

**RECOMMENDATIONS (Note: SMMP had no crossover recommendations)**

Row #	BIG Topic Area	Landfill Size/Capacity/Longevity	Legal Issues and Land Use Review	Compliance with Past Land Use Actions	Community Education and Outreach
1	Documenting & Reviewing Reports; Availability to Public	<p><b>LSCL-R-7</b>                      The Benton County Solid Waste Advisory Council (SWAC) should review all future Coffin Butte Annual Reports relative to past reports and official approvals, in particular with regard to intake volume, landfill traffic volume (both Municipal Solid Waste and leachate transport), expected Landfill Life and EOL, and total and remaining Permitted Space. SWAC should report these findings to the BOC for consideration.</p>	<p>LLU R-9. BCC 77.405 states, "Copies of materials submitted to the Oregon Department of Environmental Quality as a part of any permit process shall be submitted to the Planning Official. If at any time the Planning Official determines that permit application materials or conditions of DEQ permit are judged to merit public review, a Public Hearing before the Planning Commission shall be scheduled." This provision is unclear. (The provision might have been codified before adoption of the current state agency coordination requirements, which now require a land use compatibility statement (LUCS) as part of any application for a state permit in which local land use is implicated.) The subcommittee interprets this section as requiring a review if the use originally approved has been or will be modified due to the DEQ permit. The Planning Official could make such a determination using a formal "Interpretation" pursuant to BCC 51.205(1). Recommend a code amendment to clarify this provision. For example, a code amendment could require that when DEQ issues a landfill permit, the Planning Official shall review the permit and conditions of approval and, if discrepancies with the County's land use approval are noted, determine whether this constitutes a "modification of a conditional use permit" (BCC 53.225) and, if so, require the applicant to submit application for such modification. A workgroup recommendation on how public review of DEQ permit requirements could most benefit the public would also be helpful.</p>	<p><b>CUP R-5</b>                      Ensure that all documents involved in a land use application and all documentation required to be submitted by a Condition of Approval are acquired and placed in the County records for that land use application and posted electronically and continuously available to the public.</p> <p><b>CUP R-6.</b>                      Create a system that tracks receipt of reports that are submitted as required per Conditions of Approval (E.g., copies of water quality and air quality permits, emergency plans, permit submittals, financial assurance statements, etc., and data produced from associated monitoring programs, etc.).</p>	

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2	CUP Application Notification & Public Involvement		<p><b>LLU R-2</b>                      The County should provide to the public a description of the purpose of the statutory completeness review process, and the scope of the information the county planning official considers at the completeness stage. That description should clearly explain how the administrative “completeness” process fits into the review of a land use application. While the county should not discourage public involvement at all stages of the review process, the public should be informed that the statutory completeness is a preliminary step that does not include any review of whether an application does or can satisfy the approval criteria; and that the public review and hearing process that follows after the application is complete provides the public an opportunity to provide evidence and arguments to the decision makers on the merits of the application. The information should clearly inform the public that any evidence or testimony submitted at the completeness stage is not part of the “record” that the decision makers will review, and that information would have to be re-submitted during the public hearing process in order for the decision makers to review it.</p>		<p><b>CEO R-6:</b> The County should notify the public <b>when Republic first notifies the County</b> that they plan to file a CUP application. This starts off any pre-filing public involvement. Notifications should include a postcard, email blast, newspaper notification, and social media posts and advertisements. Postcards should be sent to everyone within a 10- or 15-Mile radius of the landfill, and notifications need to begin 24 hours after the County is notified.</p> <p><b>CEO R-7:</b> Notifications for <b>CUP filings, which includes the application review process</b>, should consist of a postcard, email blast, newspaper notification, and social media posts and advertisements. Postcards should be sent to everyone within a 10- or 15-Mile radius of the landfill, and notifications need to begin 24 hours after the initiation of a CUP filing. During the “completeness” process, the Planning Official will consider whether the applicant’s documents and information are sufficient for purposes of review of the application. Determining that an application is complete does not mean the information satisfies the approval criteria.</p>

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5	Conditions of Approval		<p><b>LLU R-10.</b> In issuing land use decisions, Benton County decision-makers should:</p> <ul style="list-style-type: none"> <li>a. Draft clear findings and be certain to incorporate into the conditions of approval the items that are intended to be binding.</li> <li>b. State conditions of approval in clear and explicit terms and ensure that what is expected of the applicant in order to comply is clearly stated in the text of the conditions.</li> </ul>	<p><b>CUP R-18.</b> Update the Benton County Code and land use application documents to reflect the conditions of approval that are to be completed before final approval of an application and which conditions are applied to the on-going use of the land. This would improve understanding of the differing conditions of approval for the applicant, public, and decision-making bodies.</p>	
6	Monitoring and Enforcement		<p><b>LLU R-11:</b> Benton County should evaluate its existing system regarding compliance monitoring and enforcement to determine if there are sufficient mechanisms in place to ensure compliance with conditions of approval that the County imposes on land use approvals and, if not, recommend improvements. Elements of such an evaluation could include:</p> <ul style="list-style-type: none"> <li>a. What enforcement mechanisms exist within the County Code?</li> <li>b. Is there a mandamus option or a private right of action option?</li> <li>c. What is missing?</li> <li>d. What provisions and procedures do other counties have, particularly counties that host a privately operated landfill?</li> <li>e. The future cost of such a system, the benefits, and the consequences of not improving the current practices and procedures.</li> </ul>	<p><b>CUP R-3.</b> Actively monitor and enforce prior land use decision Conditions of Approval for the landfill or any other land use decision.</p> <p><b>CUP R-4.</b> Establish and widely advertise a reporting process for receiving, tracking, and resolving complaints, such as odor, noise, hours of operation, not following conditions of approval. This administrative process should include an appeals process. Ensure there is a mechanism for providing reports regarding the nature, number and resolution of complaints to be provided to the Board of County Commissioners in the normal course of its business.</p>	

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10	DEQ/Benton County Permitting Interaction		<p><b>LLU R-9.</b> BCC 77.405 states, "Copies of materials submitted to the Oregon Department of Environmental Quality as a part of any permit process shall be submitted to the Planning Official. If at any time the Planning Official determines that permit application materials or conditions of DEQ permit are judged to merit public review, a Public Hearing before the Planning Commission shall be scheduled." This provision is unclear. (The provision might have been codified before adoption of the current state agency coordination requirements, which now require a land use compatibility statement (LUCS) as part of any application for a state permit in which local land use is implicated.) The subcommittee interprets this section as requiring a review if the use originally approved has been or will be modified due to the DEQ permit. The Planning Official could make such a determination using a formal "Interpretation" pursuant to BCC 51.205(1). Recommend a code amendment to clarify this provision. For example, a code amendment could require that when DEQ issues a landfill permit, the Planning Official shall review the permit and conditions of approval and, if discrepancies with the County's land use approval are noted, determine whether this constitutes a "modification of a conditional use permit" (BCC 53.225) and, if so, require the applicant to submit application for such modification. A workgroup recommendation on how public review of DEQ permit requirements could most benefit the public would also be helpful.</p>	<p><b>CUP R-11.</b> Clarify the intersecting roles between the County and DEQ in future CUP actions, recognizing the line between "environmental" and "land use" impacts may not be clear and establish a process of reconciliation.</p> <p><b>CUP R-14</b> There should be further discussion on how to address odor issues in the context of DEQ's then-existing program.</p>	

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	Odor		<p><b>From Summary Table of Topic Areas Benton County Can or Cannot Regulate:</b>                      DEQ’s regulation of air quality via emissions standards does not specifically address odor, but DEQ does regulate nuisance odor through a complaint-based system (see DEQ’s Nuisance Odor Strategy).                      Benton County cannot substitute a different regulatory standard for DEQ’s regulation of air quality emissions. County could determine that odor will violate a CUP criterion and then impose a condition regulating odor, typically by requiring specified odor mitigations to be in place.                      No objective “odor meter” (similar to a decibel meter for noise) seems to be available.</p>	<p><b>CUP R-14</b>                      There should be further discussion on how to address odor issues in the context of DEQ’s then-existing program.</p>	

11	PC-83-07: Conditions of Approval		<p><b>LLU F-15</b> Statements made by the applicant do not become conditions of approval unless those statements are specifically included or incorporated, directly or by reference, into the final decision.</p> <p><b>LLU F-22.</b> Were the site plan and narrative in PC-83-7 regulatory conditions of approval? No. The Board adopted the applicant's site plan and narrative in PC-83-07 as "findings" but did not specifically adopt them as conditions of approval. Findings are not conditions of approval. Rather, they explain how the decision was reached and the facts the decision maker relied on to determine compliance with a criterion. For compliance with specific findings to be enforceable they must be made conditions of approval. The conditions that were adopted through the 1983 decision, described as "conditions of development", specified changes to be made to the applicant's site plan. Compliance with those revisions was not required as a condition of approval; the conditions required only that the revisions be submitted. The decision did not describe these revisions as necessary to establish compliance with any approval criteria and required only submission of additional documentation and a revised narrative. Because a) the site plan and narrative, while relied upon as findings, were not made conditions of approval, and because b) the conditions imposed in PC-83-07 that required changes to the site plan did not require those changes on the basis that they were necessary to establish compliance with any criterion but rather required only that they be submitted, the site plan and narrative are not conditions approval of PC-83-07.</p>	<p><b>CUP R-7.</b> Determine if the Site Plan and Narrative included in the applicant submittals for PC-83-07/L-83-07 are regulatory conditions the landfill is required to follow.</p>	
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13	Quarry (Cell 6)	<p><b>LSCL R-5.</b> Benton County should clarify and document the process for officially establishing Permitted Space, including any and all required Benton County actions and regulatory agency approvals (ODEQ, EPA, etc.).</p> <p><b>LSCL R-6.</b> The County should clarify when formal approval of Cell 6 as a disposal area was granted.</p>	<p><b>LLU F-23.</b> Clarify when formal approval of landfilling Cell 6 (current quarry) was granted. Land Use File PC-83-7 has been interpreted by Benton County, including in the 2002 MOU, as authorizing landfilling of the area known as Cell 6, the current quarry. The record in PC-83-07 does not clearly specify that the portion of the property containing the current quarry is authorized for landfilling. However, the Board of Commissioners' findings in PC-83-7 state that 194 acres are approved for landfilling on the property north of Coffin Butte Road; that the total area of the property in the LS zone is approximately 266 acres; and that 59.23 acres of the LS zone are located south of Coffin Butte Road. That leaves approximately 207 acres north of Coffin Butte Road. Given that several areas are clearly shown on the 1983 site plan as being designated open space/buffer, there is no possible configuration of 194 acres out of the 207 acres total that does not include the current quarry area. Based on this analysis, this subcommittee concludes that quarry area was included in the area approved for landfills by PC-83-7.</p>		

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	When/how was the service area expansion allowed?		<p><b>LLU F-6.</b> Benton County may not prohibit a private landfill operator from accepting solid waste from outside Benton County.</p> <p><b>LLU F-8.</b> What does the “regional landfill” designation mean? Oregon Revised Statute (ORS) 459.005(23) defines a Regional Disposal Site as “a disposal site that receives ... more than 75,000 tons of solid waste a year from outside the immediate service area in which the disposal site is located...” The immediate service area of Coffin Butte is Benton County. Coffin Butte Landfill has received more than 75,000 tons from outside its immediate service area every year since at least 1993. Coffin Butte thus meets the definition of a regional landfill per ORS.</p>	<p>CUP F-14. As of 1974 the Coffin Butte landfill was identified as a regional landfill site for wastes from ten areas in three counties. Expanding beyond this limited geographic area was to require re-review by the Planning Commission. Starting in 1998, legal precedents are believed to have superseded the 1974 requirements allowing for the expansion of the service area beyond the original three counties. Since 2013, the Coffin Butte Landfill has served 39 counties. Also since 2013, Coffin Butte Landfill has accepted waste from seven out-of-state counties (2 from CA, 5 from WA). Only one out-of-state county (in WA) was served in 2021, which represented 1.88 Tons (0.00018% of total) For supporting information see Comments for CP-74-01 Condition 1 in Table 2 Assessments of Land Use Conditions and Legal Land Use Subcommittee analysis.</p>	