



**Benton
County**
OREGON

Compliance with Past Land Use Actions Report

A.2 Subcommittee

DRAFT 1-23-23

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HOW TO USE THIS DOCUMENT

This report contains a list of land use actions that are associated with the Coffin Butte Landfill. The first table contains a comprehensive list of documents, with dates of approval and some key aspects of the document. The second table contains only those documents that were Conditional Use Permits, with one item containing two companion documents that represent map amendments to the comprehensive plan and the zoning maps, as well as text amendments to the comprehensive plan and the land use regulations. Each condition of approval for that application is listed. The subcommittee has provided comments for each condition and their opinions on whether the condition was completed or not by the applicant or if the condition is no longer relevant.

The titles of the land use documents contain different prefixes. The ones that are used are "CP", "PC", "L", "LD", "S", and "LU". This is because the naming convention used by the Planning Department has changed over time. There is no significance to the different prefixes. The second portion of the title is the year that the applicant was submitted, and the last portion is what number it is in the list of files. For example, CP-74-01. CP was the acronym for a conditional use permit at the time. The application was submitted in 1974 and it was the first application of the year, or the first conditional use application of the year depending on the naming convention at the time.

UNDERSTANDING CONDITIONS OF APPROVAL AND HOW THEY ARE APPLIED.

Conditions of Approval are formulated with certain expectations that need to be met by the applicant.

One type of conditions is those that need to be completed before the applicant can begin the approved use (preliminary condition). The applicant normally has stated time frame, with the ability to extend, within which these conditions must be completed; if not completed, the approval is voided. There are other conditions that are meant to last the lifespan, or beyond, of the use (operating conditions). In most past land use applications, these two types of conditions have been lumped together under the title Conditions of Approval. The only way to distinguish lifespan conditions from preliminary conditions is in the wording of the condition.

More recently, planning staff have segregated the preliminary conditions from the operating conditions under the umbrella heading Conditions of Approval. If required, the segregation lumps conditions into Conditions of Preliminary Approval, or similar title, and Conditions of Operating Approval, or similar title.

Once the Conditions of Preliminary Approval have been met, the applicant is granted Final Approval, a.k.a Operating Approval. This allows the applicant to proceed with development of the use. The applicant is required to comply with the lifespan, or operating, conditions but the County does not actively monitor the use to ensure that they are complying.

An example of a preliminary condition is, "The applicant shall provide staff with a survey of the subject site."

An example of a lifespan/operating condition is, "The applicant shall be compliant with the State's noise level standards."

There are some conditions that cross-over from a preliminary approval to a lifespan/operating condition.

An example of this is a requirement to plant a vegetative buffer. The requirement might be that the applicant plant a certain number of trees along the roadway, for example, and once planted that preliminary condition will be deemed complete by county staff. However, the applicant continues to have an obligation to maintain the plantings and replace any vegetation that is dead. It might not be explicitly stated, but the implicit intent of a landscape buffer condition is to shield a view and/or reduce noise, so the intent is that the applicant will maintain the landscape buffer in a healthy condition so that it continues to grow and provide a shield.

INTRODUCTION

This document contains a historical summary of land use actions¹ 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).

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).² Conditional uses are required to demonstrate that compatibility by establishing compliance with specific criteria. (BCC 53.215.)³ 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,~~

Commented [G1]: I now propose merging the "context" paragraph with the "compatibility" paragraphs that are causing so much heartburn.

¹ Findings of Fact, notices of decision, conditions of approval, zone changes, code adoptions, code amendments, etc.

² 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."

³Under BCC 53.215, 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."

~~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." 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 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). 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 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.

Commented [S12]: CUP SUB Language

Commented [W13R2]: We are assuming that Ginny is striking this paragraph in place of the one above and below

Commented [S14]: Legal Sub Language

Commented [W15R4]: We are assuming that Ginny is striking this paragraph in place of the one above and below.

Commented [G6]: Proposed alternative language for above paragraphs

TABLE 1. LANDFILL LAND USE DOCUMENT TABLE

List of Land Use Documents associated with the Landfill

This is a list of land use applications and requests associated with the landfill. This list includes street vacations, Conditional Use Permits, Property Line Adjustments, an amendment to the comprehensive plan and zoning maps and text amendments, and Partitions. Street vacations are put forward by the county’s Public Works department and approved by the Board of County Commissioners. The vacation is in effect upon approval. Property Line Adjustments and Partitions are approved by staff and there are conditions of approval required to be complete by the deadline stated in the approval, or the land use action is voided. There is nothing further to review once the conditions are completed. Only the conditions of approval in the Conditional Use Permits cited below are ones that may require long term review or actions beyond the time the applicant is given approval to proceed with the land use. A review of each condition of approval for each Conditional Use Permit is organized in the next table. Also included is the land use application amending the comprehensive plan map and text of the plan and amending the zoning map and text of the development code.

#	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

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					<p>Disposal Company including any qualifications or stipulations</p> <p>Planning Commission decision</p> <p>Conditions of Approval: 5</p> <ol style="list-style-type: none"> 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. <p>Planning Commission decision appealed</p> <p>BOC upholds PC decision with following amendments and additions to conditions:</p>

#	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? (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>

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
3	1983	PC-83-07 / L-83-07	Comprehensive Plan and Map Amendments Zoning Ordinance (Development Code) and Zoning Map amendments	BOC Approved	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)).Ord 261 – July 6, 1983 Any proposal to expand the area approved for landfill must be reviewed and approved by PC. Criteria for review includes: Provision of screening of site from public roads and adjacent property egress/ingress, site plan and reclamation plan
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	A transfer of 37.94 acres from Tax Lot 10-4-18-800 to Tax Lot 10-4-18-1106

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
				Department approved	
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 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	1992	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	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.

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
				Approved February 16, 1994	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 change from Rural Residential to Landfill Site	BOC Denied Date of Decision: January 18, 1995	Involves approximately 26 acres including expansion south of Coffin Butte Rd. Property Owner: Valley Landfills, Inc 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	1994	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	1994	LD-94-26	Property Line Adjustment	Community Development Department approved,	Transferred 21 acres from 10-4-19B-1600 to 10-4-18-1107

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
				applicant did not complete requirements to complete the transfer, file closed	
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. Update: quarry operations on this parcel have ceased

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
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	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

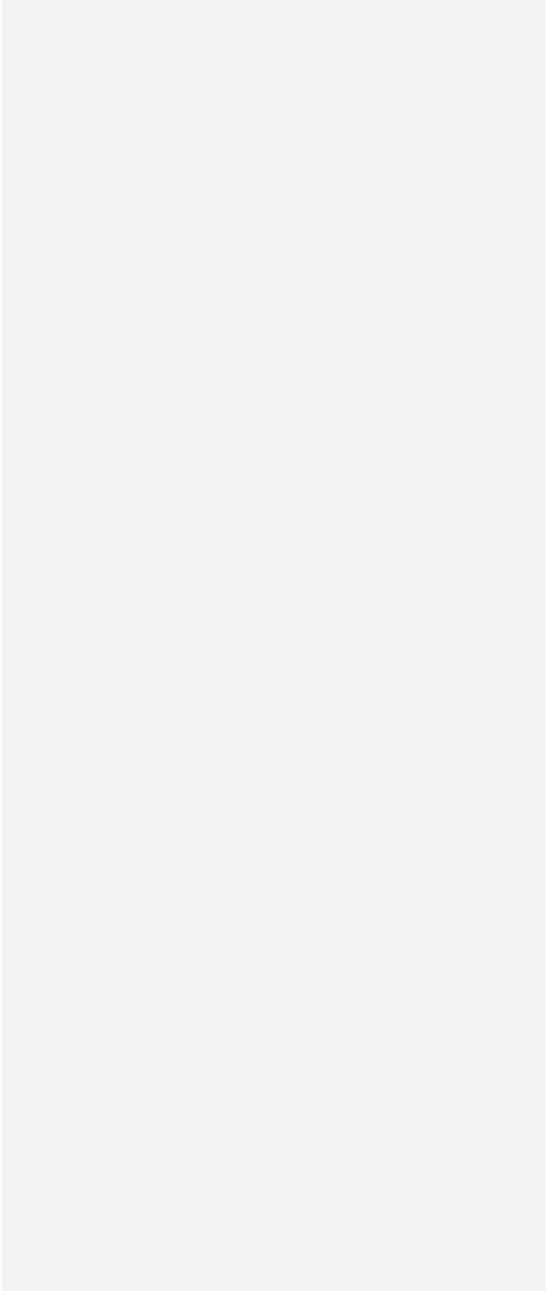
#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					<p>represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).</p> <p>Conditions of Approval: 10 (Operate within DEQ approval, dust-free roads, 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
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>

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					<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>

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					<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> <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.	Community Development Department Approved September 16, 2015	<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</p>

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					<p>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	<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. Closing Coffin Butte Road will likely require</p>	<p>PC Denied December 7, 2021;</p> <p>PC Decision Appealed;</p> <p>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>

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
			improvement of at least one other roadway in the area to accommodate increased traffic—potentially Tampico Road or Wiles and Robison Roads.		



ASSESSMENTS OF LAND USE CONDITIONS

Definitions Of The Compliance Phrases Used Within The Following Table:

- **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)

Republic Comments: The 2002 Memorandum of Understanding between Benton County and Valley Landfills determined that the Landfill was in compliance with all County land use requirements as of that date. The MOU answers the question of whether Valley Landfills complied with conditions imposed by land use decisions prior to that date and establish the baseline for review of future land use applications, which has been applied going forward from that date. See Legal Subcommittee's Memorandum on the 2002 Memorandum.

Table 2. Assessments of Land Use Conditions

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 ⁴ 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 ⁵ . Expanding Coffin Butte to service additional areas should require a re-review by the Planning Commission.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</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"> • Unable to accept this assessment until additional research is complete. • 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 			

⁴ 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.

⁵ 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).

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 ⁴ and Sanitary Landfill expansion.	PC Approved PC Decision Appealed BOC Approved
<p>• 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 Services⁶ 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.</p> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Not In Compliance</p> <p>Basis: RSI [Republic] 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 [Republic] annual report (add link to most recent report))</p> <p>Explanation: Further searches of County and RSI [Republic] 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 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:</p> <ul style="list-style-type: none"> ◆ 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 25I” Specific language to be inserted in the code under “Landfill and Solid Waste Policies” includes: 			

⁶ 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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<p data-bbox="201 457 1461 513">"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."</p> <p data-bbox="184 532 485 558">◆ PC-83-07-C(3) PDF page 13</p> <p data-bbox="163 578 1503 789">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. From <https://www.oregonlegislature.gov/bills_laws/ors/ors459.html> per B Fuller to S Imperati email 110722</p> <ul data-bbox="163 808 1010 834" style="list-style-type: none"> ◆ PLACE KEEPER: Add 2002 PC-02-07 geographic, regional landfill issue (Catherine) <p data-bbox="163 854 1108 880">Status of search for County business related documents mentioning geographic service area:</p> <ul data-bbox="184 899 1503 1195" style="list-style-type: none"> ◆ Franchise Agreements prior to 2020 not found. Need to find this. ◆ No mention of geographic service area in 2020 Franchise Agreements (https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/valley_landfills_landfill_franchise_agrmt_2020.pdf) ◆ There is a 2016 Benton County / RSI [Republic] 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. (https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/republic_svcs_riverbend_landfill_500952_mou_120116.pdf) <p data-bbox="163 1214 1136 1240">Open Item: Search DEQ permits for information allowing geographic areas to use CB Landfill.</p> <p data-bbox="163 1260 516 1286"><u>Subcommittee Member - Republic</u></p>			

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<p>Disagree with subcommittee members that conclude “not in compliance.” This condition was superseded by the 1983 change to the County’s regulatory structure as evidenced by subsequent decisions which did not carry forward this condition. It is also evidenced by the 2002 Memorandum of Understanding between Republic and Benton County, which concluded that the Republic was in full compliance with county regulations as of that date. In any event, such locational limitations were rendered unenforceable by a 1998 Supreme Court decision, which found that such limitations were unconstitutional violations of the Commerce Clause. (This decision is discussed in detail in a memorandum prepared by Legal Subcommittee and appended to their report.) This condition has been long superseded and any attempt to impose a similar condition would be unconstitutional (and is also now outside the County’s scope of review under the Development Code.)</p>			
<p>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.</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <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 https://www.co.benton.or.us/cd/page/solid-waste-collection-franchisee-annual-reports</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • The report was supposed to be annual but this assessment only mentions one year. More information needed to confirm compliance. • I see annual reports dating back to 2005. Were there annual reports submitted before then? • 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 <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p>			

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<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. SWAC reportedly receives annual landfill reports however neither the County Sanitarian nor the Planning Commission are involved in reviewing the reports.</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><u>Subcommittee Member - Republic</u></p> <p>This condition was superseded by subsequent decisions that did not carry it forward.</p>			
<p>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).</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</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"> 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 			

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(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"

- 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.
- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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).

Compliance Opinion: Compliance Not Demonstrated

Basis: A review of DEQ and RSI [Republic] records is needed. Evidence that "Efficient leachate collection and treatment..." is occurring is needed.

Explanation: It is understood from RSI [Republic] 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 [Republic] is in compliance.

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

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<p>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><u>Subcommittee Member - Republic</u></p> <p>Republic agrees with Staff. Leachate regulation is within the exclusive jurisdiction of DEQ. The County has no authority or expertise to regulate leachate or to adopt or impose environmental conditions or regulations that conflict or add to DEQ’s regulations. Republic has permits with the City of Corvallis and the City of Salem. The cities handle the treatment of the leachate and have and must continue to comply with permits to discharge wastewater. Republic’s disposal of Leachate is in compliance with its DEQ and City of Corvallis permits.</p>			
<p>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.</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<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>			

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<ul style="list-style-type: none"> 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. 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. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinions:</p> <ul style="list-style-type: none"> A. Physical Design Requirements: In Compliance B. Reclamation & Visual Requirements: Compliance Status Unclear <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"> "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? 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. 			

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<p>Notes:</p> <p>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> <p><u>Subcommittee Member – Republic</u></p> <p>Republic agrees with Staff. The landfill has changed substantially since 1974 and certain areas of the landfill have been closed and covered and seeded over time per DEQ regulations. This condition is no longer relevant. Reclamation of the site will continue as cells close and will be part of the final Closure Plan.</p>			
<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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <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"> Needs detail, & 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 <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: In Compliance</p>			

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Basis: Document (1977 Waste Control Systems, Inc. Solid Waste Management Plan)			
Note: Not available via County records, subcommittee has procured and exists in appendix			
<p>6. The landfill operation shall be phased so that only a small acreage is used for fill 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.</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<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 Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinions:</p> <p>A. Physical Design Requirements: In Compliance</p> <p>B. Reclamation & Visual Requirements: Compliance Status Unclear</p> <p>A. Compliance Opinion for “small acreage” condition: In Compliance.</p>			

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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: 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 [Republic] 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 [Republic] 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.

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 [Republic] 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: RSI [Republic] closure representations and DEQ position:

- RSI [Republic] 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

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<p>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.</p> <p>CFR 258.2 Definitions</p> <p>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 <u>§ 257.2 of this chapter</u>. 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> <p><u>Subcommittee Member – Republic</u></p> <p>Republic agrees with staff. Republic notes that the active landfill area remains approximately the same size when the Landfill moves from one cell to another. This has been true for the life of the Landfill.</p>			
<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.</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>The applicant has and is fulfilling this condition.</p> <p><u>Workgroup Committee</u></p>			

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<ul style="list-style-type: none"> • 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. • 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. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Compliance Status Unclear</p> <p>Explanation: RSI [Republic] 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 [Republic] draws material from.</p> <p><u>Subcommittee Member – Republic</u></p> <p>Republic is in compliance with this condition, and since 1974 has gone much further in encouraging and making it easier to recycle. Goals/targets for recycling are appropriate considered as part the LTMMP process but are not appropriately considered as part of the CUP process. The regulatory framework has changed significant since 1974.</p>			

Date	File #	Request	Result
1983	PC-83-07 L-83-07	Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).	BOC Approved.
Conditions of Approval		Current Status	
1. Cross reference the narrative and the map in both documents. <i>*Clarification On Content Needed. See Subcommittee Comments</i>		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</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"> impossible to assess with missing narrative <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:</p> <p>Reclamation, physical layout, and maintenance provisions: From pdf file pages 4 & 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</p>			

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Conditions of Approval		Current Status	
<p>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 & 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 currently 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) “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>End of quotations</p> <p>Compliance Opinions: A. Physical Design & Geotechnical Requirements: Compliance Status Unclear</p>			

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1983	PC-83-07 L-83-07	Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).	BOC Approved.
Conditions of Approval		Current Status	
<p>B. Reclamation Requirements: Compliance Status Unclear (Not triggered see CP-74-01 (6))</p> <p>Compliance Opinion(s):</p> <p>A. Compliance Opinion for Physical Design & 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> <p><u>Subcommittee Member – Republic</u></p> <p>Republic agrees with Staff. The 1983 Narrative is no longer relevant to the current operation given the subsequent CUP approvals have changed the operation.</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		Consensus: Majority Opinion: Minority Opinion:	

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Conditions of Approval		Current Status	
effects of methane and internal heat generation on the long-term maintenance of the pasture, and include irrigation plans if proposed.			
<p>Comments</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"> • impossible to assess with missing narrative • 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. <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>			

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Conditions of Approval		Current Status	
<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> <p><u>Subcommittee Member – Republic</u></p> <p>Republic agrees with staff. The 1983 narrative is no longer relevant to the operation given subsequent approvals and changes over time.</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</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"> • 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 			

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Conditions of Approval		Current Status	
<p>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.</p> <ul style="list-style-type: none"> impossible to assess with missing narrative <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:</p> <p>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:</p> <p>Screening Requirements: physical berm, vegetative screening, and their maintenance From pdf file pages 6 & 7 (original document page 4 & 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.</p> <p>“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> <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</p>			

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<p>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><u>Subcommittee Member – Republic</u></p> <p>The landfill site has changed substantially since 1983, so it likely impossible to determine what was done or not done in 1983.</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</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>			

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Conditions of Approval		Current Status	
<ul style="list-style-type: none"> 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. impossible to assess with missing narrative <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> <p>Basis: Analysis was provided and is still being performed on leachate sent offsite for disposal. Per RSI [Republic], leachate use for onsite irrigation ceased many years ago.</p> <p><u>Subcommittee Member – Republic</u></p> <p>This condition is no longer relevant because Coffin Butte no longer irrigates leachate on site. Leachate regulation has gotten stricter since 1983 and DEQ has exclusive jurisdiction over leachate. Republic continues to comply with DEQ requirements.</p>			
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.		Consensus: Majority Opinion: Minority Opinion:	
Comments <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			

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Conditions of Approval		Current Status	
<p data-bbox="163 485 407 509"><u>Workgroup Committee</u></p> <ul data-bbox="163 529 1499 711" style="list-style-type: none"> • 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. • impossible to assess with missing narrative, where are the 10 acres proposed for addition? need drawings <p data-bbox="163 730 898 755"><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p data-bbox="163 774 739 799">Compliance Opinion: County Requirement Superseded</p> <p data-bbox="163 818 716 842">Basis: Current DEQ permits supersede this condition</p> <p data-bbox="163 846 747 870">From pdf file pages 7 & 8 (original document page 5 & 6)</p> <p data-bbox="201 878 1079 902">v. Other Information Required by the Development Director (Conditions No. 5 and 7)</p> <p data-bbox="201 922 1499 1040">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.</p> <p data-bbox="201 1060 1482 1179">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 data-bbox="163 1198 621 1222">Open Item: Address DEQ primacy question</p> <p data-bbox="163 1242 520 1266"><u>Subcommittee Member – Republic</u></p> <p data-bbox="163 1286 821 1310">Republic Agrees with staff for some of the reasons stated above.</p>			

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Conditions of Approval		Current Status	
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:	
<p>Comments</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"> • 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. • impossible to assess with missing reclamation plans (which would probably be in the form of drawings, not "narrative") <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 Opinion(s): Compliance Status Unclear</p> <p>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.</p>			

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Conditions of Approval		Current Status	
<u>Subcommittee Member – Republic</u> Republic agrees with Staff.			
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.		Consensus: Majority Opinion: Minority Opinion:	
Comments <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"> • 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. • 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) <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> Compliance Opinion: Compliance Status Unclear Basis: Notes: From pages 6-8 (REFERENCE?)			

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Conditions of Approval		Current Status	
<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> <p><u>Subcommittee Member – Republic</u></p> <p>Republic agrees with staff.</p>			
<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>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	

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1983	PC-83-07 L-83-07	Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).	BOC Approved.
Conditions of Approval		Current Status	
<p>Comments</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.</p> <p>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"> • DEQ does not monitor soil toxicity • request has been made of Brian fuller, DEQ to find out if DEQ monitors soil toxicity • 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 & 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. • 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. • 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. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p>			

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Conditions of Approval		Current Status	
<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> <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><u>Subcommittee Member – Republic</u></p> <p>Republic agrees with Staff. This condition is no longer relevant because Coffin Butte no longer irrigates leachate on site. Leachate regulation has gotten stricter since 1983 and Republic continues to comply with DEQ requirements.</p>			
<p>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.</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	

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Conditions of Approval		Current Status	
<p>Comments</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"> • Republic: Republic Services has added additional monitoring wells as required and continues to be in compliance with its DEQ permits. • 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. • 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 • is any leachate collected in the secondary collection system? if so, the liner is already leaking <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 [Republic] Annual Report.</p> <p>Explanation: Presumed in RSI [Republic] Annual Report. Needs further information on how the reports are reviewed for compliance with site groundwater contamination goals.</p>			

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Conditions of Approval		Current Status	
<u>Subcommittee Member – Republic</u>			
Republic agrees with Staff. Monitoring wells are within the jurisdiction of DEQ. The County can exercise no oversight of DEQ's responsibilities. Republic has a DEQ approved Environmental Monitoring Plan that includes a map of all monitoring wells.			
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:	
Comments			
<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"> • 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. • not in compliance document not included letter from the Oregon justice department regarding screening requirement per the 1967 highway beautification act • There should be a more clear statement that the applicant is not in compliance with this requirement. 			
<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			

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Conditions of Approval		Current Status	
<p>Basis: Personal observations</p> <p><u>Subcommittee Member – Republic</u></p> <p>Our comments remain the same. The site has changed so much since 1983 it is impossible to determine what might have done and any screening requirements imposed then would no longer be relevant to the current operation. And required screening will be addressed at the time of the new CUP (as occurred in the 2021 process.)</p>			
<p>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 ¾ of an acre during all other periods. This shall be adhere to.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>The landfill uses an alternative daily cover approved by DEQ, which includes Covanta Ash material. The landfill also uses temporary cover.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. • 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 ¾ 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? • 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. 			

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1983	PC-83-07 L-83-07	Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).	BOC Approved.
Conditions of Approval		Current Status	
<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> <p><u>Subcommittee Member – Republic</u></p> <p>Our comments remain the same. Regulation of landfill cover is within DEQ’s exclusive regulation and the County no authority to differ from DEQ. This condition is no longer relevant because DEQ now requires the landfill to fully cover the waste each day with soil or approved alternative daily cover.</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Overseen by DEQ. This condition is no longer be applicable.</p> <p><u>Workgroup Committee</u></p>			

Date	File #	Request	Result
1983	PC-83-07 L-83-07	Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).	BOC Approved.
Conditions of Approval		Current Status	
<ul style="list-style-type: none"> • 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. • disagree with staff: DEQ not mentioned, therefore DEQ does not have regulatory authority. question: does leachate seep through site berms? is not answered • 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. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Compliance Status Unclear</p> <p>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.</p> <p><u>Subcommittee Member – Republic</u></p> <p>Republic complies the current DEQ requirements for leachate management.</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>This is an advisory to the applicant rather than a condition that needed to be met.</p>			

Date	File #	Request	Result
1983	PC-83-07 L-83-07	Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).	BOC Approved.
Conditions of Approval		Current Status	
<p data-bbox="155 480 407 513"><u>Workgroup Committee</u></p> <ul data-bbox="155 521 1499 586" style="list-style-type: none"> • As mentioned therefore it is appropriate to refer to DEQ compliance, although if the LUCS is not current, the permit may not be valid <p data-bbox="155 594 898 626"><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p data-bbox="155 634 680 667">Compliance Opinion: Compliance Status Unclear</p> <p data-bbox="155 675 1142 708">Basis: Compliance not demonstrated. Need DEQ solid waste permits from period 1983 to 2000.</p> <p data-bbox="155 716 520 748"><u>Subcommittee Member – Republic</u></p> <p data-bbox="155 756 1318 789">This condition is no longer relevant. There have been multiple iterations of subsequent DEQ permits since 1983.</p>			

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	
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:	
<p>Comments</p> <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"> • missing information: application materials • 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?) <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><u>Subcommittee Member – Republic</u></p> <p>Republic agrees with staff.</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:	
Comments			

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	
<p><u>Staff</u></p> <p>Noise testing completed in 1997.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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 • Was there ever a follow-up study after the facility was expanded? <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> <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><u>Subcommittee Member – Republic</u></p> <p>Republic agrees with staff. The condition required compliance at approval. Whether other members of the committee think the condition was inadequate can't be collaterally attacked after 18 years and isn't relevant to whether the power plant complied.</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
Comments			

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	
<p><u>Staff</u></p> <p>Noise testing completed in 1997. 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"> • Republic: Republic Services agrees with the County’s assessment. Our available records do not indicate any such requests by the Planning Department. • County has not monitored. • noise is an issue at the landfill: ask the applicant to demonstrate that the facility is in compliance <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> <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><u>Subcommittee Member – Republic</u></p> <p>This condition is only triggered if the Planning Official so requests. If there is no evidence that the Planning Official ever made such a request, then the power plant has been in compliance.</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
Comments			

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	
<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"> • when was the most recent LUCS on file at DEQ completed? <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><u>Subcommittee Member – Republic</u></p> <p>This condition was imposed on the power plant.</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>A new CUP was submitted and approved to expand the size of the facility.</p>			

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	
<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>6. Lighting shall be located so that it does not face directly, shine or reflect glare onto an adjacent street or property.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</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"> • County has not monitored • Not enough information to determine if this condition is met. • staff comment is non-responsive; check the facility at night • 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 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><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p>			

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	
<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> <p><u>Subcommittee Member – Republic</u></p> <p>We note that this condition only applies to lighting at the power plant. There is no evidence that power plant has ever been in violation of this condition or that there have been any complaints. We would say “in compliance” or “no evidence of non-compliance.”</p>			
<p>7. Obtain all required septic, access, building, plumbing, mechanical, electrical, and other applicable permits prior to construction.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <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"> • septic/ada/building/plumbing/mechanical? certificate of occupancy? <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>			

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
Conditions of Approval		Current Status	
<p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> believe that the record and rationale 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
Conditions of Approval		Current Status	
<p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> believe 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>			

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	
<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>Comments</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>Comments</p> <p><u>Staff</u></p> <p>Zoning compliance reviewed completed along with building permits – completed [Permit B0700147 Phase I expansion & Permits B0700323, B0700416, B0700415, F0600068, B1400497]</p> <p><u>Workgroup Committee</u></p>			

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	
<ul style="list-style-type: none"> • certificate of occupancy? <p>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</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:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</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"> • And were complaints received? Not enough information to determine if this condition was met. • County has not monitored subsequent • Is this document available to the public? • noise is an issue at the landfill; ensure the facility is still in compliance; verify that noise standards have not been updated <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</p>			

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	
<p>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><u>Subcommittee Member – Republic</u></p> <p>The Power Plant was in compliance at the time of approval and there have been no complaints since.</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</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"> • Republic: Republic Services agrees with the County’s assessment. Our available records do not indicate any such requests by the Planning Department. • County has not monitored • noise is an issue at the landfill; ensure the facility is still in compliance 			

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	
<p>• Not enough information</p> <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><u>Subcommittee Member – Republic</u></p> <p>The Planning Official has never asked for additional information, so the Power Plant is in compliance or that there is no evidence of non-compliance.</p>			
<p>5. The applicant shall continue to provide sanitation facilities for the generation plant employees that are located on site. The facilities shall include:</p> <p>a) Drinking water within the generating plant building by a potable water container, refilled periodically;</p> <p>b) A portable toilet located at the generating plant site;</p> <p>c) 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;</p> <p>d) Generating plant employees shall have vehicles available for trips to the Coffin Butte Landfill office restroom facilities;</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	

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	
e) The maximum number of generating plant employees shall be five (5).			
<p>Comments</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"> 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? <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>6. The applicant 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>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p>			

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	
<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><u>Subcommittee Member – Republic</u></p> <p>This is a responsibility of the power plant.</p>			
<p>7. Lighting shall be located so that it does not face directly, shine, or glare onto an adjacent road or property.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</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"> • check the facility at night • County has not monitored • Not enough information 			

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	
<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> <p><u>Subcommittee Member – Republic</u></p> <p>If there is no record of complaints and, ergo, no record that the power plant has failed to respond to complaints, then there is no basis for a conclusion that the Power Plant has done anything other than comply.</p>			
<p>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().</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Completed.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • provide copy in documentation <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: No compliance opinion</p>			

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	
Basis: Low priority			
<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 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"> a) Emergency access to the local water supply in the event of a wildfire or other fire-related emergency; 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 c) Emergency water supplies shall be clearly marked along the access route with a Fire District approved sign. 		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u> Additional research needed, compliance with this condition is not confirmed.</p> <p><u>Workgroup Committee</u></p>			

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	
<ul style="list-style-type: none"> • Republic: Republic Services is also conducting further research. • 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 • This explanation of status cannot be accepted until the topic has been researched. <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><u>Subcommittee Member – Republic</u></p> <p>This condition was imposed on expansion of the power plant, not on the landfill. We note that the landfill maintains an onsite water truck and water stand approximately 1 mile from the landfill entrance and 1.5 miles from the power plant entrance. The landfill uses daily cover to keep the amount of waste that is uncovered and available to burn to a minimum. Operators are trained on what to do if a fire starts and how to contain it.</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	

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	
<p>Comments</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"> • CO for Phase 1? CO for Phase 2? • 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. • What about Phase 2? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: No compliance opinion</p> <p>Basis: Low priority</p>			

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
Conditions of Approval		Current Status	
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.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</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"> • extraction believed to be completed, see next permit request, staff should verify. is there a CUP closeout process at Benton County CDD? <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. No record of required action provided.</p> <p><u>Subcommittee Member – Republic</u></p> <p>The reclamation plan for the quarry is governed by DOGMI and the operation cannot close the site until those permits are obtained. The current reclamation plan is eventually landfill in the quarry area and cap it when the landfill closes.</p>			

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
Conditions of Approval		Current Status	
<p>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.</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Public roads serving primarily quarry traffic are paved. Complete.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • extraction believed to be completed, see next permit request, staff should verify. is there a CUP closeout process at Benton County CDD? • Is there no equivalent condition about dropping rocks which create road hazards on the highway? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <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> <p><u>Subcommittee Member – Republic</u></p>			

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
Conditions of Approval		Current Status	
<p>There is no quarry traffic on any unpaved roads. The primary road that the quarry traffic uses is paved (Coffin Butte Rd). An occasional truck might use one of the roads to the north of the site to deliver gravel to a homeowner or if the county is doing maintenance on a gravel road, but is not very common. Rock trucks are not the primary traffic on any of the gravel roads surrounding the site. This condition has never been triggered.</p>			
<p>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.</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u> Staff will need to field verify but it appears through comments that the applicant is not in compliance with this condition.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. • extraction believed to be completed, see next permit request, staff should verify. is there a CUP closeout process at Benton County CDD? • Not in compliance. The quarry is visible for miles around. 			

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
Conditions of Approval		Current Status	
<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. 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>			
<p>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 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>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
Comments			

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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
Conditions of Approval		Current Status	
<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"> • 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. • extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD? <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> <p><u>Subcommittee Member – Republic</u></p> <p>As noted above, mining has long ceased at this site. There is some evidence that the berm was constructed but has since been removed. Conditions of this CUP relating to mining operation on site are no longer relevant.</p>			
5. Provide on-site parking for employees, customers, and visitors to the mining site.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p>			

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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
Conditions of Approval		Current Status	
<p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. • extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD? • In compliance <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>Condition No. 5</p> <p>No Compliance Opinion</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p>			

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
Conditions of Approval		Current Status	
<ul style="list-style-type: none"> • 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. • extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD? • In compliance <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>			
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.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. • extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD? • The provision for screening has not been met, as noted above. 			

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
Conditions of Approval		Current Status	
<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>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. • extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD? • Generally in compliance (the quarry has been a better neighbor than the landfill, in this regard). • "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. 			

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
Conditions of Approval		Current Status	
<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>9. The applicant shall retain the dual-access road system to provide for emergency service access to the subject site.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. • extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD? • 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). <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p>			

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
Conditions of Approval		Current Status	
<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>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.</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. • extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD? • Google Earth images from 8/13/2020 show that quarrying activity extends up to approximately the 700 ft contour. <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>			

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
Conditions of Approval		Current Status	
<p>PLACEKEEPER: NEED TO CONFIRM ELEVATIONS CB</p> <p><u>Subcommittee Member – Republic</u></p> <p>The referenced Google Images are of the LS zoned area in which quarries are an outright permitted use, not the area of this CUP. The excavation in this area complied with the 600 foot limit.</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. • extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD? • This explanation of status cannot be accepted until the topic has been researched. <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>			

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
Conditions of Approval		Current Status	
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.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. • extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD? • This explanation of status cannot be accepted until the topic has been researched. <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>			

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
Conditions of Approval		Current Status	
1. Obtain approval from the Oregon Department of Environmental Quality for landfill operations on this site.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</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"> • 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. • does the most recent LUCS on file with DEQ predate • this cup application? <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> <p><u>Subcommittee Member – Republic</u></p>			

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
Conditions of Approval		Current Status	
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. Republic has to have both permits in hand to begin operation in a new area, and the County will know because of the requirement that the Landfill file copies of the approved permits with the County.			
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>Comments</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"> • See previous comment on this issue re: Robison Rd. and Wiles Rd. • The public section of Coffin Butte Road is entirely paved. • 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? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <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>			

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
Conditions of Approval		Current Status	
<u>Subcommittee Member – Republic</u> This condition is moot. There are no unpaved public roads serving the landfill; this condition is not applicable.			
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.		Consensus: Majority Opinion: Minority Opinion:	
Comments <u>Staff</u> County monitoring of this condition is complaint-based. <u>Workgroup Committee</u> <ul style="list-style-type: none"> • noise is an issue at the landfill; ensure the facility is still in compliance • Not enough information. • Not monitored by the county. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. Compliance Not Demonstrated. No evidence of County process to capture / respond to action provided. <u>Subcommittee Member – Republic</u>			

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
Conditions of Approval		Current Status	
There is no evidence that Republic is not in compliance.			
4. Provide on-site parking for employees, customers, and visitors to the landfill site.		Consensus: Majority Opinion: Minority Opinion:	
Comments <u>Staff</u> Completed. <u>Workgroup Committee</u> <ul style="list-style-type: none"> 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 <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No compliance opinion <u>Subcommittee Member – Republic</u> Republic has multiple parking spots at its office and scale house.			
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:	
Comments			

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<p><u>Staff</u></p> <p>Security fence is present</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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 <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion</p> <p><u>Subcommittee Member – Republic</u></p> <p>The subject property is more than 200 feet from any public road.</p>			
<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.m. on Sundays, with 24-hour access for commercial customers.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</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>			

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Conditions of Approval		Current Status	
<ul style="list-style-type: none"> • 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. • "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. • How does 24 hour access work with compliance to noise complaints? • Not in compliance • Not in compliance. See previous note regarding operating hours. <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>			

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Conditions of Approval		Current Status	
<p>Note: Condition is written poorly and would be improved with better clarification on Hours of Operation</p> <p><u>Subcommittee Member – Republic</u></p> <p>Republic agrees that the condition could be better written, but County’s interpretation that “operating” means open to the public is at least as plausible as Mark’s interpretation, particularly given the second part of the sentence which creates an exception for industrial customers. Text has to be interpreted in context, particularly given that some staff obviously have to be there 24/7. Historically the site did operate 24 hours a day for commercial customers. That ceased in the early 2000s, but it was Republic’s choice to do so and not a county requirement. We operate 5am-5pm for commercial customers. The landfill does have to have staff onsite from 4:30am-5:30pm to support the customers. This is no different than any other business that needs staff before and after their operating hours. Public customers are limited to 8am-5pm.</p>			
<p>7. The applicant shall retain the dual-access road system to provide for emergency service access to the subject site.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Complete</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. • good candidate for Chapter 77 review • This explanation of status cannot be accepted until the topic has been researched. 			

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Conditions of Approval		Current Status	
<p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion</p> <p><u>Subcommittee Member – Republic</u></p> <p>Republic agrees with staff.</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</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"> • Republic: Republic Services is in compliance and operating within the 600-foot contour elevation as specified in the Site Development Plan. • applicant should provide lidar, coordinate & verify with county GIS • 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 <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>			

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Conditions of Approval		Current Status	
<p>Compliance Opinion: Compliance Status Unclear</p> <p>PLACEKEEPER: NEED TO CONFIRM ELEVATIONS CB Check USGS Topo Map, Benton County GIS</p> <p><u>Subcommittee Member – Republic</u></p> <p>Republic is in compliance with 600 foot limit; the condition does not apply to parts of the landfill outside of the 1.43 acres.</p>			
<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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>The county regularly receives copies. Appendix I https://www.co.benton.or.us/cd/page/materials-management-document-library</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • Are these available for inspection, and if so, where? • 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 			

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Conditions of Approval		Current Status	
<p>“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. 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><u>Subcommittee Member – Republic</u></p> <p>Republic is in compliance with this condition. The condition does not require (nor does the County have the authority to require) oversight of DEQ’s administration of its permits.</p>			
<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.</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p>			

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<p>The county regularly receives copies. https://www.co.benton.or.us/cd/page/materials-management-document-library <u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • Are these available for inspection, and if so, where? • 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 <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> <p><u>Subcommittee Member – Republic</u></p> <p>Republic is in compliance with this condition. The condition does not require (nor does the County have the authority to require) oversight of DEQ's administration of its permits.</p>			

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
Conditions of Approval		Current Status	
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:	
Comments <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"> • 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. • when was the most recent LUCS on file at DEQ completed? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> Compliance Opinion: In Compliance			
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:	
Comments			

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<p><u>Staff</u></p> <p>No longer relevant.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • See previous notes re: Robison Rd. and Wiles Rd. • 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? <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> <p><u>Subcommittee Member – Republic</u></p> <p>Republic agrees with Staff. All county roads to and from the landfill are paved, so this condition is moot.</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</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"> • County does not monitor. 			

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Conditions of Approval		Current Status	
<ul style="list-style-type: none"> • noise is an issue at the landfill; ensure the facility is still in compliance <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>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.</p> <p>Compliance Not Demonstrated. No evidence of County process to capture / respond to action provided.</p> <p><u>Subcommittee Member – Republic</u></p> <p>Republic is in compliance, there is no evidence of any formal complaints about noise levels.</p>			
4. Provide on-site parking for employees, customers, and visitors to the landfill site.		Consensus: Majority Opinion: Minority Opinion:	
Comments <u>Staff</u> Complied with. <u>Workgroup Committee</u> <ul style="list-style-type: none"> • 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 <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			

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Conditions of Approval		Current Status	
<p>No Compliance Opinion.</p> <p><u>Subcommittee Member – Republic</u></p> <p>Queuing onto 99 happens rarely, usually doing big projects. Our gates don't open until 5:00 a.m.</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Complied with.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • check fence perimeter to ensure fencing is intact and there are no deferred maintenance issues <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion.</p> <p><u>Subcommittee Member – Republic</u></p> <p>This area is more than 1000 feet from any public road.</p>			
<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.m. on Sundays, with 24-hour access for commercial customers.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	

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Conditions of Approval		Current Status	
<p>Comments</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. • not in compliance • Not in compliance, see previous notes on operating hours. <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> <p><u>Subcommittee Member – Republic</u></p>			

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Conditions of Approval		Current Status	
Republic agrees that the condition could be better written, but County’s interpretation that “operating” means open to the public is at least as plausible as Mark’s interpretation, particularly given the second part of the sentence which creates an exception for industrial customers. See further discussion above.			
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.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. • good candidate for chapter 77 review • This explanation of status cannot be accepted until the topic has been researched <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion</p> <p><u>Subcommittee Member – Republic</u></p> <p>Republic is in compliance.</p>			
8. Copies of water quality, stormwater runoff, and air quality permits; and data produced from associated monitoring		Consensus:	

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Conditions of Approval		Current Status	
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.		Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>The county regularly receives copies. Appendix I https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • Are these documents available for public inspection, and if so, where? • 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 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><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p>			

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Conditions of Approval		Current Status	
<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><u>Subcommittee Member – Republic</u></p> <p>Republic is in compliance, and you can review the County records at the link provided by staff. The condition does not purport to give the County any oversight role with regard with DEQ's administration of its owner permits and could not do so.</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Not completed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. • Not in compliance • not in compliance 			

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Conditions of Approval		Current Status	
<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><u>Subcommittee Member – Republic</u></p> <p>As noted previously, Republic did plant a buffer in 2016.</p>			
<p>10. Approval shall be obtained from the Oregon Division of State Lands for any activities on the subject property that affect designated wetlands.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</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>			

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
Conditions of Approval		Current Status	
<ul style="list-style-type: none"> • 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. • Must be active monitor • verification of compliance should be obtained. did the wetlands formerly include the small ponds that were slated for protection in the 1983 rezone <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> <p><u>Subcommittee Member – Republic</u></p> <p>Republic has obtained approval from DSL for any wetland disturbances on sit. Republic did construct mitigation wetlands as required and DSL gave their full approval that the wetlands met all requirements in 2017. That concluded Republic obligations under the permit</p>			

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
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>Comments</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"> • Republic: Republic Services believes it is in compliance with the terms of the 2011 conditional use permit. • narrative not provided, attachment A not provided • 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? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p>			

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
Conditions of Approval		Current Status	
<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><u>Subcommittee Member – Republic</u></p> <p>Republic is in compliance with this site plan.</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.		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"> • has staff verified documentation <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>			

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
Conditions of Approval		Current Status	
<p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of required action provided.</p>			
<p>3. The applicant shall demonstrate compliance with the applicable siting standards specified in BCC 60.405 through materials submitted for issuance of building permits.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Completed.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • certificate of occupancy? ADA compliance? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion</p>			
<p>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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p>			

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
Conditions of Approval		Current Status	
<p><u>Staff</u> Completed.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • certificate of occupancy? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion</p>			
<i>Conditions of Approval from PC-03-11 that remain applicable and should be continued (as of the time of this decision):</i>		<i>References Conditions #'s 1 through 8 of PC-03-11</i>	
1. (5)Obtain necessary approvals from the Oregon Department of Environmental Quality for landfill operations on this site.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</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"> • Republic: Republic Services is in compliance with the DEQ requirement. • DEQ permit approvals should be listed here. Are all of them up to date? 			

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
Conditions of Approval		Current Status	
<ul style="list-style-type: none"> • when was the most recent LUCS on file at DEQ completed? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>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)</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of required action provided.</p> <p><u>Subcommittee Member – Republic</u></p> <p>As noted above several times, Republic cannot proceed with any development requiring a DEQ until it has obtained the permit. And Republic cannot get the permit from DEQ until it has obtained the County permit. The County has no authority to enforce or have any oversight over a DEQ permit. This condition is self-enforcing.</p>			
2. (6)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:	
Comments <u>Staff</u> No longer applicable. Coffin Butte Road is entirely paved. <u>Workgroup Committee</u>			

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
Conditions of Approval		Current Status	
<ul style="list-style-type: none"> • 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. • 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? <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><u>Subcommittee Member – Republic</u></p> <p>Republic agrees with staff; this condition is moot.</p>			
3. (7)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.		Consensus: Majority Opinion: Minority Opinion:	
Comments <u>Staff</u> County monitoring of this condition is complaint-based.			

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
Conditions of Approval		Current Status	
<p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • It should be stated more clearly that compliance cannot be confirmed, as the county has never checked. • noise is an issue at the landfill; ensure the facility is still in compliance <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><u>Subcommittee Member – Republic</u></p> <p>There is no evidence to indicate that Republic is not in compliance with this requirement. We note that this CUP is specific to the public drop off facility. It is only in operation M-S 8am-5pm. It consists of customers hand unloading material into trailers so it is relatively quiet compared to the main landfill operation.</p>			
4. (8)Provide on-site parking for employees, customers, and visitors to the landfill site.		Consensus: Majority Opinion: Minority Opinion:	
Comments <u>Staff</u>			

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
Conditions of Approval		Current Status	
<p>In compliance.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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 <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion Edward Pitera (112322)</p> <p><u>Subcommittee Member – Republic</u></p> <p>Republic is in compliance; all staff and visitors have space to park on site.</p>			
<p>5. (9) Maintain a security fence between the landfill operation and the public road when such road is located within 200 feet of the landfill operation.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>In compliance.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • check fence perimeter to ensure fencing is intact and there are no deferred maintenance issues <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion (Mark Yeager 121622 & Edward Pitera (112322))</p>			

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
Conditions of Approval		Current Status	
<u>Subcommittee Member – Republic</u>			
Republic is in compliance. The closest public road (HW 99) is more than 200 feet away from the public drop off facility.			
6. (10)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:	
Comments			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none"> • 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. • Clearly not in compliance. if landfill operations routinely start at 4:30 am M-F. Operations are operations, no way to spin this. • Not in Compliance 			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
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			

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
Conditions of Approval		Current Status	
<p>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><u>Subcommittee Member – Republic</u></p> <p>Same comment as above; the Staff interpretation is more plausible than Mark’s when read in context (and the County does in fact get to interpret its conditions in the first instance).</p>			
<p>7. (11)The applicant shall retain the dual-access road system to provide for emergency service access to the subject site.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>In compliance.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. • good candidate for chapter 77 review • This assessment of status is not possible for the working group to confirm until research has been completed. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion (Mark Yeager 121622 & Edward Pitera (112322))</p>			

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
Conditions of Approval		Current Status	
<u>Subcommittee Member – Republic</u> Republic agrees with staff.			
8. OMITTED		N/A	
9. (12)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:	
Comments <u>Staff</u> The county regularly receives copies. Appendix I https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf <u>Workgroup Committee</u> <ul style="list-style-type: none"> 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, 			

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
Conditions of Approval		Current Status	
<p>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> <ul style="list-style-type: none"> • 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. <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> <p><u>Subcommittee Member – Republic</u></p> <p>Republic is in compliance and the committee review the County records at the link provided by staff. The condition does not purport to give the County any oversight role with regard with DEQ's administration of its owner permits and the County has no jurisdiction to do so.</p>			
10. (13)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:	
Comments			

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
Conditions of Approval		Current Status	
<p><u>Staff</u></p> <p>The county regularly receives copies. https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. <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> <p><u>Subcommittee Member – Republic</u></p> <p>Republic is in compliance and the Committee can review the County records at the link provided by staff. The condition does not purport to give the County any oversight role with regard with DEQ's administration of its owner permits and the County could not do so.</p>			

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>Comments</p> <p><u>Staff</u> Complied with.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> narrative not provided, attachment a not provided <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><u>Subcommittee Member – Republic</u></p> <p>In the absence of any evidence that Republic in not in compliance, the assumption should be that it is in compliance.</p>			

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	
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.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • Republic: Republic Services understands this requirement. At this juncture, no building permits have been issued for this area. • This explanation of status cannot be accepted until the topic has been researched. • unknown compliance <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>			
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:	
<p>Comments</p> <p><u>Staff</u></p> <p>Advisory</p> <p><u>Workgroup Committee</u></p>			

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	
<ul style="list-style-type: none"> • Republic: Republic Services has not added or requested additional access and understands the stated requirement. • have changes in landfill access received a public works permit? 			
<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:	
Comments <u>Staff</u> Advisory <u>Workgroup Committee</u> <ul style="list-style-type: none"> • Republic: Republic Services has not added or requested additional access and understands the stated requirement. • have there been construction activities that disturb one acre or more? if so, have NPDES permits been obtained? • No evidence of compliance. <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. <u>Subcommittee Member – Republic</u>			

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	
The access and NPES are independent permitting requirements; Republic must comply with these requirements regarding of whether they are imposed as a condition of approval. That is why staff call them "advisory." The purpose of these kinds of condition is put the applicant on notice that could be additional permitting requirements. As noted above, Republic's operation hasn't triggered either of these permitting requirements, so we shouldn't be expected to prove a negative.			
Conditions of Approval from prior approvals that remain in effect (as of the time of this decision):		<i>References Conditions #'s 1 through 8 of PC-03-11</i>	
1. (5) Obtain necessary approvals from the Oregon Department of Environmental Quality for Landfill operations on this site.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</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"> • 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. • 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? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>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.</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p>			

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>Basis: No record of required action provided.</p> <p><u>Subcommittee Member – Republic</u></p> <p>As noted, if DEQ permits are required, then Republic must obtain those permits to proceed. The County does not need to nor has the authority to enforce DEQ's permitting requirements. This condition is only violated if DEQ finds Republic in violation. This in turn would allow the County to consider revoking the CUP. That is the purpose of these "comply with state law" requirements. More to the point, there haven't been any landfill operations on this CUP area that would trigger any permit requirements.</p>			
<p>2. (6)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.</p>		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>No longer applicable. Coffin Butte Road is entirely paved.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • No evidence of compliance. • 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? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>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.</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>			

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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>No Compliance Opinion- Edward Pitera (112322)</p> <p><u>Subcommittee Member – Republic</u></p> <p>Republic agrees with staff. The public roads are paved; this condition is moot.</p>			
<p>3. (7)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>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</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"> • Republic: Republic Services has no record of complaints on this parcel. • County cannot confirm compliance. • noise is an issue at the landfill; ensure the facility is still in compliance <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Mark Yeager: Compliance Not Demonstrated. Property owner cannot delegate compliance to 3rd 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><u>Subcommittee Member – Republic</u></p> <p>As noted above, there is no evidence complaint or violation of this standard.</p>			

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Conditions of Approval		Current Status	
4. (8) Provide on-site parking for employees, customers, and visitors to the Landfill site.		Consensus: Majority Opinion: Minority Opinion:	
Comments <u>Staff</u> In compliance. <u>Workgroup Committee</u> <ul style="list-style-type: none"> • 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 <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion -Edward Pitera (112322) <u>Subcommittee Member – Republic</u> Republic agrees with Staff.			
5. (9) 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:	
Comments <u>Staff</u> In compliance. <u>Workgroup Committee</u>			

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Conditions of Approval		Current Status	
<ul style="list-style-type: none"> • check fence perimeter to ensure fencing is intact and there are no deferred maintenance issues <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion (Mark Yeager 121622 & Edward Pitera (112322)) <u>Subcommittee Member – Republic</u> Republic agrees with staff.			
6. (10)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.			
Comments <u>Workgroup Committee</u> <ul style="list-style-type: none"> • Republic: This is not part of Coffin Butte Landfill operations. It is a material storage facility. There are no operating hours here. • Clearly not in compliance • not in compliance <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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?			

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Conditions of Approval		Current Status	
<p>In Compliance_-Edward Pitera (112322) <u>Subcommittee Member – Republic</u> Republic references our prior comments on the same condition.</p>			
<p>7. (11)The applicant shall retain the dual - access road system to provide for emergency service access to the subject site.</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	
<p>Comments <u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • Awaiting additional research. • 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. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion (Mark Yeager 121622 & Edward Pitera (112322)) <u>Subcommittee Member – Republic</u> Republic is in compliance</p>			
8. <i>OMITTED</i>		N/A	
<p>9. (12)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</p>		<p>Consensus: Majority Opinion: Minority Opinion:</p>	

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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	
Benton County Community Development Department for public inspection.			
<p>Comments</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • Republic: There are no permits or monitoring data as this relates to a material storage facility. • As noted above, these are not available for public inspection as required. • 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 <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>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?</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> <p><u>Subcommittee Member – Republic</u></p> <p>The enumerated permits and monitoring information is on file at the link previously provided by staff, which is all this condition requires. The County has no authority to conduct oversight over DEQ's permitting requirements. Further, this condition is not currently relevant to this CUP because the subject property is a grassy field that Republic might need to use someday for storage. In addition, the</p>			

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Conditions of Approval		Current Status	
<p>way the methane monitoring works is that if a methane detector registers over a certain level, Republic has to complete remediation within a set period of time and then re-monitor several times at that location. As long as the landfill follows these prescribed steps it is not out of compliance. The whole point of surface monitoring is to try to find detections and fix them. This is why the permit is structured that way.</p>			
<p>10. (13)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>Consensus: Majority Opinion: Minority Opinion:</p>	
<p>Comments</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • Republic: There are no permits or monitoring data as this relates to a material storage facility. • As noted above, these are not available for public inspection as required. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>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?</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>			

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
Conditions of Approval		Current Status	
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>Comments</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • 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. • attachment a is not provided • We are missing a clear statement from the county on whether the site is in compliance, independent of DEQ. See previous comments. <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> <p><u>Subcommittee Member – Republic</u></p> <p>Republic is in compliance</p>			

<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.</p>	<p>Consensus: Majority Opinion: Minority Opinion:</p>
<p>Comments</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"> • 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. • the stormwater system is in an area identified as “wetlands” – does this trigger additional permitting requirements • We are missing a clear statement from the county on whether the site is in compliance, independent of DEQ. See previous comments. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>(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.</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of required action provided</p> <p><u>Subcommittee Member – Republic</u></p> <p>Republic is in compliance.</p>	

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>Comments</p> <p><u>Workgroup Comments</u></p> <ul style="list-style-type: none"> • 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. <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 rational of this land use proceeding is relevant to the evolution of the Coffin Butte Landfill. 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> <p><u>Subcommittee Member – Republic</u></p> <p>Any new CUP application filed by Republic will be a new application accompanied the appropriate studies and justifications.</p>			

OBSERVATIONS AND RECOMMENDATIONS

Table 3. Suggestions to the County based on observations from the land use files

Document Number from Table 1	Observations	Suggestions and Recommendations to the County
2 1974 CP-74-01	Condition 3 About 30 million gallons per year of leachate (about twenty 5,500 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 wastewater treatment plant and impact on the service life of the facility. Financial considerations should be transparent. <u>Republic Disagrees:</u> The County has no authority to regulate leachate; that is within the exclusive jurisdiction of DEQ, as is wastewater treatment. The impact of truck traffic generated by the Landfill on the public street system has to be judged under the same criteria as applied to any other user and may not be based on the type of cargo.
2	Condition 6 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 [Republic] 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 [Republic] provides a "Worst Case" Closure and Post-Closure Plan which describes the condition the site is to be left.	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. It is suggested the County bring some clarity to this condition by: 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 for 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?

Document Number from Table 1	Observations	Suggestions and Recommendations to the County
	<p>The current "Worst Case" plan provides for a grass cover on slopes. There is no mention of visual screening.</p>	<ol style="list-style-type: none"> 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. 3. considering Franchise language that addresses the post closure condition of the landfill, 4. engaging with DEQ to understand what is possible for "Worst Case" and ultimate closure of the landfill. <p><u>Republic Disagrees.</u> Closure regulation is in the exclusive jurisdiction of DEQ. The County has no basis to regulate closure under the CUP requirements.</p> <p>Additionally, it is recommended the County consider:</p> <ol style="list-style-type: none"> 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; 2. the compatibility of a landfill of this size with the County's Vision 2040. <p><u>Republic disagrees:</u> These plans may need to account for the landfill, but it has been in this location for fifty years.</p>
2	<p>Condition 7 Concerning recycling program. RSI [Republic] is "In Compliance" in Benton County based on personal experience but Benton County contributes less</p>	<p>This should be addressed in next Vision Plan or Materials Management Plan. Flag this condition for BCTT SW Plan Subcommittee.</p> <p><u>Republic Comment:</u> How to improve recycling is appropriately considered as part of the long-term materials management plan; it not relevant to a CUP.</p>

Document Number from Table 1	Observations	Suggestions and Recommendations to the County
	than 10% of the total volume sent to the landfill and is only one of more than 20 counties RSI [Republic] draws material from.	
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><u>Republic Comment:</u> It is very important to note that each CUP is an expansion of the landfill to a different cell area or to undertake a different activity in a different area. The purpose of the CUP process is to determine whether such a change will have undue additional impacts. It should be completely unsurprising that the landfill has changed since 1983; indeed, it is to be expected.</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> <p><u>Republic Comment:</u> We believe the distinction is clear: The County regulates the land use impacts of the landfill and DEQ regulates the environmental impacts. State law (ORS Chapter 197) requires all state agencies to coordinate their activities with local land use regulations, which is why DEQ requires Republic to first obtain the CUP from the County.</p>
3	Decision text and "conditions" are sometimes difficult to easily	Future decisions clearly convey basis of Approval. Example: "Condition of Approval: This approval is based upon the application,

Document Number from Table 1	Observations	Suggestions and Recommendations to the County
	determine especially in older County decision documents (See analysis by M Yeager (Dec 2022))	<p>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>Is there a written Benton County Compliance Policy & Process including a complaint lodging, tracking, and resolution process?</p> <p><u>Republic comment:</u> Republic would also appreciate that any conditions of approval imposed on a potential CUP approval be clear.</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 [Republic] in pursuit of creating environmental or other buffers near the landfill. Address how these actions are consistent with Vision 2040.</p> <p><u>Republic Comment:</u> Republic Services, Inc. is a holding company; it does not own and has never acquired any land around the landfill. Valley Landfills, Inc. and Pelletier Real Estate, Inc. own the land associated with the landfill. Regardless, the extent of Republic’s (or any other person’s) real estate portfolio is unrelated to any applicable CUP criteria (and arguably the County’s regulatory jurisdiction). Ownership of the land does not change the underlying zoning designation of the land; unless the zoning is changed, it will continue to available for residential use even if the current owner doesn’t put it to such use.</p>
10 1994 PC-94-03	Condition 2 & 5 Noise	Establish and widely advertise a County process for receiving, tracking, and resolving landfill and power plant related noise complaints.
10	Condition 6	Establish and widely advertise a County process for receiving, tracking, and resolving landfill and power plant related noise complaints.

Document Number from Table 1	Observations	Suggestions and Recommendations to the County
	Lighting at Power Plant	
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 of Title V Permits are needed to determine if odor is addressed there. <u>Republic Comment:</u> A landfill has been at this site since WW II. Any person considering developing close to a landfill needs to take that into consideration as with any other adjacent preexisting use. The CUP process is designed to ensure that any expansions do not have addition undue impacts.

GENERAL COMMENT BY REPUBLIC: [Table 3] should be deleted from the report; the policy recommendations go way beyond the Subcommittee's Charter. Members of the Committee are free to submit these to workgroup as their suggestions, but they should not be part of the subcommittee report. In addition, the references to Republic Services, Inc. ("RSI") throughout this entire section are inaccurate and should be removed. Valley Landfills, Inc. is the owner/operator of Coffin Butte.

Table 4. Monitoring and Compliance Enforcement Issues

Observations	Recommendations for Post BCTT Consideration
<p>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.</p>	<p>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 [Republic] and DEQ.</p> <p><u>Republic Comment:</u> We note that in the almost 60 years that have elapsed since the 1974 decision the requirements for records retention and land use decisions have gotten significant more robust. (The Public Records Law was first enacted in 1973). We can't fix the past, but going forward, the current regulatory scheme should be sufficient to preserve the required records.</p>
<p>Over time the format and wording of what information is being requested has changed.</p>	<p>Establish consistent terminology for describing what an applicant is required to do to be considered in compliance.</p> <p><u>Republic Comment:</u> As noted above, Republic would welcome clear and consistent wording of conditions. As with our comment above, the regulatory framework and terminology is not immutable; it evolves over time and will continue to do so.</p>
<p>Within Table 2, 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.</p> <p><i>See Table 5 for a list of these occurrences</i></p>	<p>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.</p> <p><u>Republic Comment:</u> This a county budgetary issue and much of it outside of the scope of the County's regulatory expertise and or authority.</p>
<p>The following Observations were made by Mark Yeager without any input or discussion from the full subcommittee.</p>	

<p>Benton County did not and does not actively monitor or enforce prior land use decision conditions of approval for the landfill or any other land use decisions.</p>	
<p>Benton County relies on complaints to initiate action to review compliance with land use conditions of approval for the landfill and other land use decisions.</p>	
<p>Benton County did not and does not have a complaint tracking system in place to receive and record land use complaints for investigation and resolution.</p> <p>Staff Comment: the county has a Code Compliance division to track and resolve complaints from citizens. If complaints had been made prior to this division being created, the Director or a planner would have initiated a review of the complaint.</p>	
<p>Reports that are submitted as required per conditions of approval (e.g., 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) are not reviewed by Benton County.</p>	
<p>Applications, plans and proposals submitted by the applicant that describe the proposed use and applicant commitments for the development are not enforceable as conditions of approval unless expressly adopted into the findings of fact and notice of decision.</p>	

Table 5. Supporting Information For Monitoring And Compliance Enforcement Issues

Summary: 39 Instances of Unclear Compliance Monitoring by the County

PC-83-07/L-83-07	
Condition 8.	<p>Staff Comment. 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>Republic Comment:</u> Leachate regulation is in exclusive jurisdiction of DEQ. This condition is no longer relevant because leachate is no longer irrigated on site, which is now prohibited by DEQ.</p> <p>Except as noted or expanded on, Republic agrees with the Staff comments in this [table].</p>
Condition 9.	<p>Staff Comment. 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>
PC-94-03	
Condition 4.	<p>Staff Comment. 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>
Condition 6.	<p>Staff Comment. Monitoring of this condition is complaint driven. Staff has no records of complaints regarding lights at the landfill.</p>
S-97-58	
Condition 3.	<p>Staff Comment. 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>
Condition 4.	<p>Staff Comment. Available records do not indicate any such requests by the Planning Official.</p>
Condition 6.	<p>Staff Comment. 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>Republic Comment:</u> Republic notes that these conditions are common because the statutory coordination requirements noted above.</p>

Condition 7.	Staff Comment. Monitoring of this condition is complaint driven. There are no records of any complaints.
Condition 9.	Staff Comment. -Additional research needed, compliance with this condition is not confirmed. <u>Republic Comment:</u> This condition was imposed on the approval of the power plant and does not apply to the Landfill generally.
PC-99-06	
Condition 1.	Staff Comment. 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.
Condition 3.	Staff Comment. Staff will need to field verify but it appears through comments that the applicant is not in compliance with this condition. <u>Republic Comments:</u> Based upon historical Google Earth photos, it appears that a berm was constructed at this site. We note that this CUP is limited to a small triangle of land on the NE corner of the overall quarry footprint. The area was quarried long ago and no longer is in operation. The berms are no longer there because the quarrying of the non-CUP portions of the quarry removed the land they were placed on.
Condition 4.	Staff Comment. 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. <u>Republic Comment:</u> As noted above, quarrying operations on this site ceased long ago, so this and the other conditions are no longer relevant.
Condition 11.	Staff Comment. None <u>Republic Comment:</u> This condition was carried forward as Condition 9 in PC-02-07 and County Staff notes that Republic has been in compliance.
Condition 12.	Staff Comment. Additional Research Needed <u>Republic Comment:</u> Again, this condition is not relevant.
PC-02-07	
Condition 3.	Staff Comment. County monitoring of this condition is complaint-based.
Condition 9.	Staff Comment. The county regularly receives copies. Appendix I https://www.co.benton.or.us/cd/page/materials-management-document-library

Condition 10.	Staff Comment. The county regularly receives copies. https://www.co.benton.or.us/cd/page/materials-management-document-library
PC-03-11	
Condition 3.	Staff Comment. County monitoring of this condition is complaint-based.
Condition 8.	Staff Comment. The county regularly receives copies. Appendix I https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf
Condition 10.	Staff Comment. 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.
LU-11-016	
Condition 1.	Staff Comment. Standard condition requiring the applicant to implement the conditional use permit as described in their application. Compliance is not actively monitored.
Condition 1.	Staff Comment. 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.
Condition 3.	Staff Comment. County monitoring of this condition is complaint-based.
Condition 9.	Staff Comment. The county regularly receives copies. Appendix I https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf
Condition 10.	Staff Comment. The county regularly receives copies. https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf
LU-13-061	
Condition 1	Staff Comment. 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.
Condition 3.	Staff Comment. County monitoring of this condition is complaint-based.

Condition 9.	Staff Comment. None
Condition 10.	Staff Comment. None
LU-15-001	
Condition 1.	Staff Comment. None <u>Republic Comment.</u> Republic constructed these facilities per the approved site plan, and as can verified by Google Earth.
Condition 2.	Staff Comment. 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.

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.

Republic Comment: As we have noted previously, complaint-based enforcement is very common for local governments in Oregon.

- 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."

Republic Comment: It is not as simple as that. As we have previously noted, the landfill has changed significant over time; the 1983 plan is not relevant to the 2022 operation, so fencing or berms or screens could have been installed and moved or removed as new permits were approved and the site was modified.

- 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?

Republic Comment: The committee is looking at almost fifty years of permitting. This is not an untoward amount of applications, particularly since almost any change on the site requires a new land use approval.

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.

APPENDIX A

Conditional Use Permit land use applications that were NOT APPROVED

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
There are no conditions proposed for a zone change.			

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
<p>Planning Commission approved Conditions of Approval – as the application was withdrawn, these conditions hold no authority.</p> <ol style="list-style-type: none"> 1. Limit the extent of the fill to be sited on the property to the north and east of the ridge line. 2. Limit the extent of the fill to be sited on the property to be no greater than the existing elevation of the ridge line. 3. Submit a copy of the final approved site plan map to the Development Department that shows the provisions of the site plan in BCC 77.310(2) have been met. The approved site plan shall be signed by the Planning Official when approved. 4. Submit documentation to the Development Department showing the existing fill and proposed plan would be in compliance with Department of Environmental Quality standards. 			

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>

Planning Department designated Conditions of Approval – as the application was withdrawn, these conditions hold no authority.

Preliminary Approval Conditions

The following Preliminary Approval Conditions shall be met within four years of the date of decision; the Planning Official may grant one extension for up to a year prior to the expiration of the preliminary approval period if the applicant makes a written extension request stating the reasons preventing completion within the approval period. Failure to complete the Preliminary Approval Conditions within the period of validity shall render this Conditional Use Permit void.

Phase 1 Preliminary Approval Conditions – Only those activities necessary to complete the following conditions are authorized until all of these Phase 1 Preliminary Approval Conditions have been met.

PA-1 Wetlands. On Tax Lot 1200, the applicant shall prepare and obtain approval from the Oregon Department of State Lands of a wetland delineation. The applicant shall relocate any portion of the project that would disturb the wetland and required buffer of the wetland.

PA-2 Site Plan Map. The applicant shall submit to the Planning Official a final site plan map of the approved proposal. The map shall contain 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.

PA-3 Archaeological survey. The applicant shall complete a professional archaeological survey of the proposed expansion area, the internal road location, and the location of the employee building and leachate ponds. The applicant shall consult with all appropriate Native American tribes and the Archaeological division of the State Historic Preservation Office regarding the proposed project. The applicant shall include County planning staff in all correspondence. The final survey shall be submitted to the State Historic Preservation Office, with a copy sent to the Planning Official. The applicant shall comply with all state and Federal laws regarding archaeological surveys and subsequent processes.

PA-4 Great Blue Heron Rookery (GBHR). The applicant shall hire a wildlife biologist experienced in surveying GBHRs and the biologist shall follow an approved survey protocol to determine whether the rookeries, identified on the map on Page 12 of the staff report, are active or have been abandoned. An active rookery must be protected or mitigated. For a rookery to be considered abandoned it must be documented to have not been used in any of the previous three years.

- (a) The wildlife biologist hired by the applicant shall map the perimeter of the rookery as defined by the outermost nest trees, and then identify a 300-ft buffer of trees around the rookery. Trees within this 300-ft buffer shall not be disturbed unless the disturbance will provide better nesting habitat for the herons, or it is determined by ODFW that the rookery is abandoned.
- (b) The western rookery shall be surveyed for three successive years to determine if the rookery is abandoned. Should the western rookery be determined to be active (used within the last three years) based on the surveys, the applicant shall coordinate with the ODFW to determine an appropriate mitigation plan. Additionally, the applicant shall work with the Oregon Department of Forestry to ensure compliance with the Forest Practices Act when working in this stand.
- (c) The applicant's biologist shall conduct follow-up surveys of both rookeries in accordance with the following survey methodology: During each visit, surveyors would observe each heron nesting site for a 2-hour observation period during daylight hours when weather conditions are mild. A heron nest would be considered active if it has known or inferred presence of a mated pair as indicated by observance of at least one of the following activity patterns:
 - Two adult herons are present on or near a nest, which has recently been repaired with fresh sticks (clean breaks) or fresh boughs on top, and/or having droppings and/or molted feathers on its rim or the ground underneath
 - One adult heron is sitting low in the nest, presumably incubating

- Either adult is carrying prey to nest
- Eggs are present
- Young in nest or fledglings are present A heron nest would be considered unoccupied for the year if no presence activity (as described above) is observed during three consecutive visits.

Surveyors shall note any key components associated with a nest site, such as perching trees, fledging trees, and replacement nest trees, by observing herons use during visits.

PA-5 Covenant. If not already completed, the property owner shall sign a declaratory statement to be recorded into the County Deed Records for the subject property on which the conditional use is located that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules, and that recognizes the hazards associated with the area.

PA-6 Reclamation Plan. The applicant shall submit an updated reclamation plan to the Planning Official.

PA-7 Noise.

- The applicant shall have prepared by noise-mitigation professionals a noise mitigation plan with strategies designed to provide sound-level compliance with applicable Oregon Administrative Rules for truck traffic on the access road and operations within the new cell. The applicant shall seek input from adjacent property owners.
- Along Tax Lot 1200 property line adjacent to Hwy 99W, the applicant shall plant evergreen trees in the gap between the existing evergreens and the deciduous trees. The applicant shall then plant a second row of evergreens behind the first row to provide a thicker buffer. The applicant shall also plant a row of evergreen trees along the edge of the wetland to provide a second layer of buffering behind the deciduous trees. The trees shall be at least 8 feet tall upon planting and be of a species to reach a height of at least 40 feet upon maturity.
- The applicant shall plant a triple row of evergreen trees along the area highlighted in yellow in the picture. The trees shall be at least 8 feet tall upon planting and be of a species that will reach a height of at least 40 feet upon maturity.

Phase 2 Preliminary Approval Conditions – Upon completion of the Phase 1 Preliminary Approval Conditions, the applicant may initiate the ground-disturbing activities identified in the following Phase 2 Preliminary Approval Conditions. Elements of this phase that do not include ground disturbance may be initiated in Phase 1.

PA-8 Coffin Butte Road. The applicant shall obtain Board of County Commissioners approval of the vacation of Coffin Butte Road.

PA-9 Public Works.

- (A) Traffic counts shall be updated by a Traffic Engineering consultant licensed in the State of Oregon. The applicant shall provide an integrated, comprehensive, traffic impact analysis based on current traffic counts, classifications, and turn movement studies to address all of the issues raised in the October 22, 2021 Public Works review. Intersections to be studied will be determined by ODOT and the County Engineer.
- (B) Tampico Road.
 - (i) The applicant shall have a Professional Land Surveyor licensed in the State of Oregon establish the extents of the Tampico Road right-of-way between Hwy 99W and Soap Creek Road.
 - (ii) The applicant shall survey, design, and construct Tampico Road between Hwy 99W and a point 100 feet north of the Soap Creek Intersection to Major Collector standards, with a pavement/base-rock section meeting a minimum 18" Crushed Base Equivalent (CBE) as specified in the TSP. Additional analysis may be required to determine if this section is sufficient for the proposed facility.
 - (iii) The applicant shall design and construct Tampico Road drainage ditches, stormwater conveyances, connections to off- right-of-way conveyances, and detention/treatment facilities to accommodate runoff using ODOT standards, details and methodologies.
- (C) The applicant has proposed the Wiles/Robison corridor as an evacuation and emergency responder route. To effect that designation, the applicant, in coordination with County Engineering staff and representatives of the Adair Rural Fire Protection District, shall analyze the Wiles/Robison corridor to determine if it is suitable for such use. Improvement of this route to serve emergency responders will require the replacement of the existing Wiles Road Bridge. If the corridor is to be utilized as an evacuation/emergency responder route, at absolute minimum, the road must meet fire department standards for two-way traffic as defined in Fire Protection Standards, Guidelines for the Application of Oregon's Fire & Safety Regulations within Linn & Benton Counties (Jointly Adopted January 1, 2020). The corridor shall be analyzed using this guideline. The costs of any improvements are unknown and are dependent on the need determined by the analysis. Any work in the right-of-way is subject to a Permit to Perform Work in the county Right-of-Way as noted in the Advisories.

- (D) The applicant shall survey, design, and construct a cul-de-sac at the proposed terminus of Soap Creek Road employing Major Collector standards, with a pavement/base-rock section meeting a minimum 18" CBE as specified in the current TSP.
- (i) The Soap Creek Road cul-de-sac dimensions shall conform to the most rigorous requirements of the local fire protection district.
 - (ii) If necessary, the applicant shall dedicate right-of-way to the public to accommodate the Soap Creek Road cul-de-sac.
 - (iii) Access to the vacated segment of Soap Creek Road and the southern access road will be controlled by a locked gate at the northerly terminus of the Soap Creek cul-de-sac. The gate shall be fitted with a forest access, Knox, or multiple-lock box to facilitate emergency access by authorized personnel.
- (E) The applicant shall provide emergency access and egress easements over the length of the proposed southern private access road and the vacated segment of Soap Creek Road. The width and alignment of the easements shall be as approved by the County Engineer and the County Surveyor.
- (F) The applicant has proposed the Wiles/Robison corridor as an evacuation and emergency responder route. A segment of Robison Road does not meet current standards for right-of-way width. In order to complete improvements, acquisition of right of way may be necessary. The cul-de-sac bulb at the northeasterly terminus of Soap Creek Road may require dedication of additional right-of-way. The applicant shall be responsible for right-of-way acquisition, if needed, to meet the road improvement conditions of this land use action.
- (G) [Revised] Depending on the extent of improvements to the Tampico and Wiles/Robison corridors, modification to the Tampico/Hwy 99W and Robison/Hwy 99W intersections may be necessary. The applicant, the County, and ODOT shall work cooperatively to analyze and address the need for modification of these intersections. The scope of the analysis will be defined by the proposed use and improvement requirements for each of the corridors. The costs of intersection improvements are unknown and are dependent on the need determined by the analysis.
- (H) The applicant shall provide calculations, design, and specifications for all proposed public infrastructure to Benton County Public Works staff for review and approval.
- (I) The applicant shall provide the County with a proposed detailed chronological sequencing plan for accomplishment of the conditions of approval and shall work with Public Works Engineering staff to arrive at a final sequencing plan that is consistent with County Code and the Conditions of Approval. The plan shall include specific sequencing and timeline requirements for the replacement of the Wiles Road Bridge. The conditions listed here involve a series of construction

requirements and quasi-judicial actions that must be achieved in a manner to protect the interests of the applicant, the public and the County's transportation system. Prior to receiving operating approval of this conditional use permit, the applicant shall fulfill ONE of the following TWO options to meet the conditions for improvements noted above:

(i) The applicant shall construct the improvements noted above as required. OR

(ii) The applicant shall enter into an Agreement for Improvements (AFI) with the County. The AFI will require security for the full amount of the work to be performed plus a 20% contingency. The security may take the form of a bond, a conditional irrevocable line of credit, or a cash deposit. The security serves to assure faithful performance of the required improvements, as outlined above, within 18 months of execution of the AFI.

(J) In order to mindfully achieve an approved sequencing plan, the applicant shall enter into an Improvement Agreement (or other binding document) with the County that specifies the obligations of both parties prior to pursuing the vacation of Coffin Butte Road. The Agreement must include all conditioned improvements to County infrastructure. This Improvement Agreement is to be separate guidance agreement and shall be independent of the AFI noted in (I)(ii) above.

Operating Approval Conditions (to be met for the duration of the business):

OA-1 Trucks using the new internal haul route shall not use Jake brakes to slow or stop their speed.

OA-2 Operating hours for the new cell shall be as follows:

(A) Monday through Friday, internal operations shall not begin prior to 5:30 am. The site may open to commercial vehicles starting at 6 am and to public vehicles starting at 8 am. The site shall close to both commercial and public vehicles at 5 pm and internal operations shall be completed by 6 pm.

(B) Saturday internal operations shall not begin prior to 7:30 am. The site shall not open to commercial and public traffic prior to 8 am and shall close to both at 5 pm. Internal operations shall be completed by 6 pm.

(C) The site shall be closed on Sunday.

(D) During an emergency, and when requested by a State, Federal, or county agency, the landfill may be opened outside of these hours.

OA-3 All vehicles being used for operations on the new cell shall be outfitted with white noise back up alarm.

OA-4 The applicant shall implement the noise mitigation strategies within the noise mitigation plan.

OA-5 Upon the Planning Official's direction, in response to noise complaints being received from adjacent property owners, the applicant shall within 90 days:

- (A) Provide an updated noise study prepared by appropriate professionals addressing the complaints and identifying mitigation measures to bring any non-compliant noise levels into compliance and
- (B) Implement such measures and demonstrate noise-level compliance. Such a noise study shall not be required more than once every two years.

OA-6 The applicant shall maintain the tree buffer along Hwy 99W and replace any dead trees during the rainy season.

OA-7 The applicant shall maintain the tree buffer along the access road near Parcel 1103 and replace any dead trees during the rainy season.

OA-8 Great Blue Heron Rookery. Unless modified by written agreement issued by the Oregon Department of Fish and Wildlife and with approval by Benton County:

- (A) No trees shall be removed from the stand of trees that encompass any active great blue heron rookery or from the 300-ft buffer unless the disturbance will provide better nesting habitat for the herons, or it is determined by ODFW that the rookery is abandoned.
- (B) During the critical nesting period for the Great blue heron, which is from February 15 through July 31, neither construction to prepare the ground or build the leachate ponds, employee building, road bed, or landfill cell shall occur within a quarter mile of the boundary of the rookery.
- (C) The applicant's biologist shall monitor, for 10 years after preliminary approval, the eastern great blue heron rookery throughout the nesting season to determine site specific nesting chronology, nest productivity, the degree of habituation to disturbance, and nearby foraging habitat. The applicant's biologist shall consult with ODFW on improvements that can be made to the site, and the applicant shall incorporate those improvements, that will enhance nesting productivity, mitigate disturbance, and enhance nearby foraging habitat.

OA-9 On all outdoor lighting, the applicant shall install light shields or use lights with the correct beam angle encased above and to the sides in order to channel the light downward and reduce the amount of light pollution.

OA-10 The final grade of the new landfill cell shall not exceed 500 feet in elevation.

OA-11 The applicant shall construct and operate the expanded landfill as described in the application materials, except as modified by these conditions of approval.

OA-12 The applicant shall obtain and maintain all required federal, state and Benton County permits for construction and operation of the landfill.

Advisory Notices:

Advisory 1. Endangered Species Act. Federal law requires that the applicant comply with the federal Endangered Species Act and is responsible for obtaining any required permit approvals from the U.S. Fish and Wildlife Service. Failure to do so may be a violation of federal law.

Advisory 2. Oregon Department of Transportation. With the proposal of vacating Coffin Butte, it is the understanding of ODOT that properties to the west which currently use Coffin Butte Road will likely now use Tampico Road, and possibly Robison Rd, as their new route. If the applicant proposes, or the County requires, improvements to the OR 99W/Tampico Road intersection and/or the 99W/Robison Road intersection, the design of such improvements would need to be reviewed and approved by ODOT. A traffic study may be required. To help make the determination if a traffic study would be required with any proposed intersection improvements, we will want to know what the existing volumes and traffic classifications using the intersection(s) are and what the new proposed volumes and traffic classifications will be due to the vacation and disconnection of Coffin Butte Road.

Advisory 3. Public Works.

- (A) Existing survey monuments must be preserved and protected. Any survey monuments disturbed during construction must be replaced at the expense of the applicant or the contractor.
- (B) All public improvements shall be subject to a 3-year warranty period. At the start of the 3-year warranty period, the applicant shall provide Public Works with a warranty bond in the amount of 15% of the value of the work performed within the Benton County right-of-way.
- (C) The applicant shall apply and obtain approval for a Permit to Perform Work in the County right-of-way for all work within County rights of way. The permit will be issued when construction drawings are approved and all supporting documentation has been provided to the County.

- (D) The applicant shall provide the County with a unit price cost estimate for the work to be performed within Benton County rights of way. This estimate shall include trenching, backfilling, paving, striping, signing, grading/restoration, seeding, mulching, fence replacement, and any required landscaping. Permit fees will be 4.0% of the estimate provided.
- (E) The applicant shall obtain a DEQ 1200-C permit, and a Benton County ESC permit prior to start of land disturbing activities.
- (F) The applicant shall obtain approval for all required local, state and federal permits prior to start of land disturbing activities.
- (G) Construction and post-construction storm drainage discharge shall conform to the standards and tenets established by Oregon Drainage Law and shall conform to all Oregon Department of Environmental Quality and Benton County stormwater quality standards using Oregon Department of Transportation erosion and sediment control details and best management practices.

Advisory 4. Wetlands. Prior to ground disturbance, the applicant shall prepare and obtain approval from Oregon Department of State Lands of a wetland delineation and removal fill permit. Any amount of disturbance to a compensatory mitigation area requires a removal-fill permit. A Federal permit may be required by the Army Corps of Engineers.