

BCTT Subcommittee - A.2. Past CUP Conditions: Subcommittee Report

December 15, 2022 Workgroup Meeting

HIGHLIGHTS

Goal remains the same: A clear common understanding of the conditions placed on the landfill and their compliance status.

Progress:

- Past CUP Conditions Table:
 - ◆ Almost ready for full Subcommittee
 - ◆ Opinions structured for ease of review
 - ◆ Lessons Learned added (Observations, Recommendations)
- Supporting Information e.g., clarifying where a land use decision might be supported, clarified, or superseded by other public documents, e.g., County Codes, state regulatory definitions, business records, etc.
 - ◆ DEQ Records -illustration tool, records & information request
 - ◆ Timeline content proposed

Action Items:

- Revise Working Document Formatting (Inga. In Progress)
- Complete Working CUP Text (Small Work Group. Tuesday 20 Dec 22)
- Develop a timeline showing land use decisions and disposal volumes.
(Needs collaboration with Workgroup)
- Resolve Introduction “Land Use 101” language (CUP & Legal Mtg)

Compliance with Past Land Use Actions and Their Status

Table of Contents

#	Date	File #	Request	Result
1	1974	CP-74-01	Designating Coffin Butte Landfill as a regional sanitary landfill site as recommended in the Chemeketa Regional Solid Waste Program Report and Sanitary Landfill expansion.	PC Approved PC Decision Appealed BOC Approved
2	1983	PC-83-07/L-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). 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)).	BOC Approved.
3	1988		Order to Vacate a portion of Tampico Ridge Subdivision	BOC Approved
4	1988	LD-88-11	A Lot line adjustment with a transfer of 37.94 acres from parcel A to parcel B.	Development Department Approved
5	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.	Development Department Approved
6	1994	PC-94-10	Zone change from Rural Residential to Landfill Site Zone, Comprehensive Plan change from Rural Residential to Landfill Site	BOC Denied
7	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
8	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
9	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. Update: Quarry operations on this parcel have ceased	Planning Commission approved
10	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
11	2002		Vacation of a portion of Coffin Butte Road	BOC approved

#	Date	File #	Request	Result
12	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
13	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
14	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
15	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
16	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 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.	Planning Commission Denied; PC Decision Appealed; Appeal Withdrawn

General Notes

Definitions Used in Compliance Assessment:

- **In Compliance** = Compliance demonstrated. Basis: cite basis e.g., In County Records
- **Not In Compliance** = ~~Compliance not demonstrated~~—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, 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):

Example

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 and Sanitary Landfill expansion.	PC Approved PC Decision Appealed BOC Approved
Conditions of Approval		Current Status	
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.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</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"> • 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. • 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) <p><u>Subcommittee</u></p> <p>Compliance Opinions:</p> <p style="margin-left: 20px;">A Physical Design Requirements: In Compliance</p> <p style="margin-left: 20px;">B Reclamation & Visual Requirements: Compliance Status Unclear</p> <p>A Compliance Opinion for “small acreage” condition: In Compliance.</p>			

Basis:

Based on participant observations and company testimony during September 2022 County sponsored Coffin Butte Tour (see Site Tour Notes on BCTT website).

B Compliance Opinion for “...shall be returned to grazing...” condition: Compliance Status Unclear

Basis:

Landfill not ready for compliance with timing governed by DEQ and Federal rules for a Municipal Solid Waste facility. The site is not ready until it meets closure requirements. (Ref. CFR from Brian e-mail).

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.

Notes:

Lack of clarity between RSI closure representations and DEQ position:

- 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.

- DEQ

Ref. **From:** FULLER Brian * DEQ <Brian.FULLER@deq.oregon.gov>, **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.

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 § 257.2 of this chapter. 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.

Open Items: Resolution of differences between RSI documents and DEQ requirements.

Lessons Learned

Refers to Document Number	Observations	Recommendations (Post BCTT work group tasks)
1	About 30 million gallons per year of leachate (about twenty 5500 gallon tank trucks per day) are trucked offsite to city treatment systems	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 water treatment and impact on the service life of the facility. Financial considerations should be transparent.
1	<p>(Condition 6) Lack of clarity between RSI closure representations and DEQ position on when site is in closure and ready for reclamation.</p> <p>Under the DEQ position, reclamation does not start until all disposal operations cease. This is potentially 30 years in the future if landfill expansions are approved.</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"> 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 people? 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? 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. <p><u>Bike Transit Corridor IMPACT: CONFLICT WITH 2040 Only bike crossing east/west is across from landfill</u></p>
1	<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>
2	Decision text and “conditions” are sometimes difficult to easily determine especially in older	Future decisions clearly convey basis of Approval. Example: “Condition of Approval: This approval is based upon the application, site plan, and

Refers to Document Number	Observations	Recommendations (Post BCTT work group tasks)
	County decision documents (See analysis by M Yeager (Dec 2022))	<p>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>NEED EDUCATION FROM COUNTY STAFF: Is there a written Benton County Compliance Policy & Process address including a complaint lodging, tracking, and resolution process?</p>
3	<p>1988 Board Order to Vacate a portion of Tampico Ridge Subdivision appears to have removed about 600? (RECHECK #) acres of land from residential use.</p> <p>DEQ in the 2005 Record of Decision for the landfill specifies "Property purchases as buffer around the landfill." as one of the remedies¹ for groundwater contamination.</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>

¹ DEQ Record of Decision 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.

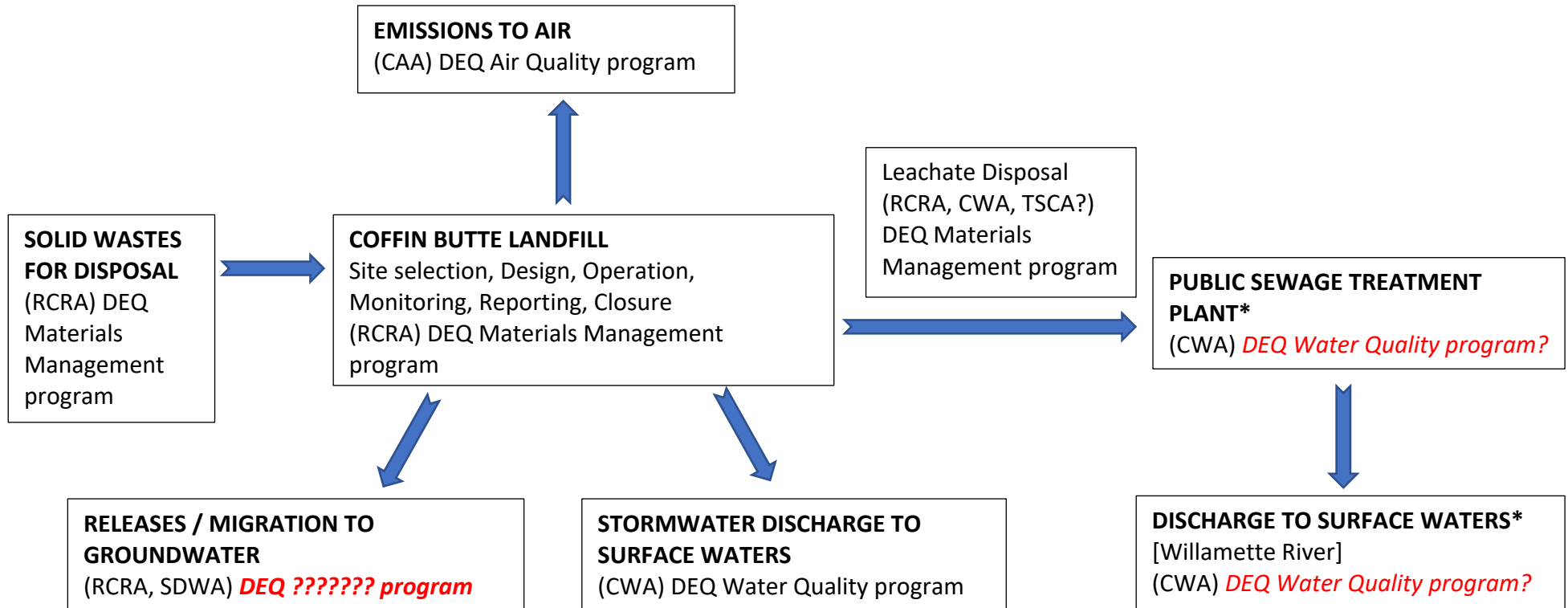
In addition to these actions, the solid waste permit requires groundwater monitoring downgradient of the landfill cells and LFG monitoring around the landfill cells and in structures to assess protectiveness between the landfill and potential receptors.

Refers to Document Number	Observations	Recommendations (Post BCTT work group tasks)
5	Noise (Condition 2, 5)	Establish and widely advertise a County process for receiving, tracking, and resolving landfill and power plant related noise complaints.
5	Lighting at Power Plant (Condition 6)	Establish and widely advertise a County process for receiving, tracking, and resolving landfill and power plant related noise complaints.
8	Lighting at Power Plant (Condition 7)	Establish and widely advertise a County process for receiving, tracking, and resolving landfill and power plant related noise complaints.
8	(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.
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). Need to review Title V Permits.

NOTE: SEPARATE LESSONS LEARNED FOR CONDITIONS LANGUAGE

WHAT IS REGULATED? APPLICABLE ENVIRONMENTAL LAWS & DEQ OVERSIGHT

FIGURE 1



LEGEND
CAA = CLEAN AIR ACT (Title V)
CWA = CLEAN WATER ACT National Pollution Discharge Elimination System (NPDES)
RCRA = RESOURCE CONSERVATION AND RECOVERY ACT (Land Disposal Rules)
SDWA = SAFE DRINKING WATER ACT
TSCA = TOXIC SUBSTANCES CONTROL ACT (CHECK APPLICABILITY)

NOTE: NEED TO ADD DEQ NOMENCLATURE

What's being asked for in red:

Table DEQ Documents

WHAT IS REGULATED

UNDER WHAT
AUTHORITIES

Authorizing Documents / Permits / Site or Area Investigations

Priority for obtaining records--->

Highest

DEQ automatically sends to County
(Insert: "Y" if yes, "NA" if not applicable) --->

SOLID WASTES FOR DISPOSAL

(RCRA) DEQ Materials
Management program

- 1) Documents specifying the types of wastes Coffin Butte can legally accept and date of permit for these wastes
- 2) Information on what is being disposed of, at what tonnages, and from where (Counties/States)

List Name and Date of Documents Available (Add Later)

Add rows as needed

COFFIN BUTTE LANDFILL

(RCRA) DEQ Materials
Management program

**Site selection, Design, Operation,
Monitoring, Reporting**

- 1) Solid Waste Facility Permits (BF already provide one)
- 2) "RCRA or state name" Facility Assessment, Facility Investigation, Record of Decision (2005?)
- 3) Site Closure and Post Closure Plans
- 4) Financial Assurance Filings

List Name and Date of Documents Available (add later)

SOLID WASTE DISPOSAL SITE PERMIT: Municipal Solid Waste Landfill 2020, MMSW306PER20200602.pdf {Note to Sam/Inga: Will we have a cite to view these?}

Add rows as needed

EMISSIONS TO AIR(CAA) DEQ Air Quality
program**Title V Permits (Already Have List from B Fuller)**

List Name and Date of Documents Available (add later)

2020 Permit can be found at this link: State of Oregon: Department of Environmental Quality.

The permit has been administratively extended (conditions are in effect) and a renewal permit is being drafted.

(Already Have List from B Fuller)

Add rows as needed

**RELEASES / MIGRATION TO
GROUNDWATER**(RCRA, SDWA) DEQ
??????? Program**??????? Is there a Corrective Action Program?**

List Name and Date of Documents Available (add later)

Add rows as needed

**STORMWATER DISCHARGE TO
SURFACE WATERS**(CWA) DEQ Water Quality
program**Stormwater 1200-Z Industrial Stormwater General Permit**

List Name and Date of Documents Available (add later)

Source Website: <https://www.oregon.gov/deq/wq/wqpermits/Pages/Stormwater-Industrial.aspx>

2021 Permit

<https://www.oregon.gov/deq/FilterPermitsDocs/wqp1200zPermit.pdf>

Add rows as needed

**Leachate Processing at PUBLIC
SEWAGE TREATMENT PLANT
(Corvallis, Salem)***(CWA) DEQ Water Quality
program?

Added to list to complete regulatory perspective. Not part of BCTT Charge. Requesting DEQ to just point to who should be contacted for this information.

**DISCHARGE TO SURFACE
WATERS*
[Willamette River]**

IDEAS ON INFORMATION TO INCLUDE AND DATA GATHERING
FOR TIMELINE

Information Source(s)

Operations Related

Leachate Volume

RSI Reports?

Leachate Land Applied

Leachate Sent to City Treatment

Tonnage Disposed

SITE LIFE SUB COMMITTEE

Landfill Area (Acres)

Counties Served

RSI Reports?

Regulatory Related

Solid Waste Permits

Air Permits

Land Use Related

KeyWords from PC/LC Table

Zoning

By Year