchise agreement over Coffin Butte itself signed in mid-December 2020, which assumed an expansion of the landfill.

Unlike the prior franchise negotiations that led to the signing of the 2000 franchise, a review of the local newspapers through 2020 when the landfill franchise agreement was being negotiated did not reveal any announcements about the process nor did the public seem to be made aware of this new franchise agreement in any way. At the Board of Commissioners meeting to vote on the franchise agreement, the county attorney attested that there were no public comments.<sup>43</sup>

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<sup>40</sup> Benton County Trash Talks, "Data from Coffin Butte Landfill Annual Reports – 2014-2021", [https://www.co.benton.or.us/sites/default/files/fileattachments/community\\_development/page/8317/data\\_from\\_coffin\\_butte\\_landfill\\_annual\\_reports.pdf](https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8317/data_from_coffin_butte_landfill_annual_reports.pdf)

<sup>41</sup> Data from Coffin Butte Landfill PRC Annual Reports 1999-2012, hardcopies stored at Benton County offices, The 2013 Report is missing in those files.

<sup>42</sup> *Corvallis Gazette Times*. June 9, 2022.

<sup>43</sup> Benton County Commissioner Meeting, December 15, 2020. From recording archive.

Members of the SWAC acknowledged that they were told that this was not a matter for their consideration. This is surprising in light of the fact that a September 2020 solicitation notice for Advisory Board membership explicitly states ‘review franchise agreements’ as a primary responsibility.<sup>44</sup>

The 2020 franchise agreement over landfill operations enhanced the financial incentives of the county for increased tipping. Under the 2020 agreement, Benton County receives compensation in two forms. The “franchise fee” given for allowing the landfill to operate starts at \$2 million in 2021 and rises to \$3.5 million by 2024. The agreement was designed to financially pressure the county to favor increased volume of disposal and the expansion of the landfill by the addition of a “host fee” compensation model. The “host fee” starts at \$2.87 per ton of waste in 2021 to \$3.99 per ton in 2024. Before the county receives the “host fee”, however, the franchise fee is first subtracted from the per ton charge. If too little is disposed of, the county may receive no host fee and the county is rewarded if more waste goes to Coffin Butte. As the franchise fee goes up, the volume required to receive the host fee also goes up. Furthermore, the fees go up slightly if the landfill expansion is approved by 2023, and will go down slightly if the landfill expansion is not approved by 2025.<sup>45</sup> Before the vote to sign the franchise agreement, Benton County Counsel Vance Croney stated that Republic Services maintained that its ability to pay higher fees was dependent on reducing cost or increasing capacity.<sup>46</sup> In contrast to the image of Republic’s Services’ finances as represented by Croney, in January 2021 the company reported \$2.5 Billion of Cash Flow from Operations and Over \$1.2 Billion of Adjusted Free Cash Flow and returned \$621 million in cash to shareholders in 2020.<sup>47</sup>

In May, 2021, Republic Services submitted an application to Benton County for a Conditional Use Permit to expand the landfill. At the July 28, 2021 meeting, the Benton County Solid Waste Advisory Committee ‘strongly supported’ the CUP according to a memo submitted to the Planning Commission the next day. A search of the local papers did not reveal a public notice regarding the 2020 Franchise Agreement process nor the Republic Services CUP request that followed, but by August, members of the local community formed a coordinated effort to educate themselves and fellow Benton County residents regarding what could be a doubling of the size of the Coffin Butte Landfill. Letters to the editor, critical of the planned expansion began to appear in the local papers and public meetings were well-attended by folks objecting to the expansion.<sup>48</sup> Reporting at the time also noted Croney’s financial arguments in favor of the

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<sup>44</sup> *Corvallis Gazette-Times*. September 8, 2020.

<sup>45</sup> Benton County/Valley Landfills, Inc. Franchise Agreement. PP. 5-6.

[https://www.co.benton.or.us/sites/default/files/fileattachments/community\\_development/page/8136/valley\\_landfills\\_landfill\\_franchise\\_agrmt\\_2020.pdf](https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/valley_landfills_landfill_franchise_agrmt_2020.pdf)>

<sup>46</sup> Benton County Board of Commissioners Meeting. December 15, 2000. Recording.

<sup>47</sup> “Republic Services, Inc. Reports Fourth Quarter and Full-Year Results; Provides 2021 Full-Year Guidance”. Republic Service News Release. February 22, 2021. <https://investor.republicservices.com/node/23311/pdf>

<sup>48</sup> There were at least three letters alone on October 20, 2021. The letters emphasized that the waste was overwhelmingly from outside of Benton County, transportation implications of an enlarged facility, and impacts on



expansion, particularly the revenue implications and possible future costs of disposal for county residents of denying the expansion request.<sup>49</sup> These arguments engendered a *Gazette Times* editorial endorsing the expansion.<sup>50</sup>

Public notice of the Planning Commission Hearing for the Republic Services CUP application LU-21-047 (this is the planning commission's label for this specific process) regarding the Coffin Butte Landfill appeared in the local papers on October 14. Public outcry had been building over the past few months as residents began to understand the ramifications of the 2020 Franchise Agreement and the corresponding CUP which proposed extending the landfill area south of Coffin Butte Road, which had long been viewed locally as a 'case closed' impossibility given the 1983 and 1994 agreements. During the period leading up to first LU-21-047 Planning Commission meeting, neighbors of the landfill and residents throughout the county wrote numerous letters to the editor in the local papers, convened meetings and gathered data regarding the proposed expansion.

The first LU-21-047 Planning Commission meeting generated so much ire that over a hundred residents signed up to testify at the 4.5 hour hearing and a second meeting had to be scheduled to listen to public comment. The more than 30 citizens speaking at the November 2, 2021 and the November 16, 2021 Planning Commission hearings, all opposed the expansion.<sup>51</sup> Objections raised in public comments in this process are partially why the County Commission created the Benton County Talks Trash process.

On December 7, 2021, the Planning Commission unanimously denied the LU-21-047 CUP.

Republic Services filed an appeal to the County Commission, but on March 15, 2022 the company informed the Board of Commissioners that they would pull the appeal. Meanwhile, over the period from October of 2021 to January of 2022 the membership of the Solid Waste Advisory Council changed radically as four members resigned without comment and new members were appointed.

The Benton County Board of Commissioners, seeking to find common ground between the very strong community resistance to the landfill and the operators, Republic Services, hired a consultant from Oregon Consensus and an Assessment Report was filed on July 12, 2022. This led to the Solid Waste Process Workgroup "Benton County Talks Trash" being formed. The first Solid Waste Process Workgroup meeting convened on September 8, 2022. According to its charter, Benton County Solid Waste Process Workgroup, also entitled BCTT (Benton County Talks Trash), is charged by the Benton County Commissioners to serve as a

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a great blue heron rookery. Another news article from that day discussed the hearing that Republic Services held to explain their plan.

<sup>49</sup> *Corvallis Gazette-Times*. October 31, 2021, and November 12, 2021.

<sup>50</sup> *Corvallis Gazette-Times*. December 2, 2021.

<sup>51</sup> *Corvallis Gazette-Times*. December 8, 2021.

“bridge” process between past events and next steps. The process is designed to reset the current dynamics with the development of “common understandings” and recommended protocols for the future substantive consideration of the solid waste issues.

The workgroup charges are reflected in the subcommittees that have been formed to drill down into clarifying aspects of solid waste management in Benton County. The workgroup must arrive at common understandings regarding the landfill and the pending Republic Services CUP, the legalities surrounding the relationship between the Republic Services and Benton County, preparing for the creation of a Sustainable Materials Management Plan, and formulating effective communication channels between Benton County and its residents.

### Membership

There are two categories: a) Polling Member; and b) Ex Officio Member. Polling Members have full rights of participation and “polling.” Ex Officio Members are “non-polling” information sources. Each could bring technical resources to the meetings. The technical resources could be used to participate in the discussions with permission of the Facilitator after a WORKGROUP discussion on the advantages and disadvantages surrounding their participation.

Each member was allowed to assign one WORKGROUP alternate for the process. That person was required to have full authority to represent their Organization/Interest Group. If the alternate was attending, the primary member was required to provide written notice to Facilitator at least 72 hours in advance of a meeting’s start time.

#### Original Membership - Provided in the Charter

Organization/Interest Group	WORKGROUP Member	Polling	Ex Officio	Charge
SWAC/DSAC	Joel Geier	X		All
SWAC/DSAC	Marge Popp	X		All
Planning Commission	Nancy Whitcombe	X		All
Planning Commission	Elizabeth Irish	X		All
Republic: National	Russ Knocke	X		All but C
Republic: Local	Shawn Edmonds	X		All but C
Public	Brandon Bates	X		All
Public	John Deuel	X		All
Public	Kathryn Duvall	X		All
Public	Christopher McMorran	X		All

Public	Ryan McAlister	X		All
Public	Mary Parmigiani	X		All
Public	Ed Pitera	X		All
Public	Louisa Shelby	X		All
DEQ	Brian Fuller		X	All but D
Neighboring Jurisdiction	Marion County: Administrator Designee		X	Only C
Neighboring Jurisdiction	Linn County: Administrator Designee		X	Only C
Benton County Staff	Daniel Redick		X	All
Benton County Staff	Scott Kruger		X	All

Membership at the End of the Process

<b>Organization/Interest Group</b>	<b>WORKGROUP Member</b>	<b>Polling</b>	<b>Ex Officio</b>	<b>Charge</b>
SWAC/DSAC	Chuck Gilbert	X		All
SWAC/DSAC	Marge Popp	X		All
Planning Commission	Elizabeth Irish	X		All
Planning Commission		X		All
Republic: National	Russ Knocke ALT: Ginger Rough	X		All but C
Republic: Local	Shawn Edmonds ALT: Julie Jackson	X		All but C
Public	John Deuel	X		All
Public	Kathryn Duvall	X		All
Public	Christopher McMorran	X		All
Public	Ryan McAlister	X		All
Public	Mary Parmigiani	X		All
Public	Ed Pitera	X		All
Public	Louisa Shelby	X		All
Public	Catherine Biscoe	X		All
DEQ	Audrey O'Brien		X	All but D
Marion County	Brian May		X	Only C

	ALT: Andrew Jonson			
Linn County	Shane Sanderson		X	Only C
Benton County Staff	Daniel Redick		X	All
Benton County Staff	Sean McGuire ALT: Jen Brown		X	All

**c. Charter**

**1. Scope & Charge**

This was a “bridge” process between past events and next steps. The process was designed to reset the current dynamics with the development of “common understandings” and recommended protocols for the future substantive consideration of the solid waste issues.

This WORKGROUP is not a decision-making body. It is a recommendation-making group with the following Scope. (See, [Assessment Report](#) for details.) The recommendations are not binding on decision makers in any subsequent land use review but will help inform all parties going into a review process.

The WORKGROUP, with concurrence of the County staff, prioritized the following topics.

- A) Develop Common Understandings to form the basis of the work.
- B) Clarifying existing criteria and information requirements for the land use review process for any proposed landfill expansion.
- C) Scope the necessary tasks to start a Long-Term Sustainable Materials Management Plan process.
- D) Provide input on additional topics raised in the [Assessment Report](#):
- E) Consider creating a public-facing document and community education campaign on these topics.

**2. Process for Workgroup Recommendations**

The Facilitator assisted the WORKGROUP and its members in identifying objectives, addressing the diversity of perspectives, and developing substantive, practical recommendations. The WORKGROUP strove for and used a “consensus” recommendation-making approach to determine their level of agreement on proposals. This allowed members to distinguish underlying values, interests, and concerns with a goal of developing widely accepted solutions.

Consensus does not mean 100% agreement on each part of every issue, but rather support for a decision, “taken as a whole.” This means that a member may poll to support a consensus proposal even though they would prefer to have it modified in some manner to give it their full support. Consensus is a process of “give and take,” of finding common ground and developing creative solutions in a way that everyone can support. Consensus is reached if all members support an idea or can say, “I can live with that.”

When developing recommendations, the WORKGROUP addressed each issue individually, and in various combinations. It decided it wanted to make packaged or individual recommendations at the end of the process.

“1-2-3” Consensus Polling: The Facilitator assisted the WORKGROUP in articulating points of agreement, as well as articulating concerns that require further exploration. It used a “Consensus Polling” procedure for assessing the group’s opinion and adjusting proposals. In “Consensus Polling,” the Facilitator articulates the proposal. Each voting member then offers “one,” “two,” or “three,” reflecting the following:

- “One” indicates full support for the proposal as stated.
- “Two” indicates that the participant agrees with the proposal as stated but would prefer to have it modified in some manner to give it full support. Nevertheless, the member will support the consensus even if his/her suggested modifications are not supported by the rest of the group because the proposal is worthy of general support, as written.
- “Three” indicates refusal to support the proposal as stated.

The Facilitator repeats the consensus voting process as reasonably practical and as time allows to assist the group in achieving consensus regarding a particular recommendation, so that all Polling Members are voting “one” or “two.” The results are noted in the WORKGROUP Report.

**No Consensus – Majority and Minority Recommendations:** If a consensus on an issue is not likely, as determined by the Facilitator, the poll results for the options considered will be presented to the BOC.

**Summary of WORKGROUP Recommendations:** The meeting summaries serve as the record of the WORKGROUP recommendations as supplemented by the addition of Polling Member statements who elect to submit additional information by the deadline established. The Facilitator packaged all this information into the WORKGROUP’S report to the BOC.

#### d. Subcommittee Introduction

At the third Workgroup meeting (October 6, 2022), the Workgroup identified five Subcommittees that would take on various parts of the Charter elements, consistently reporting back to the Workgroup as they progressed. This was done so specific Charter elements could be addressed at the level of depth deemed necessary by the Workgroup by those with the most expertise and investment. Once formed, each Subcommittee met roughly twice between each Workgroup meeting.

The information surrounding these Subcommittees (such as charge, members, and key work products) can be found in their respective sections of part IV. of this report, "[Key Workgroup Findings & Recommendations](#)." These sections also include a link to reach Subcommittee's webpage, where more detailed information and meeting recordings can be found. Each Subcommittee's section is organized as follows for ease of your review. First we provide the Subcommittee's webpage link, then its Charge and Members. Over the course of a Subcommittees meeting's a running "Meeting Notes" was created that contains the agendas, attendance, and notes for each of its' meetings. A link to this document is provided next, and in Appendix D. Finally, the Subcommittee's Key Findings are provided, followed by their Recommendations.

## II. Project Website and Workplans

- a. Project Website: [Link](#)
- b. Initial Project Workplan: (Charter)

<b>Meeting One: 9/8/22</b>
<ul style="list-style-type: none"> <li>● Introductions</li> <li>● Review of Charter with Process Overview</li> <li>● Member Comments</li> <li>● Charge A: Discuss Common Understandings document draft</li> <li>● Next Steps and Homework</li> <li>● Meeting Evaluation</li> </ul>
<b>Meeting Two: 9/15/22</b>
<ul style="list-style-type: none"> <li>● Charge A continued: Develop Common Understandings</li> <li>● Coffin Butte Tour</li> <li>● Next Steps and Homework</li> </ul>
<b>Meeting Three: 10/6/22</b>
<ul style="list-style-type: none"> <li>● Charge B: Clarifying existing criteria and information requirements for the land use review process for any proposed landfill expansion</li> <li>● Next Steps and Homework</li> </ul>
<b>Meeting Four: 10/27/22</b>
<ul style="list-style-type: none"> <li>● Charge B continued: Clarifying existing criteria and information requirements for the land use review process for any proposed landfill expansion</li> <li>● Next Steps and Homework</li> <li>● Mid-Process Evaluation</li> </ul>
<b>Meeting Five: 11/3/22</b>
<ul style="list-style-type: none"> <li>● Charge B continued, and Charge C: Scope the necessary tasks to start a Long-Term Sustainable Materials Management Plan process</li> <li>● Next Steps and Homework</li> </ul>
<b>Meeting Six: 11/17/22</b>
<ul style="list-style-type: none"> <li>● Provide input on Charges D and E: Additional Topics               <ul style="list-style-type: none"> <li>○ Hauling Reopening</li> <li>○ Roles/Responsibilities</li> <li>○ Timeline for code changes</li> <li>○ Consider creating a public-facing document and community education campaign on these topics</li> </ul> </li> <li>● Authorize Draft to SWAC/DSAC and Planning Commission for comment</li> <li>● Next Steps and Homework</li> </ul>

<b>Meeting Seven: 12/1/22</b>
<ul style="list-style-type: none"> <li>● Review SWAC/DSAC and Planning Commission Feedback</li> <li>● Edit Draft Report</li> <li>● Next Steps and Homework</li> </ul>
<b>Meeting Eight: 12/15/22</b>
<ul style="list-style-type: none"> <li>● Finalize Report to BOC</li> <li>● Next Steps: The BOC is expected to consider the findings and recommendations in January 2023.</li> <li>● Process Evaluation</li> <li>● Celebration!</li> </ul>

**c. Updated Workplan: (10/27/2022)**

<b>Subcommittee Meetings 10/19 through 10/25</b>	<b>10/27/22 Meeting Four Major Topics</b>	<b>Subcommittee Meetings 10/31 through 11/9</b>	<b>11/17/22 Meeting Five Major Topics and Public Open House</b>	<b>Subcommittee Meetings 11/21 through 12/7</b>	<b>12/15/22 Meeting Six Major Topics</b>
<p>Staff organizes existing documents by subcommittee</p> <p>One, 1.5-hour Subcommittee Kickoff Meeting</p> <p>Specific Dates Pending Doodle Poll Results</p>	<ol style="list-style-type: none"> <li>1) Four Subcommittee Reports</li> <li>2) SMMP Goals: Vision 2040</li> <li>3) Local Jurisdictions Discuss Charge C. SMMP and Charge E. Public Education</li> </ol>		<ol style="list-style-type: none"> <li>1) Four Subcommittee Reports</li> <li>2) Introduce Charge D and Create Subcommittee:               <ol style="list-style-type: none"> <li>a) Scope tasks to Plan Hauling Reopener</li> <li>b) SWAC/DSAC Role Clarity and PC/BOC Criteria Use</li> <li>c) Code Change Timeline</li> </ol> </li> <li>3) Introduce Charge E and Create Subcommittee: Public-Facing Document and Community Education Campaign</li> </ol>		<ol style="list-style-type: none"> <li>1) Review Work, Authorize Draft, and Request Feedback</li> </ol>



	Campaign		4) Open House – Process Status, Future SMMP, and Public Ed/Notification		
Staff Draft Report 12/19 through 1/4	Subcommittee Meetings 1/5 through 11/11	1/19/22 Meeting Seven Major Topics	Final Report Subcommittee 1/23 through 2/7	2/23/23 Meeting Eight Major Topics	Target Date: 3/3/23 Could be: 3/31/23
		<ol style="list-style-type: none"> <li>1) Last Call</li> <li>2) Review SWAC/ DSAC and Planning Commission Feedback</li> <li>3) Edit Report and Poll</li> </ol>	Final Draft to Workgroup on 2/16	<ol style="list-style-type: none"> <li>1) Loose Ends</li> <li>2) Finalize Report and Official Poll</li> <li>3) Member Statements Due: 3/6/22 @ Noon</li> </ol>	<b>Final BCTT WG Report Assumes:</b> <ol style="list-style-type: none"> <li>1) Benefit-Cost Topics are only Outlined as part of SMMP Scoping</li> <li>2) Landfill CUP Conditions From Other Jurisdictions is reserved for other processes.</li> <li>3) WG Focus is on substance – not process.</li> </ol>

d. Final Workplan: (12/20/22)

a. [Calendar View](#)

Calendar						
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
12/12/2022	12/13/2022	12/14/2022	12/15/2022	12/16/2022	12/17/2022	12/18/2022
Subs Meet			WG Meeting 6			
12/19/2022	12/20/2022	12/21/2022	12/22/2022	12/23/2022	12/24/2022	12/25/2022
Member SurveyMonkey						
FAC Preps D1						
12/26/2022	12/27/2022	12/28/2022	12/29/2022	12/30/2022	12/31/2022	1/1/2023
Member SurveyMonkey						
FAC Preps D1						
1/2/2023	1/3/2023	1/4/2023	1/5/2023	1/6/2023	1/7/2023	1/8/2023
Member SurveyMonkey		Subs Meet X2 to edit D1				
FAC Preps D1		FAC sends D1 to WG				
1/9/2023	1/10/2023	1/11/2023	1/12/2023	1/13/2023	1/14/2023	1/15/2023
		FAC compiles D2				
				FAC Send D2 to WG		
1/16/2023	1/17/2023	1/18/2023	1/19/2023	1/20/2023	1/21/2023	1/22/2023
			WG Meeting 7	FAC compiles D3		
			WG edits D2 at meeting			
1/23/2023	1/24/2023	1/25/2023	1/26/2023	1/27/2023	1/28/2023	1/29/2023
FAC Compiles D3		SWAC/DSAC & PC give D3 feedback				
	FAC Send D3 to WG	Subs Meet X2 to refine D3				
		Sub E & FAC to Ex Sum				
1/30/2023	1/31/2023	2/1/2023	2/2/2023	2/3/2023	2/4/2023	2/5/2023
SWAC/DSAC & PC give D3 feedback						
Subs Meet X2 to refine D3						
Sub E & FAC to Ex Sum						

2/6/2023	2/7/2023	2/8/2023	2/9/2023	2/10/2023	2/11/2023	2/12/2023
SWAC/DSAC & PC give D3 feedback						
Subs Meet X2 to refine D3						
Sub E & FAC to Ex Sum						
				SWAC & PC D3 Feedback to FAC & Subs		
2/13/2023	2/14/2023	2/15/2023	2/16/2023	2/17/2023	2/18/2023	2/19/2023
Subs Meet X2 to refine D3				WG Members Rev. D4		
Sub E & FAC to Ex Sum						
		Sub Feedback DUE		FAC sends D4 to WG		
FAC Compiles D4						
2/20/2023	2/21/2023	2/22/2023	2/23/2023	2/24/2023	2/25/2023	2/26/2023
WG Members Rev. D4			WG Meeting 8			
			Rev. PC, SWAC & Subs' responses and suggested changes at meeting			
				Subs Meet for "Last Call"		
				Add Public Involvement & Polling Info		
2/27/2023	2/28/2023	3/1/2023	3/2/2023	3/3/2023	3/4/2023	3/5/2023
Informal WG & Public Polling						
Subs Meet for "Last Call"						
Add Public Involvement & Polling Info						
		Polling Due				
3/6/2023	3/7/2023	3/8/2023	3/9/2023	3/10/2023	3/11/2023	3/12/2023
	FAC complies D5				WG Members Rev. D4	
Subs Meet for "Last Call"				FAC Sends D5 to WG		
Add Public Involvement & Polling Info						
3/13/2023	3/14/2023	3/15/2023	3/16/2023	3/17/2023	3/18/2023	3/19/2023
WG Members Rev. D4			WG Meeting 9	Interested Members Draft Personal Statements		
Subs Rev. D4			Official Polling & Finalize Report at M9	FAC updates D5 w/ Sub E Rev.		
				Subs Consulted as Needed		
3/20/2023	3/21/2023	3/22/2023	3/23/2023	3/24/2023	3/25/2023	3/26/2023
Interested Members Draft Personal Statements				Final Report to Board		
FAC updates Final Draft w/ Sub E Rev.						
Subs Consulted as Needed						
	Member Statements Due					
3/27/2023	3/28/2023	3/29/2023	3/30/2023			
	? BCTT Presentation to Board					

### III. Workgroup Meeting Topics

Meeting Summaries and be found on the Project's Website [Here](#)

**a. Meeting One: September 8, 2022, Main Topics**

- Welcome & Introductions
- Participant Meeting Instructions
- Participant Commitments
- How We Got Here
- Review Major Charter Sections:
- Collaboration 101 Training
- Public Comment
- Triage Charge Elements
- Draft Report Structure Explore Common Understandings Section
- Mechanics: Add Representative Table
- Next Steps

**b. Meeting Two: September 15, 2022, Main Topics**

- Welcome & New Member Introductions
- Participant Meeting Instructions
- Participant Commitments
- Approve Draft Minutes from Meeting One
- Public Comment
- Meeting One Evaluation Highlights
- Homework Highlights
- Explore Common Understandings & Refine List of Missing Topics/Questions
- Discuss SWMP Table of Contents Concept
- Triage Charge Elements/Workplan
- Next Steps

**c. Landfill Tour: September 24, 2022**

- Republic (Ian) gave agenda, safety, & scale liner model speech.
- At the top of Coffin Bute hill observed the dumping area and machinery, observed the self-tipping/emptying trailers, and discussed the gas pump vacuum system.
- At an overlook of the quarry had Q&A time.
- At the power plant a CPI representative (Roman Gillan) spoke about PNCG Power owning this landfill power plant, and the Facility Manager (Steve King) gave an overview of the facility.
  - The tour was split into two groups to view the generators and interior of the power plant.

**d. Neighborhood Tour: October 1, 2022**

- Joel (tour guide) began with some geology, local history, and comments about the community. Then Joel and Nancy provided comments on topics including bird watching, disc golf, airport for model airplanes, North Palestine Baptist church, Santiam Christian school, local geology, and fault lines
- At a stop three miles from the landfill discussed tree cover and property siting.
- As the tour moved to the archie rang the discussion covered vehicle traffic, Yamhill landfill, Red Barn Farm, composting facility, WWII maintenance shed, zoning, land use, terracing v. continuous slope, vegetated or productive slopes, settling and gasification process, zoning, and siting of landfills.
- The tour stops at, and discusses, Bit-By-Bit Horse Farm.
- When viewing the quarry the discussion focuses on the leachate facility, republic's office, invasive species, properties purchased by landfill, OSU beef ranch, monitoring wells and water contamination.
- At the Santiam Christian School, Kevin Higgins, a firefighter with the Sherriff's office gave a talk on growing up in the area, landfill fires, types of items in landfill, and DEQ. This was followed by a video testimony from Priya Tucker, of Rising Joy Flower Farm, and resident Elisabeth Pott.
- The discussion on the bus ride back focused on affordable housing and local buildings.

**e. Meeting Three: October 6, 2022, Main Topics**

- Welcome & New Member Introductions
- Review Participant Meeting Instructions & Agenda
- BOC Presentation
- Approve Draft Minutes: Last Meeting & Tours
- Landfill Tour Questions
- Public Comment
- Comments on Meeting Two Evaluation Suggestions
- Discuss County Counsel Deference Memo & Set Stage for Legal Subcommittee
- Check-in Activity
- Big Picture Discussion
- Stand-Up the Subcommittees
- Review Amended Workplan

- Next Steps

**f. Meeting Four: October 27, 2022, Main Topics**

- Welcome & New Member Introductions
- Review Participant Meeting Instructions & Agenda
- Approve M3 Draft Minutes
- BOC Action on Updated Workplan
- Public Comment
- Update on Tour Questions & Answers
- SMMO Values & Goals Discussion
- Q&A Session with Representatives from other Counties
- Subcommittee Reports
- Next Steps

**g. Meeting Five and Open House: November 17, 2022, Main Topics**

- Welcome
- Review Participant Meeting Instructions & Agenda
- Approve M4 Draft Minutes
- Approve Updated Tour Q&A
- Updated Workplan Facilitator 11/16/22
- Public Comment
- Subcommittee Reports
- Reintroduce Charges D & E
- Next Steps
- Open House

**h. Meeting Six: December 15, 2022**

- Welcome & New Member Introduction
- Review Agenda
- Member Shares Original Document
- Public Comment
- Subcommittees A.1. & E.1. Report
- Review & Approve M5 Minutes & Evaluation Summary
- Discuss Consultant/Attorney for Next CUP
- Subcommittee A.2 Report and A.3 B.1 Report
- Introduce & Approve Third Attorney with Poll
- Subcommittee C.1. Reports
- Updated Project Workplan
- Next steps

- i. **Meeting Seven: January 19, 2023**
- j. **Meeting Eight: February 23, 2023**
- k. **Meeting Nine: March 16, 2023**

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## IV. Key Workgroup Findings & Recommendations

Each of the following Subcommittee sections is organized as follows for ease of your review. First, we provide the Subcommittee’s webpage link, then its Charge and Members. Over the course of a Subcommittee’s meeting’s a running “Master Document” was created that contains the agendas, attendance, and notes for each of its’ meetings. A link to this document is provided next, and the full text can be found in Appendix D. Finally, the Subcommittee’s Key Findings are provided, followed by their Recommendations.

### SECTION A: Landfill Size/Capacity/Longevity

#### Introduction:

The following is a complete list of findings and recommendations put forth by individual members of the subcommittee. They have not been vetted and approved by the full subcommittee, and the majority and minority opinions have not been noted. The subcommittee will continue to work to refine these elements further. The subcommittee has worked collaboratively to develop a draft report focused on investigating and discussing elements of the charge.

- The full Subcommittee’s Report can be found linked [here](#), and in Section 1 of Appendix C.
- The full Subcommittee “Meeting Notes” can be found linked [here](#), and in Section 1 of Appendix D.

<a href="#">Webpage Link</a>
<b>Charge: A chronological history of key Coffin Butte Landfill topics:</b> <ol style="list-style-type: none"><li>1. Size</li><li>2. Specific locations</li><li>3. Assumptions (e.g., when will the landfill close?)</li></ol>
<b>Members:</b> <ul style="list-style-type: none"><li>• Bill Bromann</li><li>• Brian May</li><li>• Chuck Gilbert</li><li>• Daniel Redick</li><li>• Ginger Rough</li><li>• Ian Macnab</li><li>• Ken Eklund</li><li>• Mark Yeager</li><li>• Paul Nietfeld</li><li>• Shane Sanderson</li><li>• Staff: Daniel Redick</li></ul>
<b>Subcommittee Meetings and Notes:</b> <a href="#">Document Link</a>



## Key Findings:

### A) Size

- A1-KF-1. 194 acres zoned landfill site. An additional 56-acre parcel south of Coffin Butte Road, while zoned LS, would not be used for disposal of solid waste unless approved by a conditional use permit and Department of Environmental Quality permit for solid waste landfill use.
- A1-KF-2. The landfill has changed visually over time.
- A1-KF-3. 23 tax lots associated with the landfill. Five tax lots include landfill cell disposal area. The most recent tax lots associated with the landfill were purchased in 2001 (non-disposal areas).
- A1-KF-4. Historical permitted capacity benchmarks
- A1-KF-5. Reported remaining airspace increased by over 6,000,000 Cubic Yards between 2003 and 2004. Since 2004, reported remaining airspace has decreased gradually, while total permitted airspace has remaining somewhat constant. As of end 2021 approximately 44% of permitted capacity remained unused.
- A1-KF-6. Near-term (circa 2025) capacity
- A1-KF-7. Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement acknowledge the potential for “adverse effects to the County’s infrastructure and environmental conditions due to increased annual volumes of Solid Waste accepted at the Landfill.”
- A1-KF-8. Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement define landfill solid waste intake limits immediately following and in the same document section as the acknowledgement of the potential for adverse effects.
- A1-KF-9. The 2000 Franchise agreement included a tonnage threshold (blue line) at which an updated baseline study may be conducted to determine the impacts of the landfill on infrastructure and the environment, which then could result in increases to the landfill fees paid to the county.
- A1-KF-10. Work in Progress: Explaining 2000 and 2020 Franchise agreement tonnage limits
- A1-KF-11. Due to an expected additional influx of volume in 2017 resulting from the disruption onset of the closure process for Riverbend landfill in Yamhill County, in December 2016 the franchisee and Benton County executed a MOU acknowledging an expected increase in Coffin Butte intake volume “for a term of 1-2 years.”
- A1-KF-12. In documents provided to the A.1 Subcommittee, representatives of the franchisee have indicated that the approximately 70% year-over-year

increase in CY2016-2017 was primarily due to redirected flow from Riverbend to Coffin Butte. 2017-2019 volume increases are primarily due to the diversion of waste from Riverbend Landfill, in an effort to extend landfill life, and also rapid population growth in Willamette Valley and Western Oregon.

- A1-KF-13. The 2020 Landfill Franchise Agreement states that the total tonnage deposited at the Landfill shall not exceed 1.1M tons per calendar year until “application to expand the Landfill on to the Expansion Parcel are granted (following any and all appeals to final judgement).” The 2020 intake limit is denoted in the chart by the dashed red line (“2020 FA Limit.”)
- A1-KF-14. The slow downward trend in intake volume in the 2006-2010 period is explained by the franchisee as resulting from the economic downturn of 2008.
- A1-KF-15. The drop in volumes to Coffin Butte in 2020 is due to the global COVID-19 pandemic, coupled with diversion of tonnage from Riverbend Landfill to other landfills besides Coffin Butte. However, tonnage volumes increased again in 2021 due in part to changes in lifestyle/development/at home shopping patterns as a result of the pandemic, as well as debris from the Oregon wildfires.
- A1-KF-16. Increased business development at the landfill impacted accepted tonnage.
- A1-KF-17. The amount of waste placed into the landfill has grown dramatically over the past 40 years. In 1983, 375 tons per day were placed into the landfill (117,000 tons per year). By 1993, the tonnage volume increased to 310,000 tons per year. In 2003 550,000 tons were placed into the landfill. By 2013, the waste tonnage was 479,000, and in 2021, 1,046,000 tons were emplaced.
- A1-KF-18. Near-term (circa 2025) capacity adjustments for 5-year operating plan
- A1-KF-19. Due to an expected additional influx of tonnage in 2017 (approximately 70% year-over-year increase in CY2016-2017 was partially due to redirected flow from Riverbend to Coffin Butte), in December 2016 the franchisee and Benton County executed a MOU agreeing to an expected increase in Coffin Butte intake volume “for a term of 1-2 years.” The slow downward trend in intake volume in the 2006-2010 period is explained by the franchisee as resulting from the economic downturn of 2008. The decreased intake volume in 2020 is attributed to the Covid-19 outbreak.
- A1-KF-20. Washington County waste tonnage accepted at the landfill increased by over 400% between 2016-2017, with the increased tonnage continuing through 2019.

## B) Specific locations

- A1-KF-21. Map of the landfill shows current and planned cells (G-03)
- A1-KF-22. The overview map included in the [Benton County & Valley Landfills MOU Relating to Land Use Issues \(2002\)](#) document, included here as **Figure 6**, clarifies the zoning boundaries. Of these 266 acres, 194 acres, all on the north side of Coffin Butte Road, were approved for waste disposal.
- A1-KF-23. In the 1983 rezoning action the Benton County Planning Department diluted SWAC and CAC recommendations from “No landfill be allowed on property south of Coffin Butte Road” to “no additional landfill activities unless approved by the Planning Commission at a public hearing.”
- A1-KF-24. Per the Board of Commissioners Order of June 15, 1983, approval of additional landfill activities on the LS-zoned parcel south of Coffin Butte Road (Taxlot 104180001107, Index #14 in Appendix C) requires only 1) approval of the site plan by the Planning Commission and 2) approval by the Planning Commission at a public hearing.

## C) Assumptions (e.g., when will the landfill close?)

- A1-KF-25. The most recent estimates from Republic Services project the site life of the landfill to be between 14.54-15.99 years, with two scenarios of accepting either 1,000,000 tons/year or 1,100,000 tons/year, each at a 2022 3-year Density Average of 0.999 Tons/CY, which assumes the quarry area will be fully excavated by the time the current cell disposal areas are full.
- A1-KF-26. The quarry dynamics are construction of the needed cells for future disposal areas. The herculean construction task is to excavate basalt rock to form the excavated design dimensions for construction of future disposal cells. The assumption is that the excavated rock and the construction of future cells keep pace with the demands of increased volumes of refuse needed for disposal without interruption.
- A1-KF-27. The complexities of demand and availability of refuse disposal is the crux of the puzzle to provide a viable sustainable material management process under consideration.

## Key Recommendations:

- A1-KR-1. The Sustainable Materials Management Plan should further develop scenarios and factors that may impact the landfill lifespan, including detailed analyses of likely projections.

**Additional Information:**

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## SECTION B: Past Land Use Application Conditions

### Introduction:

- The full Subcommittees Report can be found linked [here](#), and in Section 2 of Appendix C.
- The full Subcommittee “Meeting Notes” can be found linked [here](#), and in Section 2 of Appendix D.

<a href="#">Webpage Link</a>
<b>Charge: A chronological history of key Coffin Butte Landfill topics:</b> A) Conditions of past land use approvals; B) Compliance with prior land use approvals and SWMP;
<b>Members:</b> <ul style="list-style-type: none"><li>• Catherine Biscoe</li><li>• Ed Pitera</li><li>• Jeff Condit</li><li>• Mark Yeager</li><li>• Staff: Inga Williams</li></ul>
<b>Subcommittee Meetings and Notes:</b> <a href="#">Document Link</a>

### Context

This document contains a historical summary of land use actions<sup>52</sup> including adopted conditions of approval for past land use applications and Conditional Use Permits (CUPs) relevant to the Coffin Butte Landfill. It provides the context needed to better understand how we got to where we are now. Our goals for this section included:

- 1) Identify and organize the relevant documents;
- 2) Explain the key points clearly;
- 3) Identify areas of agreement on whether the various conditions of approval remain applicable or inapplicable today; and
- 4) Identify areas of agreement on the current status of compliance, monitoring, and enforcement.

For context, Benton County’s Development Code (BCC) describes conditional uses as “land uses which may have an adverse effect on surrounding uses in a zone.” (BCC 53.205). To lessen the adverse impacts, the county may “impose conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by the development activity, or to otherwise ensure compliance with the purpose and provisions of this code.” (BCC 53.220).

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<sup>52</sup> Findings of Fact, notices of decision, conditions of approval, zone changes, code adoptions, code amendments, etc.

For context, Benton County's Development Code (BCC) describes "permitted uses" as land uses that are "consistent with the purpose of the zone" (BCC 53.105); and conditional uses as "land uses which may have an adverse effect on surrounding uses in a zone." (BCC 53.205).

Permitted uses are generally considered compatible in the zone in which they are allowed, without any review process. (BCC 53.110).<sup>53</sup> Conditional uses are required to demonstrate that compatibility by establishing compliance with specific criteria. (BCC 53.215.)<sup>54</sup> To lessen the adverse impacts of conditional uses, the county may "impose conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by the development activity, or to otherwise ensure compliance with the purpose and provisions of this code." (BCC 53.220). Implementation of the conditions of approval is requirement to ensure that the proposed use complies with the approval criteria. To be effective, conditions of approval must be monitored and enforced.

Implementation of the land use decision conditions of approval are required to ensure that the proposed land use complies with the Development Code and the resultant land use activity, assuming compliance with the conditions of approval is compatible with adjacent land uses. However, to be effective, the conditions of approval must be monitored and enforced.

Implementation of the land use decision conditions of approval are required to ensure that the proposed land use complies with the Development Code. Uses allowed in a given zone have already been deemed to have a sufficient level of compatibility. Therefore, a finding of "compatibility with adjacent land uses" is not required, per se. However, a land use must be found to "not seriously interfere with uses on adjacent property" and conditions of approval may be imposed "to mitigate negative impacts to adjacent property." However, the application of the Development Code provides the specific criteria for general compatibility. Those conditions must be complied with, monitored, and enforced to be effective.

Conditions of approval must be related to and necessary to ensure compliance with approval criteria. They cannot expand the approval criteria; nor can they substitute for a finding of compliance with a criterion for approval. Rather, after the decision maker has determined compliance, or feasibility of compliance, with approval criteria, conditions may be imposed to ensure compliance with those criteria. BCC 53.215 establishes the approval criteria for conditional use permits in Benton County. All conditions of approval must relate to those approval criteria. Accordingly, for conditional use permits for landfill expansion in the Landfill

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<sup>53</sup> BCC 53.110 requires that, In some instances, permitted uses must go through a review process. In those cases, the approval is based on "clear and objective standards."

<sup>54</sup> Under BCC 53.215, in order for a conditionally allowed use to be approved, the Planning Commission must determine that:

"(1) The proposed use does not seriously interfere with uses on adjacent property, with the character of the area, or with the purpose of the zone;

"(2) The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area; and

"(3) The proposed use complies with any additional criteria which may be required for the specific use by this code."

Site Zone, conditions of approval may be imposed to mitigate negative impacts to adjacent property in order for the decision maker to find that “[t]he proposed use does not seriously interfere with uses on adjacent property, with the character or the area, or with the purpose of the zone”; and that “the proposed use does not impose an undue burden on any public improvements, facilities, utilities or services available to the area.” (BCC 53.215(1) and (2)).<sup>55</sup> To be effective, conditions must be monitored and enforced.

Compliance with the required conditions of approval is the responsibility of the applicant. The County, along with DEQ, etc., is responsible for monitoring and enforcement. In Benton County, monitoring, and enforcement are ~~resident~~ complaint-driven (by residents, businesses, the traveling public, other governmental entities, or others) because Benton County has acknowledged it did not and does not have the resources to actively monitor or enforce the landfill conditions of approval. This is also true for other land use decisions in Benton County.

The Benton County Talks Trash Workgroup (BCTT) was not charged with deciding the actual legal status of the factual and legal issues raised herein. The “common understandings” noted identify the BCTT’s consensus agreements. Where there was no consensus, the differing points of views have been documented for consideration by the Benton County Board of Commissioners and others. Additionally, each workgroup member was given the opportunity to share their views, be they supportive or oppositional, as noted in Appendix X.

**Key Findings:**

CP-74-01 A Conditional Use Permit for approval to designate Coffin Butte Landfill as a regional sanitary landfill		
Summarized Condition	Key Findings	Compliance Assessment
A2KF-CP-74-01-1. Defined the original area to be served by the landfill	<p>A. Further searches of County and RSI files and DEQ permits are needed to establish if or when this condition was superseded to authorize landfilling materials outside of the 1974 defined area.</p> <p>B. Current federal rules prohibit the county from</p>	<p>Ed Petera, Catherine Biscoe, Mark Yeager: Not in Compliance</p> <p>Staff: County Requirement Superseded</p> <p>Republic:</p>

	limiting access to the landfill	
A2KF-CP-74-01-2. The County Sanitarian should make a report on compliance to the Planning Commission annually	<p>A. Solid Waste Advisory Committee reportedly receives annual landfill reports however neither the County Sanitarian nor the Planning Commission are involved in reviewing the reports.</p> <p>B. Planning Commission originally received updates from County Sanitarian. There is no longer a County Sanitarian position and updates are made to the SWAC.</p>	<p>Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Status Unclear</p> <p>Staff: In Compliance</p> <p>Republic:</p>
A2KF-CP-74-01-3. Establish efficient leachate collection and treatment and wells to monitor any potential seepage into underground aquifers	The fate of leachate generated by the landfill should not simply be ignored by the County and delegated to DEQ. The requirement to “insure against pollution of nearby waterways” is very much still relevant.	<p>Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Demonstrated</p> <p>Staff: County Requirement Superseded</p> <p>Republic:</p>
A2KF-CP-74-01-4. Provide visual reclamation of the Coffin Butte cliff side and screen along roadway	A. DEQ has oversight of the geotechnical design of the landfill and regulates timing and scope of reclamation through	<p>Ed Petera, Catherine Biscoe, Mark Yeager:</p> <p>A. Physical Design Requirements: In Compliance</p>



	<p>closure and post closure requirements.</p> <p>B. It is unclear how the County's requirements for the appearance of the closed landfill are reflected in closure and post closure plans.</p>	<p>B. Reclamation &amp; Visual Requirements: Compliance Status Unclear</p> <p>Staff:</p> <p>A. Reclamation: County Requirement Superseded</p> <p>B. Visual Buffer: Compliance Status Unclear</p> <p>Republic:</p>
A2KF-CP-74-01-5. Valley Landfills need to complete a solid waste resource recovery plan by July 1, 1976	1977 Waste Control Systems, Inc. Solid Waste Management Plan	All: In Compliance
A2KF-CP-74-01-6. Phase landfill operations so that only a small acreage is used for fill at one time and return to grazing	Landfill operations and closure are governed by DEQ requirements. Some of the landfill areas have not received wastes since the 1990s, others since 2011. RSI has determined areas of the landfill are "In Closure" under Federal rules. Approximately 41.7 planimetric acres have already received Final Closure. This area should already have a 1.5 feet thick Vegetative Cover per Federal requirements and be suitable for reuse.	<p>Ed Petera, Catherine Biscoe, Mark Yeager:</p> <p>A. Compliance Opinion for "small acreage" condition: In Compliance.</p> <p>B. Compliance Opinion for "...shall be returned to grazing..." condition: Compliance Status Unclear</p> <p>Staff:</p> <p>A. In Compliance.</p> <p>B. County Requirement Superseded</p> <p>Republic:</p>
A2KF-CP-74-01-7. Encourage voluntary separation of recoverable materials	RSI is "In Compliance" in Benton County based on personal experience but Benton County contributes less than 10% of the total	<p>Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Status Unclear</p> <p>Staff: In Compliance</p> <p>Republic:</p>

	volume sent to the landfill and is only one of more than 20 counties RSI draws material from.	
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**PC-83-07/L-83-07** Amendments to the County’s Comprehensive Plan Map and Zoning Map and text amendments to Comprehensive Plan and Development Code to create a Landfill Site Zone

<b>Summarized Condition</b>	<b>Key Findings</b>	<b>Compliance Assessment</b>
<p>A2KF-PCL-83-07-12345.</p> <ol style="list-style-type: none"> <li>1. Cross reference the narrative and the map in both documents.</li> <li>2. Expand the narrative statement on reclamation</li> <li>3. In the narrative, describe the method of screening in more detail</li> <li>4. Include in the narrative the anticipated chemical composition of any leachate material to be used for irrigation</li> <li>5. Include in the narrative review of the Environmental and Operational Factors for 10-acre addition</li> </ol>	<p>The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled “PC-83-07-C(3)” starting on Page 3 of 60</p>	<p>Ed Petera, Catherine Biscoe, Mark Yeager:</p> <p>Compliance opinions based on the content of narrative:</p> <ol style="list-style-type: none"> <li>1) A. Physical Design &amp; Geotechnical Requirements: Compliance Status Unclear</li> <li>B. Reclamation Requirements: Compliance Status Unclear</li> <li>2) County Requirements Superseded</li> <li>3) A. Physical berm: County Requirement Superseded by subsequently issued DEQ Site Development Plans</li> <li>B. Vegetative screening: Not In Compliance</li> <li>C. Maintenance: Not In Compliance based on current appearance of site</li> <li>4) In Compliance</li> <li>5) County Requirement Superseded</li> </ol> <p>Staff compliance opinion based on the stated condition: In Compliance</p> <p>Republic:</p>
<p>A2KF-PCL-83-07-6.</p> <p>Provide a detailed reclamation plan</p>	<p>There is a very detailed description of the</p>	<p>Ed Petera, Catherine Biscoe, Mark Yeager compliance opinion based</p>

	promised screening in the narrative.	on the content of the reclamation plan: Compliance Status Unclear Staff compliance opinion based on the stated condition: In Compliance Republic:
A2KF-PCL-83-07-7. Submit a plan detailing the proposed method to protect the small ponds found in the Northeast corner of the property.	Pond location unclear.	Ed Petera, Catherine Biscoe, Mark Yeager compliance opinion based on the content of the plan: Compliance Status Unclear Staff: In Compliance Republic:
A2KF-PCL-83-07-8. Submit an updated, long-term leachate control plan as part of the DEQ permit renewal process	Leachate storage exists on site for holding leachate prior to trucking to off-site locations. No leachate is currently being land applied on landfill properties. No soil study needed	Ed Petera, Catherine Biscoe, Mark Yeager: County Requirement Superseded Staff: County Requirement Superseded Republic:
A2KF-PCL-83-07-9. Provide additional monitoring wells as site expands eastward	Documentation unclear as to what wells involved and which organization is to provide it. Presumed in RSI Annual Report.	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Status Unclear Staff: County Requirement Superseded Republic:
A2KF-PCL-83-07-10. Screen the landfill operation with fencing or berms so it cannot be seen from the County Road or adjacent properties.	The screening may have been done but has eroded or died in the interim. It should be recreated and maintained to be in compliance with the requirement	Ed Petera, Catherine Biscoe, Mark Yeager: Not in Compliance Staff: Compliance Status Unclear Republic:
A2KF-PCL-83-07-11. Adhere to daily compaction of refuse and limit exposed	The landfill uses an alternative daily cover approved by DEQ, which includes	All: County Requirement Superseded by Subsequent DEQ

refuse areas to 2 acres during the periods of October 15 to June 1 and to ¾ of an acre during all other periods.	Covanta Ash material. The landfill also uses temporary cover.	Operating and Monitoring Permits
A2KF-PCL-83-07-12. Channel occasional leachate seeps into the leachate collection system within a timely period	Republic Services complies with all current regulatory requirements, which include liners. Leachate does not seep through perimeter berms.	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Status Unclear Staff: County Requirement Superseded Republic:
A2KF-PCL-83-07-13. DEQ requires updated operational, and construction plans to reflect the current permit period and changes in environmental controls may be required	Advisory	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Status Unclear Staff: In Compliance Republic:

<b>PC-94-03 A Conditional Use Permit for approval of a 2.2-megawatt gas generated power facility</b>		
<b>Summarized Condition</b>	<b>Key finding</b>	<b>Compliance Assessment</b>
A2KF-PC-94-03-1. The facility shall be housed in a structure approximately 50 by 100 feet or less in size	None	Ed Petera, Catherine Biscoe, Mark Yeager: None Staff: In Compliance Republic:
A2KF-PC-94-03-2. Noise levels shall comply with the New Industrial and Commercial Noise Standards	Noise testing completed in 1997.	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Status Unclear Staff: In Compliance Republic:
A2KF-PC-94-03-3. The applicant is responsible for ongoing monitoring of noise levels.	Available records do not indicate any noise monitoring requests by the Planning Official.	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Status Unclear Staff: In Compliance

		Republic:
A2KF-PC-94-03-4. The applicant shall obtain and comply with all applicable permits from Oregon Department of Environmental Quality (DEQ). The applicant shall provide copies of all DEQ permits to the County.		Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Demonstrated Staff: In Compliance Republic:
A2KF-PC-94-03-5. The Planning Official may require that the applicant obtain a new conditional use permit in order to expand the facility	A new conditional use permit was submitted for expansion of the facility	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Demonstrated Staff: In Compliance Republic:
A2KF-PC-94-03-6. Lighting shall not impact streets or adjacent property	There is no record of complaints received by the County	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Demonstrated Staff: Compliance Status Unclear Republic:
A2KF-PC-94-03-7. Obtain required building permits	None	Ed Petera, Catherine Biscoe, Mark Yeager: No opinion Staff: In Compliance Republic:

<b>S-97-58</b> A Conditional Use Permit for approval of an expansion of the generating capacity of the existing electric generation plant		
<b>Summarized Condition</b>	<b>Key Finding</b>	<b>Compliance Assessment</b>
A2KF-S-97-58-1. Phase I facility shall be located in a structure approximately 75 by 85 feet; Phase 2 expansion shall be located in a	The expansion added 4,300 square feet to the original building.	Ed Petera, Catherine Biscoe, Mark Yeager: None Staff: In Compliance Republic:

building approximately 120 by 200 feet		
A2KF-S-97-58-2. Both the Phase 1 and Phase 2 expansions shall be constructed in accordance with the application materials.	Zoning compliance during building permit review checks to make sure the site plan meets code requirements.	Ed Petera, Catherine Biscoe, Mark Yeager: None Staff: In Compliance Republic:
A2KF-S-97-58-3. Noise levels for both Phase I and Phase 2 shall comply with the Noise Control Regulations for Industry and Commerce	Noise Compliance Monitoring memorandum submitted on June 11, 1997, by Pacific Northwest Generating Cooperative.	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Status Unclear Staff: In Compliance Republic:
A2KF-S-97-58-4. The applicant is responsible for ongoing monitoring of noise levels.	Available records do not indicate any noise monitoring requests by the Planning Official.	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Demonstrated Staff: In Compliance Republic:
A2KF-S-97-58-5. Provide sanitation facilities for the generation plant employees	None	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Unclear Staff: In Compliance Republic:
A2KF-S-97-58-6. The applicant shall obtain and comply with all applicable permits from the DEQ	None	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Demonstrated Staff: In Compliance Republic:
A2KF-S-97-58-7. Lighting shall not impact an adjacent road or property	No record of complaints received by the County	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Demonstrated Staff: In Compliance Republic:
A2KF-S-97-58-8. Declaratory statement to be recorded that	None	Ed Petera, Catherine Biscoe, Mark Yeager: None

recognizes the rights of adjacent forest uses,		Staff: In Compliance Republic:
A2KF-S-97-58-9. The applicant shall prepare a site-specific development plan addressing emergency water supplies for fire protection.	No information related to this condition has been found	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Demonstrated Staff: Compliance Not Demonstrated Republic:
A2KF-S-97-58-10. Obtain all required building permits	None	Ed Petera, Catherine Biscoe, Mark Yeager: None Staff: In Compliance Republic:

<b>PC-02-07 A Conditional Use Permit for approval of landfilling an additional 1.43 acres.</b>		
<b>Summarized Condition</b>	<b>Key Finding</b>	<b>Compliance Assessment</b>
A2KF-PC-02-07-1. Obtain approval from the DEQ	None	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Status Unclear Staff: In Compliance Republic:
A2KF-PC-02-07-2. Keep unpaved, main access roads dust-free	Coffin Butte Road is now paved	Ed Petera, Catherine Biscoe, Mark Yeager: None Staff: In Compliance Republic:
A2KF-PC-02-07-3. Ensure that the landfill operation does not exceed the maximum sound level permitted by DEQ	Available records do not indicate any noise monitoring requests by the Planning Official.	Ed Petera, Catherine Biscoe, Mark Yeager: None Staff: In Compliance Republic:
A2KF-PC-02-07-4. Provide on-site parking	Security fence is present	Ed Petera, Catherine Biscoe, Mark Yeager: None Staff: In Compliance Republic:

<p>A2KF-PC-02-07-5. Maintain a security fence between the landfill operation and the public road</p>	<p>None</p>	<p>Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Unclear Staff: In Compliance Republic:</p>
<p>A2KF-PC-02-07-6. The landfill operation hours 8:00 a.m. and 5:00 p.m. Monday through Saturday, 12:00 p.m. through 5:00 p.m. on Sundays, 24-hour access for commercial customers.</p>	<p>Condition is written poorly and would be improved with better clarification on Hours of Operation</p>	<p>Ed Petera, Catherine Biscoe, Mark Yeager: Not in Compliance Staff: In Compliance Republic:</p>
<p>A2KF-PC-02-07-7. The applicant shall retain the dual-access road system</p>	<p>None</p>	<p>Ed Petera, Catherine Biscoe, Mark Yeager: None Staff: In Compliance Republic:</p>
<p>A2KF-PC-02-07-8. The landfill activity shall be limited to the 600-foot contour elevation</p>	<p>None</p>	<p>Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Status Unclear Staff: Compliance Not Demonstrated Republic:</p>
<p>A2KF-PC-02-07-9. Copies of water quality and air quality permits, and data shall be placed on file with the Benton County</p>	<p>The county receives copies of these permits</p>	<p>Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Status Unclear Staff: In Compliance Republic:</p>
<p>A2KF-PC-02-07-10. Copies of storm-water runoff permits, and data shall be placed on file with the Benton County Community Development Department</p>	<p>The county receives copies of these permits</p>	<p>Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Status Unclear Staff: In Compliance Republic:</p>



<b>PC-03-11 A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation</b>		
<b>Summarized Condition</b>	<b>Key Finding</b>	<b>Compliance Assessment</b>
Conditions 1, 2, 3, 4, 5, 6, 7, and 8 are exact copies from PC-02-07 Conditions.		
A2KF-PC-03-11-9. Provide landscape buffer plan between Hwy 99 and east triangle	This buffer is not evident	Ed Petera, Catherine Biscoe, Mark Yeager: Not in Compliance Staff: Not in Compliance Republic:
A2KF-PC-03-11-10. Obtain DSL approval for activities that effect wetlands	None	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Demonstrated Staff: In Compliance Republic:

<b>PC-11-016 A Conditional Use Permit for approval of the construction of a new public recycling and refuse transfer facility</b>		
<b>Summarized Condition</b>	<b>Key Finding</b>	<b>Compliance Assessment</b>
A2KF-PC-11-016-1. Development shall comply with the plans and narrative in the applicant's proposal identified as Attachment 'A' except as modified by the approval or the conditions	Compliance is not actively monitored	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Demonstrated Staff: In Compliance Republic:
A2KF-PC-11-016-2. The applicant shall record a declaratory statement acknowledging the rights of adjacent and nearby property owners	None	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Demonstrated Staff: In Compliance Republic:

to conduct forest operations		
A2KF-PC-11-016-3. The applicant shall demonstrate compliance with the applicable siting standards specified in BCC 60.405	None	Ed Petera, Catherine Biscoe, Mark Yeager: None Staff: In Compliance Republic:
A2KF-PC-11-016-4. All new facilities constructed under this approval shall comply with the applicable provisions of Building Code	None	Ed Petera, Catherine Biscoe, Mark Yeager: None Staff: In Compliance Republic:
Conditions one through 10 of PC-03-11 carried over		

<b>LU-13-061 Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure</b>		
<b>Summarized Condition</b>	<b>Key Finding</b>	<b>Compliance Assessment</b>
A2KF-LU-13-061-1. Development shall comply with the plans and narrative in the applicant's proposal identified as Attachment 'A' except as modified by the approval or the conditions	Compliance is not actively monitored	Ed Petera, Catherine Biscoe, Mark Yeager: None Staff: In Compliance Republic:
A2KF-LU-13-061-2. The applicant shall record a declaratory statement acknowledging the rights of adjacent and nearby property owners	None	Ed Petera, Catherine Biscoe, Mark Yeager: None Staff: In Compliance Republic:

to conduct forest operations		
A2KF-LU-13-061-3. Get a Public Works permit for any new access to a county road or change to an existing access	None	Ed Petera, Catherine Biscoe, Mark Yeager: None Staff: In Compliance Republic:
A2KF-LU-13-061-4. A National Pollutant Discharge Elimination System (NPDES) permit is required for all construction activities that disturb one acre or more.	Advisory	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Demonstrated Staff: In Compliance Republic:
Prior conditions regarding a DEQ permit, unpaved roads, noise, parking, security fence, hours of operation, dual-access road system, copies of water quality and air quality permits, and copies of stormwater runoff permits copied from prior approvals		

<b>LU-15-001</b> Alteration of a nonconforming use to continue and enhance a stormwater treatment facility		
<b>Summarized Condition</b>	<b>Key Finding</b>	<b>Compliance Assessment</b>
A2KF-LU-15-001-1. Development shall comply with the plans and narrative in the applicant's proposal identified as Attachment 'A'	Compliance is not actively monitored	Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Demonstrated Staff: In Compliance Republic:

<p>A2KF-LU-15-001-2. The applicant shall obtain and maintain compliance with the terms of all necessary federal, state, and local permits</p>	<p>Compliance is not actively monitored</p>	<p>Ed Petera, Catherine Biscoe, Mark Yeager: Compliance Not Demonstrated Staff: In Compliance Republic:</p>
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**Key Recommendations:**

- A2-KR-1 Ascertain if the Site Plan and Narrative included in the applicant submittals for PC-83-07/L-83-07 are regulatory conditions the landfill was required to follow.
- A2-KR-2 Consider the impact of leachate management on traffic safety, road maintenance, wastewater treatment plant, and the Willamette River (water, sediments, wildlife, etc.) in future assessment of the impact of landfilling in Benton County.
- A2-KR-3 Clarify what appropriate reclamation will look like to appropriately manage community expectations for the ultimate disposition of the landfill.
- A2-KR-4 Refine recycling program to encompass all jurisdictions that contribute product to the landfill and align expectations among all contributors.
- A2-KR-5 Clarify the roles of the County and DEQ in future CUP actions.
- A2-KR-6 Establish and widely advertise a County process for receiving, tracking, and resolving complaints.
- A2-KR-7 Assess the landfill’s emergency management plan.
- A2-KR-8 Future conditional use permit conditions of approval and decisions should clearly convey basis of approval and completion.
- A2-KR-9 Odor issues do not seem to be mentioned in any of the conditions but there should be further discussion on how to address this issue.
- A2-KR-10 Review how the acquisition of buffer land by RSI is consistent with Vision 2040.

**Additional Information:**

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## SECTION C: Sustainable Materials Management Plan (SMMP)

### Introduction:

The following is a complete list of findings and recommendations put forth by individual members of the subcommittee. They have not been vetted and approved by the full subcommittee, and the majority and minority opinions have not been noted. The subcommittee will continue to work to refine these elements further. The subcommittee has worked collaboratively to develop a draft report focused on investigating and discussing elements of the charge.

- The full Subcommittees Report can be found linked [here](#), and in Section 3 of Appendix C.
- The full Subcommittee "Meeting Notes" can be found linked [here](#), and in Section 3 of Appendix D.

### [Webpage Link](#)

#### **Charge: Long Term Sustainable Materials Management Plan (SMMP) tasks:**

- 1) Contracting out;
- 2) Subjects to be covered;
- 3) (Moved from Common Understandings) Benefit-Cost Topics are only Outlined
- 4) (New) Add in Vision 2040 and related County documents with similar from other counties referenced
- 5) Who needs to be at the table beyond those in the County;
- 6) A workplan outline with a timeline for completion;
- 7) Topics covered in recent similar planning efforts across the state; and
- 8) What "lessons learned" should be brought forward in this process. Includes necessary foundational "common understandings" and protocols needed before beginning the actual planning process.

NOTE: This charge does not include completing the plan. It only includes a discussion of the preliminary scoping to start that planning process Possible Amendment for BOC Consideration: If there is sufficient time to complete the original Charge and the following activities, subcommittee to provide recommendations on: 1. the most important topics/subjects from the draft of the SWMP Table of Contents; 2. the brainstormed options for those topics/subjects; and 3. the reasoning, both pro and con, for their selection.

#### **Members:**

- Brian May
- Daniel Redick
- Joel Geier

- John Deuel
- Ken Eklund
- Marge Popp
- Ryan McAlister
- Sean McGuire
- Staff: Daniel Redick

**Subcommittee Meetings and Notes:** [Document Link](#)

**Key Findings:**

- C1-KF-1. Contracting out;
- a. Some contracting processes include Technical Advisory Committees (TAC), which Vet technical information from consultant, get to a place of consensus, and Community Advisory Committee (CAC), which Review in areas of disagreement for technical experts.
- C1-KF-2. Subjects to be covered;
- a. The charges of the total work group are intimately related and are included within this RFP.
  - b. There are many best practices and model SMMP's in Oregon and beyond.
- C1-KF-3. (Moved from Common Understandings) Benefit-Cost Topics are only Outlined
- a. In Progress
- C1-KF-4. (New) Add in Vision 2040 and related County documents with similar from other counties referenced
- a. In Progress
- C1-KF-5. Who needs to be at the table beyond those in the County;
- a. In Progress
- C1-KF-6. A workplan outline with a timeline for completion;
- a. Length of overall project can be heavily impacted and defined by the level of public interaction/engagement included in the project.
  - b. The research and development of the plan can occur in the background, not using as much time as outreach.
- C1-KF-7. Topics covered in recent similar planning efforts across the state; and
- a. In Progress
- C1-KF-8. What "lessons learned" should be brought forward in this process.
- a. In Progress

## Key Recommendations:

- C1-KR-1. Contracting out;
- a. Benton County should use an RFP to find consultant(s) for developing a Sustainable Materials Management Plan.
  - b. Recruitment needs to be extensive, and selection of successful proposal should be careful and thorough.
  - c. The scope of work for this project is expected to be broad and comprehensive, with specific goals recommended for the County to consider as reaching for as milestones.
  - d. Qualities of a successful applicant should include those listed in the full subcommittee report.
  - e. The RFP development process should:
    - i. Provide details about Workgroup process and its findings to RFP applicants
    - ii. Prioritize topics, adding additional topics that are important to consider
    - iii. Communicate accurate priorities to applicants
    - iv. Members of this BCTT SMMP subcommittee should be offered to participate in subsequent stakeholder group meetings for RFP development and review
    - v. SWAC/DSAC should have an advisory role during the development of the plan
    - vi. RFP Release/Announcement should:
      1. communicate an expectation that this plan can be approached by teams (multiple firms), instead of just single firms
      2. Put guidelines on the size/length of proposals and sections of proposals
      3. Be distributed to allow enough time for it to be posted to various trade groups, equity-minded sharing to underrepresented groups, internationally minded outlets
    - vii. The county should share with the public the various steps of the process, making updates available, and demonstrating transparency (Cross-referencing subcommittee E.1. work)
    - viii. The RFP should demonstrate flexibility through allowing further work plan development after applications are reviewed and accepted
    - ix. Length of overall project:
      1. Can be heavily impacted and defined by the level of public interaction/stakeholder engagement included in the project, and by requirements from the county

2. R&D from consultant can occur in the background
  3. Applicants should include various scope/cost options for 1 year, 2 years, and 3-year timelines.
  4. The report should be released in sections, based on timeline and content priorities.
- x. Include Technical Advisory Committees (TAC), which Vet technical information from consultant, get to a place of consensus, and Community Advisory Committee (CAC), which Review in areas of disagreement for technical experts.
1. SMMP Sub-Committee members should be included in the CAC.
- f. Proposals contain the following information, with parameters around each of these items in terms of document length:
- i. Cover Letter (P/F).
  - ii. Project Team Experience and Qualifications.
    1. Experience, Capabilities and Resources of the Proposer. 25 points.
    2. Experience of project team members. 25 points.
    3. Experiences with other SMMP in the last 5 years
  - iii. Understanding of Project.
  - iv. Approach to the Scope of Work. 25 points
    1. Fully and completely address all of the questions listed
  - v. Cost Proposal (based on cost matrix)
    1. Reasonableness of the Cost Proposal. 15 points
    2. Various options based on timeline and scope
    3. Review committee is not given the cost information until initial review is complete
    4. Important consideration, but not the most important consideration
  - vi. Project Schedule. 10 points
  - vii. Social/environmental responsibility
  - viii. References.
  - ix. Interview/presentation (how important compared to other criteria?)
    1. Separate scoring criteria/process for the interview
- g. An evaluation team consisting of County staff and members of stakeholder groups should determine the best proposal deemed most qualified based on the above criteria.

C1-KR-2. Subjects to be covered;



- a. Emphasize impacts of the results of the RFP on social equity, innovation, to understand and emphasize the upstream aspects of material sustainability, and creative solutions that provide pathways for tangible long-term outcomes.
  - b. The SMMP should address the subjects listed in the full subcommittee report, answering the questions listed as RFP priorities allow.
- C1-KR-3. (Moved from Common Understandings) Benefit-Cost Topics are only Outlined
- a. SMMP content should include cost-benefit analyses in the evaluation and recommendations of major topics.
  - b. Circular economy costs/benefits should be addressed in the SMMP.
  - c. The SMMP should clarify Benefit-Cost perspectives being addressed through an equity analysis, including:
    - i. Financial cost impacts associated with materials management and outcomes
    - ii. A perspective that goes beyond landfilling
    - iii. Equity of circular economy, how it engages and impacts consumers (product/material oriented)
    - iv. “who’s at the table” list of stakeholder perspectives
- C1-KR-4. (New) Add in Vision 2040 and related County documents with similar from other counties referenced
- a. The Benton County Sustainable Materials Management Plan should be developed within a Sustainable Materials Management framework, reflecting full lifecycle impacts. The following information should be considered during the development of a Sustainable Materials Management Plan:
    1. 2040 Thriving Communities Initiative and our communities’ Core Values
    2. National, State, and local goals, vision documents, plans, policies, ordinances, etc. relating to materials management and climate change
    3. Examples of values and goals expressed in state and local jurisdiction materials management plans
    4. Long-term strategies (to 2040) with short-term action items (5 years or less)
- C1-KR-5. Who needs to be at the table\* beyond those in the County\*\*;
- a. DEQ
  - b. Economic Development Office County/Corvallis
  - c. Small Cities
  - d. Neighboring counties

- e. Community Members
- f. Waste generation sources (jurisdictions)
- g. Local Advocacy groups (Willamette valley) – (sustainability coalition, river keepers, watershed councils, etc.)
- h. National Advocacy groups
- i. Equity, Diversity, Inclusion coordinator
- j. Low-income populations, multi-family residents
- k. Larger industry groups
- l. Large waste generators
- m. Building industry - USGBC
- n. Architecture (AIA) American Institute of Architects
- o. Designers – various materials, products, etc.
- p. OSU – Business/Administration
- q. OSU – Innovation, science around materials
- r. \*at the table - meaning who to be consulted for feedback through the development of this plan, discuss regional coalitions/partnerships/collaboration
- s. \*\*County government/staff

C1-KR-6. A workplan outline with a timeline for completion;

- a. The plan should include ongoing adaptive management and refinement
- b. The workplan outline and timeline should include:
  - i. RFP Development
    - 1. RFP Development feedback opportunity from Technical Advisory Committees (TAC) and Community Advisory Committee (CAC)
  - ii. RFP Release/Announcement
    - 1. Distribution to allow time for it to be posted to various trade groups, equity-minded sharing to underrepresented groups, international-minded
  - iii. Webinar – interact *live*, field questions, make presentation
  - iv. Pre-proposal/bid/RFP Q&A opportunity for prospective applicants – possible to make this element required/mandatory
    - 1. Early in the RFP release period
  - v. Opportunity for respondents to express interest as primary or sub-contractors
  - vi. RFP Response Due Date
    - 1. At least 4 weeks’ time that the RFP is available prior to application deadline.
  - vii. Review committee to shortlist firms

- 1. 2 weeks
  - viii. Shortlisted firms awarded additional time for presentation with optional funding for expected presentation/deliverables
    - 1. Additional month (within 1 week if no work product/report is due, just an interview).
  - ix. Evaluation and Selection Timeline
    - 1. Evaluation team review period
      - a. Including Technical Advisory Committees (TAC) and Community Advisory Committee (CAC) review opportunity
    - 2. Presentations/Interviews
  - x. Develop work plan further with contractor selected
  - xi. Length of overall project
  - xii. Plan Development
    - 1. Technical Advisory Committees (TAC) - Vet technical information from consultant, get to a place of consensus
    - 2. Community Advisory Committee (CAC) - Review in areas of disagreement for technical experts
    - 3. SWAC/DSAC advisory role during the development of the plan
  - xiii. General public meetings – number of meetings
- C1-KR-7. Topics covered in recent similar planning efforts across the state;
- a. The SMMP should consider the topics covered in the following recent similar planning efforts across the state:
  - b. [Materials Management in Oregon 2020 Framework for Action](#)
  - c. [Materials Management in Oregon 2050 Vision and Framework for Action \(2012\)](#)
  - d. [Deschutes County Solid Waste Management Plan \(2019\)](#)
  - e. [Lane County Solid Waste Management Plan \(2019\)](#)
  - f. [Lincoln County Integrated Solid Waste Management Plan \(2004\)](#)
  - g. Marion County
    - i. [Marion County, Oregon Solid Waste Management Plan Update \(2009\)](#)
    - ii. [Marion County Solid Waste System Assessment Report \(2016\)](#)
    - iii. [Marion County, Oregon Solid Waste and Energy Final Report \(2017\)](#)
  - h. Metro:
    - i. [Metro 2030 Regional Waste Plan \(2019\)](#)
    - ii. [Waste Prevention & Environmental Services Regional Waste Plan Progress Report \(January 2022\)](#)

- i. [Tillamook County Comprehensive Materials and Solid Waste Management Plan \(2012\)](#)

- C1-KR-8. What “lessons learned” should be brought forward in this process.
- a. Feedback from other counties who have developed materials management plans
  - b. International examples of landfill alternatives (such as Germany, Finland, Sweden, and South Korea)
  - c. Examples from California and Washington
  - d. Lessons from past Benton County experiences with contracts with Republic, engagement,
  - e. Lessons from individual processes vs. integrated systems
  - f. Workgroup process and its findings

**Additional Information:**

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## SECTION D: Legal issues and Land use Review

### Introduction:

- The full Subcommittee Report can be found linked [here](#), and in Section 4 of Appendix C.
- The full Subcommittee “Meeting Notes” can be found linked [here](#), and in Section 4 of Appendix D.

### [Webpage Link](#)

#### **Charge A: A Summary of the County’s current rights and obligations to Republic Services, and vice versa, surrounding:**

1. The hauling franchise;
2. The landfill CUP; and
3. What legally can and cannot be conditions of any land use approvals (e.g., past compliance, compliance with future laws, codes, and policies, DEQ compliance, reopening, limitations on what can be brought into the County from where, required facilities and practices, reporting/compliance/financial monitoring requirements, etc.)
4. Interpretation and Deference: A Summary of the rights and obligations of other entities surrounding landfills, hauling, and sustainability initiatives, etc.:
  1. Federal;
  2. Tribal;
5. State (e.g., Is DEQ prohibited from permitting another landfill west of the Cascades and what does the “regional landfill” designation mean?);
6. Local Government; and
7. Summary of the step-by-step process in ORS chapter 459 and associated timing for the cross-jurisdictional approvals of landfill applications, (e.g. DEQ) including:
  1. What topics are within whose authority, and
  2. Whether, for example, the County can or should consider the topics it does not have permitting authority over when assessing the criteria outlined in Code section 53.215?

#### **Charge B: Land Use Review Tasks:**

1. Create a common understanding document outlining which Development Code criteria are applicable to the review of a conditional use application for landfill expansion by reviewing:
  1. 53.215 (Criteria)
  2. 77.305 (Conditional Uses)
  3. 77.310 (Review)
  4. 77.405 (DEQ)

2. Review Chapters 50 and 51 for context, and then prepare a conceptual list of any other Development Code criteria the WORKGROUP recommends be applicable.
3. Developing recommended guidelines for interpreting any ambiguous provisions recognizing current statutes, regulations, case law, and County precedent, etc. In doing so, refer to Comprehensive Plan for policy guidance regarding interpretation of any ambiguous Development Code provisions (see, BCC 50.015,) and Review the Planning Commission comments made during its last review of Republic Services' CUP application for context.

Examples for consideration include:

1. The phrase, "Other information as required by the Planning Official" 77.310(e)
  2. The terms found in Section 53.215, e.g.
  3. "seriously interfere"
  4. "character of the area"
  5. "purpose of the zone"
  6. "undue burden"
  7. "any additional criteria which may be required for the specific use of this code.
  8. Other: \_\_\_\_\_
4. Necessary Tasks to Start Planning Reopening of Existing Hauling Agreement
  5. Roles, Responsibilities, and Protocols of SWAC and DSAC
  6. Specific Recommended Review Criteria for the Evaluation of Landfill CUP applications
  7. SWAC/DSAC, Planning Commission, and BOC Use of the Review Criteria
  8. Future Timeline for Discussing any Needed Changes to the Benton County Code Flowing From WORKGROUP Recommendations
  9. Recommendations

**Members:**

- Jeff Condit
- Liz Irish
- Vance Croney
- Staff: Greg Verret

**Subcommittee Meetings and Notes:** [Document Link](#)

## Key Findings:

*Disclaimer: These findings have not been vetted by the subcommittee and are subject to revision. The findings are staff's summary pulled from the subcommittee's report but need review and refinement.*

- LLU-KF-1. Unless a later land use approval expressly addresses whether conditions of a prior land use approval are superseded, the issue will be subject to interpretation by the local government (the Board of County Commissioners, in this case). [Link](#)
- LLU-KF-2. Only the current franchise agreement has bearing. The previous franchise agreement is superseded at the time a new agreement takes effect. [Link](#)
- LLU-KF-3. Up-front and ongoing financial assurance to cover the cost of closure, post-closure, and corrective actions are required by DEQ. Where this preliminary line of defense fails, Oregon statute holds any person owning or controlling the disposal site liable for closure and post-closure maintenance. [Link](#)
- LLU-KF-4. What legally can and cannot be conditions of any land use approvals? In order to be approved, an application must demonstrate compliance with all discretionary approval standards. The county may find compliance by establishing compliance is feasible, subject to compliance with specific condition(s) of approval. Conditions of approval may be imposed to assure the criteria are met; however, there must be substantial evidence supporting a finding that the condition is “likely and reasonably certain” to result in compliance. Conditions of approval must relate to approval criteria. To lessen adverse impacts on surrounding uses, the county may “impose conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by the development activity, or to otherwise ensure compliance with the purpose and provisions of this code.” (BCC 53.220) [Link](#)
- LLU-KF-5. In reviewing a CUP for landfill expansion, the County has jurisdiction over only the proposed expansion. Existing and past operations are not within the County’s scope of review. Prior decisions are final and cannot be revisited or collaterally attacked as part of the CUP application for the expansion. [Link](#)
- LLU-KF-6. Benton County may not prohibit a private landfill operator from accepting solid waste from outside Benton County. [Link](#)
- LLU-KF-7. Ambiguous terms. The rules of statutory construction describe how ambiguous terms are to be interpreted: text, context, and legislative history. When a local government interprets its plan and regulations, as long as the interpretation is plausible, LUBA’s standard of review is highly deferential to that interpretation. [Link](#)

- LLU-KF-8. Is DEQ prohibited from permitting another landfill west of the Cascades? No. [Link](#)
- LLU-KF-9. What does the “regional landfill” designation mean? Oregon Revised Statute (ORS) 459.005(23) defines a Regional Disposal Site as “a disposal site that receives ... more than 75,000 tons of solid waste a year from outside the immediate service area in which the disposal site is located....” The immediate service area of Coffin Butte is Benton County. Coffin Butte Landfill has received more than 75,000 tons from outside its immediate service area in every year since at least 1993. Coffin Butte Landfill is by definition a regional landfill. [Link](#)
- LLU-KF-10. The review criteria for a landfill-expansion conditional use permit require subjective determinations on the context of a specific application. In the criterion of “*The proposed use does not seriously interfere with uses on adjacent property, with the character of the area, or with the purpose of the zone*”, the term “seriously interfere” has generally been interpreted in Benton County land use decisions as: does the proposed use make it difficult to continue uses on adjacent property; would it create significant disruption to the character of the area; would it conflict, in a substantive way, with the purpose of the zone. “Seriously interfere” has been applied as meaning more than an inconvenience or irritation to neighboring property residents but is a lesser threshold than rendering impossible the uses on adjacent property. Speculated effect on property values has not been a primary consideration in determining serious interference. [Link](#)
- LLU-KF-11. In the criterion of: “*The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area*”, a burden on public infrastructure and service is clearly “undue” if it overloads the system or causes significant degradation in terms of quality, effectiveness or timeliness of infrastructure or service. Lesser burdens may also be “undue” if the effect is to jeopardize the health, safety or welfare of people. Burdens that have typically not been considered “undue” include those that can be mitigated through planned improvements, that are incremental service additions consistent with that generated by other uses in the area, or that fall below an established threshold (such as road classification standards). [Link](#)
- LLU-KF-12. Statements made by the applicant do not become conditions of approval unless those statements are specifically included or incorporated, directly or by reference, into the final decision. [Link](#)
- LLU-KF-13. BCC 77.305 directs the Solid Waste Advisory Council (SWAC) to review and make recommendations on a landfill-expansion CUP; however, the code does not specify what criteria or considerations that recommendation should be based on. SWAC’s overall role as articulated in its bylaws: “assist the Board of Commissioners (Board) in Planning and implementation of solid waste management, pursuant to BCC Chapter 23,



the Benton County Solid Waste Management Ordinance.” As such, SWAC should review the proposal and provide input from a solid waste management perspective. The Planning Commission’s role is to review the proposal from a land use perspective, relative to specific criteria listed in the Development Code, and to make a decision. [Link](#)

- LLU-KF-14. Pursuant to BCC 77.310(1)(e), to what extent may the Planning Official require additional information from an applicant for a Landfill Site Zone Conditional Use Permit? Only “other information” that relates to the approval criteria for a conditional use permit may be required under BCC 77.310(1)(e), and the applicant may choose to provide some, all or none of the requested information. The land use decision must be based on a demonstration of compliance with the code criteria, not on whether the applicant provided requested information or not. [draft memo; still under review]

### Key Recommendations:

***Disclaimer: These recommendations have not been vetted by the subcommittee and are subject to revision. The recommendations are staff’s summary pulled from the subcommittee’s report but need review and refinement.***

- LLU-KR-1. SWAC’s role in reviewing and landfill-expansion CUP should be from the perspective of solid waste management (see LLU-KF-13). The workgroup may wish to recommend specific areas of consideration by SWAC. For example: Is the proposed expansion consistent with long-term plans for the landfill site? Is the proposal consistent with principles of responsible solid waste management? What (solid waste management) benefits do you see to the proposed expansion? What potential (solid waste management) negative effects do you see? Are there ways to minimize or mitigate those effects, or do you think the proposal should be rejected? [Link](#)
- LLU-KR-2. BCC 77.405 states that “Copies of materials submitted to the Oregon Department of Environmental Quality as a part of any permit process shall be submitted to the Planning Official. If at any time the Planning Official determines that permit application materials or conditions of DEQ permit are judged to merit public review, a Public Hearing before the Planning Commission shall be scheduled.” This provision is unclear. Staff interprets that this section requires a new review of a conditional use permit if the use originally approved has been modified. Recommend code amendment to clarify this provision. A workgroup recommendation on how public review of DEQ permit requirements could most benefit the public would also be helpful. [Link](#)

LLU-KR-3. The determination of whether a land use application is complete must happen fairly quickly. With a complex application, such as a landfill expansion, reviewing the submitted materials takes substantial time and benefits from having guidelines identified prior to receiving an application. The BCTT Workgroup could identify elements that should be considered in the determination of whether a land use application concerning the landfill is “complete”. This is a more workable way for public input into the completeness determination than engaging a public review process for completeness during the limited time available once an application has been submitted. [Link](#)

**Additional Information:**

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**SECTION E: Community Education & Public Involvement Summary**

**Introduction:**

- The full Subcommittees Report can be found linked [here](#), and in Section 5 of Appendix C.
- The full Subcommittee “Meeting Notes” can be found linked [here](#), and in Section 5 of Appendix D.

[Webpage Link](#)

**Charge:**

- 1) General History:
  - a. Directed at public and those new to the issue
  - b. Not as detailed as initial draft
  - c. Narrative more than table of newspaper articles
  - d. Other historical details will appear in the Capacity and CUP reports for cross-referencing.
- 2) Next CUP Communications Protocols:
  - a. Start with legal requirements from Legal Subcommittee
  - b. Develop protocols for the timely and broad distribution of CUP-related information to the public, other governmental entities, and internal committees, groups, and divisions.
  - c. Look at wide distribution via multiple communication channels
  - d. Note opportunities for input from the jump
  - e. Possible Open House/Community Forum events
  - f. Benton County devoted website with public comment email/form, Etc.

- g. Legal Issue: Apply to just landfill CUP or all CUPs – perhaps, two processes; one for big/large area impacts vs. smaller/localized impacts, etc. May require code amendments.
- 3) Executive Summary:
  - a. Emphasis will be on recommendations
  - b. Note where “consensus” and MAJ- MIN
- 4) Community Education Plan:
  - a. Focus on the ending of the BCTT process and preparation for next CUP
  - b. SMMP info?
  - c. FAQs from a process perspective – not the substantive perspective
  - d. Outreach Plan
- 5) Recommendations

**Members:**

- Ginger Rough
- Cory Grogan/ JonnaVe Stokes
- Louisa Shelby
- Marge Popp
- Mark Henkels
- Mary Parmigiani
- Staff: Amelia Webb

**Subcommittee Meetings and Notes:** [Document Link](#)

**Key Findings:**

Public engagement needs to be widened and become more inclusive. This is mostly likely to be achieved through the following measures:

- 1) Insure language accessibility for at least the County’s most used languages. (English, Spanish, and Chinese.)
- 2) Use methods that help target underserved populations, practically the youth and low-income demographics.
  - a. This can be achieved through more SMS communication and insuring all websites and surveys are mobile friendly.
  - b. Increase social media communication and expand to more platforms. (Reddit, TikTok, Sub-Reddit, etc.)
  - c. Utilize social media advertising.
- 3) Use outreach methods that do not require people to be pre-signed up or self-selected. This includes, but is not limited to, flyers in public spaces, paid

advertising on social media, in newspapers, and on the radio, informational mailers, and other resources.)

- 4) Create user friendly access to public input documents and testimonies during the process to ensure Benton County, Planning Commission, SWAC and other citizens can access information. This could be on a dedicated landfill website or open house website.

**Key Recommendations:**

<b>Benton County Talks Trash Notifications Chart</b>			
<b>Notification Subject</b>	<b>Notification Type</b>	<b>Who is Notified</b>	<b>Timeline</b>
<b>BCTT Report</b>	Email blast SWG Interested Parties List, Organic Subscribers, make sure those who spoke at meeting are on the list Soap Creek Neighbors Group, other landfill neighbors	*Radii maps mentioned in table are below  10 Mile Radius Proposed	48 hrs.  72 hrs.?  After report if finished
<b>BCTT Survey re: Public thoughts on workgroup report</b>	Email blast, website post.  Possible postcard to the entire county here with a link to go to and/or scan to get on a list to be informed of further updates and/or have an open house event/public informational meeting- weekend in the daytime where the link and email list is available.	10 Miles proposed	Open 1 month
<b>Board Hearing on Report</b>	Email blast, website post	10 Miles proposed	24 hrs. after scheduled
<b>CUP Filing</b>	Post Card, email blast, newspaper  Social media posts and ads	10 or 15 miles	24 hrs. after initiation

<b>CUP Completion</b>	Email blast, website post, newspaper Social Media	Entire County  Same as CUP filing	24 hrs. after
<b>Franchise Agreement</b>			
<b>Planning Commission Meetings</b>	Website, email to interested groups	People on existing email list	2 weeks before meeting
<b>SWAC Meetings</b>	Website, email to interested groups	People on existing email list	1 to 2 weeks before meeting

**Additional Information:**

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## Final Polling

<b>WORKGROUP Member</b>	<b>Polling</b>	<b>Charge</b>	<b>Not Here</b>	<b>Abstain</b>	<b>1</b>	<b>2</b>	<b>3</b>
Chuck Gilbert	X	All					
Marge Popp	X	All					
Elizabeth Irish	X	All					
Russ Knocke	X	All but C					
Shawn Edmonds	X	All but C					
John Deuel	X	All					
Kathryn Duvall	X	All					
Christopher McMorran	X	All					
Ryan McAlister	X	All					
Mary Parmigiani	X	All					
Ed Pitera	X	All					
Louisa Shelby	X	All					
Catherine Biscoe	X	All					
<b>Polling Totals:</b>				<b>3</b>	<b>8</b>	<b>0</b>	<b>0</b>
<b>EX-Officio</b>	<b>Polling</b>	<b>Charge</b>	<b>Not Here</b>	<b>Abstain</b>	<b>1</b>	<b>2</b>	<b>3</b>
Brian Fuller							
Brian May							
Shane Sanderson							
<b>County</b>	<b>Polling</b>	<b>Charge</b>	<b>Not Here</b>	<b>Abstain</b>	<b>1</b>	<b>2</b>	<b>3</b>
Daniel Redick							
Sean McGuire							
<b>Ex-Officio Totals:</b>			<b>0</b>	<b>0</b>	<b>5</b>	<b>0</b>	<b>0</b>
<b>Grand Totals:</b>							

**RESULT:** Consensus / No Consensus

**Minority Proposal:** None

## Last Meeting Transcript

Member Statement in Alpha Order or group by Support, Neutral, or do not Support [List in Alpha Order]

<b>Member</b>	<b>Affiliation</b>	<b>Statement Number</b>
Audrey O'Brien	DEQ	1
Brian May ALT: Andrew Jonson	Marion County	2
Catherine Biscoe	Public	3
Christopher McMorran	Public	4
Chuck Gilbert	SWAC/DSAC	5
Daniel Redick	Benton County Staff	6
Ed Pitera	Public	7
Elizabeth Irish	Planning Commission	8
John Deuel	Public	9
Kathryn Duvall	Public	10
Louisa Shelby	Public	11
Marge Popp	SWAC/DSAC	12
Mary Parmigiani	Public	13
Russ Knocke ALT: Ginger Rough	Planning Commission	14
Ryan McAlister	Public	15
Sean McGuire ALT: Jen Brown	Benton County Staff	16
Shane Sanderson	Linn County	17
Shawn Edmonds ALT: Julie Jackson	Republic: National	18

## **V. Public Outreach and Process Reflections**

- a. Public Outreach Summary**
- b. Member Process Evaluation Summary**
- c. Facilitator Process Reflections**

DRAFT



**VI. Conclusion**

**TO BE PROVIDED**

DRAFT

## VII. Appendix

### A. Meeting Summary and Open House Topics

B. \_\_\_\_\_

### C. Subcommittee Reports – TO BE PROVIDED

1. Landfill Size/Capacity/Longevity
2. Sustainable Materials Management Plan (SMMP)
3. Past Land Use Application Conditions
4. Legal Issues & Land Use Review
5. Community Education & Outreach

### D. Subcommittee “Meeting Notes” – TO BE PROVIDED

1. Landfill Size/Capacity/Longevity
2. Sustainable Materials Management Plan (SMMP)
3. Past Land Use Application Conditions
4. Legal Issues & Land Use Review
5. Community Education & Outreach

## Appendix A: Meeting and Open House Topics

### a. Meeting One: 09/08/2022

#### 1. Main Topics

- Welcome & Introductions
- Participant Meeting Instructions
- Participant Commitments
- How We Got Here
- Review Major Charter Sections:
- Collaboration 101 Training
- Public Comment
- Triage Charge Elements
- Draft Report Structure Explore Common Understandings Section
- Mechanics: Add Representative Table
- Next Steps

#### 2. Materials Presented

- [Agenda](#)
- [Assessment](#)
- [Facilitator Observations](#)
- [Charter](#)
- [PowerPoint](#)
- [Survey Summary](#)
- [First Draft of Report](#)

#### 3. WORK GROUP Discussion

The workgroup reviewed the major Charter sections: these were the general scope, charge elements, guiding principles, how polling works, and the “one table” concept. The workgroup triaged the draft report structure, exploring the Common Understandings section. The major themes were refining the list of missing topics/questions, providing additional information where needed, and commenting on the next draft. When discussing the mechanics of the workgroup, the central topics were establishing meeting times, and scheduling suggestions for the landfill and neighborhood tours.

For the complete Workgroup discussion, please review the [09/08/2022 Meeting Minutes here](#).

The Zoom video recording is available [here](#).

#### 4. Action Items

Members were given the Meeting One Evaluation link. Homework for the next meeting included providing information on member alternates and submitting any final topics and/or questions with supporting materials.

The County agreed to work on increasing project visibility and public information and expanding the interested party list in the making with those that were on the CUP process list.

## **5. Public Comment**

Themes from Public Comments:

- a) Mountain of garbage. Need to keep existing capacity in mind and what this means for the County.
- b) Only 7% of waste comes from Benton county and should not be dumping ground for others.
- c) Process should focus more on SMMP – not a CUP application.
- d) Once a cutting-edge facility; now never-ending community problem.
- e) Coffin Butte a tragedy of commons; make those furthest away pay more.
- f) Future-orientated focus removed from the Charter – focus on more than landfilling.
- g) Consider options for harvesting energy from the landfill
- h) The workgroup is in a unique position regarding common understandings. The workgroup should get the facts and work hard to develop common understandings. This could be a worthy outcome in and of itself.

## **b. Meeting Two: 09/15/2022**

### **1. Main Topics**

- Welcome & New Member Introductions
- Participant Meeting Instructions
- Participant Commitments
- Approve Draft Minutes from Meeting One
- Public Comment
- Meeting One Evaluation Highlights
- Homework Highlights
- Explore Common Understandings & Refine List of Missing Topics/Questions
- Discuss SWMP Table of Contents Concept
- Triage Charge Elements/Workplan
- Next Steps

## 2. Materials Presented

- [Agenda](#)
- [Draft 9/8/22 Minuets](#)
- [Comments](#)
- [Meeting One Evaluation](#)
- [Homework Summary](#)
- [Common Understandings Table of Contents](#)
- [SWMP Table of Contents](#)

## 3. WORK GROUP Discussion

Sam shared the results and explained how the evaluations and homework answers are compiled. Amelia pulls comments from SurveyMonkey and formats it for ease of review. The workgroup then had a brief discussion about fairness and balance. Important themes from exploring the Common Understandings Section and the SWMP include emphasizing that the workgroup's current purpose is to grow a full list of topics (not to finetune or get precise placement), brainstorming different areas of questioning. The workgroup then triaged the Charge Elements/Workplan. The overarching theme was flushing out what the workgroup has the ability and resources to do.

For the complete Workgroup discussion, please review the [09/15/2022 Meeting Minutes here](#).

The Zoom video recording is available [here](#).

## 4. Action Items

Members were given the Meeting Two Evaluation link, and tour updates were given. Homework for the next meeting included members track changing the Charge Common Understandings and SMMP Table of Contents with any topics/questions they think are missing.

## 5. Public Comment

- Paul Nietfeld (engineer and resident living between Corvallis city limits and the landfill): Issues: Historic intake for coffin butte. Shows a graph with landfill input and a table with projections for landfill life, including Cell 6. Quarry challenge. Shared a desire to document intake, life, and quarry in a final report.
- Sam's shared an example about assumptions used by different parties and the need to test them collaboratively. The use of sensitivity analyses.
- Ryan McAlister adds that life events make landfill input ebb and flow.

- Chuck Gilbert: Referenced the memo submitted on sustainability & looking at the landfill as a resource and encouraged the members to read it.
- Ken Ekland: Followed up on Paul's presentation. He had concerns about volume numbers in the report/document being incorrect, so the lifespan Paul predicted may be too generous. Shared comments on the history of the Solid Waste Advisory Council (SWAC) and the Disposal Site Advisory Committee (DSAC.)
- Brian Fuller also shared comments on the topic of comparing the different assumptions and metrics used by different groups.
- A subcommittee should be set up so people from different groups can discuss these assumptions and then present them together to the workgroup. Sam also encourages people to send in additional written comments on these topic.

### **c. Meeting Three: 10/06/2022**

#### **1. Main Topics**

- Welcome & New Member Introductions
- Review Participant Meeting Instructions & Agenda
- BOC Presentation
- Approve Draft Minutes: Last Meeting & Tours
- Landfill Tour Questions
- Public Comment
- Comments on Meeting Two Evaluation Suggestions
- Discuss County Counsel Deference Memo & Set Stage for Legal Subcommittee
- Check-in Activity
- Big Picture Discussion
- Stand-Up the Subcommittees
- Review Amended Workplan
- Next Steps

#### **2. Materials Presented**

- Agenda
- [Draft 9/15/2022 Minutes](#)
- [Landfill Tour Minutes](#) & [Landfill Tour Questions](#)
- [Neighborhood Tour Minutes](#) & [Neighborhood Tour Questions](#)
- [Meeting Two Evaluation](#)
- [Email Attachment Comments](#)
- [County Council Deference Memo](#)

- [Common Understandings Table of Contents with Track Changes](#)
- [SWMP Table of Contents with Track Changes](#)
- [CUP Conditions with Track Changes](#)
- [Member Memo](#)
- [Republic Memo: Section 2 C and Section 3](#)
- [Charge C](#)
- [Charge B](#)

### **3. WORK GROUP Discussion**

The workgroup discussed what to do with the mass number of emails that get sent between meetings. Between meeting one and two it was roughly 1,600 emails. Many of these emails focused on understanding Charge b, so a legal subcommittee to present to the group on what the law was proposed. The big picture process discussion emphasized that the workgroup is engaging in a bridge process that will set the stage for subsequent processes and decisions. The subcommittees to stand up are as follows:

- 1) Landfill Size/Capacity/Longevity Subcommittee (Existing)
- 2) CUP Conditions Subcommittee (Existing)
- 3) Law Subcommittee (Pending)
  - i. Land Use Law 101
  - ii. Deference Memos
  - iii. Rights and Obligations
  - iv. Entity Rights and Obligations
  - v. Reporting Requirements
- 4) Potential SWMP Subcommittee and Potential Amendment Request to BOC

For the complete Workgroup discussion, please review the [10/06/2022 Meeting Minutes here](#).

The Zoom video recording is available [here](#).

### **4. Action Items**

Members were given the Meeting Three Evaluation link. The facilitation team will schedule and conduct the subcommittee meetings before the next workgroup meeting. County staff will organize and add additional materials to the discussed documents and present them to the workgroup at the next meeting. Republic also committed to responding to tour questions for the subcommittees to review.

### **5. Public Comment**

- Audrey Sterling (Community Member): Reflects that the talk in the community focuses on the idea that the landfill is full and what to do with the trash. They need to find a place for it, so the landfill does not overflow.
- Kristen Mitchell (Executive Director of Oregon Refuse & Recycling): Explains what her company does, noting that Coffin Bute is in very good standing. She also notes that because Senate Bill 882 was passed, RMA should come into effect soon
- Cris Reese (Community Member and Small Business Owner): Expresses appreciation for the work Republic does at Coffin Bute and notes he does not want small businesses to be forced to pay garbage trucks to haul longer distances.
- Chuck Gilbert (Community Member): Comments on how the landfill and rock removal are both valuable resources.
- Jennifer Holworth (Community Member): Reflects positively on Republic's compost and recycling programs.

#### **d. Meeting Four: 10/27/2022**

##### **1. Main Topics**

- Welcome & New Member Introductions
- Review Participant Meeting Instructions & Agenda
- Approve M3 Draft Minutes
- BOC Action on Updated Workplan
- Public Comment
- Update on Tour Questions & Answers
- SMMO Values & Goals Discussion
- Q&A Session with Representatives from other Counties
- Subcommittee Reports
- Next Steps

##### **2. Materials Presented**

- [Agenda](#)
- [Draft M3 Minutes](#)
- [M3 Evaluation Summary](#)
- [Updated Workplan](#)
- [Public Comments Document](#)
- [Member Comments Document](#)
- [BCTT Tour Questions 10/25](#)
- [SMMP Values & Goals Presentation: 2040 Initiative History & Overview](#)
- [Charge C](#)
- [A.1 Subcommittee Report](#)



- [A.2 Subcommittee](#)
- [A.3 Subcommittee Webpage](#)
- [C.1. Subcommittee Report](#)
- 

### 3. WORK GROUP Discussion

The Facilitator reviewed the agenda, M3 Minutes, and updated workplan. The minutes were approved and the only significant change to the BOC Action and Workplan was more time was added between the Workgroup meetings, so there is time for subcommittees to meet. After the public comment, the group went over the updated Tour Questions - Joel requested they be changed so it does not appear that the neighborhood leadership neglected to respond to Republic tour questions. Sean then presented on the SMMP Values & Goals with coverage of the 2040 Initiative, including History & Overview. Daniel had previously reached out to other Counties so they could talk about the issues/topics they have been dealing with. Key takeaways from this discussion:

1. Public engagement is critical, especially with the SWMP or SMMP.
2. Subcommittees can be very effective
3. The Recycling Modernization Act should be front and center
4. They should consider different housing types. EX: Multi-family homes have different recycling resources. How can you still support these homes?
5. Remember that solid waste is a transportation issue.
6. Keep in mind changing technologies (EX: JUNO)
7. Recycling is vital to the transient community. It is an equity issue.

Subcommittee reports were given to the group and there was discussion on ways to improve their action plans.

For the complete Workgroup discussion, please review the 10/27/2022 Meeting Minutes [here](#).

The Zoom video recording is available [here](#).

### 4. Action Items

Members were given the Meeting Four Evaluation link. The facilitation team will continue scheduling and conducting the subcommittee meetings with County staff. The discussion of applying Values to the CUP will be added to the agenda for the next applicable meeting. Staff and the Facilitation team will plan and communicate to members the plans for the Open House element of Workgroup Meeting Five.

## 5. Public Comment

- Doug Pollock (neighbor of the landfill, engineer, and parent): He explained how he documented that inkjet cartridges being sent to the landfill from HP were leaking ink into the landfill as they were crushed by landfill equipment. In response he helped develop a recyclable ink cartridges program which processed 200 tons of cartridges in its first year, half of that being ink. He also discussed how Corvallis public schools have been resistant to recycling and continue to put hazardous materials such as fluorescent tubes and epoxy into bins going to the landfill. Essentially, there is no audit of what is going into the landfill. He also emphasized that these consensus processes are hard for the real public to get involved with and be heard. He said these processes tend to favor process insiders more than the public.
- Debbie Palmer (resident) 11/16/22 Submittal: [She] expressed her opinion that the facilitator misrepresented the neighbors as wanting to close the landfill as soon as possible. She elaborated that the neighbors just want it to stop expanding, and that the County should take the estimated 10-15 years of landfill life left via already-permitted airspace to plan for post-closure waste management. She also noted the difference between intentionally-sited and accidentally-sited landfills, pointing out that Coffin Butte is an accidentally-sited one, and commented that since Republic Services profits substantially from landfilling garbage, they have no incentive to pursue alternatives to landfilling. She summarized that she felt everyone wants to do something to combat the climate crisis, and that working towards eventual closure of the landfill would help.
- Linda Brewer (resident, soil scientist, and ten-year member of SWAC): stated that, in her opinion, Republic is doing a good job managing the landfill. She also noted that the Benton County trash rate has been held artificially low.
- Pat Schwartz (resident): expressed the belief that the Republic is an important part of the community.
- Cat Newsheller (resident): expressed the belief that Republic is simply trying a new tactic to get what they want – expanding the landfill and taking in more trash. She feels that Republic should not be making money off people's health, and if the County lets them expand, they will become out of control. She also shared personal experiences concerning the traffic and debris on HWY 99 from landfill trucks.
- Dale Elizabeth Draeger (resident): explained that they recently visited the landfill and were concerned that people were throwing away recyclable materials like metal. Republic should have someone to monitor the sorting.
- Pat Hare (City Manager of Adair Village): Pat reflected on their positive experiences working with Republic and noted that they are a large

employer in the community. He also notes that when the cost to get rid of trash increases, more trash ends up on the street.

- James Rodell (resident, but not close to the landfill): He would like clear and transparent communication on whether Republic broke certain agreements and the consequences.

## **e. Meeting Five**

### **1. Main Topics**

- Welcome
- Review Participant Meeting Instructions & Agenda
- Approve M4 Draft Minutes
- Approve Updated Tour Q&A
- Updated Workplan Facilitator 11/16/22
- Public Comment
- Subcommittee Reports
- Reintroduce Charges D & E
- Next Steps
- Open House

### **2. Materials Presented**

- [Agenda](#)
- [Draft M4 Minutes](#)
- [M4 Evaluation](#)
- [Tour Q&A Final Version](#)
- [Updated Workplan](#)
- [Public Comments](#)
- [Public & Member Comments](#) (passcode: Benton1!)
- [A.1. Subcommittee Report](#)
- [A.2. Subcommittee Homepage](#)
- [A.3. & B.1. Subcommittee Homepage](#)
- [C.1. Subcommittee Report](#)

### **3. WORK GROUP Discussion**

Joel Geier introduces a motion to revise the M4 notes as per the recent email exchange, which Ed Pitera seconds. Ed also suggests alternative ideas like using a transcript. Sam holds a quick poll on the original motion: Substituting the language that Joel Geier presented in place of the existing Doug Pollock comments in the Public Comments section of the Meeting 4 Minutes. (See Polling Issue 1, below, and 07:53 – 10:00 of meeting recording). Sam responds to the alternative ideas raised by Ed and suggests that people can bring in written

statements if they would like or send in a written statement the next week to encapsulate the comment they made at the Workgroup. This is viewed favorably by the workgroup. Daniel explains how the comments are currently accessible on the meeting agendas via FTP's, and the Tour Q&A and Project Workplan updates are approved.

Subcommittee reports were given to the group and there was discussion on ways to improve their action plans.

For the complete Workgroup discussion, please review the 11/17/2022 Meeting Minutes [here](#).

The Zoom video recording is available [here](#).

#### 4. Action Items

Members were given the Meeting Five Evaluation link. The facilitation team will continue scheduling and conducting the subcommittee meetings with County staff, and subcommittee E will be formed and begin meeting. Notes created from the open house will be prepared for presentation at the next meeting.

**Polling Issue 1:** Substituting the language that Joel Geier presented for Doug Pollock's current comments in the Public Comments section of the Meeting 4 Minutes.

<b>WORKGROUP Member</b>	<b>Polling</b>	<b>Charge</b>	<b>Not Here</b>	<b>Abstain</b>	<b>Yes</b>	<b>No</b>
Joel Geier	X	All			X	
Marge Popp	X	All		X		
Elizabeth Irish	X	All		X		
Russ Knocke	X	All but C			X	
Shawn Edmonds	X	All but C		X		
John Deuel	X	All			X	
Kathryn Duvall	X	All	X			
Christopher McMorran	X	All	X			
Ryan McAlister	X	All			X	
Mary Parmigiani	X	All			X	
Ed Pitera	X	All			X	
Louisa Shelby	X	All			X	

Catherine Biscoe	X	All	X			
<b>Polling Totals:</b>				<b>3</b>	<b>7</b>	<b>0</b>
<b>EX-Officio</b>	<b>Polling</b>	<b>Charge</b>	<b>Not Here</b>	<b>Abstain</b>	<b>Yes</b>	<b>No</b>
Brian Fuller				X		
Brian May			X			
Shane Sanderson				X		
<b>County</b>	<b>Polling</b>	<b>Charge</b>	<b>Not Here</b>	<b>Abstain</b>	<b>Yes</b>	<b>No</b>
Daniel Redick					X	
Sean McGuire				X		
<b>Ex-Officio Totals:</b>				<b>3</b>	<b>1</b>	<b>0</b>
<b>Grand Totals:</b>				<b>6</b>	<b>8</b>	<b>0</b>

**RESULT:** Consensus / No Consensus

Facilitator counts a Majority, so the group is going to move forward with making the changes.

**Minority Proposal:** None

### 5. Public Comment

- Schmidt Pathman: His company promotes research on Solid Waste Management and partners with Universities, national, and international organizations. Some of their concerns about landfills are: 1) the underestimation of methane produced by landfills and lessening organic materials thrown away, and 2) lessening cross contamination of recyclable materials, which can be better achieved with the sorting system they have designed. (Pending receipt (full statement) by speaker to be placed in Appendix A of Meeting Minutes.)
- Debbie Palmer: Notes that the link to the FTP links is only good for a month. She also notes that she likes the need for fidelity between the oral and written public comments.
- Daniel: Explains that, yes, the links need to be reset each month. However, they will ensure the links are always updated and available.

- Dr. Skip Rochefort: (Associate Professor of Chemical Engineering at Oregon State University) He presents a recorded lecture/slideshow on how they have created a way to create diesel fuel from plastics using only heat. (See Appendix B of Meeting Minutes for slideshow).

## **f. Meeting Six**

### **1. Main Topics**

- Welcome & New Member Introduction
- Review Agenda
- Member Shares Original Document
- Public Comment
- Subcommittees A.1. & E.1. Report
- Review & Approve M5 Minutes & Evaluation Summary
- Discuss Consultant/Attorney for Next CUP
- Subcommittee A.2 Report and A.3 B.1 Report
- Introduce & Approve Third Attorney with Poll
- Subcommittee C.1. Reports
- Updated Project Workplan
- Next steps

### **2. Materials Presented**

- [Working M6 Agenda](#)
- [Draft M5 Minutes and Open House Notes](#)
- [M5 Evaluations](#)
- [Comments](#)
- [Topic A.1. Landfill Capacity/Longevity](#)
- [E.1 Community Education](#)
- [Topic A.2. Past CUP Conditions](#)
- [A.3. Legal Issues and Topic B.1. Land Use Review](#)
- [Legal Subcommittee PPT](#)
- [Legal Subcommittee Statement](#)
- [Virginia Gustafson Lucker Resume](#)
- [C.1. SMMP](#)
- [BCTT Draft Workplan Gantt Chart](#)
- [BCTT Draft Workplan Calendar](#)

### **3. WORK GROUP Discussion**

For the complete Workgroup discussion, please review the 12/15/2022 Meeting Minutes here. The meeting recording can be found [here](#).

#### 4. Action Items

Members were given the Meeting Six Evaluation link. The facilitation team will continue scheduling and conducting the subcommittee meetings with County staff, an Informal Member Survey will be sent out for Members to complete over the holiday, and facilitation staff will begin drafting the first draft of the final report.

**Polling Issue 1:** Virginia (Ginny) Lucker will join the Legal Subcommittee to serve as the neutral “third leg of the stool.”

<b>WORKGROUP Member</b>	<b>Polling</b>	<b>Charge</b>	<b>Not Here</b>	<b>Abstain</b>	<b>1</b>	<b>2</b>	<b>3</b>
Chuck Gilbert	X	All			X		
Marge Popp	X	All	X				
Elizabeth Irish	X	All			X		
Russ Knocke	X	All but C				X	
Shawn Edmonds	X	All but C				X	
John Deuel	X	All			X		
Kathryn Duvall	X	All			X		
Christopher McMorran	X	All	X				
Ryan McAlister	X	All	X				
Mary Parmigiani	X	All			X		
Ed Pitera	X	All			X		
Louisa Shelby	X	All			X		
Catherine Biscoe	X	All			X		
<b>Polling Totals:</b>				<b>3</b>	<b>8</b>	<b>0</b>	<b>0</b>
<b>EX-Officio</b>	<b>Polling</b>	<b>Charge</b>	<b>Not Here</b>	<b>Abstain</b>	<b>1</b>	<b>2</b>	<b>3</b>
Brian Fuller					X		
Brian May					X		
Shane Sanderson					X		
<b>County</b>	<b>Polling</b>	<b>Charge</b>	<b>Not Here</b>	<b>Abstain</b>	<b>1</b>	<b>2</b>	<b>3</b>
Daniel Redick					X		

Sean McGuire					X		
<b>Ex-Officio Totals:</b>			0	0	5	0	0
<b>Grand Totals:</b>			3	0	13	2	0

**RESULT:** Consensus / No Consensus

**Minority Proposal:** None

**5. Public Comment**

- Camille Hall: (Resident) She is sad that the Board chose to remove Nancy, and now, Joel. These members have unique experiences and knowledge that was valuable. The County currently does not have a process to deal with the tons of trash that go into the landfill. She understands that the two removed people had complained about the facilitator and commissioners and is saddened they chose to remove them.
- Debbie Palmer: (Resident) Question: Who, in the end, will be writing the SMMP? Who will write the RFP? Darren: Answering - He does not know for sure, but staff will put together a draft RFP to hire the consultant. They may ask the Board and maybe some Subcommittees / WG if appropriate. They are looking at other counties' successful plans, and they are invested in getting it right.
- Tom Hewes: (Resident since 1974.) He seconds Camille's statement and is also extremely disappointed in the facilitator and the County for removing the two members. Question - How does having the second biggest landfill on OR align with the Country's values?
- Kate Harris: (Lives in Soap Creek and kids go to school in Adair Village) Thanks the group for being here. Explains that the Adair Village water source is in an area that gets contaminated by the landfill. The contaminants go to the Corvallis treatment plant, but how do we know the water from the park is getting cleaned for all the things? What is the filtration process? We know fires at the landfill, earthquakes, even air quality is starting to be tracked, but water is a big issue too. She hopes the focus can be on minimizing the landfill need. How can we move landfill storage to drier climates, so they are not so hazardous?
- Ron Thompson: (From Newport and is a third-generation garbage disposal business.) Wants to share his concerns if Coffin Butte were to close. It is expensive to haul stuff farther away, more emissions from



trucks, and more wear on roads. They also had rates go way up when their local landfill closed, and as they already have a notable dumping problem, raising rates so people cannot afford it would make things worse. He would love to recycle everything, but landfills are an important and needed tool.

- Marge Popp: (Workgroup Member) She is also disappointed that Nancy and Joel were removed. They were hardworking and knowledgeable - and while they could challenge authority, she wishes that their positive qualities could have been more prioritized.
- Brain Fuller: (DEQ Workgroup Member) lets folks know he is retiring from DEQ, and that Audrey O'Brien will be replacing him. Audrey then introduced herself and shared some of her background at DEQ.

#### **g. Meeting Seven**

1. **Main Topics**
2. Materials Presented
3. WORK GROUP Discussion
4. Action Items
5. Public Comment

#### **h. Meeting Eight**

1. **Main Topics**
2. Materials Presented
3. WORK GROUP Discussion
4. Action Items
5. Public Comment

**C. Subcommittee “Meeting Notes” – LINKS ABOVE AND HARD COPIES TO BE PROVIDED**

6. Landfill Size/Capacity/Longevity
7. Sustainable Materials Management Plan (SMMP)
8. Past Land Use Application Conditions
9. Legal Issues & Land Use Review
10. Community Education & Outreach

**D. Subcommittee Reports**

11. Landfill Size/Capacity/Longevity
12. Sustainable Materials Management Plan (SMMP)
13. Past Land Use Application Conditions
14. Legal Issues & Land Use Review
15. Community Education & Outreach

DRAFT

**Benton County Solid Waste Process Workgroup**

Subcommittee A.1 Landfill Size/Capacity/Longevity

Subcommittee Report to Workgroup

DRAFT

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## Section 0: Background

### A. Charge

#### i. Workgroup charter and bylaws 8-23-2022

From the [Benton County Talks Trash" Workgroup Charter and Bylaws](#) document, Topic A:

##### **A. Develop Common Understandings to form the basis of the work.**

##### 1) A chronological history of key Coffin Butte Landfill topics:

- a. Size;
- b. Specific locations;
- c. Conditions of past land use approvals;
- d. Compliance with prior land use approvals and SWMP;
- e. Reporting requirements;
- f. Assumptions (e.g. when will the landfill close;)
- g. Economics (i.e. Benefit – Cost, etc.;;) and
- h. Examples from other jurisdictions hosting landfills, e.g.:
  - i. Typical land use conditions of approval; and
  - ii. Issue sequencing, (e.g. in what order are landfill versus hauling approvals done, etc.

#### ii. Subcommittee A.1 charge

The A.1 subcommittee was charged with a subset of the tasks listed above. Specifically, per the [A.1 Subcommittee web page](#):

##### **Charge A: Common Understandings Tasks**

##### 1) A chronological history of key Coffin Butte Landfill topics:

1. Size;
2. Specific locations;
3. Assumptions (e.g. when will the landfill close;)

Thus the A.1 subcommittee addresses components 1(a), 1(b) and 1(f) of the workgroup charter Topic A tasks.

Charge 3 “Assumptions” is interpreted to mean estimation of the landfill operational lifetime including the assumptions behind this estimation.

Note that for the A.1 subcommittee, “chronological history” is limited specifically to these three topics; a more general history of the landfill will be addressed by another body.

### iii. Common Terms

Landfill means a facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface. ORS 459.005(14)

Sanitary landfills are intended as biological reactors (bioreactors) in which microbes will break down complex organic waste into simpler, less toxic compounds over time.

Disposal site means land and facilities used for the disposal, handling or transfer of, or energy recovery, material recovery and recycling from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, energy recovery facilities, incinerators for solid waste delivered by the public or by a collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site. ORS 459.005 (8)

Regional disposal site means a disposal site that receives, or a proposed disposal site that is designed to receive more than 75,000 tons of solid waste a year from outside the immediate service area in which the disposal site is located. As used in this subsection, "immediate service area" means the county boundary of all counties except a county that is within the boundary of the metropolitan service district. For a county within the metropolitan service district, "immediate service area" means the metropolitan service district boundary. ORS 459.005 (22)

From all particular measures, a landfill is a subset of a disposal site.

Landfill cell means a discrete volume of a landfill which uses a liner system to provide isolation of solid waste from adjacent cells of solid waste. (RI 250-RICR=140-05-1)

Coffin Butte Landfill is a regional disposal site and an engineered sanitary landfill in Benton County, north of Corvallis, located off Coffin Butte Road. **In progress: Verify that this language applies to cells 1 and 1a.**

## B. Membership Composition

The A.1 Subcommittee membership is composed of four primary representative groups:

1. Franchisee: 3 members (Ian Macnab, Ginger Rough, Bill Bromann, all of Republic Services)
2. Benton County community members: 4 members (Chuck Gilbert\*, Mark Yeager\*, Ken Eklund\*, Paul Nietfeld)
3. County governments: 3 members (Daniel Redick (Benton County), Brian May (Marion County), Shane Sanderson (Linn County))

Daniel Redick, a Benton County Community Development Department staff member, acts as Chair of this subcommittee.



Sam Imperati, the workgroup facilitator, normally attends subcommittee meetings and provides guidance in regard to aligning with workgroup objectives.

\* Also members of the Solid Waste Advisory Council and the Disposal Site Advisory Committee for Benton County

## C. Document Organization

This document is organized into sections that correspond to the “Charge” items assigned to the A.1 Subcommittee (i.e. Sections 1, 2, 3 correspond to Charges 1, 2, 3).

References to specific sections in this document are in the format <Section #>.<Subsection Letter>.<Subpart Designation>. Thus this location would be referenced as 0.C, and the A.1 Subcommittee Charge may be found in 0.A.ii.

DRAFT

# Section 1: Landfill Size

## A. Physical Real Estate Footprint

### i. History

Per the 2002 MOU [Benton County & Valley Landfills MOU Relating to Land Use Issues \(2002\)](#):

- History prior to 1974 in progress
- 1974 CUP approved landfill activities on 184 acres north of Coffin Butte Road.
- 1983 rezoning added 10 acres for landfill activities north of Coffin Butte Road, for a total of 194 acres.
- Since 1983, the total acreage of the permitted landfill site has remained largely unchanged.
- Franchisee (VLI) agrees that the approximately 56-acre parcel south of Coffin Butte Road, while zoned LS, would not be used for disposal of solid waste unless approved by a conditional use permit and Department of Environmental Quality permit for solid waste landfill use. (Language source? In progress)
- Total acreage owned by landfill franchisee unstated.

***A1-KF-1:** 194 acres zoned landfill site. An additional 56-acre parcel south of Coffin Butte Road, while zoned LS, would not be used for disposal of solid waste unless approved by a conditional use permit and Department of Environmental Quality permit for solid waste landfill use.*

### ii. Images

Reported circa 1941 aerial view of Coffin Butte area, before Camp Adair.



Wide aerial view dated 6-10-63 (1963). Pond on south side of Coffin Butte was a result of military quarry operation.



Reported 1978 image of vehicles in line at the landfill.



DRAFT

2008 aerial view, from the 2008 Coffin Butte Landfill Annual Report, Republic Services, Inc.



Aerial image from Fall 2022.

**A1-KF-2:** *The landfill has changed visually over time.*

### iii. Current footprint

The real estate footprint of the landfill is shown in Figure 1: Properties associated with the landfill, numbered in coordination with the table in Appendix C, and Figure 2: Property map, with years each property was purchased by a landfill-affiliated organization, below. See Appendix C for a detailed table of landfill property by taxlot.

(e.g. 1983 CUP: “not exceed 2 acres during the periods of October 15 to June 1 and to not exceed 3/ 4 of an acre during all other periods.” ). **Discussion of this language in progress**

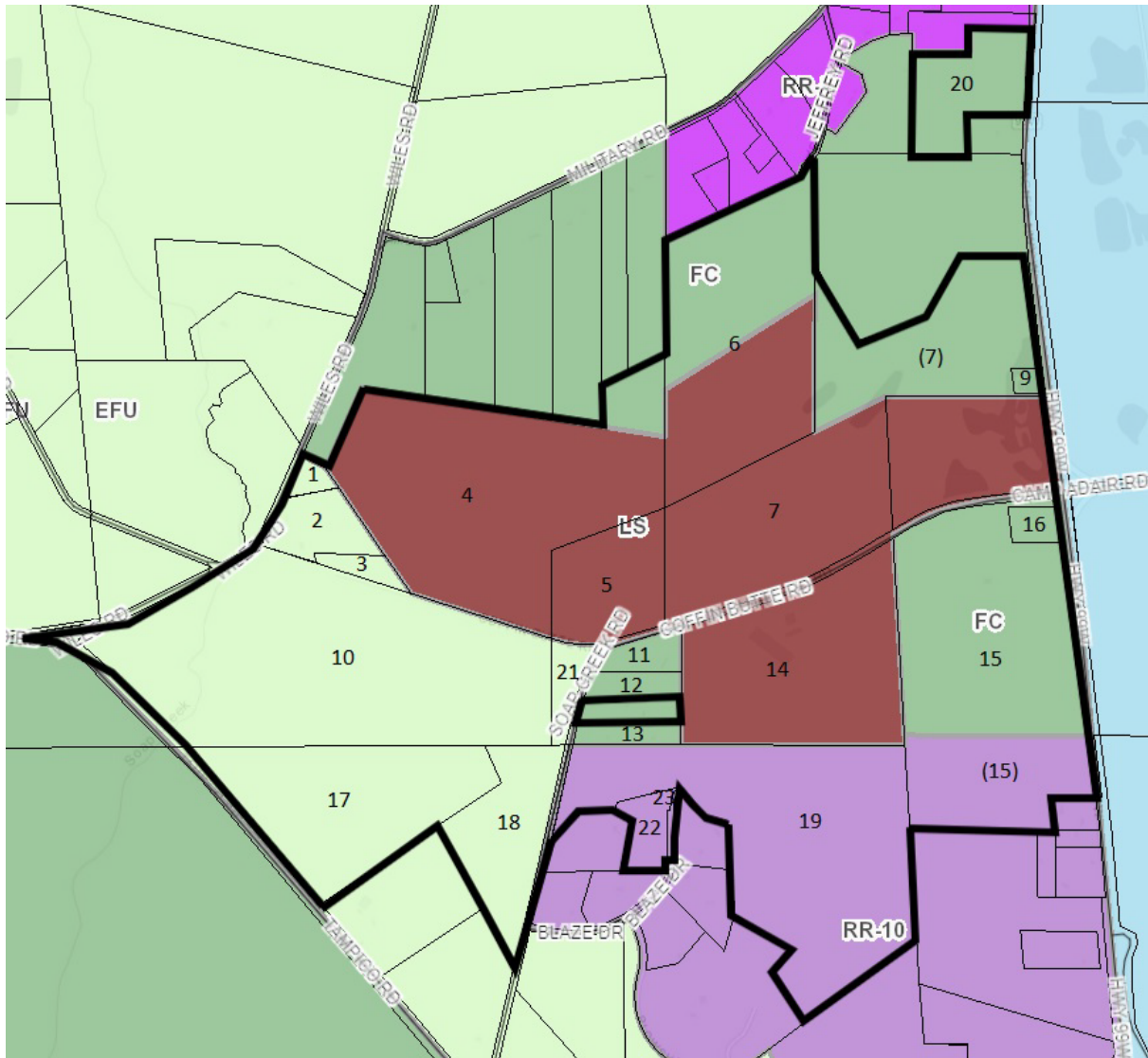


Figure : Properties associated with the landfill, numbered in coordination with the table in Appendix C, and color-coded by zoning.

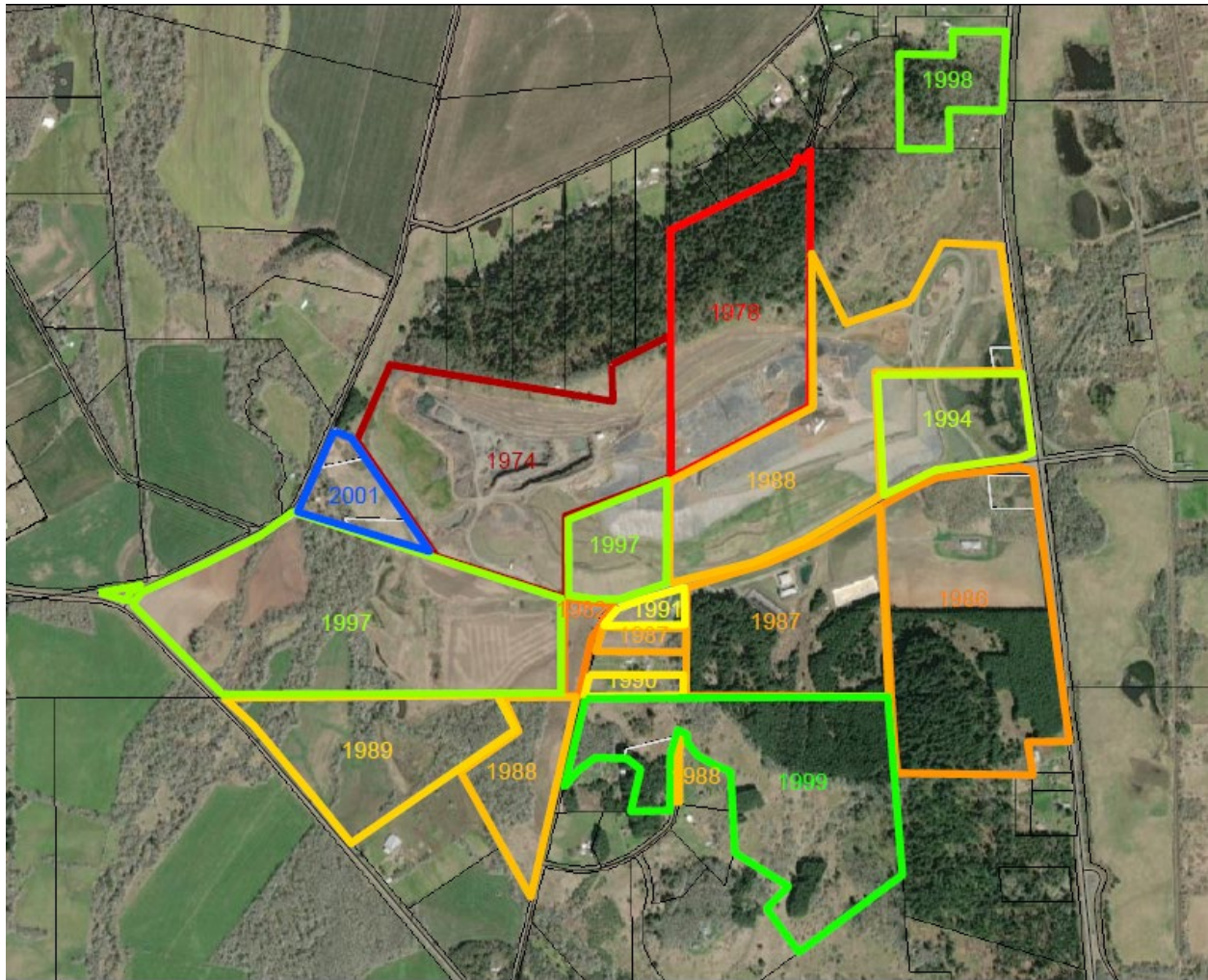


Figure : Property map, with years each property was purchased by a landfill-affiliated organization

**Updating tax lot dates purchased on map. In progress.** Dates should be updated for properties zoned LS, which were likely purchased prior to 1983.

**A1-KF-3:** 23 tax lots associated with the landfill. Five tax lots include landfill cell disposal area. The most recent tax lots associated with the landfill were purchased in 2001 (non-disposal areas).

## B. Permitted Disposal Capacity

### i. Historical permitted capacity benchmarks

The following table lists total expected/calculated permitted capacity for selected points in time. Note that before approximately CY 2000 the Coffin Butte annual reports are inconsistent in presenting an estimate of this capacity; thus historical figures (e.g. 1983) are typically derived from a combination of archival data. For all but the latest figure (CY 2021), the figures should be interpreted as rough estimates and not precise volume numbers. The intent of providing the historical numbers is to demonstrate the growth of the expected/planned landfill size over time.



Date	Total Capacity (yd <sup>3</sup> )	Notes
1983	13,134,000	Capacities defined in the 2003 Site Development Plan for the cells ultimately located on the fill areas shown in <i>Figure 8: Proposed 1983 Rezoning Map</i> areas (Cells 2-5) <b>Republic to include Cell 1 volume. In progress.</b>
2003	22,134,000	Addition of West and East triangles (3,400,000 yd <sup>3</sup> and 5,600,000 yd <sup>3</sup> respectively); calculated from 2003 Site Development plan 1999 cell volume figures
?	35,531,000	With Cell 6, estimated at 13,397,000 yd <sup>3</sup> <b>Date of addition of Cell 6 in progress.</b>
2004	39,594,002	<a href="#">2004 Coffin Butte Landfill Annual Report</a>
2013	39,172,992	<a href="#">2013 Coffin Butte Landfill Annual Report</a>
2021	38,997,848	<a href="#">2021 Coffin Butte Landfill Annual Report</a>

*Table 1: Historical Capacity Values*

**To include historical lifespan projections and anticipated closure dates, instead of permitted capacity. Consult DEQ permit documents. In progress.**

ii. Capacity utilization 2001 – 2021

The plot below shows the total permitted airspace and the available (remaining) airspace over the period 2001 – 2021. Note that as of end 2021 approximately 44% of the total permitted capacity remained unused.

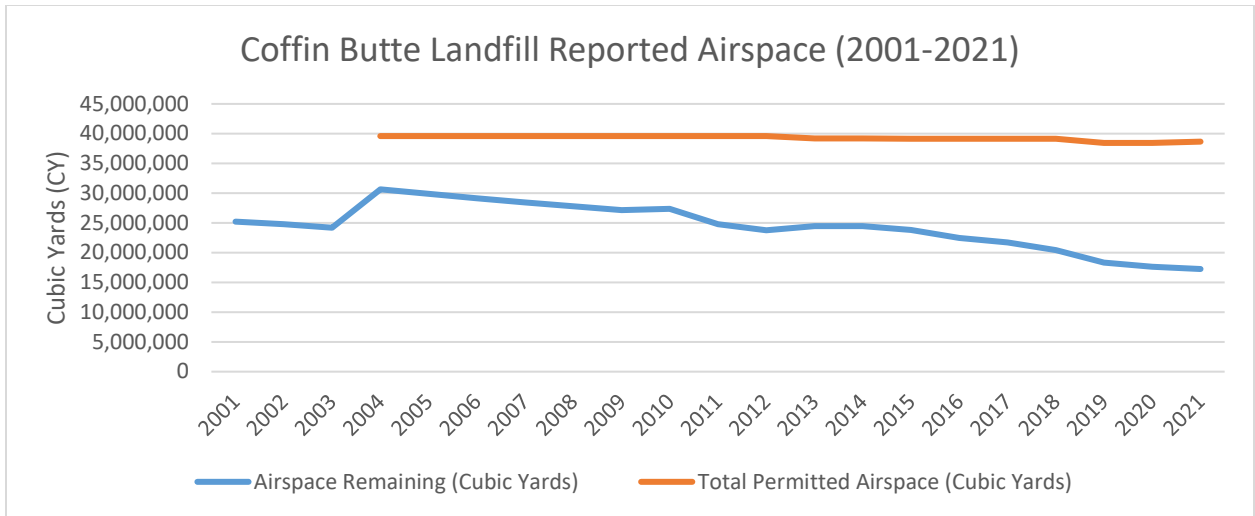


Figure 1: Coffin Butte Airspace Total/Remaining 2001 - 2021

**A1-KF-5:** Reported remaining airspace increased by over 6,000,000 Cubic Yards between 2003 and 2004. Since 2004, reported remaining airspace has decreased gradually, while total permitted airspace has remaining somewhat constant. As of end 2021 approximately 44% of permitted capacity remained unused.

iii. Near-term (circa 2025) capacity adjustments for 5-year operating plan

Republic Services is currently in discussion with both Knife River and Benton County regarding necessary permitting/steps to begin excavation of the quarry (future cell 6). Clarify language on quarry excavation. In progress.

C. Intake Volume

In progress. Change section title to scale weight, tonnage.

Coffin Butte intake volume is documented in the annual reports produced by the landfill franchisee. Benton County has annual reports on file for years 1993 – 2021 (inclusive) with the exception of year 2000; intake data for 2000 is available in the 2021 report. Note that with older (pre-2008) reports, the annual intake volume figure is sometimes difficult to determine precisely due to inconsistent values stated within a given annual report (e.g. narrative summary vs. intake volume table) and/or discrepancies in values referenced in subsequent annual reports (e.g. historical comparisons). Where discrepancies exist within a given annual report, the figure documented in the intake volume table is used. See Appendix A for a detailed listing of the annual intake volumes used in this document.

i. 2000 and 2020 Landfill Franchise Agreement Intake Limits

Work in Progress: Explaining 2000 and 2020 Franchise agreement tonnage limits

Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement preface the definition of their respective solid waste intake limits with an acknowledgement of potential “adverse effects to the County’s infrastructure and environmental conditions due to increased annual volumes of Solid Waste accepted at the Landfill.”

Each of these agreements then defined an intake limit (in Tons/yr.). In the 2000 agreement, intake levels in excess of the limit allowed the County to reassess infrastructure and environmental impacts relative to a baseline established in 2001, and, if adverse impact was found, to force a renegotiation of the Franchise Fee and/or Host Fee. The 2020 agreement noted that the total tonnage deposited into the landfill in any calendar year “shall not exceed” the limit level.

In both agreements the intake limits were defined immediately following the acknowledgement of potential adverse impact from increased annual volumes. In both agreements the intake limits were defined in the same section of the agreement as the adverse impact clause (Section 8 of the 2000 agreement, Section 5 of the 2020 agreement).

The calculation of the intake limit defined in the 2000 agreement is somewhat complex; see Appendix A for details of this calculation. The result of this calculation is that the intake limit defined in the 2000 agreement is set at 600,000 Tons in any calendar year or 1,200,000 Tons in any period of two consecutive calendar years, with both figures increasing by 2% per year. The intake limit defined in the 2020 agreement was stated as a flat 1,100,000 Tons per calendar year. Both of these limits are included in Figure 4: Coffin Butte Landfill Intake 1993 - 2021 below.

***A1-KF-7: Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement acknowledge the potential for “adverse effects to the County’s infrastructure and environmental conditions due to increased annual volumes of Solid Waste accepted at the Landfill.”***

***A1-KF-8: Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement define landfill solid waste intake limits immediately following and in the same document section as the acknowledgement of the potential for adverse effects.***

## ii. Recent intake volume: 1993 – 2021

Annual intake volume for 1993 – 2021 is shown in Figure 2.

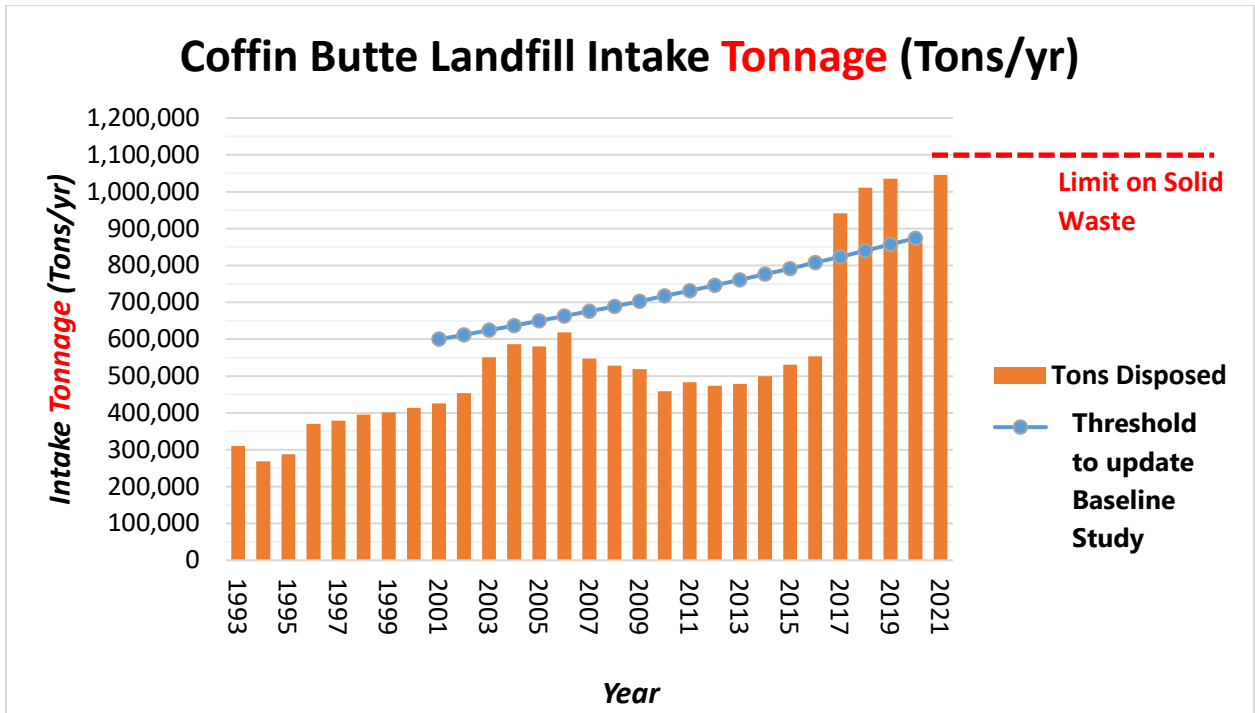


Figure 2: Coffin Butte Landfill Intake 1993 - 2021

Comments/discussion:

**A1-KF-9.** The 2000 Franchise agreement included a tonnage threshold (blue line) at which an updated baseline study may be conducted to determine the impacts of the landfill on infrastructure and the environment, which then could result in increases to the landfill fees paid to the county.

**A1-KF-10.** Work in Progress: Explaining 2000 and 2020 Franchise agreement tonnage limits

**A1-KF-11.** Due to an expected additional influx of volume in 2017 resulting from the disruption onset of the closure process for Riverbend landfill in Yamhill County, in December 2016 the franchisee and Benton County executed a MOU acknowledging an expected increase in Coffin Butte intake volume “for a term of 1-2 years.”

**A1-KF-12.** In documents provided to the A.1 Subcommittee, representatives of the franchisee have indicated that the approximately 70% year-over-year increase in CY2016-2017 was primarily due to redirected flow from Riverbend to Coffin Butte. 2017-2019 volume increases are primarily due to the diversion of waste from Riverbend Landfill, in an effort to extend landfill life, and also rapid population growth in Willamette Valley and Western Oregon.

**A1-KF-13.** The 2020 Landfill Franchise Agreement states that the total tonnage deposited at the Landfill shall not exceed 1.1M tons per calendar year until “application to expand the Landfill on to the Expansion Parcel are granted (following any and all appeals to final judgement).” The 2020 intake limit is denoted in the chart by the dashed red line (“2020 FA Limit.”)

**A1-KF-14.** The slow downward trend in intake volume in the 2006-2010 period is explained by the franchisee as resulting from the economic downturn of 2008.

**A1-KF-15.** The drop in volumes to Coffin Butte in 2020 is due to the global COVID-19 pandemic, coupled with diversion of tonnage from Riverbend Landfill to other landfills besides Coffin Butte. However, tonnage volumes increased again in 2021 due in part to changes in lifestyle/development/at home shopping patterns as a result of the pandemic, as well as debris from the Oregon wildfires.

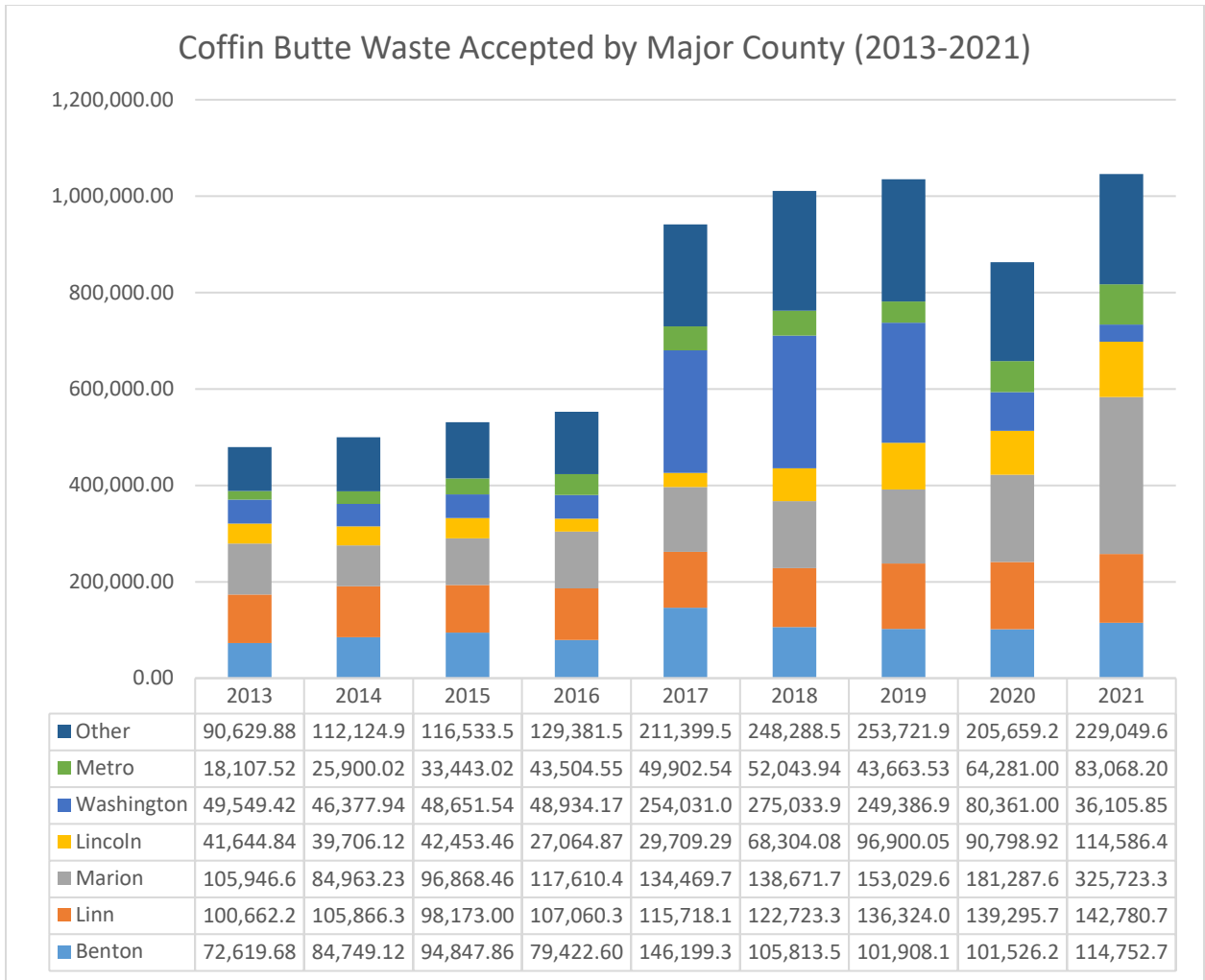
**A1-KF-16.** Increased business development at the landfill impacted accepted tonnage.

**A1-KF-17.** The amount of waste placed into the landfill has grown dramatically over the past 40 years. In 1983, 375 tons per day were placed into the landfill (117,000 tons per year). By 1993, the tonnage volume increased to 310,000 tons per year. In 2003 550,000 tons were placed into the landfill. By 2013, the waste tonnage was 479,000, and in 2021, 1,046,000 tons were emplaced.

**A1-KF-18.** Due to an expected additional influx of tonnage in 2017 (approximately 70% year-over-year increase in CY2016-2017 was partially due to redirected flow from Riverbend to Coffin Butte (approximately 70% year-over-year increase in CY2016-2017 was due to redirected flow from Riverbend to Coffin Butte), in December 2016 the franchisee and Benton County executed a MOU agreeing to an expected increase in Coffin Butte intake volume “for a term of 1-2 years.” The slow downward trend in intake volume in the 2006-2010 period is explained by the franchisee as resulting from the economic downturn of 2008. The decreased intake volume in 2020 is attributed to the Covid-19 outbreak.

### iii. Intake volume by source 2016 – 2021

See chart below for a breakdown of the Coffin Butte intake by source county for the period 2013-2021. This period includes the significant intake volume increase of 2016-2017.



*Figure 3: Intake by Source, 2013 - 2021*

Table

Table

Work In Progress: Adding discussion and details explaining this chart.

**A1-KF-20:** Washington County waste tonnage accepted at the landfill increased by over 400% between 2016-2017, with the increased tonnage continuing through 2019.

iv. Long-term intake volume TBD – 2021

Work In Progress: A long-term intake volume plot (from circa early 1980s to present)

## D. Landfill Structure

### i. Overview

The disposal area and surrounding lots are shown in Figure 6: Property and Cell Structure Overview, 2021 Site Development Plan below. This drawing is reproduced from the 2021 Site Development Plan, Appendix A, Drawing No. G03, and is reproduced here for convenience.

### ii. Cell detail

Detail on individual disposal cells and the active dates for these cells is shown in Figure 7: Cell Structure Detail with Cell Activation Dates below. Dates are summarized in the following table.

Area	Date Opened	Date Capped/Closed
Closed Landfill (Burn Dump)	1940's	
Cell 1	Late 1970's	
Cell 1A	Late 1970's	
Cell 2A	1988	
Cell 2B	1994	
Cell 2C	1995	
Cell 2D	1998	
Cell 3A	2003	
Cell 3B	2004	
Cell 3C	2005	
Cell 3D Phase 1	2007	
Cell 3D Phase 2	2009	
Cell 4	2012	
Cell 5A	2014	
Cell 5B	2018	
Cell 5C	2020	
Cell 5D	2022	
Cell 5E	Future	
Cell 6 (Quarry Area)	Future	

*Table 2: Cell Open/Closed Detail*

DRAFT



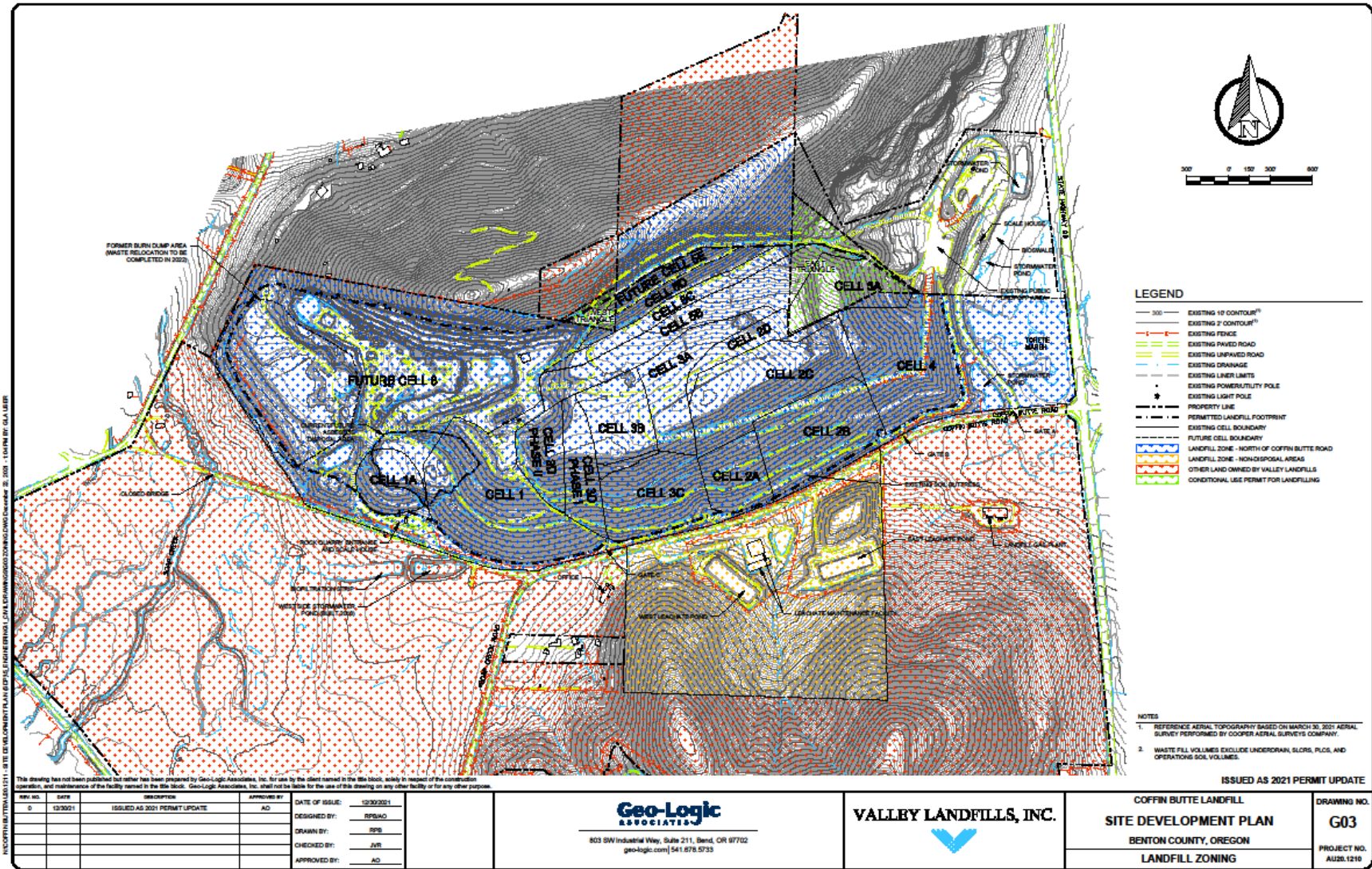


Figure 4

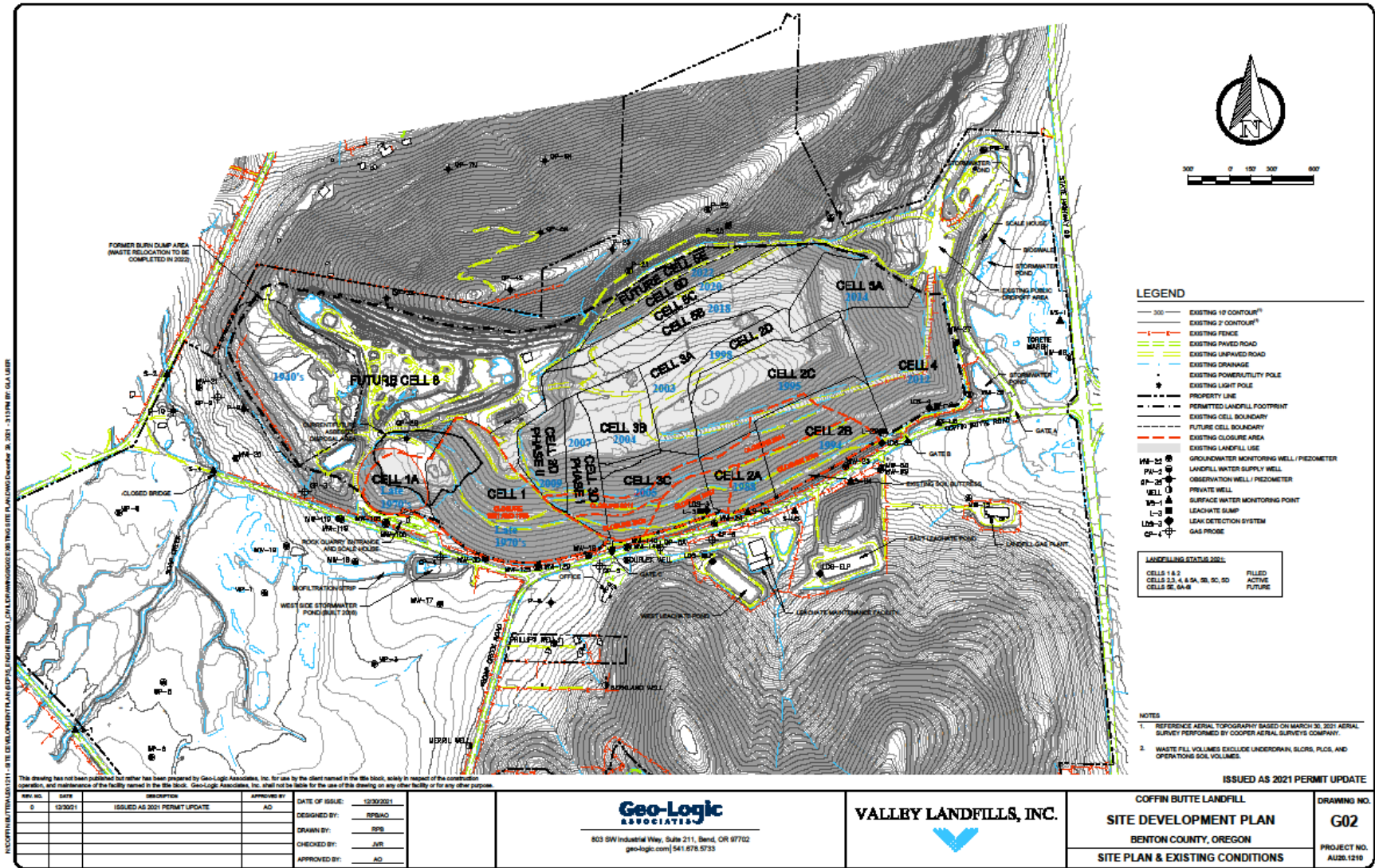


Figure 5

**A1-KF-21.** Map of the landfill shows current and planned cells (G-03)

DRAFT

## Section 2: Specific Locations

This section summarizes the primary actions and events that define the current Coffin Butte landfill footprint.

### A. 1983 Rezoning Action

Per Benton County PC-83-07-C, in ~~1938~~ 1983 a new zoning category (“LANDFILL SITE”) was created for Benton County. Approximately 266 acres of land owned by Valley Landfill, Inc. were rezoned with this classification. Of these 266 acres, 194 acres, all on the north side of Coffin Butte Road, were approved for waste disposal. The acreage on the south side of Coffin Butte Road can be permitted for waste disposal if a CUP is obtained from Benton County.

At the time the application for a zone change was filed in 1983, the landfill was receiving “approximately 375 tons of refuse per day” per PC-83-07 applicant filing.

*Figure 8: Proposed 1983 Rezoning Map* denotes the originally proposed outline for land to be rezoned as Landfill Site (LS). Note that the northernmost section of the proposed area, extending north from the ridgeline of Coffin Butte, was ultimately not rezoned as LS due to concerns from neighbors. Also note that the expected areas of landfill are delineated in this drawing: Completed fill (west side), Present fill (southwest section), and Future fill (large area in center/east).

The overview map included in the [Benton County & Valley Landfills MOU Relating to Land Use Issues \(2002\)](#) document, included here as *Figure 9: Zoning Map (2002 MOU)*, clarifies the zoning boundaries.

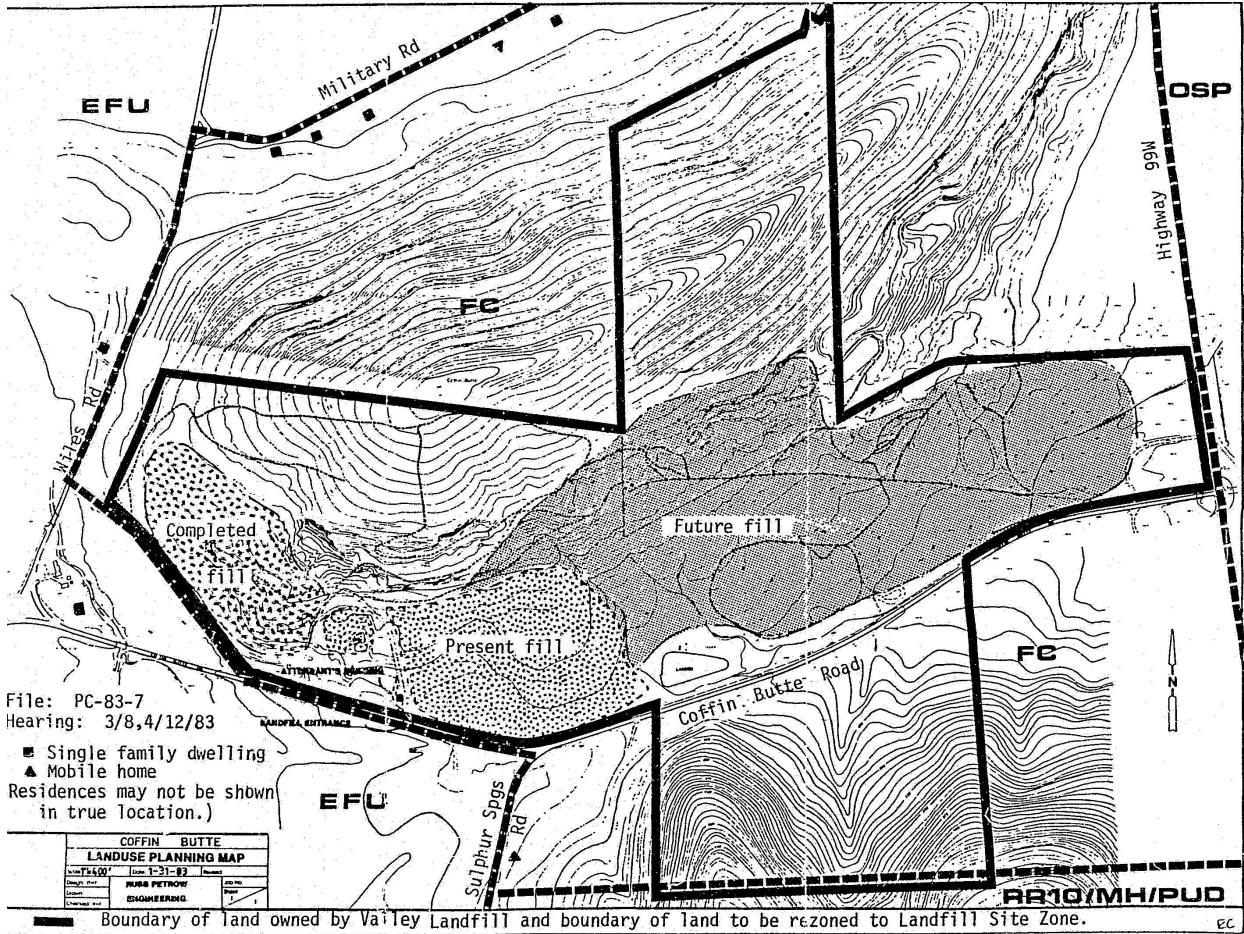


Figure 6: Proposed 1983 Rezoning Map

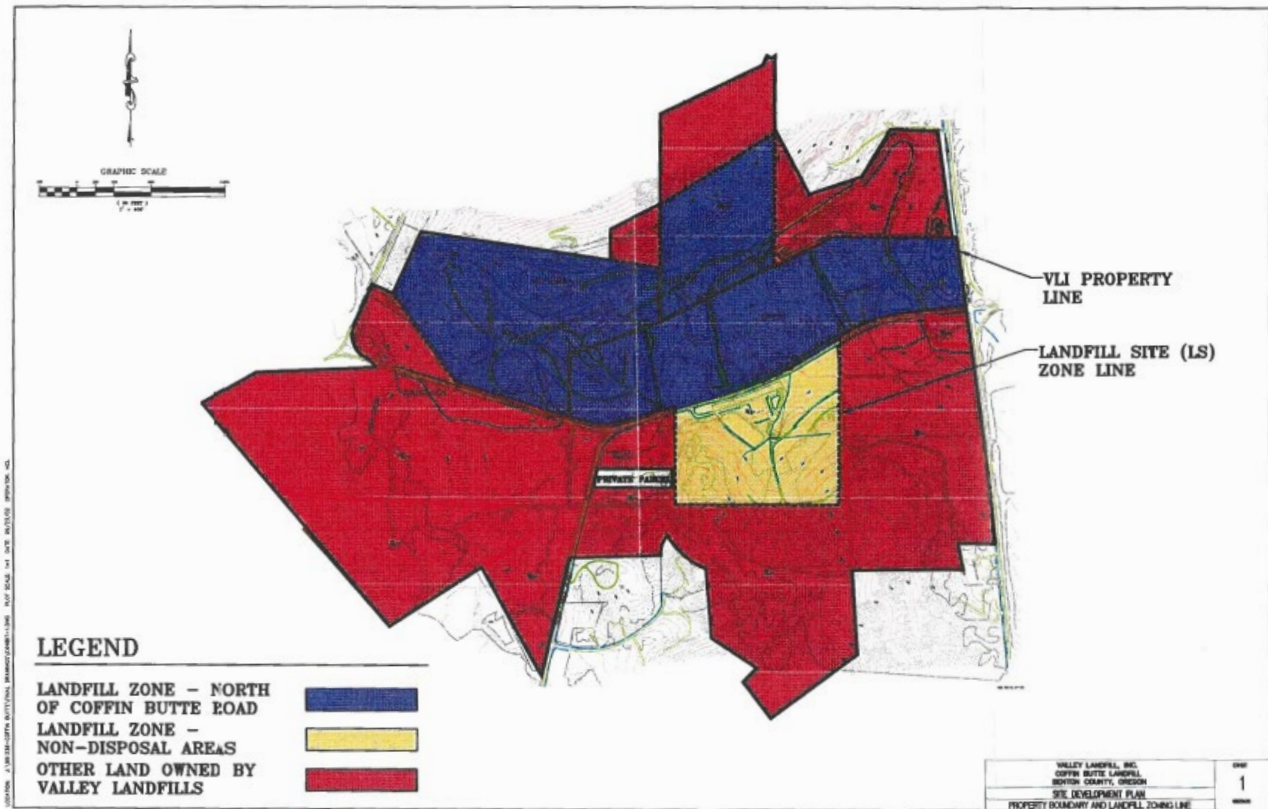


Figure 7: Zoning Map (2002 MOU)

**A1-KF-22.** The overview map included in the [Benton County & Valley Landfills MOU Relating to Land Use Issues \(2002\)](#) document, included here as **Figure 6**, clarifies the zoning boundaries. Of these 266 acres, 194 acres, all on the north side of Coffin Butte Road, were approved for waste disposal.

### B. West and East Triangle Additions

Two landfill areas were added in 2002 and 2003:

- The “West Triangle” was approved for landfill activities via Conditional Use Permit in 2002. This area is located on land zoned Forest Conservation (FC). Approximately 3,400,000 yd<sup>3</sup> of expected landfill capacity were added by the approval of the West Triangle.
- The “East Triangle” was approved for landfill activities via Conditional Use Permit in 2003. This area is located on land zoned Forest Conservation (FC). Approximately 5,600,000 yd<sup>3</sup> of expected landfill capacity were added by the approval of the East Triangle.

See Benton County document PC-03-11 for details.

Thus, a total of approximately 9,000,000 yd<sup>3</sup> of landfill capacity was added in the 2002 – 2003 period. This constituted an approximately 68.5% increase in total permitted capacity using the cell capacity figures shown in Table 3.1 of the Site Development Plan Amendment A2 in document PC-03-11..

### C. Cell 6 (Quarry) Addition

***Need information from Benton County regarding the instrument formally approving Cell 6.***

### D. LS Zone Parcel South of Coffin Butte Road

As part of the 1983 action considering the requests for rezoning of several parcels from Forest Conservation to Landfill Site, the Benton County Planning Department submitted a Staff Report. Within this report (Staff Report P2361/7 Page 3; Benton County document PC-83-07 Page 13) a Staff Comments section noted

“Benton County Solid Waste Advisory Council recommended approval of the requests [for rezoning] subject to two conditions:

1. No landfill be allowed on north face of Coffin Butte.
2. No landfill be allowed on property south of Coffin Butte Road [Taxlot 104180001107, Index 14 in Appendix C].

These two conditions were also requested by the North Benton Citizens Advisory Committee (CAC) and they recommended approval of the requests.

Staff concurs with these conditions. The property on the North face of Coffin Butte (approximately 30 acres) should remain under the Comprehensive Plan Designation of Forestry Conservation (FC), from the crest of the butte North.”

However, the Benton County Planning Department Staff Report went on to state

“The other issue concerning the property south of Coffin Butte Road can be resolved through Conditions of Development placed on any approval of the site plan by the Planning Commission. The proposed zone allows no additional landfill activities unless approved by the Planning Commission at a public hearing. Therefore, the Commission may limit expansion into any area that is not appropriate for a landfill.”

The staff recommendation was adopted as submitted by the Planning Commission in their April 26, 1983 meeting. The Staff Report was expressly adopted as Finding 4(a) by the Benton County Board of Commissioners and incorporated into the resulting Order on June 15, 1983.

Thus, Benton County Planning staff modified the clear directive from the Solid Waste Advisory Council (SWAC) and the recommendation of the North Benton Citizens Advisory Committee by weakening the terms governing the property south of Coffin Butte Road from “No landfill be allowed” to “...no additional landfill activities unless approved by the Planning Commission at a public hearing.”

The approval of both SWAC and CAC for the 1983 rezoning action was conditioned on the agreement that no landfill would be allowed on the parcel south of Coffin Butte Road.

Additionally, per the Board of Commissioners Order of June 15, 1983, approval of additional landfill activities on the LS-zoned parcel south of Coffin Butte Road (Taxlot 104180001107, Index #14 in Appendix C) requires only 1) approval of the site plan by the Planning Commission and 2) approval by the Planning Commission at a public hearing.

**A1-KF-23:** *In the 1983 rezoning action the Benton County Planning Department diluted SWAC and CAC recommendations from “No landfill be allowed on property south of Coffin Butte Road” to “no additional landfill activities unless approved by the Planning Commission at a public hearing.”*

**A1-KF-24:** *Per the Board of Commissioners Order of June 15, 1983, approval of additional landfill activities on the LS-zoned parcel south of Coffin Butte Road (Taxlot 104180001107, Index #14 in Appendix C) requires only 1) approval of the site plan by the Planning Commission and 2) approval by the Planning Commission at a public hearing.*

- More research required



## Section 3: Landfill Life Projections

### E. Baseline: Projection to End 2022

#### Definitions:

Landfill Life  $\equiv$  Expected time remaining in which the landfill will continue to accept waste, typically in Years.

End of Life (EOL)  $\equiv$  Expected calendar date when the landfill ceases to accept waste, typically in Calendar Years AD.

### A. Historical Landfill Life Projections

Date of Projection	Projected EOL (CY)	Reference/Comment
2001	2049	2001 Annual Report, prior to addition of East and West Triangles and Cell 6 47.5 years from Beginning 2002 Based on 425,000 Tons/year and 0.8 Tons/yd <sup>3</sup>
2003	Late 2070	2003 Site Development Plan, Page 57, Table 3.1 71.1 Years from Oct 1999 Includes Cells 1-6 and East and West Triangles Based on 400,000 Tons/year and 0.8 Tons/yd <sup>3</sup>
2021	2039	2021 Site Development Plan, Appendix B With detailed breakdown of planned Cell 6 structure and corresponding subcell life expectancy Based on 846,274 Tons/year and 0.8 Tons/yd <sup>3</sup>

*Table 3: Historical EOL Projections*

### B. Nominal Life Projection CY 2023 to End of Life

The landfill life projections shown below are provided by the franchisee.

#### Work in-progress, and items to address in this section:

- Likely somewhere between the two scenarios – 14.54-15.99 year site life\*.
- Derived from Republic Services annual measurements
- Describe the underlying method for calculating these numbers
- List assumptions
- \*Includes quarry, which currently has unexcavated rock
- Quarry sequencing/staging – timeline and description. May be combination of options.
- Where the landfill is currently receiving waste stands over a number of previous cells. At the time of transition to place liner in the quarry, they will be starting a new footprint, without a lot of area to fill on top of or against. Considering efficiencies of fill and stability of hill. Larger footprint needed when starting fill that is not leaning against existing fill/cell.
- Add potential factors that could change the site development plan expectations

<p>Scenario 1</p> <p>Tons per Year 1,000,000 Tons</p> <p>Projected Remaining Airspace 12/31/22 16,008,557 CY</p> <p>2022 3-year Density Avg 0.999 Tons/CY</p> <p>Site Life 15.99 Years</p>
<p>Scenario 2</p> <p>Tons per Year 1,100,000 Tons</p> <p>Projected Remaining Airspace 12/31/22 16,008,557 CY</p> <p>2022 3-year Density Avg 0.999 Tons/CY</p> <p>Site Life 14.54 Years</p>
<p>Definitions:</p> <p>Tons per Year: Projected tonnage based off recent history* and 2020 Franchise Agreement Tonnage Cap (1.1 M Tons /year).</p> <p>Projected Remaining Airspace: Airspace remaining at the end of 2022 based off projected 2022 tons and 2022 3-year density average</p> <p>2022 3-year Density Avg: Average density measured during 2020, 2021 and 2022, measurements</p> <p>Site Life: Time to fill the projected remaining airspace, including the airspace currently unexcavated in the quarry area, given the projected Tons per Year intake rate</p> <p>*Variables can and do impact tonnage and available airspace, and can include changes in disposal and diversion rates, natural disasters and other unforeseen market changes, etc.</p>

**A1-KF-25.** *The most recent estimates from Republic Services project the site life of the landfill to be between 14.54-15.99 years, with two scenarios of accepting either 1,000,000 tons/year or 1,100,000 tons/year, each at a 2022 3-year Density Average of 0.999 Tons/CY, which assumes the quarry area will be fully excavated by the time the current cell disposal areas are full.*

**A1-KF-26.** *The quarry dynamics are construction of the needed cells for future disposal areas. The herculean construction task is to excavate basalt rock to form the excavated design dimensions for construction of future disposal cells. The assumption is that the excavated rock and the construction of future cells keep pace with the demands of increased volumes of refuse needed for disposal without interruption.*

**A1-KF-27.** *The complexities of demand and availability of refuse disposal is the crux of the puzzle to provide a viable sustainable material management process under consideration.*

## C. Events and Factors with Potential Lifetime Impact

Events and Factors which could potentially impact the landfill site life include:

- Landfill contracts and business choices
- Recession
  - Example: 2008 Recession
- Wildfire
  - Example: 2020 wildfire debris tonnage
- Impacts to other disposal facilities
  - Example: Riverbend Landfill
- Contaminated soils – spills –
  - Example: fuel tanker that spilled on highway 99
- Impacts to waste recovery system
  - Example: China's 2017-2018 policies on importing waste materials
- Population growth
  - Example: Benton County's population is forecasted to grow steadily through 2071, with a population of over 120,000 in 2040<sup>1</sup>
- Quarry excavation schedule
- DEQ regulations regarding cell development below the water table
- Landfill Expansion
- Removal of tonnage cap
- Availability of landfill alternatives
- Diversion of waste to other landfill sites
- Waste generators reducing per-capita disposal
- Legislation impacting landfill operations
- Legislation impacting waste generation
- Legal Action
- Activism
- Climate change impacts to landfill operations
- Landfill facility and technical challenges
- Staffing in the local and regional solid waste industry
- Solid Waste transportation options
- lifestyle changes (i.e., increased at home shopping as we saw during the pandemic),
- acts of Mother Nature (such as wildfires)
- adjustments in diversion/recycling rates, and
- tonnage volume in the broader market.
- Include footnotes that show we cannot predict the outcome or impact of every scenario

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<sup>1</sup> [https://www.pdx.edu/population-research/sites/g/files/znlchr3261/files/2021-06/Final\\_Report\\_Benton.pdf](https://www.pdx.edu/population-research/sites/g/files/znlchr3261/files/2021-06/Final_Report_Benton.pdf)

## Work In-Progress:

- List examples using known information, not projections, but historic data for context
- Not just Coffin Butte Landfill impacts, but generally all landfills
- Impacts may not be immediate, but experienced over the course of years.
- Working on coming to consensus on how much detail to include in this section and the scenario sections that follow.

**A1-KR-1.** The Sustainable Materials Management Plan should further develop scenarios and factors that may impact the landfill lifespan, including detailed analyses of likely projections.

### Baseline Scenario

The baseline scenario described in Part A, above, graphically displays the landfill's longevity as shown in Figure 3.2, below:

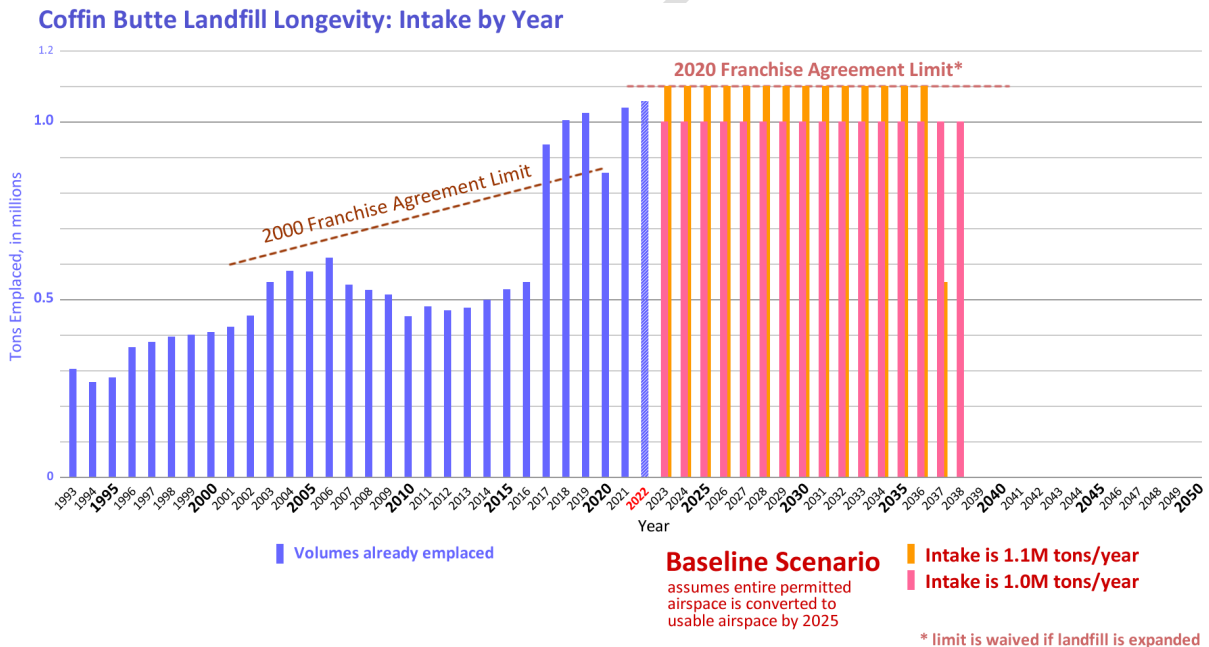


Figure 3.2

This scenario is termed a baseline because it is a simple projection that more sophisticated scenarios can be built upon. As indicated in its Assumptions, this baseline scenario is not a “default future”; it is not realistic, in that it references itself only, has no supporting data, is aspirational, and does not incorporate outside factors. It is our baseline because it models the idealized parameters (and longevity) intended for the landfill by the landfill's owner, which is: a steady annual intake of between 1M and 1.1M tons for the duration of the landfill's 14.5-16 year site life (to 2037-2039).

### Scenarios built upon the Baseline: Quarry Levels

Roughly 2.7 million cubic yards of the landfill’s permitted airspace is currently unavailable because it is unexcavated rock. The landfill’s owner holds a surface mining permit for this rock, and franchises it to Knife River as a quarry. For the past few years Knife River has currently quarried the rock at a rate of roughly 150,000 cubic yards a year, so at a normal pace the airspace will not be fully available until the year 2040.

This poses a dilemma for the landfill’s owners, because the landfill is on track to fill its current cell in 3 years, when it will look to move operations into the quarry area. The landfill and the quarry cannot safely overlap their operations in the airspace. Ideally, the quarry would pre-excavate all the rock by year-end 2024, and the landfill would then prepare the quarry site for landfiling. Alternatively, the landfill could use a new permitted area (a landfill expansion) as a “bridge” to give the quarry more time to pre-excavate, but it seems unlikely that a landfill expansion could be (a) successful and (b) legally resolved in time to be useful.

We do not currently know how much rock can be pre-excavated before landfiling operations move into the quarry airspace. We can display the possibility range graphically, in Figure 3.3.

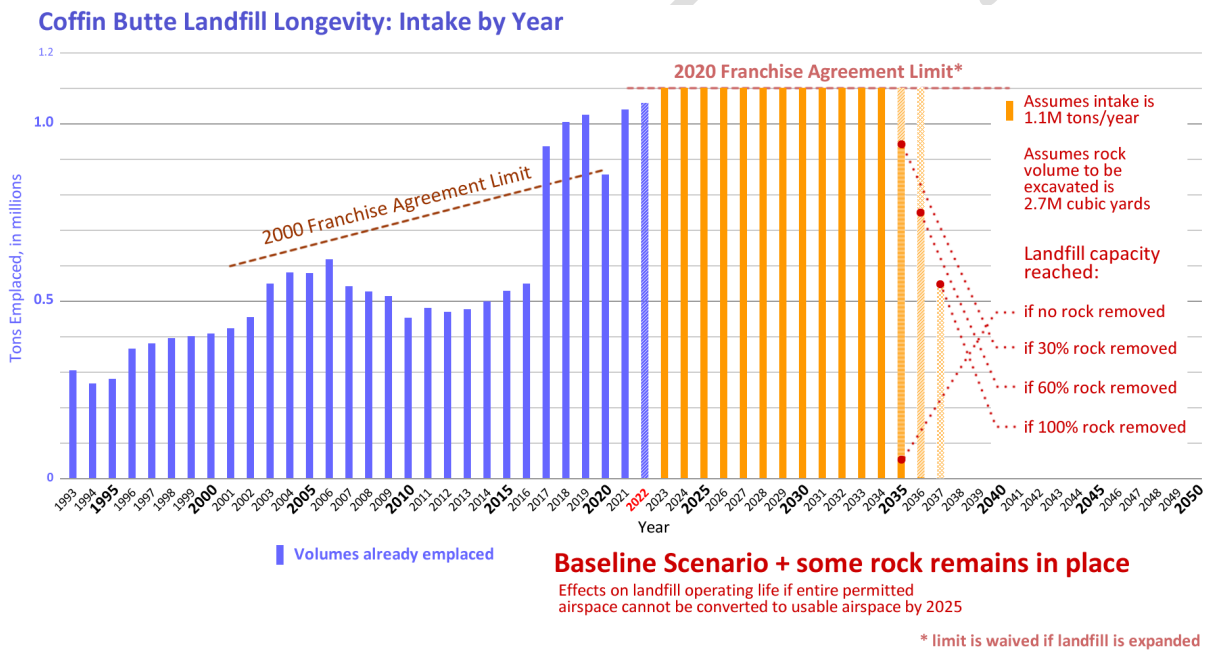


Figure 3.3

### Scenarios built upon the Baseline: Water Table

A (currently unquantified) portion of the landfill’s permitted airspace seems to lie below the groundwater level, and it is unclear at this time whether or not Oregon DEQ regulations will allow this

theoretical airspace to be used. if not permitted, actual permitted airspace would decrease and the lifespan of the landfill would shorten, in proportion to the volume affected.

**Scenarios built upon the Baseline: Expansion(s)**

**Scenarios built upon the Baseline: Expansion(s)**

The baseline scenario may only be fully realized in combination with a landfill expansion – to serve as a bridge landfilling site that allows time for the quarry airspace to be pre-excavated. The landfill owner has indicated that it will apply for such an expansion, likely in the first half of 2023. Almost certainly this expansion site would be the area south of Coffin Butte Road that is already zoned as Landfill Site; it’s unlikely that the expansion would involve the airspace over the road itself, as closing the road proved problematic in the 2021 expansion attempt. We can roughly estimate the size of this expansion airspace as 6M cubic yards.

This application may be followed by others, either to continue to act as bridges for quarry excavation or to take advantage of the removal of the intake cap, which happens once the first expansion is approved, according to the 2020 Franchise Agreement. These further expansions may close Coffin Butte Road or seek to rezone other areas around the landfill as Landfill Sites.

We can represent the effect this set of scenarios would have on baseline longevity, as Figure 3.4.

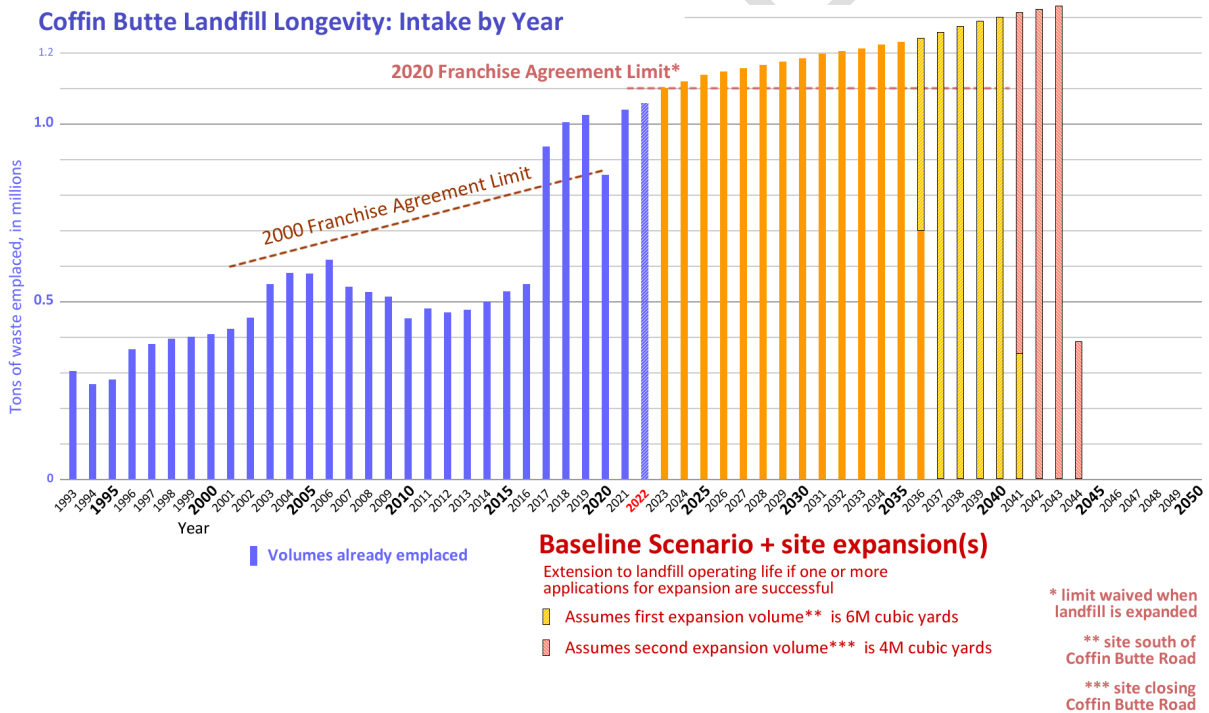
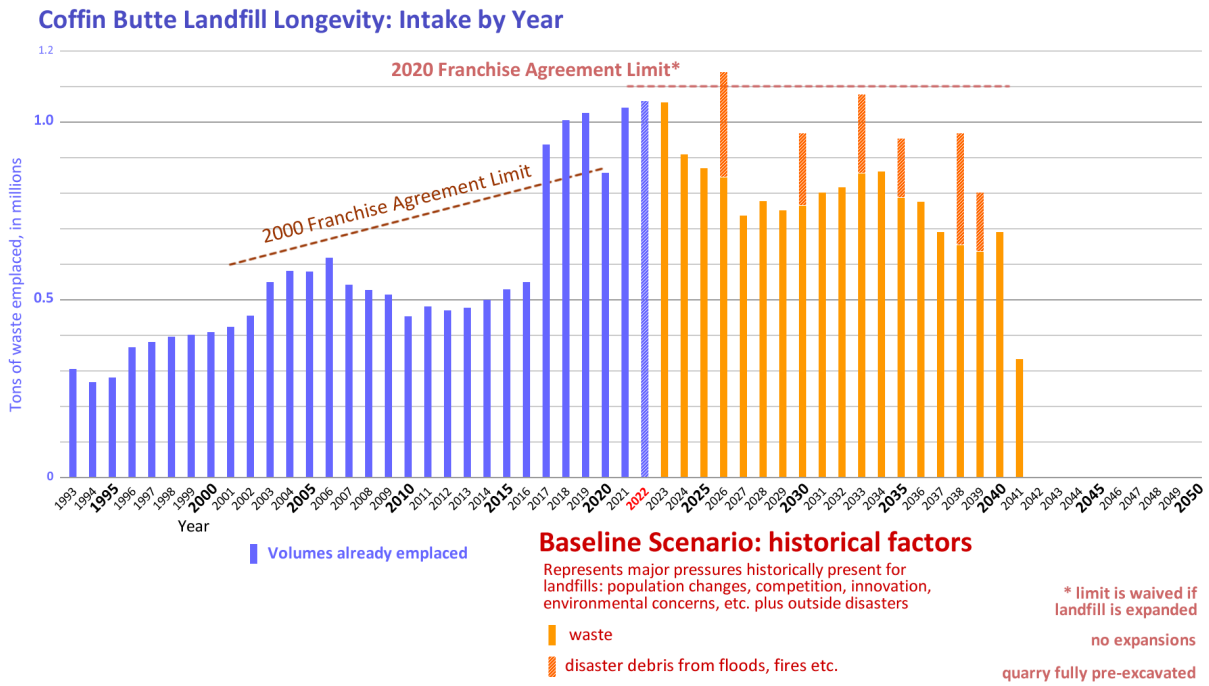


Figure 3.4



**Scenarios built upon the Baseline: Historical Variance**

**Scenarios built upon the Baseline: Historical Variance**

The baseline scenario is derived primarily from the annual intake the landfill owner has achieved and would like to maintain. In reality such stability occurs rarely if ever. Historically, the annual intake of a landfill is determined by many factors, many beyond the owner’s ability to control or to counteract by expanding the wasteshed.

The following graphic (Figure 3.5) shows variance due to (a) slow but steady demand by people to reduce their “tax” of garbage disposal costs, (b) growing demand by people for less polluting alternatives to waste disposal, (c) growing population in the wasteshed, (d) competitive pressure from innovative alternatives to landfiling, (e) sudden spikes in intake due to wildfires, floods, and other climate-related disasters, and (f) pressure by the landfill owner to maintain intake via downward pricing and cost-cutting. These “human factors” are discussed more fully in Section 4.

Figure 3.5

**Scenarios built upon the Baseline: Climate Crisis Legislation/Legal Action/Activism**

### **Scenarios built upon the Baseline: Climate Crisis Legislation/Legal Action/Activism**

People all over the world are growing increasingly concerned about the threat the uncontrolled release of greenhouse gases poses to the ecosystems that human societies depend upon. In the United States, this fight is focused on the release of methane, a potent greenhouse gas. Landfills are major sources of greenhouse gas emissions, especially methane. In its Methane Emissions Reduction Plan, the US government is using all available tools to identify and reduce methane emissions from all major sources. The Inflation Reduction Act of 2022 prioritized curtailing methane pollution in the oil and gas industry sector, initiating a program that catalyzes pollution detection and offers incentives for reduction and imposes penalties for continued releases of methane into the atmosphere. At the same time, environmentally engaged citizens are suing governmental agencies, and investors are suing corporations, for failing to act responsibly on the climate crisis. These signals of change are discussed in Section 4.

Since methane is not “destroyed” nor does it become carbon neutral, the best way to mitigate landfill methane is never to create it in the first place, i.e., to divert waste, especially organic waste, from ever entering a landfill. This is a fundamental logic when curtailing landfill methane.

The preceding graphic (Figure 3.5) does not take into account these increasing pressures for action. The following graphic (Figure 3.6) shows one range of possible effects of these regulatory, legal, political and competitive pressures.

<graphic to come>

Figure 3.6

## **Section 4: Human Factors Affecting Landfill Size/Capacity/Longevity – Ken Eklund**

### **Assessing Human Factors**

Although the physical parameters of Coffin Butte Landfill play a role in its longevity (“operating life”), human factors drive the actual outcome, because they determine the inflow of material that fills up the landfill’s permitted volume (and shape that volume itself). Unlike the physical factors, human factors – by which we mean decisions and agreements such as business and legal obligations, legislation, enforcement, civic action and attitudes, technological advances,



risk assessments and risk taking, individual and collective values and choices, and so on – have the power to shift the landfill’s operating life very quickly. Estimations of the operating life of the Coffin Butte Landfill necessarily rely on assessments and assumptions about the entire system that feeds waste to the landfill, and this wider system is created by, motivated by, operated by, and continuously being changed by human factors.

When mapping possible futures, experts use different methods to assess human factors than they do for physical factors. “Scenario planning” poses *what if* questions to anticipate future possibilities. “Futures signaling” looks for events that indicate coming trends or movements. Using these futurecasting methods is important because for many people, cognitive biases limit their view of the future to be a mere extension of the present, with only incremental changes, even though their actual experience is of a world in which radical and disruptive changes are occurring at an ever-faster rate. “Imagination training” can be a useful tool to be more successful at discerning these patterns of change.

### **The Climate Change Imperative, and Methane**

People all over the world are growing increasingly concerned about the threat the uncontrolled release of greenhouse gases poses to the ecosystems that human societies depend upon. The 27th Conference of the Parties to the United Nations Framework Convention on Climate Change (COP27) took place from 6 to 20 November this year, and hosted more than 100 Heads of State and Governments and over 35,000 participants who engaged in high-level meetings and key negotiations regarding climate action.<sup>i</sup> UN Secretary-General António Guterres said that more needs to be done to drastically reduce emissions now. “The world still needs a giant leap on climate ambition... we can and must win this battle for our lives.” He urged the world not to relent “in the fight for climate justice and climate ambition.”<sup>ii</sup>

In the United States, this fight is focused on the release of methane, a potent greenhouse gas. The US is one of the world’s top 10 methane emitters, and methane emissions are a major contributor to climate change, “which is why President Biden is taking critical, commonsense steps at home to reduce methane across the economy.” Last year the US announced that it was joining with more than 100 world governments to meet a Global Methane Pledge and reduce the world’s methane emissions 30% from 2020 levels by 2030. Humans produce the bulk of methane pollution, and atmospheric concentrations of methane have been trending upward for more than a decade, with 2020 seeing the biggest one-year jump on record.

Through the 2021 Methane Emissions Reduction Plan, the US government is using all available tools – “commonsense regulations, catalytic financial incentives, transparency and disclosure of actionable data, and public and private partnerships – to identify and cost-effectively reduce methane emissions from all major sources.” As part of this Plan, in a carrot-and-stick manner, the EPA has begun to both catalyze multi-pronged action against, and assess penalties for, the release of methane into the atmosphere.

Landfills are major sources of greenhouse gas emissions. Landfilling inherently creates methane as a natural byproduct of the decomposition of organic material in landfills. Landfill gas is composed of roughly 50 percent methane (the primary component of natural gas), 50 percent

carbon dioxide (CO<sub>2</sub>) and a small amount of non-methane organic compounds. Methane and carbon dioxide are odorless; “landfill smell” is from the trace non-methane organic compounds.

In the past methane pollution has been difficult to quantify. For landfills, historically the EPA has relied on theoretical calculations to estimate pollution, but these mathematical models by definition produce estimates, not exact data – useful at a national level but less so at a per-landfill level. In response, other organizations have engineered their own models that are more useful for assessing emissions at a particular landfill. In recent years, focus has shifted to better direct measurement technologies for more accurate and transparent emissions reporting.

Using area measurement tools deployed on satellites, aircraft, and towers, the Environmental Defense Fund has shown that landfill outputs are generally higher than EPA calculations indicate. Carbon-Mapper, a joint public-private enterprise, focuses on identifying super-emitters, because a previous flyover project across California discovered that only 1% of sites produced 50% of methane emissions, and the largest emissions were from landfills. Carbon-Mapper plans to launch two satellites in 2023, building to a suite of 20 satellites eventually; these will join other systems such as Kayrros, a French company, and MethaneSAT, a subsidiary of the EDF.

These developments all signal a changed operating environment for Coffin Butte Landfill, one in which its greenhouse gas emissions move from being unknown and unexamined to being an open number impacting waste flows, operating costs, regulatory fines, corporate investment levels, public action, and more. Coffin Butte Landfill may be a particular target for negative effects, because its wet environment converts waste to methane quickly. This section details several Scenarios which explore these impacts upon the landfill’s anticipated operating life.

It’s important to note here that landfill methane poses a lesser-of-evils situation. The best-case environmental outcome for methane, once it is generated from municipal solid waste, is for it to oxidize into carbon dioxide, i.e., for it to transition from a quick-acting high-impact greenhouse gas into a slower-acting, durable greenhouse gas. Methane is not “destroyed” nor does it become carbon neutral. Therefore, the best way to mitigate landfill methane is never to create it in the first place, i.e., to divert waste, especially organic waste, from ever entering a landfill. This is a fundamental logic at work with landfill methane now and into the future.

## **Scenarios**

### **A. Climate Crisis Legislation**

Scenario: the methane-corrective measures imposed on the oil/gas industry are extended into the landfill industry, focusing on incentives to prevent methane from being emitted but including penalties for methane pollution. This extension happens in the year 2024.

In this scenario, as they are doing in the oil/gas industry, federal and state environmental agencies offer billions of dollars in incentives tailored to catalyze efforts that can curtail landfill methane.

In this scenario, federal and state environmental agencies announce and implement financial penalties (fines) for methane release to the atmosphere. As is currently happening in the oil/gas industry, these penalties are eased in over a four-year period, and cap at a rate around \$1550 per metric ton in 2022 dollars.

In general, the effect of this carrot + stick scenario on Coffin Butte Landfill's operating life would be to lengthen it. The incentives would attract recyclers and other entities to target the high-organic sector of the landfill's intake (about a quarter of total intake mass) for diversion away from the landfill, and the penalties would bring the landfill operator into alignment with this diversion (and reduction of profit). This would be a sea change in the wasteflow, creating knock-on opportunities to create circular economies for other types of waste, motivated by environmental concerns, economic efficiencies, and other reasons.

It's also possible that this scenario would shorten the operating life of Coffin Butte Landfill, even precipitously, if the prospective penalties for incoming waste (plus the penalties for methane emissions from waste already emplaced) cut unacceptably into the profit schema of the landfill owner. The likelihood of this eventuality depends upon the actual methane output of the landfill, which is currently undocumented.

The signal for this scenario is strong, because it is based upon the stated goals of the US government, its commitments to climate action to the world, and goals and provisions already in place with the US 2021 Methane Emissions Reduction Plan.

Another legislative scenario to mention briefly, related to the climate crisis: efforts to limit atmospheric carbon widen to non-methane sources in the US, in the form of a carbon tax and/or subsidies for rail electrification. This scenario would disrupt the current operations in the Coffin Butte watershed, by establishing new incentives to transport waste by rail rather than truck. This scenario is likely to extend the operating life of Coffin Butte Landfill, which has no rail connection and depends on trucking for its inflow. If entities can transport waste more economically by rail to cleaner landfills or to regional waste reclamation centers, that would cut inflow to Coffin Butte Landfill.

## **B. Climate Crisis Legal and Shareholder Action**

Scenario: Environmentally engaged citizens sue governmental agencies (and investors sue corporations) for failing to act on the climate crisis. These lawsuits compel action to reduce emissions of greenhouse gases, which in turn boost efforts to divert material, especially food and other high organic waste, from being landfilled at Coffin Butte Landfill. In this scenario, these lawsuits have the potential to occur across the watershed.

Signals for this scenario set exist in plenty. Groups of environmentally engaged citizens are already pursuing lawsuits against states and nations; such cases appear regularly in the news as current ones wind their way through the courts and new ones are filed. Climate activism is already widespread in Oregon and the landfill's watershed includes areas disposed politically toward this kind of legal action. Benton County is more likely than most to be targeted for this kind of lawsuit, as its population generally prioritizes environmental concerns and the County has not shown concern over greenhouse gas emissions in its administration of Coffin Butte Landfill.

"I started looking at the world through a new lens recently — when my older daughter gave me the incredible news that I'll become a grandfather next year... I can sum up the solution to climate change: We need to eliminate global emissions of greenhouse gases by 2050... We need to revolutionize the entire physical economy... If we don't get to net-zero emissions, our

grandchildren will grow up in a world that is dramatically worse off.” The grandfather-to-be is Bill Gates, a major shareholder in Republic Services’ stock.

This scenario would further extend the operating life of the landfill if methane studies show that Coffin Butte Landfill is a worse polluter than alternative landfills in drier climates (if Coffin Butte Landfill converts waste to methane more quickly, for example). The legal action would then not only divert high-organic material out of the wastestream, but divert unsorted waste away from Coffin Butte Landfill to less-polluting alternatives.

### **C. Climate Crisis Environmental Activism**

Scenario: Environmental activists accelerate their efforts to increase accountability for, and limit waste intake at, Coffin Butte Landfill. These efforts consist mostly of expansion to the current level of civic engagement but also branch out as protests and other direct action when civic engagement cannot produce the depth and velocity of change required for environmental protection.

This scenario is similar to, and operates in tandem with, the “legal action” scenario, and has a similar effect of reducing intake at the landfill. Activism happens more quickly however, so the primary impact of this scenario is as an across-the-board accelerant and forcer for all the environmentally motivated changes being discussed in this section.

Signals for environmental activism’s impact on the operating life of Coffin Butte Landfill are very strong. Environmental activism has already caused the single most impactful event on the operating life of Coffin Butte Landfill in its history: activists stopped the expansion of the Riverbend Landfill in Yamhill County, which effectively doubled trash intake at Coffin Butte Landfill to its current high level. Local activism is why the County has assembled its Workgroup studying the future of solid waste management in Benton County, and local activists feature prominently in the work done by the Workgroup so far.

### **D. Climate Crisis Effects Upon Landfill Operating Life**

Scenarios: effects of the climate crisis itself circle back to affect the operating life of Coffin Butte Landfill, by increasing the incidence of wildfires, floods, droughts, and other disruptions to the landfill’s extensive infrastructure; by causing rapid and novel shifts in population migrations and attitudes; by posing threats to the landfill’s operational status itself.

Signals for this set of scenarios are strong. Worldwide, the number and severity of climate events and disasters is growing, made more extreme by climate-crisis effects. Locally, in 2020 the Beachie Creek–Lionshead wildfire generated about a third of a million tons of debris for Coffin Butte Landfill. The region continues to slide into multi-year drought, which extends the fire season in an area already at risk with high forest fuel loads. The Willamette Valley now has a regular “smoke season.” Rain events are growing in severity, increasing chances for flood events in the landfill’s watershed and on the landfill itself. As a creator of flammable methane, the landfill has clear potential for a major fire event; it has caught fire in the past, which on one occasion called for a large fire response and took over 24 hours to bring under control.

Despite these trends, the Pacific Northwest is seen as a haven for those elsewhere who have been even more severely impacted by heat, fire, flood and other disasters.

In the main, climate crisis events are likely to shorten the landfill's operating life. Fires and flooding have the potential to generate debris flows that will consume capacity, as would a population boost from climate refugees relocating into the watershed. None of these natural disaster waste streams are counted in the "tonnage cap" included in the 2020 franchise agreement.

The most extreme scenarios shorten the landfill's operating life precipitously. The landfill itself could have a flooding event, where leachate cannot be pumped out fast enough or overflows its collection ponds for example, with effects unknown upon the landfill's ability to continue operations. Wildfire is a clear existential threat, as landfills are full of both incendiary methane and flammable material; landfill fires can burn deep, are difficult to fight and have been known to burn for years and take over a hundred million dollars to extinguish.

These events concatenate: a storm event, for example, might knock out power to the landfill for an extended period, which then leads to a flood event as pumps cannot operate. An earthquake could cause both a power outage, which collapses the landfill's ability to operate its methane extraction system, and multiple wildfires, which threaten to ignite the uncontrolled methane. In such scenarios, the landfill is not a direct threat to human life and thus not a priority for firefighters or other emergency action, so any incident can snowball.

#### **E. Longevity: Post-Operational Costs**

Climate legislation, activism, crisis events, and so on are all increasing the burden of monitoring and maintaining public safety for the decades required after the landfill ceases operations. It's estimated that the landfill will continue to produce significant amounts of methane for 20 years after it closes, for example. If that methane is incurring penalties, who will be paying them? If trees need to be prevented from growing on the landfill cover, who will be performing that maintenance? And so on, through a growing list of like questions.

Scenario: As a clearer picture of the landfill's post-operational burden emerges, it sparks action to cut the landfill's waste intake. This effort may be initiated by the County, in an effort to both reduce the landfill's pollution impacts and to put off the day when responsibility for the landfill is transferred to the County; it may be initiated by citizens, in an effort to both reduce the pollution impacts and to delay transition to another waste management scheme; it may be initiated by the landfill owner, in an effort to delay incurring expensive post-operation environmental mitigations, and/or to keep alive the legal option to file for expansion.

Signals for this scenario include the current litigation at Riverbend Landfill in Yamhill County, where the landfill owner is trying to avoid closing the landfill by taking in a minimal amount of trash per year, and county citizens are suing to force the landfill to close.

## **F. Unforeseen Novel Effects**

The scenarios listed above have signals that are easy to discern, and they manifest in more or less familiar ways. The level of change at work here, however, signals the strong possibility for novel and unforeseen effects, especially concatenating ones. In the same way that COVID manifested itself in a myriad of ways that were difficult to anticipate, the climate crisis is causing changes with ripple effects that have yet to become apparent.

These effects inject (more) uncertainty into the agreements and infrastructure of the landfill's watershed, which in turn steers the entities in the watershed toward reducing their waste flows and increasing the resilience of their waste management by seeking other options. The unforeseen effects of climate change are likely to increase the landfill's operating life.

## **G. Contractual Obligations**

From day to day the wasteflow to Coffin Butte Landfill is governed by business contracts that Republic Services holds with various entities; the landfill's watershed is defined and redefined by these contracts. Republic Services will not provide detail about these contracts, citing their proprietary nature, so the wasteflow's net effect upon the operating life of the landfill is undocumented.

## **Imagination Training**

When thinking about the future, it's common for people to manifest a cognitive bias toward the status quo, to think the future is settled as an extension of the present. This bias can manifest itself even when change is clearly underway. To counteract this bias, it's useful to require the arguments FOR the continuation of the status quo (rather than just accepting it as being unquestioningly able to continue).

To refute the idea that measures to prevent methane leaks will be extended from the oil/gas industry to the landfill industry, for example, would require a line of reasoning as to why those measures wouldn't be extended into the landfill industry (which is known to leak methane).

Another example: minimizing the role of environmental activism (as a human factor in the landfill's operating life) would require a line of reasoning as to why such activism will cease impacting the state's landfilling ecosystem or will not continue to grow at its current pace.

Imagination training is also useful in exposing areas where data still holds sway, even though it is now known to be limited or obsolete, i.e., where an old idea perseveres purely through momentum or inertia. An example would be the methane emissions level at Coffin Butte Landfill: to persist in relying on an obsolete EPA estimate would require a line of reasoning as to why that estimate should hold sway over modern direct measurements.

**Determining Landfill Longevity - Ken Eklund**

< summary of human factors to come >

< graphic to come >

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## Appendix A: Intake Volume and Capacity Data

Coffin Butte annual intake volume, derived from 1993-2021 Coffin Butte Annual Report (CBAR) documents. CY 2000 is highlighted to indicate this value was derived from the 2001 report because the 2000 report document is unavailable.

<b>Year</b>	<b>CBAR Volume (Tons)</b>
1993	310,648
1994	268,472
1995	287,932
1996	369,835
1997	378,919
1998	395,751
1999	401,408
2000	413,493
2001	425,723
2002	453,261
2003	550,506
2004	586,076
2005	580,275
2006	618,340
2007	546,996
2008	528,396
2009	519,058
2010	458,590
2011	482,951
2012	473,550
2013	479,160
2014	499,687
2015	530,971
2016	552,979
2017	941,430
2018	1,010,879
2019	1,034,934
2020	863,210
2021	1,046,067



## Appendix B: Capacity Data and Site Life Projections

Year	Annual CBR Tons Scaled Intake	CBR Density Aerials	CBR Annual Airspace Used (CY) Landfilled	CBR Remaining Airspace (CY)	Geo Logic 2021 Plan Consumed Airspace (YD)	Geo Logic 2021 Plan Remaining Airspace (YD)
1993	310,648					
1994	268,472					
1995	287,932					
1996	369,835					
1997	378,919 Averaged					
1998	395,751					
1999	403,697					
2000	413,493					
2001	426,000	0.9 tons/cy	473,000			
2002	457,000	0.98 tons/cy	461,000			
2003	550,360	0.98 tons/cy	561,592			
2004	589,147	0.80 tons/cy	736,434			
2005	580,275	0.80 tons/cy	725,334			
2006	624,875	0.80 tons/cy	781,094			
2007	546,996	0.80 tons/cy	683,746			
2008	528,395	0.80 tons/cy	660,494			
2009	519,058	0.80 tons/cy	648,823			
2010	458,590	0.892 tons/cy	514,111	39,594,002		
2011	482,951	0.1.0375 tons/cy	465,495	24,807,718		

2012	473,440	0.83 tons/cy	572,825	23,741,813		
2013	479,160	0.92 tons/cy	523,100	24,458,567		
2014	499,687	0.92 tons/cy	545,510	24,458,363		
2015	530,971	0.89 tons/cy	595,593	23,839,138		
2016	552,979	0.93 tons/cy	592,689	22,453,729		
2017	941,430	0.97 tons/cy	969,048	21,727,371		
2018	1,010,879	0.99 tons/cy	1,021,090	20,427,503		
2019	1,034,934	0.80 tons/cy	1,293,668	18,352,257		
2020	863,210	1.0 tons/cy	863,210	17,621,208		
2021	1,046,067	0.98 tons/cy	1,046,415	17,249,778	1,072,037	4,834,330
2022					1,057,700	3,776,631
2023					1,057,700	2,718,931
2024					1,057,700	1,661,232
2025					1,057,700	603,532
2026					1,057,700	1,028,093
2027					1,057,700	999,823
2028					1,057,700	1,685,254
2029					1,057,700	626,554
2030					1,057,700	1,428,675
2031					1,057,700	370,975
2032					1,057,700	391,696
2032					1,057,700	1,020,066
2034					1,057,700	1,977,627
2035					1,057,700	919,927
2036					1,057,700	1,157,678
2037					1,057,700	99,978
2038					664,409	664,409

The data table to the left references the year, intake tons, density, annual airspace used and remaining airspace for Coffin Butte landfill.

The following Year 2021 is a summary of information used for the annual reports for Coffin Butte landfill.

Each year Republic Services produces an annual report for Coffin Butte Landfill & Pacific Region Compost (CBR).

In particular, during year of 2021 the landfill accepted 1,046,067 tons of solid waste. Based on historical aerial fly-over data, the average effective density of the in-place waste at the Coffin Butte Landfill is 0.98 tons/cy (1,961 lbs. /cy – 2021 Operational Density). Therefore, an estimated 1,067,415 cubic yards of airspace was used for the year. A total of 21,389,767 cubic yards has been consumed as of December 31, 2021. The remaining capacity for the entire permitted landfill footprint as of the end of 2021 was approximately 17,249,778 cubic yards. This information is updated annually with aerial flyovers. Using 0.80 tons/cy, the remaining available landfill space expressed in tons is about 13,799,822 tons. Using an average disposal rate of approximately 750,000 tons per year, there are about 18.40 years of landfill space available. If we use our 3-year density average of 0.93 tons/cy, the site life extends to 21.38 years.

This illustrates the importance of density on landfill site life.

As the density (compaction) is lowered per ton of solid waste due to the varying waste composition, then more headspace is consumed in the landfill thereby lowering landfill space available.

The remaining Airspace (CY) in the table to the left for Year2022 is adjusted for Scenario 2 data provided by Ian MacNab member of Subcommittee A1 – Republic Services.

*Reference MacNab's e-mail of 11/22/22 – Coffin Butte Landfill Capacity, which outlines the following scenarios for for site life of the landfill.*

Site life scenarios are based on the capping of the cells when reaching the final design elevation of the landfill, but does not include the decomposition cycle of the solid waste when the cell is capped.

Site:	Coffin Butte Landfill
Project Name:	2021 Site Development Plan Update
Date:	12/23/2021
Calc By:	ASO
Reviewed By:	RB

Projected Daily Waste Receipt                      2,959 tons/day    (from 2021 5 Yr Fill Plans)

Assume <sup>1</sup>	0.0 % growth rate
Operational Density	0.8 ton/cy    (from 2021 5 Yr Fill Plans)
Operational Days	286 days/year
Remaining Site Life	18 Years

Note <sup>1</sup>: Growth Rate Based On Site Aerial Budget Model

Year	Consumed    Remaining	
	Airspace (cy)	Airspace (cy)
2021	1,072,037	4,834,330 *Cell 5D/5E Constructed Remaining from 3/30/21 survey date
2022	1,057,700	3,776,631
2023	1,057,700	2,718,931
2024	1,057,700	1,661,232
2025	1,057,700	603,532
2026	1,057,700	1,028,093 Construct Phase 6A (Add 1,482,260 cy)
2027	1,057,700	999,823 Construct Phase 6B (Add 1,029,430 cy)
2028	1,057,700	1,684,254 Construct Phase 6C (Add 1,742,130 cy)
2029	1,057,700	626,554
2030	1,057,700	1,428,675 Construct Phase 6D (Add 1,859,820 cy)
2031	1,057,700	370,975
2032	1,057,700	391,696 Construct Phase 6E (Add 1,078,420 cy)
2033	1,057,700	1,020,066 Construct Phase 6F (Add 1,686,070 cy)
2034	1,057,700	1,977,627 Construct Phase 6G (Add 2,015,260 cy)
2035	1,057,700	919,927
2036	1,057,700	1,157,678 Construct Phase 6H (Add 1,295,450 cy)
2037	1,057,700	99,978
2038	1,057,700	664,409 Construct Phase 6I (Add 1,622,130 cy)
2039	664,409	0

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Year	Annual CBR Intake Tons	CBR Density Ration	CBR Annual Airspace Used (CY)	CBR Remaining Airspace (cy)
1993	310,648			
1994	268,472			
1995	287,932			
1996	369,835			
1997	378,919			
1998	395,751			
1999	403,697			
2000	413,493			
2001	426,000	0.9	473000	25,238,000
2002	457,000	0.98	561,592	24,776,627
2003	550,360	0.98	561,592	24,209,320
2004	589,147	0.80	736,434	24,513,192
2005	580,275	0.80	725,344	29,916,144
2006	624,875	0.8	781,094	29,135,051
2007	546,996	0.8	683,746	28,451,306
2008	528,395	0.8	660,494	27,785,082
2009	519,058	0.8	648,823	27,136,259
2010	458,590	0.892	514,111	27,382,241
2011	482,951	1.0375	465,495	24,807,718
2012	473,440	0.83	572,825	23,741,843
2013	479,160	0.92	523,100	24,458,567
2014	499,687	0.92	545,510	23,839,138
2015	530,971	0.89	595,593	23,839,138
2016	552,979	0.93	592,689	22453729
2017	941,430	0.97	969,048	21,727,371
2018	1,010,879	0.99	1,021,090	18,015,098
2019	1,034,934	0.8	1,293,668	18,352,257
2020	863,210	1	863,210	17,621,208
2021	1,046,067	0.98	1,067,415	17,249,778
2022	1,100,000	0.999	1,089,900	16,008,557
2023	1,100,000	0.999	1,089,900	14,918,657
2024	1,100,000	0.999	1,089,900	13,828,757
2025	1,100,000	0.999	1,089,900	12,738,857
2026	1,100,000	0.999	1,089,900	11,648,957
2027	1,100,000	0.999	1,089,900	10,559,057
2028	1,100,000	0.999	1,089,900	9,469,157
2029	1,100,000	0.999	1,089,900	8,379,257
2030	1,100,000	0.999	1,089,900	7,289,357
2031	1,100,000	0.999	1,089,900	6,199,457
2031	1,100,000	0.999	1,089,900	5,109,557
2033	1,100,000	0.999	1,089,900	4,019,657
2034	1,100,000	0.999	1,089,900	2,929,757
2034	1,100,000	0.999	1,089,900	1,839,857
2035	1,100,000	0.999	1,089,900	749,957
2036	750,708	0.999	749,957	0

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## Appendix C: Landfill Properties

Coffin Butte Landfill Properties					
	Tax Lot #	Current Zone	Previous Zone (Change Date)	Property Use	Date Acquired and Ownership
1	105130000901	Exclusive Farm Use	Agricultural and Forestry (AF) (1982)	Agriculture	March 2001, Valley Landfills, Inc. Deed 295810-01
2	105130000900	Exclusive Farm Use	Agricultural and Forestry (AF) (1982)	Agriculture, barn	March 2001, Valley Landfills, Inc. Deed 295810-01
3	105130000902	Exclusive Farm Use	Agricultural and Forestry (AF) (1982)	Agriculture	March 2001, Valley Landfills, Inc. Deed 295810-01
4	105130001000	Landfill Site/ Forest Conservation (Northeast Corner)	Forest Conservation Forty Acre Minimum (FC-40) (1983)	Disposal Cell 1A, Cell 1, Cell 5, Future Cell 6, Current/Future Asbestos Disposal area, Rock quarry entrance and scale house (2021 SDP); Quarry excavation and landfilling in FC zone (2002)	October 1974, Valley Landfills, Inc. Deed M-50855 Consolidated with Tax Lot 105130000205 (4.69 ACRE) and Tax Lot 105130000204 (1.74 ACRE) in 1992
5	104180001106 <sup>2</sup>	Landfill Site	Forest Conservation Forty Acre Minimum (FC-40) (1983)	Disposal Cell 1, Cell 3	November 1994, Valley Landfill, Inc. Deed M-192291-94 Segregated Parcels 104180001108 (29.22 AC) & 104180001109 (51.39 AC) in 2011. Went from 100 acres to 20.15
6	104180000301	Landfill Site (South)/ Forest	Forest Conservation Forty Acre	Disposal Cell 5 and forested hillside	March 1978, Valley Landfills, Inc. Deed M-91774

<sup>2</sup> Highlighted cells show the properties which Republic Services said were likely purchased prior to the 1983 zoning changes. More research is needed.



Coffin Butte Landfill Properties					
	Tax Lot #	Current Zone	Previous Zone (Change Date)	Property Use	Date Acquired and Ownership
		Conservation (North)	Minimum (FC-40) (1983)		Segregated from 104180000300 in 1972
7	104180000801 <sup>3</sup>	Landfill Site/ Forest Conservation	Forest Conservation Forty Acre Minimum (FC-40) (1983)	Disposal Cell 2, Cell 3, Cell 4, Cell 5, Scale house, public disposal area, stormwater ponds, bioswale, Toretie Marsh (2021 SDP); landfilling in FC zone (2003); transfer facility, stormwater conveyance/detention, container/drop box storage area, landfill construction staging/storage area (2011)	July 1988, Valley Landfills, Inc Deed M-102558-88 Segregated from 104180000800 in 1988
8	104180001108 <sup>4</sup>	Landfill Site	Forest Conservation Forty Acre Minimum (FC-40) (1983)	Disposal Cell 4, Entrance, stormwater pond, Toretie Marsh (2021 SDP)	November 1994, Valley Landfill, Inc. Deed M-192291-94 Segregated from 104180001106 in 2011
9	104180000900	Forest Conservation	Agricultural and Forestry (AF) (1982)	Wetland, pond	July 1988, Valley Landfills, Inc. Deed 1988-101891 Segregated from 104180000800 in 1968
10	105130000800	Exclusive Farm Use	Agricultural and Forestry (AF) (1982)	Stormwater treatment facility (pond and biofiltration strip) (2015), Soap Creek, Agriculture	February 1997, Valley Landfills, Inc Deed 1997-224922
11	104180001101	Forest Conservation	Rural Residential, 5	Construction staging/storage area, office (2013)	December 1991, Valley Landfills, Inc Deed 142396-91

<sup>3</sup> Highlighted cells show the properties which Republic Services said were likely purchased prior to the 1983 zoning changes. More research is needed.

<sup>4</sup> Highlighted cells show the properties which Republic Services said were likely purchased prior to the 1983 zoning changes. More research is needed.

Coffin Butte Landfill Properties					
	Tax Lot #	Current Zone	Previous Zone (Change Date)	Property Use	Date Acquired and Ownership
			Acre Minimum (1982)		
12	104180001104	Forest Conservation	Rural Residential, 5 Acre Minimum (1982)	Construction staging/storage area (2013)	January 1987, Valley Landfills Inc. Deed 1987-086356 Segregated from 104180001101 in 1969
13	104180001102	Forest Conservation	Rural Residential, 5 Acre Minimum (1982)	Vacant, non-forested land	March 1990, Valley Landfills, Inc Deed 123022-90
14	104180001107 <sup>5</sup>	Landfill Site	Forest Conservation Forty Acre Minimum (FC-40) (1983)	Leachate Maintenance facility/leachate ponds (2021 SDP)	August 1987, Valley Landfills, Inc. Deed 1987-092809 Segregated from 104180001100 in 1977
15	104180001200	Forest Conservation	Rural Residential, 5 Acre Minimum (1982)	2.2 Megawatt power generation facility (originally on lot 1100) (1994)	September 1986, Valley Landfills, Inc. Deed 1986-081011
16	104180001000	Forest Conservation	Rural Residential, 5 Acre	forest	March 1986, Valley Landfills, Inc. Deed 1986-077318

<sup>5</sup> Highlighted cells show the properties which Republic Services said were likely purchased prior to the 1983 zoning changes. More research is needed.

Coffin Butte Landfill Properties					
	Tax Lot #	Current Zone	Previous Zone (Change Date)	Property Use	Date Acquired and Ownership
			Minimum (1982)		Segregated from 104180001100 in 1968
17	105240000200	Exclusive Farm Use	Agricultural and Forestry (AF) (1982)	Agriculture, forest, creeks	December 1989, Valley Landfills, Inc Deed M-118414-89
18	105240000103	Exclusive Farm Use	Agricultural and Forestry (AF) (1982)	Minor Land Partition 1980-017312; Formerly part of 105240000100	April 1988, Valley Landfill Inc. Deed 1988-099247 Segregated from 105240000100 in 1980
19	10419B001600	Rural Residential - 10	RR-10 Planned Unit Development (PUD)	Vacant residential Former subdivision/Planned Development BCS-78-5, LD-82-11, Tampico Ridge Subdivision vacated in 1988	December 1999, Valley Landfills, Inc. Deed 1999-276868 Segregated from 10419B000100/00200/01400 in 1988, Segregated from 10419B001601 in 1999
20*	104180000200	Forest Conservation		Forested land	01/07/1998, purchased by Peltier Real Estate Co Deed 239947-98 Taxes paid by Republic Services
21*	104180001105	Exclusive Farm Use		Agriculture	October 1982, purchased by Peltier Real Estate Co Deed 1982-041706 Taxes paid by Republic Services Property Tax
22*	10419B000300	Rural Residential - 10	RR-10	Vacant residential	09/07/1999, purchased by Peltier Real Estate Co Deed 277841-99 Taxes paid by Republic Services

Coffin Butte Landfill Properties					
	Tax Lot #	Current Zone	Previous Zone (Change Date)	Property Use	Date Acquired and Ownership
23	10419B001301	Rural Residential - 10	RR-10	Vacated right-of-way Former subdivision/Planned Development BCS-78-5, LD-82-11, part of Tampico Ridge Subdivision vacated in 1988	September 1988, Valley Landfills Inc. Deed M-106768-88 Formerly part of 10419B000300

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<sup>i</sup> Endnotes to come.

<sup>ii</sup> Endnotes to come...

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**Compliance with Past Land Use Actions and  
Their Status**

**A.2 Subcommittee**

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Compliance with Past Land Use Actions and Their Status A.2 Subcommittee

Executive Summary

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**HOW TO USE THIS DOCUMENT**

(Insert FAQ's as reader instructions), what's here, what it conveys

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## INTRODUCTION

Add in Material based on "Yeager/ Sam Introduction/Legal Review"

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Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

**LIST OF LAND USE DOCUMENTS REVIEWED**

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
1	1972	CP-72-09	Preliminary communication regarding proposed landfill site.	None	Unfinished review of the proposed solid waste landfill site No conditions or conclusions.
2	1974	CP-74-01	Conditional Use Permit	PC Approved March 5, 1974; PC Decision Appealed by George Dannen and H. G. Olson March 15, 1974 (page 159 of 2 62 of the CP-74-01 pdf); BOC Approved	Designating Coffin Butte Landfill as a regional sanitary landfill site as recommended in the Chemeketa Regional Solid Waste Program Report and Sanitary Landfill expansion. Note: 2-decisions/2-motions 1- designation of the Coffin Butte area as a regional landfill site 2- a motion relative to conditions, use application from Robert and Daniel Bunn/Corvallis Disposal Company including any qualifications or stipulations  Planning Commission decision Conditions of Approval: 5 1.Service area defined and confined to only areas MI, WS, VA, DA, KV, MI, CO, AL, LV, and MH (defined by map enclosed) Expanding should require re-review by BCPC; 2.Site management activities should be reviewed by the County Sanitarian. Report made at least annually to BCPC by the Sanitarian. 3.Efficient leachate collection and treatment maintained. (Test) wells should be established to monitor any seepage in underground aquifers (groundwater pollution) 4.Where feasible, scars that erode face of Coffin Butte should be filled, compacted and eventual visual reclamation including screening...of subject property abutting the county road. 5.By July 1, 1977, a solid waste resource recovery system be prepared and submitted.  Planning Commission decision appealed  BOC upholds PC decision with following amendments and additions to conditions:

**Compliance with Past Land Use Actions and Their Status    A.2 Subcommittee Discussion Work in Progress**

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					<p>Condition No.4: adds, “when plans meet DEQ approval”</p> <p>Condition No. 5: Date change to July 1, 1976</p> <p>Condition No. 6 (new)</p> <p>The landfill operation shall be phased so that only a small acreage is used for fill at one time and then acreage shall be returned to grazing, another farm-type operation or other permitted use as approved by the PC and BoC</p> <p>Condition No.7 (new)</p> <p>Efforts be made to encourage voluntary separation of recoverable materials...to reduce the amount of landfill materials.</p> <p>What are the other file numbers if any?</p> <p>(post-appeal of PC#...looking for possible BoC number?)</p> <p>Presumed applicant/Property Owner: Bob Bunn, Corvallis Disposal Company based on 1972 pre-application correspondence</p> <p>Benton County Planner: Larry Bauer and Virgil Adams listed in 1972 docs</p> <p>1972 Pre-application work included Chemeketa Regional Model Plan (name for 5-county study) by Chemeketa Regional Operations Committee.</p>
3	1983	PC-83-07 / L-83-07	Comprehensive Plan and Map Amendments  Zoning Ordinance (Development Code) and Zoning Map amendments	BOC Approved	<p>Amendments to the Benton County Comprehensive Plan and Plan Map (Ordinance 251), and amendments to the Zoning Ordinance and Zoning Map (Ordinance 261).</p> <p>Amendments to the Comprehensive Plan Text and Map, amendments to the Zoning Ordinance and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).Ord 261 – July 6, 1983</p> <p>Any proposal to expand the area approved for landfill must be reviewed and approved by PC.</p> <p>Criteria for review includes: Provision of screening of site from public roads and adjacent property <u>Egress/Ingress</u>, site plan and reclamation plan</p>

**Compliance with Past Land Use Actions and Their Status    A.2 Subcommittee Discussion Work in Progress**

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
4	1983	LD-83-40	Minor Land Partition	Community Development Department approved	For Tax Lots 10-4-18-301 to create a 25.8-acre forest parcel and a 38.8-acre landfill parcel
5	1983	LD-83-41	Minor Land Partition	Community Development Department approved	To create two forest parcels of 11.37 acres (zoned FC-40) and 59.23 acres (zoned Landfill Site)  Created Tax Lot 1107 and Tax Lot 1100
6	1988	LD-88-11	Lot Line Adjustment	Community Development Department approved	A transfer of 37.94 acres from Tax Lot 10-4-18-800 to Tax Lot 10-4-18-1106
7	1988	Board Order	Order to Vacate a portion of Tampico Ridge Subdivision	BOC Approved	Original subdivision BOC approved in 1979 with Conditions of Approval. In 1988 some conditions had not been met to allow for development which appeared to support vacation order decision.  Applicant/Property Owner: Valley Landfill Inc./Bill Webber, Pres. / Dan Bunn  Director of Public Works: James E. Blair  Vacation Order approval document is unsigned, footnote shows November 10, 1988 date. Confirmation of this decision not apparent in docs at this time
8	1988	LD-88-11	Lot Line Adjustment	Community Development Department Approved	A transfer of 37.94 acres from parcel A to parcel B.
9		LD-92-24	Property Line Adjustment	Community Development Department Approved	To transfer 6.5 acres from 10-5-13-202/203 to 10-5-13-1000
10	1994	PC-94-03	Conditional Use Permit	Community Development Department Approved February 16, 1994	For a 2.2 megawatt power generation facility. The facility would utilize the gas generated from the decomposing refuse in the landfill as the fuel source.  Applicant: Mr. Bill Webber Property Owner: Valley Landfills, Inc.  Staff Contact: Bob Speaker
11	1994	PC-94-10	Zone change from Rural Residential to Landfill Site Zone, Comprehensive Plan	BOC Denied  Date of Decision: January 18, 1995	Involves approximately 26 acres including expansion south of Coffin Butte Rd.  Property Owner: Valley Landfills, Inc

**Compliance with Past Land Use Actions and Their Status    A.2 Subcommittee Discussion Work in Progress**

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
			change from Rural Residential to Landfill Site		Staff Contact: Jim Allen
12	1994	PC-94-11	Conditional Use Permit	PC Conditional Approval February 28, 1995  PC Decision Appealed March 13, 1995 Jeffery Morrell  Application Withdrawn March 16, 1995	To expand the area approved for a landfill within the Landfill Site Zone and update the site development plan.  Notice of Decision states PC-94-11 as "A conditional use permit to update the site development plan within the area that is currently zoned Landfill Site Zone."  Property Owner: Valley Landfills, Inc.  Staff Contact: Jim Allen
13		PC-94-12	Application to Expand or Change a Nonconforming Use	PC Approved	A change of nonconforming use from a duplex to an office within the existing structure for on-site landfill management
14		LD-94-26	Property Line Adjustment	Community Development Department approved, applicant did not complete requirements to complete the transfer, file closed	Transferring 21 acres from 10-4-19B-1600 to 10-4-18-1107
15	1997	S-97-58	Conditional Use Permit	Community Development and Parks Department Approved  (the departments were briefly combined)	to expand the generating capacity of the existing electric generation plant that is served by the gas produced at the Coffin Butte Landfill. Phase I of the expansion would increase the capacity of the plant from the current 2.2 MW to 5 MW and Phase II would increase the capacity to 10 MW.  Approval contingent on compliance with Noise Control Regulations for Industry and Commerce (OAR 340-0335-0035).  "Applicant responsible for ongoing monitoring of noise levels, available upon request of Planning Official to determine compliance."  Property Owner: Valley Landfills, Inc.
16	1999	PC-99-06	Conditional Use Permit	PC approved	For mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					Update: Quarry operations on this parcel have ceased
17	2002	PC-02-07	Conditional Use Permit	PC approved December 18, 2002	<p>For landfilling of an area that will be excavated for mining of mineral and aggregate resources Approved by the Planning Commission with Conditions. (West Triangle Expansion). The proposed area consists of 1.43 acres adjacent to the existing quarrying and landfill operation, and is designed to fulfill the reclamation plan for the previously approved quarry on this site.</p> <p>Condition of Approval: 10 (Obtain approval from DEQ for landfill operations, dust-free roads, permitted sound levels, on-site parking, security fencing, operational hours, maintain dual-access/emergency road system, landfill activity limited to 600-foot contour elevation, copies of water quality, stormwater runoff and air quality permits and data)</p> <p>Applicant: Valley Landfills, Inc. Staff Contact: Chris Bentley</p>
18	2002	Resolution 2002-070	Vacation of a portion of Coffin Butte Road	BOC approved	0.65 miles of road vacated
19	2003	PC-03-11	Conditional Use Permit	PC approved October 3, 2003	<p>For excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).</p> <p>Conditions of Approval: 10 (Operate within DEQ approval, dust-free roads, permitted sound levels, on-site parking, security fencing, operational hours, maintain dual-access/emergency road system, copies of water quality, stormwater runoff and air quality permits and data, landscape buffer plan to mitigate visual impacts, DSL approval for wetland activity)</p> <p>Property Owner: Valley Landfills Inc. Staff Contact: Chris Bentley</p>
20	2011	LU-11-004	Pre-application meeting	Planning staff review	For placing recycling facility on Tax Lot 104180000801

**Compliance with Past Land Use Actions and Their Status    A.2 Subcommittee Discussion Work in Progress**

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
21	2011	LU-11-016	Conditional Use Permit	PC approved April 6, 2011	<p>For the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone</p> <p>Conditions of Approval: 1-4; also 1-10 below (Community Development Dept to determine compliance; approval valid for 2 years)</p> <p>Development shall comply with plans and narrative in applicant proposal, modifications require request and approval, record of declaratory statement of rights of adjacent/nearby property owners to conduct forest operations, compliance with siting standards (BCC60.405), comply with applicable facility code provisions.</p> <p>PC 03-11 Conditions of Approval that remain applicable: 1-10</p> <p>Obtain DEQ approvals for landfill operations, dust-free roads, maximum sound levels, on-site parking, security fencing, operational hours, dual-access/emergency road system, water quality, air quality, storm-water runoff permits and data available for public inspection.</p> <p>Property Owner/Applicant: Valley Landfills, Inc Staff Contact: Eric Adams/Chris Bentley Planning Official: Greg Verret</p>
22	2013	LU-13-061	Conditional Use Permit	PC approved November 5, 2013	<p>For "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.</p> <p>Conditions of Approval: 1-4; also 1-10 below (Community Development Dept to determine compliance; approval valid for 2 years)</p> <p>Development shall comply with plans and narrative in applicant's proposal (Attachment 'A') except as modified by conditions below; all other modifications shall require review and approval by request, declaratory statement of rights of adjacent/nearby property owners</p>



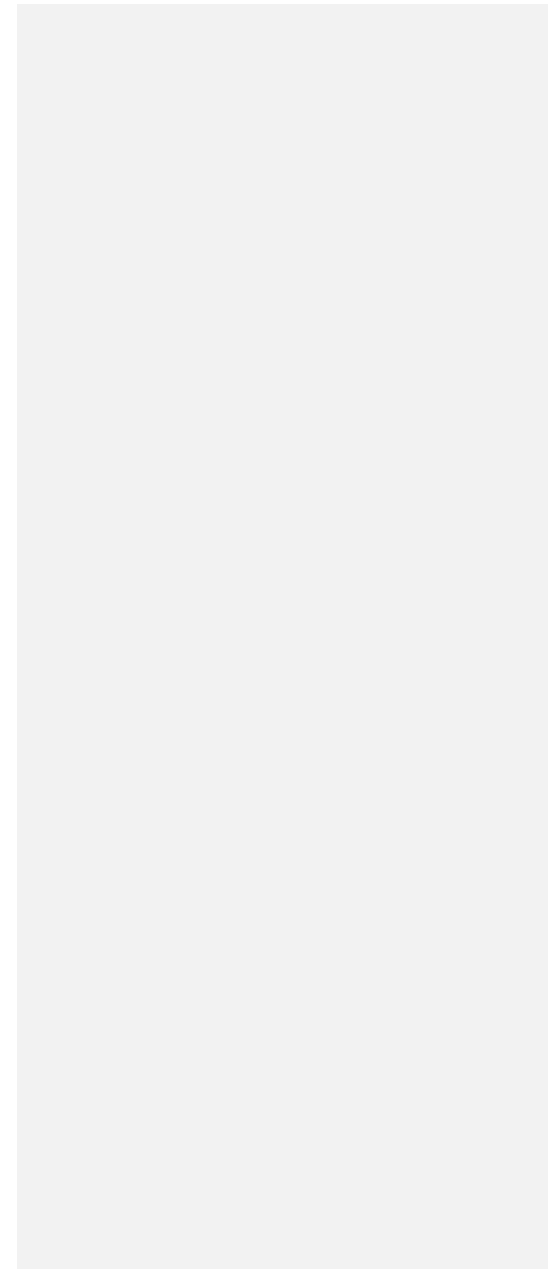
**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					<p>re: forest operations, any new/change to existing access shall require permit, NPDES permit requirement for construction disturbance o 1 acre or more.</p> <p>Conditions of Approval 1-10 from prior approvals that remain in effect:</p> <p>Obtain DEQ approvals for landfill operations, dust-free roads, maximum sound levels, on-site parking, security fencing, operational hours, dual-access/emergency road system, water quality, air quality, storm-water runoff permits and data available for public inspection.</p> <p>Property Owner/Applicant: Valley Landfills, Inc</p>
23	2015	LU-15-001	Alteration of a nonconforming use to continue and enhance a stormwater treatment facility in the Exclusive Farm Use Zone, associated with Coffin Butte Landfill.	<p>Community Development Department Approved</p> <p>September 16, 2015</p>	<p>Conditions of Approval: 2 (Community Development Department will objectively determine compliance with all Conditions of Approval)</p> <p>Development shall substantially comply with the plans and narrative in the applicant’s proposal; modifications require approval, applicant shall obtain/maintain compliance with necessary federal state and local permits for construction and operation of stormwater system described in application</p> <p>Property Owner/Applicant: Valley Landfills, Inc./Republic Services, Inc.</p> <p>Staff Contact: Chris Bentley</p> <p>Planning Official: Greg Verret</p>
24	2021	LU-21-047	Conditional Use Permit to expand Coffin Butte Landfill. Republic Services proposed: to create a new disposal cell for the Coffin Butte Landfill which will extend from the current cell south of Coffin Butte Road; close Coffin Butte Road to public traffic (vacate the right-of-way*) so the new cell can cover the road; relocate a replacement	<p>PC Denied December 7, 2021; PC Decision Appealed; Appeal Withdrawn</p>	<p>Property Owner/Applicant: Valley Landfills, Inc./Republic Services</p> <p>Staff Contact: Inga Williams</p> <p>CAC Planning Area: North Benton (not active)</p> <p>*Note past Conditions of Approval that indicate requirement of dual-access/emergency road services to CBL</p> <p>*Question about buffer requirements to adjacent/nearby properties and land use if leachate ponds to be relocated</p>

**Compliance with Past Land Use Actions and Their Status    A.2 Subcommittee Discussion Work in Progress**

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
			roadway (for landfill and quarry traffic only) around the area of the new disposal cell; relocate the leachate ponds south of Coffin Butte Road, and move some other structures. Closing Coffin Butte Road will likely require improvement of at least one other roadway in the area to accommodate increased traffic—potentially Tampico Road or Wiles and Robison Roads.		

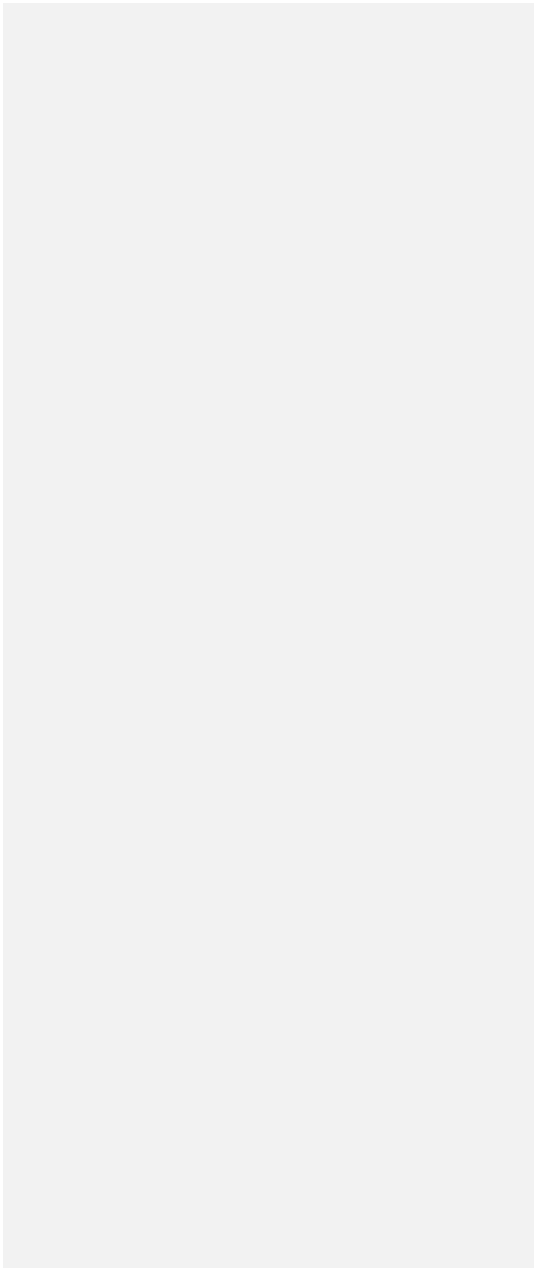
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**Table of Summary Statistics Needed? Here?**

Cite how many conditions involved, how many consensus, how many majority / minority opinions

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## OBSERVATIONS AND RECOMMENDATIONS (Post BCTT Workgroup Tasks)

### OVERALL CONSIDERATIONS

Refers to Document Number	Observations	Suggestions and Recommendations to the County
2 1974 CP-74-01	<p>Observation triggered by Condition 3</p> <p>About 30 million gallons per year of leachate (about twenty 5,500 gallon tank trucks per day) are trucked offsite to city treatment systems</p>	<p>Consider the impact of leachate management on traffic safety, road maintenance, and Willamette River (water, sediments, wildlife, etc.) in future assessment of the impact of landfilling in Benton County. Also consider the impact on the functioning of the wastewater treatment plant and impact on the service life of the facility. Financial considerations should be transparent.</p>
2	<p>Condition 6</p> <p>Per DEQ guidance, Closure of the landfill does not occur until all disposal operations cease. Potentially this is 15 or more years from now. RSI is not required to submit a Closure Plan until 5 years prior to Closure. In the interim, if the landfill were to close today, RSI provides a "Worst Case" Closure and Post-Closure Plan which describes the condition the site is to be left. The current "Worst Case" plan provides for a grass cover on slopes. There is no mention of visual screening.</p>	<p>The issue of when the landfill is ready for reclamation and what that reclamation will look like needs to be clarified to appropriately manage community expectations for the ultimate disposition of the landfill.</p> <p>It is suggested the County bring some clarity to this condition by:</p> <ol style="list-style-type: none"> <li>1. reevaluating the appropriateness of the ..."shall be returned to grazing, another farm-type operation...". Questions to consider include: Given current public perceptions of landfills, does it make sense to expect grazing on top of a landfill to yield products <b>people</b>? Given the steepness of the as-built landfill cover slopes, is it reasonable to expect grazing animals will not damage the cover system exposing wastes and allowing air to be drawn into the landfill mass?</li> <li>2. giving nearby residents and travelers on Hwy 99 some sense of what can reasonably be expected under "...or other permitted use as approved by the Planning Commission and the Board of County Commissioners." e.g., a park with walking trails much like the Baylands Nature Preserve in Palo Alto, CA.</li> <li>3. considering Franchise language that addresses the post closure condition of the landfill,</li> <li>4. engaging with DEQ to understand what is possible for "Worst Case" and ultimate closure of the landfill.</li> </ol> <p>Additionally, it is recommended the County consider:</p> <ol style="list-style-type: none"> <li>1. the impact of ongoing landfill operation on community development programs such as the Bike Transit Corridor. Note the only east/west bike crossing of Hwy 99W for about 55 minutes is across from the landfill;</li> <li>2. the compatibility of a landfill of this size with the County's Vision 2040.</li> </ol>

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Refers to Document Number	Observations	Suggestions and Recommendations to the County
2	<p>Condition 7 Concerning recycling program.</p> <p>RSI is "In Compliance" in Benton County based on personal experience but Benton County contributes less than 10% of the total volume sent to the landfill and is only one of more than 20 counties RSI draws material from.</p>	<p>?? Not sure how to handle?? To be addressed in next Vision Plan or Materials Management Plan? Just flag this condition for BCTT SW Plan Subcommittee?</p>
3 1983 PC-83-07 / L-83-07	<p>Condition 1</p> <p>It is very important to note that the existing visual appearance of the landfill is a significant concern. The landfill is being constructed in ways that do not reflect the description set out by the applicant and approved plan of 1983 (refer to PC-83-07; L-83-07).</p>	<p>Consider clarifying the roles of the County and DEQ in future CUP actions. Which organization has primacy over what? A clear understanding is needed of DEQ's and the County's role in addressing aspects of the landfill such as design, operation, monitoring (including noise, light pollution, odor, etc.), appearance, and screening from public view, etc.</p>
3	<p>Decision text and "conditions" are sometimes difficult to easily determine especially in older County decision documents (See analysis by M Yeager (Dec 2022))</p>	<p>Future decisions clearly convey basis of Approval. Example: "Condition of Approval: This approval is based upon the application, site plan, and supporting documentation submitted by the applicant. Any substantial change as determined solely by Benton County in the approved plan will require a new application."</p> <p><b>NEED EDUCATION FROM COUNTY STAFF:</b> Is there a written Benton County Compliance Policy &amp; Process including a complaint lodging, tracking, and resolution process?</p>
7 1988 Board Order	<p>1988 Board Order to Vacate a portion of Tampico Ridge Subdivision consolidated three lots and a portion of right-of-way into an 85 acre parcel.</p> <p>DEQ in the 2005 Record of Decision for the landfill specifies "Property purchases as buffer around the landfill." as one of the remedies for groundwater contamination. (See References)</p>	<p>In assessing the public burden associated with the landfill, it appears necessary for the County to understand how much land has been acquired by RSI in pursuit of creating environmental or other buffers near the landfill. Address how these actions are consistent with Vision 2040.</p>
10 1994 PC-94-03	<p>Condition 2 &amp; 5</p> <p>Noise</p>	<p>Establish and widely advertise a County process for receiving, tracking, and resolving landfill and power plant related noise complaints.</p>

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

Refers to Document Number	Observations	Suggestions and Recommendations to the County
10	Condition 6 Lighting at Power Plant	Establish and widely advertise a County process for receiving, tracking, and resolving landfill and power plant related noise complaints.
15 1997 S-97-58	Condition 7 Lighting at Power Plant	Establish and widely advertise a County process for receiving, tracking, and resolving landfill and power plant related noise complaints.
15	Condition 9 “...applicant shall prepare a site specific development plan addressing emergency water supplies for fire protection. The plan shall be submitted to the local fire protection agency for review”.	Establish if the applicant is in compliance with this 1997 condition. Reassess the emergency preparedness plan given the lessons learned from the nationally reported 1999 landfill fill fire and emergency services available to address new fire situations such as a hypothetical nearby forest fire. Consider integration with other plans such as Community Wildfire Protection Plan. See Adair Village Fire Chief Testimony (most recent CUP application).
General	Odor issues do not seem to be mentioned	Request feedback / discussion on how to address this especially for nearby areas undergoing development. (Logsdon Ridge, Santiam Christian School, Adair Village UGB expansion, North Albany).  Reviews Title V Permits are needed to determine if odor is addressed there.

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

**MONITORING AND COMPLIANCE ENFORCEMENT ISSUES**

OBSERVATIONS	RECOMMENDATIONS for Post BCTT Consideration
In assessing the status of compliance with past land use documents, there are numerous instances where supporting evidence may not or is not available in County records.	The Board of Commissioners update or establish an easily understandable policy concerning how the County is to require, manage, and interpret regulatory related information from RSI and DEQ.
Over time the format and wording of what information is being requested has changed.	Establish consistent terminology for describing what an applicant is required to do to be considered in compliance.
Within the Tables of Land Use Conditions Assessments, there are locations where County staff have stated that they do not actively review materials applicants provide as ongoing evidence of compliance with land use decisions. Confirmation of compliance is only made by the County after receiving a resident's complaint.  SEE FOLLOWING TABLE for a list of these occurrences	The Board of Commissioners consider a proactive compliance confirmation program for facilities contributing to environmental burdens on the County such as a landfill, industrial scale composting, or direct dischargers to water bodies within the county.
ADD OTHERS????	

WORK IN PROGRESS

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

SUPPORTING INFORMATION FOR MONITORING AND COMPLIANCE ENFORCEMENT ISSUES

Summary: 39 Instances of Unclear Compliance Monitoring by the County

<p><b>Land Use Document #3 1983 PC-83-07/L-83-07</b>  <i>Amendments to the Benton County Comprehensive Plan and Plan Map (Ordinance 251), and amendments to the Zoning Ordinance and Zoning Map (Ordinance 261). Amendments to the Comprehensive Plan Text and Map, amendments to the Zoning Ordinance and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1))</i></p>	
<p><b>Condition 8.</b> The current DEQ operational permit will expire on January 31, 1984. Valley Landfills, Inc. has been requested to submit an updated, long-term leachate control plan as part of the permit renewal process. This plan must contain provisions for a leachate storage facility so leachate irrigation will not occur on pasture lands from November 1 through May 1 of each year. The control plan must also provide for a soil study that designates present and future leachate irrigation areas. This plan must show that the amount of irrigation area available is compatible with future leachate generation volumes so metal or nutrient accumulations in the soils will remain far below any toxicity levels.</p>	<p><b>Staff Comment.</b> Overseen by DEQ. The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.</p>
<p><b>Condition 9.</b> As the site expands eastward, additional monitoring wells will be required. Depending on DEQ budget limitations, the permittee may have to share in the responsibility for sampling and monitoring of these wells.</p>	<p><b>Staff Comment.</b> Overseen by DEQ. The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.</p>
<p><b>Land Use Document #10 1994 PC-94-03</b>  <i>A conditional use permit for a 2.2 megawatt power generation facility. The facility would utilize the gas generated from the decomposing refuse in the landfill as the fuel source.</i></p>	
<p><b>Condition 4.</b> The applicant shall obtain and comply with all applicable permits from Oregon Department of Environmental Quality (DEQ). The applicant shall provide copies of all DEQ permits to the County.</p>	<p><b>Staff Comment.</b> This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit.</p>
<p><b>Condition 6.</b> Lighting shall be located so that it does not face directly, shine or reflect glare onto an adjacent street or property.</p>	<p><b>Staff Comment.</b> Monitoring of this condition is complaint driven. Staff has no records of complaints regarding lights at the landfill.</p>
<p><b>Land Use Document #15 1997 S-97-58</b>  <i>A conditional use permit to expand the generating capacity of the existing electric generation plant that is served by the gas produced at the Coffin Butte Landfill. Phase I of the expansion would increase the capacity of the plant from the current 2.2 MW to 5 MW and Phase II would increase the capacity to 10 MW.</i></p>	
<p><b>Condition 3.</b> Noise levels for both Phase I and Phase 2 expansions shall comply with the Noise Control Regulations for Industry and Commerce in Oregon Administrative Rules 340-035- 0035 as measured at the nearest dwellings existing on the date of approval of this conditional use permit.</p>	<p><b>Staff Comment.</b> Subsequent to the compliance monitoring memorandum, the County would require additional testing only if there was reason to believe the noise standards were no longer being met (such as through a noise complaint received from an adjacent dwelling)</p>
<p><b>Condition 4.</b> The applicant is responsible for ongoing monitoring of noise levels. Upon request of the Planning Official, the applicant shall provide the County with sufficient</p>	<p><b>Staff Comment.</b> Available records do not indicate any such requests by the Planning Official.</p>



**Compliance with Past Land Use Actions and Their Status    A.2 Subcommittee Discussion Work in Progress**

<p>information to determine whether the facility is in compliance with Condition 3 of this permit.</p>	
<p><b>Condition 6.</b> The application shall obtain and comply with all applicable permits from the Oregon Department of Environmental Quality (DEQ). The applicant shall provide copies of all DEQ permits for the generation facility to the Community Development and Parks Department.</p>	<p><b>Staff Comment.</b> This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit.</p>
<p><b>Condition 7.</b> Lighting shall be located so that it does not face directly, shine, or glare onto an adjacent road or property.</p>	<p><b>Staff Comment.</b> Monitoring of this condition is complaint driven. There are no records of any complaints.</p>
<p><b>Condition 9.</b> The applicant shall prepare a site specific development plan addressing emergency water supplies for fire protection. The plan shall be submitted to the local fire protection agency for review. The plan approved by the local fire protection agency shall be shall submitted to the Community Development and Parks Department prior to the issuance of building permits for the structure for Phase 1. A revised site specific development plan shall be completed prior to issuance of construction permits for the Phase 2 expansion. The site development plan shall address:</p> <ul style="list-style-type: none"> <li>a) Emergency access to the local water supply in the event of a wildfire or other fire-related emergency;</li> <li>b) Provision of an all-weather road or driveway to within 10 feet of the edge of identified water supplies which contain 4,000 gallons or more and exist within 100 feet of the driveway or road at a reasonable grade (e.g. 12 percent or less);and</li> <li>c) Emergency water supplies shall be clearly marked along the access route with a Fire District approved sign.</li> </ul>	<p><b>Staff Comment.</b> -Additional research needed, compliance with this condition is not confirmed.</p>
<p><b>Land Use Document #16 1999 PC-99-06</b>  <i>A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.</i>  <i>Update: Quarry operations on this parcel have ceased</i></p>	
<p><b>Condition 1.</b> Obtain approval of a reclamation plan from the Oregon Department of Geology and Mineral Industries or the Oregon Division of State Lands. Operation and reclamation plan shall demonstrate consistency with the intended subsequent site use.</p>	<p><b>Staff Comment.</b> This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit.</p>
<p><b>Condition 3.</b> The applicant or lease-holding operator shall provide screening to partially obscure the mining site from view by adjoining occupied property and public roads in Soap Creek Valley and north Benton County to the extent reasonable and practicable to do so. The screening shall consist of an ornamental fence or wall, a vegetated berm, or preservation of vegetated natural slope in character with the natural landscape of Soap Creek Valley.</p>	<p><b>Staff Comment.</b> Staff will need to field verify but it appears through comments that the applicant is not in compliance with this condition.</p>

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<p><b>Condition 4.</b> The applicant or lease-holding operator shall ensure that the mining operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality. The applicant or lease-holding operator shall monitor noise generated by mining activities on one randomly selected day per month when noise complaints are received, not withstanding a minimum of one time per year. Noise data and reports of findings from this monitoring shall be placed on file, in a timely way with the Benton County Community Development Department for public inspection. A berm, or other sound-absorbing construction materials such as acoustical cinder blocks or other similar methods may be used to reduce the sound off-site to levels at or below those permitted by the Oregon Department of Environmental Quality. Any sound-reduction construction will be consistent with the visual buffering required in Condition #3 above. The applicant or lease-holding operator shall limit blasting to the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday.</p>	<p><b>Staff Comment.</b> Staff will need to field verify but it appears that the applicant is not in compliance with this condition. Staff is unaware of any noise data being submitted to the Community Development Department.</p>
<p><b>Condition 11.</b> Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.</p>	<p><b>Staff Comment.</b> None</p>
<p><b>Condition 12.</b> Copies of storm-water runoff permits and data produced from associated monitoring programs required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way, with the Benton County Community Development Department for public inspection.</p>	<p><b>Staff Comment.</b> Additional Research Needed</p>
<p><b>Land Use Document #17 2002 PC-02-07</b>  <i>A Conditional Use Permit for landfilling of an area that will be excavated for mining of mineral and aggregate resources Approved by the Planning Commission with Conditions. (West Triangle Expansion). The proposed area consists of 1.43 acres adjacent to the existing quarrying and landfill operation, and is designed to fulfill the reclamation plan for the previously approved quarry on this site.</i></p>	
<p><b>Condition 3.</b> The applicant or lease-holding operator shall ensure that the landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.</p>	<p><b>Staff Comment.</b> County monitoring of this condition is complaint-based.</p>
<p><b>Condition 9.</b> Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.</p>	<p><b>Staff Comment.</b> The county regularly receives copies. Appendix I <a href="https://www.co.benton.or.us/cd/page/materials-management-document-library">https://www.co.benton.or.us/cd/page/materials-management-document-library</a></p>
<p><b>Condition 10.</b> Copies of storm-water runoff permits and data produced from associated monitoring programs required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way, with the Benton County Community Development Department for public inspection</p>	<p><b>Staff Comment.</b> The county regularly receives copies. <a href="https://www.co.benton.or.us/cd/page/materials-management-document-library">https://www.co.benton.or.us/cd/page/materials-management-document-library</a></p>
<p><b>Land Use Document #19 2003 PC-03-11</b>  <i>A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).</i></p>	

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<p><b>Condition 3.</b> The applicant or lease-holding operator shall ensure that the landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.</p>	<p><b>Staff Comment.</b> County monitoring of this condition is complaint-based.</p>
<p><b>Condition 8.</b> Copies of water quality, stormwater runoff, and air quality permits; and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way with the Benton County Community Development Department for public inspection.</p>	<p><b>Staff Comment.</b> The county regularly receives copies. Appendix I <a href="https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf">https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</a></p>
<p><b>Condition 10.</b> Approval shall be obtained from the Oregon Division of State Lands for any activities on the subject property that affect designated wetlands.</p>	<p><b>Staff Comment.</b> This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit.</p>
<p><b>Land Use Document #21 2011 LU-11-016</b>  <i>Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.</i></p>	
<p><b>Condition 1.</b> Development shall comply with the plans and narrative in the applicant’s proposal identified as Attachment ‘A’ except as modified by the approval or the conditions below. Modifications to the operation of the facility other than those addressed through this decision, including, but not limited to, the relocation of additional activities, or the configuration of relocated activities in a manner not substantially in conformance with the submitted conceptual site plan, shall require approval through a Modification of a Conditional Use Permit request (BCC 53.225).</p>	<p><b>Staff Comment.</b> Standard condition requiring the applicant to implement the conditional use permit as described in their application. Compliance is not actively monitored.</p>
<p><i>Conditions of Approval from PC-03-11 that remain applicable and should be continued (as of the time of this decision):</i>  <b>Condition 1.</b> Obtain necessary approvals from the Oregon Department of Environmental Quality for landfill operations on this site.</p>	<p><b>Staff Comment.</b> The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.</p>
<p><b>Condition 3.</b> The applicant or lease-holding operator shall ensure that the landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.</p>	<p><b>Staff Comment.</b> County monitoring of this condition is complaint-based.</p>
<p><b>Condition 9.</b> Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.</p>	<p><b>Staff Comment.</b> The county regularly receives copies. Appendix I <a href="https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf">https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</a></p>
<p><b>Condition 10.</b> Copies of storm-water runoff permits and data produced from associated monitoring programs required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way, with the Benton County Community Development Department for public inspection.</p>	<p><b>Staff Comment.</b> The county regularly receives copies. <a href="https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf">https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</a></p>

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<p><b>Land Use Document #22 2013 LU-13-061</b>  <i>Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.</i></p>	
<p><b>Conditions of Approval from prior approvals that remain in effect (as of the time of this decision):</b>  <b>Condition 1.</b> Obtain necessary approvals from the Oregon Department of Environmental Quality for Landfill operations on this site.</p>	<p><b>Staff Comment.</b> The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.</p>
<p><b>Condition 3.</b> The applicant or lease – holding operator shall ensure that the Landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.</p>	<p><b>Staff Comment.</b> County monitoring of this condition is complaint-based.</p>
<p><b>Condition 9.</b> Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.</p>	<p><b>Staff Comment.</b> None</p>
<p><b>Condition 10.</b> Copies of storm -water runoff permits and data produced from associated monitoring programs required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way, with the Benton County Community Development Department for public inspection.</p>	<p><b>Staff Comment.</b> None</p>
<p><b>Land Use Document #23 2015 LU-15-001</b>  <i>Alteration of a nonconforming use to continue and enhance a stormwater treatment facility in the Exclusive Farm Use Zone, associated with Coffin Butte Landfill.</i></p>	
<p><b>Condition 1.</b> Development shall substantially comply with the plans and narrative in the applicant' s proposal identified as Attachment A. Significant modifications to the construction or operation of the stormwater system other than those addressed through this decision shall require additional approval.</p>	<p><b>Staff Comment.</b> None</p>
<p><b>Condition 2.</b> The applicant shall obtain and maintain compliance with the terms of all necessary federal, state, and local permits for construction and operation of the stormwater system described in this application.</p>	<p><b>Staff Comment.</b> The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.</p>

## TABLES OF LAND USE CONDITION ASSESSMENTS

### GENERAL NOTES

#### Definitions Used in Compliance Assessment:

- **In Compliance** = Compliance demonstrated. Basis: cite basis e.g., In County Records
- **Not In Compliance** = Basis: cite basis e.g., Need more specific information. Explanation: provide citations. References: provide when available. Suggestions or Open Items: for coming into compliance.
- **Compliance Status Unclear** = Assessment not made due to one or more of the following: regulatory requirements not triggered, information sources not available, condition appears to have lesser environmental / ecological / economic / public safety, etc. impact, or insufficient information available.
- **County Requirement Superseded** = Cite over-riding County land use decision, DEQ reference, Requirement No Longer Relevant, etc.
- **Legal Requirement Superseded** = by LUBA, court opinion, statutes, County Code, Comprehensive Plan, etc.
- **Compliance Not Demonstrated** = Additional information from the County and/or DEQ needed to assess compliance.
- **Use Decision Provided for Background** = Information in document provides useful insight of community/governmental perspectives at the time. (MAY NEED TO BE RETHOUGHT / REWORDED)

#### Format for Evaluation of more complex conditions is:

Subcommittee Members

Compliance Opinion:

Basis:

Explanation:

Notes:

Open Item(s)

WON

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
Date	File #	Request	Result
1974	CP-74-01	Designating Coffin Butte Landfill as a regional sanitary landfill site as recommended in the Chemeketa Regional Solid Waste Program Report <sup>1</sup> and Sanitary Landfill expansion.	PC Approved PC Decision Appealed BOC Approved
Conditions of Approval		Current Status	
1. The service area to be served by the Coffin Butte Site should be defined and the approval should be confined to serving only areas MI, WS, DA, KV, MI, CO, AL, LV, and MH, as defined on the enclosed map <sup>2</sup> . Expanding Coffin Butte to service additional areas should require a re-review by the Planning Commission.		Consensus: Majority Opinion: Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Unsure when the change occurred to allow trash to be brought to the landfill from outside those areas identified above occurred. There is no information in any land use file that staff searched through.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Unable to accept this assessment until additional research is complete.</li> <li>• Modified in 1983, but still relevant as to intent – not sure how to rank this...with every land use application there has consistently been discussion about how much Benton County residents did not want out-of-county waste being deposited into the landfill; I believe the meeting minutes reflect that the applicant stated that the landfill was just for Benton County</li> <li>• Republic: Republic Services acquired Coffin Butte Landfill in 2008. Certain records prior to that date may be incomplete. We agree that the changes to the County's land use regulations and subsequent conditional use approvals mean that the analysis and the conditions in the 1974 decision are no longer relevant. Further, Republic Services<sup>3</sup> has reported the counties of origin and tonnage for the last 20 years to the Board of Commissioners under the terms of its franchise agreement.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Not In Compliance</p> <p>Basis: RSI Annual reports over multiple years indicate solid wastes outside of the geographical area defined in this 1974 Approval have been and continue to be disposed of at Coffin Butte e.g. (see RSI annual report (add link to most recent report))</p> <p>Explanation: Further searches of County and RSI files are needed to establish if or when this condition was superseded to authorize landfilling materials outside of the 1974 defined area. Benton County Code 25I dated 1983 authorizes acceptance of material from Sweet Home and Lebanon. Alternatives to finding historical authorization may include BOC</p>			

<sup>1</sup> The [Chemeketa Regional Solid Waste Program Report](#) was produced in 1974 as part of a regional collaborative effort between Benton, Marion, Linn, Polk, and Yamhill counties (Stevens, Thompson & Runyan, Inc., 1974a). This report details recommendations and options for disposal sites, collection strategies, and other materials management approaches.

<sup>2</sup> The [Chemeketa Regional Solid Waste Program Report](#) labels specific Chemeketa Region Service Areas, including the general areas of Monmouth/Independence (MI), West Salem (WS), Dallas (DA), Kings Valley (KV), Corvallis (CO), Albany (AL), Lobster Valley (LV), and Monroe/Harrisburg/Halsey (MH), which are **mapped and detailed on Figure IV-7 of the Report** (Stevens, Thompson & Runyan, Inc., 1974b). INCLUDE FIGURE IN APPENDIX "Y"

<sup>3</sup> For ease of reference, "Republic Services" is used throughout this version of the document but depending on the topic the actual legal entity on the applicable permits documents or otherwise may be Valley Landfills, Inc.

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LAND USE ACTIONS TABLE			
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Conditions of Approval		Current Status	
<p>and Planning Commission action to void limitations on the geographic area allowed to bring material to Coffin Butte. A relevant concept is the DEQ definition of “regional” landfill. It is based on tonnage received. It does not refer to a geographic area. It is based on tonnage processed. Additional searches for State statues or regulations that prohibit counties from limiting the areas from which wastes can be received from is suggested.</p> <p>Notes: Support for 1977 geographical definition found in:  <ul style="list-style-type: none"> <li>◆ 1983 Code reference “BEFORE THE BOARD OF COMMISSIONERS FOR BENTON COUNTY, OREGON An Ordinance Amending the Benton County Comprehensive Plan and Specifically Amending the Public Facilities and Services and Environmental Quality Elements and Amending the Comprehensive Plan Map Ordinance 251” Specific language to be inserted in the code under “Landfill and Solid Waste Policies” includes:                      “27. The Coffin Butte site shall have a landfill site designation and shall serve as a regional landfill servicing a geographical area including Linn, Polk, and Benton Counties.”</li> <li>◆ PC-83-07-C(3) PDF page 13</li> </ul>                     Note 1974 Chemeteka report defines “regional” in physical geography terms, DEQ defines “regional” in terms of amount of tonnage received. DEQ Reference: 23) “Regional disposal site” means a disposal site that receives, or a proposed disposal site that is designed to receive more than 75,000 tons of solid waste a year from outside the immediate service area in which the disposal site is located. As used in this subsection, “immediate service area” means the county boundary of all counties except a county that is within the boundary of the metropolitan service district. For a county within the metropolitan service district, “immediate service area” means the metropolitan service district boundary. <i>From</i> <a href="https://www.oregonlegislature.gov/bills_laws/ors/ors459.html">https://www.oregonlegislature.gov/bills_laws/ors/ors459.html</a> per B Fuller to S Imperati email 110722</p> <ul style="list-style-type: none"> <li>• <b>PLACE KEEPER:</b> Add 2002 PC-02-07 geographic, regional landfill issue (Catherine)</li> </ul> Status of search for County business related documents mentioning geographic service area: <ul style="list-style-type: none"> <li>◆ Franchise Agreements prior to 2020 not found. Need to find this.</li> <li>◆ No mention of geographic service area in 2020 Franchise Agreements (<a href="https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/valley_landfills_landfill_franchise_agrmt_2020.pdf">https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/valley_landfills_landfill_franchise_agrmt_2020.pdf</a>)</li> <li>◆ There is a 2016 Benton County / RSI Memorandum of Understanding the is an “...acknowledgement that Coffin Butte Landfill will be accepting municipal solid waste currently being delivered to Waste Management’s Riverbed Landfill for a term of 1-2 years, beginning in January of 2017. (<a href="https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/republic_svcs_riverbend_landfill_500952_mou_120116.pdf">https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/republic_svcs_riverbend_landfill_500952_mou_120116.pdf</a>)</li> </ul> Open Item: Search DEQ permits for information allowing geographic areas to use CB Landfill.			
<p><b>2. The site management activities conducted at Coffin Butte should be reviewed periodically by the County Sanitarian (ex-officio member of the Planning Commission). A report of compliance to all state and local standards should be made at least once annually to the Planning Commission by the Sanitarian.</b></p>		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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1974	CP-74-01	Designating Coffin Butte Landfill as a regional sanitary landfill site as recommended in the Chemeketa Regional Solid Waste Program Report <sup>1</sup> and Sanitary Landfill expansion.	PC Approved PC Decision Appealed BOC Approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>It will need to be a decision of the Board of County Commissioners as to whether this condition should be resumed. Annual Reports from 2005 found here <a href="https://www.co.benton.or.us/cd/page/solid-waste-collection-franchisee-annual-reports">https://www.co.benton.or.us/cd/page/solid-waste-collection-franchisee-annual-reports</a></p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>The report was supposed to be annual but this assessment only mentions one year. More information needed to confirm compliance.</li> <li>I see annual reports dating back to 2005. Were there annual reports submitted before then?</li> <li>Replaced by DSAC in 1983, but still relevant as to intent; if DSAC had been regularly informed of non-compliance with conditions of approval, perhaps the landfill would have been more compliant</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Compliance Status Unclear</p> <p>Basis: Reporting requirement may have been met by Disposal Site Advisory Committee in 1983 (Workgroup Committee Comments). DSAC records need review to ascertain if this condition is being met. <a href="#">SWAC reportedly receives annual landfill reports however neither the County Sanitarian nor the Planning Commission are involved in reviewing the reports.</a></p> <p>Note: Planning Commission review as PC and as Citizen Advisory Committee (CAC) per Oregon Statewide Land Use Planning Goal Number 1, is unclear at this time</p>			
<p><b>3. Efficient leachate collection and treatment, including the old site, should be maintained by the applicant to insure against pollution of nearby waterways. In addition, wells should be established on the periphery of the solid waste site to monitor any potential seepage into underground aquifers (groundwater pollution).</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>In first year, per the status report, a collection-retention lagoon was installed to treat leachate from the old site. No longer relevant, replaced with later conditions for run-off. County staff has no regulatory authority over leachate collection or disposal. This is a function for DEQ.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>Disagree strongly with staff: "efficient leachate collection and treatment" is extremely relevant, a continuing problem, and in fact domestic wells have been contaminated, which should be noted in the "common understandings" document. Contamination of domestic wells has been a continuing concern of owners of parcels adjacent to the landfill, for good reason (see 1993 Coffin Butte Annual Report, the Helms Well, page 4). Current leachate treatment is impossible onsite, as promised in the most recent CUP (2003), it is certainly possible to argue that the intent of this provision was not to have landfill leachate treatment burden public facilities (the Corvallis water treatment facility is so overburdened by leachate that 15 million gallons/year +/- are trucked to a Salem facility). Let's have the discussion about whether it is "efficient" to import waste into Benton County instead of diverting it to landfills with less precipitation (which consequently produce less leachate) and whether discharging dioxins/PFAS into the Willamette is "polluting...nearby waterways"</li> </ul>			



Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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<b>Conditions of Approval</b>		<b>Current Status</b>	
<ul style="list-style-type: none"> <li>• These requirements are still relevant. Has the original collection-retention lagoon been maintained and was it effective in iterating leachate? Past members of SWAC assessed that it was not effective.</li> <li>• Wells were required to monitor potential seepage of contaminants into groundwater. "Runoff" refers to surface waters, not groundwater, so this assessment does not address the original requirement.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Mark Yeager: The fate of leachate generated by the landfill should not simply be ignored by the County and delegated to DEQ. The requirement to "insure against pollution of nearby waterways" is very much still relevant. Trucking of leachate to Corvallis' sewage treatment plant does not result in effective treatment or insure against pollution of nearby waterways. Many of the toxic pollutants contained in leachate simply pass through the treatment plant with very little or no pollutant removal and end up in the Willamette River (PFAS, heavy metals, pesticides, pharmaceuticals, personal care products (PCP)). The Willamette River is a key recreation asset (boating, fishing, swimming, etc.) for residents of Benton County, and a source of drinking water supply for downstream residents (e.g., Adair Village).</p> <p>Compliance Opinion: Compliance Not Demonstrated</p> <p>Basis: A review of DEQ and RSI records is needed. Evidence that "Efficient leachate collection and treatment..." is occurring is needed.</p> <p>Explanation: It is understood from RSI that leachate treatment no longer occurs at the landfill. Leachate is being trucked to the city sewage treatment facilities in Corvallis and Salem for treatment and discharge to the Willamette River. Evidence that treatment to levels suitable for discharge to the river is needed to confirm RSI is in compliance.</p> <p>Notes: The landfill generates about 25 million to 32 million gallons per year of leachate to be trucked off site to city treatment facilities. This volume equates to approximately twenty trucks per day traveling to Corvallis or Salem. Concerns include the impacts on county roads, road traffic, road safety and the Willamette River. Many of the toxic pollutants contained in leachate simply pass through the treatment plant with very little or no pollutant removal and end up in the Willamette River (PFAS, heavy metals, pesticides, pharmaceuticals, personal care products (PCP)). The Willamette River is a key recreation asset (boating, fishing, swimming, etc.) for residents of Benton County, and a source of drinking water supply for downstream residents, e.g. Adair Village.</p> <p>Open Items: Staff's comments on the applicability of "later conditions for run-off" to leachate need clarification. Caution to readers, "Leachate" is not the same as "runoff". [Note OUT OF BCTT CHARGE: A review treatment system performance records would be prudent.]</p>			
<p><b>4. The scars that erode the face of Coffin Butte, when plans meet DEQ approval, shall be filled and compacted to a condition permitting re-seeding and eventual visual reclamation of the area and including screening with natural vegetation that portion of the subject property abutting the county road.</b></p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<b>Comments</b>			
<u>Staff</u>			
Subsequent expansions of the footprint and additions to uses on and adjacent to the site made this condition unrealistic to fulfill until the entirety of the landfill is completed.			

**Commented [W11]:** Where is the supporting documentation for this?

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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Conditions of Approval		Current Status	
<p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>Disagree strongly with staff. "Temporary" cover of tarp-covered closed landfill cells sitting "temporarily" for a generation is clearly not the intent of this provision. Meeting minutes and applicant statements provide clarification as to the intent of this provision. This provision additionally requires "visual reclamation" of an area which has been so deformed by an accumulation of garbage that is geographic in scope. This provision also addresses screening, which is also clearly a non-complied-with condition of approval.</li> <li>This was part of conditions of approval for a landfill that was then scheduled to close by 2000. The condition was not met. To date, no part of the site has been reclaimed by seeding with native vegetation. The "scars eroding the face of Coffin Butte" have in fact been increased by subsequent expansions, to a height well above the proposed grade for the currently permitted landfill design, even after expansions.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinions:                      A Physical Design Requirements: In Compliance                      B Reclamation &amp; Visual Requirements: Compliance Status Unclear</p> <p>Basis: DEQ has oversight of the geotechnical design of the landfill and has issued permits for the landfill. DEQ also regulates both the timing and scope of reclamation through closure and post closure requirements. Cessation of dumping at the landfill triggers the application of these requirements.</p> <p>The appearance of the facility is the purview of Benton County. It is unclear how the County has interacted with DEQ to ensure the County's requirements for the appearance of the closed landfill are reflected in closure and post closure plans approved by DEQ.</p> <p>Explanations:</p> <ul style="list-style-type: none"> <li>"Scars" are not defined in the CUP condition. It is presumed that "scars" refer to areas where earth or rock has been excavated from the butte. Additional landfill cells are planned to be built along this rock face. It is unclear what type of plan needs to be submitted to DEQ for approval to meet this condition?</li> <li>While this land use action is nearly 50 years old, it sets the baseline expectations for how this industrial activity can be allowed to exist as a non-compatible land use in AG, forest, and rural residential lands.</li> </ul> <p>Notes:                      Ref: County File: Reclamation Plan - Closure-Post Closure Plan_Report_Final. Report Title: "Worst Case" Closure and Post-Closure Plan, Coffin Butte Landfill, Benton County, Oregon, Prepared by GeoLogic, September 2020</p> <p>Open Item(s): DEQ records concerning the landfill need to be reviewed.</p>			
5. That by July 1, 1976, a plan including detailed elements on design, location, management, and financing of a solid waste resource recovery system be prepared and submitted to the Planning Commission for further consideration. Until such a plan is completed, the conditional use approval shall be limited to only the sanitary landfill method of waste disposal.		Consensus: Majority Opinion: Minority Opinion:	
Comments			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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Conditions of Approval		Current Status	
<p><u>Staff</u></p> <p>Complete, 1977 Waste Control Systems, Inc. Solid Waste Management Plan</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>Needs detail, &amp; relevant as to intent: This plan said that the landfill would close by the year 2000 and be replaced by a waste-to-energy facility. Approval of a landfill in 1974 was not a “forever landfill” – it was a bridge to a different way of dealing with solid waste. It is important to note that, in order to not repeat prior mistakes</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: In Compliance</p> <p>Basis: Document (1977 Waste Control Systems, Inc. Solid Waste Management Plan)</p> <p>Note: Not available via County records, subcommittee has procured and exists in appendix</p>			
<p><b>6. The landfill operation shall be phased so that only a small acreage is used for full at one time and then this acreage shall be returned to grazing, another farm-type operation or other permitted use as approved by the Planning Commission and the Board of County Commissioners.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><u>Comments</u></p> <p><u>Staff</u></p> <p>Subsequent expansions of the footprint and additions to uses on and adjacent to the site made this condition unrealistic to fulfill until the entirety of the landfill is completed.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>DEQ approval of a reclamation plan does not supersede county conditions of approval. No part of the landfill has yet been restored to grazing, farming, or even natural alternatives such as native prairie vegetation.</li> <li>Disagree strongly with staff. Land use is land use, and is a County regulation. Unless specifically referred to in the land use language, DEQ has parallel, authority, not overriding authority. Land use policies deal with compatibility issues (i.e. generation of odors/dust); DEQ policies deal with environmental quality. Those are different regulatory bodies and one saying “this is OK” does not negate the authority of the other (Unless that is specified within the regulation itself, which in this case it is not)</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinions:</p> <p>A Physical Design Requirements: In Compliance</p> <p>B Reclamation &amp; Visual Requirements: Compliance Status Unclear</p> <p>A Compliance Opinion for “small acreage” condition: In Compliance.</p> <p>Basis: Based on participant observations and company testimony during September 2022 County sponsored Coffin Butte Tour (see Site Tour Notes on BCTT website).</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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Conditions of Approval		Current Status	
<p>B Compliance Opinion for "...shall be returned to grazing..." condition: Compliance Status Unclear                      Basis: Per DEQ guidance, Closure of the landfill does not occur until all disposal operations cease. Potentially this is 15 or more years from now. RSI is not required to submit a Closure Plan until 5 years prior to Closure. In the interim, if the landfill were to close today, RSI provides a "Worst Case" Closure and Post-Closure Plan which describes the condition the site is to be left. The current "Worst Case" plan provides for a grass cover on slopes. There is no mention of visual screening.</p> <p>Explanation: Landfill operations and closure are governed by DEQ requirements. Some of the landfill areas have not received wastes since the 1990s, others since 2011. RSI has determined areas of the landfill are "In Closure" under Federal rules. Approximately 41.7 planimetric acres have already received Final Closure. This area should already have a 1.5 feet thick Vegetative Cover per Federal requirements and be suitable for reuse.</p> <p>Notes: RSI closure representations and DEQ position:</p> <ul style="list-style-type: none"> <li>RSI Ref: County File: 5Reclamation Plan - Closure-Post Closure Plan_Report_Final. Report Title: "Worst Case" Closure and Post-Closure Plan, Coffin Butte Landfill, Benton County, Oregon, Prepared by GeoLogic, September 2020                      2.3 Areas to Receive Final Closure                      The present "worst case" closure scenario consists of constructing a final cover over the existing active landfill minus the areas that have already received final closures to-date. At present, landfill liner has been constructed through Cell 5C (see Figure 1), totaling 123.5 planimetric acres of lined waste footprint. Approximately 41.7 planimetric acres have already received final closure; therefore, the area still to receive final cover is 81.8 acres.</li> <li>DEQ                      Ref. From: FULLER Brian * DEQ &lt;<a href="mailto:Brian.FULLER@deq.oregon.gov">Brian.FULLER@deq.oregon.gov</a>&gt;, Sent: Monday, November 21, 2022 5:03 PM, To: Edward Pitera Subject: RE: Cells in Closure                      Our interpretation of "MSWLF Unit" is that it applies to the entire landfill not individual cells. Being that the landfill is not yet full, the "clock" on final closure has not yet started. It is common for landfills to build new cells on top of older filled cells that are in temporary cover/closure. Final closure/capping under this scenario would occur when these uppermost cells are full or waste sequencing for an area is completed. This also allows for multiple cells to share leachate and gas collection and control systems. Approval could be considered granted via DEQ approval of the Site Development Plan and through the further refined final engineered closure plans.</li> </ul> <p>CFR 258.2 Definitions                      Municipal solid waste landfill (MSWLF) unit means a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under <a href="#">§ 257.2 of this chapter</a>. A MSWLF unit also may receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, very small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion. A construction and demolition landfill that receives residential lead-based paint waste and does not receive any other household waste is not a MSWLF unit.</p> <p>Open Items: A pathway to achieve the County's expectations of what closure of the landfill will look like is needed.</p>			
7. That efforts be made to encourage voluntary separation of recoverable materials such as tin, aluminum, paper, glass, etc. to reduce the amount of landfill materials.		Consensus: Majority Opinion: Minority Opinion:	
Comments			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
<p><u>Staff</u></p> <p>The applicant has and is fulfilling this condition.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>Some efforts have been made but they have been largely ineffective. Benton County's ratio of recycling to landfilling has not improved appreciably since the 1970s.</li> <li>Presumably the intent of this provision was to have recycling efforts contribute to increasing the life of the landfill. Currently, Benton County could go to zero waste tomorrow, and presumably, the landfill would still take in the maximum volume cap within a short time, because of the new owner's vertical integration. This should be noted in the Common Understandings document.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Compliance Status Unclear</p> <p>Explanation: RSI is "In Compliance" in Benton County based on personal experience but Benton County contributes less than 10% of the total volume sent to the landfill and is only one of more than 20 counties RSI draws material from.</p>			

WORK IN PROGRESS

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
Date	File #	Request	Result
1983	PC-83-07	Amendments to the Benton County Comprehensive Plan and Plan Map (Ordinance 251), and amendments to the Zoning Ordinance and Zoning Map (Ordinance 261).	BOC Approved.
	L-83-07	Amendments to the Comprehensive Plan Text and Map, amendments to the Zoning Ordinance and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).	
Conditions of Approval		Current Status	
1. Cross reference the narrative and the map in both documents. <b><u>*CLARIFICATION ON CONTENT NEEDED. SEE SUBCOMMITTEE COMMENTS</u></b>		Consensus: Majority Opinion: Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Completed. The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled "PC-83-07-C(3)" starting on Page 3 of 60</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>impossible to assess with missing narrative</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>*CLARIFICATION OF CONDITION CONTENT</p> <p>Information in "PC-83-07-C(3)" includes requirements for terracing, post closure grazing and "...will be consistent with the expected future use of these lands as indicated by the existing farm and forest land use designations."</p> <p>Note: County records incomplete although referred to in "PC-83-07-C(3)" no site plan is included.</p> <p>Excerpts follow: Reclamation, physical layout, and maintenance provisions: From pdf file pages 4 &amp; 5 (original document page 4)</p> <p>"ii. Reclamation ( Conditions No. 2 and 6)</p> <p>When completed the present landfill area (see site development map) will appear as a low terrace rising from Coffin Butte Road into the site. The expansion area, labelled " Additional Landfill Disposal Areas" on the site plan, will consist when completed of a series of terraces progressing up the lower south slope of Coffin Butte. Each terrace in the expansion area will consist of a +/- 12 ft, high vertical " confinement berm" sloping 3/ 1, and a 10 20 ft, wide horizontal surface at 2% slope. The overall slope of the terraced hillside will be similar to the existing slope. An upgradient cutoff drainage system see site plan will be provided to intercept seasonal surface drainage and route it around the new fill area. The feasibility of reclaiming the site in this manner is discussed in the attached letter dated May 23, 1983, prepared for Valley Landfills by Sweet, Edwards &amp; Assoc., geological consultants.</p> <p>All disposal areas, including the terraces, will be reclaimed for pasture. Portions of this landfill property including the completed disposal area site plan, as well as some of the outside lands in the vicinity of the landfill, are v. arrently use for this purpose. The area within the landfill reclaimed for pasture will be maintained by periodic regrading and replanting as required to compensate for settling. Otherwise, maintenance will consist of farming methods commonly used for pastureland."</p> <p>Reclamation From pdf file page 4: (original document page 2)</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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Conditions of Approval		Current Status	
<p>“Reclamation of the landfill in the manner described will be compatible with the existing predominant open space and resource lands characteristics of the adjacent and surrounding lands and the current uses of these lands, and will be consistent with the expected future use of these lands as indicated by the existing farm and forest land use designations.”</p> <p>Reclamation From pdf file page 18 (original document page 8): ... “Reclamation of the landfill in the manner proposed will be compatible with the predominately open space and resource lands characteristics of the adjacent and surrounding lands and the current uses of these lands, and will be consistent with the expected future use of these lands as indicated by the current farm and forest land use designations. Based on the need to provide facilities for waste disposal, the lack of any other existing or planned disposal sites within this area, the environmental, economic, social and energy benefits from maintaining the existing landfill, and the established compatibility of the landfill with the adjacent land uses, changing the land use designation for the Coffin Butte Landfill qualifies for an Exception to Goal 4.”</p> <p>Reclamation From pdf file page 16 (original document page 6): “The long- term environmental consequences of this proposal to the region served by the landfill will be to have a recognized site for waste disposal operating under a D.E.Q.- approved development plan and meeting D.E.Q. standards.”</p> <p style="text-align: center;">End of quotations</p> <p>Compliance Opinions: A Physical Design &amp; Geotechnical Requirements: Compliance Status Unclear B Reclamation Requirements: Compliance Status Unclear (Not triggered see CP-74-01 (6))</p> <p>Compliance Opinion(s): A Compliance Opinion for Physical Design &amp; Geotechnical Requirements: County Requirements Superseded Basis: Landfill design concepts conveyed in site plans from 1983 appear to be superseded by subsequent DEQ approved Site Development Plans. Explanation: DEQ requirements on landfill design, operation and closure have primacy over County requirements. Notes: County provided records are incomplete. Although referred to in “PC-83-07-C(3)”, no site plan drawing is included. Open Item: Referred to site plan is needed since it may point to areas where DEQ approved plans incorporate County requirements.</p> <p>B Reclamation Requirements: Compliance Status Unclear (Not triggered per DEQ. See DEQ 2022 explanation in CP-74-01 (6)) Basis: Closure not triggered see CP-74-01 (6) Explanation: Site is an on-going operation and not subject to DEQ reclamation requirements at this time. Notes: The reclamation requirements cited in 1983 need review. Current practices to manage the risks to human health and the environment posed by a closed landfill plus current practices for maintaining the integrity of the final cap need to be considered. Open Item(s): None</p>			
2. Expand the narrative statement, section (1.a.ii), on reclamation to include the physical configuration of the completed landfill areas and method of maintenance of the proposed pasture uses. Include a statement regarding the effects of methane and internal heat		Consensus: Majority Opinion: Minority Opinion:	

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Conditions of Approval		Current Status	
generation on the long-term maintenance of the pasture, and include irrigation plans if proposed.			
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Completed. The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled "PC-83-07-C(3)" starting on Page 3 of 60</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>impossible to assess with missing narrative</li> <li>We have not been provided with the necessary information to assess whether the narrative was amended to fully address these issues, or whether the assessment of methane generation was adequate for purpose. As noted above, there is still no "pasture" on the site.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: The first narrative is not included in the record. The revised narrative does, in fact, use the words methane, heat generation, screening, leachate, etc. Reading the narrative, it can only be concluded that none of the promises in the narrative have been completed. The most obvious of these are the restoration to pastureland, grazing, and screening. Leachate is not currently being used to irrigate the trash.</p> <p>*See CLARIFICATION OF CONDITION CONTENT under Subcommittee Comments for PC-83-07 / L-83-07 Condition 1</p> <p>Compliance Opinions: County Requirements Superseded</p> <p>Basis: There are three aspects of this condition: Physical Configuration, Maintenance Method, and Methane Statement. Landfill design concepts conveyed in site plans from 1983 appear to be superseded by subsequent DEQ approved Site Development Plans and site closure requirements.</p> <p>Notes:</p> <p>"Methane Statement"</p> <p>From pdf file pages 5 (original document page 3) "The completed disposal areas will be covered by a minimum eight inch clay cap covered by twenty-eight inches of soil. The depth of the cover will minimize the effect of methane on the pasture grasses. Similarly the cover crop should not be affected by internal heat generation. Rather, warm subsurface temperatures have proved beneficial to root development."</p> <p>Explanation: None</p> <p>Open Item(s): None</p>			



Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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<b>Conditions of Approval</b>		<b>Current Status</b>	
3. Describe in more detail in the narrative, the method of screening: include a description of the location, height, width, depth and physical composition of the berm; and include the type and location of vegetative screening; and include a statement regarding the long-term maintenance of the berm and vegetative screens.		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b>			
<p><u>Staff</u></p> <p>Completed. The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled "PC-83-07-C(3)" starting on Page 3 of 60</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>For this and other statements regarding "updates of the narrative, the Solid Waste working group has not been supplied with sufficient information to evaluate compliance. This same comment applies to all entries below. We are being asked to opine on these things without adequate information. I suggest that we should not be giving a rubber stamp of approval to statements that we have not actually had opportunity to examine fully -- it's both meaningless and likely to be abused in future CUP applications.</li> <li>impossible to assess with missing narrative</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: There is a very detailed description of the promised screening in the narrative. However, none of the promises have been kept, nor has the County taken any enforcement actions to ensure completion of screening requirements.</p> <p>Compliance Opinions. There are three aspects of this condition: Physical berm: County Requirement Superseded by subsequently issued DEQ Site Development Plans Vegetative screening: Not In Compliance Maintenance: Not In Compliance based on current appearance of site</p> <p>Basis: Screening Requirements: physical berm, vegetative screening, and their maintenance From pdf file pages 6 &amp; 7 (original document page 4 &amp; 5)</p> <p>It is recognized that these conditions are from a 1983 document. Actions may have been taken at that time but the County did not provide records to substantiate compliance at that time nor continued maintenance of screening requirements. "iii. Screening (Condition No. 3) Additional screening will be provided in keeping with the current site screening program used at the landfill. This program consists of a keyed berm with conifers planted 10' on center along Coffin Butte Road from 99W to the landfill entrance _road, and similar plantings extending north along 99W from Coffin Butte Road to the north landfill property line.</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
Date	File #	Request	Result
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<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>The permanent, fixed, keyed berm is represented. on the site development plan by the solid black line labelled " Approximate Solid Waste Disposal. Boundary." As shown, the berm encompasses the present landfill area and the existing development area. The berm is 10 - 12 feet high, 10 feet wide at the top and 60 70 feet wide at the base, and has an outside slope of 3/ 1. The depth of the key is three feet. The berm is composed of low permeability materials from on- site sources. The berm has been hydroseeded and will be grazed.</p> <p>Screening plants will consist of trees from the tree farm owned by Valley Landfills on their land south of Coffin Butte Road. Initial height of the plantings will range from 6 - 10 feet. Additional plantings can be made on the terraces to screen disposal operations on the slopes, as needed. The plantings will receive ongoing maintenance by the landfill operators."</p> <p>Explanation: None</p> <p>Notes: 1983 site plan drawing was not provided in the County documentation.</p> <p>Open Item(s): None</p>			
<p><b>4. Include in the narrative the anticipated chemical composition of any leachate material to be used for irrigation south of Coffin Butte Road; and include documentation that the material to be utilized as irrigation meet federal and state standards for any run-off that may leave the property lines.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Completed. The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled "PC-83-07-C(3)" starting on Page 3 of 60</p> <p><u>Workgroup Comments</u></p> <ul style="list-style-type: none"> <li>For this and other statements regarding "updates of the narrative, the Solid Waste working group has not been supplied with sufficient information to evaluate compliance. This same comment applies to all entries below. We are being asked to opine on these things without adequate information. I suggest that we should not be giving a rubber stamp of approval to statements that we have not actually had opportunity to examine fully -- it's both meaningless and likely to be abused in future CUP applications.</li> <li>impossible to assess with missing narrative</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager/</u></p> <p>MARK YEAGER: A rudimentary analysis of leachate composition is included in the revised narrative. It is now known that the chemical composition of leachate from landfills is far more complex and dangerously toxic.</p> <p>Compliance Opinion: In Compliance</p>			

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<b>Conditions of Approval</b>		<b>Current Status</b>	
Basis: Analysis was provided and is still being performed on leachate sent offsite for disposal. Per RSI, leachate use for onsite irrigation ceased many years ago.			
<b>5. Include in the narrative review of the Environmental and Operational Factors in Art.XXX.05.A.1.(f) for the approximately 10 acres proposed for addition to the landfill area.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b>			
<u>Staff</u>			
Completed. The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled "PC-83-07-C(3)" starting on Page 3 of 60			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none"> <li>For this and other statements regarding "updates of the narrative, the Solid Waste working group has not been supplied with sufficient information to evaluate compliance. This same comment applies to all entries below. We are being asked to opine on these things without adequate information. I suggest that we should not be giving a rubber stamp of approval to statements that we have not actually had opportunity to examine fully – it's both meaningless and likely to be abused in future CUP applications.</li> <li>impossible to assess with missing narrative, where are the 10 acres proposed for addition? need drawings</li> </ul>			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
Compliance Opinion: County Requirement Superseded			
Basis: Current DEQ permits supersede this condition			
From pdf file pages 7 & 8 (original document page 5 & 6)			
v. Other Information Required by the Development Director (Conditions No. 5 and 7)			
A review of the Environmental and Operational Factors of Art. XXX . 05. A1 is contained in a report titled Coffin Butte Sanitary Landfill Expansion Plan prepared by Randy Sweet, Geologist, and Regional Consultants, Inc. in Oct., 1977. This report was submitted to the Benton County Commissioners, Health Department, and Solid Waste Advisory Committee. A copy of this report will be made available to the Development Department if requested.			
The small ponds will remain as at present for the next ten years. At the end of this period the use of the ponds and surroundings will be reevaluated and, if anything is to be done, state of the art engineering practices will be employed in conformance with the standards in effect at that time. A modified site development plan will be submitted for County review when appropriate.			
Open Item: Address DEQ primacy question			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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<b>Conditions of Approval</b>		<b>Current Status</b>	
6. Provide a detailed reclamation plan that sets form the anticipated physical characteristics of the “terracing” including an average height and width of the terracing, provide documentation that the site is physically available to be reclaimed in this manner.		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b>			
<u>Staff</u> Completed. The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled “PC-83-07-C(3)” starting on Page 3 of 60			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none"> <li>For this and other statements regarding "updates of the narrative, the Solid Waste working group has not been supplied with sufficient information to evaluate compliance. This same comment applies to all entries below. We are being asked to opine on these things without adequate information. I suggest that we should not be giving a rubber stamp of approval to statements that we have not actually had opportunity to examine fully -- it's both meaningless and likely to be abused in future CUP applications.</li> <li>impossible to assess with missing reclamation plans (which would probably be in the form of drawings, not “narrative”)</li> </ul>			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
Mark Yeager: There is a very detailed description of the promised screening in the narrative. However, none of the promises have been kept, nor has the County taken any enforcement actions to ensure completion of screening requirements.			
Compliance Opinion(s): Compliance Status Unclear			
Open Item: DEQ vs. County primacy. Which organization has primacy over what? A clear understanding is needed of DEQ's and the County's role in addressing aspects of the landfill such as design, operation, monitoring (including noise, light pollution, odor, etc.), appearance, and screening from public view, etc.			
<b>7. Submit for review by the Development Director a plan detailing the proposed method Valley Landfills shall use to protect the small ponds found in the Northeast corner of the property.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b>			
<u>Staff</u> Completed. The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled “PC-83-07-C(3)” starting on Page 3 of 60			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
<p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>For this and other statements regarding "updates of the narrative, the Solid Waste working group has not been supplied with sufficient information to evaluate compliance. This same comment applies to all entries below. We are being asked to opine on these things without adequate information. I suggest that we should not be giving a rubber stamp of approval to statements that we have not actually had opportunity to examine fully -- it's both meaningless and likely to be abused in future CUP applications.</li> <li>Impossible to assess with missing pond protection plans (note: presumably not in compliance since the small ponds currently appear to be buried below a large pile of waste)</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Compliance Status Unclear</p> <p>Basis:</p> <p>Notes:</p> <p>From pages 6-8 (REFERENCE?)</p> <p>"The small ponds will remain as at present for the next ten years. At the end of this period the use of the ponds and surroundings will be reevaluated and, if anything is to be done, state of the art engineering practices will be employed in conformance with the standards in effect at that time. A modified site development plan will be submitted for County review when appropriate."</p> <p>Explanation: Pond location unclear.</p> <p>Notes: None</p> <p>Open Item(s): Address DEQ primacy question</p>			
8. The current DEQ operational permit will expire on January 31, 1984. Valley Landfills, Inc. has been requested to submit an updated, long-term leachate control plan as part of the permit renewal process. This plan must contain provisions for a leachate storage facility so leachate irrigation will not occur on pasture lands from November 1 through May 1 of each year. The control plan must also provide for a soil study that designates present and future leachate irrigation areas. This plan must show that the amount of irrigation area available is compatible with future leachate generation volumes so metal or nutrient accumulations in the soils will remain fat below any toxicity levels.		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	L-83-07	Amendments to the Comprehensive Plan Text and Map, amendments to the Zoning Ordinance and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).	
Conditions of Approval		Current Status	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>The requirement is for a leachate control plan, there is no requirement that states that all leachate must be treated on-site. Planning staff would not have had enough expertise to be able to dictate how leachate is handled. A CUP application is a government review of a proposed use, hauling leachate is not a land use but an action that is dependent on a land use. The soil study referenced above was in regard to leachate irrigation areas, not a general review of soil toxicity. Since leachate is no longer disposed of through irrigation, this condition is no longer applicable.</p> <p>Overseen by DEQ. The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• DEQ does not monitor soil toxicity</li> <li>• request has been made of Brian fuller, DEQ to find out if DEQ monitors soil toxicity</li> <li>• there has never been a cup submitted to Benton County that included off-haul of all leachate generated at the landfill for treatment at municipal facilities &amp; release into the Willamette. all cup's (1974/1983/2003) where documentation is available have contained, in the application, assertions that all leachate would be treated on-site.</li> <li>• This statement is not adequate to confirm that these conditions were met, or that they were fully evaluated by DEQ. Certainly in the case of "irrigation area," any such plan did not work and as a result the leachate is being hauled to wastewater treatment plants rather than being irrigated. It would be more accurate to characterize this as a failure of design that led to non-compliance, which required alternative methods to maintain DEQ permitting.</li> <li>• Republic: Republic Services maintains an active solid waste permit with the Oregon Department of Environmental Quality and is in compliance with that permit. Further, leachate irrigation ceased in the late 1990s, as a result of new regulatory rules. All leachate is sent to a local wastewater treatment plant.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: The effort to absolve the County of any responsibility for ensuring proper management and treatment of leachate ignores the County's duty to ensure compatible land use in Benton County. Leachate generation is a by-product of approving the hosting a landfill in the County. Ignoring the fate of leachate generated by the landfill is akin to approving a residential subdivision without any consideration of how and where the sewage generated is safely disposed.</p> <p>The fate of leachate generated by the landfill should not simply be ignored by the County and delegated to DEQ. Trucking of leachate to Corvallis' sewage treatment plant does not result in effective treatment or insure against pollution of nearby waterways. Many of the toxic pollutants contained in leachate (PFAS, heavy metals, pharmaceuticals, personal care products, etc.) simply pass through the treatment plant with very little or no pollutant removal and end up in the Willamette River. The Willamette River is a key recreation asset (boating, fishing, swimming, etc.) for residents of Benton County, and a source of drinking water supply for downstream residents e.g. Adair Village</p> <p>Compliance Opinion: County Requirement Superseded (Specific requirement no Longer Relevant)</p> <p>Basis: Leachate storage exists on site for holding leachate prior to trucking to off-site locations. No leachate is currently being land applied on landfill properties. No soil study needed</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>Note: Leachate processing at a wastewater treatment facility may not be an appropriate or effective treatment for leachate and subcommittee recommends further evaluation</p> <p>Open Item(s): Management and effectiveness of current leachate transfer/treatment at city treatment works.</p>			
<p><b>9. As the site expands eastward, additional monitoring wells will be required. Depending on DEQ budget limitations, the permittee may have to share in the responsibility for sampling and monitoring of these wells.</b></p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Overseen by DEQ. The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: Republic Services has added additional monitoring wells as required and continues to be in compliance with its DEQ permits.</li> <li>• As above, there should be a check of whether DEQ has actually evaluated this. Just because DEQ approved a permit does not necessarily mean that this condition was met.</li> <li>• domestic wells have been contaminated. current subchapter part "d" dual landfill liners have been required since 1993. this technology is less than 30 years old, and may have to continue to perform for hundreds of years, during which time the liner can become brittle. the EPA has concluded that all landfills will eventually leak "no liner ... can keep all liquids out of the ground for all time. eventually liners will either degrade, tear, or crack and will allow liquids to migrate out of the unit. some have argued that liners are devices that provide a perpetual seal against any migration from a waste management unit. EPA has concluded that the more reasonable assumption, based on what is known about the pressures placed on liners over time, is that any liner will begin to leak eventually. "citation: EPA, 1988</li> <li>• is any leachate collected in the secondary collection system? if so, the liner is already leaking</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Compliance Status Unclear</p> <p>Basis: Documentation unclear as to what wells involved and which organization is to provide it. Presumed in RSI Annual Report.</p> <p>Explanation: Presumed in RSI Annual Report. Needs further information on how the reports are reviewed for compliance with site groundwater contamination goals.</p>			

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<b>Conditions of Approval</b>		<b>Current Status</b>	
10. Screen the landfill operation with fencing or berms so it cannot be seen from the County Road or adjacent properties.		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b>			
<u>Staff</u> Not completed. The screening may have been done but has eroded or died in the interim. It should be recreated and maintained to be in compliance with the requirement.			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none"> <li>• Republic: Republic Services' records are incomplete, as this amendment is nearly 40 years old, and the company was neither the owner, nor the operator of the landfill at that time. However, Republic Services has planted trees to screen the landfill from Highway 99. Based on the age of the condition and the changing site conditions over the past four decades, Republic disagrees with the conclusion that this condition has not been completed.</li> <li>• not in compliance document not included letter from the Oregon justice department regarding screening requirement per the 1967 highway beautification act</li> <li>• There should be a more clear statement that the applicant is not in compliance with this requirement.</li> </ul>			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
Mark Yeager: The revised narrative submitted by the applicant is very detailed. None of the requirements have been completed or maintained. The County has not taken any enforcement action to ensure that these requirements be met.			
Compliance Opinion: Not In Compliance			
Basis: Personal observations			
11. Daily cover of refuse with earth is not possible at this site due to the clay soils. The current (and future) permit addresses requiring daily compaction of refuse and require exposed refuse areas to not exceed 2 acres during the periods of October 15 to June 1 and to not exceed ¼ of an acre during all other periods. This shall be adhere to.		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b>			
<u>Staff</u> The landfill uses an alternative daily cover approved by DEQ, which includes Covanta Ash material. The landfill also uses temporary cover.			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none"> <li>• Republic: Republic Services generally agrees with this assessment but would like the record to reflect that we do use site soils as daily cover, in addition to alternative daily covers.</li> </ul>			



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<b>Conditions of Approval</b>		<b>Current Status</b>	
<ul style="list-style-type: none"> <li>land use requirement not addressed by staff: this is a land use requirement; DEQ is not mentioned, and does not have override authority need more information: does the area of open fill exceed ¼ of an acre from June 2 through October 14? what is it now? does the area of open fill exceed 2 acres during the periods of October 15 through June 1?</li> <li>The statement here does not address whether exposed refuse areas have been limited to the acreages stated. There should be a more clear statement of whether this has been complied with, and whether the county has done any monitoring.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Using highly toxic Covanta Ash material to cover the garbage is another example of the County absolving itself from any obligation to protect Benton County residents from incompatible land uses. Oregon DEQ does not have a stellar record for effectively preventing pollution (air or water) through their permit processes.</p> <p>Compliance Opinion: County Requirement Superseded by Subsequent DEQ Operating and Monitoring Permits</p> <p>Notes: Unclear if there are environmental impacts of the alternative cover material used at the site such as leaching constituents in wet weather, airborne dust generation in dry weather, etc. An example issue of Covanta incinerator ash as alternate daily cover. Information on chemical composition and physical testing should be made available. Generally recognized assessments of leachable materials such as the Toxic Characteristic Leaching Procedure (TCLP) should be used.</p>			
<b>12. Occasionally, leachate seeps through the site berms during heavy rainfall periods. If these occur in the future, a requirement to channel these flows into the leachate collection system within a timely period (i.e., 3 days) may be added.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b>			
<u>Staff</u>			
Overseen by DEQ. This condition is no longer be applicable.			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none"> <li>Republic: This condition was put in place prior to today's highly-engineered landfill design requirements. At the time, landfill liners were not required. Republic Services complies with all current regulatory requirements, which include liners. Leachate does not seep through perimeter berms.</li> <li>disagree with staff: DEQ not mentioned, therefore DEQ does not have regulatory authority. question: does leachate seep through site berms? is not answered</li> <li>Whether overseen by DEQ or not, there should be a clear statement of whether this condition has been complied with, and whether the county has ever checked on this.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Compliance Status Unclear</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	L-83-07	Amendments to the Comprehensive Plan Text and Map, amendments to the Zoning Ordinance and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).	
Conditions of Approval		Current Status	
Basis: The locations the berms in question have not been provided. The berms may be along Coffin Butte Road between the road and three unlined areas (Old Closed Land, Cell 1, Cell 1A). It should be recognized that not all of the landfill cells constructed in the past 50 years were built to the same environmental standards and have different levels of leachate control.			
13. DEQ permits are normally issued for a maximum of 5 years. As part of the permit renewal process, DEQ requires updated operational and construction plans to reflect the current permit period. As such, changes in environmental controls may be required to incorporate new technology into the landfill operation.		Consensus: Majority Opinion: Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>This is an advisory to the applicant rather than a condition that needed to be met.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• s mentioned therefore it is appropriate to refer to DEQ compliance, although if the LUCS is not current, the permit may not be valid</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Compliance Status Unclear</p> <p>Basis: Compliance not demonstrated. Need DEQ solid waste permits from period 1983 to 2000. (Note: Make sure dates in DEQ request)</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Land Use Actions Table			
Date	File #	Request	Result
1994	PC-94-03	A conditional use permit for a 2.2 megawatt power generation facility. The facility would utilize the gas generated from the decomposing refuse in the landfill as the fuel source.	Community Development Department Approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
1. The facility shall be housed in a structure approximately 50 by 100 feet or less in size, as described in the application materials.		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b>			
<p><u>Staff</u></p> <p>Superseded by subsequent expansion approval. Original generator building 3,900 square feet</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>missing information: application materials</li> <li>This is actually a really great way to answer a factual question. Allowable structure size, 5000 sf, built structure, 3,900 square feet, that's verifiable data. It would of course be good to have the application materials, since that is referenced (for example, were other building materials specified?)</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: None given as of 12/11/22</p> <p>Basis: Low Priority</p>			
2. Noise levels shall comply with the New Industrial and Commercial Noise Standards (OAR 30403-355)-as measured at the nearest dwellings existing on the date of approval of this conditional use permit.		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b>			
<p><u>Staff</u></p> <p>Noise testing completed in 1997.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>noise is an issue at the landfill and 1997 was a long time ago -- ensure the facility is still in compliance; verify that noise standards have not been updated</li> <li>Was there ever a follow-up study after the facility was expanded?</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: To ensure land use compatibility, compliance with noise requirements cannot be a snapshot in time. Periodic testing and monitoring to ensure continued compliance is required and the County does not monitor or enforce land use (e.g., noise impacts) requirements.</p> <p>Compliance Opinion: Compliance Status Unclear</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Land Use Actions Table			
Date	File #	Request	Result
1994	PC-94-03	A conditional use permit for a 2.2 megawatt power generation facility. The facility would utilize the gas generated from the decomposing refuse in the landfill as the fuel source.	Community Development Department Approved
Conditions of Approval		Current Status	
Basis: County staff represent that compliance with noise limits is driven by resident complaints. More detailed information on the County process for receiving, managing, and resolving complaints of this nature is needed to establish if this condition is being met.			
3. The applicant is responsible for ongoing monitoring of noise levels. Upon request of the Planning Official, the applicant shall provide the County with sufficient information to determine whether the facility is in compliance with Condition 2 of this permit.		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Staff</u> Noise testing completed in 1997. Available records do not indicate any such requests by the Planning Official. <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>• Republic: Republic Services agrees with the County's assessment. Our available records do not indicate any such requests by the Planning Department.</li> <li>• County has not monitored.</li> <li>• noise is an issue at the landfill: ask the applicant to demonstrate that the facility is in compliance</li> </ul> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> MARK YEAGER: To ensure land use compatibility, compliance with noise requirements cannot be a snapshot in time. Periodic testing and monitoring to ensure continued compliance is required and the County does not monitor or enforce land use (e.g., noise impacts) requirements. Compliance Opinion: Compliance Status Unclear Basis: County staff represent that compliance with noise limits is driven by resident complaints. More detailed information on the County process for receiving, managing, and resolving complaints of this nature is needed to establish if this condition is being met.			
4. The applicant shall obtain and comply with all applicable permits from Oregon Department of Environmental Quality (DEQ). The applicant shall provide copies of all DEQ permits to the County.		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Staff</u> This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit. <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>• when was the most recent LUCS on file at DEQ completed?</li> </ul>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Land Use Actions Table			
Date	File #	Request	Result
1994	PC-94-03	A conditional use permit for a 2.2 megawatt power generation facility. The facility would utilize the gas generated from the decomposing refuse in the landfill as the fuel source.	Community Development Department Approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Compliance Not Demonstrated</p> <p>Basis: No record of required action provided.</p>			
<p><b>5. Expansion of the generating capacity of the facility is authorized under this permit as long as all conditions of approval, including those specifying building size and noise levels, are met. The Planning Official may require that the applicant obtain a new conditional use permit in order to expand the facility if, in his judgment, conditions existing at the time of the proposed expansion warrant a conditional use review.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>A new CUP was submitted and approved to expand the size of the facility.</p> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Compliance Not Demonstrated</p> <p>Basis: No record of required compliance with noise levels provided.</p> <p>Note: need to add CUP document reference as notated above in staff comment</p>			
<p><b>6. Lighting shall be located so that it does not face directly, shine or reflect glare onto an adjacent street or property.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Monitoring of this condition is complaint driven. Staff has no records of complaints regarding lights at the landfill.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• County has not monitored</li> <li>• Not enough information to determine if this condition is met.</li> <li>• staff comment is non-responsive; check the facility at night</li> <li>• While we are on the landfill tour on Saturday, I heard you [Ian] talking with Joel Geier, and the subject of the arc lamps on the scene came up (photo attached). You told Joel that the lamps were not used mornings, only in afternoons. However, I went out this morning at 6 am and saw that the lights were indeed already on atop Coffin Butte, and there appeared</li> </ul>			

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

Land Use Actions Table			
Date	File #	Request	Result
1994	PC-94-03	A conditional use permit for a 2.2 megawatt power generation facility. The facility would utilize the gas generated from the decomposing refuse in the landfill as the fuel source.	Community Development Department Approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>to be operations going on, as I could see the red taillights of trucks moving around up there also. So it seems you are mistaken about the use of the arc lamps, and have been for some time. All last winter, for example, the lights were on every workday morning. I know this because I can see them from where I live when I go out to get the paper, weather permitting. They were on even if I got up at 5 am.</p> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Can the County describe the system for documenting, responding to, and resolving complaints received? A complaint driven system of enforcement is unsatisfactory, particularly when Benton County residents are unaware of specific requirements and certainly rely on Benton County staff to monitor and enforce land use requirements.</p> <p>Compliance Opinion: Compliance Not Demonstrated</p> <p>Basis: No record of addressing compliance with lighting complaints provided.</p>			
<b>7. Obtain all required septic, access, building, plumbing, mechanical, electrical, and other applicable permits prior to construction.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b>			
<p><u>Staff</u></p> <p>This building permit(s) is finalized [Electrical - C9500565, C9501197, C9600514, C9600852]</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• septic/ada/building/plumbing/mechanical? certificate of occupancy?</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: None given as of 12/11/22</p> <p>Basis: Low Priority</p>			

WORK IN PROGRESS

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1994	PC-94-10	Zone change from Rural Residential to Landfill Site Zone, Comprehensive Plan change from Rural Residential to Landfill Site.	BOC Denied
<b>Conditions of Approval</b>		<b>Current Status</b>	
<p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> believe that the record and rational of this land use proceeding is relevant to the evolution of the Coffin Butte Landfill.</p> <p>Compliance Opinion: None given as of 12/11/22</p> <p>Basis: Low Priority</p> <p>Review of the record in this land use proceeding provides important historical context. The public comments and the Notice of Decision in this matter are critical to understanding the history of the landfill and the sentiment of the residents of Benton County at that time.</p> <p>Open Items: need to review this documentation</p>			

Date	File #	Request	Result
1994	PC-94-11	A conditional use permit to expand the area approved for a landfill within the Landfill Site Zone and update the site development plan.	PC Approved; PC Decision Appealed; Application Withdrawn
<b>Conditions of Approval</b>		<b>Current Status</b>	
<p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> believe that the record and rational of this land use proceeding is relevant to the evolution of the Coffin Butte Landfill.</p> <p>Review of the record in this land use proceeding provides important historical context. The public comments and the Notice of Decision in this matter are critical to understanding the history of the landfill and the sentiment of the residents of Benton County at that time.</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1997	S-97-58	A conditional use permit to expand the generating capacity of the existing electric generation plant that is served by the gas produced at the Coffin Butte Landfill. Phase I of the expansion would increase the capacity of the plant from the current 2.2 MW to 5 MW and Phase II would increase the capacity to 10 MW.	Community Development and Parks Department Approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>1. The Phase I generation facility shall be located in a structure approximately 75 by 85 feet; as shown in the application. The Phase 2 expansion shall be located in a building approximately 120 by 200 feet, as shown in the application materials. The Phase 2 expansion shall be located at least 300 feet from State Highway 99W, as shown in the application materials.</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>The expansion added 4,300 square feet to the original building.</p> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: None given as of 12/11/22</p> <p>Basis: Low Priority</p>			
<p>2. Both the Phase 1 and Phase 2 expansions shall be constructed in accordance with the application materials. In addition, the siting standards of BCC 60.405 (2) and (3) and BCC 60.415(4), (5), (9), and (11) shall be met.</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Zoning compliance reviewed completed along with building permits – completed [Permit B0700147 Phase I expansion &amp; Permits B0700323, B0700416, B0700415, F0600068, B1400497]</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• certificate of occupancy?</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: None given as of 12/11/22</p> <p>Basis: Low Priority</p>			
<p>3. Noise levels for both Phase I and Phase 2 expansions shall comply with the Noise Control Regulations for Industry and Commerce in Oregon Administrative Rules 340-035- 0035 as measured at the nearest dwellings existing on the date of approval of this conditional use permit.</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	



## Compliance with Past Land Use Actions and Their Status    A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Noise Compliance Monitoring memorandum submitted on June 11, 1997 by Pacific Northwest Generating Cooperative. Subsequent to the compliance monitoring memorandum, the County would require additional testing only if there was reason to believe the noise standards were no longer being met (such as through a noise complaint received from an adjacent dwelling).</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• And were complaints received? Not enough information to determine if this condition was met.</li> <li>• County has not monitored subsequent</li> <li>• Is this document available to the public?</li> <li>• noise is an issue at the landfill; ensure the facility is still in compliance; verify that noise standards have not been updated</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Can the County describe the system for documenting, responding to, and resolving complaints received? To ensure land use compatibility, compliance with noise requirements cannot be a snapshot in time. Periodic testing and monitoring to ensure continued compliance is required and the County does not monitor or enforce land use (e.g., noise impacts) requirements. A complaint driven system of enforcement is unsatisfactory, particularly when Benton County residents are unaware of specific requirements and certainly rely on Benton County staff to monitor and enforce land use requirements.</p> <p>Compliance Opinion: Compliance Status Unclear</p> <p>Basis: County staff represent that compliance with noise limits is driven by resident complaints. More detailed information on the County process for receiving, managing, and resolving complaints of this nature is needed to establish if this condition is being met.</p>			
<p><b>4. The applicant is responsible for ongoing monitoring of noise levels. Upon request of the Planning Official, the applicant shall provide the County with sufficient information to determine whether the facility is in compliance with Condition 3 of this permit.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Available records do not indicate any such requests by the Planning Official.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: Republic Services agrees with the County's assessment. Our available records do not indicate any such requests by the Planning Department.</li> <li>• County has not monitored</li> <li>• noise is an issue at the landfill; ensure the facility is still in compliance</li> <li>• Not enough information</li> </ul>			

## Compliance with Past Land Use Actions and Their Status    A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1997	S-97-58	A conditional use permit to expand the generating capacity of the existing electric generation plant that is served by the gas produced at the Coffin Butte Landfill. Phase I of the expansion would increase the capacity of the plant from the current 2.2 MW to 5 MW and Phase II would increase the capacity to 10 MW.	Community Development and Parks Department Approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Requiring the Applicant to self-monitor and regulate without any oversight by the County is ineffectual and a disservice to the residents of Benton County to whom County staff and the Board of Commissioners are accountable.</p> <p>Compliance Opinion: Compliance Status Unclear</p> <p>Basis: County staff represent that compliance with noise limits is driven by resident complaints. More detailed information on the County process for receiving, managing, and resolving complaints of this nature is needed to establish if this condition is being met.</p>			
		<p><b>5. The applicant shall continue to provide sanitation facilities for the generation plant employees that are located on site. The facilities shall include:</b></p> <ul style="list-style-type: none"> <li>a) <b>Drinking water within the generating plant building by a potable water container, refilled periodically;</b></li> <li>b) <b>A portable toilet located at the generating plant site;</b></li> <li>c) <b>Plumbed restroom facilities, with water closets and hot and cold running water shall be available for use by employees at the Coffin Butte Landfill office;</b></li> <li>d) <b>Generating plant employees shall have vehicles available for trips to the Coffin Butte Landfill office restroom facilities;</b></li> <li>e) <b>The maximum number of generating plant employees shall be five (5).</b></li> </ul>	<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>OSHA letter from September 29, 1997 included relating to the toilet facilities and drinking water being compliant with OSHA standards for sanitation.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• applicant "shall continue"...is the facility still in compliance? is potable water still available, are the other conditions complied with? portable toilet/available vehicles/5 maximum employees?</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: None given as of 12/11/22</p> <p>Basis: Low Priority</p>			
		<p><b>6. The application shall obtain and comply with all applicable permits from the Oregon Department of Environmental Quality (DEQ). The applicant shall provide copies of all DEQ permits for the generation facility to the Community Development and Parks Department.</b></p>	<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

Date	File #	Request	Result
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Conditions of Approval		Current Status	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit.</p> <p><u>Workgroup Committee</u></p> <p>when was the most recent LUCS on file at DEQ completed?</p> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Compliance Not Demonstrated</p> <p>Basis: No record of required actions provided.</p>			
<p><b>7. Lighting shall be located so that it does not face directly, shine, or glare onto an adjacent road or property.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Monitoring of this condition is complaint driven. There are no records of any complaints.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• check the facility at night</li> <li>• County has not monitored</li> <li>• Not enough information</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Can the County describe the system for documenting, responding to, and resolving complaints received? A complaint driven system of enforcement is unsatisfactory, particularly when Benton County residents are unaware of specific requirements and certainly rely on Benton County staff to monitor and enforce land use requirements to ensure compatibility.</p> <p>Compliance Opinion: Compliance Not Demonstrated</p> <p>Basis: No record of addressing compliance with lighting complaints provided.</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1997	S-97-58	A conditional use permit to expand the generating capacity of the existing electric generation plant that is served by the gas produced at the Coffin Butte Landfill. Phase I of the expansion would increase the capacity of the plant from the current 2.2 MW to 5 MW and Phase II would increase the capacity to 10 MW.	Community Development and Parks Department Approved
Conditions of Approval		Current Status	
8. The property owner shall submit a declaratory statement to be recorded in the Benton County Deed Records for the subject property that recognizes the rights of adjacent forest uses, consistent with BCC 620.220().		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>Completed.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• provide copy in documentation</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: No compliance opinion</p> <p>Basis: Low priority</p>			
<p>9. The applicant shall prepare a site-specific development plan addressing emergency water supplies for fire protection. The plan shall be submitted to the local fire protection agency for review. The plan approved by the local fire protection agency shall be submitted to the Community Development and Parks Department prior to the issuance of building permits for the structure for Phase 1. A revised site-specific development plan shall be completed prior to issuance of construction permits for the Phase 2 expansion. The site development plan shall address:</p> <ol style="list-style-type: none"> <li>Emergency access to the local water supply in the event of a wildfire or other fire-related emergency;</li> <li>Provision of an all-weather road or driveway to within 10 feet of the edge of identified water supplies which contain 4,000 gallons or more and exist within 100 feet of the driveway or road at a reasonable grade (e.g. 12 percent or less);and</li> <li>Emergency water supplies shall be clearly marked along the access route with a Fire District approved sign.</li> </ol>		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>Additional research needed, compliance with this condition is not confirmed.</p> <p><u>Workgroup Committee</u></p>			

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

Date	File #	Request	Result
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<b>Conditions of Approval</b>		<b>Current Status</b>	
<ul style="list-style-type: none"> <li>• Republic: Republic Services is also conducting further research.</li> <li>• appears to be not in compliance. these (plus assurance of power generation in an outage) would be a good start at considering requirements for the LS zone in a potential revisit of chapter 77</li> <li>• This explanation of status cannot be accepted until the topic has been researched.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Landfill activities have a high potential of igniting fires and there have been fires previously at Coffin Butte. The potential for starting a wildfire is also great given the location of this industrial activity. Further, the frequency of power outages and landfill operations (e.g., pumps for water supply, leachate management and methane gas extraction) are dependent on reliable power supplies.</p> <p>Compliance Opinion: Compliance Not Demonstrated</p> <p>Basis: No record of required action provided.</p>			
<p><b>10. The applicant shall obtain all required septic, road approach, building, plumbing, mechanical, electrical, and other applicable permits prior to commencement of construction for both the Phase I and Phase 2 expansion. Contact the Permits Clerk and Building Official at the Community Development and Parks Department regarding permits and fees.</b></p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Completed for Phase 1. Phase 2 of the expansion has not been utilized by the applicant.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• CO for Phase 1? CO for Phase 2?</li> <li>• Republic Services’ records do not show any non-compliance issues with Phase II. While the owner/operator of Coffin Butte Landfill was the applicant for this CUP request, primary responsibility for compliance would have been with Pacific Northwest Generating Cooperative, an independent third-party contractor and not a Republic Services’ subsidiary.</li> <li>• What about Phase 2?</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: No compliance opinion</p> <p>Basis: Low priority</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1999	PC-99-06	A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<b>1. Obtain approval of a reclamation plan from the Oregon Department of Geology and Mineral Industries or the Oregon Division of State Lands. Operation and reclamation plan shall demonstrate consistency with the intended subsequent site use.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Staff</u> This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit. <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>extraction believed to be completed, see next permit request, staff should verify. is there a CUP closeout process at Benton County CDD?</li> </ul> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> MARK YEAGER: What is the mechanism whereby any State agency is informed of a County land use action to allow an activity that requires a permit from a State agency? If the County issues an approval for a land use prior to the landowner getting the required permits, how will the County ensure that all the required permits have been received since the County does no monitoring or enforcement. Compliance Status Unclear. No record of required action provided.			
<b>2. if the mining is the primary cause of traffic on the unpaved public road, that road shall be kept dust-free by the applicant if dwellings are located within 300 feet of the roadway. The applicant and lease-holding operator shall endeavor to use only those public roads designated for truck usage, unless making local deliveries of mineral and aggregate resources to residential areas serviced by roads not designated for truck usage.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Staff</u> Public roads serving primarily quarry traffic are paved. Complete. <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>extraction believed to be completed, see next permit request, staff should verify. is there a CUP closeout process at Benton County CDD?</li> <li>Is there no equivalent condition about dropping rocks which create road hazards on the highway?</li> </ul> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			

## Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1999	PC-99-06	A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>MARK YEAGER: This is a classic example of an unenforceable condition of approval – who or how will the “primary cause” of traffic be determined? Then the requirement that the applicant or quarry lease holder “endeavor” to use only roads designed for truck traffic, what does that mean? A meaningless condition that does not have any chance of being enforced. Issuing a land use approval to a property owner binds the property owner and that obligation cannot be transferred to the lease holder.</p> <p>Compliance Status Unclear. No record of required action provided.</p>			
<b>3. The applicant or lease-holding operator shall provide screening to partially obscure the mining site from view by adjoining occupied property and public roads in Soap Creek Valley and north Benton County to the extent reasonable and practicable to do so. The screening shall consist of an ornamental fence or wall, a vegetated berm, or preservation of vegetated natural slope in character with the natural landscape of Soap Creek Valley.</b>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<b>Comments</b>			
<u>Staff</u>			
Staff will need to field verify but it appears through comments that the applicant is not in compliance with this condition.			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none"> <li>• Republic: Republic Services did not own Coffin Butte Landfill at this time. Therefore, we do not have detailed records about any screening that was done. While the owner/operator of Coffin Butte Landfill was the applicant for this CUP request, primary responsibility for compliance with these and other requirement would have been the third-party quarry contractor. It appears from Google Earth historical photos that the third-party contractor did make an attempt to construct some berms and screening, but Republic Services do not have access to those records.</li> <li>• extraction believed to be completed, see next permit request, staff should verify, is there a CUP closeout process at Benton County CDD?</li> <li>• Not in compliance. The quarry is visible for miles around.</li> </ul>			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
<p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Further, making an attempt to provide screening is not compliance. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless.</p> <p>Compliance Status Unclear. Field verification needed.</p>			
<b>4. The applicant or lease-holding operator shall ensure that the mining operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality. The applicant or lease-holding operator shall monitor noise generated by mining activities on one randomly selected day per month when noise complaints are received, notwithstanding a minimum of one time per year. Noise data and reports of findings from this monitoring shall be placed on file, in a timely way with the Benton County Community Development Department for public inspection. A berm, or other sound-absorbing construction materials such as acoustical cinder blocks or other similar methods may be used to reduce the sound</b>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

Date	File #	Request	Result
1999	PC-99-06	A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>off-site to levels at or below those permitted by the Oregon Department of Environmental Quality. Any sound-reduction construction will be consistent with the visual buffering required in Condition #3 above. The applicant or lease-holding operator shall limit blasting to the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday.</p>			
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Staff will need to field verify but it appears that the applicant is not in compliance with this condition. Staff is unaware of any noise data being submitted to the Community Development Department.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.</li> <li>• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless.</p> <p>Compliance Status Unclear. No record of required action provided.</p>			
<b>5. Provide on-site parking for employees, customers, and visitors to the mining site.</b>		Consensus:	
		Majority Opinion:	
		Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.</li> <li>• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?</li> <li>• In compliance</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p>			



**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

Date	File #	Request	Result
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<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply.</p> <p>Condition No. 5</p> <p>No Compliance Opinion</p>			
<p><b>6. Maintain a security fence between the mining operation and the public road when such road is located within 200 feet of the mining operation.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.</li> <li>• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?</li> <li>• In compliance</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply.</p> <p>No Compliance Opinion</p>			
<p><b>7. Not excavate in a manner which would result in disturbance of perimeter fencing or screening, or would impair the intent of the reclamation plan.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.</li> </ul>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
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<b>Conditions of Approval</b>		<b>Current Status</b>	
<ul style="list-style-type: none"> <li>• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?</li> <li>• The provision for screening has not been met, as noted above.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply.</p> <p>No Compliance Opinion</p>			
<p><b>8. The quarry operation hours shall occur only between 7:00 a.m. and 5:00 p.m. Monday through Friday, and 7:00 a.m. and 3:00 p.m. on Saturdays. Quarrying operations shall not be conducted on Sundays.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.</li> <li>• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?</li> <li>• Generally in compliance (the quarry has been a better neighbor than the landfill, in this regard).</li> <li>• "Operating hours" seem to be where there is most reluctance to make a clear statement that the landfill is out of compliance. Three or four special kinds of "operations" are mentioned that take place outside of the operating hours that were stated as conditions for the permits. On this last issue, for comparison I took a look at Lane County's Short Mountain Landfill. That landfill only serves commercial account holders, yet they seem to be able to restrict those haulers to their stated operating hours (7 AM to 5 PM weekdays and Saturdays). Seems like there's a lesson for Benton County our working group in there.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless.</p> <p>Limiting "quarry operations" to 7:00 am to 5:00 pm creates a potential conflict with prior condition #4.</p> <p>In Compliance: Periodic County inspections are suggested to address resident concerns.</p>			
<p><b>9. The applicant shall retain the dual-access road system to provide for emergency service access to the subject site.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p>	

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

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<b>Conditions of Approval</b>		<b>Current Status</b>	
		Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.</li> <li>• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?</li> <li>• There is only one serviceable route in to the quarry site for emergency service. The bridge over Soap Creek is no longer passable for emergency vehicles (both structurally unsound and with barriers in place).</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless.</p> <p>Compliance Status Unclear</p>			
<p><b>10. The quarrying activity shall be limited to the 600-foot contour elevation and below, as shown by the applicant on Attachment 2 to the application.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.</li> <li>• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?</li> <li>• Google Earth images from 8/13/2020 show that quarrying activity extends up to approximately the 700 ft contour.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless.</p> <p>Compliance Status Unclear.</p> <p><b>PLACEKEEPER: NEED TO CONFIRM ELEVATIONS CB</b></p>			
<p><b>11. Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.</li> <li>• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?</li> <li>• This explanation of status cannot be accepted until the topic has been researched.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless.</p> <p>Compliance Status Unclear. County records need to be reviewed</p>			
<p><b>12. Copies of storm-water runoff permits and data produced from associated monitoring programs required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way, with the Benton County Community Development Department for public inspection.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.</li> <li>• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?</li> </ul>			

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<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>• This explanation of status cannot be accepted until the topic has been researched.</p> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless.</p> <p>Compliance Status Unclear. County records need to be reviewed.</p>			

WORK IN PROGRESS

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

Date	File #	Request	Result
2002	PC-02-07	A Conditional Use Permit for landfilling of an area that will be excavated for mining of mineral and aggregate resources Approved by the Planning Commission with Conditions. (West Triangle Expansion). The proposed area consists of 1.43 acres adjacent to the existing quarrying and landfill operation, and is designed to fulfill the reclamation plan for the previously approved quarry on this site.	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
1. Obtain approval from the Oregon Department of Environmental Quality for landfill operations on this site.		Consensus: Majority Opinion: Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: Republic Services has obtained all the necessary approvals and permits from the Oregon Department of Environmental Quality and remains in compliance with these conditions and approvals.</li> <li>• does the most recent LUCS on file with DEQ predate</li> <li>• this cup application?</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: What is the mechanism whereby any State agency is informed of a County land use action to allow an activity that requires a permit from a State agency? If the County issues an approval for a land use prior to the landowner getting the required permits, how will the County ensure that all the required permits have been received since the County does no monitoring or enforcement.</p> <p>Compliance Status Unclear. Site plan for area of interest needs to be provided.</p>			
2. In cases where landfill operations are the primary cause of traffic on unpaved public roads in the area, those roads shall be kept dust-free by the applicant.		Consensus: Majority Opinion: Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>No longer applicable. Coffin Butte Road is entirely paved. The county considers this condition to be completed.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• See previous comment on this issue re: Robison Rd. and Wiles Rd.</li> <li>• The public section of Coffin Butte Road is entirely paved.</li> <li>• there continue to be unpaved public roads in the vicinity of the landfill. does the landfill contribute to traffic on those roads? if so, how much?</li> </ul>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
<p>MARK YEAGER: This is a classic example of an unenforceable condition of approval – who or how will the “primary cause” of traffic be determined? Many roads in the vicinity of the landfill are unpaved and are likely to receive traffic headed to the landfill.</p> <p>No Compliance Opinion</p>			
<p><b>3. The applicant or lease-holding operator shall ensure that the landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>County monitoring of this condition is complaint-based.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• noise is an issue at the landfill; ensure the facility is still in compliance</li> <li>• Not enough information.</li> <li>• Not monitored by the county.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: How and when does the County ensure that the maximum sound level has not been exceeded. Since this is another example of complaint-based enforcement, what system is in place to document, respond to, and resolve noise related complaints? The landowner cannot delegate regulatory compliance or accountability with these types of requirements to a lease-holding operator.</p> <p>Compliance Not Demonstrated. No evidence of County process to capture / respond to action provided.</p>			
<p><b>4. Provide on-site parking for employees, customers, and visitors to the landfill site.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Completed.</p> <p><u>Workgroup Committee</u></p>			

## Compliance with Past Land Use Actions and Their Status    A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
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<b>Conditions of Approval</b>		<b>Current Status</b>	
<ul style="list-style-type: none"> <li>truck traffic to the landfill begins backing up HWY 99 beginning before 4:30am; ensure that traffic to the landfill does not pose a safety hazard</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No compliance opinion</p>			
<b>5. Maintain a security fence between the landfill operation and the public road when such road is located within 200 feet of the landfill operation.</b>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Security fence is present</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>check fence perimeter to ensure fencing is intact and surrounds the entire perimeter; from a casual inspection, it appears deferred maintenance may be in order</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion</p>			
<b>6. The landfill operation hours shall occur between 8:00 a.m. and 5:00 p.m. Monday through Saturday, and 12:00 p.m. through 5:00 p.m. on Sundays, with 24-hour access for commercial customers.</b>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>A definition of Operation Hours is what appears to be needed for this condition. Staff considers operation hours to be those hours when the landfill is open to the public. Staff would have been aware at the time this condition was imposed that the landfill would need to work outside of the hours identified above to complete activities necessary to the maintenance of the landfill.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>Republic: Republic Services is in compliance with this requirement, which governs landfill operations. However, it's important to note that internal operations, which include the arrival of field personnel on-site, begins at 4:30 a.m., Monday through Friday, and at 7:30 a.m. on Saturday. Additional operations not governed by the conditional use permit include work by third party contractors on landfill infrastructure, and commercial customers, who have 24-hour access to the Landfill.</li> <li>"Operating hours" seem to be where there is most reluctance to make a clear statement that the landfill is out of compliance. Three or four special kinds of "operations" are mentioned that take place outside of the operating hours that were stated as conditions for the permits. On this last issue, for comparison I took a look at Lane County's Short</li> </ul>			



**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

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<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>Mountain Landfill. That landfill only serves commercial account holders, yet they seem to be able to restrict those haulers to their stated operating hours (7 AM to 5 PM weekdays and Saturdays). Seems like there's a lesson for Benton County our working group in there.</p> <ul style="list-style-type: none"> <li>• How does 24 hour access work with compliance to noise complaints?</li> <li>• Not in compliance</li> <li>• Not in compliance. See previous note regarding operating hours.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Not in Compliance. Staff and RS do not get to interpret operating hours to mean something different than what was imposed as a written condition of approval. The words are the words. By definition the industrial activity of operating an active landfill is an incompatible use in an agricultural, forest and rural residential area. As such, operating hours are critical to mitigation of the numerous deleterious effects of the landfill operation. Requiring the landfill to limit operations to mitigate impacts "The landfill operation hours shall occur between 8:00 a.m. and 5:00 p.m. Monday through Saturday, and 12:00 p.m. through 5:00 p.m. on Sundays, with 24-hour access for commercial customers" means what it says, and the condition of approval was adopted by the Planning Commission. The public has a right to expect the operating hours to be enforced as approved and adopted. Beginning operations at 4:30 a.m. is a violation of this condition of approval. Under staff and RS interpretation, could the landfill operate 24 hours a day?</p> <p>No Compliance Consensus for Subcommittee</p> <p>Note: Condition is written poorly and would be improved with better clarification on Hours of Operation</p>			
<b>7. The applicant shall retain the dual-access road system to provide for emergency service access to the subject site.</b>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Complete</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: Republic Services is in compliance with this requirement and has made a dual-access road system. Access is available via Highway 99 and Tampico Road.</li> <li>• good candidate for Chapter 77 review</li> <li>• This explanation of status cannot be accepted until the topic has been researched.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion</p>			

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<b>Conditions of Approval</b>		<b>Current Status</b>	
8. The landfill activity shall be limited to the 600-foot contour elevation and below, as shown by the applicant on the Site Development Plan in the application.		Consensus: Majority Opinion: Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>The applicant indicates they are in compliance with this condition.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: Republic Services is in compliance and operating within the 600-foot contour elevation as specified in the Site Development Plan.</li> <li>• applicant should provide lidar, coordinate &amp; verify with county GIS</li> <li>• Not in compliance. The south face of Coffin Butte is scarred/eroded by excavations above the landfill up to approximately 675 ft elevation, per GoogleEarth images dated 8/13/2020</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated. Did the staff do any independent verification that the landfill is operating within the 600-foot contour?</p> <p>Compliance Opinion: Compliance Status Unclear</p> <p><b>PLACEKEEPER: NEED TO CONFIRM ELEVATIONS CB Check USGS Topo Map, Benton County GIS</b></p>			
9. Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.		Consensus: Majority Opinion: Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>The county regularly receives copies. Appendix I <a href="https://www.co.benton.or.us/cd/page/materials-management-document-library">https://www.co.benton.or.us/cd/page/materials-management-document-library</a></p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Are these available for inspection, and if so, where?</li> <li>• landfill not in compliance with June surface emission methane monitoring required by DEQ; Benton County should obtain an independent assessment of overall methane emissions, arsenic levels in monitoring wells are high, odor: per public records requests, odor complaints to DEQ are not documented/investigated/logged to the extent that residents have given up on making complaints to DEQ. per testimony at CU-21-047, odors are significant enough at the landfill that people sometimes cannot leave their homes; DEQ is apparently unaware of this situation, suggested action: ask DEQ how better to communicate current odor problems at the landfill to DEQ, annual report to DEQ: for many years, the reports required by Benton County DSAC to DEQ "documenting local citizens' concerns and the manner in which the owner or operator [of the landfill] is addressing those concerns" (ORS</li> </ul>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
2002	PC-02-07	A Conditional Use Permit for landfilling of an area that will be excavated for mining of mineral and aggregate resources Approved by the Planning Commission with Conditions. (West Triangle Expansion). The proposed area consists of 1.43 acres adjacent to the existing quarrying and landfill operation, and is designed to fulfill the reclamation plan for the previously approved quarry on this site.	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>459.325) have not been completed and submitted as required by Oregon statute. even now, there is no DSAC meeting dedicated to this required activity. as a result, DEQ has not been informed of many of the problems that citizens experience at coffin butte landfill. dedicated DSAC meeting to which the public are invited to air landfill concerns, include the results of this meeting in DEQ annual report</p> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Are the reports reviewed? Any independent verification by staff that the monitoring requirements for both air quality and water quality are being met and reported as required? The June 2022 report of methane exceedances and re-testing looks suspect – 7 hours to perform first test, just over an hour for the re-test?</p> <p>Compliance Status Unclear. County records need to be reviewed</p>			
<p><b>10. Copies of storm-water runoff permits and data produced from associated monitoring programs required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way, with the Benton County Community Development Department for public inspection.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>The county regularly receives copies. <a href="https://www.co.benton.or.us/cd/page/materials-management-document-library">https://www.co.benton.or.us/cd/page/materials-management-document-library</a></p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Are these available for inspection, and if so, where?</li> <li>• see CUP LU-15-001 the area zoned LS is inadequate to fully contain landfill operations and as a result ancillary landfill operations spill out onto properties not zoned for landfill operations (forest conservation/exclusive farm use/rural residential). this is why the landfill has had so many applications for non-by-right land uses over the past 50 years. this is a question that should be addressed holistically, not piecemeal. once landfill operations begin to be allowed on non-landfill parcels, those non-landfill parcels, over time, become indistinguishable from landfill parcels. this incrementally blights the neighborhood and should be addressed in a bcc code revamp</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Are the reports reviewed? Any independent verification by staff that the monitoring requirements for both air quality and water quality are being met and reported as required?</p> <p>Compliance Status Unclear. County records need to be reviewed</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
2003	PC-03-11	A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
1. The applicant shall continue to operate within the approval of the Oregon Department of Environmental Quality Solid Waste Disposal Permit No 306.		Consensus: Majority Opinion: Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: Republic Services has obtained all the necessary approvals and permits from the Oregon Department of Environmental Quality and remains in compliance with these conditions and approvals.</li> <li>• when was the most recent LUCS on file at DEQ completed?</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: In Compliance</p>			
2. In cases where landfill operations are the primary cause of traffic on unpaved public roads in the area, those roads shall be kept dust-free by the applicant.		Consensus: Majority Opinion: Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>No longer relevant.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• See previous notes re: Robison Rd. and Wiles Rd.</li> <li>• there continue to be unpaved public roads in the vicinity of the landfill. does the landfill contribute to traffic on those roads? if so, how much?</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated. Same comment as before – who and how is “primary cause” defined and enforced?</p> <p>Compliance Opinion: Compliance Status Unclear</p>			

## Compliance with Past Land Use Actions and Their Status    A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
2003	PC-03-11	A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<b>3. The applicant or lease-holding operator shall ensure that the landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Staff</u> County monitoring of this condition is complaint-based. <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>County does not monitor.</li> <li>noise is an issue at the landfill; ensure the facility is still in compliance</li> </ul> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> MARK YEAGER: Compliance Not Demonstrated. How and when does the County ensure that the maximum sound level has not been exceeded. Since this is another example of complaint-based enforcement, what system is in place to document, respond to, and resolve noise related complaints? The landowner cannot delegate regulatory compliance or accountability with these types of requirements to a lease-holding operator. Compliance Not Demonstrated. No evidence of County process to capture / respond to action provided.			
<b>4. Provide on-site parking for employees, customers, and visitors to the landfill site.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Staff</u> Complied with. <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>truck traffic to the landfill begins backing up hwy 99 beginning before 4:30am; ensure that traffic to the landfill does not pose a safety hazard</li> </ul> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion.			

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

Date	File #	Request	Result
2003	PC-03-11	A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
5. Maintain a security fence between the landfill operation and the public road when such road is located within 200 feet of the landfill operation.		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Staff</u> Complied with. <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>check fence perimeter to ensure fencing is intact and there are no deferred maintenance issues</li> </ul> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion.			
6. The landfill operation hours shall occur between 8:00 a.m. and 5:00 p.m. Monday through Saturday, and 12:00 p.m. through 5:00 p.m. on Sundays, with 24-hour access for commercial customers.		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>Republic: Republic Services is in compliance with this requirement, which governs landfill operations. However, it's important to note that internal operations, which include the arrival of field personnel on-site, begins at 4:30 a.m., Monday through Friday, and at 7:30 a.m. on Saturday. Additional operations not governed by the conditional use permit include work by third party contractors on landfill infrastructure, and commercial customers, who have 24-hour access to the Landfill.</li> <li>not in compliance</li> <li>Not in compliance, see previous notes on operating hours.</li> </ul> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> MARK YEAGER: Not In Compliance. Staff and RS do not get to interpret operating hours to mean something different than what was imposed as a written condition of approval. The words are the words. By definition the industrial activity of operating an active landfill is an incompatible use in an agricultural, forest and rural residential area. As such, operating hours are critical to mitigation of the numerous deleterious effects of the landfill operation. Requiring the landfill to limit operations to mitigate impacts "The landfill operation hours shall occur between 8:00 a.m. and 5:00 p.m. Monday through Saturday, and 12:00 p.m. through 5:00 p.m. on Sundays, with 24-hour access for commercial customers" means what it says, and the condition of approval was adopted by the Planning Commission. The public has a right to expect the operating hours to be enforced as approved and adopted. Beginning operations at 4:30 a.m. is a violation of this condition of approval. Under staff and RS interpretation, could the landfill operate 24 hours a day?			

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

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<b>Conditions of Approval</b>		<b>Current Status</b>	
No Compliance Consensus for Subcommittee			
Note: Condition is written poorly and would be improved with better clarification on Hours of Operation			
<b>7. The applicant may relocate the eastern haul road, and shall retain the dual-access road system to provide for emergency service access to the subject site.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Staff</u> Additional Research Needed <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>• Republic: Republic Services is in compliance with this requirement. The eastern haul access road was relocated, per county regulations, during the construction of Cell 4 in 2012. Access is maintained today.</li> <li>• good candidate for chapter 77 review</li> <li>• This explanation of status cannot be accepted until the topic has been researched</li> </ul> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion			
<b>8. Copies of water quality, stormwater runoff, and air quality permits; and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way with the Benton County Community Development Department for public inspection.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Staff</u> The county regularly receives copies. Appendix I <a href="https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf">https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</a> <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>• Are these documents available for public inspection, and if so, where?</li> <li>• landfill not in compliance with June surface emission methane monitoring required by DEQ; Benton County should obtain an independent assessment of overall methane emissions, arsenic levels in monitoring wells are high, odor: per public records requests, odor complaints to DEQ are not documented/investigated/logged to the extent that residents have given up on making complaints to DEQ, annual report to DEQ: for many years, the reports required by Benton County DSAC to DEQ "documenting local citizens' concerns and the</li> </ul>			

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

Date	File #	Request	Result
2003	PC-03-11	A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>manner in which the owner or operator [of the landfill] is addressing those concerns" (ORS 459.325) have not been completed and submitted as required by Oregon statute. even now, there is no DSAC meeting dedicated to this required activity. as a result, DEQ has not been informed of many of the problems that citizens experience at coffin butte landfill. contamination: domestic wells have been contaminated</p> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Are the reports reviewed? Any independent verification by staff that the monitoring requirements for both air quality and water quality are being met and reported as required? The June 2022 report of methane exceedances and re-testing looks suspect – 7 hours to perform first test, just over an hour for the re-test?</p> <p>Compliance Status Unclear. County records need to be reviewed</p>			
<p><b>9. A plan for a landscape buffer to mitigate visual impacts shall be approved by the Community Development Department. Landscape screening in the form of deciduous trees between the east triangle and Highway 99W, and a mixed deciduous/evergreen buffer shall be planted and maintained in good health by the applicant.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Not completed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: Republic Services was unable to find records relating to this requirement, nor does it have any indication that there was any enforcement action from the County. Republic Services did plant a mitigating/vegetative buffer in 2016.</li> <li>• Not in compliance</li> <li>• not in compliance</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Not In Compliance. The County freely admits that it does no monitoring or enforcement of its adopted conditions of approval, and the County states that it relies on the applicant to comply with the requirements. Republic says they can't find their records related to the screening requirements and states further "nor does it have any indication that there was any enforcement action from the County." Review of this extensive record of land use actions for the landfill demonstrates this exact circumstance over and over. Apparently, the conditions of approval have absolutely no meaning and cannot be relied on to mitigate the impacts of incompatible land use activities performed at the landfill.</p> <p>Compliance Opinion: Not In Compliance</p> <p>Basis: Visual inspection.</p>			
<p><b>10. Approval shall be obtained from the Oregon Division of State Lands for any activities on the subject property that affect designated wetlands.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p>	



Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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2003	PC-03-11	A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).	Planning Commission approved
Conditions of Approval		Current Status	
		Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: Republic Services has obtained all the necessary approvals and permits from the Oregon Department of Environmental Quality and remains in compliance with these conditions and approvals.</li> <li>• Must be active monitor</li> <li>• verification of compliance should be obtained. did the wetlands formerly include the small ponds that were slated for protection in the 1983 rezone</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated. Obviously there are or were wetlands on the property in the vicinity of the activity otherwise the County would not have added this condition of approval. It is again inexplicable that these types of requirements are not monitored or enforced. What is the point?</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of required action provided.</p>			

WORK IN PROGRESS

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
2011	LU-11-016	Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>1. Development shall comply with the plans and narrative in the applicant's proposal identified as Attachment 'A' except as modified by the approval or the conditions below. Modifications to the operation of the facility other than those addressed through this decision, including, but not limited to, the relocation of additional activities, or the configuration of relocated activities in a manner not substantially in conformance with the submitted conceptual site plan, shall require approval through a Modification of a Conditional Use Permit request (BCC 53.225).</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Standard condition requiring the applicant to implement the conditional use permit as described in their application. Compliance is not actively monitored.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: Republic Services believes it is in compliance with the terms of the 2011 conditional use permit.</li> <li>• narrative not provided, attachment A not provided</li> <li>• Why doesn't the county monitor compliance. considering that the county receives \$X million per biennium which originally was supposed to be dedicated to issues associated with hosting a landfill?</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated. It is again inexplicable that these types of requirements are not monitored or enforced. What is the point of having this condition?</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of required action provided.</p>			
<p>2. As required by BCC 60.220 (2) the applicant shall record a declaratory statement acknowledging the rights of adjacent and nearby property owners to conduct forest operations consistent with the Forest Practices Act and Rules prior to issuance of building permits.</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Completed.</p> <p><u>Workgroup Committee</u></p>			

**Compliance with Past Land Use Actions and Their Status    A.2 Subcommittee Discussion Work in Progress**

Date	File #	Request	Result
2011	LU-11-016	Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>• has staff verified documentation</p> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated. No record presented. In a earlier condition of this nature, staff indicated they did not know whether this action was completed. Where is this statement in the record?</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of required action provided.</p>			
<p><b>3. The applicant shall demonstrate compliance with the applicable siting standards specified in BCC 60.405 through materials submitted for issuance of building permits.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Completed.</p> <p><u>Workgroup Committee</u></p> <p>• certificate of occupancy? ADA compliance?</p> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion</p>			
<p><b>4. All new facilities constructed under this approval shall comply with the applicable provisions of Building Code, Electrical Code, Plumbing Code, Mechanical Code, Fire Code, and rules and regulations imposed by state and federal agencies.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Completed.</p> <p><u>Workgroup Committee</u></p> <p>• certificate of occupancy?</p>			

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

Date	File #	Request	Result
2011	LU-11-016	Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
No Compliance Opinion			
<i>Conditions of Approval from PC-03-11 that remain applicable and should be continued (as of the time of this decision):</i>		Note" The conditions for LU-11-016 are the conditions from PC-03-11 that remain applicable plus 4 new ones	
<b>1. Obtain necessary approvals from the Oregon Department of Environmental Quality for landfill operations on this site.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b>			
<u>Staff</u>			
The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none"> <li>• Republic: Republic Services is in compliance with the DEQ requirement.</li> <li>• DEQ permit approvals should be listed here. Are all of them up to date?</li> <li>• when was the most recent LUCS on file at DEQ completed?</li> </ul>			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
MARK YEAGER: Compliance Not Demonstrated. How do state agencies like DEQ become aware of some pending or approved land use action by Benton County? Having these types of requirements with no monitoring or enforcement is inexplicable. (MARK YEAGER 121622)			
Compliance Opinion: Compliance Not Demonstrated.			
Basis: No record of required action provided.			
<b>2. In cases where landfill operations are the primary cause of traffic on unpaved public roads in the area, those roads shall be kept dust-free by the applicant.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b>			
<u>Staff</u>			
No longer applicable. Coffin Butte Road is entirely paved.			

## Compliance with Past Land Use Actions and Their Status    A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
2011	LU-11-016	Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>The status assessment here does not address whether unpaved public roads were kept dust-free prior to paving. For example, Tampico Road has only been fully paved within the past 3 years, and received frequent landfill traffic. Did the applicant demonstrate compliance by performing dust suppression on that road prior to the recent paving by the county? Robison Road, Wiles Road, and Rifle Range Road still receives frequent traffic associated with the landfill, as well as frequent illegal dumping. All of these are still unpaved, except for small sections of Robison Rd. east of Military Rd and at the Soap Creek crossing.</li> <li>there continue to be unpaved public roads in the vicinity of the landfill. does the landfill contribute to traffic on those roads? if so, how much?</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated (121622) The comments above capture the concern – there are several unpaved roads in the vicinity of the landfill that receive landfill traffic. Who determines “primary cause” and what does the County do about it?</p> <p>No Compliance Opinion EDWARD PITERA (112322)</p>			
<p><b>3. The applicant or lease-holding operator shall ensure that the landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>County monitoring of this condition is complaint-based.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>It should be stated more clearly that compliance cannot be confirmed, as the county has never checked.</li> <li>noise is an issue at the landfill; ensure the facility is still in compliance</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated (121622) How and when does the County ensure that the maximum sound level has not been exceeded. Since this is another example of complaint-based enforcement, what system is in place to document, respond to, and resolve noise related complaints? The landowner cannot delegate regulatory compliance or accountability with these types of requirements to a lease-holding operator.</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of County process to capture / respond to complaints provided.</p>			
<p><b>4. Provide on-site parking for employees, customers, and visitors to the landfill site.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p>	

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

Date	File #	Request	Result
2011	LU-11-016	Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
		Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>In compliance.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>truck traffic to the landfill begins backing up HWY 99 beginning before 4:30am; ensure that traffic to the landfill does not pose a safety hazard</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion EDWARD PITERA (112322)</p>			
<p><b>5. Maintain a security fence between the landfill operation and the public road when such road is located within 200 feet of the landfill operation.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>In compliance.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>check fence perimeter to ensure fencing is intact and there are no deferred maintenance issues</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion (MARK YEAGER 121622 &amp; EDWARD PITERA (112322))</p>			
<p><b>6. The landfill operation hours shall occur between 8:00 a.m. and 5:00 p.m. Monday through Saturday, and 12:00 p.m. through 5:00 p.m. on Sundays, with 24-hour access for commercial customers.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Workgroup Committee</u></p>			

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<b>Conditions of Approval</b>		<b>Current Status</b>	
<p>• Republic Services: Republic Services is in compliance with this requirement, which governs landfill operations. However, it's important to note that internal operations, which include the arrival of field personnel on-site, begins at 4:30 a.m., Monday through Friday, and at 7:30 a.m. on Saturday. Additional operations not governed by the conditional use permit include work by third party contractors on landfill infrastructure, and commercial customers, who have 24-hour access to the Landfill.</p> <p>• Clearly not in compliance. if landfill operations routinely start at 4:30 am M-F. Operations are operations, no way to spin this.</p> <p>• Not in Compliance</p> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Not In Compliance (121622) Staff and RS do not get to interpret operating hours to mean something different than what was imposed as a written condition of approval. The words are the words. By definition the industrial activity of operating an active landfill is an incompatible use in an agricultural, forest and rural residential area. As such, operating hours are critical to mitigation of the numerous deleterious effects of the landfill operation. Requiring the landfill to limit operations to mitigate impacts "The landfill operation hours shall occur between 8:00 a.m. and 5:00 p.m. Monday through Saturday, and 12:00 p.m. through 5:00 p.m. on Sundays, with 24-hour access for commercial customers" means what it says, and the condition of approval was adopted by the Planning Commission. The public has a right to expect the operating hours to be enforced as approved and adopted. Beginning operations at 4:30 a.m. is a violation of this condition of approval. Under staff and RS interpretation, could the landfill operate 24 hours a day?</p> <p>In Compliance_EDWARD PITERA (112322)</p>			
<p><b>7. The applicant shall retain the dual-access road system to provide for emergency service access to the subject site.</b></p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>In compliance.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: Republic Services is in compliance with this requirement. The eastern haul access road was relocated, per county regulations, during the construction of Cell 4 in 2012. Access is maintained today.</li> <li>• good candidate for chapter 77 review</li> <li>• This assessment of status is not possible for the working group to confirm until research has been completed.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion (MARK YEAGER 121622 &amp; EDWARD PITERA (112322))</p>			
8. OMITTED		N/A	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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<b>Conditions of Approval</b>		<b>Current Status</b>	
9. Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.		Consensus: Majority Opinion: Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>The county regularly receives copies. Appendix I  <a href="https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf">https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</a></p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>landfill not in compliance with June surface emission methane monitoring required by DEQ; Benton County should obtain an independent assessment of overall methane emissions, arsenic levels in monitoring wells are high, odor: per public records requests, odor complaints to DEQ are not documented/investigated/logged to the extent that testimony has been given that residents have given up on making complaints to DEQ, annual report to DEQ for many years, the reports required by Benton County DSAC to DEQ "documenting local citizens' concerns and the manner in which the owner or operator [of the landfill] is addressing those concerns" (ORS 459.325) have not been completed and submitted as required by Oregon statute. even now, there is no DSAC meeting dedicated to this required activity. as a result, DEQ has not been informed of many of the problems that citizens experience at coffin butte landfill. contamination: domestic wells have been contaminated</li> <li>These have not all been made available for public inspection. Whether this is the fault of the applicant or the county is impossible to judge, as a member of the interested public. During the 2021 CUP process, I had to use Public Information Request procedures to obtain information from DEQ that was not available from Benton County.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated. Are the reports reviewed? Any independent verification by staff that the monitoring requirements for both air quality and water quality are being met and reported as required?</p> <p>Compliance Opinion: Compliance Status Unsure</p> <p>Basis: Insufficient information provided to demonstrate compliance e.g. a documented work process, summary reports, etc.</p>			
10. Copies of storm-water runoff permits and data produced from associated monitoring programs required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way, with the Benton County Community Development Department for public inspection.		Consensus: Majority Opinion: Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>The county regularly receives copies.  <a href="https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf">https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</a></p>			



**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

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<b>Conditions of Approval</b>		<b>Current Status</b>	
<p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>During the July 2022 DSAC meeting, Applicant's representative stated that runoff reports for the PRC composting facility were provided to DEQ but not to Benton County, because the county had never requested those explicitly. This needs to be clarified.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated. Are the reports reviewed? Any independent verification by staff that the monitoring requirements for both air quality and water quality are being met and reported as required?</p> <p>Compliance Opinion: Compliance Status Unsure</p> <p>Basis: Insufficient information provided to demonstrate compliance e.g. a documented work process, summary reports, etc.</p>			

WORK IN PROGRESS

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
2013	LU-13-061	Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.	Planning Commission approved
Conditions of Approval		Current Status	
<p>1. Development shall comply with the plans and narrative in the applicant's proposal identified as Attachment 'A', except as modified by the approval or the conditions below. Modifications to the operation of the facility other than those addressed through this decision, including, but not limited to, the relocation of additional activities, or the configuration of relocated activities in a manner not substantially in conformance with the submitted conceptual site plan, shall require approval through a Modification of a Conditional Use Permit request (BCC 53. 225).</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>Complied with.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>narrative not provided, attachment a not provided</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: This list of standard conditions that never get reviewed for compliance or enforced does not build confidence in the land use planning process in Benton County.</p> <p>No Compliance Opinion</p>			
<p>2. As required by BCC 60.220 (2), the applicant shall record a declaratory statement acknowledging the rights of adjacent and nearby property owners to conduct forest operations consistent with the Forest Practices Act and Rules prior to issuance of building permits.</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>Republic: Republic Services understands this requirement. At this juncture, no building permits have been issued for this area.</li> <li>This explanation of status cannot be accepted until the topic has been researched.</li> <li>unknown compliance</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: This list of standard conditions that never get reviewed for compliance or enforced does not build confidence in the land use planning process in Benton County.</p> <p>No Compliance Opinion</p>			

## Compliance with Past Land Use Actions and Their Status    A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
2013	LU-13-061	Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
3. Any new access to a county road or change to an existing access shall require a permit issued through the Benton County Public Works Department.		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Staff</u> Advisory <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>• Republic: Republic Services has not added or requested additional access and understands the stated requirement.</li> <li>• have changes in landfill access received a public works permit?</li> </ul> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion			
4. Disturbance of 1 Acre or More. A National Pollutant Discharge Elimination System (NPDES) permit is required for all construction activities that disturb one acre or more. The NPDES permit must be obtained through Benton County Public Works and the Oregon Department of Environmental Quality.		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Staff</u> Advisory <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>• Republic: Republic Services has not added or requested additional access and understands the stated requirement.</li> <li>• have there been construction activities that disturb one acre or more? if so, have NPDES permits been obtained?</li> <li>• No evidence of compliance.</li> </ul> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> MARK YEAGER: Compliance Not Demonstrated. This is a new requirement and will likely make the list of standard conditions of approval that will not be monitored or enforced. Compliance Not Demonstrated. County records need to be reviewed.			
Conditions of Approval from prior approvals that remain in effect (as of the time of this decision):			

## Compliance with Past Land Use Actions and Their Status    A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
2013	LU-13-061	Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
<b>1. Obtain necessary approvals from the Oregon Department of Environmental Quality for Landfill operations on this site.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Staff</u> The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance. <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>• Republic: This is not part of the Landfill and DEQ permits are not required. If such approvals become necessary in the future, Republic Services will obtain them.</li> <li>• when was the most recent LUCS on file at DEQ completed? if the landfill is not compliant with land use conditions of approval, would DEQ still approve all necessary permits?</li> </ul> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> MARK YEAGER: Compliance Not Demonstrated. This list of standard conditions that never get reviewed for compliance or enforced does not build confidence in the land use planning process in Benton County. Compliance Opinion: Compliance Not Demonstrated. Basis: No record of required action provided.			
<b>2. In cases where Landfill operations are the primary cause of traffic on unpaved public roads in the area, those roads shall be kept dust -free by the applicant.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Staff</u> No longer applicable. Coffin Butte Road is entirely paved. <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>• No evidence of compliance.</li> <li>• there continue to be unpaved public roads in the vicinity of the landfill. does the landfill contribute to traffic on those roads? if so, how much?</li> </ul> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> MARK YEAGER: Compliance Not Demonstrated. Many previous comments submitted regarding this condition of approval. Many unpaved roads still exist in the vicinity of the landfill.			

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

Date	File #	Request	Result
2013	LU-13-061	Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.	Planning Commission approved
Conditions of Approval		Current Status	
<p>MARK YEAGER: Compliance Not Demonstrated (121622) The comments above capture the concern – there are several unpaved roads in the vicinity of the landfill that receive landfill traffic. Who determines “primary cause” and what does the County do about it?                      No Compliance Opinion EDWARD PITERA (112322)</p>			
<p><b>3. The applicant or lease - holding operator shall ensure that the Landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.</b></p>		<p>Consensus:                      Majority Opinion:                      Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>County monitoring of this condition is complaint-based.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: Republic Services has no record of complaints on this parcel.</li> <li>• County cannot confirm compliance.</li> <li>• noise is an issue at the landfill; ensure the facility is still in compliance</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated. Property owner cannot delegate compliance to 3<sup>rd</sup> party This list of standard conditions that never get reviewed for compliance or enforced does not build confidence in the land use planning process in Benton County.</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of County process to capture / respond to complaints provided.</p>			
<p><b>4. Provide on-site parking for employees, customers, and visitors to the Landfill site.</b></p>		<p>Consensus:                      Majority Opinion:                      Minority Opinion:</p>	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>In compliance.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• truck traffic to the landfill begins backing up HWY 99 beginning before 4:30am; ensure that traffic to the landfill does not pose a safety hazard</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
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Conditions of Approval		Current Status	
No Compliance Opinion EDWARD PITERA (112322)			
5. Maintain a security fence between the Landfill operation and the public road when such road is located within 200 feet of the Landfill operation.		Consensus: Majority Opinion: Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>In compliance.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• check fence perimeter to ensure fencing is intact and there are no deferred maintenance issues</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion (MARK YEAGER 121622 &amp; EDWARD PITERA (112322))</p>			
6. The Landfill operation hours shall occur between 8: 00 a.m. and 5: 00 p.m. Monday through Saturday, and 12: 00 p.m. through 5: 00 p.ni. on Sundays, with 24 -hour access for commercial customers.			
<p><b>Comments</b></p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: This is not part of Coffin Butte Landfill operations. It is a material storage facility. There are no operating hours here.</li> <li>• Clearly not in compliance</li> <li>• not in compliance</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Not In Compliance (121622) Staff and RS do not get to interpret operating hours to mean something different than what was imposed as a written condition of approval. The words are the words. By definition the industrial activity of operating an active landfill is an incompatible use in an agricultural, forest and rural residential area. As such, operating hours are critical to mitigation of the numerous deleterious effects of the landfill operation. Requiring the landfill to limit operations to mitigate impacts "The landfill operation hours shall occur between 8:00 a.m. and 5:00 p.m. Monday through Saturday, and 12:00 p.m. through 5:00 p.m. on Sundays, with 24-hour access for commercial customers" means what it says, and the condition of approval was adopted by the Planning Commission. The public has a right to expect the operating hours to be enforced as approved and adopted. Beginning operations at 4:30 a.m. is a violation of this condition of approval. Under staff and RS interpretation, could the landfill operate 24 hours a day?</p>			

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

Date	File #	Request	Result
2013	LU-13-061	Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.	Planning Commission approved
Conditions of Approval		Current Status	
In Compliance <u>EDWARD PITERA (112322)</u>			
<b>7. The applicant shall retain the dual - access road system to provide for emergency service access to the subject site.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>Awaiting additional research.</li> <li>Republic: Republic Services is in compliance with this requirement. The eastern haul access road was relocated, per county regulations, during the construction of Cell 4 in 2012. Access is maintained today.</li> </ul> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion (MARK YEAGER 121622 & EDWARD PITERA (112322))			
8. OMITTED		N/A	
<b>9. Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>Republic: There are no permits or monitoring data as this relates to a material storage facility.</li> <li>As noted above, these are not available for public inspection as required.</li> <li>landfill not in compliance with June surface emission methane monitoring required by DEQ; Benton County should obtain an independent assessment of overall methane emissions, arsenic levels in monitoring wells are high, odor: per public records requests, odor complaints to DEQ are not documented/investigated/logged to the extent that testimony has been given that residents have given up on making complaints to DEQ, annual report to DEQ: for many years, the reports required by Benton County DSAC to DEQ "documenting local citizens' concerns and the manner in which the owner or operator [of the landfill] is addressing those concerns" (ORS 459.325) have not been completed and submitted as required by Oregon statute. even now, there is no DSAC meeting dedicated to this required activity. as a result, DEQ has not been informed of many of the problems that citizens experience at coffin butte landfill. contamination: domestic wells have been contaminated</li> </ul> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> MARK YEAGER: Compliance Not Demonstrated Material storage areas can and do generate stormwater runoff unless they are completely covered. How and when does the County know if permits for this facility are procured from DEQ?			

**Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress**

Date	File #	Request	Result
2013	LU-13-061	Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.	Planning Commission approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
Compliance Opinion: Compliance Status Unsure Basis: Insufficient information provided to demonstrate compliance e.g. a documented work process, summary reports, etc.			
<b>10. Copies of storm -water runoff permits and data produced from associated monitoring programs required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way, with the Benton County Community Development Department for public inspection.</b>		Consensus: Majority Opinion: Minority Opinion:	
<b>Comments</b> <u>Workgroup Committee</u> <ul style="list-style-type: none"> <li>• Republic: There are no permits or monitoring data as this relates to a material storage facility.</li> <li>• As noted above, these are not available for public inspection as required.</li> </ul> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> MARK YEAGER: Compliance Not Demonstrated. Material storage areas can and do generate stormwater runoff unless they are completely covered. How and when does the County know if permits for this facility have been issued by DEQ? Compliance Opinion: Compliance Status Unsure Basis: Insufficient information provided to demonstrate compliance e.g. a documented work process, summary reports, etc.			

WORK IN PROGRESS



Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
2015	LU-15-001	Alteration of a nonconforming use to continue and enhance a stormwater treatment facility in the Exclusive Farm Use Zone, associated with Coffin Butte Landfill.	Community Development Department Approved
<b>Conditions of Approval</b>		<b>Current Status</b>	
1. Development shall substantially comply with the plans and narrative in the applicant's proposal identified as Attachment A. Significant modifications to the construction or operation of the stormwater system other than those addressed through this decision shall require additional approval.		Consensus: Majority Opinion: Minority Opinion:	
<p><b>Comments</b></p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: This development condition was at the County's discretion. However, as it relates to stormwater system construction and monitoring, Republic Services has all the DEQ permits necessary and is in compliance.</li> <li>• attachment a is not provided</li> <li>• We are missing a clear statement from the county on whether the site is in compliance, independent of DEQ. See previous comments.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated. Nonagricultural uses in the EFU zone are specifically limited by ORS. Whether the continuation and alteration of a non-conforming use in the EFU zone is appropriate may be beyond the scope of this review. However, that fact that this action was approved at the staff level, and apparently at the behest of the department, requires further review. More time is needed to review the record. Was Oregon Department of Land Conservation and Development (DLCD) notified of this land use action?</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of required action provided.</p>			
2. The applicant shall obtain and maintain compliance with the terms of all necessary federal, state, and local permits for construction and operation of the stormwater system described in this application.		Consensus: Majority Opinion: Minority Opinion:	
<p><b>Comments</b></p> <p><u>Staff</u></p> <p>The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> <li>• Republic: This development condition was at the County's discretion. However, as it relates to stormwater system construction and monitoring, Republic Services has all the DEQ permits necessary and is in compliance.</li> <li>• the stormwater system is in an area identified as "wetlands" – does this trigger additional permitting requirements</li> <li>• We are missing a clear statement from the county on whether the site is in compliance, independent of DEQ. See previous comments.</li> </ul>			

## Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

(MARK YEAGER) Many previous comments regarding lack of system or follow up to ensure that applicant secures permits for approved activities. Meaningless condition with no follow up or enforcement.

Compliance Opinion: Compliance Not Demonstrated.

Basis: No record of required action provided

WORK IN PROGRESS

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
2021	LU-21-047	<p>Conditional Use Permit to expand Coffin Butte Landfill. Republic Services proposed: to create a new disposal cell for the Coffin Butte Landfill which will extend from the current cell south of Coffin Butte Road; close Coffin Butte Road to public traffic (vacate the right-of-way*) so the new cell can cover the road; relocate a replacement roadway (for landfill and quarry traffic only) around the area of the new disposal cell; relocate the leachate ponds south of Coffin Butte Road, and move some other structures.</p> <p>Closing Coffin Butte Road will likely require improvement of at least one other roadway in the area to accommodate increased traffic—potentially Tampico Road or Wiles and Robison Roads.</p>	<p>Planning Commission Denied; PC Decision Appealed; Application Withdrawn</p>
<p><b>Comments</b></p> <p><u>Workgroup Comments</u></p> <ul style="list-style-type: none"> <li>Republic Services appealed the Planning Commission’s decision, but voluntarily withdrew that appeal to engage with the community and participate in the Oregon Consensus process. Republic Services and Coffin Butte Landfill remain committed to the Oregon Consensus process and this group’s work. We look forward to being part of Benton County’s long-term solid waste management and diversion solution strategy.</li> </ul> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Use Decision Provided for Background</p> <p>Subcommittee believes that the record and rationale of this land use proceeding is relevant to the evolution of the Coffin Butte Landfill.</p> <p>Review of the record in this land use proceeding provides important historical context. The public comments and the Notice of Decision in this matter are critical to understanding the history of the landfill and the sentiment of the residents of Benton County at that time.</p> <p>Open Items: Subcommittee needs to review this documentation</p>			

WORK IN PROGRESS

## Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

### General Comments from Committee Members (October 2022):

- I understand that county staff might want to explain why, for many conditions (lighting, noise etc.) they have not been monitoring. But it makes the document less clear than it ought to be. "Complaint-based monitoring" really means "no monitoring" in practice. In such cases, I've suggested this more direct language.
- Some of the responses really seem to be beating around the bush to avoid saying, "not in compliance." For example if screening is "not completed" even 20 years after a permit was issued, why not just state clearly, "Not in compliance."
- This is really a lot of applications to do things that are not allowed by right, 14 individual applications with many missing (Tampico vacation, coffin butte vacation, 1977 cup (?)). has any other business or individual in the history of Benton County been the applicant in so many land use actions? if the landfill is the record holder, is that overall situation something that should be considered when additional special permissions are requested?

WORK IN PROGRESS

## Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

### List of Revisions

#### Development Documents

Revisions:

Compliance with Past Land Use Approvals - 11-14-22 Draft EDWARD PITERA Input (As base document)

Mark Yeager's Entries added from Inga Williams' Compliance with Past Land Use Approvals - 11-28-22 Draft

Compliance with Past Land Use Approvals - 11-14-22 Draft EDWARD PITERA Input Mark Catherine Zoom

Compliance with Past Land Use Approvals - 11-14-22 Draft EDWARD PITERA Input Mark Catherine Zoom 120722

Compliance with Past Land Use Approvals - 11-14-22 Draft EDWARD PITERA Input Mark Catherine Zoom 121022

Compliance with Past Land Use Approvals - 11-14-22 A2 Small Group Markup 121222 v1

Compliance with Past Land Use Approvals - 11-14-22 A2 Small Group Markup 121222 v2

Compliance with Past Land Use Approvals - 11-14-22 A2 Small Group Markup 121222 v3 EDWARD PITERA MY

#### Subcommittee Working Drafts

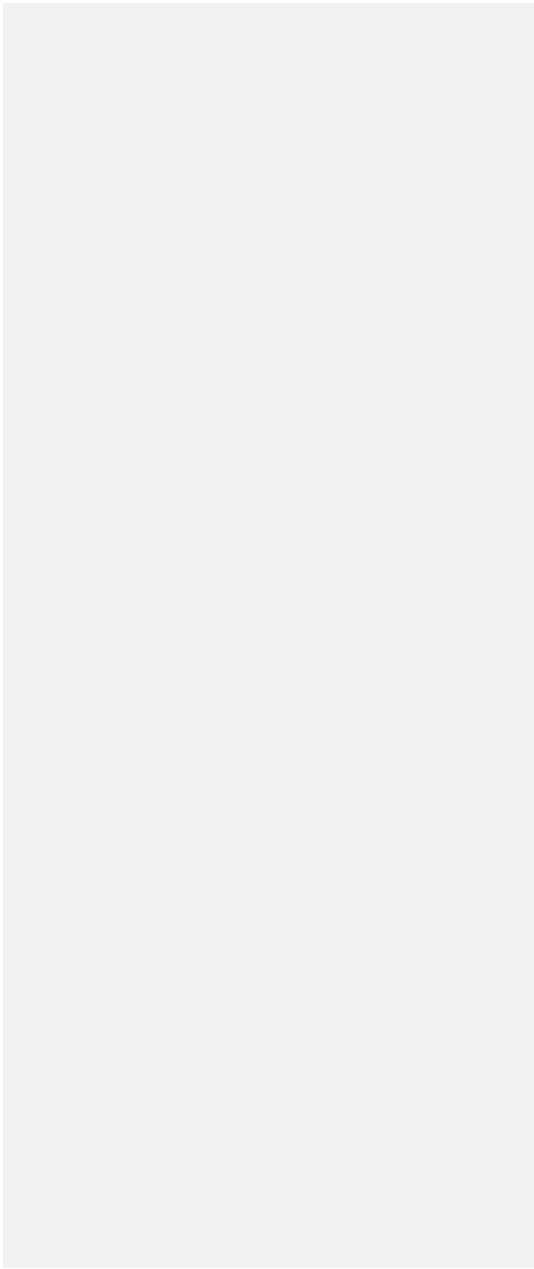
Compliance with Past Land Use Approvals - A2 Small Group Markup 121922 Working v1

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**List of Appendices**

- 1 Figure IV-7 from Chemeketa Regional Solid Waste Program Report 1974
- 2 Figure from Count Code

WORK IN PROGRESS



## References

### References (Numbers need to be redone in Final Doc)

Ref 1 DEQ Record of Decision 2005 Page 22:

#### 7.1 DESCRIPTION OF THE SELECTED ALTERNATIVE

The remedial actions have already met the protectiveness standard since there were no unacceptable risks identified by the risk screening for the exposure pathways. However, to maintain this level of protectiveness and to provide for further improvement in groundwater quality consistent with the intent of groundwater quality protection rules, maintenance of the remedy as supplemented by additional actions was recommended. The remedy employs the following elements:

- Landfill closure and cover with engineered cap on Cell 1A and parts of Cell 1. The eastern slope of Cell 1 will retain interim plastic cover until it is covered with the base liner of Cell 3D. The Closed Landfill was covered with soil in 1977.
- Surface controls to prevent surface water run-on and infiltration of surface water through the waste, and to slow down the rate of cap erosion.
- Access restrictions to areas of waste by fencing around the landfill units.
- Leachate collection from Cell 1 and management by various strategies.
- Landfill gas collection from Cell 1 and use for supplemental electricity generation.
- Deed restrictions on property within the LOF to prevent development of groundwater resource.
- Decommissioning two water supply wells to prevent their future use.
- Property purchases as buffer around the landfill.

In addition to these actions, the solid waste permit requires groundwater monitoring downgradient of the landfill cells and LFG monitoring around the landfill cells and in structures to assess protectiveness between the landfill and potential receptors.

BCTT Subcommittee - A.3. Legal Issues and B.1. Land Use Review  
**DRAFT** Version 9 – 1/17/2023 (for 1/19/23 BCTT Review)

\\deptshare.in.co.benton.or.us\departments\dev\Solid Waste Program\Solid Waste Consensus\Workgroup\Subcommittees\A.3. Legal Issues and B.1. Land Use Review\Subcommittee Report for 1-19 BCTT - Legal & Land Use Subcommittee.docx

**Charge A: Common Understandings Tasks**

1. A Summary of the County's current rights and obligations to Republic Services, and vice versa, surrounding:
  1. The hauling franchise;
  2. The landfill CUP; and
  3. What legally can and cannot be conditions of any land use approvals (e.g. past compliance, compliance with future laws, codes, and policies, DEQ compliance, reopening, limitations on what can be brought into the County from where, required facilities and practices, reporting/compliance/financial monitoring requirements, etc.)
  4. Interpretation and Deference
2. A Summary of the rights and obligations of other entities surrounding landfills, hauling, and sustainability initiatives, etc.:
  1. Federal;
  2. Tribal;
  3. State (e.g. Is DEQ prohibited from permitting another landfill west of the Cascades and what does the "regional landfill" designation mean?);
  4. Local Government; and
  5. Summary of the step-by-step process in ORS chapter 459 and associated timing for the cross-jurisdictional approvals of landfill applications, (e.g. DEQ) including:
    1. What topics are within whose authority, and
    2. Whether, for example, the County can or should consider the topics it does not have permitting authority over when assessing the criteria outlined in Code section 53.215?

Charge B: Land Use Review Tasks

1. Create a common understanding document outlining which Development Code criteria are applicable to the review of a conditional use application for landfill expansion by reviewing:
  1. 53.215 (Criteria)
  2. 77.305 (Conditional Uses)
  3. 77.310 (Review)
  4. 77.405 (DEQ)
2. Review Chapters 50 and 51 for context, and then prepare a conceptual list of any other Development Code criteria the WORKGROUP recommends be applicable.



3. Developing recommended guidelines for interpreting any ambiguous provisions recognizing current statutes, regulations, case law, and County precedent, etc. In doing so, refer to Comprehensive Plan for policy guidance regarding interpretation of any ambiguous Development Code provisions (see, BCC 50.015,) and Review the Planning Commission comments made during its last review of Republic Services' CUP application for context. Examples for consideration include:
  1. The phrase, "Other information as required by the Planning Official" 77.310(e)
  2. The terms found in Section 53.215, e.g.
  3. "seriously interfere"
  4. "character of the area"
  5. "purpose of the zone"
  6. "undue burden"
  7. "any additional criteria which may be required for the specific use by this code.
  8. Other: \_\_\_\_\_
4. Develop protocols for the timely and broad distribution of CUP-related information to the public, other governmental entities, and internal committees, groups, and divisions.

Additional Charge Tasks

1. Future Timeline for Discussing any Needed Changes to the Benton County Code Flowing From WORKGROUP Recommendations
2. Necessary Tasks to Start Planning Reopening of Existing Hauling Agreement

Appendices

- A. 2022 Annual Financial Assurance Plan submitted by Valley Landfills, Inc., to DEQ

## IV. Workgroup Recommendations

### SECTION A: Develop Common Understandings

#### 2) Republic Services and Benton County's Current Rights and Obligations

*A Summary of the County's current rights and obligations to Republic Services, and vice versa surrounding the hauling franchise; The landfill CUP; and What legally can and cannot be conditions of any land use approvals (e.g. past compliance, compliance with future laws, codes, and policies, DEQ compliance, reopening, limitations on what can be brought into the County from where, required facilities and practices, reporting/compliance/financial monitoring requirements, etc.)*

#### **Rights and obligations relative to past land use approvals**

Submitted by Legal Issues Subcommittee, 12/14/2022

Question: Do conditions of approval imposed as part of a later land use approval supersede conditions imposed as part of a prior approval?

Answer: Unless the later land use approval expressly addresses whether the prior approval conditions continue or cease to be applicable, the issue will be subject to interpretation by the local government. LUBA will uphold the local government's interpretation of approval conditions unless the local government has improperly construed the applicable law.

When evaluating the effect of later approval conditions on earlier approval conditions, the analysis will depend on the specific land use approvals at issue. If the later land use approval unambiguously states that the earlier approval conditions either continue or no longer apply, the express language of the later approval resolves the issue. If the later approval does not unambiguously address the issue, it is subject to interpretation by the local government, and LUBA will uphold that interpretation unless the local government has improperly construed the applicable law.

When the meaning of an earlier land use approval is disputed during review of a later land use application, the local government (here, the Benton County Board of Commissioners) will interpret the previous land use approval, including any conditions of approval. See *M & T Partners, Inc. v. Miller*, 302 Or App 159, 164-65, 460 P3d 117 (2020); *Bradbury v. City of Bandon*, 33 Or LUBA 664 (1997).

Once the local government has made the determination, LUBA will review under ORS 197.835(9)(a)(D) to determine whether the decision maker “improperly construed the applicable law.” *Dahlen v. City of Bend*, \_\_ Or LUBA \_\_ (LUBA No. 2021-013, June 14, 2021). That is, LUBA will review for whether the interpretation is consistent with the statutory construction rules set out in ORS 174.010 to 174.090, *PGE v. Bureau of Labor and Indus.*, 317 Or 606, 611, 859 P2d 1143 (1993), and *State v. Gaines*, 346 Or 160, 206 P3d 1042 (2009). *Lennar Nw., Inc. v. Clackamas Cty.*, 280 Or App 456, 468, 380 P3d 1237 (2016). This interpretative framework requires consideration of the text, context, and purpose of the land use approval. The fact that a specific condition was included in a prior approval but was not included in a later approval is relevant to the text, context, and purpose of the later approval.

Additionally, when reviewing a local government’s interpretation of its later land use approvals to determine whether prior approval conditions continue to apply, LUBA cannot insert what has been omitted or omit what has been inserted. *Lennar*, 280 Or App at 469 (citing ORS 174.010); *Gould v. Deschutes Cty.*, 322 Or App 11, 24, 518 P3d 978 (2022); *M & T Partners*, 302 Or App at 172. LUBA will also give effect to the entire text of the later land use approval to the extent possible. See ORS 174.010; *Willamette Oaks LLC v. City of Eugene*, 76 Or LUBA 187 (2017).

Accordingly, it is for the Benton County Board of Commissioners to determine whether the later land use approvals continued or discontinued the conditions of approval attached to earlier land use approvals. And, so long as it applies the interpretative framework outlined above, that determination will be upheld by LUBA.

#### **Rights and obligations relative to franchise agreements**

Only the current franchise agreement has bearing. The previous franchise agreement is superseded at the time a new agreement takes effect. The provisions of the current (2020) franchise agreement are reflected in the table below.

#### **Responsibility for landfill closure and post-closure obligations**

Submitted by Legal Issues Subcommittee, 12/12/2022

- Question: Who is responsible for complying with landfill closure and post-closure obligations?
- Answer: DEQ regulations require up-front and ongoing financial assurance to cover the cost of closure, post-closure, and corrective actions. Where this preliminary line of defense fails, Oregon statute holds any person owning or controlling the disposal site liable for closure and post-closure maintenance.

DEQ regulations require up-front and ongoing financial assurance to cover the cost of closure and post-closure obligations, as well as the cost of any required corrective action. OAR 340-094-0140. The owner or operator of a landfill must provide the required financial assurance by the time DEQ issues the solid waste permit (for new landfills) or no later than October 9, 1997 (for landfills already in operation on November 4, 1993). OAR 340-094-0140(3)(a).

The owner or operator is required to update its financial assurance plan annually, and the amount of the financial assurance mechanism must be increased (or may be reduced) consistent with each financial assurance plan update. OAR 340-094-0140(6)(e). A copy of the most recent annual financial assurance plan submitted by Valley Landfills, Inc. is attached as Appendix A to this report.

The owner or operator is restricted to certain allowable “financial assurance mechanisms,” each of which is designed to ensure that funds will be available to complete closure, post-closure, and corrective action obligations, even if the owner or operator becomes insolvent or otherwise fails to satisfy those obligations. The allowable financial assurance mechanisms include:

- a. A trust fund whose purpose is to receive and manage funds paid by the permittee and to disburse those funds only for closure, post closure, or correction activities.
- b. A surety bond guaranteeing payment into a standby trust fund for closure or post-closure activities.
- c. A surety bond guaranteeing performance of closure, post-closure, or corrective action activities.
- d. An irrevocable letter of credit in conjunction with a standby trust fund.
- e. A closure or post-closure insurance policy guaranteeing that funds will be available to complete final closure and post-closure maintenance of the site.
- f. A corporate guarantee from an entity that passes a specified financial test, and which is subject to replacement by a substitute financial assurance mechanism if the guarantor no longer meets the financial test criteria.
- g. Alternative forms of financial assurance, so long as they provide an equivalent level of security as the specified mechanisms and are approved by DEQ.

OAR 340-094-0145.

Finally, if the owner or operator of the landfill fails to provide the required financial assurance, and also fails to satisfy its closure and post-closure obligations, then each person owning or controlling the property on which the disposal site is located will be liable for those closure and post-closure obligations per ORS 459.205 and 459.268. Under a recent Oregon Supreme Court decision, both a person who actually exercises

control over the site and a person with legal authority to control the site are liable for closure and post-closure activities. *Kinzua Res., LLC v. Oregon Dep't of Env'tl. Quality*, 366 Or 674, 686, 468 P3d 410 (2020). Accordingly, an entity or individual with legal authority to control the site can be liable under ORS 459.205 and 459.268, even if such entity or individual does not operate the landfill or directly hold title to the site. The Oregon Supreme Court has also held that liability under ORS 459.205 and 459.268 is direct liability for that person's own failure to satisfy closure or post-closure obligations, such that ORS 63.165 (part of the Oregon Limited Liability Act) may not serve to protect a member of an LLC from such liability.

DRAFT

Landfill Rights and Obligations			
	Republic Right/Republic Obligation (A Republic "right" is a County "obligation" and vice versa unless another entity is noted)	Authority	Comment
1	"Operate and maintain the Landfill as a sanitary landfill for disposal of Solid Waste"	<a href="#">Landfill Franchise Agreement</a> §2(a)	
2	"Comply with Benton County's solid waste ordinance and all provisions for service as set forth in Exhibit B" (current provisions detailed in this document)	<a href="#">Landfill Franchise Agreement</a> §2(a)	Exhibit B contains Benton County Code Ch. 23.
3	"Charge tipping fees."	<a href="#">Landfill Franchise Agreement</a> §2(b)	County hasn't participated in rate setting since 2000 franchise agreement eliminated county oversight. Section 7(f) designates Republic information related to tipping fees to be confidential. BCC 23.505 specified rate structures are not reviewed by BOC.
4	"Operate and promote the use of a Pacific Region Composting Facility (PRCF)."	<a href="#">Landfill Franchise Agreement</a> §2(c)	

**Commented [VGJ1]:** The rights and obligations terminology is confusing and used inconsistently in the document; will be clarified in later draft.

**Landfill Rights and Obligations**

	<b>Republic Right/Republic Obligation</b> (A Republic "right" is a County "obligation" and vice versa unless another entity is noted)	<b>Authority</b>	<b>Comment</b>
5	"Shall accept for disposal at the Landfill, Solid Waste created or generated within Benton County."	<a href="#">Landfill Franchise Agreement</a> §2(d)	This guarantees Benton County residents will have access to landfill as long as it is operational. Per §11(f), if Republic is unable to take Benton County-generated waste at the landfill, it will make other permitted landfills available to Benton County Solid Waste. In that case, the tipping fee shall be the same as if solid waste was disposed of at Coffin Butte. Same rate provision applies for 6 months.
6	"All persons holding a franchise to collect and transport municipal Solid Waste in Benton County will be permitted access to the Landfill" as long as they pay the tipping fee.	<a href="#">Landfill Franchise Agreement</a> §2(d)	This ensures municipalities within Benton County which franchise collection services can access Coffin Butte. BCC 23.410(7) codifies this requirement as well.
7	Residential self-haulers will be accepted.	<a href="#">Landfill Franchise Agreement</a> §2(f)	\$35 per residential vehicle flat fee established, to be revised by the CPI after 3 years.
8	Secure loads required and maintain litter control measures.	<a href="#">Landfill Franchise Agreement</a> §2(h)	

**Commented [VGJ1]:** The rights and obligations terminology is confusing and used inconsistently in the document; will be clarified in later draft.

Landfill Rights and Obligations			
	Republic Right/Republic Obligation (A Republic "right" is a County "obligation" and vice versa unless another entity is noted)	Authority	Comment
9	Annual franchise fee to be paid to County.	<a href="#">Landfill Franchise Agreement</a> §4(a)	Section 11(d) describes situation when uncontrollable circumstances excuse Republic from paying fees. If Republic disposes of solid waste elsewhere, but not because of uncontrollable circumstances, it must still pay franchise fee.
10	Annual host fee, based on an amount per ton of Solid Waste accepted at the landfill, will be paid to County.	<a href="#">Landfill Franchise Agreement</a> §4(b)	The host fee is a credit against the franchise fee, with the franchise fee serving as the minimum amount Republic will pay County each year.
11	Until landfill expansion is approved, annual tonnage deposited at landfill is capped at 1,100,000 tons.	<a href="#">Landfill Franchise Agreement</a> §5(b)	Within the tonnage cap, Republic must allow Benton County generated waste up to 75,000 annual tons. Solid waste deposited as a result of fire, flood, or other natural disasters is exempt from the tonnage cap.
12	Environmental Trust Fund to be maintained at no less than \$5,000,000.	<a href="#">Landfill Franchise Agreement</a> §6(a)	
13	Republic to maintain pollution liability insurance policy with minimum coverage of \$10,000,000.	<a href="#">Landfill Franchise Agreement</a> §6(b)	Section 6(d) requires the parties to meet every 4 years or after each 2,000,000 ton increment of solid waste is deposited to review the pollution liability insurance coverage.

**Commented [VGJ1]:** The rights and obligations terminology is confusing and used inconsistently in the document; will be clarified in later draft.



Landfill Rights and Obligations			
	Republic Right/Republic Obligation (A Republic "right" is a County "obligation" and vice versa unless another entity is noted)	Authority	Comment
14	Following year 1 of the agreement, Republic to furnish an annual report to County.	<a href="#">Landfill Franchise Agreement §7(a)</a>	Annual report on environmental condition of the landfill, "covering air, water, Solid Waste Permits, pollution controls, and related issues as determined by the parties."
15	Beginning in year 2 of the agreement, Republic to furnish remaining capacity data to County.	<a href="#">Landfill Franchise Agreement §7(b)</a>	Republic to provide BOC "necessary data to confirm the remaining capacity of the Landfill as determined by both parties." Data to include methods and calculations used.
16	Other reports to be provided to County, when submitted to other agencies.	<a href="#">Landfill Franchise Agreement §7(c)</a>	Public information and reports to state or federal agencies relative to operation of landfill to be provided to County.
17	All current and future state and federal laws must be complied with.	<a href="#">Landfill Franchise Agreement §11(a)</a>	Codified at BCC 23.410(8) and (11).
18	Republic may only "sell, convey, transfer or assign the Landfill or any of its rights, interests, or obligations under [the franchise agreement]" with County's prior written approval.	<a href="#">Landfill Franchise Agreement §11(b)</a>	
19	90-day notice required prior to discontinuance of service.	BCC 23.410(9)	
20	DEQ permit required to operate landfill	<a href="#">ORS 459.205</a>	Term of permit not to exceed 10 years. ORS 459.245(d).

**Commented [VGJ1]:** The rights and obligations terminology is confusing and used inconsistently in the document; will be clarified in later draft.

Landfill Rights and Obligations			
	Republic Right/Republic Obligation (A Republic "right" is a County "obligation" and vice versa unless another entity is noted)	Authority	Comment
21	Cleanup of hazardous substance contaminating ground water	<a href="#">ORS 459.248</a>	
22	Closure of landfill site.	<a href="#">ORS 459.268</a> , <a href="#">OAR 340-0940100</a>	
23	Groundwater monitoring	<a href="#">OAR 340-094-0080</a>	
24	Emissions Standards	<a href="#">OAR 340-236-0500</a>	
25	Franchise Agreement may only be reopened with "the mutual approval of both the Board and [Republic]."	<a href="#">BCC 23.310(2)</a>	
26	Republic and County will "work together" to monitor the flow of C&D materials and work toward establishing a transfer facility.	<a href="#">Landfill Franchise Agreement §2(g)</a>	
27	"Negotiate in good faith to establish a program to promote selfhaulers and cease activities by illegal dumpers."	<a href="#">Landfill Franchise Agreement §2(e)</a>	Parties to <u>negotiate in good faith to during the period of Jan 1, 2021-July 1, 2021</u> to establish a Dump-Stoppers program <del>by July 1, 2021</del> with a joint report to BOC three years thereafter.
28	If landfill expansion occurs prior to 2024, host fee will be adjusted to reflect additional landfill space.	<a href="#">Landfill Franchise Agreement §4(c)(i)</a>	
29	If landfill expansion occurs 2025 or later, host fee and franchise fee will be adjusted.	<a href="#">Landfill Franchise Agreement §4(c)(ii)</a>	
30	Inspections of landfill by County authorized.	<a href="#">Landfill Franchise Agreement §7(d)</a>	County has the right to inspect landfill for "determining [Republic's] compliance" with the franchise agreement.

**Commented [VGJ1]:** The rights and obligations terminology is confusing and used inconsistently in the document; will be clarified in later draft.

Landfill Rights and Obligations			
	Republic Right/Republic Obligation (A Republic "right" is a County "obligation" and vice versa unless another entity is noted)	Authority	Comment
31	County may prevent interruption of service.	<a href="#">BCC 23.415</a>	If failure or interruption of service would create an "immediate and serious health hazard or serious public nuisance," the BOC, with 24-hours' written notice to Republic, authorize county personnel or other persons to temporarily provide the service.

**Commented [VGJ1]:** The rights and obligations terminology is confusing and used inconsistently in the document; will be clarified in later draft.

Collection Rights and Obligations				
	Republic Right/Republic Obligation (A Republic "right" is a County "obligation" and vice versa unless another entity is noted)	Responsible Party	Authority	Comment
1	Republic to provide solid waste collection and recycling services in the service areas specified in its application	Republic	<a href="#">Solid Waste Collection Franchise Agreement</a> ¶1	Service area is all of the unincorporated area of Benton County. See Map attached to application.
2	Republic to pay fee of 5% of gross cash receipts from collection service provided in service area	Republic	<a href="#">Board Order D2022044</a> ¶3	
3	Republic to comply with applicable provisions of BCC Ch. 23 (Current provisions detailed in this document)	Republic	<a href="#">Board Order D2022044</a> ¶4	

Collection Rights and Obligations				
	<b>Republic Right/Republic Obligation</b> (A Republic "right" is a County "obligation" and vice versa unless another entity is noted)	<b>Responsible Party</b>	<b>Authority</b>	<b>Comment</b>
4	Annual submission of service/days of week map	Republic	<a href="#">Board Order D2022044 ¶8</a>	
5	Coordinate recycling efforts with solid waste collection efforts to enhance recycling/recovery and meet state goals.	Republic	<a href="#">Board Order D2022044 ¶9</a>	State goals found at ORS 459A.010.
6	Make reasonable effort to resolve customer complaints on service, record written complaints and their disposition.	Republic	<a href="#">Solid Waste Collection Franchise App. §5.E.</a>	
7	Provide solid waste collection at least weekly.	Republic	<a href="#">BCC 23.410(1)</a>	23.410 provide some exceptions to this baseline requirement.
8	Provide and maintain adequate equipment to handle and dispose of or resource recover solid waste.	Republic	<a href="#">BCC 23.410(2)</a>	
9	Set rate structure.	Republic, County	<a href="#">BCC 23.505, 23.510</a>	Republic proposes rates, county reviews and approves. Rate adjustments to accommodate Refuse Rate Index adjustments may not need BOC approval if contemplated in prior BOC order.
10	If County wants to consider a new solid waste service, Republic will provide written proposal within reasonable period of time, including proposed methods and costs for the service.	Republic, County	<a href="#">Solid Waste Collection Franchise Agreement ¶7</a>	Also found in Order, paragraph 7.

**Commented [CJG2]:** This section should be deleted. The County could exercise such authority under the cited Code sections, but hasn't elected to do so since the 2010 franchise.

Collection Rights and Obligations				
	<b>Republic Right/Republic Obligation</b> (A Republic "right" is a County "obligation" and vice versa unless another entity is noted)	<b>Responsible Party</b>	<b>Authority</b>	<b>Comment</b>
11	Agreement to be amended by July 1, 2024 "to include same or similar terms as the forthcoming City of Corvallis collection franchise agreement, including, but not limited to, the same termination date, as well as concepts from the consensus-seeking process."	Republic, County	<a href="#">Solid Waste Collection Franchise Agreement</a> ¶2	This provision is also found in the BOC Order granting the franchise at section 2.
12	County may prevent interruption of service.	County	<a href="#">BCC 23.415</a>	If failure or interruption of service would create an "immediate and serious health hazard or serious public nuisance," the BOC, with 24-hours' written notice to Republic, authorize county personnel or other persons to temporarily provide the service.
13	County to protect franchise rights and interests granted Republic to achieve compliance with BCC Ch. 23.	County	<a href="#">Solid Waste Collection Franchise Agreement</a> ¶5	

## What legally can and cannot be conditions of any land use approvals

From Legal Issues Subcommittee – 11/14/2022

Benton County’s Development Code describes conditional uses as “land uses which may have an adverse effect on surrounding uses in a zone.” BCC 53.205. To lessen the adverse impacts, the county may “impose conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by the development activity, or to otherwise ensure compliance with the purpose and provisions of this code.” BCC 53.220.

A successful CUP application must demonstrate that compliance with all discretionary approval standards is “feasible.” *Meyer v. City of Portland*, 7 Or LUBA 184 (1983), *aff’d* 67 Or App 274 (1984). Conditions of approval are not a substitute for compliance with approval standards. *See, e.g., Hodge Or. Props. v. Lincoln County*, 194 Or App 50 (2004). Conditions of approval may be imposed to flesh out the details of how compliance will be achieved “and assure those criteria are met.” *Rhyne v. Multnomah County*, 23 Or LUBA 442, 447 (1992). Accordingly, conditions of approval must relate to approval criteria. *Harra v. City of West Linn*, 77 Or LUBA 136 (2018). If a condition of approval is imposed in order to comply with an approval criterion, substantial evidence in the record must support a finding that the condition is “likely and reasonably certain” to result in compliance. *Gould v. Deschutes County*, 227 Or App 60, 606-607 (2009).

The existing landfill and expansion area are located on property specially designated for a landfill site on the comprehensive plan and zoning maps. *See Benton County Zoning Map, BCC ch. 77 and Benton County Comprehensive Plan, Additional Adopted Documents, pg. 4.* The expansion requires CUP approval by the County under criteria **that focus on negative off-site impacts**. The applicant is required to demonstrate that the expansion (a) does not “seriously interfere” with uses on adjacent property, with the character of the area or with the purpose of the zone, and (b) does not impose an “undue burden” on public improvements or services available to the area. The county may find compliance with either criterion by establishing that compliance is feasible, subject to compliance with specific condition(s) of approval. If the applicant demonstrates feasibility of compliance, the County then has authority and obligation to impose conditions of approval to ensure compliance with these criteria. (For example, if limited hours of operation are necessary to establish that a use will not seriously interfere with uses on adjacent property, the decision maker may find that compliance with the criteria is feasible, subject to a condition that requires that the hours of operation be limited to a specified time period.) The decision maker does not have authority to impose conditions unrelated to the criteria. *Caster v. City of Silverton*, 560 Or. LUBA 250, 256-60 (2008). Attachment “A” to this memo provides further detail on the interpretation of the CUP criteria.

Under the CUP process, the County has jurisdiction over only the proposed expansion as requested in the CUP application. Existing and past operations are not within the County’s scope of review. Prior decisions are final and cannot be revisited or collaterally attacked as part of the CUP application for the expansion. *See, e.g., Beck v. Tillamook Cnty.*, 313 Or 148, 153, 831

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P2d 678 (1992). Any future application would have to be judged under the standards and criteria in effect at the time of the application.

Although both Corvallis Disposal Co. dba Allied Waste Services of Corvallis and Valley Landfills, Inc. are subsidiaries of the same parent company, the collection franchise for Benton County ("Benton County Collection Franchise") (as well as that of the City of Corvallis) is comprised of a separate operation which is distinct from the landfill operations. Neither collection franchise agreement constitutes a land use decision which are subject to review through a CUP process. See ORS 197.015(10).

Both the Benton County Collection Franchise and the Landfill Franchise Agreement are controlled by BCC Chapter 23. BCC Chapter 23 is not a land use regulation. See ORS 197.015(10). It, along with ORS 459.065(1)(a) and 459.085(1)(b) authorizes negotiation of franchise agreements for collection and disposal of solid waste. ORS 459.005(10) defines a franchise as "a franchise, certificate, contract or license issued by a local government unit authorizing a person to provide solid waste management services." A franchise is not a land use and the Benton County Development Code does not apply to franchise agreements. Because BCC Chapter 23 is a business regulation separate from the land use process, the County has no legal authority to require changes to the Benton County Collection Franchise or the Landfill Franchise Agreement in conjunction with the review of a CUP for the landfill expansion. Any changes to the Franchise Agreements must be negotiated between the parties. ORS 459.095(1) preempts local government's authority to adopt regulations or impose conditions that conflict with DEQ regulations.

**Question: Can Benton County prohibit solid waste generated outside the county from being deposited at Coffin Butte landfill?**

**Answer: No.**

The Commerce Clause, Art. I, §8, Cl. 3 of the U.S. Constitution, explicitly gives Congress the power "to regulate commerce with foreign nations, and among the several states, and with the Indian tribes." Implicit in this grant of authority is the prohibition on states (and local governments) against passage of legislation which discriminates or burdens interstate commerce. This is referred to as the "dormant Commerce Clause."

The dormant commerce clause was the basis of a decision by the United States Supreme Court in which it ruled unconstitutional a Michigan law barring out-of-state solid waste from being deposited in landfills located in Michigan counties.

In *Fort Gratiot Sanitary Landfill, Inc. v. Michigan Dept. of Natural Resources*, 504 U.S. 353, 112 S.Ct. 2019 (1992), Michigan enacted legislation which prohibited private landfill operators from accepting solid waste originating outside the county where the facility was located, unless otherwise authorized by the county's waste management plan. *Id.* at 353. In its challenge to that law, the landfill operator argued "that requiring a private landfill operator to limit its business

to the acceptance of local waste constituted impermissible discrimination against interstate commerce." *Id.* at 357.

As part of its analysis, the Supreme Court reexamined its holding in *Dean Milk Co. v. Madison*, 340 U.S. 349, 71 S.Ct. 295 (1951) in which the petitioner challenged a Wisconsin city ordinance "that made it unlawful to sell any milk as unpasteurized unless it had been processed at a plant 'within a radius of five miles from the central square of Madison.'" *Dean*, at 350. That local ban, as it applied to adjacent Illinois dairy producers, was found to be unconstitutional under the Commerce Clause. *Id.* But, significantly, the Court also emphasized the intrastate unconstitutionality of the ban:

The fact that the ordinance also discriminated against all Wisconsin producers whose facilities were more than five miles from the center of the city did not mitigate its burden on interstate commerce. As we noted, it was 'immaterial that Wisconsin milk from outside the Madison area is subjected to the same proscription as that moving in interstate commerce.

*Dean* at 345, n. 4.

*Fort Gratiot*, 504 U.S. at 362-63.

Relying on *Dean* and *Philadelphia v. New Jersey*, 437 U.S. 617, 98 S.Ct. 2531 (1978), the Court found Michigan's ban "unambiguously discriminate[s] against interstate commerce and [is] appropriately characterized as protectionist measures that cannot withstand scrutiny under the Commerce Clause." *Fort Gratiot*, 504 U.S. at 367-68.

Pursuant to the holding in *Fort Gratiot*, and the precedent cited by the U.S. Supreme Court, Benton County may not prohibit a private landfill operator from accepting solid waste from outside Benton County.



## Topic Areas Benton County Can or Cannot Regulate

### -- Summary Table --

*Draft 11/15/2022; Greg Verret, Benton Co. Community Development*

**Commented [VGJ3]:** This summary table is incomplete. Will be completed in subsequent draft.

<i>Topic Area</i>	<i>Primary Jurisdiction</i>	<i>County Allowed to Regulate?</i>	<i>Notes</i>
Wetlands	Department of State Lands	Yes, if the County has identified significant wetlands at the site in a wetland inventory adopted through the Statewide Planning Goal 5 procedure.	No significant wetlands are identified in the vicinity of the landfill on the County's adopted inventory.
Groundwater quality	DEQ	No [needs vetting]	County can regulate the impact of one land use on another.
Groundwater quantity	OWRD	No. Statute precludes.	County can regulate the impact of one land use on another.
Noise	DEQ	Yes. DEQ has adopted noise standards but legislature eliminated funding for enforcement in 1991. County may apply (only) those standards and enforce.	
Odors	DEQ	???	
Methane emissions			
Wildlife			
Stormwater runoff			
Point-source discharge to surface waters			

#### IV. Workgroup Recommendations

##### SECTION A: Develop Common Understandings

##### 1) A chronological history of key Coffin Butte Landfill topics

##### E) Reporting requirements

#	Authority	Reporting Requirement
1	<a href="#">Landfill Franchise Agreement:</a>	Operational Reports
2		Capacity Reports
3		Other Reports: copies relative to the operation of the landfill (Benton County & Valley Landfills, Inc., 2020)
4	<a href="#">OAR Chapter 340, Division 94: "(13) Records"</a> (Oregon Secretary of State, 2022)	(A) Daily listing by load of the volume or weight of solid waste received;
5		(B) Monthly and quarterly accumulations of amounts of daily waste received."
6	<a href="#">DEQ Solid Waste Permit Reporting Requirements</a> (GeoLogic Associates, 2021)	Operating Record
7		Daily amount of each waste type received and approved alternative daily cover
8		If applicable, every quarter, record the amount of each material recovered for recycling or other beneficial purpose.
9		Solid Waste Disposal Report/Fee Calculation form.
10		Washed Reporting (as part of the Opportunity to Recycle Reporting)
11		Retain copies of all records and reports for 10 years after their creation.
12		Update all records to reflect current conditions at the facility
13		Annual Environmental Monitoring Report (AEMR)
14		Statement of compliance
15		Annual leachate treatment report
16	Split sampling submittal Includes semiannual inspections, semi-annual groundwater monitoring (usually in April and October. Groundwater results are submitted annually (by 3/31). DEQ inspection results are submitted to VLI as they occur throughout the year.	
17		Quality Assurance and Quality Control (QA/QC)

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#	Authority	Reporting Requirement
18	<a href="#">DEQ NPDES Permit</a> (Geo-Logic Associates, 2021)	Coffin Butte staff performs weekly and monthly visual inspections of the stormwater and stormwater related infrastructure. Stormwater monitoring (taking samples and sending them to a third-party laboratory for analysis) is conducted four times a year during rainy season and reported to DEQ quarterly. DEQ also conducts its own inspections every five years or so.
19	<a href="#">Federal Fish and Wildlife Depredation Permit</a> (Geo-Logic Associates, 2021)	Annual Report
20	<a href="#">Oregon Title V Operating Permit for Site Air Emissions</a> (Geo-Logic Associates, 2021)	Bi-annual inspections; Coffin Butte also utilizes third-party technology to monitor landfill gas twice monthly. Results are reviewed in real time and submitted to DEQ twice a year. In addition, Coffin Butte submits monthly and semi-annual reports to DEQ on well readings, flare readings and other routine operations.
21	City of Corvallis wastewater disposal permit;	Subject to an annual inspection as well as weekly monitoring and monthly reporting to the City.
	City of Salem wastewater disposal permit.	Subject to an annual inspection as well as weekly monitoring and monthly reporting to the City.

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## IV. Workgroup Recommendations

### SECTION A: Develop Common Understandings

#### 1. A Summary of the County's current rights and obligations to Republic Services, and vice versa, surrounding:

##### 4. Interpretation and Deference

From: Legal Issues Subcommittee

Date: Oct. 28, 2022

Question: How are ambiguous terms interpreted and what deference is given to that interpretation?

Answer: The rules of statutory construction describe how ambiguous terms are to be interpreted and then, when an interpretation is made, as long as it is plausible, LUBA's standard of review is highly deferential to that interpretation.

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An ambiguous term is one that is typically undefined by statute or code. See *State v. Arnold*, 302 Or. App. 765, 772 (2020). If the term is then capable of two or more plausibly reasonable explanations, it is ambiguous. *Hoffman Const. Co. of Alaska v. Fred S. James & Co. of Oregon*, 313 Or 464, 470-71 (1992). When confronted with an ambiguous term, the decision-making body engages in a form of statutory construction.

*PGE v. Bureau of Labor and Indus.*, 317 Or 606, 611 (1993) and *State v. Gaines*, 346 Or 160 (2009) establish a framework for interpreting statutes based upon text, context, and legislative history. This same framework also applies to the interpretation of local code provisions. *Church v. Grant County*, 187 Or App 518, 527 n.4 (2003) (citing *Lincoln Loan Co. v. City of Portland*, 317 Or 192, 199 (1993)).

The text is the best evidence of intent: If a term is not defined in the code or is not otherwise a term of art, the courts in Oregon apply a "plain, ordinary meaning" rule, where they turn to the dictionary.

Context includes provisions in the same code section and within the regulatory scheme.

Legislative intent is determined by reviewing evidence of the intent of the legislative body (in this case, the Benton County Board of Commissioners) at the time of enactment.

Within the above framework, the governing body then reaches an interpretation of the ambiguous term, which then gives rise to the next question: How much deference is given to the governing body's interpretation?

The Oregon legislature and the state Supreme Court have both answered this question. ORS 197.829 reads:

(1) The Land Use Board of Appeals shall affirm a local government's interpretation of its comprehensive plan and land use regulations, unless the board determines that the local government's interpretation:

- (a) Is inconsistent with the express language of the comprehensive plan or land use regulation;
- (b) Is inconsistent with the purpose for the comprehensive plan or land use regulation;
- (c) Is inconsistent with the underlying policy that provides the basis for the comprehensive plan or land use regulation; or
- (d) Is contrary to a state statute, land use goal or rule that the comprehensive plan provision or land use regulation implements.

ORS 197.829 is framed within LUBA's jurisdiction because appeal of land use decisions are made to LUBA.

The Oregon Supreme Court applied and explained the breadth of this statute when it reviewed the City of Medford's interpretation of its development code: "[W]hen a governing body is responsible for enacting an ordinance, it may be assumed to have a better understanding than LUBA or the courts of its intended meaning. \* \* \* [T]hat assumption is equally relevant to \* \* \* the governing body's intention." *Siporen v. City of Medford*, 349 Or. 247, 258 (2010).

The Court found when a local government interprets its own development code, it is "entitled to the deference described in ORS 197.829(1)." *Id.* And the extent of that deference is substantial: [W]hen a local government plausibly interprets its own land use regulations by considering and then choosing between or harmonizing conflicting provisions, that interpretation must be affirmed, as held in *Clark v. Jackson County*, 313 Or. 508 (1992) and provided in ORS 197.829(1)(a), unless the interpretation is inconsistent with *all* of the "express language" that is relevant to the interpretation, or inconsistent with the purposes or policies underpinning the regulations.

(emphasis in original)

*Id.* at 259.

When LUBA assesses whether an interpretation is "plausible," the standard of review is "highly deferential" to the governing body and the "existence of a stronger or more logical interpretation does not render a weaker or less logical interpretation 'implausible.'" *Mark Latham Excavation, Inc. v. Deschutes County*, 250 Or. App. 543, 555 (2012), quoted in *Crowley v. City of Hood River*, 308 Or. App. 44, 52 (2020).

Thus, as long as the Benton County Board of Commissioners' interpretation of its development code is plausible, LUBA must defer to that interpretation. It should be noted, deference only applies to interpretations by the governing body (the Board of Commissioners) and not to interpretations of other county decision-makers, such as staff, the Planning Commission, or the Solid Waste Advisory committee.

In addition, the exercise of interpreting a code or statutory provision only applies if the term is ambiguous; deference can't be use to amend a code in the guise of an interpretation. *Central Eastside Indus. Council v. City of Portland*, 74 Or LUBA 221 (2016).

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## IV. Workgroup Recommendations

### SECTION A: Develop Common Understandings

#### 3) Other Entity Rights and Obligations

A Summary of the rights and obligations of other entities surrounding landfills, hauling, and sustainability initiatives, etc. The following table list questions for various federal, state, tribal, and local entities regarding rights and obligations. The table includes preliminary research relating to entity roles and authority. Each entity will be contacted and asked to respond to these questions, to help provide more information.

Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
1		What are DEQ's rights and obligations regarding groundwater associated with landfills?	459.248 Cleanup of hazardous substance contaminating ground water. In addition to any other authority granted by law, if the Department of Environmental Quality finds that ground water is contaminated with a hazardous substance originating at a land disposal site, the department may require cleanup of the hazardous substance pursuant to authority under ORS 465.200 to 465.545. As used in this section, "hazardous substance" has the meaning given that term in ORS 465.200. [1993 c.526 §3] (State of Oregon, 2021)	Republic Services, Oregon DEQ	<a href="#">ORS 459.248</a>	

2		<p>(6) Additional Requirements to Protect or to Monitor Potential Threats to Groundwater. When a person applies to construct a new or expanded landfill cell at a municipal solid waste landfill, the Department shall evaluate the need to provide protection to groundwater in addition to the requirements of 40 CFR, Part 258, Subpart D. The Department shall also evaluate whether the specific conditions at the site require an enhanced ability to monitor potential threats to groundwater in addition to the requirements in 40 CFR, Part 258, Subpart E. The evaluation shall be based on site-specific data, including but not limited to location, geography, hydrogeology and size of the site. To assist in the Department's evaluation, the applicant shall provide necessary relevant data. The Department may require a secondary leachate collection system, and/or leak detection system, or other design or technology providing equivalent protection to the environment if the Department determines that:</p> <p>(a) There is significant potential for adverse impact to groundwater from the proposed cell; or</p>	<p>Republic Services, Oregon DEQ</p>	<p><a href="#">OAR 340-094-0060</a></p>	
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			(b) Additional measures are necessary to provide adequate monitoring of potential threats to the groundwater.			
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Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
3			<p>Groundwater Monitoring and Corrective Action</p> <p>If a municipal solid waste landfill is subject to 40 CFR, Part 258 as provided in 40 CFR, §258.1, the owner or operator shall comply with groundwater monitoring and corrective action requirements in 40 CFR, Part 258, Subpart E. Consistent with those requirements, all municipal solid waste landfill owners and operators shall also comply with this rule: (See rule for more detail)</p>	<p>Republic Services, Oregon DEQ</p>	<p><a href="https://www.oregon.gov/DEQ/REGISTRATION/REGISTRATION/Pages/340-094-0080.aspx">340-094-0080</a></p>	

Other Entity Rights and Obligations						
Agency	Question	Right or Obligation	Responsible Party	Authority	Comment	
4		<p>(4) Sensitive Hydrogeological Environments. In addition to the requirements of 40 CFR, Part 258, Subpart B, no person shall establish or expand a landfill in a gravel pit excavated into or above a water table aquifer or other sensitive or sole source aquifer, or in a wellhead protection area, where the Department has determined that:</p> <p>(a) Groundwater must be protected from pollution because it has existing or potential beneficial uses (OAR 340040-0020); and</p> <p>(b) Existing natural protection is insufficient or inadequate to minimize the risk of polluting groundwater.</p>	<p>Republic Services, Oregon DEQ</p>	<p><a href="tel:340-094-0030">340-094-0030</a></p>		

Other Entity Rights and Obligations						
Agency	Question	Right or Obligation	Responsible Party	Authority	Comment	
6	What are DEQ's rights and obligations regarding leachate associated with landfills?	(3) Leachate. In addition to the requirements of 40 CFR, Part 258, Subpart D, any person designing or constructing a landfill shall ensure that leachate production is minimized. Where required by the Department, leachate shall be collected and treated or otherwise controlled in a manner approved by the Department. Leachate storage and treatment impoundments shall be located, designed, constructed and monitored, at a minimum, to the same standards of environmental protection as municipal solid waste landfills.	Republic Services, Oregon DEQ	<a href="#">OAR 340-094-0060</a>		
7	What are DEQ's rights and obligations regarding noise associated with landfills?	OAR 340-030-0035 established DEQ regulation of industrial or commercial noise levels. OAR 340-030-0110 states legislative funding for DEQ's oversight of noise control was defunded in 1991.		OAR <a href="#">340-035-0030</a> , OAR <a href="#">340-035-0110</a>		

Other Entity Rights and Obligations						
Agency	Question	Right or Obligation	Responsible Party	Authority	Comment	
8	What are DEQ's rights and obligations regarding odors associated with landfills?	<p>(4) Gas Control. No person shall establish, expand or modify a landfill such that:</p> <p>(a) The concentration of methane (CH<sub>4</sub>) gas at the landfill exceeds 25 percent of its lower explosive limit in facility structures (excluding gas control or gas recovery system components) or its lower explosive limit at the property boundary;</p> <p>(b) Malodorous decomposition gases become a public nuisance.</p>	Republic Services, Oregon DEQ	<a href="#">OAR 340-094-0060</a>		

10		What fugitive methane emissions standards and monitoring is required by the landfill?	<p>ii. Air Quality Permit  (1) All sources subject to this division must have an Oregon Title V Operating Permit that assures compliance by the source with all applicable requirements in effect as of the date of permit issuance. (Oregon Secretary of State, n.d.-a)</p> <p>340-239-0100  Landfills with Greater Than or Equal to 200,000 Tons of Waste-in-Place</p> <p>(4) The owner or operator of a landfill having greater than or equal to 200,000 tons of waste-in-place must submit an annual Waste-in-Place Report to DEQ pursuant to OAR 340-239-0700(3)(e) and an annual Methane Generation Rate Report, pursuant to OAR 340-2390700(3)(f), until the owner or operator submits a Closure Notification pursuant to OAR 340-239-0700(3)(a). The initial Waste-in-Place Report and Methane Generation Rate Report submitted by a landfill pursuant to sections (1), (2) or (3) shall satisfy this requirement for the initial year it applies to a landfill.</p> <p>340-239-0800</p>	Republic Services, Oregon DEQ	<a href="http://340-218-0010">340-218-0010</a> <a href="http://340-239">340-239</a>	
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Other Entity Rights and Obligations						
Agency	Question	Right or Obligation	Responsible Party	Authority	Comment	
		<p>Test Methods and Procedures</p> <p>When required as provided in OAR 340239-0100 through 340-239-0700, the owner or operator of a landfill must comply with the test methods and procedures for monitoring and measurements in this rule. (Oregon Secretary of State, n.d.-b)</p>				

Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
12		Can or should the County consider DEQ permitting topics when assessing the local land use application criteria?	The county does consider, and incorporates, DEQ's permitting into its conditions of approval. Typically, conditions of approval will include the requirement that the applicant obtain, and maintain, the relevant and required approvals and/or permits from other regulatory agencies, e.g., DEQ, DSL, ODOT. The condition recognizes the outside agency's jurisdiction over the issue and links the lawful status of Benton County's permit to the applicant's compliance with the agencies rules and regulations. If the applicant later violates, or is unable to meet the agency's, regulations, that failure would constitute a violation of a condition of Benton County's approval.			
13	Oregon Department of Fish and Wildlife (ODFW)	a. What restrictions does the landfill have regarding wildlife?	. (3) Endangered Species. In addition to the requirements of 40 CFR, Part 258, Subpart B, no person shall establish, expand or modify a landfill in a manner that will cause or contribute to the actual or attempted: (a) Harassing,	Republic Services, Oregon	<a href="#">OAR 340-094-0030</a>	



Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
14			harming, pursuing, hunting, wounding, killing, trapping, capturing or collecting of any endangered or threatened species of plants, fish, or wildlife; (b) Direct or indirect alteration of critical habitat which appreciably diminishes the likelihood of the survival and recovery of endangered or threatened species using that habitat. (Oregon Secretary of State, 2022)			
15	Oregon Department of State Lands (DSL)	What are the rights and obligations both retained and delegated by DSL, which are associated with landfills, hauling, and materials management?				

Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
16	Water Resource Commission	What are the rights and obligations both retained and delegated by Water Resource Commission, which are associated with landfills, hauling, and materials management?				
17	Oregon Department of Transportation (ODOT)	What are the rights and obligations both retained and delegated by ODOT, which are associated with landfills, hauling, and materials management?				

Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
19	Metro	What are the rights and obligations associated with landfills, hauling, and materials management?	a. Financial Reporting	Republic Services, Metro	<a href="#">Designated Facility Agreement, Metro Contract No. 936520</a> (Metro, 2019)	
20	City of Corvallis	What are the rights and obligations both retained and delegated by Corvallis, which are associated with landfills, hauling, and materials management?	a. Stormwater Discharge Reporting	Republic services, City of Corvallis	<a href="#">City of Corvallis Industrial Wastewater Discharge Permit No. 5</a>	
21			Solid Waste Collection Franchise, negotiations with the hauler heavily influence Benton County's agreement.	City of Corvallis, Republic Services	<a href="#">City of Corvallis Ordinance No. 2015-13</a>	

Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
22	City of Salem	What are the rights and obligations both retained and delegated by Salem, associated with landfills, hauling, and materials management?	a. Stormwater Discharge Reporting	Republic Services, City of Salem	<a href="#">City of Salem Wastewater Discharge Permit No. WD7577</a>	

**2. Summary of Rights and Obligations of Other Entities:**

**(a) State:**

- i. **Is DEQ prohibited from permitting another landfill west of the Cascades?** No.
- ii. **What does the “regional landfill” designation mean?** The State of Oregon implemented and began permitting “regional landfills” in the 1970s, as a more environmentally reasonable approach to solid waste management and disposal. Coffin Butte was designated a regional landfill in 1974 under a cooperative effort between Benton, Linn, Marion, Yamhill and Polk Counties. The plan noted that “individual communities will be unable to effectively solve the economic, social, scientific and technical problems of solid waste disposal” and that a “regional approach to solid waste disposal will be necessary” for the area’s economy. Today, these counties all depend upon Coffin Butte for responsible waste disposal through various contracts, requirements or other enforceable arrangements, which cannot be wished away.

Oregon Revised Statute (ORS) 459.005(23) defines a Regional Disposal Site as follows:

“Regional disposal site” means a disposal site that receives, or a proposed disposal site that is designed to receive more than 75,000 tons of solid waste a year from outside the immediate service area in which the disposal site is located. As used in this subsection, “immediate service area” means the county boundary of all counties except a county that is within the boundary of the metropolitan service district. For a county within the metropolitan service district, “immediate service area” means the metropolitan service district boundary.

The immediate service area of Coffin Butte is Benton County. To constitute a regional disposal site, Coffin Butte must have been designed to “receive more than 75,000 tons of solid waste a year” from outside Benton County. The definition set forth in ORS 459.005(23) was enacted in 1987, but at that time, limited the 75,000-ton threshold to solid waste received from commercial haulers. In 1993, the statutory definition of regional disposal site was amended to remove the reference to commercial haulers and has remained substantively unchanged since that time.

The 1994 annual report submitted by Benton County’s Environmental Health Department showed solid waste received at Coffin Butte from outside Benton County in 1993 totaled 250,655 tons. In every year thereafter, Coffin Butte has received solid waste in excess of 75,000 tons from outside Benton County.

While the statute uses the term “designed to receive” rather than “receives,” Coffin Butte has received more than 75,000 tons of out-of-county solid waste per year and the facility is clearly designed to accommodate those volumes. Its annual out-of-county solid waste volume exceeds the statutory threshold for meeting the definition of a regional disposal site.

Before the Oregon legislature defined regional disposal sites, Benton County established Coffin Butte as a regional disposal site through the land use process. The Board order dated May 15, 1974, declared “that the proposed Coffin Butte landfill be and is hereby approved as a regional sanitary landfill site as recommended by the Chemeketa Regional Solid Waste Program Report.” The staff report accompanying that order identifies Polk, Yamhill, Marion and Linn Counties as being served by the regional sanitary landfill. Benton County Comprehensive Plan Policy 6.5.8 identifies Coffin Butte as a “Regional Sanitary Landfill.”

The Chemeketa Report designated Coffin Butte as a regional landfill. Report, pg. 24. Pursuant to the Chemeketa Report, the region to be served by Coffin Butte included Polk, Yamhill, Marion, Linn and Benton Counties. In 1988, by Board Order, Benton County included Tillamook County among the counties to be served by Coffin Butte. In 1993-94, the Board authorized the inclusion of Lincoln County in the region.

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### **Charge B: Land Use Review Tasks**

1. **Create a common understanding document outlining which Development Code criteria are applicable to the review of a conditional use application for landfill expansion by reviewing:**
  1. 53.215 (Criteria)
  2. 77.305 (Conditional Uses)
  3. 77.310 (Review)
  4. 77.405 (DEQ)
2. **Review Chapters 50 and 51 for context, and then prepare a conceptual list of any other Development Code criteria the WORKGROUP recommends be applicable.**
3. **Developing recommended guidelines for interpreting any ambiguous provisions recognizing current statutes, regulations, case law, and County precedent, etc. In doing so, refer to Comprehensive Plan for policy guidance regarding interpretation of any ambiguous Development Code provisions (see, BCC 50.015,) and Review the Planning Commission comments made during its last review of Republic Services' CUP application for context. Examples for consideration include:**
  1. The phrase, "Other information as required by the Planning Official" 77.310(e)
  2. The terms found in Section 53.215, e.g.
  3. "seriously interfere"
  4. "character of the area"
  5. "purpose of the zone"
  6. "undue burden"
  7. "any additional criteria which may be required for the specific use by this code.
  8. Other: \_\_\_\_\_
4. **Develop protocols for the timely and broad distribution of CUP-related information to the public, other governmental entities, and internal committees, groups, and divisions.**

## BACKGROUND

From Benton County Staff Memo 10/5/22

### *How does a land use decision get made in Benton County?*

1. Application submitted:
  - a. form;
  - b. fee;
  - c. documentation to support a demonstration of compliance with the applicable criteria in the Development Code (and, in some instances, in state law).
2. County must determine whether application is complete within 30 days. If Planning Official determines application is “incomplete” (i.e., missing any of the documentation required by “c.” above) must notify applicant within 30 days of application submittal.
  - a. Once application is complete or applicant directs application to proceed without the missing information, 150-day clock starts.
3. 150-day clock<sup>1</sup> starts. County must reach a final decision within 150 days after county planning official deems the application complete.
4. The County mails notice to nearby property owners and other interested parties identifying a public comment period. The County also publishes notice in the newspaper.
5. Staff researches and prepares a report evaluating the proposal relative to the applicable criteria.
6. Depending on type of application, Planning Official either issues a decision or recommendation to Planning Commission.
  - a. If Planning Official issues a decision, notice of decision is mailed as in #4.
  - b. 14-day appeal period; if no appeal, decision is final.
7. If appealed, or for land use applications that go directly to the Planning Commission, a Planning Commission hearing is scheduled. Notice of the hearing is mailed as in #4, above.
8. Planning Commission receives staff presentation, applicant presentation, public testimony, applicant’s rebuttal.
  - a. Planning Commission may ask questions of any testifiers.
  - b. Planning Commission may (and if requested by any participant must) keep record open for additional written testimony or may continue hearing for additional oral testimony.

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<sup>1</sup> Discussed further in separate section below.



- c. Planning Commission deliberates, votes to approve or deny the application.
- 9. Notice of Planning Commission decision is sent to, at minimum, all participants. Practice has been to mail as in #4, above.
  - a. 14-day appeal period.
  - b. If no appeal, decision is final decision
- 10. If appealed, Board of Commissioners hearing is scheduled. Process is the same as for Planning Commission hearing (#9, above)
- 11. Board of Commissioners decision is final local decision, and must be issued within 150-days after application is deemed complete.
- 12. Notice of Board of Commissioners decision mailed to, at minimum, all participants.
  - a. 21-day appeal period
  - b. Appeal is to the Oregon Land Use Board of Appeals and from there to the Oregon Court of Appeals and then to the Oregon Supreme Court. Federal constitutional issues (such as regulatory takings of property without just compensation) may be appealed to the U.S. Supreme Court.

***Decision-making Process for Planning Commission or Board of Commissioners***

- A) Criteria applicable to the land use proposal are identified.
  - County criteria are all within the Benton County Development Code
  - Some instances where state rules or statute are directly applicable; examples:
    - i. Exceptions to a statewide planning goal
    - ii. Expansion of an urban growth boundary
- B) Decision-makers consider available evidence in determining whether the proposed use complies with the applicable criteria. When the criteria are subjective, this analysis (either explicitly or implicitly) involves interpretation of what the criteria mean. Evidence and testimony can address the interpretation of the criteria as well as whether the proposal meets the criteria.
  - Staff research and analysis
  - Public testimony, including from other agencies
  - Members of the Planning Commission or Board of Commissioners are discouraged from doing their own research as that can lead to issues or perception of bias or ex parte contact.
- C) A motion is made; deliberations (oral discussion of the matter) are held by the decision-making body, including reasons why the proposal does or does not comply with the applicable criteria, and a vote is taken. If the motion fails, another motion is made, and so on, until a motion approving or denying the application passes.

**Overview of the Land Use Framework.** Under Oregon land use law, an application for a land use permit is considered “quasi-judicial” (as opposed to legislative) because the local government is judging whether an applicant has submitted sufficient evidence to demonstrate compliance with the applicable criteria. As part of the quasi-judicial process, an applicant is entitled to an impartial decision-maker, the ability to present and rebut evidence, and a written decision applying the adopted criteria to the facts subject to review by the Oregon Land Use Board of Appeals (LUBA). A local government may not apply criteria or policy choices outside the applicable code criteria. ORS 215.416(8)(a).

An applicant is statutorily entitled to approval or denial of its application based upon the standards and criteria in effect at the time of the application (this requirement is called the “no changing-of-the-goalposts” rule). ORS 215.427(3). If the local government desires to change the applicable criteria, it must first go through the post-acknowledgement plan amendment (PAPA) process, which is subject to notice; review by the Land Conservation and Development Commission; compliance with the comprehensive plan and Statewide Land Use Planning Goals; and the public hearing and adoption process. Such amendments are applicable to applications after the date the new regulations become effective, but can’t be retroactively applied to prior approvals or pending applications filed prior to the effective date of the amended regulations.

From Benton County Staff Memo 10/5/22

*Subjective/Ambiguous Terms*  
**Conditional Use Review:**

**The Terms Found in BCC 53.215.** As noted above, all of the terms in BCC 53.215 have to be interpreted under the rules of statutory construction discussed above. The legislative and decisional history included on the Work Group website indicates that the purpose for creation of the Landfill Site zone was to recognize the existence of the landfill and to support its continued operation.

There are typically two types of allowed uses in a particular zone: uses permitted outright, subject to siting and occasionally design standards; and conditional uses, which are uses that tend to be higher-impact and are reviewed to ensure that any negative impacts can be mitigated. Accordingly, a landfill expansion by the County is approvable under criteria that focus on potential off-site impacts: The applicant is required to demonstrate that the expansion (1) does not “seriously interfere” with uses on adjacent property, with the character of the area, or with the purpose of the zone,

**Commented [CVM4]:** Attribution?

**Commented [CJG5R4]:** I think this whole section can be deleted given the more detailed county land use review and interpretation sections.

**Commented [VGJ6R4]:** I'm not certain this particular info has been covered elsewhere.

and (2) does not impose an “undue burden” on public improvements or services available to the area. The decisional history posted on the Work Group website indicates that these criteria should be considered in the context of the existing operation—e.g., whether a proposed expansion creates impacts that exceed or are more significant than the impacts of the existing landfill operation.

*53.215 Criteria. The decision to approve a conditional use permit shall be based on findings that:*

*(1) The proposed use does not seriously interfere with uses on adjacent property, with the character of the area, or with the purpose of the zone;*

The term “seriously interfere” is crucial to the determination of whether a proposed conditional use can be approved, and it is a quite subjective term that must be interpreted in the context of a specific application based upon the evidence in the record. The term is not defined in Benton County Code. These criteria are locally derived and thus this term is not defined by state law or case law. Over at least the past twenty years, “seriously interfere” has generally been interpreted as: does the proposed use make it difficult to continue uses on adjacent property; would it create significant disruption to the character of the area; would it conflict, in a substantive way, with the purpose of the zone. “Seriously interfere” has been applied as meaning more than an inconvenience or irritation to neighboring property residents, but is a lesser threshold than rendering impossible the uses on adjacent property.

Hypothetical examples: A building that obstructs a portion of the view from a neighboring residence typically is not, by itself, serious interference. A noise-generating use such as an auto-repair shop locating next to an established meditation retreat center could be considered as seriously interfering with the use on the adjacent property if the noise could not be mitigated and would make it difficult to continue the land use on the neighboring property.

Note that staff recalls no instances in which the potential or perceived effect on property values was a primary element in the determination of whether a proposed use “seriously interferes.”

In the findings adopted by the Planning Commission in the matter of the 2021 conditional use permit for expansion of Coffin Butte landfill (File No. LU-21-047; see attachment), the meaning of the term “seriously interfere” is not explicitly addressed. The Planning Commission identified a number of impacts to adjacent properties and the broader area and did not find it necessary to parse the term “seriously interfere” in order to reach a conclusion that the proposal did seriously

interfere with uses on adjacent property, the character of the area and the purpose of the zone. Nonetheless, the Planning Commission's findings are useful to this charge topic in that they identify the types of concerns that are likely to be important in considering whether any future landfill-related conditional use permit application can be approved. A future application would be formally evaluated on its own merits, not in relation to the previous application, but the Planning Commission's findings provide information as to what applicants and decision-makers in the future would do well to consider.

*(2) The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area; and*

The term "undue burden" is not defined and also must be interpreted in the context of a specific application based upon the evidence in the record. In practice, it has been applied generally as follows. A burden on public infrastructure and service is clearly "undue" if it overloads the system or causes significant degradation in terms of quality, effectiveness or timeliness of infrastructure or service. Lesser burdens may also be "undue" if the effect of the added burden is to jeopardize the health, safety or welfare of other people. Burdens that have typically not been considered "undue" include those that can be mitigated through planned improvements (particularly in cases where road improvements will be funded by the applicant as a condition of approval); burdens that are incremental service additions consistent with that generated by other uses in the area; burdens that fall below an established threshold (such as road classification standards that are tied to traffic levels).

*(3) The proposed use complies with any additional criteria which may be required for the specific use by this code.*

"Any additional criteria which may be required for the specific use by this code."

If the proposed expansion implicates other code provisions in effect at the time of application, then those code provisions would apply. This is not a license to apply unadopted criteria that are not in the code at the time of application or to require information about a topic that is not relevant to compliance with an applicable criterion.

***Not cited in the charge but relevant:***

***53.220 Conditions of Approval.*** *The County may impose conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by*

*the development activity, or to otherwise ensure compliance with the purpose and provisions of this code. On-site and off-site conditions may be imposed. An applicant may be required to post a bond or other guarantee pursuant to BCC 99.905 to 99.925 to ensure compliance with a condition of approval. Conditions may address, but are not limited to: [list of 12 topic areas]*

Conditions of approval are limited to those that are necessary in order for the proposed use to comply with applicable criteria.

***Provisions in the Landfill Site Zone Regarding a Conditional Use Application:***

***77.305 Conditional Uses Approved by the Planning Commission.*** Any proposal to expand the area approved for a landfill within the Landfill Site Zone is allowed by conditional use permit approved by the Planning Commission. The Benton County Environmental Health Division and the Solid Waste Advisory Council shall review and make recommendations through the Planning Official to the Planning Commission regarding the Site Development Plan Map and narrative. The Oregon Department of Environmental Quality shall be given an opportunity to review and comment on any proposal which may affect this site. [Ord 261, Ord 90-0069]

This section directs the Solid Waste Advisory Council (SWAC) to review and make recommendations; however, the code does not specify what criteria or considerations that recommendation should be based on. There are several options for how SWAC could develop its recommendation. One option is that SWAC could review the Site Development Plan Map and narrative relative to the conditional use criteria in BCC 53.215, the same as the Planning Commission would do. A second option would be to review the site plan and narrative relative to BCC 77.310; in other words, confirming that the topic areas in 77.310 are adequately described. A third option is to consider the site plan and narrative from the perspective of meeting the County's objectives related to solid waste management, as articulated in Benton County Code Chapter 23 (Solid Waste Management). This third option is staff's recommendation. Option 1 would put SWAC into the realm of the Planning Commission, which is the body with land use expertise and tasked with considering the BCC 53.215 criteria, when SWAC's expertise is on questions of solid waste management. Option 2 limits SWAC's role and fails to benefit the County by SWAC's expertise. Option 3 is consistent with SWAC's overall role as articulated in its bylaws.

The workgroup may wish to provide a recommendation on the general purpose of SWAC's review of a conditional use permit and may also wish to recommend more specific questions or considerations for SWAC in such reviews. In the case of LU-21-047, staff provided SWAC with suggested questions to consider in their review of the

proposal, emphasizing that SWAC was free to use or not use the questions to structure their review. Those questions were:

1. Is the proposed expansion consistent with long-term plans for the landfill site?
2. Is the proposal consistent with principles of responsible solid waste management?
3. What (solid waste management) benefits do you see to the proposed expansion?
4. What potential (solid waste management) negative effects do you see? Are there ways to minimize or mitigate those effects, or do you think the proposal should be rejected?

It should be noted that any review criteria or considerations that SWAC uses to evaluate the Site Development Plan and narrative are not conditional use criteria upon which the Planning Commission can base its decision. In conclusion, an amendment to the Development Code may be necessary in order to clarify the intended role of SWAC in reviewing a landfill conditional use permit.

#### **77.310 Conditional Use Review.**

- (1) *The applicant for a conditional use permit shall provide a narrative which describes:*
  - (a) *Adjacent land use and impacts upon adjacent uses;*
  - (b) *Future use of site as reclaimed, and impacts of that reclamation on adjacent uses;*
  - (c) *Provisions for screening of the site from public roads and adjacent property;*
  - (d) *Egress and ingress; and*
  - (e) *Other information as required by the Planning Official.*
- (2) *A site plan map shall accompany a conditional use permit application. The map shall contain at least a scale, north arrow, assessor map numbers, location of existing landfill, access, proposed alteration, leachate treatment or monitoring areas surface water systems, and existing and proposed screening (location and types of materials). A statement shall be placed on the map that the site plan map and narrative together are considered as the Site Development Plan. A signature block shall be included for the date the approval is given and the signature of the Planning Official indicating approval.*
- (3) *A conditional use permit application shall contain a reclamation plan describing present efforts and future reclamation plans related to the site.*
- (4) *The following environmental and operational considerations shall be reviewed prior to changes in the documents referenced above:*
  - (a) *Geology;*
  - (b) *Groundwater and surface water;*
  - (c) *Soil depth and classification, and erosion control factors;*
  - (d) *Slope; and*

(e) Cover material availability, transportation, and use.

These provisions are less subjective than the provisions discussed earlier but there is still room for interpretation in terms of, for example, what should be included in a narrative to adequately describe the items listed in (1)(a) through (d). Recommendations from the workgroup in this area would be helpful. The workgroup could also recommend “other information” that the Planning Official should require in order to have an adequate understanding of the proposal. Note that the Planning Official can only require information that is relevant to applicable criteria. [Any committee recommendations would have to be so limited. See detailed discussion.](#)

**Commented [CJG7]:** I didn't delete this, but I am wondering if this section is even necessary given the more detailed discussion below.

**Question:** Pursuant to BCC 77.310(1)(e), to what extent may the Planning Official require additional information from an applicant for a Landfill Site Zone Conditional Use Permit?

**Answer:** Only “other information” that relates to the approval criteria for a conditional use permit may be required under BCC 77.310(1)(e).

**Discussion:** An application to expand the landfill disposal area requires a conditional use permit. BCC 77.305. The criteria for conditional use permits are set forth in BCC 53.215, which states:

53.215 Criteria. The decision to approve a conditional use permit shall be based on findings that:

- (1) The proposed use does not seriously interfere with uses on adjacent property, with the character of the area, or with the purpose of the zone;
- (2) The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area; and
- (3) The proposed use complies with any additional criteria which may be required for the specific use by this code.

**Commented [G8]:** I don't read BCC 53.215(3) as allowing the County to treat the narrative required by BCC 77.310 as “additional criteria”. BCC 77.310(e) allows the planning official to request “other information” that relates to the approval criteria for purposes of completeness. It doesn't allow the criteria to be expanded with that information. My reading of BCC 77.310 does not indicate that the County has added ‘criteria’ for approval of CUP in the landfill zone beyond 53.215(1) and (2). Unless the Board adopts “additional criteria” for CUP's, 53.215(3) is not implicated at all and 53.215 does not allow consideration of criteria beyond (1) and (2).

BCC 53.215(3) is an application requirement; not an approval criterion.

It permits the Planning Official to ask the applicant to provide “other information.” But, any “other information” must relate to the approval criteria set forth in BCC 53.215.

**Commented [CVM9R8]:** Agree the 77.210 elements do not establish additional criteria. The approval criteria are found in BCC 53.215. What the highlighted sentence was intended to state is the additional information submitted pursuant to 77.310 would be evaluated within the 53.215 approval criteria framework.

In *Murphy Citizens Advisory Committee v. Josephine County*, 25 Or LUBA 312 (1993), petitioner asserted information required by the local code had not been submitted by the applicant and that such omission rendered the application deficient. *Id.* at 320. LUBA rejected the argument, saying:

**Commented [CJG10R8]:** I agree with Ginny that this sentence is confusing. I don't think it adds anything to the analysis so I recommend deleting.

**Commented [VGJ11R8]:** I find the whole paragraph discussing 53.215(3) to be confusing. The point of 53.215(3) is to ensure that if there are other approval criteria, such as the conditional use criteria in the EFU zone, they are applied to the decision. I don't think 53.215(3) relates to the question of “other information” as stated in Chapter 77.

Thus, in order for a petitioner to obtain reversal or remand of a challenged decision because required information is missing from the subject application, petitioner must argue that the missing information is not found elsewhere in the record, and must explain why the missing information is necessary to determine compliance of the proposed development with applicable approval standards. In this case, petitioner does not relate the allegedly missing site plan information to specific requirements of JCZO 15.218(1)-(24), does not respond to intervenor's argument and citations that some of the allegedly missing information is found elsewhere in the record, and does not explain how the missing information prevents determination of compliance with applicable site plan or conditional use permit approval standards. (emphasis added)

*Id.* See also *Venable v. City of Albany*, 33 Or LUBA 1 (1997); *Hopper v. Clackamas County*, 15 Or LUBA 413, 418 (1987); *Hershberger v. Clackamas County*, 15 Or LUBA 401, 408-09 (1987).

With any land use application, one of the roles of the Planning Official is to identify information that is needed for the decision maker to determine whether the applicable criteria have been met. As emphasized by LUBA, such information must relate to the approval criteria.

The identification of "other information" most commonly occurs during the first 30 days after an application has been submitted. This timeframe is when the Planning Official reviews the initial application to determine whether it is complete. If the Planning Official asks the applicant to submit additional information, it can be for two purposes: (1) to provide planning staff with enough information to allow it to review and render a decision or recommendation. *Sperber v. Coos County*, 56 Or LUBA 763, 770 (2008); see also *Frewing v. City of Tigard*, 59 Or LUBA 23, 31 (2009); or (2) "to allow or request that the applicant submit additional information believed necessary to satisfy the applicable approval standards." *Frewing* at 31.

In either case, the applicant may choose to provide all, some or none of the identified information. The failure to provide identified information is not grounds for denial of the application. If the applicant fails to provide additional information, or provides inadequate information, the issue then becomes an evidentiary matter. Once the application has been deemed complete (by staff or the applicant upon notification to county of refusal to submit additional information), staff reviews the application, based on the submitted information, and makes a determination or recommendation to approve or deny the application, based on whether the applicant has submitted substantial evidence sufficient to meet the approval criteria. This process is now codified for counties in ORS 215.427.

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If the application is one that goes to the Planning Commission, it is the job of the planning commission to determine whether to approve or deny the application based upon whether the evidence submitted into the record during the hearing process demonstrates that the applicant has complied with each and every criterion for approval. The County's job as the trier of fact is

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determine whether a preponderance of the evidence supports approval under the applicable criteria. *Friends of Yamhill County v. Yamhill County*, 351 Or 219, 246-247 (2011). If the decision is to approve the application, there must be substantial evidence in the record demonstrating every approval criterion has been met.

On appeal, LUBA reviews a County decision to determine whether it is supported by substantial evidence in the record. "Substantial evidence in the record" is evidence that a "reasonable person" would rely on to make a decision when considering all of the evidence in the record including any conflicting evidence. See e.g., *Younger v. City of Portland*, 305 Or 346, 353-57, 752 P2d 262 (1988). LUBA will uphold the local government's evidentiary determination if its conclude that "a reasonable decision maker could decide as the local government did in view of all the evidence in the record," i.e., evidence that supports and detracts from the decision.

**77.405 Review of DEQ Permits.** *Copies of materials submitted to the Oregon Department of Environmental Quality as a part of any permit process shall be submitted to the Planning Official. If at any time the Planning Official determines that permit application materials or conditions of DEQ permit are judged to merit public review, a Public Hearing before the Planning Commission shall be scheduled.*

This provision is unusual and a bit unclear. How the Planning Official would determination that "permit application materials or conditions of DEQ permit are judged to merit public review" is subjective. Furthermore, the kind of public hearing is not specified. Typically, a public hearing results from an application submitted by a property owner which is then reviewed relative to code criteria and approved or denied. But this code provision does not state that the property owner shall submit an application or that this provision constitutes a re-opening of the previous land use approval. The code may intend that a public hearing (more of a public conversation?) be held in which the terms of the DEQ permit are discussed but with no land use action to occur. Or the code may be obliquely stating that if the Planning Official determines that what the applicant proposes to DEQ or what DEQ permits is different from what the County has given land use approval to, then an application for a revised conditional use permit is required. This is already required by BCC 53.225<sup>2</sup>, but the lack of cross-reference or use of similar terminology in section 77.405 is confusing. Staff has not had opportunity to carefully consider the language of this section, but initial interpretation is that 77.405 simply requires new review of a

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<sup>2</sup> 53.225 Modification of a Conditional Use Permit. An original applicant or successor in interest may request that a conditional use permit be modified if a change in circumstance has occurred since approval which would justify a change in the permit. Such application shall be processed as a new request for a conditional use permit.

conditional use permit if, as described in 53.225, the use originally approved has been modified.

Workgroup recommendation on how public review of DEQ permit requirements could most benefit the public would be helpful.

***Do statements in a land use application, in which the applicant says they will do certain things, become binding?***

Statements made by the applicant do not become conditions of approval unless those statements are specifically included or incorporated, directly or by reference, into the final decision. While a statement that is not incorporated as a condition of approval is not part of the final *decision* it is still part of the *record*. Not everything in the record is part of the decision.

In *Hood River Valley Residents' Committee v. City of Hood River*, 33 Or LUBA 233 (1997) a Conditional Use application included a statement of how it would comply with a grading and contour approval criteria. While the specific assignment of error alleged the criteria was not supported by substantial evidence, LUBA ruled that allegation was immaterial: "While the planning commission adopted a finding very similar to the quoted application statement, the city council did not incorporate that finding in its decision. Petitioner has not established that the statement it described as a finding is, in fact, a part of the city's final decision. Thus it is immaterial whether the identified statement is supported by substantial evidence in the record." *Id.* at 234-35.

Additionally, in *Todd v. Columbia County*, 24 Or LUBA 289 (1992), one question posed was whether a local code provision had been interpreted in the final decision. LUBA found that, yes, county staff had interpreted the code provision at issue, but that "portion of the staff report was not incorporated into the board of county commissioners' decision." *Id.* at fn 3. As a result, LUBA found "the county has not interpreted and applied [its code] and this decision must be remanded." *Id.* at 293.

A final decision must include all conditions the county wishes to impose on an applicant. Failure to include a condition, or finding, or interpretation in the final decision means the missing element is unenforceable or may not be relied upon when evaluating permit compliance. And, just to clarify: something can be included in the final decision either by direct statement or by reference. Both will suffice to bring a necessary component from the record into the decision. For example, a condition of approval requiring the applicant to establish the proposed use "as described in the

application” binds the applicant to establishing the use in the manner they described in their application. That said, it is best practice for the approving authority to specifically identify parameters or other details which the applicant has proposed and which are particularly important to ensure that the use, over time, complies with the review criteria. For example, if limited hours of operation are necessary to mitigate interference with surrounding uses and the applicant states that the hours of operation will be 9am to 5pm, it is best to explicitly state those hours as a condition of approval.

**2002 Memorandum of Understanding between Benton County and Valley Landfills, Inc.**

[www.co.benton.or.us/sites/default/files/fileattachments/community\\_development/page/8136/landfill\\_mou\\_2002.pdf](http://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/landfill_mou_2002.pdf)

**Question:** How does the 2002 Memorandum of Understanding fit into the Workgroup considerations?

**Answer:** The 2002 Memorandum clarifies authorization for landfill activities within the Landfill Zone and establishes a point in time at which the landfill was operating in compliance with state and local requirements.

**Discussion:** In 2002 Benton County and Valley Landfills, Inc. (VLI) executed a Memorandum of Understanding (MOU) Relating to Land Use Issues. The purpose of this document was to clarify the parties’ understanding of how VLI could expand landfill activities into cells within the landfill area.

The MOU was created because knowledgeable, involved personnel, at both Benton County and VLI had changed such that little institutional memory remained to guide land use issues at the landfill site. More specifically, without knowledgeable individuals familiar with the history of the various land use approvals, it was unclear whether VLI had authority to expand landfill disposal operations within either the landfill areas or the landfill zone. The MOU clarified those questions.

Specifically, the MOU states:

1. VLI “is entitled to conduct all forms of landfill activities, including but not limited to the placement of solid waste, consistent with State and local regulations with the 194 acres as designated within the Landfill Zone which is north of Coffin Butte Road.” MOU, pg. 3, §(16)(a).
2. VLI “will not conduct, without the prior approval of Benton County and the State of Oregon, the placement of solid waste on the approximate 56 acres, within the landfill zone which it owns south of Coffin Butte Road.” MOU, pg. 3, §(16)(b).
3. “Since 1996, Benton Co. has signed the Land Use Compatibility Statements, hereinafter referred to as (LUCS), indicating to DEQ that the landfill was being operated in compliance with Benton County Ordinances.” MOU, pg. 3, §14.

4. “Based upon the LUCS statement, DEQ has reviewed and found that the operations of the landfill are in compliance with the state law. The last approval from DEQ was granted in 2000.” MOU, pg. 3, §(15).

5. The MOU was reviewed by the Solid Waste Advisory Council (SWAC) on Aug. 27 and Sept. 24, 2022. The Benton County Board of Commissioners considered the MOU at its Nov. 5, 2002 meeting at which the MOU was “placed on the agenda \* \* \* for public discussion prior to signature.” MOU, pg. 4, §§(16)(g) and (h).

Thus, the MOU acknowledges VLI’s authority to utilize existing or future cells within the 194-acre landfill area north of Coffin Butte Road without additional approval from Benton County. Conversely, County and State approval are required before VLI may dispose of waste on the 56 acres in the Landfill Zone south of Coffin Butte Road. Related landfill activities such as collection and management of leachate are permitted, without additional County approval, on the 56 acres south of Coffin Butte Road. MOU, pg. 3, §(16)(c).

Additionally, section 14 states Benton County signed LUCS documents verifying the landfill was operating in compliance with local ordinances. DEQ acted upon that verification to find Coffin Butte was operating in compliance with local land use regulations and state laws and regulations as of 2000. Sections 14 and 15 of the MOU provide evidence that there were no land use violations at the landfill as of November 5, 2002, when the Benton County Board of Commissioners executed the MOU.

#### **150-Day Time Limit on Land Use Application Review**

The following was prepared to provide an understanding of the legal requirements for the County to process a land use application and to address the question that has arisen as to whether the public can provide input to the determination of whether an application is complete.

#### **Legal Requirements.**

In Oregon, the statutory time limit for a local government to reach a final decision on a land use application is specified by ORS 215.427<sup>3</sup> [restated in Benton County Development Code BCC 51.535]. That time limit is 150 days<sup>4</sup> from the time that an application is deemed complete, which must occur within the first 30 days after the application was filed. Pursuant to the Benton County Development Code, the determination of completeness is made by the Planning Official.

<sup>3</sup> The governing body of a county or its designee shall take final action on all other applications for a permit . . . including resolution of all appeals under ORS 215.422 . . . within 150 days after the application is deemed complete.

<sup>4</sup> The time limit is 120 days if the application regards mineral aggregate extraction or if the property is located within an urban growth boundary.

An application for land use action may be submitted at any time, following submittal procedures put in place by the County. Once an application is submitted, the Planning Official shall determine whether the application is complete and shall, within 30 days of the application's filing, notify the applicant of exactly what information if any is missing from the application. If the application was deemed incomplete and the applicant subsequently makes the application complete, then the 150-day clock starts on the date the additional information was submitted. If the applicant submits in writing that they will provide no additional information, then the clock starts on the date of that submittal.

What constitutes a complete application is in some ways a factual determination but can also involve subjective determinations, depending on the application and what impacts may need to be mitigated. Clearly, if the applicant fails to address one of the applicable criteria, the application is incomplete. Less clear is when the applicant addresses all the criteria but falls short of providing substantial evidence, in the Planning Official's determination. In either case, the Planning Official may determine that application is incomplete. If the applicant disagrees, there is no appeal process; the applicant may simply state that no additional information will be submitted. At that point, whether the application is "complete" or not is moot; the land use review process must commence.

If the County does not take final action on an application within 150 days of the date the application is deemed complete, "the applicant may elect to proceed with the application according to the applicable provisions of the county comprehensive plan and land use regulations or to file a petition for a writ of mandamus."<sup>5</sup> In other words, the applicant "may either elect to continue with the application process or file a petition for writ of mandamus to compel the county to approve the application. Where the applicant elects to continue with the application process after the deadline, a subsequent county decision approving or denying the application is not void or moot because it is issued after the applicable deadline."<sup>6</sup> Upon filing a petition for writ, jurisdiction for all decisions regarding the application, including settlement, shall be with the circuit court.<sup>7</sup>

Of course, whether the application is "complete" or not, the absence of certain information from an application may lead to a determination by the decision maker

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<sup>5</sup> ORS 215.429

<sup>6</sup> Oregon Land Use Board of Appeals opinion in *Davis v. Polk County, 58 Or LUBA 1 (2008)*.

<sup>7</sup> ORS 215.429

(Planning Official, Hearings Officer, Planning Commission or Board of Commissioners) that one or more specific criteria are not met. The purpose of the 30-day completeness review is to attempt to provide the decision maker with the necessary information to make an informed decision; it does not *ensure* that the information provided is adequate.

The applicant may choose to pause the 150-day clock by stating in writing the time period for which they want the clock paused. The maximum allowable duration of any or all such pauses (or extensions of the 150-day time limit) is 215 days, for a total time of 365 calendar days from the time an application is deemed complete.

**Implementation and Practice Considerations.**

*Is there opportunity for public input to the determination of whether an application is complete?*

There are no statutory or code requirements for public input on whether an application is complete. “Completeness” does not indicate that the applicant has satisfied the applicable approval criteria; it is intended to determine whether the applicant has submitted sufficient information for the decision maker to evaluate the application against the approval criteria. Even if the Planning Official determined an application incomplete and requested additional information, the applicant is not required to provide that information if it does not believe it is necessary. If members of public believe that the information submitted is not adequate to demonstrate compliance with the approval criteria, the public hearing process is intended to ensure that the public can assert that position on the record before the decision maker.

The determination of whether an application is complete must happen fairly quickly. With a complex application, such as a landfill expansion, reviewing the submitted materials and the applicable criteria in sufficient detail to determine whether the application is complete often takes substantial time. Because of this, having guidelines identified prior to receiving an application is preferable to having to review an application once it has been submitted. Benton County would greatly value the BCTT Workgroup’s insights identifying elements that should be considered in deeming that a land use application concerning the landfill is “complete.”

The process at Benton County is an internal review process conducted by professional planning staff, augmented by input from other agencies relevant to a given land use application. The Development Code does not preclude the Planning Official from obtaining input from the public during this process. The 30-day window for the determination presents challenges to obtaining and meaningfully reviewing public

input and incorporating it into the determination, but the public could be given opportunity to comment during this time. Hypothetically, if the County was prepared for and expecting a particular land use application, it could, upon receipt of the application, post the submitted materials, send email notification to members of the public, and set a time certain in which members of the public would be welcome to submit comments on the completeness of the materials.

The window for public comments would necessarily be fairly narrow. There would be no obligation on the part of the Planning Official to utilize or respond to such comments, but the comments could provide a useful, broader vetting of the application. Staff has concerns that the 30-day time frame may be too short for meaningful public review and comment and that public comments could range well beyond the question of completeness which would complicate making use of such comments in the completeness determination. For these reasons, staff encourages the BCTT workgroup to provide as much input as possible regarding what is needed for a complete application prior to County receipt of an application.

**Commented [VGJ12]:** These three paragraphs still need to be vetted and considered for placement in Subcommittee E's section of the report.

*Protocols for the timely and broad distribution of CUP-related information to the public, other governmental entities, and internal committees, groups, and divisions.*

#### **Legal Requirements and Past Practices**

*Note: The Legal & Land Use Subcommittee is limiting its input on this topic to legal requirements and past practices, understanding that the Charge E subcommittee will use that information to help in developing recommendations for future practice.*

**Required Notification.** Requests for quasi-judicial land use decisions, such as an application for a conditional use permit, are subject to notification procedures mandated in ORS 215.146 and in Benton County Development Code Sections 51.605 through 51.630. The Benton County Development Code provisions reflect the statutory requirements and are designed to implement those requirements without need for reference to the statute.

Upon receipt of a land use application, the Planning Official shall determine whether the application is complete and shall, within 30 days of the application's filing, notify the applicant of exactly what information if any is missing from the application. If the application was deemed incomplete and the applicant subsequently makes the application complete, then the 150-day clock for rendering a final local decision starts on the date the additional information was submitted. If the applicant submits in writing that they will provide no additional information, then the clock starts on the date of that submittal. There is no legal requirement for notification to the public at this

stage in the process. (For a complete discussion of the 150-day time limit, see the section by that name earlier in this report.)

Notice of Application: In the case of a conditional use permit or similar application, the Development Code requires physically mailed notice to the owners of property located within a certain distance of the property that is the subject of the land use application. The distance is measured from the perimeter of the subject property; any property that lies partially or fully within that distance is entitled to mailed notification. The distance of the measurement depends on the zoning of the subject property:

- 100 feet if located within an urban growth boundary
- 250 feet if outside an urban growth boundary and not within a farm or forest zone
- 750 feet if located within a farm or forest zone

These distances are minimums; if the County sends notice to only property owners within the specified distance, the law has been fulfilled. At the same time, the Code states an intent to notify property owners who could be affected by the proposed land use decision and states that additional notice beyond the distances listed above may be provided “where the County in its discretion deems additional notice to be appropriate.

Additionally, notice is to be sent to any neighborhood or community organization recognized by the Board of County Commissioners and whose boundaries include the site. In Benton County, the recognized community organizations are the Community Advisory Committees (CAC), of which three are currently active.<sup>8</sup>

In the case of a land use request that involves a public hearing, the Code also requires publication of a notice in a newspaper of general circulation within the county as well, at least 10 days prior to the hearing.

Specifically in the Landfill Site zone, which encompasses the majority of the Coffin Butte landfill and the majority of the landfill expansion area proposed in 2021, a conditional use application for landfill expansion is subject to approval by the Planning Commission. Additionally, the code requires that “the Solid Waste Advisory Council shall review and make recommendations through the Planning Official to the Planning Commission regarding the Site Development Plan Map and narrative.”, in addition to review by the Planning Commission, a review by the Solid Waste Advisory Council

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<sup>8</sup> The North Benton CAC, which would encompass the Coffin Butte landfill and surrounding areas, is currently not active. Activating and maintaining a CAC is no small undertaking and doing so requires both action and capacity on the part of community members and the County.



(SWAC). The procedure for this review by SWAC is not specified in the Development Code, including whether any specific notification of the SWAC meeting should be sent out (beyond the standard public meeting notice that is sent to the newspaper) and whether SWAC should conduct a public hearing with testimony from the public or should review and discuss among SWAC members without public testimony. The criteria for SWAC's review are not specified in the Development Code, but any action of SWAC should be consistent with that Council's role as specified in its bylaws: "assist the Board of Commissioners (Board) in Planning and implementation of solid waste management, pursuant to BCC Chapter 23, the Benton County Solid Waste Management Ordinance." As such, SWAC should review the proposal and provide input from a solid waste management perspective. The Planning Commission's role is to review the proposal from a land use perspective, relative to specific criteria listed in the Development Code, and to make a decision.

**Notice of Decision:** When a decision is rendered on a land use request, notice of decision is required to be mailed to all people who submitted testimony. If the decision was made by the Planning Official, then notification is also required to be mailed to owners of property within a certain distance of the subject property as described above. The notice of decision describes the nature of the decision and how to appeal the decision.

**Notice of Appeal:** If a decision is appealed, then notice of the appeal hearing is distributed following the same procedure as for the notice of application.

**Typical Practice.** In addition to providing the notification discussed above, Benton County staff have typically utilized some or all of the following for a given land use application:

- Prior to receiving a land use application for a complex land use action, staff will encourage a **pre-application conference**. The public is not involved at this stage because an application has not been filed. The pre-application meeting is not a public meeting, is not part of the land use review process, and involves no notification to the public.

In the case of an application for a subdivision, the pre-application conference is *required* by the Development Code. A pre-application conference is not required for a landfill-related request in the Landfill Site zone. A pre-application conference is a meeting between the applicant and County staff at which staff informs the applicant of the necessary applications to file, the review criteria that will be applied, and areas of concern to review, and provides an overview of the review process. Staff from external agencies with jurisdiction are invited to

participate; for example, the Oregon Department of Transportation if the proposed land use is near or accesses a state highway.

- Staff may recommend to the applicant that they hold a **public informational meeting** prior to submitting an application. There is no requirement for this in the Development Code, so it is up to the applicant whether to hold such a meeting. These meetings can be helpful for informing members of the public about a pending application as well as for the applicant to obtain input from members of the public that the applicant may choose to address through modifications of their plans prior to submitting an application. Such meetings are not part of the land use review process.
- Upon receipt of a land use application, the Planning Official determines completeness. Once the application is deemed complete, a decision-making process and schedule are determined. At the appropriate time in the schedule, the legally required notification is mailed out as described above. Additionally, typical practice in Benton County has been to notify by email a list of people who have requested notification of all land use applications or certain categories of land use applications. The mailed/emailed notifications summarize the proposed land use action and inform people how they can find out more information and how they can provide input. Additional information is available by phoning or emailing staff. For certain land use applications, staff posts the application materials on the Community Development Department website. These are typically applications that require a public hearing before the Planning Commission or applications that otherwise may generate substantial public interest. Not all applications are posted to the website due to limited staff time and the logistics of maintaining such a webpage.
- Once a decision has been made, the legally required notification is mailed as described in the prior section. While the legal requirement is that notice of a decision made at a public hearing need be mailed only to those who testified, typical practice in Benton County has been to mail notice to owners of property in the vicinity as well.

### Code Changes Process & Timeline

#### Code Amendments Generally

**Process.** Code changes to both the Benton County General Code and the Development Code are effected through enactment of an ordinance. An ordinance is the vehicle which carries code changes.

Benton County Charter Section 14 establishes the general procedure for enacting ordinances. That section allows the ordinance to be enacted by the Board of Commissioners following two readings by title, which occur no less than 13 days apart.

In practice, the following is the usual process for the Board to consider and enact an ordinance amending the Benton County General Code.

Typically, the responsible department will identify the need for a change to a particular code provision. Depending on the change, the department may choose from a number of processes to create new code language. For example, it may solicit feedback from outside agencies or citizens; or, it may convene a workgroup to work on and develop changes; or, it may contact other governmental entities for input and examples; or, as frequently happens if the amendments are to comply with statutory changes, staff may simply make the changes as required by the new laws.

Once the department has generated the code amendment language, it will schedule a work session with the Board of Commissioners (BOC). The purpose of this work session is to inform the Board of the need for the code amendment, the process the department used to engage the necessary interested parties and to give the Board a chance to see and understand the proposed new language.

Following the work session discussion, the Board will take one of three actions: (1) direct staff to bring the proposed code change, and the ordinance, to a public hearing at a regular board meeting; or (2) direct staff to make changes to the proposed language, re-engage interested parties or both; or (3) decline to authorize staff to bring the proposal to a public hearing.

If the Board directs staff to move the proposed amendment forward, the ordinance, with the code changes, is scheduled for a public hearing at which public testimony is taken. If the Board votes to enact the ordinance effecting the code amendment, it will conduct a reading of the ordinance title. At that point, the ordinance will be scheduled for a second reading, no less than 13 days later. The second reading takes place at a regular meeting, but not a public hearing. Once the ordinance has been read a second time, it becomes effective 30 days later.

**Timeline.** Following development of proposed new code language, regardless of the process used, a standard timeline for enactment would look like this:

Day 1 – Staff submits proposed language, supporting documentation and rationale to the BOC office for placement on a work session agenda. This must occur at least 14 days before the scheduled work session.

Day 14 – Work session held. If BOC directs the proposal to move forward to a formal public hearing, staff must work with BOC staff to identify a date for the public hearing.

Day 21 – Staff submits proposed code amendment language, ordinance and supporting documentation to BOC staff for placement on a Board agenda.

Day 35 – Public hearing is held to consider enactment of the ordinance and adoption of the new code language. If enacted, a first reading is conducted.

Day 49 – The Board conducts the second reading of the Ordinance, formally adopting the proposed new code language.

Day 80 – Ordinance and new code language become effective.

### **Development Code Changes**

Amending the Development Code generally follows the above process, once the matter reaches the Board of Commissioners. However, state statute and the Benton County Development Code prescribe additional process and review criteria for amendments to a county’s land use regulations. The procedure for amending the Development Code text is contained in BCC 53.605 through 53.630.<sup>9</sup>

**Initiating the Amendment.** Changes to the Development Code may be initiated by the Board of Commissioners, as described above. Alternatively, the Planning Commission may initiate a text amendment, provided the Planning Commission notifies the Board of Commissioners. The BOC must then conceptually approve the amendment before the Planning Commission may hold a public hearing.

### **Notification.**

All other text amendments: Notice of public hearings is published in the newspaper. The County notifies parties who, within the past year, have requested notification regarding the topic under consideration. The County also makes reasonable effort to notify parties who participated in previous legislative action on the same topic within the past four years. The County may provide notice to additional parties.

Text amendments that would limit or prohibit a use: In addition to the notification described above, individual property owners must be mailed notification if the amendment would re-zone their property or would limit or prohibit a land use currently allowed on the property. Notice must be mailed 20 to 40 days<sup>10</sup> before the first public hearing.

Text amendments to conform to changes in state law: No notification or public hearing pursuant to the Development Code is required. Notification and public hearing held by the Board of Commissioners, as required by the Benton County Charter and discussed above for amending the General Code, is still required.

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<sup>9</sup>The Development Code refers to this as a “text amendment,” as opposed to a “zone change” which is the other amendment procedure associated with the Development Code.

<sup>10</sup>Or, at least 30 days if the amendment results from a requirement of periodic review of the comprehensive plan pursuant to state law ORS 197.

**Public Hearings.** The Planning Commission conducts a public hearing, receives public testimony, deliberates, and makes a recommendation to the Board of Commissioners. The BOC then holds a subsequent public hearing to make the final decision, as described above for the Benton County General Code.

**Decision Criteria.** The Development Code does not list specific criteria for text amendments. However, the adopted Development Code must be consistent with the Benton County Comprehensive Plan and with applicable statewide planning goals, Oregon statute and administrative rules.

**Timeline.** In practice, the timeline for amending the Development Code varies depending on the complexity of the topic, the clarity of any applicable guidance from state statute, rules or goals, the level of public participation, and the staff time available for the endeavor. The quickest text amendments take approximately four months from initiation to the ordinance going into effect. Most text amendments take longer, typically six to nine months. Complex topics requiring significant research, public input, numerous drafts and revisions can take one to two years or longer.

#### **Typical Steps for Proposing Amendments to the Board of Commissioners**

1. Identify topic areas or code sections where amendments are needed.
2. Determine whether it is the County General Code or the Development Code that should be amended, as this determines the amendment procedure.
3. Articulate desired outcomes.
4. Identify any requests of the process (such as interest groups to involve, research to consult, public engagement processes) and level of urgency.

#### **Necessary Tasks to Start Planning Reopening of Existing Hauling Agreement**

*Note: This section has not been vetted by the full subcommittee.*

The collection franchise agreement between Benton County and Republic Services, Inc., contains a reopener provision. That reopener clause allows the parties to reopen and negotiate limited topics. Specifically, the reopener clause states:

This agreement shall be amended by July 1, 2024 to include the same or similar terms as the forthcoming City of Corvallis collection franchise agreement, including, but not limited to, the same termination date, as well as concepts from the consensus-seeking process.

Contract negotiations are not conducted in public. With that said, there is enough public interest in a potential reopener negotiation that a process should be implemented to allow

public input, comment and feedback on any provisions that may be negotiated between the parties to the agreement.

One such process could be designed as follows:

No less than 30 days before negotiations are to begin, notice of the pending reopener can be published and sent to interested parties of the upcoming negotiation. The notice could solicit ideas, concepts and suggestions for negotiation topics. It should be noted that reopener topics are limited to those “from the consensus-seeking process.” Thus, ideas, comments and suggestions would be limited to those which emerged from the Benton County Talks Trash workgroup.

Any input received would be presented to the Board of Commissioners at a work session at which time the Board would identify those ideas or suggestions that should be included as negotiation topics.

Following the work session, Benton County would engage Republic Services in negotiations as described in the franchise reopener provision. The negotiation would include the topics and ideas identified by the Board of Commissioners.

At such time as Benton County and Republic Services reach a tentative agreement on the renegotiated terms, Staff would bring the proposed franchise changes to the board meeting, where consideration of the amended franchise agreement would be conducted in a public hearing pursuant to BCC 23.235. Alternatively, the Board may direct staff to make additional changes and/or resume negotiations to include specific topics as identified by the Board.

The renegotiated collection franchise agreement must be agree upon, in its entirety, by both Benton County and Republic Services, Inc. At such time as the terms have been agreed upon, and the Board is satisfied that public input has been adequately included or addressed in the renewed agreement, the franchise agreement will be the subject of a public hearing and, ultimately, approval by the Board of Commissioners at a regular board meeting.

## **BCTT Subcommittee - C.1. Sustainable Materials Management Plan (SMMP)**

### **DRAFT Subcommittee Recommendations to BCTT Work Group**

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## Charge C: Long Term Sustainable Materials Management Plan (SMMP) tasks

- 1) Contracting out;
- 2) Subjects to be covered;
- 3) (Moved from Common Understandings) Benefit-Cost Topics are only Outlined
- 4) (New) Add in Vision 2040 and related County documents with similar from other counties referenced
- 5) Who needs to be at the table beyond those in the County;
- 6) A workplan outline with a timeline for completion;
- 7) Topics covered in recent similar planning efforts across the state; and
- 8) What “lessons learned” should be brought forward in this process.

Includes necessary foundational “common understandings” and protocols needed before beginning the actual planning process.

NOTE: This charge does not include completing the plan. It only includes a discussion of the preliminary scoping to start that planning process.

Possible Amendment for BOC Consideration: If there is sufficient time to complete the original Charge and the following activities, subcommittee to provide recommendations on:

- 1) the most important topics/subjects from the draft of the SWMP Table of Contents;
- 2) the brainstormed options for those topics/subjects; and
- 3) the reasoning, both pro and con, for their selection.



### Contracting out;

Benton County should use an RFP to find consultant(s) for developing a Sustainable Materials Management Plan.

#### *Qualities of a successful applicant should include:*

- Technical Knowledge and Abilities
  - Demonstrated familiarity with international examples of reduced or eliminated reliance on landfilling.
  - Conversant in the design and implementation of these alternative waste technologies, be able to evaluate their suitability for use in Benton County, and be able to map out rough timelines for their deployment
  - Demonstrate their ability to design a well-imagined and resilient Plan that can assess the likelihoods of such climate-impacted events as wildfires, floods, population migrations, unprecedented disruptions to energy and transportation infrastructure, and so on
  - Show their ability to map out the County's changing social, economic, environmental and regulatory landscapes, and ability to develop a Plan to navigate the County through them
  - Ability to show Economic/Env/Social impacts, and comparative analysis
  - Be able to suggest programs and ways in which the community could participate, and measure their participation
  - Be able to answer (most, almost all) questions (below table of contents) – RFP process, applicant
  - Be able to map out the social, ethical and environmental landscape of climate change
- Experience
  - Experience with inclusivity, outreach campaigns
  - Experience in such community engagement.
  - Have some experience with large university communities
  - Experience with jurisdictions with non-standard waste streams – like high-tech industries, labs, forestry
  - Experience in analyzing policy impacts of materials
  - Have experience in SMMP development in the past (traditional and innovative)
  - Demonstrated experience with jurisdictions like Benton County (rural areas for example, industries)
  - Demonstrated experience showing Economic/Env/Social impacts, and comparative analysis
- Values
  - Show their understanding of the importance of the values listed in Benton County's "Core Values" and the State of Oregon's "Materials Management in Oregon 2050 Vision and Framework for Action," and will describe how these values will permeate the process and the product of the SMMP.

- Be able to keep 2040 Thriving Communities Initiative core values in mind during the entire process of formulating an SMMP plan, and trace each recommendation back to the values expressed in the Initiative
- Be able to lay out innovative pathways for the County to reduce negative environmental impacts in keeping with county and state values
  
- Work Plan and Process
  - Able to incorporate measures into its Planning process and product that will help the County respond to various trends affecting current and projected waste streams
  - incorporate a map of social, ethical and environmental landscape of climate change into its Planning process and product
  - Able to allow and encourage community involvement in the development process, and demonstrated experience
  - Ability and willingness to communicate with the community
  - Be able to engage with the community throughout this process with any innovative measures on how this can take place, either virtually or with town hall type gatherings
  - Look at the unique qualities of our community, not a once size fits all plan
  - Will be able to incorporate these evolving Social, Political, Legislative Dimensions around climate change into its Planning process and product
  - Consider materials and links to BCTT SMMP Subcommittee work
  - Early stage outreach to community, including students, multi-family residential, single-family residential, rural residential, businesses, local builders, developers
  
- Plan Content
  - Will delineate paths for the County to establish clearer knowledge about and control over these environmental impacts (methane and other GHGs) by its franchisees, and incorporate these responsibilities into its Planning process and product
  - SMMP document to answer (most, almost all) questions (below table of contents)
  - Should be able to articulate a clear narrative or set of scenarios that describe how the Plan will be a resilient guide for the future

#### *RFP Development*

- Provide details about Workgroup process and its findings to RFP applicants
- Prioritize topics, adding additional topics that are important to consider
- Communicate accurate priorities to applicants
- Members of this BCTT SMMP subcommittee should be offered to participate in subsequent stakeholder group meetings for RFP development and review
- SWAC/DSAC should have an advisory role during the development of the plan
- RFP Release/Announcement should:

- communicate an expectation that this plan can be approached by teams (multiple firms), instead of just single firms
- Put guidelines on the size/length of proposals and sections of proposals
- Be distributed to allow enough time for it to be posted to various trade groups, equity-minded sharing to underrepresented groups, internationally minded outlets
- The county should share with the public the various steps of the process, making updates available, and demonstrating transparency (Cross-referencing subcommittee E.1. work)
- The RFP should demonstrate flexibility through allowing further work plan development after applications are reviewed and accepted
- Length of overall project:
  - Can be heavily impacted and defined by the level of public interaction/stakeholder engagement included in the project, and by requirements from the county
  - R&D from consultant can occur in the background
  - Applicants should include various scope/cost options for 1 year, 2 years, and 3 year timelines.
  - The report should be released in sections, based on timeline and content priorities.
- This RFP process should include Technical Advisory Committees (TAC), which Vet technical information from consultant, get to a place of consensus, and Community Advisory Committee (CAC), which Review in areas of disagreement for technical experts.
  - SMMP Sub-Committee members should be included in the CAC.

*Proposal Format, Content, Review And Selection<sup>1</sup>*

Proposal must contain the following information, with parameters around each of these items in terms of document length:

- a) Cover Letter (P/F).
- b) Project Team Experience and Qualifications.
  - a. Experience, Capabilities and Resources of the Proposer. 25 points.
  - b. Experience of project team members. 25 points.
  - c. Experiences with other SMMP in the last 5 years
- c) Understanding of Project.
- d) Approach to the Scope of Work. 25 points
  - a. Fully and completely address all of the questions listed
- e) Cost Proposal (based on cost matrix)
  - a. Reasonableness of the Cost Proposal. 15 points
  - b. Various options based on timeline and scope
  - c. Review committee is not given the cost information until initial review is complete
  - d. Important consideration, but not the most important consideration
- f) Project Schedule. 10 points

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<sup>1</sup> Source of some section content: [Deschutes County 2017 SWMP RFP](#)

- g) Social/environmental responsibility
  - a. Use county values as evaluation criteria
  - b.
- h) References.
- i) Interview/presentation (how important compared to other criteria?)
  - a. Separate scoring criteria/process for the interview

An evaluation team consisting of County staff and members of the stakeholders group should determine the best proposal deemed most qualified based on the above criteria.

DRAFT

Subjects to be covered;

*Questions to be answered in SMMP*

**INTRODUCTION**

- What is the context of the plan?
- What are the purpose and goals of the plan?
- What issues are addressed by the plan, and what issues are excluded?
- What is the new approach to managing waste: Sustainable materials management framework vs. Solid Waste management framework?
- How does this plan lead with equity?
- What are the Values, principles, and vision of the plan?
- How do these values translate to measurable criteria for evaluating and analyzing the full life cycle impacts of materials and the management system?
- What are the Goals and actions of the plan across the material lifecycle, including Shared prosperity, Product design and manufacturing, Product consumption and use, Product end-of-life management, and Disaster resilience?
- How do readers navigate the plan?
- How does the county measure progress on the plan?
- How will Implementation, compliance, and amendments to be plan work?
- What are the Roles and responsibilities of the various agencies and stakeholders?
- What are the state and local requirements?
- What is the management planning process?
- How is stakeholder input used in the planning process?

**CLIMATE CHANGE**

- What climate change policies impact materials management?
- What materials management practices impact climate change?
- What are the Waste stream impacts from climate change policy/shifts?
- What are the Social, Political, Legislative Dimensions of climate change as they relate to materials management?
- What are the possibilities for transition assistance from state and federal initiatives addressing climate change related to disposal alternatives?

**LIFE CYCLE IMPACTS OF MATERIALS**

- What is the Scale of impacts ( Regional, state, national)?
- What are the full lifecycle/Net environmental impact of materials/systems?
- Which materials are most impactful?
- Which Disposal methods are most impactful?
- What are the Impacts of generation sources (industries, large quantity generators)?

### **BACKGROUND AND WASTE STREAM ANALYSIS**

- what are the Characteristics of the Planning Area?
- What is the Description of the Materials Management System?
- What are the community impacts from the materials management system?
- What is the Summary of Annual Solid Waste Generation across Benton county watershed (disposal and recovery)?
- What are the Current and Projected Waste Stream Composition and Quantities?
- What is the waste stream generation by economic sector/industry?
- What unique waste streams exist in Benton County?
- Where compared to waste management hierarchy is Benton County?
- What is the Waste Stream Generation Forecast, including Economic, environmental, and material trend factors?

### **WASTE PREVENTION/REDUCTION/ REUSE AND RECYCLING ANALYSIS**

- What are the Existing Waste Reduction and Reuse Programs, their effectiveness, and needs and opportunities?
- Equity and livability costs/impacts? How equitable are the current waste/recycling/prevention services provided in Benton County to traditionally underserved populations and all communities, and what are the standards to strive for?
- Can we foster legislation to encourage building codes that support recycling capabilities and other sustainable materials use in construction? Can we require a level of waste reduction and re-purposing of building materials and demolition debris?
- What is the most impactful approach to Construction and Demolition materials and Deconstruction?
- What are the Alternatives for Increased Waste Reduction, Reuse, and Recycling?
- What are the Potential impacts/benefits of utilizing alternative options, and What is needed to accomplish effectiveness?
- How do Recommendations from Advisory Groups and Public impact options?
- What is the Analysis and recommendations for policy as related to Increased Waste Reduction, Reuse, and Recycling?
- What are Options for supporting circular economy?
- What are Options for integrating extended producer responsibility?

### **RECYCLING AND MATERIALS PROCESSING**

- What are the Existing Collection and Processing services and facilities?
- How is Food Waste – Organics treated?
- What are the Needs and Opportunities?
- What are the Alternatives for Processing Recyclable Materials, Sorting Technologies and MRF options?
- What are the Proven vs. Unproven alternatives?
- What are the Recommendations for Collection and Recycling/Processing?

- How can we encourage local construction companies to provide recycling facilities for tenants with the use of building codes, subsidies or penalties to encourage responsible construction that will continue to be viable in the future?

#### **WASTE COLLECTION AND TRANSFER**

- What is the Regulatory Framework?
- What is the Local Authority?
- What are the Existing Collection Services?
- What is the Commercial Waste Collection approach?
- What is the current Transfer Station Operation Approach?
- What are the Waste and Vehicle Volumes to Each recycling depot and collection event?
- How are Unique wastes collected
- What are the transfer station Facility benefits and costs related to disposal options?
- What are Other Operation Related Requirements?
- What are Collection Considerations for Specific Wastes?
- What are the Needs and Opportunities for collection and transfer services?
- How to Increase Commercial Waste Collection of Recyclable Materials?
- What are the options, benefits, and costs of Regional Intermodal transfer station(s)?
- What are the Comparative costs of landfilling vs. waste to energy vs. recycling?
- What is the Comparison of different waste disposal and material management governance models?
- What European/Global Strategies to Consider?
- What options are there for Multiple franchised collection service providers?
- Can the issues of a franchise permit for an intermodal transfer station be compliant with BC 23.220 by a qualified third party compliant with BC 23.210 (1) (2), or
- b. Can the intermodal transfer station be enjoined with the current Holder (hauler) franchise agreement (discretionary), or
- c. Can the intermodal transfer station be enjoined with the current disposal site agreement party (discretionary)?

#### **ALTERNATIVE TECHNOLOGIES AND SOLID WASTE DISPOSAL**

- What are the alternative waste technologies available to lessen or replace landfilling?
- What options are there for material Flow Control?
- What are the Waste Disposal Projections?
- What are the Needs and Opportunities?
- What are the Alternatives and Evaluation?
- What are the Alternatives for Municipal Solid Waste (MSW) Disposal?
- What are the options for Mixed Waste Processing?
- What is the Technology Summary?
- What is the Evaluation of Options?
- What are the Findings and Recommendations?

- What are Disposal methods are utilized in Benton County and elsewhere – slash burning, open burning, etc. and what are their impacts?
- What means (funding, regional collaborations, etc.) are necessary to bring these technologies into Benton County or the region?

#### **HAZARDOUS WASTE**

- What is the Existing Collection and Processing system?
- What are the Collection and Processing Services?
- What are the Processing/collection Facilities?
- What are the Needs and Opportunities?
- What are the Alternatives?
- What are the Recommendations for Collection /Processing services and facilities?

#### **LANDFILL DISPOSAL OPTIONS**

- What is the county authority for waste disposal?
- What is the description of the existing landfill disposal system/process, and what are the pros and cons?
- What are the Waste Stream Projections
- What are the Projection Scenarios - climate change, regulatory environment, costs, etc.
- What is the Landfill Lifespan
- What is the Env. Impact Assessment of the landfill?
- What are the Needs and Opportunities?
- What are the landfill Disposal Options, including Long-Haul Waste to Out-of-County Landfills and alternatives?
- What are the waste disposal recommendations?
- What are the true environmental impacts of landfilling for Benton County? Especially: what is the greenhouse gas footprint of the landfill? What do these impacts look like when projected into the future?
- What are the true economic costs and benefits of landfilling for the County? What do these costs and benefits look like when projected into the future?
- What are the various paths that the County can take to transition away from landfilling at Coffin Butte Landfill?
- What means (funding, collaborations, etc.) are necessary to make to embark upon these paths?
- Are there landfills other than Coffin Butte Landfill that should be considered? What are the tradeoffs (economic, environmental)?
- What is the path forward that balances these competing interests: reducing waste generation/increasing recovery vs. economic interests of landfilling?
- What is the risk assessment of the landfill? How can the County best manage these risks?
- What is the long-term outlook for the landfill? What is its best closure plan? What measures should be in place to manage the landfill's impacts after closure?



### **ADMINISTRATION AND ENFORCEMENT**

- How can we use government grants and programs that are being set up to combat the effects of climate change to create a truly unique and innovative program that makes the best use of the resources available in our county and highlights our most valuable assets to enable our residents to 'be their best selves' in terms of living a sustainable life?

### **GENERAL**

- Which options for addressing the above issues best reflect the County's (and the State's) stated values?
- How are each of the plan recommendations centered in equity?
- What are the details of the analysis, investigation/evaluation, and recommendations for each topic?
- How do we support and extend the Oregon 2050 Vision for Materials Management?
- How do we support Oregon SB 582, the [Plastic Pollution and Recycling Modernization Act](#), in our county?
- What is a practical, economically feasible, and innovative path for our county to move from where we are today to a responsible and sustainable community?
- How can we use our unique assets and any economic benefits we might glean from our county natural resources? Can we use our rivers and forests to foster more sustainable local practices?

(Moved from Common Understandings) Benefit-Cost Topics are only Outlined

- SMMP content should include cost-benefit analyses in the evaluation and recommendations of major topics.
- Circular economy costs/benefits should be addressed in the SMMP.
- The SMMP should clarify Benefit-Cost perspectives being addressed through an equity analysis, including:
  - Financial cost impacts associated with materials management and outcomes
  - A perspective that goes beyond landfilling
  - Equity of circular economy, how it engages and impacts consumers (product/material oriented)
  - “who’s at the table” list of stakeholder perspectives

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(New) Add in 2040 Thriving Communities Initiative and related County documents with similar from other counties referenced

The Benton County Sustainable Materials Management Plan should be developed within a Sustainable Materials Management framework, reflecting full lifecycle impacts. The following information should be considered during the development of a Sustainable Materials Management Plan:

1. 2040 Thriving Communities Initiative and our communities' Core Values
2. National, State and local goals, vision documents, plans, policies, ordinances, etc. relating to materials management and climate change
3. Examples of values and goals expressed in state and local jurisdiction materials management plans
4. Long-term strategies (to 2040) with short-term action items (5 years or less)

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Who needs to be at the table\* beyond those in the County\*\*;

- DEQ
- Economic Development Office County/Corvallis
- Small Cities
- Neighboring counties
- Community Members
- Waste generation sources (jurisdictions) – how much weight should non-county members be given? Economy of scale?
- Local Advocacy groups (Willamette valley) – sustainability coalition, river keepers, watershed councils
- National Advocacy groups
- Equity, Diversity, Inclusion coordinator
- Low income populations, multi-family residents
- Larger industry groups
- Large waste generators
- Building industry - USGBC
- Architecture (AIA) American Institute of Architects
- Designers – various materials, products, etc
- OSU – Business/Administration
- OSU – Innovation, science around materials

\*at the table - meaning who to be consulted for feedback through the development of this plan, discuss regional coalitions/partnerships/collaboration

\*\*County government/staff

A workplan outline with a timeline for completion;

- RFP Development
  - RFP Development feedback opportunity from Technical Advisory Committees (TAC) and Community Advisory Committee (CAC)
- RFP Release/Announcement
  - Distribution to allow time for it to be posted to various trade groups, equity-minded sharing to underrepresented groups, international-minded
- Webinar – interact *live*, field questions, make presentation
- Pre-proposal/bid/RFP Q&A opportunity for prospective applicants – possible to make this element required/mandatory
  - Early in the RFP release period
- Opportunity for respondents to express interest as primary or sub-contractors
- RFP Response Due Date
  - At least 4 weeks time that the RFP is available prior to application dead line.
- Review committee to shortlist firms
  - 2 weeks
- Shortlisted firms awarded additional time for presentation with optional funding for expected presentation/deliverables
  - Additional month (within 1 week if no work product/report is due, just an interview).
- Evaluation and Selection Timeline
  - Evaluation team review period
    - Including Technical Advisory Committees (TAC) and Community Advisory Committee (CAC) review opportunity
  - Presentations/Interviews
- Develop work plan further with contractor selected
- Length of overall project
- Plan Development
  - Technical Advisory Committees (TAC) - Vet technical information from consultant, get to a place of consensus
  - Community Advisory Committee (CAC) - Review in areas of disagreement for technical experts
  - SWAC/DSAC advisory role during the development of the plan
- General public meetings – number of meetings

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Topics covered in recent similar planning efforts across the state; and

- [Materials Management in Oregon 2020 Framework for Action](#)
- [Materials Management in Oregon 2050 Vision and Framework for Action \(2012\)](#)
- [Deschutes County Solid Waste Management Plan \(2019\)](#)
- [Lane County Solid Waste Management Plan \(2019\)](#)
- [Lincoln County Integrated Solid Waste Management Plan \(2004\)](#)
- Marion County
  - [Marion County, Oregon Solid Waste Management Plan Update \(2009\)](#)
  - [Marion County Solid Waste System Assessment Report \(2016\)](#)
  - [Marion County, Oregon Solid Waste and Energy Final Report \(2017\)](#)
- Metro:
  - [Metro 2030 Regional Waste Plan \(2019\)](#)
  - [Waste Prevention & Environmental Services Regional Waste Plan Progress Report \(January 2022\)](#)
- [Tillamook County Comprehensive Materials and Solid Waste Management Plan \(2012\)](#)

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What “lessons learned” should be brought forward in this process.

- Feedback from other counties who have developed materials management plans
- International examples of landfill alternatives (such as Germany, Finland, Sweden, and South Korea)
- Examples from California and Washington
- Lessons from past Benton County experiences with contracts with Republic, engagement,
- Lessons from individual processes vs. integrated systems
- Workgroup process and its findings

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Appendix A: Drafted Table of Contents Outlining Elements of Recommendations

<b>TOPICS</b>
<b>INTRODUCTION</b>
Context of the Plan
Plan Purpose and Goals
Issues Addressed by the Plan (include discussion of exclusions to the Plan)
A new approach to managing waste: Sustainable materials management framework vs. Solid Waste management framework
1) Addressing the full life cycle of materials
2) Moving From Where We've Been to a Shared Vision <del>Our New Vision</del> (provide timeline)
3) The life cycle of products and materials
4) The garbage and recycling system
5) Leading with equity
Environmental impacts of products and materials
1) Measuring environmental impacts (Full Life Cycle Analyses)
2) Reducing our impact
Values, principles, and vision
1) Overview
2) Values
3) Principles
4) Vision
Goals and actions
1) Overview
2) Navigating the action tables
3) Shared prosperity
4) Product design and manufacturing
5) Product consumption and use
6) Product end-of-life management
7) Disaster resilience
Measuring progress
1) Plan Indicators

**TOPICS**

Implementation, compliance, and amendments

- 1) Overview
- 2) Roles and responsibilities
- 3) The County’s Role in Solid Waste Management Planning and Operations
- 4) Oregon statutory requirements
- 5) Requirements for local governments

Address upcoming legislation, Oregon Recycling Modernization Act

- 6) Plan implementation
- 7) Plan oversight

Legal foundation and policy guidance

- 1) Overview
- 2) Legal foundation
- 3) Policy guidance
- 4) Plan Organization

Management Planning Process And Summary

- 1) Building On Previous Planning Work
- 2) Management Planning Process
- 3) Public And Stakeholder Input
- 4) Common Themes Of Public And Stakeholder Input
- 6) Valuable Partnerships

Local Economic Development

Opportunities for innovation and entrepreneurship

**CLIMATE CHANGE**

Policy Impacts

Waste stream impacts from climate change policy/shifts

Social, Political, Legislative Dimensions

**LIFE CYCLE IMPACTS OF MATERIALS**

**TOPICS**

- Introduction
- Scale of impacts ( Regional, state, national)
- Which materials are most impactful
- Which Disposal methods are most impactful
- Impacts of generation sources (industries, large quantity generators)
- Method and recommendations for ongoing analysis

**BACKGROUND AND WASTE STREAM ANALYSIS**

- Introduction
- Characteristics of the Planning Area
- Description of the Solid Waste Management System
- Analysis of community impacts from solid waste management system
- Summary of Annual Solid Waste Generation
  - 1) Refuse Collection
  - 2) Transfer Stations
  - 3) Disposal Facilities
  - 4) Recycling Facilities

- Current and Projected Waste Stream Composition and Quantities
  - 1) Definition
  - 2) Historical Solid Waste Data
  - 3) Waste Stream Composition
  - 4) Waste stream generation by economic sector/industry
  - 5) Unique waste streams – timber wastes ex.
  - 6) Disposal methods – slash burning, open burning, etc. and their impacts
  - 7) Waste Stream Generation Forecast, including Economic, environmental, and material trend factors

**WASTE PREVENTION/REDUCTION/ REUSE AND RECYCLING ANALYSIS**

- Introduction
- Background
- Existing Waste Reduction and Reuse Programs
  - 1) Waste Reduction Programs, including food

**TOPICS**

- 2) Reuse Programs
- 3) Recycling Programs
- 4) Composting
- 5) Needs and Opportunities
- Construction and Demolition materials and Deconstruction

Alternatives for Increased Waste Reduction, Reuse, and Recycling

- 1) Enhance Current Promotion/Education/Support Services
- 2) Target Certain Types of Generators or Waste Streams to Increase Diversion by Expanding Basic Services
- 3) Targeted high impact materials for Reduction, Reuse, and Recovery

Sorting at point of generation

- 4) Target Recovery of New Materials
- Potential impacts/benefits of utilizing alternative options. How do these impact Benton County? What is needed to accomplish effectiveness?
- Analysis of Recommendations from Advisory Groups and Public
- Analysis and recommendations for policy as related to Increased Waste Reduction, Reuse, and Recycling
- Options for supporting circular economy
- Options for integrating extended producer responsibility
- 5) Recommendations

**RECYCLING AND MATERIALS PROCESSING**

Background and Existing Conditions

- 1) Existing Collection and Processing
- 2) Collection and Processing Services
- 3) Processing/collection Facilities
- 4) Yard Debris and Wood Waste Process Facilities

Food Waste - Organics

<b>TOPICS</b>
5) Needs and Opportunities
Alternatives
1) Processing Recyclable Materials
Sorting Technologies and MRF options
Proven vs. Unproven alternatives
2) Recommendations for Collection and Recycling/Processing
<b>WASTE COLLECTION AND TRANSFER</b>
Background and Existing Conditions
1) Regulatory Framework
2) Local Authority
3) Existing Collection Services
4) Commercial Waste Collection
5) Transfer Station Operation Approach
6) Waste and Vehicle Volumes to Each Transfer Station
7) Recycling at Transfer Stations
Unique wastes
Transfer Station Descriptions
1) Facility Needs
2) Disposal at a New In-County Landfill
3) Disposal at an Out-of-County Landfill
4) Other Operation Related Requirements
5) Collection Considerations for Specific Wastes
Needs and Opportunities
1) Collection Services
2) Need to Implement Transfer Station Capacity
Alternatives and Evaluation – Analysis and Investigation
1) Increase Commercial Waste Collection of Recyclable Materials
2) Develop Transfer Stations Capacity
Regional Intermodal transfer station
Comparative costs of landfilling vs. waste to energy vs. recycling

<b>TOPICS</b>
Comparison of different waste disposal and material management governance models
3) Recommendations
European/Global Strategies to Consider
Multiple vendor options
<b>ALTERNATIVE TECHNOLOGIES AND SOLID WASTE DISPOSAL</b>
Background and Existing Conditions
1) Introduction
2) Flow Control
3) Existing Landfill Disposal
Waste Stream Projections
1) Waste Disposal Projections
2) Needs and Opportunities
Alternatives and Evaluation
1) Alternatives for Municipal Solid Waste (MSW) Disposal
2) Mixed Waste Processing
3) Technology Summary
possibilities for transition assistance from state and federal initiatives addressing climate change
4) Evaluation of Options
5) Findings and Recommendations
<b>HAZARDOUS WASTE</b>
Background and Existing Conditions
1) Existing Collection and Processing
2) Collection and Processing Services
3) Processing/collection Facilities
5) Needs and Opportunities
Alternatives
1) Collection and Processing services and facilities
2) Recommendations for Collection /Processing services and facilities
<b>LANDFILL DISPOSAL OPTIONS</b>
Background
County Authority for Waste Disposal
Existing Landfill Disposal
And list pros and cons of it

<b>TOPICS</b>
Waste Stream Projections
Projection Scenarios - climate change, regulatory environment, costs, etc.
Landfill Lifespan
Env. Impact Assessment
Needs and Opportunities
Disposal Options
1) Long-Haul Waste to Out-of-County Landfills
2) Alternative Options
3) Evaluation of Disposal Options
4) Recommendations
<b>ADMINISTRATION AND ENFORCEMENT</b>
Introduction
Background and Existing Conditions
1) Solid Waste Administrative Agencies
2) Solid Waste Advisory Council (SWAC) and Disposal Site Advisory Committee (DSAC)
3) Solid Waste Enforcement
4) Financing and Funding Sources
5) Economic footprint
6) Economic impact
7) System revenue
Monitoring plan progress
Ensuring Policies are followed
County community and business engagement
What grant opportunities, and how can county leverage them?
Needs and Opportunities
1) Management Considerations
2) Financing and Funding Considerations
3) Management Issues
Structure of Solid Waste-related governmental and decision-making bodies
Policy Development
Alternatives and Evaluation
Basis for deciding franchise contracts; annual renewals; capital costs
1) Administration/Management

<b>TOPICS</b>
2) Finance and Funding
3) Recommendations
<b>CONCLUSION</b>
<b>RESOURCES</b>

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# BCTT Charge E Community Education and Outreach

## Goals and Tasks

1. Best practice recommendations for Benton County communication and outreach with the public for the next Conditional Use Permit (CUP) and for future communications concerning the Sustainable Materials Management Plan (SMMP.) This included:
  - a. Review of past and standard legal requirements for Benton County Communication for CUP and BTCC outreach.
  - b. Possible additional outreach methods
  - c. How to differentiate outreach
  - d. Current break-down of outreach by tier
  
2. Community outreach plan for Benton County to use going forward to wrap up the BCTT process and communicate future developments like the CUP, Franchise negotiations, and the SMMP RFP, etc. This included:
  - a. Sharing workgroup achievements with the community
  - b. Providing information on FAQs that relate to the Workgroup process
  - c. Giving the public a picture of what communication will look like for the next CUP and SMMP

## Review of Past Communication with Public re: CUP and BCTT Workgroup

Once the application is submitted to County officials have 30 days to decide if it is complete or not. During this 30-day period the community could be given an opportunity to comment, however it is a challenge to get meaningful public input due to the short time frame (30 days).

However, there is NO legal requirement for public comment during this period. If the County is expecting a land use application, they may be able to get meaningful public input, it would still be difficult within the 30-day window. The public comment for this period would be regarding the completeness of the application. The County has encouraged BCTT to create a list of things that would signify a complete application.

The time limit for the final decision is 150 days from the time the CUP application is deemed complete, this process may be paused if the applicant states in writing why they want it paused. If this happens the longest time the pause can last is 215 days, this would be an extension to the 150-day limit (Benton County, Oregon. (2022b)). Once this 150-day clock starts there are legal requirements regarding communication these include: a mailed notice to owners of property

located a certain distance from the property that is owned by the applicant, this is stated by the Development Code. For Coffin Butte, this requirement is 750 feet from the property lines of the Landfill. Any property that lies partially or fully in this 750 feet requirement is entitled to the physical mailed notification. This 750-foot requirement is a minimum and the County is incentivized to send notification to property owners who would be affected by the proposed land use decision even if these property owners are not within the 750 feet requirement. However, this notification doesn't have to be physically mailed like it does in the 750 feet requirement.

Notification also must be sent to any neighborhood/ community organization recognized by the Board of County Commissioners and whose boundaries include the site; right now, these organizations are the Community Advisory Committees. When a hearing is required there must be publication at least 10 days before the hearing of a notice in a newspaper within the County. The CUP application must also be reviewed by the Solid Waste Advisory Council (SWAC,) there is nothing stating that any specific notification of this SWAC meeting is required (beyond the normal notice that is sent out for regularly scheduled SWAC meetings)

When there is a decision on the land use request there are also requirements for communication which include: a notice of decision mailed to all people who submitted testimony (if there is a hearing). If the decision was made by a Planning Official, notification is required to be sent to owners of property within the 750 feet requirement. The same requirements as stated above also apply if the application is appealed.

County officials have typically done other sorts of notification beyond what is legally required/ stated above these include: staff encouraging the applicant to hold a public informational meeting before the submission of the application. This can give the applicant beneficial public input as well as the applicant giving members of the public more information about the pending application. Once the application is complete and legal notifications have been fulfilled, the County often emails a list of people who have requested notification for land use applications. Sometimes for bigger land use applications information is posted on the Community Development Department website. These are often applications that require a public hearing before the Planning Commission. Once the decision has been made, the legal requirement for a decision made at a public hearing is to mail notice of decision for those who testified, however often the County will mail notice to owners of property close to the land use applicant as well. (Benton County, Oregon. (2022c).

### Common Benton County Public Communications

The County already has channels of communication that are used to notify the public including email lists and the County website. The most trivial of these is email. The County has interested party email lists, these include the Solid Waste Process Workgroup interested parties list as well as the Organic Subscribers list, where information is sent more frequently. The County uses quite a few social media platforms including LinkedIn, Twitter, Nextdoor, Linked In, and Instagram. The County also uses Facebook and has multiple accounts including: the Sheriff's Office, BC central page, Natural Areas & Parks, Human Resources, Event Center & Fairgrounds, Developmental Diversity Program, WIC, Community Health Centers of Benton and Linn Counties, and the Health Department. The County also organizes and participates in Community events

To contact local media partners a Flash Alert can be used, these media partners include the Gazette-Times, Democrat-Herald, and The Advocate. Advertisements in these newspapers as well as advertisements in local radio are used with less frequency as they are expensive. The County also uses direct contact, subscription lists, and distribution lists to share information with media partners.

Notifications can also be sent via a newsletter, both internal and external, an example of this can be found below. Lastly, the County's website is also heavily used. It is typical that the County provides notifications in both English and Spanish as there is significant need for this. It should also be stated that the County will often use a combination of the communication channels with the known constraints like money and time. Advertising, mailers, and other communication tools are used when time and resources are available. A list of these notification channels as well as examples can be found below:

Emails:

- a. Interested parties list, and organic subscribers list
- b. Communication Partners (local network group)

Post in newsletters both internal and external:

- a. [Benton County organic subscribers on Constant Contact](#)
- b. [Constant Contact Health Community Partner email English/Spanish](#) (e.g., PreK-12, Faith, Community Based Organizations (CBOs,) and HOPE, etc.)

County Website

- a. Website Banner
- b. Website [English Press Release](#)
- c. Website [Spanish Press Release](#)

Local radio and newspaper advertisements are occasionally used

- a. [LatinX Radio Partners](#)

Flash Alerts, [Media Partners](#)

Social Media (These are all sites that need to be followed by the County)

- a. [Nextdoor](#)
- b. [Linktree](#)
- c. [Facebook](#) Sheriff's Office, General BC Page, Health Department
- d. [Twitter](#)
- e. LinkedIn
- f. Instagram
- g. [Flickr](#)

## Recommendations by Subcommittee E for Considerations for Improved Outreach

There are many issues to consider with community engagement, one of these is community members being left out of notification channels. This tends to most frequently happen with the engagement approaches that are based on interests such as email lists and other channels where community members are required to initiate contact. When projects center on time and money instead of community member empowerment disadvantaged community members/residents are the most affected. To include these disadvantaged community members is it important that organizations prioritize reaching out to harder-to-reach groups rather than solely focus on their own interests. Studies have shown that underserved populations have reported never being asked to be involved in public decision making. (De Weger et al., 2022).

There are two main ways to improve outreach to these underserved groups these include widening public engagement and using multiple outreach methods.

Widening public engagement can include specifically targeting underserved groups, such as low-income and younger residents. One way to specifically target younger residents is by using notifications that are mobile friendly, such as SMS (texts) and ensuring that website pages and documents are mobile friendly. As well as using a broader list of social media outlets that are common among young people, these include, Snapchat, Reddit, and Tik Tok, among others. In order to widen public engagement, it is also important that different languages are used in all notifications; these include at a minimum Spanish and English. Other languages that would be helpful to include are Arabic and Mandarin Chinese as these languages are prevalent in Benton County (Samaritan Health Services, 2022). (The top five languages spoken in BC are: English, Spanish, Mandarin, Cantonese, then Asian & Pacific Island languages. Yes, there is also Arabic, but it is farther down the list.)

It is also imperative that the County listens to and incorporates voices from the community; this can include creating user-friendly access to public input documents and testimonies during the process to ensure the County, Planning Commission, SWAC and other residents can access information. This could be on a dedicated landfill website or open house website. The County coordinates with the County Equity, Diversity and Inclusion Coordinator and should continue to improve that coordination for outreach efforts.

As mentioned in the Review of Past Communication with Public section above, it is legally required once the 150-day clock has started to notify individuals within 750 feet of the applicant's property lines. However, in order to widen communication, it is recommended that this radius be expanded based on the magnitude of the notification. A chart of this can be seen on Pg 7 and 8 and maps showing the suggested communication radii can be seen on Pg 8 and 9. As is mentioned in the table, these notifications are intended to be used for all CUP applications not just Republic Services, however the level of notification could change based on how influential the CUP application is.

Secondly, using multiple outreach methods is imperative to improving outreach to underserved groups. An important aspect of this is utilizing notification styles that do not require to be followed/ self-selected. The County should initiate communication on other social media sites,

such as the ones that these underserved populations frequent the most, as stated above. Widening social media posts is also important, Corvallis Happenings and other local County groups, have other groups that can share, post, and stories. In addition to widening social media posts, social media ads would also allow the County to initiate contact and the user to then decide if they want to get further notifications on the topic. These notifications are especially recommended due to their effectiveness in other counties (Multnomah) as stated below and their cost-effective nature as governments and nonprofits can get low rates (Public Input, 2022a).

Once the County has made a subsequent effort to initiate contact it is important to utilize email and online surveys (Public Input, 2021a). It is also recommended that the County communicates and engages with the community before the CUP application is placed.

Other considerations can include the recruitment of members to the Planning Commission and the SWAC. The recruitment of members to these groups should be done via/through notification styles mentioned that widen community public engagement and use multiple outreach methods to ensure that as many groups as possible are being represented on the SWAC and the Planning Commission.

Specific Plan for Communication have also been discussed and are shown below:

- Idea A: Communicate via a County wide postcard mailing that invites the community to an in person Open House and/or Online Open House and provides a link and QR code to sign up to be on an email list for more information and to make comments. This method could also be used to create a survey for the public to comment on BCTT Workgroup recommendations. An online open house or a website dedicated to the Landfill CUP could have links for comments, surveys, notices and education.
- Idea B: If mailer is too expensive, use multiple methods of outreach and advertisements to provide outreach for an in person open house and/or an online open house or website with interaction like surveys, notices, comments and education.

#### Examples of other Outreach methods and examples of other public engagement campaigns

- The Multnomah County Burnside Bridge project. Article about project:  
[https://www.multco.us/bridges/news/survey-seeks-public-input-preferred-alternative-earthquake-ready-burnside-bridge?fbclid=IwAR3Ea7brN4wChfywEhj20iNiaQhLa5TSJkDC4UUBRw6M1waAQv\\_IKK5zhHY](https://www.multco.us/bridges/news/survey-seeks-public-input-preferred-alternative-earthquake-ready-burnside-bridge?fbclid=IwAR3Ea7brN4wChfywEhj20iNiaQhLa5TSJkDC4UUBRw6M1waAQv_IKK5zhHY)
  - a. Online open house was provided
  - b. Instagram adds used to reach younger population
  - c. Project has its own website, provides community engagement survey results at several phases  
<https://www.multco.us/earthquake-ready-burnside-bridge>

- SCORP (Statewide Comprehensive Recreation Plan) from OSU College of Forestry.
  - a. Used a letter with a link to a survey (We could do something like this but with a very noticeable postcard and a shorter, more user-friendly survey)

<https://outdooreconomy.oregonstate.edu/oregon-statewide->



**Oregon State University**

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Para Español de vuelta a la página.

November 14, 2022

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About a week ago, we sent you a survey on outdoor recreation and other topics as part of the 2024-28 Statewide Comprehensive Outdoor Recreation Plan project. If you've already completed the survey, please accept our thanks. If not, then please take a few minutes to complete it now.

Your responses are important, regardless of where you live or how often you engage in outdoor recreation. Outdoor recreation includes a variety of things you may do outdoors in your free time. Activities such as walking your dog, cycling on sidewalks, trails, and roads, relaxing at your local park, picnicking with family and friends, fishing and hunting, boating, camping, bird watching, sightseeing, playing outdoor sports like golf and tennis, attending outdoor concerts, are some of the many examples of outdoor recreation.

Please complete the survey even if you have not engaged in any outdoor recreation activities in the last 12 months. Please complete the survey at the following link by December 31, 2022.



Go to <https://bit.ly/3NOMU6s> and enter the following ID number to complete the survey: **16281**

If you have any questions about the survey, please contact me at 541-737-4425, or by e-mail at [r.rosenberger@oregonstate.edu](mailto:r.rosenberger@oregonstate.edu). Please visit our SCORP website at <http://bit.ly/3fnjPV> for more information. If you have any questions about your rights as a survey participant, please contact the OSU Institutional Review Board (IRB) Human Protections Administrator at 541-737-8008 or by e-mail at [IRB@oregonstate.edu](mailto:IRB@oregonstate.edu) and reference OSU IRB #2022-1605.

Thank you very much for your participation,

*Randall S. Rosenberger*  
Dr. Randall S. Rosenberger, PhD  
Interim Department Head and Professor of Applied Economics

[comprehensive- outdoor-recreation-plan](#)

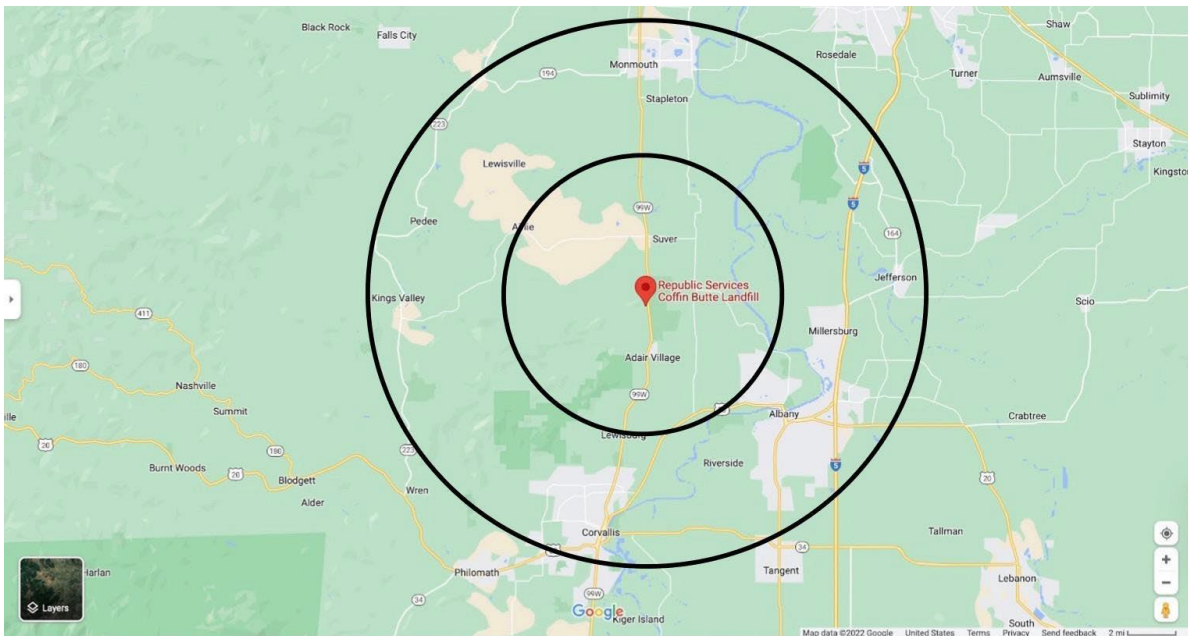
Public Outreach and Notifications Suggestions Table

\*These notification suggestions are meant to be used on all CUP related processes not just with Republic Services

<b>Benton County Talks Trash Notifications Draft Chart</b>			
<b>Notification Subject</b>	<b>Notification Type</b>	<b>Who is Notified</b>	<b>Timeline</b>
BCTT Report	Email blast  Interested Parties List, Organic Subscribers, make sure those who spoke at meeting are on the list  Soap Creek Neighbors Group, other landfill neighbors	*Radii maps mentioned in table are below  10 Mile Radius Proposed	● 72 hours  After report is finished
BCTT Survey re: Public Thoughts on Workgroup Report	Email blast, website post.  Possible postcard to the entire county here with a link to go to and/or scan to get on a list to be informed of further updates and/or have an open house event/public informational meeting- weekend in the daytime where the link and email list is available.	10 Miles proposed	Open 1 month
Board Hearing on Report	Email blast, website post	10 Miles proposed	24 hrs. after scheduled
CUP Filing	Post Card, email blast, newspaper Social media posts and ads	10 or 15 miles	24 hrs. after initiation

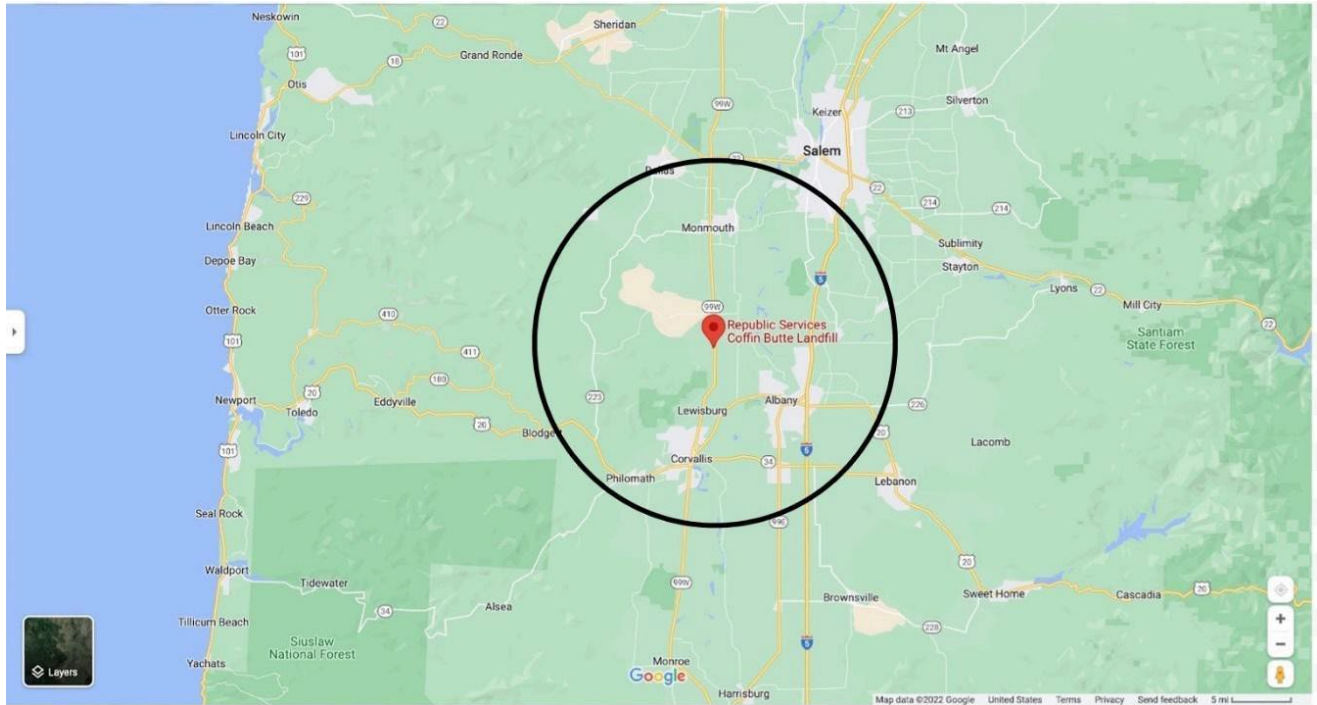
Franchise Agreements			
CUP Completion	Email blast, website post, newspaper Social Media	Entire County  Same as CUP filing	24 hrs. after
Planning Commission Meetings	Website, email to interested groups	People on existing email list	2 weeks before meeting
SWAC Meetings	Website, email to interested groups	People on existing email list	1 to 2 weeks before meeting

Notification Radius Area Proposals:



Center, smaller radius is a five-mile radius from Coffin Butte Landfill and the other radius is 10 miles





15-mile radius around Coffin Butte Landfill

## References

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Benton County, Oregon. (2022b) 150-Day Limit on Land Use Application Review.

[https://www.co.benton.or.us/sites/default/files/fileattachments/community\\_development/page/8384/150-day\\_time\\_limit\\_v3.docx](https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8384/150-day_time_limit_v3.docx)

Benton County, Oregon. (2022c) Dissemination of Information Draft Memo.

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