

RECOMMENDATIONS

Row #	Sustainable Materials Management Plan	Landfill Size/Capacity/Longevity	Legal Issues and Land Use Review	Compliance with Past Land Use Actions	Community Education and Outreach
1		<p>LSCL-R-7 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 about 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>CUP R-3 [Pending] 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 relevant file for that land use application.</p>	
2			<p>LLU R-5 If the County provides an opportunity for public input into the determination of application completeness, the information provided to the public should include a caution that the County is not required to, and may not have the time to, address or incorporate the public input into the completeness determination, and that such public input is not considered public testimony on the merits of the application.</p>		<p>CEO R-2 Notifications for CUP filings 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, and notifications need to begin immediately after initiating the CUP filing.</p> <p>CEO R-5 Notification of CUP completion will include a postcard, email blast, newspaper notification, and social media posts and advertisements. They should be sent to the entire county and occur 24 hours after completion.</p>
3			<p>LLU R-6 A process to allow public input, comment, and feedback on any provisions subject to Section 2 of the collection franchise agreement between Benton County and Allied Waste Services of Corvallis (“Republic Services”) could be designed as follows: After the parties have begun discussing what specific terms may be amended pursuant to Section 2, but no more than 60</p>		<p>CEO R-6 Notifications for Franchise Agreements should include a postcard, email blast, newspaper notification, and social media posts and advertisements. Postcards should be sent to the entire County. Notifications need to begin no later than 24 hours after the agreement.</p>

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			<p>days prior to any amendment being approved by the Board of Commissioners, the County will publish a notice that it is seeking suggestions from the public for negotiation topics generated from the “concepts from the consensus-seeking process.”</p> <p>Any input received would be presented to the Board of Commissioners at a work session, at which time the Board would identify those ideas or suggestions that may be included as negotiation topics. Following the work session and as part of the ongoing negotiations, Benton County Staff will discuss with Republic Services the topics and ideas the Board of Commissioners identified.</p> <p>At such time as Benton County and Republic Services reach a tentative agreement on the renegotiated terms, Staff would bring the proposed franchise changes to the board meeting, where consideration of the amended franchise agreement would be conducted in a public hearing pursuant to BCC 23.235, which will include an opportunity for the public to present testimony. The Board could approve the agreement as presented or may direct staff to resume negotiations with Republic Services to include specific topics identified by the Board.</p> <p>The renegotiated collection franchise agreement must be agreed upon, in its entirety, by both Benton County and Republic Services. At such time as the terms have been agreed upon, and the Board is satisfied that public input has been</p>		

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			adequately included or addressed in the renewed agreement, the franchise agreement will be the subject of a public hearing and, ultimately, approval by the Board of Commissioners at a regular board meeting.		
4		<p>LSCL-R-3 Benton County shall conduct an updated Baseline Study to evaluate the impact of the current intake level at Coffin Butte. As with the 2001 Baseline Study stipulated in the 2000 Landfill Franchise Agreement, this study should determine and measure adverse effects, including but not limited to: traffic, soil conditions and contamination levels, air quality, surface and groundwater conditions and contamination levels, noise, odor, visual screenings, litter, hours of operation, solid waste control systems and compliance with all solid waste Permits. The county should then use this information to inform decision-making and financial choices regarding income from the landfill franchise.</p>		<p>CUP R-11 Evaluate the public burden of acquiring buffer land – a condition of DEQ’s RCRA Corrective Measures for the landfill - by landfill-related entities is consistent with Vision 2040 and the impact on housing, forestry, and agricultural land uses.</p> <p>CUP R-9 Consider the public burden of leachate from the landfill site on traffic safety, road maintenance, public wastewater treatment plants (Corvallis, Salem), and the Willamette River (water quality, sediments, wildlife, etc.) in future assessments of the impact of landfilling in Benton County.</p>	
5			<p>LLU R-7 Per LLU F-5 and F-20b, because existing and past operations are not within the County’s scope of review of a new conditional use permit application south of Coffin Butte Road, the subcommittee recommends that the County decision-makers prioritize addressing topics that would be relevant to review of a new CUP application and de-prioritize in-depth evaluation of existing and past operating approvals.</p>	<p>CUP R-1 Benton County should actively monitor and enforce prior land use decision conditions of approval for the landfill or any other land use decision.</p> <p>CUP R-4 Determine if the Site Plan and Narrative included in the applicant submittals for PC-83-07/L-83-07 were regulatory conditions the landfill was required to follow. Currently, there is a difference of opinion as to whether they are regulatory. Either way, a</p>	

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				determination should be made on these requirements moving forward.	
6			<p>LLU R-8 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"> • What enforcement mechanisms exist within the County Code? • Is there a mandamus option or a private right of action option? • What is missing? • What provisions and procedures do other counties have, particularly counties that host a privately operated landfill? 	<p>CUP R-1 Benton County should actively monitor and enforce prior land use decision conditions of approval for the landfill or any other land use decision.</p> <p>CUP R-2 Establish and widely advertise a County process for receiving, tracking, and resolving complaints. It should include an appeals process beyond communicating with the Board in the normal course of its business.</p> <p>CUP R-4 Create a system that tracks Benton County 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, required of the applicant by the Oregon Department of Environmental Quality or other governmental agencies.</p> <p>CUP R-8 Consider a program for compliance confirmation 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, etc.</p>	

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7	<p>SMMP R-8 It is recommended that the RFP indicate the need for researching and exploring opportunities for a regional multi-county approach to achieve the goals of sustainable materials management. RFP firms with experience with Oregon’s materials management legislation, policies, and other county materials management plans may be able to address this need. (Recommendations about strategies to engage surrounding counties in addressing impacts of materials to follow.)</p>			<p>CUP R-13 Develop an adequate emergency preparedness/response plan with neighboring counties given the lessons learned from the nationally reported 1999 landfill fill fire and emergency services available to address new fire situations regardless of location.</p>	
8	<p>SMMP R-1 Benton County Sustainable Materials Management Plan should be developed within a Sustainable Materials Management framework, reflecting full lifecycle impacts. The development of a Sustainable Materials Management Plan should consider, 1) the 2040 Thriving Communities Initiative and our communities’ Core Values, 2) national, State and local goals, vision documents, plans, policies, ordinances, etc. relating to materials management and climate change, 3) examples of values and goals expressed in state</p>			<p>CUP R-9 Consider the public burden of leachate from the landfill site on traffic safety, road maintenance, public wastewater treatment plants (Corvallis, Salem), and the Willamette River (water quality, sediments, wildlife, etc.) in future assessments of the impact of landfilling in Benton County.</p>	

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	and local jurisdiction materials management plans, and 4) long-term strategies (to 2040) with short-term action items (5 years or less).				
9		<p>LSCL-R-5 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>LLU R-4 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 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 code amendment to clarify this provision. A workgroup recommendation on how public review of DEQ permit requirements could most benefit the public would also be helpful.</p>	<p>CUP R-4 Create a system that tracks Benton County 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, required of the applicant by the Oregon Department of Environmental Quality or other governmental agencies.</p>	
10			<p>LLU F-19 What options does the Planning Commission have if they determine that DEQ regulation of a particular parameter is inadequate or likely to be inadequate? The County could not determine that DEQ regulation of a particular environmental parameter is inadequate to protect public health and deny the application on those grounds. The County also has no authority to</p>	<p>CUP R-7 Clarify the intersecting roles between the County and DEQ in future CUP actions. The line between "environmental" and "land use" impacts may not be clear. CUP R-13 Evaluate the public burden of acquiring buffer land – a condition of DEQ’s RCRA Corrective Measures for the</p>	

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			<p>interpret, apply or enforce DEQ regulations. (Except for regulatory programs that DEQ formally delegates to a local government, such as with on-site sewage disposal regulation.) Additionally, the County cannot assume that an activity will result in a violation of DEQ parameters when the activity hasn't happened.</p> <p>The County could potentially determine that DEQ's regulation of a particular parameter is inadequate to prevent the proposed land use from seriously interfering with uses on surrounding properties. However, the County must articulate why DEQ's requirements are insufficient, and the County typically lacks the expertise or personnel to determine whether a particular environmental parameter is being exceeded. Alternatively, the County could require that specified mitigations be implemented, which is simpler to monitor than the level of certain emissions.</p>	<p>landfill - by landfill-related entities is consistent with Vision 2040 and the impact on housing, forestry, and agricultural land uses.</p> <p>CUP R-14 There should be further discussion on how to address odor issues in the context of DEQ's then-existing program.</p>	
11			<p>LLU F-15 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>CUP R-5 Determine if the Site Plan and Narrative included in the applicant submittals for PC-83-07/L-83-07 were regulatory conditions the landfill was required to follow. Currently, there is a difference of opinion as to whether they are regulatory. Either way, a determination should be made on these requirements moving forward.</p>	
12		<p>LSCL F-33 The recommended condition prohibiting landfill south of Coffin Butte Road was not included in the 1983 rezoning ordinance through a change recommended by Benton County Staff, in which Staff noted that any</p>	<p>LLU F-16 How does the 2002 Memorandum of Understanding (MOU) fit into the Workgroup considerations? The 2002 MOU clarifies authorization for landfill activities within the Landfill Zone and establishes a</p>	<p>CUP R-6 [Pending] Determine the applicability and authority of the 2002 MOU as it relates to pre-2002 conditions of approval.</p>	

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		<p>new disposal area would require approval of the Planning Commission in a public vote. The process for approving the landfill south of Coffin Butte Road was subsequently changed to “allowed by conditional use permit.” This appears to be done via Ord. 90-0069 (BCC 77.305). This change was memorialized in the 2002 Memorandum of Understanding executed by Valley Landfills and Benton County.</p> <p>LSCL F-34 The 1983 rezoning action defined 194 acres as Landfill Size (LS) zone. An additional 56-acre parcel south of Coffin Butte Road, while zoned LS, would not be used for solid waste disposal unless approved by a conditional use permit and Department of Environmental Quality permit for solid waste landfill use. The site map attached to the 2002 MOU restricted “fill” activity to the north side of Coffin Butte Road.</p>	<p>point in time at which the landfill was operating in compliance with state and local requirements.</p> <ul style="list-style-type: none"> • The MOU does not address whether the County’s determination of “compliance with local requirements” includes compliance with all conditions of past land use approvals. • The MOU indicates that, as of 11/5/2002, there were no known land use ordinance violations involving the landfill. The MOU does not describe the extent to which Benton County investigated the compliance status of any conditions of past land use approvals in preparing the MOU. • The MOU did not negate or supersede conditions of past land use approvals. 		
13		<p>LSCL R-6 The County should clarify when formal approval of Cell 6 as a disposal area was granted.</p>			

FINDINGS

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1			<p>LLU F-15 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>CUP F-11 The subcommittee did not reach a consensus on whether the Site Plan and Narrative included in the applicant submittals for PC 83-07/L-83-07 are regulatory such that they require compliance. The public members believe they are enforceable. The County and Republic members believe they are not enforceable. A detailed analysis of these positions can be found at XXXXXXXXXXXX and XXXXXXXXXXXX.</p>	
2			<p>LLU F-16 How does the 2002 Memorandum of Understanding (MOU) fit into the Workgroup considerations? The 2002 MOU clarifies authorization for landfill activities within the Landfill Zone and establishes a point in time at which the landfill was operating in compliance with state and local requirements.</p> <ul style="list-style-type: none"> • The MOU does not address whether the County’s determination of “compliance with local requirements” includes compliance with all conditions of past land use approvals. • The MOU indicates that, as of 11/5/2002, there were no known land use ordinance violations involving the landfill. The MOU does not describe the extent to which Benton County investigated the compliance status of any conditions of past land use approvals in preparing the MOU. • The MOU did not negate or supersede conditions of past land use approvals. 	<p>CUP F-12 [Pending] The subcommittee did not reach a consensus on the applicability and the authority of the 2002 MOU found XXXXXX and how they may affect conditions of approval pre-2002. (Republic believes the Site Plan and Narrative are not regulatory conditions by their terms and could not have been imposed as conditions because they were not created or submitted until after the Board of Commissioners made the final decision approving the expansion. Regardless, such conditions are rendered moot by subsequent modifications and the 2002 Memorandum of Understanding. The public members believe the Site Plan and Narrative are regulatory conditions that require compliance. This was addressed during the CUP review process. See 83-07 analysis and supporting documents shared with the members and BCTT on December 9, 2022, and Legal Subcommittee members on 5 January 2023. The relevance of the 2002 MOU remains in dispute.)</p>	
3			<p>LLU F-19 What options does the Planning Commission have if they determine that DEQ regulation of a particular parameter is inadequate or likely to be inadequate?</p>	<p>CUP F-13 [Pending] Generally, DEQ has jurisdiction over many environmental impacts, and the County has jurisdiction over the land use impacts. The line between “environmental impact” and “land use” is not always clear and may lead to conflicting perceptions of what is to be done. The</p>	

			<p>The County could not determine that DEQ regulation of a particular environmental parameter is inadequate to protect public health and deny the application on those grounds. The County also has no authority to interpret, apply or enforce DEQ regulations. (Except for regulatory programs that DEQ formally delegates to a local government, such as with on-site sewage disposal regulation.) Additionally, the County cannot assume that an activity will result in a violation of DEQ parameters when the activity hasn't happened.</p> <p>The County could potentially determine that DEQ's regulation of a particular parameter is inadequate to prevent the proposed land use from seriously interfering with uses on surrounding properties. However, the County must articulate why DEQ's requirements are insufficient, and the County typically lacks the expertise or personnel to determine whether a particular environmental parameter is being exceeded. Alternatively, the County could require that specified mitigations be implemented, which is simpler to monitor than the level of certain emissions.</p>	<p>subcommittee did not reach a consensus on this matter. For example, as a remedy for groundwater contamination at the site, DEQ requires the purchase of land to limit the public's exposure to contaminated water (RCRA Corrective Action decision), which may or may not adversely impact neighboring County approved land uses. In another situation, the County publicly agreed to limitations on the appearance and uses of the closed landfill, but these are not reflected in Republic's current DEQ-required site closure plans. These plans are the basis of DEQ's required Financial Assurance filing that would fund the landfill's closure if Republic could not do so. The DEQ-required plan and Financial Assurance from Republic must address County land use requirements to adequately fund the site's reclamation. (Republic states this is an allocation of resources question for the County, and the County would have to treat the landfill consistently with other industrial, agricultural, and forestry operations that can have similar or great impacts. This would require significant analysis before implementation to avoid negative or unintended consequences.)</p>	
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