

Section A. Common Understandings

1. Chronological history of Key Coffin Butte Landfill Topics

- a) **History:** Coffin Butte Landfill was created in the late 1940s by the U.S. Army as part of waste disposal from the former Camp Adair. It was expanded and designated a regional landfill under the 1974 Chemeketa Region Solid Waste Management Program, a cooperative effort between Benton, Linn, Marion, Yamhill and Polk Counties. Valley Landfills, Inc., purchased the landfill in 1975 for use as a municipal landfill.

In 2000, Allied Waste Transportation, Inc., a wholly-owned subsidiary of Allied Waste Industries, Inc., purchased the stock of Waste Control Systems, Inc., which included its wholly-owned subsidiary Valley Landfills, Inc. In 2008, Republic Services, Inc. merged with Allied Waste Industries, Inc. Republic Services, Inc. is the parent company of all operating subsidiaries in the State of Oregon, including Valley Landfills, Inc. Regardless of the specific legal entity tied to a particular contract or facility, it is common for our employees and our customers to refer to us using our brand name “Republic Services.”

- b) **Landfill Size and Development:** The Landfill site comprises 740 acres. Of that, only 178 acres are permitted for waste disposal (including the quarry). The Landfill site includes 40 acres of wetlands and 556 acres dedicated to preservation and non-landfill operations.

- c) **Specific Landfill locations and cell size:** The “working face of the landfill” is less than ½ acre at any given time. “Working face” refers to the actual area where waste is being disposed. Coffin Butte is currently disposing of trash in Cell 5D, on the north side of the Landfill site. Waste disposal in the various cells (map attached) occurred during the following time frames:

- Cell 1: 1970s
- 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 II: 2009
- Cell 4: 2012
- Cell 5A: 2014
- Cell 5B: 2018
- Cell 5C: 2020
- Cell 5D 2022 (Current)

- d) **Conditions and compliance of past land use approvals:** Republic Services provided input on this topic to the Workgroup on September 23, 2022.
- e) **Reporting requirements:** The environmental services industry is one of the most heavily regulated in the United States, and Coffin Butte Landfill works cooperatively with all its regulatory partners, whether they be at the federal, state, county, or local level. The following is a summary of Coffin Butte’s partnerships and inspections.
- i. **Oregon Department of Environmental Quality (DEQ) solid waste permit:** Includes semi-annual inspections, semi-annual groundwater monitoring (usually in April and October); results are submitted in an annual report every month to DEQ.
 - ii. **DEQ Title V air permit:** 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.
 - iii. **DEQ stormwater permit:** 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.
 - iv. **City of Corvallis wastewater disposal permit:** Subject to an annual inspection as well as weekly monitoring and monthly reporting to the City.
 - v. **City of Salem wastewater disposal permit:** Subject to semi-annual inspection as well as semi-annual monitoring to the City and reporting to the City.
- f) **Assumptions:** “Based on our latest estimates, Coffin Butte Landfill is currently on track to run out of capacity in approximately three years. While there is an estimated 12-15 years of capacity available in the quarry, that location will not be ready for active disposal operations for about four years. Based on the best available data, currently there is roughly 18 years of airspace available at the site. But it is important to recognize that there are various human, economic and environmental factors that directly impact available airspace – these factors will cause estimates to continually fluctuate. A Landfill’s remaining site life or “airspace” is primarily determined by two factors – the volume (tonnage) of waste being disposed of at the facility, and the density of those materials. As the County has noted, the volume of waste being deposited at Coffin Butte has steadily increased in recent years due to a variety of factors, including population growth in the Willamette Valley and unforeseen ecological disasters like the 2020 wildfires. In addition, the upcoming closure of Riverbend Landfill in Yamhill County – a regional facility that is no longer accepting trash from area cities – has significantly impacted regional volumes to include tonnage at Coffin Butte.”
- g) **Economics:** Republic Services intends to provide additional information on this issue as the Common Understandings are developed by the Workgroup.
- h) **Examples from other jurisdictions hosting landfills:** The conditions of approval imposed by Morrow and Gilliam counties are only relevant to the degree that their criteria for approval

are the same as Benton County’s criteria for the approval. Landfill and collection franchises are granted using different criteria and those distinct franchises are often operated and overseen by different legal entities. The concept of “issue sequencing” is not appropriate within the context of examining a CUP application.”

2. Summary of the County’s current rights and obligations to Republic Services and vice versa

(a) The hauling franchise: Corvallis Disposal Co. dba Allied Waste Services of Corvallis (also dba Republic Services of Corvallis) (“Republic Services”) provides solid-waste collection under separate franchise agreements with both Benton County and the City of Corvallis. In June of 2022, Benton County renewed Republic Services’ Solid Waste Collection Franchise (“Benton County Collection Franchise”) for ten years. On or before July 1, 2024, Benton County may seek to negotiate the amendment of certain terms of the Benton County Collection Franchise when Republic and the City of Corvallis negotiate the renewal of the City of Corvallis Collection Franchise.

b) The landfill franchise: Valley Landfills, Inc., operates Coffin Butte Landfill under a Landfill Franchise and Host Agreement (“Landfill Franchise Agreement”) negotiated with Benton County in accordance with Benton County Code Chapter 23 (“BCC Chapter 23”). The most recent Landfill Franchise Agreement became effective on January 1, 2021 and extends until December 31, 2040. A franchise agreement is a contract, meaning that it cannot be amended except in writing executed by both parties. Among many other provisions, the Landfill Franchise Agreement specifies that Benton County will receive franchise and host fee payments from Valley Landfills, Inc.

c) What legally can and cannot be conditions of any land use approvals:

- The existing landfill and expansion area are located on property specially designated for a landfill site on the comprehensive plan and zoning maps. 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 has authority to impose conditions of approval to ensure compliance with these criteria but does not have authority to impose conditions unrelated to the criteria. Attachment “A” to this memo provides further detail on the interpretation of the CUP criteria.
- The County only has jurisdiction under the CUP over the proposed expansion as requested in the application. Existing and past operations are not within the County’s jurisdiction. 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 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.
- 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. It authorizes negotiation of franchise agreements for collection and disposal of solid waste. 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.

3. Summary of Rights and Obligations of Other Entities:

- a) **Federal:** Republic will provide input on this topic in the “Other Entity Rights and Obligations” document circulated on September 26, 2022.
- b) **Tribal:** Republic will provide input on this topic in the “Other Entity Rights and Obligations” document circulated on September 26, 2022.
- c) **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.

- d) **Local government** Republic will provide input on this topic in the “Other Entity Rights and Obligations” document circulated on September 26, 2022.

- e) **Summary of the step-by-step process in ORS chapter 459 and associated timing for the cross-jurisdictional approvals of landfill applications...** As previously noted, a landfill expansion requires amendment to three existing environmental permits from Oregon DEQ. But due to statutory state-agency coordination requirements, DEQ will not review or act on the environmental permit modifications until the County has granted land use approval. Valley Landfills cannot begin the DEQ permitting process until it has secured a CUP from the County.

- f) **What topics are within whose authority?** Please refer to previous responses.

- g) **Whether County can or should consider the topics it does not have permitting authority over when assessing the criteria outlined in Code section 53.215.** Please see response to Section 2(b).