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Letter of Transmittal

April 3, 2023

To: Benton County Board of Commissioners,
From: BCTT though Sam Imperati, Facilitator
RE: BCTT Workgroup Report

Please accept this final report, which summarizes the results of a community driven Benton County solid waste workgroup process also known as “Benton County Talks Trash (BCTT.)”

The Benton County Board of Commissioners (BOC) hired ICMresolutions to facilitate a Workgroup process to establish common understandings, to development findings and recommendations for processing future Conditional Use Permits (CUP), and to develop a detailed outline for a Sustainable Materials Management Plan (SMMP).

To accomplish this, the Board appointed Workgroup members that were representative of community voices. The Charter elements were organized by five subcommittees of the Workgroup and interested community members. The process began on September 8, 2022, and ended April 4, 2023, with the submission of this report. During that time, we conducted ten Workgroup meetings and XX subcommittee meetings.

Our role was to organize the process, facilitate these meetings, help develop findings and recommendations, and produce this approved report.

We want to thank the Board, staff, and members of the public for their tireless efforts and meaningful contributions. This is their work product – not ours. The Workgroup’s formally vetted XX Findings and XX Recommendations were provided to the Board of Commissioners and posted publicly on April 4, 2023, for the Board’s consideration.

Respectfully Submitted,

Samuel J. Imperati

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How to read this document

For a general overview of the process and key recommendations, please see the Executive Summary (pages X-X). For more detail, please read the body of the full report. The Findings and Recommendations are often linked to the appendices for background information.

Project Website

<https://www.co.benton.or.us/cd/page/solid-waste-process-work-group>

On behalf of the Workgroup and the Benton County Board of Commissioners, thank you for reading along with us – and *a special thank you for your interest in Benton County's and Oregon's solid waste and sustainable materials future!*

Executive Summary

Since World War II, the southern end of Coffin Butte in north Benton County, Oregon, has served as a solid waste dump site in one form or another. Over time, the site has changed and grown – beginning as a rock quarry, then a U.S Army garbage dump/burn pile, Coffin Butte now serves as a full-scale regional landfill serving dozens of communities in western Oregon and Washington. While the site has changed and grown over time, Benton County has not adopted a plan for managing the site or the waste left there over the decades.

From Conflict to Collaboration

Following a pair of conflicting 2021 decisions from its appointed solid waste and land use bodies, and in response to substantial community concern over a proposed landfill expansion, the Board of County Commissioners asked Oregon Consensus to help understand the situation and identify, if possible, a constructive path forward on solid waste and disposal, including at the Coffin Butte Landfill. Following the Board’s direction, a third-party facilitation team helped convene a community member-based Workgroup representing a diverse balance of perspectives and established a Charter and Bylaws to guide the work.

Dubbed “*Benton County Talks Trash*,” the Workgroup was tasked with building “common understandings” around key topics and outlining the table of contents for a modern, long-term Sustainable Materials Management Plan. To complete these tasks, the Workgroup established five subcommittees to dive into specific topic areas and then report back to the full Workgroup. Subcommittees focused on:

- Developing a Sustainable Materials Management Plan (SMMP)
- Estimating the Landfill Size, Capacity and Longevity
- Clarifying legal issues and reviewing land use law
- Determining the status of past land use Conditions of Approval
- Improving Community Education and Outreach

Sustainable Materials Management Plan (X Findings and X Recommendations)

One key purpose of the BCTT Workgroup is to develop a list of issues that should be addressed in a long-term Sustainable Materials Management Plan. That subcommittee spent some time fleshing out the scope of a recommended plan and then organized that scope into a draft “Table of Contents” for a plan that will be completed by an experienced third-party consulting team working with the Board, the community, and the landfill operators. The scope emphasizes cradle-to-cradle lifecycle analyses and a shift to circular economic thinking and incorporating 2040 Healthy Communities values to replace traditional linear materials models that end in a landfill.

Subcommittees focused on understanding the history and decisions surrounding solid waste over the past fifty plus years that led to where we are today. The SMMP report focuses on the needs and issues that will help lead Benton County, the mid-Willamette Valley and Oregon to where it needs to be in a more sustainable future. This section includes a list of Questions that consultants and the County can use to frame the thinking about this new paradigm, its benefits, and the practical paths to get there. Learn more about the cutting edge thinking and a new approach to materials management, including the SMMP Subcommittee’s recommendations [HERE](#).

Landfill Size, Capacity and Longevity (X Findings and X Recommendations)

Estimating the size, capacity and life span of the Coffin Butte Landfill required that Subcommittee to weigh a balance a range of disparate factors, all of which could impact the amount of waste placed at the landfill. Members used tables, charts and graphs to understand and communicate solid waste volumes, including potential wildfires, regulatory changes and the future size of the landfill. The Subcommittee offers a range of possible life spans based on those variables and provides recommendations in its Report [HERE](#).

Land Use and Legal Issues (X Findings and X Recommendations)

The Legal Issues and Land Use Subcommittee provides analysis of Oregon land use law and the Benton County Development Code, as well insights into past negotiations of fee and hauling agreements between Benton County and the landfill operators. Attorneys representing the community, Republic Services and Benton County, along with staff and community members explore insights into the legal constraints and authorities surrounding solid waste and the landfill, and offer Recommendations [HERE](#).

Past Conditions of Land Use Approval (X Findings and X Recommendations)

To understand how we got to where we are, the Past Land Use Applications Committee collected and reviewed more than five decades of documents – many pulled from boxes at the various archive storage rooms at Benton County and the Oregon Department of Environmental Quality – to develop recommendations that highlight the importance of making clear public decisions, and also highlight the need for more transparency in decisions and documents that effect solid waste and the landfill. The Subcommittee asked searching questions about the volume and treatment of liquid leachate that is collected from the landfill’s rainwater runoff. They asked about the logic for prior conditions of approval and whether and how those conditions are enforced over time.

As a result of the Subcommittee’s diligent exploration, Benton County now has a nearly complete set of records relating to the Coffin Butte Landfill – one of several important “firsts” that emerged from the BCTT effort. This section of the Report holds insights that will benefit the community, the County, landfill operators and the State of Oregon. Read the Subcommittee’s detailed critique and specific recommendations for improvement [HERE](#).

Community Outreach and Education (X Findings and X Recommendations)

Picking up on the themes of transparency, public outreach and community-wide inclusion, the Community Education and Outreach Subcommittee identified areas of opportunity to improve how Benton County and Republic Services communicate with the public about landfill and solid waste issues, including providing earlier notice of potential decisions at the landfill and in negotiated solid waste agreements. Many of the Subcommittee’s recommendations are simply good practice for government.

Overall Process and Public Participation

Benton County’s “Benton County Talks Trash” Workgroup met nine times between September 8, 2022, and April 4, 2023. All Workgroup meetings were open to the public and included opportunity for written and oral public participation. The project hosted an initial Open House at the County’s Kalapuya Building on November 17, 2022, after the fifth Workgroup meeting. The project hosted a second Open House at the County’s Kalapuya Building on April 4, 2023.

Throughout the process the County's public information officer (PIO) issued ___#___ press releases and issued notifications for each Workgroup meeting via _____, _____, and _____ channels. Recordings of the Workgroup meetings are available [HERE](#), as well as meeting minutes and summaries.

The Benton County Talks Trash Workgroup members spent countless hours researching, discussing, and organizing the common understandings and recommendations outlined in this Report. The efforts reflected in this Report provide a resource that will serve Benton County and interested community members for the next fifty years . . . and beyond. Their leadership, and their combined commitment to accuracy and collaboration are a model for other efforts and will serve Benton County and Oregon for generations.

The Workgroup met ten times between September 8, 2022, and March 23, 2023. All Workgroup meetings were open to the public and included opportunity for written and oral public participation. The project hosted an initial Open House at the County's Kalapuya Building on November 17, 2022, after the fifth Workgroup meeting. The project hosted a second Open House at the County's Kalapuya Building on April 4, 2023. Throughout the process the County's public information officer (PIO) issued ___#___ press releases and issued notifications for each Workgroup meeting via _____, _____, and _____ channels. Recordings of the Workgroup meetings are available [HERE](#), as well as meeting minutes and summaries.

During the process, the Workgroup created five Subcommittees to take on various parts of the Charter Elements. Information on the Subcommittees' work products can be found on page ___ of this report; recordings of the Subcommittees' meetings are available [HERE](#). This report contains the Workgroup's complete work product from the community-driven process.

The Workgroup's formally vetted Findings and Recommendations are provided to the Board of Commissioners and posted publicly on April 4, 2023, for their consideration.

[Add section as to number of consensus Finding and Recommendations and number of MAJ-MIN Findings and Recommendations.]

In addition to the Findings and Recommendations, the Workgroup polled on the Executive Summary and History. It did NOT poll on the rest of the document, including the Appendix. While linked to the findings and recommendations for ease of reference, the Appendix is for background purposes only.

There were several items that came up to late in the process for the Workgroup to vet or were left unresolved for future work. They are:

- 1) [Metro Council adopted Ordinance No. 17-1401, a Landfill capacity policy that prohibits the disposal of waste generated within the Metro region at a new or "limited capacity landfill." A "limited capacity landfill" is one that seeks a site development plan amendment for expansion.](#)
- 2) _____
- 3) _____

During the course of the BCTT process, the Board agreed with the Assessment recommendations to retain outside legal and planning advice for the anticipated expansion CUP application.

Finally, this process did NOT opine on Republic Services' expected Coffin Butte expansion application. It was designed to serve as a "bridge" between past events and next steps through the development of "common understandings."

Project Acknowledgments

Board of Commissioners

Nancy Wyse
Pat Malone
Xan Augerot

Workgroup Members

Voting Members

Andrew Struthers

Catherine Biscoe
Christopher McMorran
Chuck Gilbert
Ed Pitera
Elizabeth (Liz) Irish
John Deuel
Kathryn Duvall
Louisa Shelby
Marge Popp
Mary Parmigiani
Russ Knocke
Ryan McAlister
Shawn Edmonds

Non-Voting / Ex-Officio Members

Audrey O'Brian
Brian May
Daniel Redick
Sean McGuire
Shane Sanderson

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Andrew Johnson
Ginger Rough Richardson
Jennifer (Jen) Brown
Julie Jackson

Previous Members

Brandon Bates
Brian Fuller
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Amelia Webb, Associate Facilitator
Institute for Conflict Management, Inc.

Land Acknowledgment: The Land We're On

Indigenous tribes and bands have been with the lands that we inhabit today throughout Oregon and across the Pacific Northwest since time immemorial and continue to be a vibrant part of Oregon today. We would like to express our respect to the First Peoples of this land, including the federally recognized and the traditionally recognized Tribal communities that have historically and currently reside on these lands. We also recognize that a land acknowledgement is only the first step as we continue to learn and build relationships with Tribal Nations and members of their communities.

What we now know as Benton County was previously inhabited by tribes of the Kalapuya people indigenous to this location. Today, most of the Kalapuya people are enrolled as members of the federally recognized Confederated Tribes of the Grand Ronde Community of Oregon and/or the Confederated Tribes of the Siletz. Prior to colonization and white settlement, the Kalapuya people were believed to have a population of around 15,000 souls. Diseases, illnesses, and violence from settlers led the Kalapuya population to drastically shrink, and by 1849, there are estimates that the population varied between 60 to 600 people. Today, the Kalapuya Tribe is believed to include around 4,000 people.

It is important that we recognize and honor the ongoing stewardship and spiritual relationship between the land and people indigenous to this place we now call Benton County. Despite the settlement of these lands, this was and will continue to remain the home of the Kalapuya. We recognize the pre-existing and continued sovereignty of the tribes who have ties to this place and thank them for continuing to share their knowledge and perspectives on how we care for, impact, and protect the land we live on. We commit to honoring the history of this County as we continue engaging in collaborative partnerships with the tribes and communities indigenous to these lands.

Acronyms

BCTT	Benton County Talks Trash
BOC	Board of County Commissioners
CAC	Citizen Advisory Committee
CUP	Conditional Use Permit
CY	Cubic Yard (yd ³)
CY	Calendar Year
DEQ	Department of Environmental Quality, State of Oregon
DSAC	Disposal Site Advisory Committee (DSAC)
EOL	End of life
EPA	Environmental Protection Agency, United States
FA	Franchise Agreement
FAQs	Frequently Asked Questions
LS	Landfill Site and/or Landfill Site zone
LUBA	Land Use Board of Appeals
MOU	Memorandum of Understanding
MT	Million tons
RFP	Request for Proposals
RSI	Republic Services, Inc. (also “Republic”)
SMMP	Sustainable Materials Management Plan
SWAC	Solid Waste Advisory Council (SWAC)
SWMP	Solid Waste Management Plan
TAC	Technical Advisory Committee
VLI	Valley Landfills, Inc.

I. Process Background

Context

Before the formation of the “Benton County Talks Trash” (BCTT) workgroup, the County contracted with Oregon Consensus to conduct a situation assessment with the following Scope:

Benton County and key stakeholders seek assistance identifying and implementing a constructive path forward relating to sustainable materials management and the future of solid waste disposal in the Mid-Willamette Valley, including at the Coffin Butte regional landfill. Following a [December 7, 2021] Benton County Planning Commission denial of a proposed conditional use permit to expand the landfill, key participants recognize that a constructive path forward could benefit from the assistance of a third-party facilitator. Key stakeholders believe that an objective assessment of the situation, conducted by an impartial third party, would be a good first step. (Emphasis added).

Based on this original Scope, the County asked Oregon Consensus to complete a third-party situational assessment. The Benton County Solid Waste Situational Assessment Report (Assessment Report) can be found [HERE](#). The BOC accepted the Report during its July 19, 2022 meeting and approved funding for the third-party facilitated process at its July 26, 2022 meeting.

Subsequently, on August 23, 2022 the Board approved a Charter and Bylaws for the BCTT workgroup, which can be found [HERE](#).

Membership

Workgroup members fall into one of two categories: a) Polling Members; and b) Ex Officio Members. Polling Members have full rights of participation and are authorized to “poll” on issues to determine levels of consensus. Ex Officio Members have full rights of participation but are “non-polling” information sources. All members could bring technical resources to the meetings; technical resources could be used to participate in the discussions with permission of the Facilitator after a WORKGROUP discussion on the advantages and disadvantages surrounding their participation.

Each WORKGROUP member was allowed to assign one alternate for the process. That person was required to have full authority to represent their Organization/Interest Group. If the alternate was attending, the primary member was required to provide written notice to the Facilitator at least 72 hours in advance of that meeting’s start time.

Original Membership - Provided in the Charter

Organization/Interest Group	WORKGROUP Member	Polling	Ex Officio	Charge
SWAC/DSAC	Joel Geier	X		All
SWAC/DSAC	Marge Popp	X		All
Planning Commission	Nancy Whitcombe	X		All
Planning Commission	Elizabeth Irish	X		All
Republic Services: National	Russ Knocke	X		All but C

Republic Services: Local	Shawn Edmonds	X		All but C
Public	Brandon Bates	X		All
Public	John Deuel	X		All
Public	Kathryn Duvall	X		All
Public	Christopher McMorran	X		All
Public	Ryan McAlister	X		All
Public	Mary Parmigiani	X		All
Public	Ed Pitera	X		All
Public	Louisa Shelby	X		All
DEQ	Brian Fuller		X	All but D
Neighboring Jurisdiction	Marion County: Administrator Designee		X	Only C
Neighboring Jurisdiction	Linn County: Administrator Designee		X	Only C
Benton County Staff	Daniel Redick		X	All
Benton County Staff	Scott Kruger		X	All

Membership at the End of the Process

Organization/Interest Group	WORKGROUP Member	Polling	Ex Officio	Charge
SWAC/DSAC	Chuck Gilbert	X		All
SWAC/DSAC	Marge Popp	X		All
Planning Commission	Elizabeth Irish	X		All
Planning Commission	Andrew Struthers	X		All
Republic: National	Russ Knocke ALT: Ginger Rough	X		All but C
Republic: Local	Shawn Edmonds ALT: Julie Jackson	X		All but C
Public	John Deuel	X		All
Public	Kathryn Duvall	X		All
Public	Christopher McMorran	X		All
Public	Ryan McAlister	X		All
Public	Mary Parmigiani	X		All
Public	Ed Pitera	X		All
Public	Louisa Shelby	X		All
Public	Catherine Biscoe	X		All
DEQ	Audrey O'Brien		X	All but D
Marion County	Brian May ALT: Andrew Johnson		X	Only C
Linn County	Shane Sanderson		X	Only C
Benton County Staff	Daniel Redick		X	All
Benton County Staff	Sean McGuire ALT: Jen Brown		X	All

Charter

1. Scope & Charge

The Workgroup process was designed to serve as a “bridge” between past events and next steps. The goal was to help reset the current dynamics through the development of “common understandings” and recommended protocols for future consideration of the solid waste issues.

This WORKGROUP is not a decision-making body. It is a recommendation-making body with the following Scope. (See [ASSESSMENT REPORT](#) for details.) The recommendations are not binding on decision makers in any subsequent land use review but will help inform all parties going into a review process.

Here are the core elements of the Charge.

- A) Develop Common Understandings to form the basis of the work
- B) Clarify existing criteria and information requirements for the land use review process for any proposed landfill expansion
- C) Scope the necessary tasks to start a Long-Term Sustainable Materials Management Plan process
- D) Provide input on additional topics raised in the [ASSESSMENT REPORT](#)
- E) Consider creating a public-facing document and community education campaign on these topics

2. Process for Workgroup Recommendations

The Facilitator assisted the WORKGROUP and its members in identifying objectives, addressing the diversity of perspectives, and developing substantive, practical recommendations. The WORKGROUP strove for and used a “consensus” recommendation-making approach to determine their level of agreement on proposals. This allowed members to distinguish underlying values, interests, and concerns with the overall goal of developing widely accepted solutions.

Consensus does not mean 100% agreement on each part of every issue, but rather support for a decision, “taken as a whole.” This means that a member may poll to support a consensus proposal even though they would prefer to have it modified in some manner to give it their full support. Consensus is a process of “give and take,” of finding common ground and developing creative solutions in a way that everyone can support. Consensus is reached if all members support an idea or can say, “I can live with that.”

When developing recommendations, the WORKGROUP addressed each issue individually, and in various combinations. The Workgroup determined whether it wanted to make packaged or individual recommendations at the end of the process, following the full benefit of hearing all Subcommittee and Workgroup discussions.

“1-2-3” Consensus Polling: The Facilitator assisted the WORKGROUP in articulating points of agreement, as well as articulating concerns that required further exploration. The Workgroup used a “Consensus Polling” procedure for assessing the group’s opinion and adjusting proposals. In “Consensus Polling,” the Facilitator articulates the proposal. Each voting member then offers “one,” “two,” or “three,” reflecting the following:

- A “1” indicates full support for the proposal as stated.

- A “2” indicates the participant can agree with the proposal as stated but would prefer to have it modified in some manner to give it full support. Nevertheless, the member will support the consensus even if his/her suggested modifications are not supported by the rest of the group because the proposal is worthy of general support as written.
- A “3” indicates refusal to support the proposal as stated.

The Facilitator repeats the consensus voting process as reasonably practical and as time allows to assist the group in achieving consensus regarding a particular recommendation, so that all Polling Members poll “1” or “2.” The results are noted in the WORKGROUP Report.

No Consensus – Majority and Minority Recommendations: If consensus on an issue is not likely, as determined by the Facilitator, the poll results for the options considered will be presented to the BOC.

Summary of WORKGROUP Recommendations: The meeting summaries serve as the record of the WORKGROUP recommendations. Past and present members of the workgroup and public members were invited to submit additional information by the deadline established. The Facilitator packaged all these submittals for Board review in Appendix X.

Subcommittee Introduction

At the third Workgroup meeting (October 6, 2022), the Workgroup identified five Subcommittees that would take on various parts of the Charter elements, consistently reporting back to the Workgroup as they progressed. This was done so specific Charter elements could be addressed at the level of depth deemed necessary by the Workgroup and by those with the most expertise and interest. Once formed, each Subcommittee met roughly twice between each Workgroup meeting.

The information surrounding these Subcommittees (such as charge, members, and key work products) can be found in their respective sections of Part IV. of this report, “[Key Workgroup Findings & Recommendations](#).”

History of Coffin Butte

Main Themes

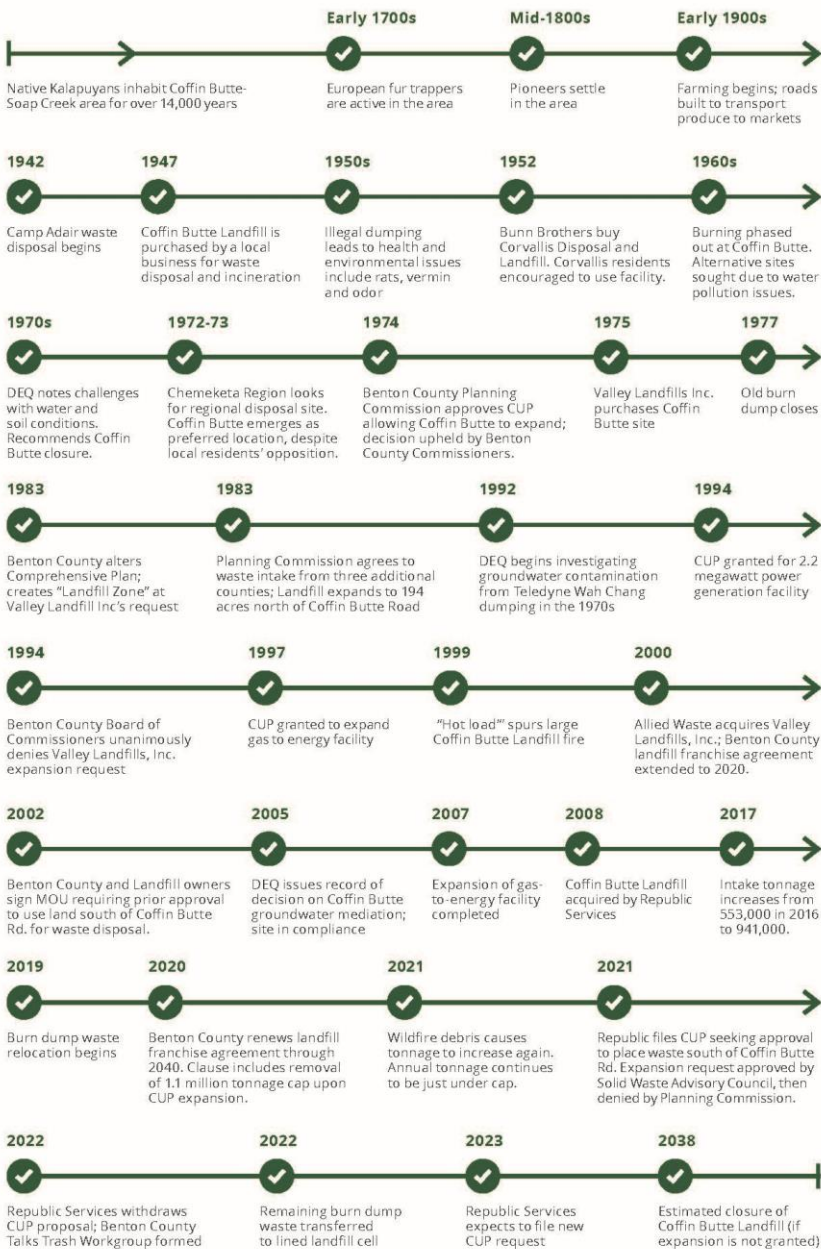
- The siting of the Coffin Butte landfill reflected Benton County’s early desire to control random dumping in rural areas and the initial choice of location stemmed from the historical uses of Camp Adair in the 1940s. Alternative sites were explored in the 1970s.
- Coffin Butte Landfill transitioned incrementally from local ownership to becoming part of a national corporate strategy under Allied Waste. Republic Services acquired Allied Waste and the Landfill in 2008, following a Department of Justice review of the merger.
- Historically, the interests of landfill owners and operators and those of the neighbors and other Benton County residents have not always coincided.
- Both remaining landfill capacity and lifespan are based on industrial modeling and have been historically overestimated.

- Issues surrounding the Coffin Butte Landfill have been subject to strong public involvement. Periodic conflicts were equitably resolved, with both parties reporting adequate acceptance. Sometimes expansion was allowed, and sometimes not.
- Before the late 2020s, SWAC meeting notices and major upcoming Franchise Agreement renewals were regularly posted in the local papers. No public notice was found for either the 2020 Franchise Agreement or the 2021 CUP application.
- Increased pressure for landfill expansion stems largely from interests outside Benton County. This includes the other counties who represent 88% of CBL annual intake.
- Benton County discretionary revenue from the surcharge on tonnage delivered to the Coffin Butte Landfill in 2022 is estimated to be \$2,040,000.¹
- There is presently no Solid Waste Management Plan active in Benton County. The BCTT Subcommittee C is charged with preparing for the creation of a Sustainable Materials Management Plan (SMMP).
- The Coffin Butte landfill can be thought of as a product of diverse historical factors. The current Benton County operation evolved in response to a longstanding local need for a place to dispose of refuse, the development of the specific Coffin Butte site through a series of incremental decisions, and the search for lower-cost refuse sites in western Oregon and Washington.

To explain this history, this essay has three parts: 1) a review of the geographical and historical context of the Coffin Butte location, 2) Benton County's history of landfill decision-making leading up to Coffin Butte becoming the preeminent site for the county and region, and 3) the social context surrounding specific events regarding ownership, operation, and permitting leading to the current facilities and practices found at Coffin Butte in 2023.

¹ *Benton County, OR Adopted Biennium Budget 2021-2023* page 11.

Coffin Butte: Key dates and ownership changes



Section 1: The History and Geography of the Coffin Butte Area

Geography, Geology, and Climate of the Coffin Butte Area

The Coffin Butte landfill site is located about seven miles north of Corvallis on Highway 99W. The site is at the [northwest corner of the intersection of Highway 99 and Coffin Butte Road intersection](#), immediately west of the E.E. Wilson State Wildlife Refuge. Coffin Butte is at the northern end of Soap Creek Valley, but Soap Creek and its valley continue north along the west side of Coffin Butte before entering the Willamette Valley.

While the needs and concerns regarding waste disposal and associated issues affect Benton [County](#) and neighboring [counties of Polk, Linn, Marion, and Yamhill-counties](#), the areas most impacted by Coffin Butte operations are the neighboring areas to the north and south along Highway 99W, Soap Creek Valley, the E.E. Wilson Wildlife Area, Adair Village, areas to the east which can see the operation and are most likely to be impacted by the potential for off-site odor, and Independence Road which bears much of the truck traffic and debris.

[The landfill is in a topographic divide between the two valleys. Groundwater flows both east and west from the area of Coffin Butte Landfill and Tampico Ridge, depending on the underlying geology.² Steve Taylor et al. note that there is an unnamed tributary between Coffin Butte and Tampico Ridge and that “associated wetlands drain east-ward toward the E.E. Wilson National Wildlife Refuge.”³ Rainfall in the area is approximately 42 inches a year, with the majority falling between November and May.⁴](#)

Coffin Butte itself is approximately 738 feet above sea level. The operating landfill is on the southeastern slope of Coffin Butte, north of Coffin Butte Road. ~~A, but~~ ancillary facilities such as administrative offices, leachate ponds, and a power station fueled by methane from the landfill are located south of Coffin Butte Road. The southwest side of Coffin Butte has a rock quarry operated by Knife River. The rock quarry area, ~~also referred to as which would be~~ Cell Six, is currently planned to be the next area of expansion for the landfill unless the permits are changed.

The landfill is in a topographic divide between the two valleys. Groundwater flows both east and west from the area of Coffin Butte Landfill and Tampico Ridge, depending on the underlying geology.⁵ Steve Taylor et al. note that there is an unnamed tributary between Coffin Butte and Tampico Ridge and that “associated wetlands drain east-ward toward the E.E. Wilson

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² Oregon Department of Environmental Quality, “Coffin Butte: Record of Decision,” October 2005, p. 4. [https://www.deq.state.or.us/Webdocs/Controls/Output/PdfHandler.ashx?p=a9aeec5b-8ac7-4658-b0e5-d475ca0c6ebd.pdf&s=CoffinButteROD\(10-05\).pdf](https://www.deq.state.or.us/Webdocs/Controls/Output/PdfHandler.ashx?p=a9aeec5b-8ac7-4658-b0e5-d475ca0c6ebd.pdf&s=CoffinButteROD(10-05).pdf)

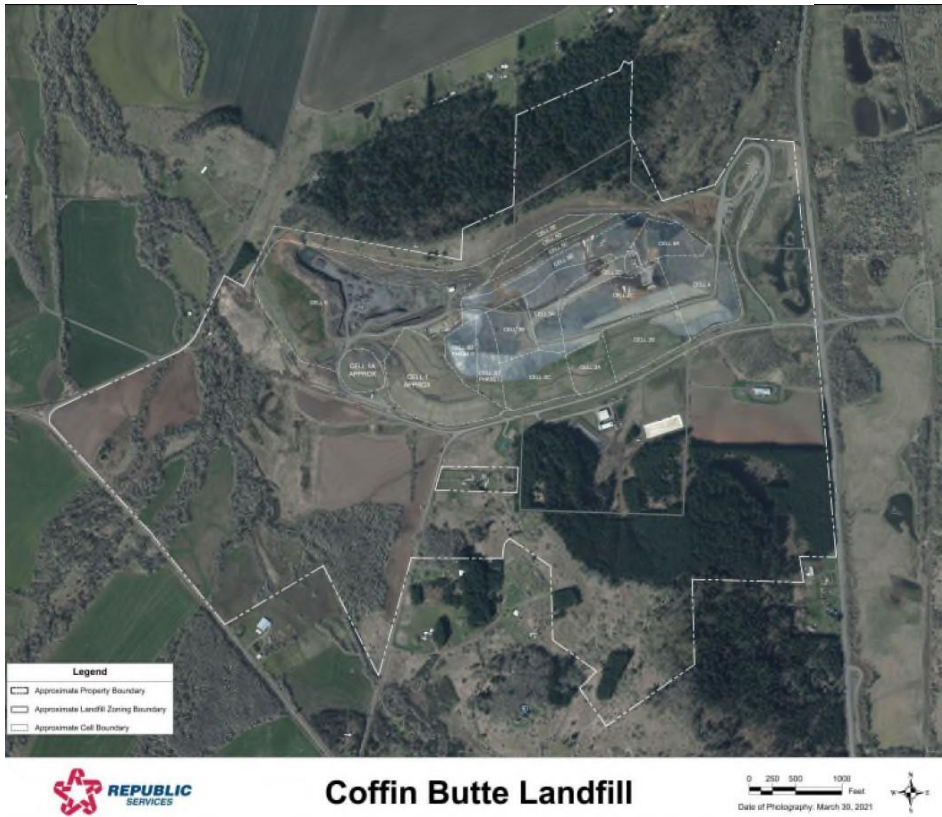
³ Steve Taylor, Bryan Dutton, and Pete Poston. “Luckiamute River Watershed, Upper Willamette Basin: An Integrated Environmental Study for K12 Educators”. This is an instructional field note for a course taught by full professors of Earth Sciences and Biology.

⁴ Oregon Department of Environmental Quality, “Coffin Butte: Record of Decision”, October 2005, p. 3. [https://www.deq.state.or.us/Webdocs/Controls/Output/PdfHandler.ashx?p=a9aeec5b-8ac7-4658-b0e5-d475ca0c6ebd.pdf&s=CoffinButteROD\(10-05\).pdf](https://www.deq.state.or.us/Webdocs/Controls/Output/PdfHandler.ashx?p=a9aeec5b-8ac7-4658-b0e5-d475ca0c6ebd.pdf&s=CoffinButteROD(10-05).pdf)

⁵ Oregon Department of Environmental Quality, “Coffin Butte: Record of Decision,” October 2005, p. 4. [https://www.deq.state.or.us/Webdocs/Controls/Output/PdfHandler.ashx?p=a9aeec5b-8ac7-4658-b0e5-d475ca0c6ebd.pdf&s=CoffinButteROD\(10-05\).pdf](https://www.deq.state.or.us/Webdocs/Controls/Output/PdfHandler.ashx?p=a9aeec5b-8ac7-4658-b0e5-d475ca0c6ebd.pdf&s=CoffinButteROD(10-05).pdf)

National Wildlife Refuge.”⁶ Rainfall in the area is approximately 42 inches a year, with the majority falling between November and May.⁷

Figure 1 - the Coffin Butte Landfill & Pacific Region Compost Annual Report 2021, Page 1



The earthquake hazard of this area is significant, particularly because of the Cascade subduction zone. Kent Yu et al. note that there have been over 40 great earthquakes of magnitude of over eight and in 1700, one of magnitude 9.⁸ A published study by Ram Kulkarni and others states: “... the probabilities of an M9 earthquake during the next 50 and 100 years were estimated to

⁶ Steve Taylor, Bryan Dutton, and Pete Poston. “Luckiamute River Watershed, Upper Willamette Basin: An Integrated Environmental Study for K12 Educators”. This is an instructional field note for a course taught by full professors of Earth Sciences and Biology.

⁷ Oregon Department of Environmental Quality, “Coffin Butte: Record of Decision”, October 2005, p. 3. [https://www.deq.state.or.us/Webdocs/Controls/Output/PdfHandler.ashx?p=a9aee5b-8ac7-4658-b0e5-d475ca0c6ebd.pdf&s=CoffinButteROD\(10-05\).pdf](https://www.deq.state.or.us/Webdocs/Controls/Output/PdfHandler.ashx?p=a9aee5b-8ac7-4658-b0e5-d475ca0c6ebd.pdf&s=CoffinButteROD(10-05).pdf)

⁸ Kent Yu, S, J Wilson, and Y, Yang. “Overview of the Oregon Resilience Plan for Next Cascadia Earthquake and Tsunami”. *Proceedings of the 10TH National Conference in Earthquake Engineering*, Earthquake Engineering Research Institute, Anchorage, AK, 2014. https://www.researchgate.net/publication/281411611_Overview_of_the_Oregon_Resilience_Plan_for_next_Cascadia_Earthquake_and_Tsunami

be 0.17 and 0.25, respectively.”⁹ When approving the expansion of the Riverbend Landfill in Yamhill County, the DEQ noted that the only westside landfill rated for a 9.0 earthquake was Short Mountain, while Coffin Butte and Hillsboro were rated to withstand quakes lower than the 8.5 that Riverbend was designed for.¹⁰ Nevertheless, Coffin Butte landfill is in compliance with all EPA regulations regarding the construction of landfills to withstand seismic activity and, according to Republic Services, is rated for an 8.48 event.

The History of the Coffin Butte Area

The archeology and history of the region are of great importance to many people involved in Coffin Butte decision-making. In his oral history of the Soap Creek Valley, Zybach notes how before Western contact, the Pacific Northwest was one of the world’s more densely populated nonagricultural regions. However, with the introduction of smallpox, malaria, measles, influenza, and other diseases from

Figure 2 - View of Coffin Butte Before the Landfill: Rohner family on their farm in the 1930s (photo by Bob Zybach).



explorers and traders, over 96% of the local Kalapuyan people died within two generations, particularly from malaria, in 1831-1832.¹¹

Tools from the Kalapuyan people have been found throughout the Soap Creek and Coffin Butte area.¹² In 2022, the Oregon State Archeologist, John Pouley, recommended a professional archaeological survey of the proposed expansion area and consultation with all appropriate Native American tribes.¹³ Republic Services has hired the firm Archaeological Investigations to research the area. Their report is expected in Spring 2023. One significant cultural practice of the Kalapuyans was the use of annual prescribed fires. Zybach notes this “broadcast burning” served a variety of purposes, including control of unwanted plants (such as Douglas Fir), the enhancement of favored plants (such as camas), easier hunting, and other benefits such as gathering grasshoppers.¹⁴ The Soap Creek Valley was settled early by white pioneers, probably aided by the native American clearing of land by burning.

The area had a colorful history in the 1800s and 1900s. For example, the town of Tampico, located south of Coffin Butte in Soap Creek Valley on the Applegate Trail, was briefly a thriving and boisterous place until purchased by the wealthy pioneer Greenberry Smith. A local driving

⁹ Ram Kulkarni, Ram Kulkarni; Ivan Wong; Judith Zachariassen; Chris Goldfinger; and Martin Lawrence, “Statistical Analyses of Great Earthquake Recurrence along the Cascadia Subduction Zone.” *Bulletin of the Seismological Society of America*. October 8, 2013. P. 3205.

¹⁰ Scott Learn, “Bigger Yamhill Landfill OK’ed”. *The Oregonian* (May 31, 2013).

¹¹ Zybach, 2000, p. 72-73.

¹² *Ibid.*, P. 120.

¹³ 2022 Conditional Use Permit Staff Report. Benton County Development Department. File No. LU-21-047

¹⁴ Zybach, 2000, pp. 118-119.

guide notes that, "On January 23, 1860, the pious Smith purchased Tampico and burned the entire town to the ground, including stores and homes as well as the saloons, brothels, and gambling dens."¹⁵

Letitia Carson, one of the first black pioneers in the Willamette Valley, was a very early resident of Soap Creek Valley. A formerly enslaved African American, Carson came to Oregon with David Carson in 1845. When David died in 1852, her neighbor Greenberry Smith (the same man who burned down Tampico) took advantage of her unclear legal status to sell off her property. Letitia soon moved to Douglas County but successfully sued Greenberry for \$300 in lost wages and \$1400 for the loss of her cattle and legal costs.¹⁶ The Black Oregon Land Trust has expressed interest in establishing a model farm on the Letitia Carson homesite.
<https://www.blackoregonlandtrust.org/>

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The biggest local change after the white settlement occurred in 1941, when the U.S. Army chose to build a huge training base on the site of the town of Wells which was at the center of the present-day E.E. Wilson Wildlife Area. Within one month, the town was vacated, and houses and barns were bulldozed to be replaced by barracks. The camp itself covered an area two miles wide and six miles long with 1800 buildings. The camp was the second-largest city in Oregon at the time and housed roughly 40,000 troops. The area that eventually became E. E. Wilson was referred to as "Swamp Adair" due to the constant rain, mud, and standing water. The Army built sewer and drainage systems that emptied wetlands and channelized streams.¹⁷

Figure 3 - Construction of Camp Adair & Coffin Butte Road: Overlook of Camp Adair in early 1940s, from slope on Coffin Butte looking east/southeast (photo from the Salem, OR Library's "Ben Maxwell Collection").



Following the war, the residential population slowly increased until the 1970s, at which time growth accelerated rapidly. While there are no estimates of the population of other north Benton County areas close to Coffin Butte, *Nextdoor* estimates that Soap Creek Valley has 1992 residents.¹⁸ Although there is extensive farming along the transit routes leading to Coffin Butte, most area adults commute to work; most homes are on lots less than 10 acres in size, and most

¹⁵ "Northwest Benton County Route". Benton County, Oregon. < https://www.co.benton.or.us/sites/default/files/fileattachments/historic_resources_commission/page/6876/dri ving_tour_part_ii.pdf

¹⁶ Letitia Carson Legacy Project. Oregon State University. < <https://letitiacarson.oregonstate.edu/about-letitia-carson/>>

¹⁷ Oregon Department of Fish and Wildlife. "Visitor Guide: E.E. Wilson Wildlife Area History". https://www.dfw.state.or.us/resources/visitors/ee_wilson_wildlife_area/history.asp

¹⁸ "Soap Creek, Corvallis". Nextdoor. <https://nextdoor.com/neighborhood/soapcreek--corvallis--or/>

families are not directly associated with large-scale farming or forestry practices. But the values generated by 'living on the land' are still strongly felt. Coffin Butte Road serves as a primary emergency exit route for Soap Creek residents and a commuter route for those working in Monmouth-Independence and Salem.

Today, the unusually cohesive Soap Creek community works together to restore and maintain the Soap Creek Schoolhouse, a symbol of the valley. Built-in 1935 and in use until 1946, the structure was restored by the community and remains a meeting place for local activities and an annual fund-raising event.¹⁹

Figure 4 - Soap Creek Schoolhouse (photo by Charles Risen at Adobe Stock Images).



The Coffin Butte Area Today: Wildlife Habitat and Protection

Besides the vibrant community in Soap Creek Valley and the historical significance of Camp Adair, this area is noteworthy today as the home to the E.E. Wilson Wildlife Area, located just across Highway 99W from Coffin Butte Landfill.

E. E. Wilson Wildlife Area

The E.E. Wilson Wildlife Area came into existence in 1950 when the U.S. Government gave quitclaim title to the property to the Oregon Department of Fish and Wildlife. The site was originally built to serve as a US Army cantonment in 1940 and functioned as Camp Adair during the WWII era. The wildlife area covers approximately 1,788 acres of oak woodland, upland shrub, and grassland habitats. The refuge management plan's primary goal is to manage the area consistent with conservation and enhancement priorities for native wildlife and the production of game species.²⁰

The Coffin Butte Landfill and the E.E. Wilson Wildlife Area are located at the midpoint of a triangle of National Wildlife Refuges. This National Wildlife Refuges (refuges or NWRs) system, managed by the U.S. Fish and Wildlife Service, was established in the mid-Willamette Valley during the 1960s when the Migratory Bird Commission approved the establishment of three refuges: Ankeny, Baskett Slough, and William L. Finley.

The area containing Coffin Butte Landfill is part of a wildlife corridor and refuge system connecting the Basket Slough, Ankeny, Luckiamute, and E. E. Wilson refuges to the William L. Finley refuge south of Corvallis on through to the Fern Ridge Wildlife area near Eugene. Soap Creek Valley, E.E. Wilson Refuge, and entire area surrounding the landfill has been identified by Benton County as a high-priority area for conservation actions to benefit key local species.²¹

¹⁹ Historic Soap Creek Schoolhouse Foundation, "Soap Creek Schoolhouse", 2021.

<https://soapcreekschoolhouse.org/index.html>

²⁰ Oregon Department of Fish and Wildlife, E.E. Wilson Wildlife Management Plan (Updated January 2019)

https://www.dfw.state.or.us/wildlife/management_plans/wildlife_areas/docs/ee_wilson.pdf

²¹ For one example, see: "Benton County Prairie Species Habitat Conservation Program," Benton County Natural Areas and Parks Department, 2010.

Tampico Ridge, the next ridge immediately south of Coffin Butte, hosts a complex mix of habitats, particularly Oak Savannah, and is the site of an ongoing research project looking at plant succession being conducted by Western Oregon University faculty and students.²²

Figure 5 - View of E.E. Wilson Wetlands opposite Angler's Pond, 2023 (photo by Marge Popp).



Section 2: Historical and Social Context of Coffin Butte Landfill

Benton County Confronts Its Waste Issues: Up to 1983²³

Waste disposal was simple in the early days of Benton County. What little waste there was before the age of plastics would simply be deposited into rivers, ravines, or anywhere convenient. Dumping along roadsides was particularly favored. Over time, however, unsystematic dumping created health and sanitation problems, and eyesores. For example, on July 27, 1906, The *Corvallis Gazette* advised: "Another thing in connection to cleaning up, don't dump your trash, dead cats, dogs, and other rubbish onto the vacant lot just over the fence." By May 15, 1911, Corvallis residents could use a "garbage ground" available just a ferry ride across the river and in June 1921, the *Daily Gazette-Times* advised residents to burn their refuse rather than dispose of it in nearby streams. By May 7, 1937, the *Gazette-Times* was reporting on the city dump's location by Kiger Island, and reminding citizens they would be fined if they continue to simply dump their trash along roads.

On February 28, 1950, the county sanitarian warned the public to stay clear of the dumpsite south of town since they would be poisoning the approximately 200,000 rats there.²⁴ By April 5,

https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/20770/BentonCo_001-13_ADOPTION.PDF?sequence=1&isAllowed=y

²² Dickey, Eric. "Tampico Ridge LTER Provides Research Opportunities for WOU Students." Western Oregon University. May 14, 2021. <https://wou.edu/research/2021/05/14/tampico-ridge-lter-provides-research-opportunities-for-wou-students/>. A video of this project can be found at <https://www2.wou.edu/nora/woutv.video.viewer?videoid=1754>

²³ Unless otherwise noted, all information here is from the *Corvallis Gazette-Times*.

²⁴ *Corvallis Gazette-Times*, February 28, 1950.

1950, Benton County had established a free refuse facility at the Coffin Butte Site. By April 8, 1954, Robert and Daniel Bunn owned and operated Corvallis Disposal and the Coffin Butte facility, and the *Gazette Times* boasted of the clean efficient service. But roadside dumping remained a problem for decades even after commercial trash pickup was extended to nearly all parts of the county by 1964.²⁵

The late 1960s brought changing attitudes towards traditional practices of burning and dumping. By 1967 burning was being phased out as Coffin Butte evolved to be a landfill operation involving covering and sealing refuse. Accordingly, the volume of waste became an increasing problem. The early 1970s brought pressure to re-locate Benton County's landfill and the exploration of several alternate approaches to disposal. As early as October 9, 1969, Corvallis Disposal began looking for an alternate landfill site and had begun negotiating with Oregon State University to use lands east of Corvallis for that purpose. In the March 19, 1971 *Gazette-Times*, County Sanitarian Roger Hayden speculated that one day soon Benton County may be barging its wastes down river to a regional site where proper sorting and recycling could take place. Hayden suggested at the time that eventually local solid waste would have to be taken to the eastern side of the state since western Oregon had location, water, and soil condition difficulties.²⁶ Without a ready alternative, however, in November of 1971, the County Commissioners approved an extension of Corvallis Disposal to use the Coffin Butte area as a landfill until December 31, 1974. Corvallis Disposal negotiated a 99-year lease option on the "Granger" site on the Independence Road near Highway 20 where they hoped to develop a landfill despite some concerns by officials about the proximity of the Willamette River.²⁷

In 1970, there were 17 disposal sites in a five-county area that included Benton County.²⁸ Only two met the new standards for landfills, as set by the Oregon DEQ. Coffin Butte was one of many sites recommended for "phasing-out" and "closure" at a later date. In April 1970, individuals representing Benton, Linn, Marion, Polk and Yamhill counties met to discuss solid waste solutions for the five-county area. Two years later, they formed the Chemeketa Regional Solid Waste Program, a cooperative program funded via a grant from the Environmental Protection Agency (EPA).²⁹ The Chemeketa program is no longer in existence. No record can be found of an updated plan after the projected timelines expired.

At the time, "the Granger site" was the leading location for a regional landfill in Benton County. However, Benton County officials and residents soon expressed concerns about the plan, noting that the parcel was on prime farmland and the Willamette River Flood Plain. The opposition prompted the Chemeketa Board to go back to the drawing table, and by September 1973, four sites were under consideration for a regional landfill.

²⁵ *Corvallis Gazette-Times*, June 24, 1966.

²⁶ *Corvallis Gazette-Times*. May 12, 1972.

²⁷ *Corvallis Gazette-Times*, August 26, 1972.

²⁸ *Chemeketa Region Solid Waste Management Program Summary, Volume 1*. Stevens, Thompson, and Runyan, Inc. 1974. P.9

https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/1974_chemeketa_region_solid_waste_management_program_summary_volume_i.pdf

²⁹ *Chemeketa Region Solid Waste Management Program Summary, Volume 1*. Stevens, Thompson, and Runyan, Inc. 1974. PP. 3-4.

https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/1974_chemeketa_region_solid_waste_management_program_summary_volume_i.pdf

Two months later, Coffin Butte was designated as a preferred site due to cost and convenience considerations. The selection came following a public hearing in which residents opposed all four sites and a written public comment period during which Benton County received five letters opposed to Coffin Butte and four in favor. Two additional public hearings were held in February and March 1974. At the first, testimony was overwhelmingly in favor of the project. At the second, there was significant public opposition to the proposal, especially from the North Benton County Citizens Advisory group. Testimony lasted more than 3.5 hours.³⁰

Ultimately, the Benton County Planning Commission approved a conditional use permit (CUP) request allowing Coffin Butte to be expanded into a regional landfill, one of several designated by the Chemeketa agreement.³¹ Residents appealed but two months later Benton County officials upheld the Planning Commission's decision. The Chemeketa agreement is not a sweeping commitment by Benton County to take all refuse from the other counties. While the charge of the Resource Recovery center being planned for the former Camp Adair site, and now in operation, was broad, access to use Coffin Butte for refuse disposal was limited to specific areas within the partnering counties, 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.³²

Pressures for expansion renewed by 1981, notably with the closure of the Roche Road landfill in Linn County. The next level of expansion for Coffin Butte came in 1983 when the Benton County Planning Commission approved another expansion that the Landfill's operators said would add half a century to the site's life.³³ Although this expansion provoked less protest than in the early 1970s, the North Benton Citizen's Advisory Committee (CAC) specified that there would be no disposal of municipal solid waste on the 59.23 acre property south of Coffin Butte Road³⁴ It is this parcel that was part of Republic Services' 2021 CUP application.

During the 1980s, the landfill operator purchased several properties surrounding the landfill, some belonging to residents whose water supplies were compromised as a result of landfill operations. ~~The sediments from one household well in sediments~~ west of the landfill, on the former Helms home site, ~~contained received~~ sufficient contamination from the landfill site that the well had to be decommissioned under DEQ supervision. A DEQ report on the situation notes~~d~~ that practices at the landfill were being adjusted to minimize future problems, and the responses included the decommissioning of some wells. "Decommissioning water wells within the LOF ("Location of Facility") or in areas potentially downgradient of impacts removes potential exposure to contaminants in groundwater. Two wells currently proposed for decommissioning include PW-1, which is within the LOF, but currently unused, and the Helms well, which is outside and downgradient of the LOF. The Helms well will be used (with carbon

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³⁰ *Corvallis Gazette-Times*, March 6, 1974.

³¹ *Chemeketa Regional Solid Waste Program Technical Report*. 1974. pp. 105-112.
https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/1974_chemeketa_region_solid_waste_management_program_technical_report_volume_ii.pdf

³² *Chemeketa Regional Solid Waste Program Technical Report*. 1974.
https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/1974_chemeketa_region_solid_waste_management_program_technical_report_volume_ii.pdf

Also see BCTT, Subcommittee A, Compliance with Past Land Use Actions and Their Status

³³ *Corvallis Gazette-Times*, April 27, 1983.

³⁴ North Benton County Citizen's Advisory Council submission, Benton County File PC-83-07-c(5)

filter unit) until September 2006 at which time it will be disconnected from use and scheduled for decommissioning.”³⁵

Coffin Butte Landfill History: Operating as a Landfill, 1983-2010³⁶

In the early 1980s, plans for Coffin Butte began to evolve, driven by increasing demand to expand the volume embedded at the site and changes in ownership. The 1983 Benton County decision to allow Linn County waste operators to use Coffin Butte generated significant attention but not powerful opposition and a new ‘landfill site’ zone was created for the 266-acre CBL site and the site development plan allowed Valley Landfills to expand the landfill site by 10 acres immediately.

In the 1980s, there appeared to be little concern about Coffin Butte’s site life. An article in the *Gazette-Times* in August 1990 noted that Coffin Butte had an estimated lifespan of 60 to 70 more years and detailed the purchase of a new machine, the “Horizontal Fixed Hammer Hog”, that could process wood into compost and wood chips. At the time, company officials said the machine would extend the Landfill’s life by 20 years.³⁷

In April 1994, Benton County Commissioners proposed eliminating a 10 percent surcharge on all waste coming to Coffin Butte from surrounding counties and replacing it with a 1 percent franchise fee levied on all customers. The move was an attempt to keep waste from coming into Coffin Butte from Lincoln and Tillamook counties; the latter was being sued by a company that said it could offer a better rate for disposal elsewhere. County Commissioners approved the franchise fee in July to provide a “more stable funding source” for the County’s solid waste program.³⁸ In 1994, Coffin Butte lost a significant amount of business, including 43,000 tons of paper from the James River Paper Plant and 12,000 tons from Tillamook County. Overall tonnage at Coffin Butte was 270,645 in 1994, down from 313,572 in 1993.³⁹

In addition to the surcharge debate, there was significant newspaper coverage of Valley Landfills’ gas to energy project, a \$2.4 million effort to turn methane into electricity. At its inception, this facility was capable of powering 1,500 homes with clean energy. Today, PNGC Power Plant is capable of powering 4,000 homes with clean energy. Generating energy this way is a partial solution to controlling methane produced by decomposing waste at the Landfill.

Also in 1994, Valley Landfills filed another CUP, seeking to rezone 26 acres it owned from rural residential for use as a landfill, as part of its long-term planning efforts. This was estimated to increase the capacity of the landfill by 64 to 80%.⁴⁰ As reported in the *Gazette Times* on November 3, 1994, this request encountered stiff opposition when local landowners cited

³⁵ *Record of Decision for Coffin Butte, October 2005*. Oregon Department of Environmental Quality, October, 2005, p. 16. Also see: Wilson, Bob and Gordon Brown, “1993 Coffin Butte Annual Report”, July 19, 1994. P. 4 https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8139/1993_coffin_butte_landfill_annual_report.pdf

³⁶ References in this section are from the *Corvallis Gazette Times* or *Albany Democrat Herald*, which generally share their reporting on these issues.

³⁷ *Corvallis Gazette-Times*. August 26, 1990.

³⁸ “Proposed Franchise Fee May Eventually Boost Garbage Rates,” Wed. April 6, 1994, *Corvallis Gazette-Times*. See also: “County Increases Fee on Landfill,” Thursday, July 21, 1994, *Corvallis Gazette-Times* and original sourcing in draft: “Wilson, Bob and Gordon Brown, Benton County Environmental Health Division. Coffin Butte Landfill Annual Review 1994 Operations.” August 22, 1995. P. 4

³⁹ *Coffin Butte Landfill and Pacific Region Compost Annual Report, 1993*, and *Coffin Butte Landfill and Pacific Region Compost Annual Report, 1994*.

⁴⁰ *Corvallis Gazette-Times*, November 3, 1994.

concerned over smell, noise, groundwater contamination while other county residents wondered how large the county would let the landfill grow and whether increased capacity would affect the incentives to reduce consumption or recycle. About 50 people attended a Board of Commissioners' meeting in early November.⁴¹

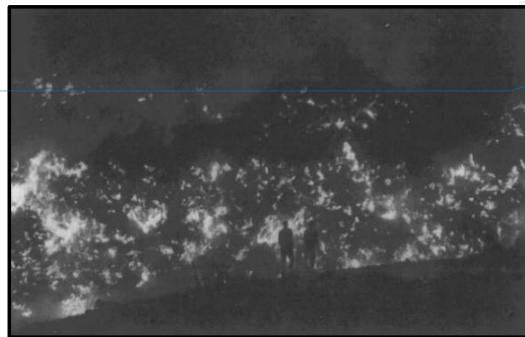
The residents' perspectives in 1994 are similar to those in the 2020s. Community members argued that approval of the expansion by the County Commission after the extensive negative public testimony would show a lack of concern about what the community thinks. Specific concerns focused on the potential impact on springs and water supplies, that the change would be an exception to our state land-use goals, and how it could set precedent for even more massive change in waste disposal in the future.

Newspaper archives indicate that numerous residents wrote letters to the editor, authored op-eds or said they were concerned that: 1) eventually the county would have to close Coffin Butte Road, a critical emergency route; 2) they had existing concerns about traffic, noise, smells, and roadside litter; and 3) that potential earthquake damage to liners could cause contaminants to seep into the underground water supply.⁴² After delaying the vote at an earlier date, in a December 14, 1994 hearing, the Board of Commissioners denied the expansion unanimously. An article in the *Albany Democrat-Herald* reported that Commissioner Pam Folts said the Willamette Valley is not a good place for landfills because the high amount of rainfall can cause leachate to reach groundwater.⁴³

In the mid-1990s, Coffin Butte, its neighbors, and elected officials worked cooperatively to solve leachate-related problems. Heavy rains in 1996 led DEQ to authorize the Landfill to pump leachate into the Willamette River on an emergency basis. (The agency later said the rain had diluted the liquid, and there was no environmental harm to the area.) To avoid a similar situation, the Landfill announced plans to raise the walls on its storage ponds, sent some leachate to the City of Corvallis for treatment, and tried new liquid processing techniques.⁴⁴

By 1997, the landfill property had grown to 790 acres of which 194 acres was zoned for disposal. [Public meeting notices](#) regularly placed in the local paper by the County's Solid Waste Advisory Committee (SWAC) show that the public was invited to hearings that were held to approve the extension of services to each of these counties.

Figure 2 - Karl Maasdam/Gazette-Times August 25, 1999. Permission to use granted by OWH News Archives and Licensing Manager.



Commented [ND4]: It is not clear what counties this statement refers to.

The second half of 1999 was eventful for Coffin Butte. On August 24, 1999, at around 6:30 pm, the landfill caught fire.⁴⁵ This fire, large enough to be covered by the Associated Press as national news, burned for more than 24 hours, prompting fire crews from Adair Village, Corvallis, Albany,

⁴¹ Corvallis Gazette-Times, November 3, 1994.

⁴² Example: *Corvallis Gazette-Times*. November 3, 1994 and November 14, 1994.

⁴³ *Albany Globe Democrat*. December 15, 1994.

⁴⁴ *Corvallis Gazette-Times*, July 16, 1996.

⁴⁵ *Corvallis Gazette-Times*. August 25, 1998.

and Polk County to respond. The Landfill's owner said the blaze was caused by a 'hot load' delivered to the site.

Probably more notable in the long run, on December 14, 1999, after 40 years of operating Corvallis Disposal and Coffin Butte Landfill, the Bunn Family announced they had sold their operation to Allied Waste Industries, the second largest solid waste services company in the world. Company President Duane Sorensen said of Allied, "We're really excited about these guys, they run pretty decentralized just like we do...you won't see any change."⁴⁶

Operations at Coffin Butte changed little in the early 2000s. Throughout this period, the Solid Waste Advisory Council was very active, frequently posting notices in the local paper. In November of 2002, the Benton County Board of Commissioners signed a Memorandum of Understanding with Valley Landfills stating that Valley Landfills, Inc (VLI), "will not conduct, without the prior approval of Benton County and the State of Oregon, the placement of solid waste on the approximate 56 acres, within the landfill zone which it owns south of Coffin Butte Road."⁴⁷ The required Benton County approval process specifies the need for a Conditional Use Permit (CUP) issued by the Planning Commission.

In 2008, Republic Services merged with Allied Waste Industries, and acquired control over the Coffin Butte facility. Republic Services, headquartered in Phoenix, has managed the landfill since.

Section 3: Current Political and Social Context of Coffin Butte Landfill

Rate increases occurred throughout the 2000s and 2010s with relatively little public concern. In 2018, that changed when Republic Services announced that the tipping rate would rise from \$28.75 a load to \$85.75. Republic Services said the rate increase sought to discourage the general public from bringing their trash to the landfill.⁴⁸ "We have a lot of traffic in and out of Coffin Butte Landfill," Julie Jackson, Republic Services' municipal manager told the Board of Commissioners. "It's becoming increasingly dangerous to have the public there."⁴⁹

Even after Republic Services dropped the rate to \$40, county residents voiced their displeasure at a Commissioners Meeting.⁵⁰ Because Coffin Butte is a privately-owned landfill, Benton County could not then, and cannot now, regulate the rates Republic charges. However, the county was able to encourage a lower fee increase because it was in the process of renegotiating its franchise fee agreement.

⁴⁶ *Corvallis Gazette Times*. December 15, 1999.

⁴⁷ "Memorandum of Understanding Relating to Land Use Issues". Benton County and Valley Landfills, Inc (2002) https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/landfill_mou_2002.pdf

⁴⁸ *Corvallis Gazette Times*. December 8, 2018.

⁴⁹ *Corvallis Gazette Times*, December 8, 2018.

⁵⁰ *Corvallis Gazette Times*. December 19, 2018. This article was entitled: "Public rips dump rate hike".

Figure 7 - View of Coffin Butte Landfill, Feb. 2023 from E.E. Wilson Archery Park (photo by Marge Popp).



The current pressure for expansion is inexorably tied to the volume emplaced in Coffin Butte. Although Benton County contributed less than 12% of the total intake at Coffin Butte in 2021, pressures to expand the landfill's footprint include population growth, diversion rate, wildfire debris and, according to EPA data, more waste is being generated per capita today than ever before in history.⁵¹ It is important to recognize that the current issue of Coffin Butte is not about closure, but about the manner of expansion. As the science behind landfill siting and maintenance progressed, sites with high rainfall and soils that have low compaction have lost favor. Also, as landfills increase in size, location in remote areas is preferable. Therefore, the newer large landfills, such as Roosevelt and Columbia Ridge disposal sites, are located east of the Cascades where meteorological, geologic and population density conditions are ideal.⁵² Locating landfills must take into consideration factors other than environmental conditions and immediate impacts on close neighbors, including the costs to local residents of refuse disposal, the suitability of alternative disposal sites, and the financial impacts on local government of hosting a facility. Still, many landfills on the west side of the Cascades have been closed or are in the process of closing, and the impending closure of Riverbend Landfill in Yamhill County is one justification of Coffin Butte expansion.⁵³

The capacity issue is discussed in detail in another section of this report, but there is a historical component to it. The amount of waste (tonnage) being delivered to Coffin Butte has increased steadily in recent years. Annual reports submitted to the county show that tonnage in 2016 was 552,978.53. The following year, tonnage increased by 66.63 percent. Republic Services has noted that much of that increase is due to the diversion of waste from the Riverbend Landfill in Yamhill County, which was having difficulties with its expansion plans.⁵⁴ Tonnage has continued to increase on an annual basis, except for 2020, a year that was marked by significant lifestyle changes due to the global COVID-19 pandemic. There was 1,046,066.96 tons of waste

⁵¹ Environmental Protection Agency, *National Overview: Facts and Figures on Materials, Wastes and Recycling*. December 2020. <https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/national-overview-facts-and-figures-materials#GenerationTrends>

⁵² Republic Services, "Roosevelt Landfill Site: FAQs". <https://www.republicservices.com/roosevelt-landfill>

⁵³ BCTT Subcommittee A.1 Revision 5 1/10/2023

⁵⁴ The ongoing difficulties with Riverbend Landfill can be seen at: [Nicole Montesano, Yamhill County New-Register](#). "Riverbend landfill stops accepting garbage". June 18, 2021.

deposited at Coffin Butte in 2021, an 89.17 percent increase compared to 2016 numbers. Coffin Butte currently operates under a tonnage cap of 1.1 million.⁵⁵

The current Benton County Talks Trash (BCTT) process is a reaction to [three](#) specific decisions made by Benton County officials and Republic Services ~~regarding three situations:-~~

1. First, the public process and outcome of the December 2020 franchise agreement between Benton County and Republic Services.
2. Second, ~~the BCTT process examined~~ the issues raised when Republic Services applied for a CUP to expand landfill operations south of Coffin Butte Road in 2021, an application approved by the SWAC, but unanimously rejected by the county Planning Committee.
3. ~~The third action leading to the creation of the BCTT process was the decision of Republic Services to withdraw their Board of Commission appeal of the Planning Commission decision. Instead, it reserved the option to request another CUP in the future. As a result, BCTT was created by the County Commission to~~ [develop common understandings that could inform, prepare for the Board, other decision makers and the public on solid waste issues, including any possible future request.](#)

In each of the above situations, some residents have raised concerns about the public notice process and the lack of information given to residents before decisions were made and contracts were signed. Recommendations for fixing these communication gaps are part of this Subcommittee (E's) charge: "Develop protocols for the timely and broad distribution of CUP-related information to the public, other governmental entities, and internal committees, groups and divisions."⁵⁶

~~Benton County officials viewed the negotiations with Republic Services leading to the 2020 franchise agreement for trash hauling very positively. That franchise fee agreement Benton County and Republic Services approved a hauling franchise fee agreement was settled~~ on June 7, 2022, ~~with~~ a ten-year agreement, with the possibility of re-negotiation July 1, 2024. As County Commissioner Xan Augerot observed, "... while county officials have a long-standing working relationship of trust with Republic's local staff, many members of the community haven't been party to that."⁵⁷

A communication breakdown between some residents and county officials regarding landfill issues became very apparent following the signing of new franchise agreement over Coffin Butte in mid-December 2020, which assumed an expansion of the landfill. Unlike the more highly publicized prior franchise negotiations, a review of the local newspapers through 2020 when the landfill franchise agreement was being negotiated did not reveal any announcements about the process, nor did the public seem to be made aware of this new franchise agreement in any way. ~~Benton County officials viewed the negotiations with Republic Services leading to the 2020 franchise agreement for trash hauling positively.~~ At the Board of Commissioners meeting to vote on the franchise agreement, the county attorney attested that there were no public comments.⁵⁸ Members of the SWAC acknowledged that they were told that this was not

Commented [ND5]: This sentence seemed to be out of place above. I believe this section conflates the negotiation of two separate franchise agreements: the host franchise and the hauling franchise.

⁵⁵ Benton County Trash Talks, "Data from Coffin Butte Landfill Annual Reports – 2014-2021", https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8317/data_fro_m_coffin_butte_landfill_annual_reports.pdf

⁵⁶ Benton County Talks Trash. BCTT Subcommittee E, January 23, 2023. <https://www.co.benton.or.us/cd/page/bctt-subcommittee-e1-community-education>

⁵⁷ *Corvallis Gazette Times*. June 9, 2022.

⁵⁸ Benton County Commissioner Meeting, December 15, 2020. From recording archive.

a matter for their consideration. This is surprising considering that a September 2020 solicitation notice for Advisory Board membership explicitly states ‘review franchise agreements’ as a primary responsibility.⁵⁹

The 2020 franchise agreement over landfill operations enhanced the financial incentive for the county to support increased refuse intake. Under the 2020 agreement, Benton County receives compensation in two forms. The “franchise fee” given for allowing the landfill to operate starts at \$2 million in 2021 and rises to \$3.5 million by 2024. The agreement was designed to incentivize the county to favor increased disposal volume and the landfill's expansion by adding a “host fee” compensation model. The “host fee” starts at \$2.87 per ton of waste in 2021 to \$3.99 per ton in 2024. Before the county receives the “host fee,” however, the franchise fee is first subtracted from the per ton charge. If too little is disposed of, the county may receive no host fee, and the county is rewarded if more waste goes to Coffin Butte. As the franchise fee increases, the volume required to receive the host fee also increases. Furthermore, the fees will go up slightly if the landfill expansion is approved by 2023 and will go down slightly if the landfill expansion is not approved by 2025.⁶⁰ Before the vote to sign the franchise agreement, Benton County Counsel Vance Croney stated that Republic Services maintained that its ability to pay higher fees was dependent on reducing cost or increasing capacity.⁶¹

In May 2021, Republic Services applied to Benton County for a CUP to expand the landfill. At the July 28, 2021, meeting, the Benton County Solid Waste Advisory Committee ‘strongly supported’ the CUP, according to a memo submitted to the Planning Commission the next day. A search of the local papers did not reveal a public notice regarding the 2020 Franchise Agreement process nor the Republic Services CUP request that followed, but by August, members of the local community formed a coordinated effort to educate themselves and fellow Benton County residents regarding what could be a doubling of the size of the Coffin Butte Landfill. Letters to the editor, critical of the planned expansion, began to appear in the local papers, and public meetings were well-attended by folks objecting to the expansion.⁶² Reporting at the time also noted Croney’s financial arguments in favor of the expansion, particularly the revenue implications and possible future disposal costs for county residents of denying the expansion request.⁶³ These arguments engendered a *Gazette Times* editorial endorsing the expansion.⁶⁴

Public notice of the Planning Commission Hearing for the Republic Services CUP application ([County File Number LU-21-047](#))~~(this is the planning commission’s label for this specific process)~~ regarding the Coffin Butte Landfill appeared in the local papers on October 14, 2021. Public outcry had been building over the past few months as residents began to understand the ramifications of the 2020 Franchise Agreement and the corresponding CUP, which proposed

⁵⁹ *Corvallis Gazette-Times*. September 8, 2020.

⁶⁰ Benton County/Valley Landfills, Inc. Franchise Agreement. PP. 5-6.
https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/valley_landfills_landfill_franchise_agrmt_2020.pdf

⁶¹ Benton County Board of Commissioners Meeting. December 15, 2000. Recording.

⁶² There were at least three letters alone on October 20, 2021. The letters emphasized that the waste was overwhelmingly from outside of Benton County, transportation implications of an enlarged facility, and impacts on a great blue heron rookery. Another news article from that day discussed the hearing that Republic Services held to explain their plan.

⁶³ *Corvallis Gazette-Times*. October 31, 2021 and November 12, 2021.

⁶⁴ *Corvallis Gazette-Times*. December 2, 2021.

extending the landfill area south of Coffin Butte Road, which had long been viewed locally as a ‘case closed’ impossibility given the 1983 and 1994 agreements. During the period leading up to the first LU-21-047 Planning Commission meeting, neighbors of the landfill and residents throughout the county wrote numerous letters to the editor in the local papers, convened meetings, and gathered data regarding the proposed expansion. It should be noted that, while much public commentary in attributed editorials and letters to the editor opposed the expansion, several *Gazette Times* articles written by veteran reporter James Day throughout the period from October 2021 through January 2022 gave a very positive account of the Coffin Butte expansion and could be said to advocate for its approval. In addition, on November 12, 2021, an unattributed full-length staff editorial in the *Gazette Times* recommended approval of Coffin Butte expansion, and on December 19, 2021, the paper’s editorial page feature “Roses and Raspberries” assigned a raspberry rating “to the Benton County Planning Commission for unanimously denying a proposal by Republic Services to expand the Coffin Butte landfill.”

The first LU-21-047 Planning Commission meeting generated so much ire that over a hundred residents signed up to testify at the 4.5-hour hearing, and a second meeting had to be scheduled to listen to public comment. The more than 30 citizens speaking at the November 2, 2021, and the November 16, 2021, Planning Commission hearings all opposed the expansion.⁶⁵ Objections raised in public comments in this process are partially why the County Commission created the Benton County Talks Trash process.

On December 7, 2021, the Planning Commission unanimously denied the LU-21-047 CUP.

Republic Services filed an appeal to the Benton County Board of Commissioners, claiming the evidence didn’t support the Planning Commission’s conclusions. Republic also said the landfill has maintained compliance with ODEQ’s air quality permit regulations. But on March 15, 2022, the company informed the Board of Commissioners that they would withdraw the appeal. Meanwhile, from October 2021 to January 2022, the Solid Waste Advisory Council membership changed ~~radically; as~~ four members resigned ~~without comment~~ and the Board of Commissioners appointed four new members ~~were appointed~~.

Commented [ND6]: Double check with Daniel. I believe one or two members' terms expired.

Based in part on the distinctly different decisions at the Solid Waste Advisory Council and at the Planning Commission, and based on the level of opposition from neighboring community members, the Benton County Board of Commissioners, seeking to find common ground between the very strong resistance to the landfill expansion from members of the community and the Landfill’s owner/operators, Republic Services, asked/hired a consultant from Oregon Consensus to conduct a situation assessment to understand whether and how the County, the community, and the landfill operators might be able to move forward constructively. Oregon Consensus conducted the situation assessment and presented an Assessment Report to the Board was filed on July 12, 2022. Based on the findings from that assessment, the Board voted This led to establish a the Solid Waste Process Workgroup “Benton County Talks Trash.” being formed. The first Solid Waste Process Workgroup first meeting convened on September 8, 2022. According to its Charter, the Workgroup Benton County Solid Waste Process Workgroup, also entitled BCTT (Benton County Talks Trash), was charged by the Benton County Commissioners to serve as a “bridge” process between past events and next steps. The process is designed to reset the current dynamics with the development of “common understandings” and recommended protocols for the future substantive consideration of the solid waste issues.

⁶⁵ *Corvallis Gazette-Times*. December 8, 2021.

The Workgroup's Charges isare reflected in the subcommittee structures that have been formed to evaluate and develop common understandings and to drill down into clarifying specific aspects of solid waste management in and around Benton County. The Workgroup is tasked with ~~must~~developing ~~arrive at~~ common understandings regarding the landfill ~~and the~~ pending Republic Services CUP, prior land use conditions of approval, the legal issues ~~ties~~ surrounding the landfill and agreements ~~relationship~~ between Republic Services and Benton County, preparing for the creation of a Sustainable Materials Management Plan, and formulating effective communication channels between Benton County and its residents.

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II. Project Website and Workplans

Project Website: [LINK](#)

Initial Project Workplan: ([Board of Commissioners' adopted Workgroup Charter and Bylaws](#))

Meeting One: 9/8/22
<ul style="list-style-type: none"> ● Introductions ● Review of Charter with Process Overview ● Member Comments ● Charge A: Discuss Common Understandings document draft ● Next Steps and Homework ● Meeting Evaluation
Meeting Two: 9/15/22
<ul style="list-style-type: none"> ● Charge A continued: Develop Common Understandings ● Coffin Butte Tour ● Next Steps and Homework
Meeting Three: 10/6/22
<ul style="list-style-type: none"> ● Charge B: Clarifying existing criteria and information requirements for the land use review process for any proposed landfill expansion ● Next Steps and Homework
Meeting Four: 10/27/22
<ul style="list-style-type: none"> ● Charge B continued: Clarifying existing criteria and information requirements for the land use review process for any proposed landfill expansion ● Next Steps and Homework ● Mid-Process Evaluation
Meeting Five: 11/3/22
<ul style="list-style-type: none"> ● Charge B continued, and Charge C: Scope the necessary tasks to start a Long-Term Sustainable Materials Management Plan process ● Next Steps and Homework
Meeting Six: 11/17/22
<ul style="list-style-type: none"> ● Provide input on Charges D and E: Additional Topics <ul style="list-style-type: none"> ○ Hauling Reopening ○ Roles/Responsibilities ○ Timeline for code changes ○ Consider creating a public-facing document and community education campaign on these topics ● Authorize Draft to SWAC/DSAC and Planning Commission for comment ● Next Steps and Homework
Meeting Seven: 12/1/22
<ul style="list-style-type: none"> ● Review SWAC/DSAC and Planning Commission Feedback ● Edit Draft Report ● Next Steps and Homework

Meeting Eight: 12/15/22

- Finalize Report to BOC
- Next Steps: The BOC is expected to consider the findings and recommendations in January 2023.
- Process Evaluation
- Celebration!

The workplan evolved over time to accommodate the needs of the Workgroup. schedules can be found here:

[Calendar View](#)

2/6/2023	2/7/2023	2/8/2023	2/9/2023	2/10/2023	2/11/2023	2/12/2023
SWAC/DSAC & PC give D3 feedback						
Subs Meet X2 to refine D3						
Sub E & FAC to Ex Sum						
				SWAC & PC D3 Feedback to FAC		
2/13/2023	2/14/2023	2/15/2023	2/16/2023	2/17/2023	2/18/2023	2/19/2023
Subs Meet X2 to refine D3				WG Members Rev. D4		
Sub E & FAC to Ex Sum						
		Sub Feedback DUE		FAC sends D4 to WG		
FAC Compiles D4						
2/20/2023	2/21/2023	2/22/2023	2/23/2023	2/24/2023	2/25/2023	2/26/2023
WG Members Rev. D4			WG Meeting 8	Informal WG & Public Polling		
			Rev. PC, SWAC & Subs' responses and suggested changes at meeting			
Subs Meet for "Last Call"						
Add Public Involvement & Polling Info						
2/27/2023	2/28/2023	3/1/2023	3/2/2023	3/3/2023	3/4/2023	3/5/2023
Informal WG & Public Polling						
Subs Meet for "Last Call"						
Add Public Involvement & Polling Info						
		Polling Due				
3/6/2023	3/7/2023	3/8/2023	3/9/2023	3/10/2023	3/11/2023	3/12/2023
FAC complies D5				WG Members Rev. D4		
Subs Meet for "Last Call"				FAC Sends D5 to WG		
Add Public Involvement & Polling Info						
3/13/2023	3/14/2023	3/15/2023	3/16/2023	3/17/2023	3/18/2023	3/19/2023
WG Members Rev. D4			WG Meeting 9	Interested Members Draft Personal Statements		
			Official Polling & Finalize Report at M9	FAC updates D5 w/ Sub E Rev.		
Subs Consulted as Needed						
3/20/2023	3/21/2023	3/22/2023	3/23/2023	3/24/2023	3/25/2023	3/26/2023
Interested Members Draft Personal Statements				Final Report to Board		
FAC updates Final Draft w/ Sub E Rev.						
Subs Consulted as Needed						
	Member Statements Due					

III. Workgroup Meeting Topics

Meeting Summaries for the Workgroup Meetings can be found on the Project's Website [HERE](#)

a. Meeting One: September 8, 2022, Main Topics

- Welcome & Introductions

- Participant Meeting Instructions
- Participant Commitments
- How We Got Here
- Review Major Charter Sections:
- Collaboration 101 Training
- Public Comment
- Triage Charge Elements
- Draft Report Structure Explore Common Understandings Section
- Mechanics: Add Representative Table
- Next Steps

b. Meeting Two: September 15, 2022, Main Topics

- Welcome & New Member Introductions
- Participant Meeting Instructions
- Participant Commitments
- Approve Draft Minutes from Meeting One
- Public Comment
- Meeting One Evaluation Highlights
- Homework Highlights
- Explore Common Understandings & Refine List of Missing Topics/Questions
- Discuss SWMP Table of Contents Concept
- Triage Charge Elements/Workplan
- Next Steps

c. Landfill Tour: September 24, 2022

- Republic (Ian) gave agenda, safety, & scale liner model speech.
- At the top of Coffin Bute hill observed the dumping area and machinery, observed the self-tipping/emptying trailers, and discussed the gas pump vacuum system.
- At an overlook of the quarry had Q&A time.
- At the power plant a CPI representative (Roman Gillen) spoke about PNCG Power owning this landfill power plant, and the Facility Manager (Steve King) gave an overview of the facility.
 - The tour was split into two groups to view the generators and interior of the power plant.

d. Neighborhood Tour: October 1, 2022

- Tour guide Joel Geier began with some geology, local history, and comments about the community. Then Joel and Nancy Whitcombe provided comments on topics including bird watching, disc golf, airport for model airplanes, North Palestine Baptist church, Santiam Christian school, local geology, and geologic fault lines.
- At a stop 3 miles southeast of the landfill, the group discussed tree cover and property siting.
- As the tour moved to the E.E. Wilson Archery Range, the discussion covered vehicle traffic, Yamhill landfill, Red Barn Farm, the PRC composting facility, a WWII maintenance shed, zoning, land use, terracing versus continuous slope, vegetated or productive slopes, settling and gasification processes, and the siting of landfills.

- The tour stopped at and discussed Bit-By-Bit Horse Farm.
- When viewing the quarry, the discussion focused on the leachate facility, Republic's office, invasive species, properties purchased by landfill, OSU beef ranch, monitoring wells and water contamination.
- At the historic Soap Creek Schoolhouse, Kevin Higgins, a firefighter and employee with the Benton County Sherriff's Office, gave a talk on growing up in the area, landfill fires, types of items in landfill, and DEQ. This was followed by a video testimony from Priya Tucker, of Rising Joy Flower Farm, and resident Elisabeth Pott.
- Discussion on the bus ride back focused on affordable housing and local buildings.

e. Meeting Three: October 6, 2022, Main Topics

- Welcome & New Member Introductions
- Review Participant Meeting Instructions & Agenda
- BOC Presentation
- Approve Draft Minutes: Last Meeting & Tours
- Landfill Tour Questions
- Public Comment
- Comments on Meeting Two Evaluation Suggestions
- Discuss County Counsel Deference Memo & Set Stage for Legal Subcommittee
- Check-in Activity
- Big Picture Discussion
- Stand-Up the Subcommittees
- Review Amended Workplan
- Next Steps

f. Meeting Four: October 27, 2022, Main Topics

- Welcome & New Member Introductions
- Review Participant Meeting Instructions & Agenda
- Approve M3 Draft Minutes
- BOC Action on Updated Workplan
- Public Comment
- Update on Tour Questions & Answers
- SMMO Values & Goals Discussion
- Q&A Session with Representatives from other Counties
- Subcommittee Reports
- Next Steps

g. Meeting Five and Open House: November 17, 2022, Main Topics

- Welcome
- Review Participant Meeting Instructions & Agenda
- Approve M4 Draft Minutes
- Approve Updated Tour Q&A
- Updated Workplan Facilitator 11/16/22
- Public Comment
- Subcommittee Reports
- Reintroduce Charges D & E

- Next Steps
- Open House

h. Meeting Six: December 15, 2022

- Welcome & New Member Introduction
- Review Agenda
- Member Shares Original Document
- Public Comment
- Subcommittees A.1. & E.1. Report
- Review & Approve M5 Minutes & Evaluation Summary
- Discuss Consultant/Attorney for Next CUP
- Subcommittee A.2 Report and A.3 B.1 Report
- Introduce & Approve Third Attorney with Poll
- Subcommittee C.1. Reports
- Updated Project Workplan
- Next steps

i. Meeting Seven: January 19, 2023

- Welcome and Review Agenda
- Meeting 6 Minutes and Evaluation Summary
- Review Workgroup Report Draft 2
- Land Use Acknowledgement Discussion
- Subcommittee E Presentation
- SMMP Subcommittee Presentation
- CUP Subcommittee Presentation
- Legal Subcommittee Presentation
- Capacity Subcommittee Presentation
- Key Dates Review
- Review Consultant Selection Process
- Next Steps

j. Meeting Eight: February 23, 2023

k. Meeting Nine: March 16, 2023

l. Meeting Ten: March 23, 2023

IV. Key Workgroup Findings & Recommendations

Each of the following Subcommittee sections below is organized similarly as follows for ease of your review. First, each section we provides an Introduction and a link to, then the Subcommittee's webpage link, including and its Charge and Members. Each Over the course of a Subcommittee's meeting's provides a running "Master Document" was created with that contains the agendas, attendance, and notes for each of its' meetings. A link to this document is provided next, and the full text can be found in Appendix D. Next, ach section then provides the Subcommittee's Key Findings are provided and, followed by their Recommendations. Next, aBelow these, there may be a section called Additional Ddetails which includes items that do not fall outside ofin a Key Finding or Key Recommendations category. Finally, each section ends with. Finally, there is a summary Cconclusion.

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Section A: Sustainable Materials Management Plan (SMMP)

INTRODUCTION

Benton County is ~~seek~~ ~~to help~~ ~~that will~~ ~~guide~~ ~~decisions~~ ~~and~~ ~~policies~~ ~~for~~ ~~the~~ ~~future~~ ~~of~~ ~~solid~~ ~~waste~~ ~~and~~ ~~disposal~~ ~~consistent~~ ~~with~~ ~~Benton~~ ~~County~~ ~~values~~. ~~Historically,~~ ~~the~~ ~~County~~ ~~has~~ ~~not~~ ~~had~~ ~~the~~ ~~benefit~~ ~~of~~ ~~such~~ ~~a~~ ~~plan~~. ~~generations~~. The main theme of ~~the~~ ~~is~~ ~~subcommittee's~~ ~~findings~~ ~~and~~ ~~recommendations~~ are that ~~an~~ ~~SMMP~~ ~~the~~ ~~plan~~ should help transition ~~and~~ ~~our~~ re-focus from ~~the~~ linear, end-of-life waste management to ~~a~~ more holistic, systemic, circular approaches ~~es~~ ~~for~~ ~~all~~ ~~with~~ ~~the~~ ~~materials~~ ~~involved~~. The many positive impacts of this transition include:

- Efficiencies ~~derived~~ ~~off~~ ~~from~~ full life cycle/cradle-to-cradle ~~principles~~ ~~of~~ sustainable material management.
- ~~Cost~~ ~~savings~~ ~~and~~ ~~other~~ ~~benefits~~ from waste reduction
- Creating opportunities for efficient circular economies both locally *and regionally*
- Better inclusion of ~~e~~Equity and shared prosperity in waste considerations
- Recognizing and encouraging innovation ~~in~~ ~~the~~ ~~materials~~ ~~stream~~

Traditionally, Benton County has managed waste materials with an end-of-life approach – largely by landfilling them locally in Coffin Butte Landfill, ~~and~~ ~~but~~ also by recovery, recycling, and composting. This has presented challenges, which include, but are not limited to, the landfill's limitations environmentally and economically. ~~The~~ ~~SMMP~~ ~~Subcommittee~~ ~~in~~ ~~our~~ ~~work~~ ~~we~~ ~~have~~ sought to chart the expectations and aspirations for a longer-range vision to ~~to~~ ~~hat~~ ~~will~~ ~~guide~~ the County towards more sustainable materials management. Our report advises the County on the parameters for a Request For Proposals (RFP) that ~~would~~ ~~bring~~ ~~in~~ ~~consultants~~ ~~to~~ ~~develop~~ a Plan that enables the County to achieve that longer-range vision.

Based ~~up~~ ~~on~~ the magnitude of ideas and possibilities we ~~have~~ encountered, ~~it~~ ~~is~~ ~~anticipated~~ ~~that~~ the SMMP could usher in a paradigm shift in how we view and interact with ~~the~~ materials we use in our everyday lives. In addition to Findings and Recommendations, ~~this~~ ~~section~~ ~~includes~~ ~~we~~ ~~have~~ ~~recorded~~ a list of Questions ~~that~~ ~~the~~ consultants and the County can use to frame their thinking about this new paradigm, its benefits, and the practical paths to get there.

~~One~~ ~~task~~ ~~of~~ ~~the~~ ~~subcommittee~~ ~~was~~ ~~tasked~~ to develop a “table of contents” outlining ~~the~~ subjects ~~that~~ ~~shoulde~~ be covered in an SMMP. The group started by looking at examples of Solid Waste Management Plan (SWMP) documents from ~~other~~ ~~various~~ Oregon counties, ~~and~~ ~~by~~ listing, reviewing, and comparing the topics covered in each. The group was able to add to and edit that list, creating a “table of contents” of topics to cover in a future SMMP, as well as an associated list of questions for the SMMP to answer. ~~This~~ ~~Benefits~~ ~~and~~ ~~costs~~ ~~were~~ ~~covered~~ ~~throughout~~ ~~the~~ ~~as~~ ~~it~~ ~~related~~ ~~to~~ ~~various~~ ~~topics~~ ~~and~~ ~~discussions~~ ~~and~~ ~~are~~ ~~largely~~ ~~included~~ ~~in~~ ~~the~~ ~~over~~ ~~arching~~ ~~all~~ ~~approach~~ ~~of~~ sustainable materials management approach, ~~which~~ ~~evaluates~~ ~~the~~ impacts across the full life cycle of materials, ~~and~~ ~~weighs~~ ~~ing~~ ~~the~~ “costs and benefits” in the decision-making process.

The ~~Subcommittee~~ ~~group~~ also reviewed Benton County's 2040 Thriving Communities Initiative, ~~as~~ ~~well~~ ~~as~~ ~~the~~ ~~end~~ ~~examples~~ ~~of~~ values and goals expressed in other planning documents, ~~to~~ ~~develop~~ ~~an~~ ~~overarching~~ ~~framework~~ ~~to~~ ~~be~~ ~~considered~~ for developing an ~~an~~ ~~appropriate~~ SMMP ~~for~~ ~~Benton~~ ~~County~~.

The more recent subcommittee work ~~has~~ focused on future next steps and recommendations ~~for a round~~ the RFP process, including contracting out, workplan and timeline, and who should “s-at the table” in future discussions. The ~~Subcommittee group has~~ included ~~considerations of~~ lesson’s learned from outside of Benton County, including information and lessons from neighboring counties’ jurisdiction presentations ~~provided~~ to the full work group.

SUBCOMMITTEE [WEBPAGE LINK](#)

SUBCOMMITTEE CHARGE

Long Term Sustainable Materials Management Plan (SMMP) tasks:

- 1) Contracting out;
- 2) Subjects to be covered;
- 3) (Moved from Common Understandings) Benefit-Cost Topics are only Outlined
- 4) (New) Add in Vision 2040 and related County documents with similar from other counties referenced
- 5) Who needs to be at the table beyond those in the County;
- 6) A workplan outline with a timeline for completion;
- 7) Topics covered in recent similar planning efforts across the state; and
- 8) What “lessons learned” should be brought forward in this process. Includes necessary foundational “common understandings” and protocols needed before beginning the actual planning process.

NOTE: This charge does not include completing the plan. It only includes a discussion of the preliminary scoping to start that planning process.

If there is sufficient time to complete the original Charge and the following activities, subcommittee to provide recommendations on: 1. the most important topics/subjects from the draft of the SWMP Table of Contents; 2. brainstormed options for those topics/subjects; and 3. the reasoning, both pro and con, for their selection.

SUBCOMMITTEE MEMBERS AT END OF PROCESS

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Daniel Redick
John Deuel
Ken Eklund
Marge Popp
Ryan McAlister
Sean McGuire

County Staff: Daniel Redick

The **SUBCOMMITTEE’S REPORT** can be found linked [HERE](#) and in Appendix C.

The **SUBCOMMITTEE’S “MEETING NOTES”** can be found linked [HERE](#) and in Appendix D.

KEY FINDINGS AND KEY RECOMMENDATIONS

~~This section lists Key Findings and Key Recommendations from the full subcommittee report have been listed below. These key findings and key recommendations do not capture the comprehensive discussions of the subcommittee, nor are they intended to do so. Instead, these provide a summary overview of key observations, summarize. The more complete content found in the link adjacent to each Key Finding and Key Recommendation provides access to the full report, which. These summaries encourage readers to follow the links to find detailed content can be accessed by clicking on the link adjacent to each, or by reading content under “Key Finding” and “Key Recommendation” headings in the full subcommittee report.~~

Key Findings:

- SMMP F-1.** [\[SMMP F-1\]](#) Many Sustainable Materials Management Plans (SMMP) and related Request For Proposals (RFP)s have been formulated, executed, and are in use in Oregon and beyond.
- SMMP F-2.** [\[SMMP F-2\]](#) The charges of the SMMP Subcommittee are intimately related to and should be embodied when scoping the necessary tasks to start a Long-Term Sustainable Materials Management Plan process.
- SMMP F-3.** [\[SMMP F-3\]](#) Contracting-out processes often include a Technical Advisory Committee (TAC), which vet technical information in the RFP, and a Community Advisory Committee (CAC), which review the RFP from the community perspective. Institutions of higher learning, including Oregon State University has a large population of faculty, faculty emeriti, staff and students that are subject matter experts in many of the technical areas that the SMMP will address.
- SMMP F-4.** [\[SMMP F-4\]](#) The overall length of the project can be heavily impacted and defined by the level of public interaction/engagement included in the project. The consultant may help define the scope of public engagement, including engagement in rural areas of the county and in communities outside the county.
- SMMP F-5.** [\[SMMP F-5\]](#) There are aspects of the work to be performed that are technical in nature or lend themselves toward extensive research, that the consultant may conduct at the same time as public engagement. ~~In order to~~ expedite the process, certain procedural elements can be done concurrently. The timeline can generally be defined throughout the process.
- SMMP F-6.** [\[SMMP F-6\]](#) The SMMP aims to reduce the full lifecycle impacts of materials management practices in Benton County and where other jurisdictions’ practices overlap with Benton County. Addressing only materials from Benton County would have limited impacts compared to that of ~~at of all~~ the materials from neighboring counties, as Benton County’s waste contribution to the landfill is relatively small. SMMPs are not specifically about landfills, but about materials management across the full lifecycle of materials, including addressing impacts from production, transportation, use, reuse, recovery, and disposal.
- SMMP F-7.** [\[SMMP F-7\]](#) Benton County has limited control over the waste management practices of the counties that emplace the vast majority of the annual landfill

waste intake, and the volume of waste material they haul to Coffin Butte Landfill, however, the county and its infrastructure is impacted by other counties' waste stream contributions to facilities within Benton County (via Coffin Butte Landfill, Pacific Region Compost, and transportation methods through the county).

SMMP F-8. [SMMP F-8] The 2040 Thriving Communities Initiative identified our communities' Core Values and has been adopted by Benton County government which is used as a benchmark or lens for initiatives such as the Benton County SMMP.

Key Recommendations:

SMMP R-1. [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 (DEQ's [Materials Management in Oregon 2020 Framework for Action](#)), plans, policies, ordinances, etc. relating to materials management and climate change, 3) examples of values and goals expressed in state and local jurisdiction materials management plans, and 4) long-term strategies (to 2040) with short-term action items (5 years or less).

SMMP R-2. [SMMP R-2] Benton County should use the 2040 Thriving Communities Initiative as a high-level lens to frame our communities' Core Values in developing the SMMP.

SMMP R-3. [SMMP R-3] The SMMP should not just be about how Benton County can better manage materials, but to also address how to approach inter-county collaboration from a regional perspective. The RFP should 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 have the capability to address this need.

SMMP R-4. [SMMP R-4] Counties impacting Benton County through their materials management practices (including by contributing materials to Coffin Butte Landfill) should have an SMMP in place. The SMMP should have a perspective on how to strategize this.

SMMP R-5. [SMMP R-5] SMMP content should incorporate the sustainability of materials management strategies/tactics. The result of the process should give us a method of measuring costs and benefits to evaluate the impact on economic, social, and environmental indicators. Specific goals should be included of how materials in Benton County can fit within a circular economy, cradle-to-cradle, or similar framework.

SMMP R-6. [SMMP R-6] The SMMP should clarify Benefit-Cost perspectives being addressed through an equity analysis, including, 1) financial cost impacts associated with materials management and outcomes, 2) the equity of circular economy, how it engages and impacts consumers, 3) a perspective that goes beyond landfilling, and 4) a "who's at the table" list of stakeholder perspectives.

- SMMP R-7.** [\[SMMP R-7\]](#) Bring “lessons learned” into the process from other sources, including international examples as well as other counties, lessons from past Benton County experiences, and West Coast states. See full report for more sources.
- SMMP R-8.** [\[SMMP R-8\]](#) Beyond those in the County, a wide assortment of stakeholders should be brought to the table. Stakeholders include community members, advocacy groups, businesses and industry, local and state government, and resources for innovation. See report for full stakeholder list. The consultant should provide recommendations based on analysis and extensive outreach and engagement with community stakeholders from the “who should be at the table” list. These stakeholders should represent a broader area than Benton County.
- SMMP R-9.** [\[SMMP R-9\]](#) Benton County should use an RFP to find consultant(s) for developing a Sustainable Materials Management Plan.
- SMMP R-10.** [\[SMMP R-10\]](#) The SMMP subcommittee researched other jurisdiction’s plans, compared and aggregated a list of subjects, and the SMMP should evaluate and address the subjects listed in the full subcommittee report, answering the 117 questions listed as RFP priorities allow, and include recommended courses of action.
- SMMP R-11.** [\[SMMP R-11\]](#) Recruitment for the RFP needs to be extensive, and selection of successful proposal should be careful and thorough. Qualities of a successful applicant should include those listed in the full subcommittee report.
- SMMP R-12.** [\[SMMP R-12\]](#) The scope of work for this project is expected to be broad and comprehensive, with specific goals recommended for the County to consider as milestones.
- SMMP R-13.** [\[SMMP R-13\]](#) The RFP development process should: 1) provide details about the Workgroup process and its findings to RFP applicants, 2) prioritize topics, adding additional topics that are important to consider, and 3) communicate accurate priorities to applicants.
- SMMP R-14.** [\[SMMP R-14\]](#) Members of this BCTT SMMP subcommittee should be offered to participate in subsequent stakeholder group meetings for RFP development and review. Benton County’s Advisory Committees related to SMMP work should have an advisory role during the development of the plan.
- SMMP R-15.** [\[SMMP R-15\]](#) The RFP Release/Announcement should 1) communicate an expectation that this plan can be approached by teams (multiple firms), instead of just single firms, 2) put guidelines on the size/length of proposals and sections of proposals, and 3) be distributed to allow enough time for it to be posted to various trade groups, shared with underrepresented groups, and internationally minded outlets.
- SMMP R-16.** [\[SMMP R-16\]](#) The County should share the various steps of the process with the public, making updates available, and demonstrating transparency (cross-referencing subcommittee E.1. work).
- SMMP R-17.** [\[SMMP R-17\]](#) The RFP should demonstrate flexibility in allowing further work plan development after applications are reviewed and accepted.

- SMMP R-18.** [\[SMMP R-18\]](#) The SMMP Timeline should allow for extensive public interaction and engagement. In order to expedite the process, procedural elements should be done concurrently as possible. The timeline should generally be defined throughout the process.
- SMMP R-19.** [\[SMMP R-19\]](#) Applicants should include various scope/cost options for one year, two years, and three-year timelines. The report should be released in sections, based on timeline and content priorities.
- SMMP R-20.** [\[SMMP R-20\]](#) It's important that the SMMP process include extensive public outreach and engagement. In addition, a Technical Advisory Committee (TAC) should vet the consultant's technical work (SMMP development) and a Community Advisory Committee (CAC) to provide more general review. SMMP Sub-Committee members should be included in the CAC. The TAC should include subject matter experts from Oregon State University, and other regional academic institutions. Many of the subject areas of central importance to the SMMP are characterized by fast-moving science, and a SAC could help the SMMP consultant to navigate to the best available data and knowledge.
- SMMP R-21.** [\[SMMP R-21\]](#) Proposals contain the following information, with parameters around each of these items in terms of document length. Requested information includes project team experience and qualifications, understanding of the project, approach to the scope of work, cost of the proposal, the project schedule, social/environmental responsibility, and references. Each criteria includes a total set of points the proposal can be awarded. See full report for more information.
- SMMP R-22.** [\[SMMP R-22\]](#) An evaluation team consisting of County staff and members of the stakeholder group should determine the best proposal deemed most qualified based on the above criteria.
- SMMP R-23.** [\[SMMP R-23\]](#) The SMMP should emphasize impacts of the results of the RFP on social equity, innovation, to understand and emphasize the upstream aspects of material sustainability, and creative solutions that provide pathways for tangible long-term outcomes.
- SMMP R-24.** [\[SMMP R-24\]](#) The workplan should include ongoing adaptive management and refinement and include a timeline for completion. The sections of the workplan outline include RFP development and release, a webinar for prospective consultants, a pre-proposal Q&A period, a period for application submittal, and the selection committee to identify shortlisted firms who are given time for additional presentation. The committee then evaluates proposals, selects a consultant, and develops a workplan with selected consultant. See full report for more information.
- SMMP R-25.** [\[SMMP R-25\]](#) The County should evaluate if it would be in their best interest to have an SMMP in place prior to any major materials management decisions.
- SMMP R-26.** [\[SMMP R-26\]](#) The county should consider using alternative funding mechanisms, including landfill revenue, to support the SMMP recommendations.
- SMMP R-27.** [\[SMMP R-27\]](#) A complete materials audit is highly recommended as both a benchmark and a way to measure progress. Benton County should initiate a Waste

Audit to characterize more precisely what is in the waste stream of Coffin Butte Landfill. The SMMP consultant can use this audit information when formulating this plan, and there is no up-to-date information specific to the landfill currently available. The benchmark audit should be completed as soon as possible, along with recommendations for follow up audits.

SMMP R-28. [SMMP R-28] The SMMP should evaluate the costs, benefits, risks, and opportunities of a wide range of materials management strategies to find the most sustainable future for Benton County. The successful applicant should present a complete benefit-cost analysis of a wide range of strategies that work as a more integrated system, including but not limited to, the benefit-costs analysis of Benton County acting as the host of a regional landfill that contributes a small portion of the total waste the landfill receives. This analysis should include key parameters of Coffin Butte landfill, such as its operating life, its large intake from outside the county, its franchise fees, and its long-term environmental risks and costs.

CONCLUSION

A modern, long-term SMMP that reflects the unique needs and values of Benton County, the Willamette Valley, and Oregon will serve the County, its residents and the state now and into the future. Acknowledging the long-term nature of such a plan, the SMMP should be adaptable to new technologies while aligning with clearly stated County and Statewide goals.

The County should not rush the selection process or solicitation process – selecting the correct partner team whose core values and vision align with what has been assembled will be a key component to getting the best outcome in this process of developing a long-term SMMP.

Section B: Landfill Size/Capacity/Longevity

INTRODUCTION

The landfill size/capacity/longevity subcommittee aimed to research and compile factual information about the landfill as it relates to the group's charge. One of the primary interests of the group was to communicate accurate information about the landfill's estimated end-of-life and capacity, which resulted in estimates provided by Republic Services staff, as well as other information about how the estimated life span of the landfill can change depending on various [additional](#) factors and scenarios, ~~which were~~ not ~~already~~ included as assumptions in Republic Services' estimate. The subcommittee's report includes information about the landfill's size over time, ~~including in terms of~~ annual tonnage accepted, landfill volume, and [the landfill's geographic](#) footprint. The report also includes information about specific locations at the landfill which relate to the capacity, including the status of the current [active](#) cell, the future disposal area currently occupied by the quarry operation, the landfill [site zoning designation](#), and areas approved for disposal.

Supporting data researched and compiled by the group includes historical end-of-life projections, and annual intake tonnage over time. Some information about the landfill was not available for the group to review, a challenge most prevalent with [the lack of](#) information [available](#) about the landfill prior to 1974. The following Key Findings and Key Recommendations are based on the information compiled in the subcommittee's report, as well as the subcommittee's discussions in each of the topic areas.

SUBCOMMITTEE [WEBPAGE LINK](#)

SUBCOMMITTEE CHARGE

A chronological history of key Coffin Butte Landfill topics:

1. Size
2. Specific locations
3. Assumptions (e.g., when will the landfill close?)

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Key Findings:

Landfill Estimated Remaining Life, Projected End of Life (EOL)

- LSCL F-1.** [LSCL F-1] In 2003 EOL was projected to be approximately 2074, with a Landfill Life estimate of 71 years (2003 East Triangle CUP document, Benton County file PC-03-11.pdf). Twenty years later EOL is projected to be 2037-2039 with a Landfill Life of 14.5-16 years, a reduction of approximately 36 years of estimated life in 20 elapsed years. In 2013 Valley Landfills Inc. reevaluated an area of Landfill Site zoned property in the northeast corner of the site for waste placement stability engineering. This area was removed from the landfill’s site development plan based on updated state seismic guidance for landfill stability.
- LSCL F-2.** [LSCL F-2] In 2013 EOL was projected to be 2053-2062, with a Landfill Life estimate of 40-49 years⁶⁶. Ten years later EOL is projected to be 2037-2039 with a Landfill Life of 14-16 years, a lower and upper range reduction of approximately 16 and 23 years respectively.
- LSCL F-3.** [LSCL F-3] Current (1Q2023) estimate for landfill EOL = CY 2037 – 2039, with a landfill life estimate of 14-16 years, based on an annual intake level of 1.0 – 1.1 MTons/year and a density of 0.999 Tons/yd³, assuming the quarry area will be fully excavated by the time the current disposal areas are full. Valley Landfills, Inc. has represented that this nominal life projection (“baseline”) is derived from a few data points in annual measurements, and is the product of a modeling process that is standard in the landfill industry. Valley Landfills, Inc. acknowledges that a variety of factors, including human factors, can impact landfill site life, but are not included in this baseline calculation. Valley Landfills, Inc.’s baseline projection of a 2037-2039 closure date is based both upon existing demand and Valley Landfill Inc.’s efforts to maintain and/or grow its service area and business in the market.

⁶⁶ 2013 Coffin Butte Landfill and Pacific Region Compost Annual Report

LSCL F-4. [LSCL F-4] The 2021 Site Development Plan is a registered engineer of record stamped and dated plan set which includes but not limited to a projected a 2039 EOL based on an annual intake of approximately 846,000 Tons/year, but this intake tonnage is not considered binding or controlling by either ODEQ or Valley Landfills, Inc. This is based on the best information available at time of approval by Oregon DEQ, which can change based upon service area impacts.

LSCL F-5. [LSCL F-5] Under the 2020 Franchise Agreement, the 1.1M tonnage cap is eliminated upon Benton County's approval of a CUP (expansion). If intake volumes increase, an **expansion would not necessarily guarantee an increase in site life** or the extension of the Landfill's closure date. For example, if an expansion increases available airspace but intake volumes increase the fill rate even more, the overall life of the landfill could decrease. Republic Services said it was unlikely such a scenario would occur, due to operational limitations at the Landfill and in the Service Area [could not reach consensus].

Nonetheless, transitioning from the current linear landfill economy to a circular economy landfill can potentially extend the life of a landfill. This is because a circular economy landfill is designed to minimize the amount of waste sent to the landfill and extract value from the materials that are discarded. By recovering valuable materials through recycling, composting, and other forms of recovery, a circular economy landfill reduces the volume of waste that needs to be disposed of in the landfill. This, in turn, reduces the rate at which the landfill is filled up, which can extend its lifespan with or without tonnage cap limitation.

Notwithstanding, a landfill tonnage cap is a regulatory limit on the amount of waste that can be disposed of in a landfill over a certain period of time. The tonnage cap is typically set by the local or state government and is intended to prevent the landfill from becoming overfilled and causing environmental or problems such as contamination of groundwater, soil, air, or demand and supply equilibrium problems, while transitioning to a circular economy.

LSCL F-6. [LSCL F-6] For purposes of this discussion, the subcommittee agreed to rely on data from the annual reports and other landfill filings with the county. EPA also provides data in its greenhouse gas reporting webpage that uses different data from another source.

LSCL F-7. [LSCL F-7] Factors such as population growth and debris from disasters may drive up intake rates and thus shorten landfill life; factors such as recycling and waste diversion, plus emerging factors such as extended producer responsibility (EPR) incentives and climate crisis legislation, may drive down intake rates and thus lengthen landfill life.

LSCL F-8. [LSCL F-8] Landfill Life (longevity) is the availability of the landfill reserve resources and landfill ancillary resources that currently operates the landfill's demand, supply and equilibrium of refuse disposal in a linear economy model.

LSCL F-9. [LSCL F-9] The subcommittee identified these factors that could impact usable landfill airspace: Landfill expansion(s) and associated removal of tonnage cap; the quarry excavation schedule; water table concerns; disasters that happen to the landfill itself.

Commented [ND8]: Is this the correct word here? "Impact" or "influence" seem like more appropriate descriptors.

- LSCL F-10.** [LSCL F-10] The subcommittee identified many factors that could impact the landfill’s annual [tonnage;tonnage](#), i.e., the rate at which its usable volume fills up. These included: exceedance of the tonnage cap; recession(s); economic growth; structural and societal reductions in waste generation; disposal alternatives; transportation alternatives; global health issues such as pandemics; climate change and other environmental legislation concerning methane and other greenhouse gases; climate change and other environmental legislation concerning the reduction of waste and pollution in landfilled material; state and local legislation upgrading waste diversion efforts; environmental activism, especially about the climate crisis; wildfires and other disasters that generate debris for landfilling; service area changes; changes in population in the service area.
- LSCL F-11.** [LSCL F-11] Recognizing that the question “What factors could make the landfill close earlier than the Baseline Scenarios (by 2037–39)?” is of particular importance to this report’s readers, the subcommittee has prepared a table that contains background information about each factor and proposes questions for the County and the SMMP to answer. This information can be found in Table 4.
- LSCL F-12.** [LSCL F-12] Landfills are known to be major emitters of methane, but previously these emissions have typically been estimated through mathematical modeling, because the emissions themselves were hard to measure directly. The methane emissions from Coffin Butte Landfill have not been well-characterized, so the possible effects of methane-reducing legislation on the landfill’s waste intake rates are also hard to characterize.
- LSCL F-13.** [LSCL F-13] One proven way to reduce a landfill’s greenhouse gas emissions is to divert organic material. Landfill gas collection systems are another tool to lessen the greenhouse gas impact but do not remediate it. In 2019 the EPA estimated that Coffin Butte Landfill’s gas collection system operates at 57% efficiency.
- LSCL F-14.** [LSCL F-14] The impetus to curtail methane emissions is focusing attention on ways to divert organic waste from landfill wastestreams. The 2023 Food Donation Improvement Act, for example, enables existing food donation organizations to expand operations and incentivizes the creation of new methods and innovations in preventing food waste, both to stop wasting a valuable resource and to reduce methane emissions.

Landfill Size: Capacity

- LSCL F-15.** [LSCL-F-15] A significant portion of the permitted airspace in the quarry area (also known as Cell 6) is currently unavailable for waste disposal due to unexcavated rock. As with other cells at Coffin Butte, permitted airspace is ultimately the result of two separate decisions by two separate entities. Benton County approves the land use for the landfill’s footprint, while DEQ and the franchisee (Valley Landfills Inc.), approve the cell design that determines the physical volume available.
- LSCL F-16.** [LSCL-F-16] The addition of Cell 6 added approximately 13,400,000 cubic yards [of airspace](#). The Landfill total capacity increased by approximately 9,000,000 cubic yards in 2003 with the addition of the West and East triangle areas for a total of approximately 35,500,000 cubic yards. [The formal County approval of Cell 6 as a](#)

disposal area has not been identified or confirmed. Since 2004, reported remaining airspace has decreased gradually, while total permitted airspace has remained somewhat constant. As of end 2021 approximately 44% of permitted capacity remained unused.

Commented [ND9]: Does this continue to conflict with LLU F&R?

Landfill Size: Intake Tonnage

- LSCL F-17.** [LSCL-F-17] The amount of waste placed into the landfill has grown dramatically over the past 40 years. In 1983, 375 tons per day were placed into the landfill (117,000 tons per year). By 1993, the tonnage volume increased to 310,000 tons per year. In 2003, 550,000 tons were placed into the landfill. In 2013, the waste tonnage was 479,000, and in 2021, 1,046,000 tons were placed into the landfill.
- LSCL F-18.** [LSCL-F-18] The official 2022 Coffin Butte annual intake tonnage is not available at the time of this report (February 2023). The size of the Host Fee payment to Benton County in January 2023 indicates a 2022 intake volume of 1,066,436 Tons. The actual tonnage figure should be updated after the receipt of the 2022 Coffin Butte Landfill Annual Report.
- LSCL F-19.** [LSCL-F-19] The 2000 Landfill Franchise Agreement stipulated that the County was to perform a “Baseline” study as a reference for measuring potential future adverse effects (completed in 2001), and defined a ramping intake tonnage threshold to be applied during the term of the agreement (CY2001-2019). Intake volumes in excess of this threshold granted the County clear right to pursue specific remedies: a) the County, at its expense, could perform an updated Baseline assessment, and b) if the County determined that the new assessment indicated an adverse impact on “the Baseline,” the agreement stipulated that “the parties shall immediately proceed in good faith to negotiate an increase in the Franchise Fee and/or Host Surcharge...”.
- LSCL F-20.** [LSCL-F-20] The 2000 intake tonnage threshold was exceeded in calendar years 2017, 2018 and 2019.
- LSCL F-21.** [LSCL-F-21] Washington County waste tonnage accepted at the landfill increased by over 400% between 2016-2017, with the increased tonnage continuing through 2019. Riverbend Landfill was a regional landfill that accepted waste from many counties, including Washington County. Riverbend’s owner/operator diverted tonnage to Coffin Butte in an effort to extend Riverbend’s site life.
- LSCL F-22.** [LSCL-F-22] Benton County did not utilize either of the contractual remedies available to it as a result of the intake tonnage exceeding the threshold in 2017-2019. No updated Baseline study was performed, and no renegotiation of the landfill fee structure was undertaken.
- LSCL F-23.** [LSCL-F-23] Benton County received approximately \$3.1M of incremental revenue from the increased intake volumes over the 2017-2019 period. Of this, approximately \$1.08M was the result of intake volume in excess of the annual limits over the three-year period. This equates to roughly \$11.50 total per Benton County resident for the three-year period.
- LSCL F-24.** [LSCL-F-24] In an official 2018 presentation to Benton County Board of Commissioners, Benton County represented the 2000 Franchise Agreement intake

threshold as “Annual Maximums Specified in Franchise Agreement.” However, the 2000 Franchise Agreement does not describe the tonnage threshold as a “limit” or “maximum” and does not limit the number of tons that can be accepted.

- LSCL F-25.** [LSCL-F-25] Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement include a section stating that “The parties acknowledge that there may be adverse effects to the County’s infrastructure and environmental conditions due to increased annual volumes of Solid Waste accepted at the Landfill.” In both agreements this section of the agreement then stipulates terms regarding intake volumes.
- LSCL F-26.** [LSCL-F-26] The intake threshold defined in the 2000 Landfill Franchise Agreement and the Tonnage Cap defined in the 2020 Landfill Franchise Agreement were stipulated as contractual provisions, with consequences explicitly defined in the 2000 agreement and implicit (violation of contract) consequences in the 2020 agreement.
- LSCL F-27.** [LSCL-F-27] The 2020 Landfill Franchise Agreement defined a 2020 Tonnage Cap of 1.1 M Tons/year that the Landfill "shall not exceed." That includes 75,000 tons reserved annually for Benton County. The Tonnage Cap does not apply to fire, flood, natural disaster, or Force Majeure event materials.
- LSCL F-28.** [LSCL-F-28] The 2020 Landfill Franchise Agreement also includes a provision that the tonnage cap would be eliminated upon governmental approval of an application to “expand the landfill onto the Expansion Parcel.”
- LSCL F-29.** [LSCL-F-29] It is unclear if the 2020 Franchise Agreement’s enforcement mechanisms are strong enough to prevent agreement violation or if the County will pursue the options at its disposal.
- LSCL F-30.** [LSCL-F-30] The landfill operator generally chooses how much tonnage to accept, based on demand and their contracts with various jurisdictions and haulers. Some of the increasing tonnage accepted at the landfill from 1993-2021 reflect the increase in business development.
- LSCL F-31.** [LSCL-F-31] The slow downward trend in intake volume in the 2006-2010 period is explained by the franchisee as resulting from the economic downturn of 2008.
- LSCL F-32.** [LSCL-F-32] Republic Services states that the drop in volumes to Coffin Butte in 2020 is due to the global COVID-19 pandemic, coupled with diversion of tonnage from Riverbend Landfill to other landfills besides Coffin Butte. However, tonnage volumes increased again in 2021 due in part to changes in lifestyle/development/at home shopping patterns as a result of the pandemic, as well as debris from the Oregon wildfires.
- LSCL F-33.** [LSCL-F-33] A range of human factors have been seen to influence the landfill’s intake rate and therefore its operating life in the past. These include business factors such as expansions or contractions of the Service Area, social factors such as recessions and population growth, and environmental factors such as recycling and other initiatives that divert materials out of the waste stream.
- LSCL F-34.** [LSCL-F-34] More human factors are emerging that could influence the landfill’s intake rate and therefore its operating life in the future. These include newly

enacted state legislation assigning responsibility for disposal costs to the producers of waste material, newly enacted national legislation addressing food waste, and national legislation being rolled out that targets methane and other greenhouse gas pollution.

- LSCL F-35.** [LSCL-F-35] A 2016 MOU between Benton County and Republic Services acknowledged “Coffin Butte Landfill will be accepting municipal solid waste currently being delivered to Waste Management’s Riverbend Landfill for a term of 1-2 years, beginning in January of 2017.”
- LSCL F-36.** [LSCL-F-36] The 2016 MOU does not contain language preventing Benton County from exercising its rights under the 2000 Landfill Franchise Agreement (see Recommendations).

Specific Locations

- LSCL F-37.** [LSCL-F-37] Valley Landfills Inc. anticipates it will no longer be able to place waste in Cell 5 by mid-year 2025. When Cell 5 is full, Republic Services is working on a plan to deposit waste in the permitted area of the landfill known as the quarry known as Cell 6. Excavation of the primary quarry footprint is scheduled to begin in Spring of 2023 with completion in Spring 2025.
- LSCL F-38.** [LSCL-F-38] Approval of the 1983 rezoning was recommended by SWAC and CAC with on the condition that “No landfill be allowed on property south of Coffin Butte Road.”
- LSCL F-39.** [LSCL-F-39] 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 new disposal area would require approval of the Planning Commission in a public vote. The process for approving 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.

Landfill Size: Footprint and Structure

- LSCL F-40.** [LSCL-F-40] The 1983 rezoning action defined 194 acres as Landfill Size (LS) zone. An additional 59-acre parcel south of Coffin Butte Road, while zoned LS, would not be used for disposal of solid waste 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.
- LSCL F-41.** [LSCL-F-41] Twenty-three tax lots are owned by landfill-affiliated entities. Six of these ~~tax lots~~ tax lots are zoned LS, and the ~~five~~ 5 LS tax lots on the north side of Coffin Butte Road contain landfill cell disposal areas. The most recent tax lots associated with the landfill were purchased in 2001 (non-disposal areas).
- LSCL F-42.** [LSCL-F-42] The landfill has developed visually over time in accordance with site development plans. Coffin Butte Landfill has changed visually since it’s designation as a regional landfill in 1974, growing in both height and size, and visual appearance.

However, the overall landfill acreage has not changed significantly since 1983; it has filled in more of its footprint.

Key Recommendations:

- LSCL R-1.** [LSCL-R-1] The Sustainable Materials Management Plan should further develop scenarios and factors that may impact the landfill lifespan, including detailed analyses of likely projections. The Commissioners and County staff should keep the questions about these factors and their effects in mind when making decisions affecting the landfill.
- LSCL R-2.** [LSCL-R-2] Benton County should create and share a plan for the enforcement of all franchise agreements.
- LSCL R-3.** [LSCL-R-3] Benton County should contract for 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 new study should determine and measure adverse effects, including but not limited to: traffic, soil conditions and contamination levels, air quality, surface and ground water conditions and contamination levels, noise, odor, visual screenings, litter, hours of operation, solid waste control systems and compliance with all solid waste Permits. This baseline study could help inform Benton County in decision making and financial choices regarding how to use the income from the landfill.
- LSCL R-4.** [LSCL-R-4] The County should, as soon as possible, consider the public record of the deliberations leading to the execution of the 2020 Landfill Franchise Agreement in order to assess a) which party requested that the 2020 Tonnage Cap be eliminated if expansion was approved, b) if Benton County proposed the elimination of the 2020 Tonnage Cap, determine why this was done, c) determine the County's expectation for the benefit(s) to the County of accepting up to 1.1M Tons of waste per year when the County's reserve portion is approximately 6.8% of that amount, d) interpretation of the "Tonnage Cap", specifically relative to the 2020 Tonnage Cap, and e) expectations of both parties for future landfill site expansion, including any plans for multiple (repeated) future expansions. The county should then use this information to inform landfill-related decision-making. These negotiations were conducted privately (not in public meetings), and there are elements of these discussions that may be proprietary and/or fall under attorney-client privilege.
- LSCL R-5.** [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.).
- LSCL R-6.** [LSCL-R-6] The County should clarify when formal approval of Cell 6 as a disposal area was granted.
- LSCL R-7.** [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 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.

- LSCL R-8.** [LSCL-R-8] Benton County should secure information from Republic Services about the Annual Tonnage figures for presentation to SWAC/DSAC as soon as they are available, and not wait to include them for the first time in the Annual Report.
- LSCL R-9.** [LSCL-R-9] The baseline scenarios laid out in this report assume that landfilling will continue as it is doing today for the next 16 years. That expectation should be tempered by signals of factors that can reshape Coffin Butte Landfill's social and regulatory landscape, especially environmental considerations related to the climate crisis. This reshaping is something that Benton County can participate in, on behalf of its citizens, as the landfill's permitted volume is filled.
- LSCL R-10.** [LSCL-R-10] Benton County should take steps to acquire better information about the methane emissions of Coffin Butte Landfill, because the landfill's emissions are currently not well-characterized and use this information to guide diversion programs that could limit the amount of organic waste going to the Landfill.
- LSCL R-11.** [LSCL-R-11] In its current actions and in concert with its Sustainable Materials Management Plan, the County should be aware of and prepare for changes in Coffin Butte Landfill's social and regulatory landscape, as the future could hold significant opportunities for the County and affiliated organizations to bring waste management closer into alignment with the County's goals and values.
- LSCL R-12.** [LSCL-R-12] Benton County should keep in mind that the most effective way to curtail a landfill's greenhouse gas emissions is to divert organic material from being landfilled. This can inform County and area-wide decisions regarding recycling, composting, food waste, and other initiatives affecting how the landfill's permitted volume is filled.

Commented [ND10]: Suggestion for clarity only - I believe this more closely expresses the intent of the Recommendation.

ADDITIONAL INFORMATION

The current landfill activities north of Coffin Butte Road consist of a total of 194 acres, with 6 cells currently slated or approved for disposal of waste.

In 2003 the End of Life (EOL) of Coffin Butte Landfill was projected to be approximately ~~to year~~ 2074, with a Landfill Life estimate of 71 years.

In 2013 EOL was projected to be years 2053-2062, with a Landfill Life estimate of 40-49 years.

In the current year of 2023 the EOL is projected to be years 2037 -2039, with a landfill life estimate of 14-16 years.

The above landfill progression reflects a linear economy model that represents a waste management approach in which waste is generated, collected, and disposed of in a linear manner, without much emphasis on resource recovery or reuse. This approach is often characterized by a "take-make-dispose" model, where resources are extracted, processed into products, used, and then discarded as waste by society.

The linear model of a landfill economy is being replaced by more sustainable models, such as the circular economy. In a circular economy, waste is minimized by prioritizing waste reduction and recycling, and by designing products and processes that with a focus on sustainability and

longevity. In this model, waste is seen as a valuable resource that can be reused, repurposed, or recycled, rather than being discarded into a landfill.

This [circular](#) approach supports the solid waste management plan of Benton County working shoulder to shoulder with a sustainable materials management plan being developed by Benton County ~~Community Development~~ in conjunction with Oregon Department of Environmental Quality, [local community](#) members ~~of Benton County~~, as well neighboring Counties and municipalities [using Republic Services waste management services.](#)

In Republic Services' 2021 Sustainability Report, ~~Jon Vander Ark~~, President and Chief Executive Officer, [Jon Vander Ark](#), reports, "This is our company vision, which is intentionally ambitious because we believe we are uniquely positioned to help our customers achieve their own sustainability goals. That commitment begins with our Elements of Sustainability – Safety, Talent, Climate Leadership and Communities – and these elements anchor our 2030 sustainability goals."

The reader of this executive summary is encouraged to read further into [the full](#) subcommittee reports to appreciate the wealth of information ~~the~~ members of the community have brought forwarded in ~~at~~ the short amount of time ~~during granted under~~ the Benton County Talks Trash bridge [process, approach](#) into a needed sustainable landfill economy and transportation plan for waste disposal.

[Landfill Life Projections](#)

CONCLUSION

After reviewing extensive information about [the variable factors that can influence the](#) landfill's size, capacity, and longevity, this subcommittee developed dozens of findings and ~~several~~ recommendations. ~~While t~~These [Key F](#)findings and [Key R](#)recommendations summarize much of the group's work, ~~and~~ readers are encouraged to review the full subcommittee report for more details on each topic. [This subcommittee topic is complex; the variables influencing site life are nuanced and often multi-faceted.](#) The findings and recommendations are supported by the details provided in the subcommittee's report, which cover the landfill's end-of-life, tonnage intake, volume, footprint, and specific locations.

Commented [ND11]: This may limit the ability of some key current contributors to participate in development of an SMMP.

Section C: Legal Issues And Land Use Review

INTRODUCTION

The purpose of this subcommittee is to address: -a) law relevant to, and the legal status of, landfill operation and oversight; b) relevant law related to land use regulation, and c) typical practices in land use regulation. The majority of the subcommittee's work product is in the form of objective legal information; however, the charge elements that relate to land use also include descriptions of practices and considerations and are noted as such. In all areas, the subcommittee's goal is to be clear, concise, and legally informative.

Membership of the subcommittee consists of Benton County Counsel Vance Croney, Planning Commissioner Liz Irish, Republic Services land use attorney Jeff Condit and Republic Services in-house counsel Holly Doyle. The facilitator invited participation by Jeff Kleinmann, a land use attorney who represented a group of property owners in the vicinity of the landfill during the 2021 Planning Commission hearings on the proposed expansion. Mr. Kleinmann declined to participate and submitted a letter stating his reasons. The facilitator subcontracted with Virginia "Ginny" Lucker, a highly regarded Oregon land use attorney and Benton County community member, to participate on the subcommittee and provide a third legal perspective. The County staff member supporting the subcommittee was Greg Verret, Deputy Director of the Community Development Department.

The Key Findings and Key Recommendations summarize most of the subcommittee's work. However, a wealth of information on each charge element is presented in the subcommittee's full report and readers are encouraged to refer to that report for a full accounting of any topic of interest.

SUBCOMMITTEE [WEBPAGE LINK](#)

SUBCOMMITTEE CHARGE

Charge A: A Summary of the County's current rights and obligations to Republic Services, and vice versa, surrounding:

1. The hauling franchise;
2. The landfill CUP; and
3. What legally can and cannot be conditions of any land use approvals (e.g., past compliance, compliance with future laws, codes, and policies, DEQ compliance, reopening, limitations on what can be brought into the County from where, required facilities and practices, reporting/compliance/financial monitoring requirements, etc.)
4. Interpretation and Deference: A Summary of the rights and obligations of other entities surrounding landfills, hauling, and sustainability initiatives, etc.:
 - A. Federal;
 - B. Tribal;
5. State (e.g., Is DEQ prohibited from permitting another landfill west of the Cascades and what does the "regional landfill" designation mean?);
6. Local Government; and

7. Summary of the step-by-step process in ORS chapter 459 and associated timing for the cross-jurisdictional approvals of landfill applications, (e.g. DEQ) including:
 - A. What topics are within whose authority, and
 - B. Whether, for example, the County can or should consider the topics it does not have permitting authority over when assessing the criteria outlined in Code section 53.215?

Charge B: Land Use Review Tasks:

1. Create a common understanding document outlining which Development Code criteria are applicable to the review of a conditional use application for landfill expansion by reviewing:
 - A. 53.215 (Criteria)
 - B. 77.305 (Conditional Uses)
 - C. 77.310 (Review)
1. 77.405 (DEQ)
2. Review Chapters 50 and 51 for context, and then prepare a conceptual list of any other Development Code criteria the WORKGROUP recommends be applicable.
3. Developing recommended guidelines for interpreting any ambiguous provisions recognizing current statutes, regulations, case law, and County precedent, etc. In doing so, refer to Comprehensive Plan for policy guidance regarding interpretation of any ambiguous Development Code provisions (see, BCC 50.015,) and Review the Planning Commission comments made during its last review of Republic Services’ CUP application for context. Examples for consideration include:
 - A. The phrase, “Other information as required by the Planning Official” 77.310(e)
 - B. The terms found in Section 53.215, e.g.
 - C. “seriously interfere”
 - D. “character of the area”
 - E. “purpose of the zone”
 - F. “undue burden”
 - G. “any additional criteria which may be required for the specific use of this code.
 - H. Other: _____
4. Necessary Tasks to Start Planning Reopening of Existing Hauling Agreement
5. Roles, Responsibilities, and Protocols of SWAC and DSAC
6. Specific Recommended Review Criteria for the Evaluation of Landfill CUP applications
7. SWAC/DSAC, Planning Commission, and BOC Use of the Review Criteria
8. Future Timeline for Discussing any Needed Changes to the Benton County Code Flowing From WORKGROUP Recommendations

SUBCOMMITTEE MEMBERS: AT END OF PROCESS

- Jeff Condit
- Liz Irish
- Vance Croney
- Holly Doyle
- Ginny Lucker

County Staff: Greg Verret

The **SUBCOMMITTEE’S REPORT** can be found linked [HERE](#), and in Appendix C.

The **SUBCOMMITTEE’S “MEETING NOTES”** can be found linked [HERE](#), and in Appendix D.

KEY FINDINGS AND KEY RECOMMENDATIONS

[This section lists Key Findings and Key Recommendations from the full subcommittee report below. These key findings and key recommendations do not capture the comprehensive discussions of the subcommittee, nor are they intended to do so. Instead, these provide a summary overview of key observations. The link adjacent to each Key Finding and Key Recommendation provides access to the full report. These summaries encourage readers to follow the links to find detailed content under in the full subcommittee report.](#)

~~Key findings and key recommendations from the full subcommittee report have been listed below. These key findings and recommendations summarize more complete content found in the full report, which can be accessed by clicking on the link adjacent to each.~~

Key Findings:

- LLU F-1.** [\[Link\]](#) Do conditions of approval imposed as part of a later land use approval supersede conditions imposed as part of a prior approval? Unless a later land use approval expressly addresses whether conditions of a prior land use approval are superseded, the issue will be subject to interpretation by the local government (the Board of County Commissioners, in this case).
- LLU F-2.** [\[Link\]](#) Only the current franchise agreement has legal effect. The previous franchise agreement is superseded when a new agreement takes effect.
- LLU F-3a.** [\[Link\]](#) Up-front and ongoing financial assurance to cover the cost of closure, post-closure, and corrective actions are required by DEQ. Where this preliminary line of defense fails, Oregon statute holds any person owning or controlling the disposal site liable for closure and post-closure maintenance. [See additional DEQ information on this topic in full subcommittee report.]
- LLU F-3b.** [\[Link\]](#) DEQ reviewed the last annual FA update submittal, which was dated April 1, 2022 and approved on April 13, 2022. DEQ’s approval letter summarizes the following:
1. The updated cost estimates for closure (\$16,222,800) and post-closure care (\$5,743,202) were correctly updated, prepared, and stamped by a registered P.E.
 2. The current penal sum of your Bond, as provided by Evergreen National Indemnity Company, with your new Riders in place, covers the total of updated cost estimates.
- DEQ identifies Valley Landfill Inc. as the owner of the landfill and the DEQ solid waste permittee for DEQ permit #306. The operator of the landfill is Coffin Butte Landfill. The owner or operator of the landfill is responsible for compliance with the permit and permit conditions. The owner or operator is responsible for providing financial assurance for closure, post closure and any needed corrective action per ORS 459.272.
- Valley Landfill Inc. uses a bond to provide financial assurance. According to OAR 340-094-0140(6)(d) and (6)(e) the permittee is to recertify compliance every year

which Valley Landfill Inc. did in a March 28, 2022 attachment to the annual financial assurance submittal that DEQ received.

LLU F-3c. [\[Awaiting final wording from Vance Croney\]](#)[\[Link\]](#) In negotiating the 2020 landfill franchise agreement, Benton County established three elements to provide assurance that costs of closure, post-closure and corrective action are covered: [Statutory DEQ financial](#) assurances, insurance, and the environment trust fund

Commented [SM12]: Edits from Vance Croney

LLU F-4. [\[Link\]](#) What legally can and cannot be conditions of any land use approvals? Conditions of approval must relate to approval criteria. To be approved, an applicant must demonstrate compliance with all discretionary approval criteria. Conditions of approval cannot substitute for compliance with applicable criteria but may be imposed to ensure the criteria are met. The county may find compliance with approval criteria by establishing that compliance is feasible, subject to compliance with a specific condition(s) of approval. A preponderance of the evidence must support a finding that the condition is “likely and reasonably certain” to result in compliance. To lessen adverse impacts on surrounding 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)

LLU F-5. [\[Link\]](#) In reviewing a CUP for landfill expansion, the County has jurisdiction over only the proposed expansion. Existing and past operations are not within the County’s scope of review. Prior decisions are final and cannot be subjected to a new review or have additional/revised conditions of approval imposed as part of the CUP application for the expansion. The mechanism for enforcing conditions of approval is a separate process; see recommendation LLU R-11.

LLU F-6. [\[Link\]](#) Benton County may not prohibit a private landfill operator from accepting solid waste from outside Benton County.

LLU F-7. [\[Link\]](#) Is DEQ prohibited from permitting another landfill west of the Cascades? No.

LLU F-8. [\[Link\]](#) 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.

LLU F-9. [\[Link\]](#) Interpretation of the review criteria for a landfill-expansion conditional use permit requires determinations that are based on the facts of the specific application. The rules of statutory construction describe how ambiguous terms are to be interpreted: text, context, and legislative history. However, LUBA’s standard of review is highly deferential to the local decisionmaker’s interpretations, so if the interpretation is plausible (does not conflict with the provision’s language), LUBA (and the courts) will uphold the local interpretation. This gives the decision-maker a lot of flexibility in interpreting their own code provisions. In response to a request by the Board of Commissioners, the following four findings provide staff-provided

historical information, particularly over the past 25 years, on how the County decision-makers have interpreted these terms across the full range of conditional use applications the County reviews. They are not recommendations on how the Planning Commission and Board should interpret future applications. Restated, each body fully retains its flexibility in interpreting those terms in the context of the specific application before it.

LLU F-9a. [\[Link\]](#) The first criterion requires the decision-maker to find that *“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”* [BCC 53.215(1)]. In applying the term “seriously interfere”, Staff reports that in past CUP applications the Planning Official, Planning Commission or Board has considered factors such as: does the proposed use make it difficult to continue uses on the adjacent property; would it create significant disruption to the character of the area; would it conflict, in a substantive way, with the purpose of the zone. As noted above, the county decision-makers have wide discretion in evaluating whether a use will “seriously interfere.” In the past, “seriously interfere” has generally been applied as meaning more than an inconvenience or irritation but is a lesser threshold than rendering the uses on adjacent property impossible. Speculated effect on property values has not been a primary consideration in determining serious interference.

LLU F-9b. [\[Link\]](#) In the phrase “character of the area” in BCC 53.215(1), how narrow or broad has “the area” typically been?

When the County is evaluating the “character of the area”, the “area” is based on the facts of each application and how far the effects of the proposed land use are likely to extend. The impacted area will be unique to each application and may differ by particular effect—for example, the impact of noise might extend farther than visual impact (or vice versa).

Because each review is unique, examining past cases for the specific distances utilized may not be illuminating. Staff reports that in past CUP applications the Planning Official, Planning Commission or Board has considered these factors in determining the character of the area and its extent include:

- The particular attributes of the geographic setting (including existing operations in the vicinity.)
- Is there a distinct change in the area's physical characteristics beyond a certain point (such as a change from flat land to hills or from one river basin across a ridgeline into another)?
- What features or elements give the area its character? Is it a homogenous or heterogeneous character (is there a high degree of similarity, or is it mixed)?
- How far are the effects of the proposed land use likely to extend? This may differ by particular effect—for example, the impact of noise might extend farther than visual impact (or vice versa).

LLU F-9c. [\[Link\]](#) In the conditional use review criterion of: *“The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area”* [BCC 53.215(2)], what constitutes a “burden” is again based on the facts of the application. Staff has stated that in past CUP applications the Planning

Official, Planning Commission or Board has considered a “burden” on public infrastructure and service is likely “undue” if it overloads the system or causes significant degradation in terms of quality, effectiveness or timeliness of infrastructure or service. Lesser burdens may also be “undue” if the effect jeopardizes people's health, safety, or welfare. Burdens that the County has typically not considered “undue” include those that can be mitigated through planned improvements, that are incremental service additions⁶⁷ consistent with that generated by other uses in the area or that fall below an established threshold (such as road classification standards). For planned improvements to be relied upon in determining that a burden is not undue, the implementation of those improvements must be certain, such as through a condition of approval specifying the improvement and the timeline for implementation. Again, as noted in LLU F-9 above, so long as the interpretation is plausible, the decision makers have wide discretion in interpreting the term “undue burden.”

- LLU F-9d.** [\[Link\]](#) With regard to the conditional use review criterion of BCC 53.215(3) [*“The proposed use complies with any additional criteria which may be required for the specific use by this code.”*], if the county has adopted additional code criteria that apply to a proposed use, then those code provisions would apply. This does not allow the county to apply unadopted criteria that are not in the code at the time of application. In applying for expansion in the Landfill Site zone, the BCC Chapter 77 does not adopt any additional criteria and, therefore, no additional criteria apply.
- LLU F-10.** [\[Link\]](#) SWAC’s bylaws require it to “assist the Board of Commissioners (Board) in Planning and implementing solid waste management, pursuant to BCC Chapter 23, the Benton County Solid Waste Management Ordinance.” BCC 77.305 directs the Solid Waste Advisory Council (SWAC) to review and make recommendations regarding the Site Development Plan and Narrative submitted on a landfill-expansion CUP; however, the code does not specify what criteria or considerations that recommendation should be based on. Based on SWAC’s bylaws and role in planning and implementing solid waste management, it appears that the intent of the language in BCC 77.305 is that the Planning Commission rely on SWAC for guidance on the impacts of the Site Development Plan and Narrative on solid waste management. However, the language of BCC 77.305 does not expressly limit the scope of SWAC’s recommendations.
- LLU F-11.** [\[Link\]](#) Pursuant to BCC 77.310(1)(e), to what extent may the Planning Official require additional information from an applicant for a Landfill Site Zone Conditional Use Permit? Only “other information” that relates to the approval criteria for a conditional use permit may be required under BCC 77.310(1)(e), and the applicant may choose to provide some, all, or none of the requested information. The land use decision must be based on demonstrating compliance with the code criteria, not on whether the applicant provided the requested information.

⁶⁷ Incremental service additions are additions to the overall burden on services that are small relative to the total. For example, adding 10 daily vehicle trips to a road currently experiencing 300 daily vehicle trips could be considered an incremental service addition.

- LLU F-12.** [\[Link\]](#) BCC 77.310(1) lists the information required in the applicant’s narrative submitted with a conditional use application. The information required under BCC 77.310(1) includes the documents and information required to be part of the application. 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. A determination that an application is complete does not mean that the information satisfies the approval criteria.
- LLU F-13.** [\[Link\]](#) In addition to the list of information listed in BCC 77.310(1)(a)-(d), BCC 77.310(1)(e) allows the Planning Official to request that the conditional use application narrative include “other information”. This information must relate to the approval criteria. The applicant has the discretion whether to submit the requested information. The applicant’s failure to submit any requested information is relevant to the decision on the application only to the extent that the decision maker determines that the information is necessary to comply with an approval criterion.
- LLU F-14.** [\[Link\]](#) Pursuant to long-standing LUBA case law, representations and 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 as conditions of approval. See LLU R-10.
- LLU F-15.** [\[Link\]](#) 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.
- 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.
- LLU F-16.** [\[Link\]](#) Is there an opportunity for public input to determine whether an application is complete? The public may submit comments on the completeness of an application. However, the completeness process is not a review of the application’s merits; only whether sufficient information has been submitted to the application’s merits can be evaluated through the public hearing process. And there are no statutory or code requirements for incorporating public input on the county’s administrative determination of whether an application is complete.
- LLU F-17.** [\[Link\]](#) Once any land use application is submitted to the County, the County Planning Official must determine within 30 days whether the application is complete. Following the [completeness process](#), the County then has 150 days to make a final land use decision, including the completion of any appeal to the Board of Commissioners or other proceeding under County Code. If the County does not make a final decision within the prescribed time, an applicant may petition the

circuit court for a “writ of mandamus.” ORS 215.429(1) et seq and citing ORS 34.130. This statute requires the circuit court to approve the application unless the County can prove it violates a substantive provision of the Comprehensive Plan or Code. If the court determines the County has not met that burden, the applicant may then proceed with the development as proposed.

LLU F-18. [\[Link\]](#) Section 2 of [the June 7, 2022, collection franchise agreement](#) between Benton County and Allied Waste Services of Corvallis (“Republic Services”) contains a mandatory limited reopener provision. Contract negotiations are not conducted in public. With that said, a process could be designed to allow public input, comment, and feedback on any provisions subject to Section 2 that may be negotiated between the parties to the agreement. The renegotiated collection franchise agreement must be agreed upon, in its entirety, by both Benton County and Republic Services.

LLU F-19. [\[Link\]](#) 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 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.

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.

LLU F-20. [\[Link\]](#) Could a new CUP approval be conditioned on cleaning up noncompliance with existing operations?

A new CUP cannot require as a condition of approval that an existing operation on a different property be modified or that noncompliance be rectified. Enforcement procedures (see Chapter 31 of the Benton County Code) would have to address the noncompliance. See recommendation R-11.

LLU F-21. [\[Link\]](#) Is compliance/noncompliance with conditions of past land use approvals a topic that can be considered in any way during a new land use application?

Generally, the new proposal must be evaluated on its own merits relative to the approval criteria. However, the current non-compliance of an existing land use condition could provide information that the Planning Commission considers in developing a condition on a new application. If an application is made to expand an existing land use that is currently out of compliance with a condition of approval of a previous decision, and that noncompliance is causing issues for surrounding land

uses, noncompliance of the original land use decision is not in itself grounds to deny the new application. However, the decision-maker could potentially look at the fact of existing noncompliance in evaluating whether that noncompliance is causing the existing land use to “seriously interfere” with uses on surrounding properties. That fact can then be used as evidence in evaluating whether the proposed land use complies with the review criteria because the same land use in a similar location was seriously interfering with surrounding uses even though it was subject to conditions of approval. If the language in a condition of a past decision was unclear or insufficient to ensure compliance with an approval criterion, in evaluating a new application the decision maker could craft and impose a condition on a new decision that more clearly describes the measures necessary to ensure compliance. Past conditions superseded by subsequent decisions or changes in the law could not form a basis for such analysis.

LLU F-22. [\[Link\]](#) 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.

LLU F-23. [\[Link\]](#) 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.

- LLU F-24.** [\[Link\]](#) The County’s decision on a conditional use permit must be based on the evidence submitted into the record. Evidence must be submitted into the record before the record is closed. The Planning Commission makes the initial decision on a conditional use application to expand the landfill, and the record includes all evidence submitted into the record before the Planning Commission makes its decision. The Planning Commission’s decision may be appealed to the Board of Commissioners. The Board considers the record of the decision being appealed (all evidence and testimony submitted to the Planning Commission) and any new evidence or testimony that is submitted into the record at the Board’s appeal hearing. The record closes either at the end of the final hearing on the application, or if there has been a request to leave the record open before the end of the final hearing, on the date specified at that hearing.
- LLU F-25a.** A petition is circulating requesting the Board of Commissioners “OPPOSE ANY expansion of the Coffin Butte Landfill before Benton County completes a thorough, detailed waste management plan that focuses on future resilience and includes alternatives for decreasing and redistributing materials from the waste stream.” One of its sponsors said, “All [it] does is urge you, the Commissioners — if the application comes before you on appeal following a decision by the Planning Commission — to “oppose any expansion request before you have a materials management plan in place to guide you. How can you approve a land-use action that will have a permanent impact on our county and its inhabitants, for generations to come, when you don’t know what all the alternatives are?” (Emphasis in original.)
- LLU F-25b.** The petition sponsors agree with the County’s position that it cannot legally postpone consideration of any landfill expansion pending completion of a Sustainable Materials Management Plan (SMMP). However, the petition essentially states that a future waste management plan is necessary before the Board can thoroughly evaluate a proposed expansion because that plan may provide evidence that a landfill expansion is not needed, or that it may demonstrate suitable alternatives to a landfill expansion. Opposition to a conditional use permit based on potential findings from a future waste management plan would effectively impose an impermissible de facto moratorium pending the development of that plan. As discussed in [Finding LLU F-17](#), failure by the County to reach a final decision, including all local appeals, within 150 days of a complete application can result in a writ of mandamus in which the circuit court may authorize the land use as proposed.
- LLU F-25c.** Petition sponsors have stated that they are asking the Board to conclude that, in the absence of a waste management plan, any proposal to expand the landfill necessarily violates one or more of the *current* discretionary approval criteria. A land use decision on a conditional use permit application must be based on the specifics of that application. To make a determination as to whether a land use application violates one or more conditional use criteria requires the decision-maker to review the application and make written findings as to whether and how the

application complies with the criteria. This cannot be done prior to receipt of an application or outside of the land use review process.

LLU F-25d. The current CUP criteria give the Board discretion and, under the existing statute, [LUBA and the courts will defer to the Board's interpretation of its criteria so long as the interpretation is "plausible."](#) That discretion, however, is not unlimited and does not extend to applying unadopted criteria or to adding criteria that are not in the code at the time an application is filed. The current CUP criteria do not include – and cannot plausibly be interpreted to include -- any requirement that the applicant demonstrate need or that it must evaluate alternatives to a proposed landfill expansion. Interpreting the existing code criteria to require demonstration of “need” or alternatives is beyond the range of discretion afforded by state statute and would constitute an improper code amendment under the guise of interpretation.

LLU F-25e. Under both state law and the county code, an application must be evaluated based on the criteria in effect on the date the application is filed. Because the current CUP criteria do not require the applicant to address need or reasonable alternatives to the expansion, even if the evidence existed today, evidence regarding the need for or alternatives to landfill expansion is not relevant to the existing conditional use approval criteria; and therefore the possible evidence that might flow from a future SMMP is not relevant to the Board's evaluation of whether there is substantial evidence in the record as a whole related to compliance with the CUP criteria.

LLU F-25f. The County could amend BCC chapter 77 to add a criterion under BCC 53.215(3) to require compliance with specific provisions of an adopted SMMP. However, that criterion would apply only to applications filed after the code was amended to include, as criteria, specific requirements of such a plan. [See also Recommendation LLU R-8.]

LLU F-26. [Oregon Department of State Lands \(DSL\) has regulatory authority for all wetlands that meet the definition of "jurisdictional wetlands." Benton County has additional regulatory authority for wetlands the County has identified as "significant" in a wetland inventory adopted pursuant to the Oregon Administrative Rule 660 Division 23 \(Statewide Planning Goal 5 procedures\). No significant wetlands are identified in the vicinity of Coffin Butte Landfill on the County's adopted inventory. The County has not conducted a comprehensive wetland inventory and analysis of significance since the 1980s. See LLU R-11.](#)

Key Recommendations:

LLU R-1. [\[Link\] The County should enable public input on all franchise agreements. Specifically regarding the 2022 collection franchise agreement between Benton County and Allied Waste Services of Corvallis \("Republic Services"\),](#) ~~A~~ a process to allow public input, comment, and feedback on any provisions subject to Section 2 of ~~that agreement 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 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.”

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.

At such time as Benton County and Republic Services reach a tentative agreement on the renegotiated terms, [County s](#)Staff would bring the proposed franchise [agreement](#) changes to the [B](#)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.

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 adequately included or addressed in the renewed agreement, the franchise agreement will be the subject of a public hearing and, ultimately, [decisionapproval](#) by the Board of Commissioners at a regular board meeting.

Commented [ND13]: Is this word more accurate? Not presuming the outcome of a Board decision, just acknowledging that the Board will ultimately decide.

LLU R-2. [\[Link\]](#) 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.

LLU R-2, LLU R-3. [Benton County should engage with the Oregon Department of Environmental Quality at the pre-application stage to understand relative permitting responsibilities and processes, with the goal of a more coordinated and informed review of both the land use application \(by Benton County\) and, if the County land use application is approved, the subsequent landfill-related permitting \(by DEQ\).](#)

LLU R-3, LLU R-4. [\[Link\]](#) BCC 77.310 states that “The applicant for a conditional use permit shall provide a narrative which describes: * * * Other information as required by the Planning Official.” [BCC 77.310(1)(e)] The workgroup could make recommendations

regarding what “other information” would be helpful in a narrative. However, any committee recommendations would have to be limited to information related to the applicable criteria and could not expand that criteria. “Additional information” required by the Planning Official does not become part of the applicable criteria. BCC 77.310 states only what the applicant’s narrative shall include; it does not identify criteria for SWAC’s review of a CUP application. This absence contributed to the subcommittee’s recommendation in LLU R-6.

[LLU R-4, LLU R-5.](#) [\[Link\]](#) BCC 77.310(1) lists the information required for a conditional use application in the landfill site zone and permits the planning official to request that the applicant’s narrative include “additional information.” However, the development code does not specify how or when that information is to be requested. In the past, the Planning Official has used the statutory completeness review process to request additional information. However, in addition to the Planning Official’s review of the information after the application has been submitted, the Board could amend the code to require that the Planning Official conduct a “preapplication conference” with the applicant to discuss the information that is required. It could also require a “neighborhood meeting” before the application is filed that requires the applicant to present its proposal to the public and allow the applicant to obtain more information about the proposal. Public comment during a pre-application neighborhood meeting, as with other public comment submitted before the application is complete and notification is sent, is not part of the formal record of the land use review and cannot be considered by decision-makers. The record includes only public comment submitted after formal notification has been sent to affected parties stating that the comment period is open.

[LLU R-5, LLU R-6.](#) [\[Link\]](#) BCC 77.305 directs the Solid Waste Advisory Council (SWAC) to review and make recommendations regarding the Site Development Plan and Narrative submitted on a landfill-expansion CUP; however, the code does not specify what criteria or considerations that recommendation should be based on. Consistent with SWAC’s bylaws and Chapter 23 of the County Code, which require SWAC to “assist the Board of Commissioners (Board) in Planning and implementing solid waste management, pursuant to BCC Chapter 23, the Benton County Solid Waste Management Ordinance”, the Board of Commissioners should more clearly define SWAC’s role by articulating the scope, manner and timing of SWAC’s review. Interpreting the existing County Code is within the Board’s purview, but amending that code effects a more permanent solution. As an initial step, the Board could issue an official interpretation of SWAC’s role pursuant to Chapter 23. Then, as a subsequent step, the Board could initiate amendments to Chapter 23 and/or Chapter 77, which would then proceed through a public hearings process. (If/when SWAC’s overall role shifts to sustainable materials management, instances of the term “solid waste management” above should be replaced with “sustainable materials management.”)

[LLU R-6, LLU R-7.](#) [\[Link\]](#) Amendments to the Development Code may be needed to create a clear and legally consistent process for SWAC’s involvement in reviewing a CUP. Pursuant to the Development Code as written, the only criteria that a CUP decision can be based upon are those of BCC 53.215, and the Planning Commission is the

decision-making body. Yet, the code states an ambiguous role for SWAC in that process and seems to imply that other considerations beyond those of BCC 53.215 should go into the decision-making process. This needs clarification.

[LLU R-7, LLU R-8.](#) In addition to the two criteria listed in BCC 53.215(1) and (2), [BCC 53.215\(3\)](#) requires the decision maker to consider whether the “proposed use complies with any additional criteria which may be required for the specific use by this code.” Currently Chapter 77 (Landfill Site zone) does not include any additional criteria that must be considered in the review of a conditional use application for the expansion of a landfill in the landfill zone. If there are additional criteria that the Board of Commissioners determines are necessary for the review of a conditional use application in the landfill zone, the Board would have to amend Chapter 77 to specify those additional approval criteria. The Board could also require that compliance with the site plan and reclamation plan (currently [required by Chapter 77 to be submitted with the application](#)) be adopted as conditions of approval of any approved conditional use permit.

[LLU R-8, LLU R-9.](#) [\[Link\]](#) When the County adopts its SMMP, it should amend BCC chapter 77 to add a criterion under BCC 53.215(3) to require compliance with specific provisions of an adopted SMMP.

[LLU R-9, LLU R-10.](#) [\[Link\]](#) 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.

[LLU R-11.](#) [Compliance with Oregon Department of State Lands regulations and permitting requirements for any impacts to wetlands should be a condition of approval of any land use approval at the landfill.](#)

[LLU R-10, LLU R-12.](#) [\[Link\]](#) In issuing land use decisions, Benton County decision-makers should:

- a. Draft clear findings and be certain to incorporate into the conditions of approval the items that are intended to be binding.

- 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.

~~LU R-11~~ LU R-13. [\[Link\]](#) 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:

- a. What enforcement mechanisms exist within the County Code?
- b. Is there a mandamus option or a private right of action option?
- c. What is missing?
- d. What provisions and procedures do other counties have, particularly counties that host a privately operated landfill?
- e. The future cost of such a system, the benefits, and the consequences of not improving the current practices and procedures.

ADDITIONAL INFORMATION

The following table summarizes the topic areas Benton County can and cannot regulate. Some of these topic areas are discussed more fully in the full subcommittee report.

Topic Areas Benton County Can or Cannot Regulate
-- Summary Table --

<i>Topic Area</i>	<i>Agency with Primary Jurisdiction</i>	<i>County Allowed to Regulate?</i>	<i>Notes</i>
Wetlands	Department of State Lands	Yes, if the County has identified significant wetlands at the site in a wetland inventory adopted through the Statewide Planning Goal 5 procedure.	No significant wetlands are identified in the vicinity of the landfill on the County's adopted inventory.
Groundwater quality	DEQ	No. Statute precludes.	County can regulate the impact of one land use on another.
Groundwater quantity	OWRD	No. Statute precludes.	County can regulate the impact of one land use on another.
Noise	DEQ	Yes. DEQ has adopted noise standards but does not enforce. County may apply (only) those standards and enforce.	
Odors	DEQ's regulation of air quality via emissions standards does not specifically address	Benton County cannot substitute a different regulatory standard for DEQ's regulation of air	No objective "odor meter" (similar to a decibel meter for

	odor, but DEQ does regulate nuisance odor through a complaint-based system (see DEQ's Nuisance Odor Strategy).	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.	noise) seems to be available.
Methane emissions	DEQ	Precluded if regulated by DEQ.	
Wildlife	ODFW	Yes, if Benton County were to adopt a program pursuant to the Statewide Planning Goal 5 procedure.	Requires Comprehensive Plan Amendment.
Stormwater runoff	DEQ	Yes, pursuant to BCC 99.650-99.680.	
Point-source discharge to surface waters	DEQ	Yes, pursuant to BCC Chapter 36 Illicit (Non-Stormwater) Discharges.	
Light	None-	Yes, through CUP criteria and resulting conditions of approval. Not directly regulated in Development Code.	No state regulations that we are aware of.

CONCLUSION

Solid waste topics in Benton County intersect with legal and land use issues in several ways:

- Franchise agreements (in this case collection and landfill franchises) are contracts between a local government and a service provider.
- Legal requirements for permitting a landfill at a given location.
- Land use regulations.
- Benton County's oversight of solid waste topics through Chapter 23 of the Benton County Code, including the Solid Waste Advisory Council and the state-mandated Disposal Site Advisory Committee.

Franchise agreements are subject to contract law, applicable [Oregon Revised State Statutes](#) and [County Code](#), and applicable federal law and court cases. [For example, the U.S. Supreme Court has determined the federal constitution prevents the County from limiting the area from which the landfill can accept waste.](#)

[While](#) franchise agreements are the product of confidential contract negotiations between the parties, ~~However,~~ the County and Republic Services [also](#) recognize and acknowledge the public interest in these agreements and the desire to ensure the agreements reflect community

Commented [ND14]: This statement seemed like a non sequitur in its previously location.

priorities. ~~The U.S. Supreme Court has determined the federal constitution prevents the County from limiting the area from which the landfill can accept waste.~~

Permitting a landfill or changes to a landfill is a complex mixture of state law (involving a variety of agencies) and Benton County Code. Understanding the roles and limitations on authority of each entity is important to enable community members to provide informed comment and for Benton County decision-makers to arrive at informed decisions.

Benton County has latitude to interpret the provisions of its own code and to interpret ambiguities in past decisions, provided those interpretations are plausible. Decisions and conditions of approval must be rooted in the applicable criteria in the County's Development Code and can only address the current application (not look to alter previous land use decisions or conditions). Subjective terms in the review criteria and procedures applicable to a conditional use permit (CUP) in Benton County, including a CUP to expand the landfill, were discussed in the subcommittee findings with the intent *not* of directing how these terms should be interpreted and applied in a future land use review but of providing such legal context as exists and how the County has historically interpreted them.

The County's long land use history with Coffin Butte Landfill has resulted in legal and interpretation questions which the subcommittee has attempted to clarify from an objective legal perspective. The 1983 approval of the landfill did include approval for landfilling of Cell 6 (the present quarry) and did not establish the site plan and narrative as regulatory conditions of approval. The 2002 memorandum of understanding (MOU) between Benton County and the landfill operator memorialized the County's understanding that at that time the landfill was operating in compliance with local ~~requirements~~requirements, but the MOU did not replace or negate conditions of past land use approvals.

The subcommittee makes recommendations to:

- clarify the role of the Solid Waste Advisory Council in the land use conditional use review process;
- consider specifying what "additional information" would be helpful in review of a conditional use application;
- consider requiring a "pre-application conference" and a "neighborhood meeting";
- consider specifying any additional criteria necessary for CUP review and/or requiring compliance with the proposed site plan and reclamation plan;
- clarify BCC 77.405 regarding review of DEQ permits;
- provide the public with information regarding the initial review of the completeness of an application;
- consider a proposed process for public input in the re-opener of the collection franchise agreement;
- evaluate the system of compliance monitoring and enforcement;
- ensure that land use findings are clear and that conditions of approval include all elements intended to be binding and are clear about what is necessary to comply with the conditions.

SECTION D: PAST LAND USE APPLICATION CONDITIONS

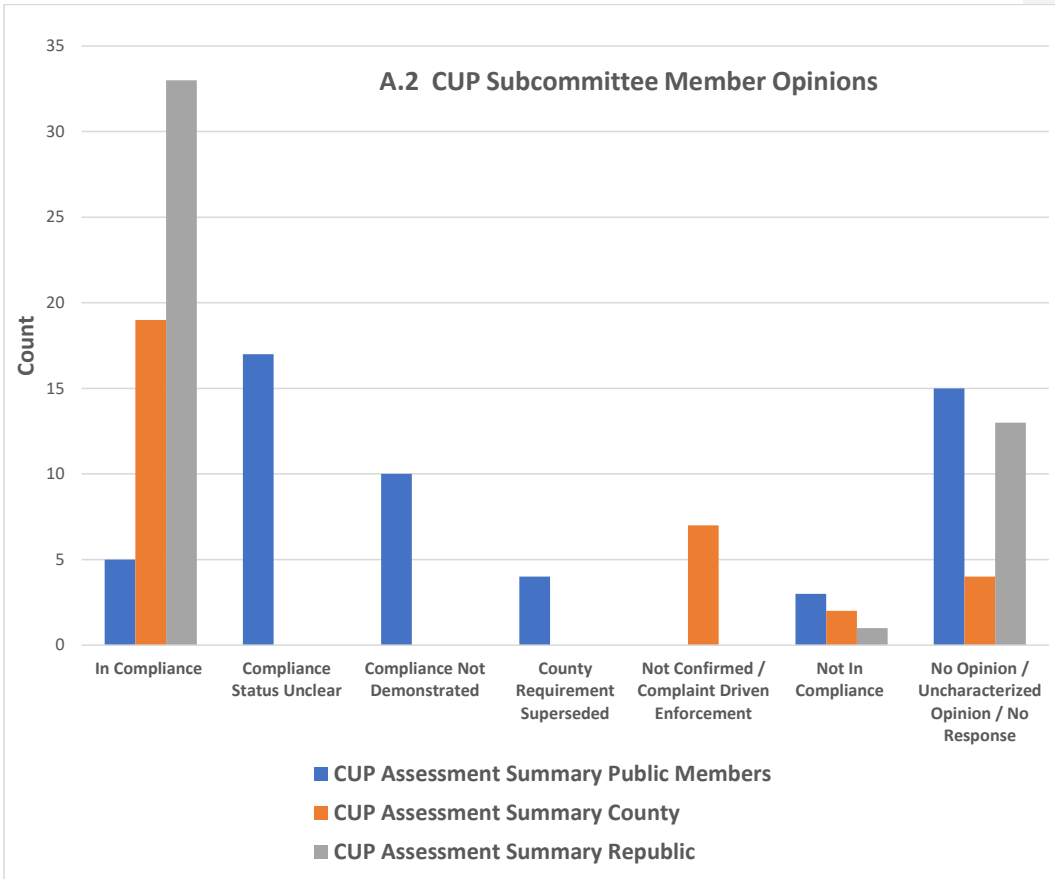
INTRODUCTION

The subcommittee's report is intended to provide an overview of all the Coffin Butte historical documents, starting in 1974, relating to land use provided to the Subcommittee by Benton County as of November 2022. It provides the context needed to better understand how Benton County got to where it is now regarding the Coffin Butte Landfill. All files were reviewed in depth by, at a minimum, the public members of the subcommittee (Catherine Biscoe, Edward Pitera, Mark Yeager).

The subcommittee report contains a summary and plain language evaluation of each of the historical files. Where possible, real-world examples are used to explain a review. Some situations point to a need for further information from the Oregon Department of Environmental Quality (DEQ). Other situations are annotated as possibly involving requirements stated in the 50-year long historical record that may have been superseded by legal interpretations of land use decisions or new laws or modified by subsequent decisions.

Table 2. *Assessments of Land Use Application Conditions* of the subcommittee report provides an overview of 13 historical documents representing 85 conditions of approval or other information contained in the reviewed files. The 85 conditions include 17 associated with power generation and 12 associated with the quarry. Although all conditions were reviewed, the subcommittee's efforts focused on the 56 associated with the landfill. The public members and the County indicated their evaluation of each condition in eight clearly defined categories including "In Compliance", "Compliance Unclear", "Not In Compliance", "No Opinion" etc. The Republic evaluations tended to be as comments making it difficult to summarize how close to consensus the three parties were. A chart summarizing the subcommittee's review of the historical record since 1974 is included follows below. It illustrates that the public members feel they need more information before concluding the landfill is in compliance with CUP Conditions.

Evaluations of legal theories impacting the enforceability of past land use decisions can be found in the section authored by the Legal Subcommittee. Some key situations where the Legal Subcommittee findings point to Land Use commitments that may no longer be enforceable are: 1) limitations on the geographical area sending solid wastes to Coffin Butte (1974 CP-74-01) due to legal precedents; 2) screening the landfill from view from County roads, plus how the site is to appear and be used after solid waste disposal operations stop (1983 PC-83-07 / L-83-07) due to how the County decision was structured; 3) A 2002 County/Republic Memorandum of Understanding.



SUBCOMMITTEE [WEBPAGE LINK](#)

SUBCOMMITTEE CHARGE

Charge: A chronological history of key Coffin Butte Landfill topics:

- A) Conditions of past land use approvals;
- B) Compliance with prior land use approvals and SWMP;

SUBCOMMITTEE MEMBERS AT END OF PROCESS

- Catherine Biscoe
- Ed Pitera
- Jeff Condit
- Mark Yeager

County Staff: Inga Williams

The **SUBCOMMITTEE’S REPORT** can be found linked [HERE](#), and in Appendix C.

The **SUBCOMMITTEE’S “MEETING NOTES”** can be found linked [HERE](#), and in Appendix D.

KEY FINDINGS AND KEY RECOMMENDATIONS

[This section lists Key Findings and Key Recommendations from the full subcommittee report below. These Key findings and Key recommendations do not capture the comprehensive discussions of the subcommittee, nor are they intended to do so. Instead, these provide a summary overview of key observations. The link adjacent to each Key Finding and Key Recommendation provides access to the full report. These summaries encourage readers to follow the links to find detailed content under in the full subcommittee report.](#)

~~Key findings and key recommendations from the full subcommittee report have been listed below. These key findings and recommendations summarize more complete content found in the full report, which can be accessed by clicking on the link adjacent to each.~~

Key Findings:

A review of the extensive number of land use decisions and associated conditions of approval reveals some overarching key findings regarding how land use decisions for the landfill, the quarry, power generation, and associated uses are implemented in Benton County.

- CUP F-1.** The Subcommittee’s Full Report is an in-depth review of selected historical land use documents. County Staff, Republic, Workgroup and public members participating on the Subcommittee provided comments, opinions and evaluations of the historical record. Each condition was vetted in depth. Consensus was reached by public members of the Subcommittee on most topics. Consensus was not reached with County Staff and Republic. Information from DEQ is needed to potentially reach consensus on many Conditions of Approval. All inputs have been retained to assist the public in understanding the historical documents and how they were viewed by the Subcommittee. Where needed, information obtained by firsthand experiences on BCTT’s [Landfill](#) and [Neighborhood](#) Tours was used to verify the compliance status of visible Conditions of Approval.
- CUP F-2.** Benton County has not and does not actively monitor compliance with many Conditions of Approval, nor does it proactively act to enforce compliance.
- CUP F-3.** Benton County relies on complaints to initiate action to enforce Conditions of Approval.
- CUP F-4.** All County materials reviewed reflect historical information and/or decisions from public processes (e.g., meetings, hearings, advertisement notices, etc.) based on public input and approval by appropriately authorized public planning boards.
- CUP F-5.** For over 50 years, Conditional Use Approvals have been the basis for the public’s understanding of many aspects of the landfill, including but not limited to: hours of operation, management of noise, screening of the site from view, how the site should look, and how the site can be used after the landfill is closed.
- CUP F-6.** No record was found of an official Benton County decision to increase the number of counties sending wastes to Coffin Butte Landfill prior to the [Supreme Court’s 1998 ruling](#). However, the 1983 land use decision expressly repealed the comprehensive plan provisions that were adopted after the 1974 decision that limit the number of counties that could waste to landfill. According to the staff report, the effect of this change was to remove such limitation.

- CUP F-7.** Conditions of [Approval 4](#) and [6](#) in CP-74-01 require reclamation of the landfill to meet criteria relating to visual appearance, screening from abutting county road, and use for grazing or another farm-type operation or other permitted use as approved by the Planning Commission and Board of County Commissioners. Reclamation was also addressed in PC-83-07.
- CUP F-8.** The required DEQ reports are submitted by the Applicant and maintained by the County for the public record. A full review of these County required submittals (e.g. monitoring records) was not conducted due to time constraints.
- CUP F-9.** [\[Link\]](#) Compliance with Conditions of Approval often involves a direction from the County that the Applicant should obtain permits from other entities such as, but not limited to, state agencies.
- CUP F-10.** Benton County did not and does not have a readily accessible, transparent complaint tracking system known to the public in place to receive and record land use complaints for documentation, investigation, and resolution.
- CUP R 10.5** [Benton County should ensure that its land use decisions clearly capture and make binding the intent of the decision-makers; and should communicate with the public the outcome of such decisions in understandable language. In addition, the County should inform the public – particularly those members living within 5 miles of the landfill - when changes outside of a public land use process affect how the landfill operates or is regulated.](#)
- CUP F-10-CUP F-11.** In assessing the status of compliance with past land use documents, there are numerous instances where supporting evidence may not be or is not available in County records.
- CUP F-11-CUP F-12.** Benton County does not review reports and other submitted materials as required per conditions of approval. Examples include: 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.
- CUP F-12-CUP F-13.** Benton County has issued land use Conditions of Approval before the Applicant was granted necessary operating permits from multiple State agencies. The County advised the Applicant that those permits were required but did not check that those required permits were procured by the Applicant, except for DEQ permits.
- 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](#).

CUP F14.5 County land use decisions have been written in a way that makes it difficult to understand the County’s commitment to public expectations and enforceability of Conditions of Approval. Building on information presented by the Legal issues and Landfill Capacity Subcommittees, examples of these are:

- A 1983 County decision where all but one of the publicly agreed to requirements for the visual appearance and ultimate use of the landfill may be unenforceable.⁶⁸
- A 1983 Benton County Amendment to the Comprehensive Plan.
- A 1992 United States Supreme Court ruling (Fort Gratiot Sanitary Landfill, Inc. v. Michigan Dept. of Natural Resources, 504 U.S. 353, 112 S.Ct. 2019 (1992) limiting the County’s power to regulate where wastes come from, wastes from as many as 39 counties in three states (OR, WA, ID) are allowed to be brought to Coffin Butte. These wastes have made up over 90 percent of the material coming to Coffin Butte in the last 5 years.

The Workgroup’s CUP Subcommittee and Legal Subcommittee have analyzed past land use documents and have reached different conclusions as to their effect. This has resulted in a sense that the “rules of the game” have changed without notification or that what was authorized to occur at the landfill has altered without a public review process. This has undermined public trust.

CUP F-13, CUP F-15. County approval documents and Applicant submittals for PC 83-07/L-83-07 describe reclamation of the site once it stops receiving waste. Requirements include what the appearance of the site is to be, terracing, allowable steepness of slopes, screening, use for grazing, consistency with agricultural and forest land use, etc. The Subcommittee did not reach a consensus on whether the County decisions and Applicant submittals associated with PC 83-07/L-83-07 are enforceable and require compliance. The public members believe they are enforceable. The County and Republic members believe they are not enforceable. Information on the County documents and Applicant submittals are in Comments for PC 83-07/L-83-07 [Conditions 1](#) and [3](#) in Table 2 Assessments of Land Use Conditions. The viewpoints of the Public Members can be found [here](#). The position of the Legal Subcommittee is found at [here](#).

CUP F-14, CUP F-16. DEQ’s requirements for a Worst–Case Closure and Post-Closure Care Plan and financial assurances do not require Valley Landfills to comply with County’s reclamation conditions of approval or public expectations.

CUP F-15, CUP F-17. Currently, it is not clear to the public what appropriate reclamation will look like for the ultimate disposition of the landfill.

Commented [ND15]: Based on discussions at the 3/16 workgroup meeting, are these statements still accurate?

Commented [ND16R15]: This statement may overstate the positions of individual persons and not the perspectives of the subcommittees or the workgroup.

CUP F-16-CUP F-18. The Subcommittee did not reach a consensus on the applicability and the authority of the [2002 Memorandum of Understanding](#) and how it may affect Conditions of Approval [in](#) pre-2002 decisions. About ten land use ~~matters~~ [decisions](#) – over half of the decisions - and fifty-three Conditions of Approval are potentially impacted.

Commented [ND17]: Is this a more accurate word choice?

CUP F-17-CUP F-19. Generally, DEQ has jurisdiction over many environmental impacts, and the County has jurisdiction over ~~most~~ [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. 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 (Record of Decision from the DEQ Cleanup Program), 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 (PC 83-07/L-83-07), but these are not reflected in Republic’s current DEQ-required site closure plans. The current Republic plan is the basis of DEQ’s required Financial Assurance filing that would fund the landfill’s closure if Republic could not do so.

CUP F-18-CUP F-20. [\[Link\]](#) Leachate from the landfill site is [currently](#) trucked to public wastewater treatment plants in Corvallis and Salem which discharge to the Willamette River. The last five years have ranged from 25.6 to 31.8 million gallons per year, with an average of 28.5. Last year the amount was 29.1 million gallons. The tanker truck capacity is 7000 gallons, which means 6 to 13 trips per day with an average of ten.

CUP F-19-CUP F-21. The acquisition of buffer land by landfill-related entities is a condition of DEQ’s Record of Decision from the DEQ Cleanup Program for the landfill. Landfill-related entities have acquired such buffer lands over the years that are currently zoned Rural Residential, Forest Conservation, Exclusive Farm Use. This situation was not evaluated by this subcommittee for consistency with Vision 2040 which went into effect in 2019.

CUP F-20-CUP F-22. [\[Link\]](#) Documentation for a required submittal of a plan for emergency water supplies to the Power Generation facility was not found in the land use records.

CUP F-21-CUP F-23. Odor issues have not been addressed in any of the land use Conditions of Approval.

CUP F-22-CUP F-24. [\[Link\]](#) In reviewing historical files it was not clearly specified what conditions were to be completed before final approval of the application and which conditions are applied to the on-going use of the land.

CUP F-23-CUP F-25. [A LUCS with a faxed date of Feb 25 '92 along with instructions on how to fill it out and what the intended use of the LUCS is was found as a supporting document in a 2000 Updated Site Development Plan report. The current 2019 dated Operating permit is based on a 2000 dated LUCS.](#)

CUP F-24-CUP F-26. [There are Valley Landfill, Inc. Closure Plan Reports / Financial Assurance documents dating from the mid 1990’s identifying areas of the landfill that are](#)

closed to meet DEQ requirements. Financial Assurance amounts were reduced to reflect the closure.

CUP F-25, CUP F-27. There is a record of citizen odor complaints in a March 29, 2005 DSAC meeting minutes. Detailed information (e.g. date, time, weather conditions) on odors was reportedly presented to DSAC. Two odor control methods mentioned: 1) Keep the power generation equipment running or keep the flare lit (i.e. burn the vapors), 2) "We are using soil cover and closing the landfill at night." September 16, 2008. Landfill representative told County to refer complainants to the landfill organization because the landfill is obligated to report them to DEQ.

CUP F-26, CUP F-28. Sources of Wastes: A 2001 tonnage report does not list any wastes as coming from out of state. Reports from subsequent years do e.g. 2002 lists ~12,000 tons under "Private Vehicles" (as separate from Commercial). 2003 @ ~37,000; 2004 @ ~34,000 tons; 2005 @ ~18,000; 2006 @ ~16,000

CUP F-27, CUP F-29. A "Special Waste Management Plan (Draft) 10/03 file date" identifies wastes other than household material that can be brought to Coffin Butte.

CUP F-30. No records for DEQ's air emissions (Title V) or surface water (NPDES) programs were available for review.

CUP F-31. A number of County records were made available for review as of November 2022. However, files for PC-94-10⁶⁹ and PC-94-11⁷⁰ listed for CUP review in the October CUP planning document were not available.

CUP F-28, CUP F-32. Hosting a privately owned landfill in the County involves a complex interplay of land use decisions, environmental regulations, legal precedent, and community perceptions.

Key Recommendations:

- CUP R-1.** Maintain the CUP Appendix along with the supporting County and DEQ files as an integral part of the Final Workgroup Report.
- CUP R-2.** Make the Appendix and supporting comprehensive library of files related to the Coffin Butte landfill electronically and continuously available to the public to increase accessibility and reduce the need for public records requests.
- CUP R-3.** Actively monitor and enforce prior land use decision Conditions of Approval for the landfill or any other land use decision.
- CUP R-4.** 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

⁶⁹ PC-94-10 Zone change from Rural Residential to Landfill Site Zone, Comprehensive Plan change from Rural Residential to Landfill Site

⁷⁰ 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.

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.

- CUP R-5.** 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.
- CUP R-6.** 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.).
- CUP R-7.** [Link](#) 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.
- CUP R-8.** Clarify and communicate to the public what appropriate reclamation will look like to appropriately manage community expectations for the ultimate disposition of the landfill. For example, the county should explain to the public, with DEQ's and Republic's assistance, DEQ's minimum reclamation requirements in the current Worst-Case Closure and Post-Closure Care Plan.
- CUP R-9.** [Link](#) Determine how or if the County's reclamation conditions of approval can be incorporated into DEQ's requirements for Valley Landfill's Worst-Case Closure and Post-Closure Care Plan for the landfill.
- CUP R-10.** Determine the authority of the 2002 Memorandum of Understanding as it relates to pre-2002 Conditions of Approval and broadly communicate the applicability of the 2002 MOU to the public to help manage community expectations.
- CUP R-11.** 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.
- CUP R-12.** Establish a reporting 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.
- CUP R-13.** Consider the impact 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.
- CUP R-14.** Evaluate whether acquiring buffer land by landfill-related entities is consistent with Vision 2040 including the impact on housing, forestry, and agricultural land uses. Acquiring buffer land is an action specified in DEQ's 2005 Record of Decision from the DEQ Cleanup Program for the landfill. "Property purchases as buffer around the landfill" is identified as one of the remedies for groundwater contamination.
- CUP R-15.** [Link](#) Require submittal of a plan for emergency water supplies for fire protection to the Power Generation facility per S-97-58.

- CUP R-16.** Develop a comprehensive emergency preparedness/response plan with neighboring counties, cities and fire districts given the experiences from the nationally reported 1999 landfill fire.
- CUP R-17.** To address public concerns about odor, engage in a dialogue with the community to promptly develop and implement an odor reporting and mitigation plan that is consistent with the community's needs and DEQ requirements and County health and nuisance regulations.
- CUP R-18.** 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.
- CUP R-19.** Do not use the existence of a LUCS as evidence or proof of compliance with DEQ requirements until additional information is available from DEQ on how to interpret their use of a LUCS.
- CUP R-20.** Review historical and current closure related documentation to determine their impact on the ultimate closure of the landfill site.
- CUP R-21.** Continue working with DEQ to access their files and make the information readily available on the County website.
- CUP R-22.** Conduct additional searches of County records and other depositories of County correspondence such as DEQ records to uncover documents that may impact the evaluation of future land use matters. Make existing files for PC-94-10 and PC-94-11 available to the public.
- CUP R-23.** Future users review all then-available source files for evaluating land use decisions and not rely solely on Appendix A.2. documentation.
- ~~CUP R-21~~-CUP R-24.** Retain a specialized professional team of outside resources to act in the County's behalf in all aspects of upcoming expansions of the landfill. This team should be structured to require only guidance from County staff. The team resources should not be dependent on County staff for administrative tasks or clerical support. A Public Member of BCTT knowledgeable in the issues should participate in the selection of outside resources.

CONCLUSION

The Land Use subcommittee reviewed documents spanning more than 50+ years to assess compliance with land use requirements and Conditions of Approval placed on the landfill. The efforts of the Benton County staff to locate and organize records and provide them in an electronic format was essential to allowing a full review of the historical documents and is appreciated. DEQ's similar efforts to assemble and make documents available for review was of great value and is also recognized. As a result of these efforts, for the first time the County now has a documented history of land use files for the landfill.

The ~~members of the~~ subcommittee members reviewed these files from differing positions. The public members were looking for a record of compliance. In many cases, documentation of

decisions made and tracked were missing, reasoning around decisions was sparse or missing, follow up documentation, once an application ~~was~~ closed, ~~it~~ was seldomly found. Some records may have been in other files kept by DEQ or other county departments, but these were not available for review.

County staff and Valley Landfills, Inc. (Republic Services) were working from alternate views. Valley Landfills, Inc. has presumed their work processes have achieved compliance with Conditions of Approval since their purchase of the landfill business in 2008. Throughout this process Valley Landfills has asserted their belief that the landfill was also in compliance at the time of purchase.

Benton County's work processes do not proactively monitor and enforce all land use Conditions of Approval. This means that ~~when~~ an application is given final approval and the requested use is allowed to begin, ~~then~~ County staff ~~then~~ find the applicant to be in compliance with initial Conditions of Approval. However, Conditions of Approval that span the life of a use are not necessarily tracked once an application file is closed. Benton County relies on complaints to initiate a compliance review rather than performing proactive site inspections.

The Public Members of the Subcommittee looked for facts in County and DEQ records to assess compliance as illustrated in the chart titled A.2 CUP Subcommittee Member Opinions (page reference), additional information is needed to gain consensus on roughly 80% of land use requirements ~~was not reached~~.

The Subcommittee's group's Key Findings reflect the Subcommittee's best efforts to identify facts in the record that have a bearing on compliance with land use decisions for Coffin Butte Landfill. The Key Recommendations of the Subcommittee outline actions that the County should implement to ensure best practices in developing and enforcing Conditions of Approval and to improve the land use review and approval process.

SECTION E: COMMUNITY EDUCATION & PUBLIC INVOLVEMENT SUMMARY

INTRODUCTION

Benton County relies on community participation for nearly all aspects of its government policies and decisions. In June 2021, Republic Services filed its initial Conditional Use Permit (CUP) application, requesting to expand landfill operations south of Coffin Butte Road. Community members affected felt they had limited opportunity for input. The Benton County Planning Commission denied Republic's CUP application request in December, 2021, at which point Republic Services timely appealed that decision to the Benton County Board of Commissioners. In March 2022, Republic services withdrew its appeal, stating its intent; the company is expected to file a new CUP request in 2023.

The County and other Community led groups and its Board-appointed bodies, including like the Solid Waste Advisory Council Committee (SWAC) and the Planning Commission have legal criteria they must follow legal criteria in making to make land use decisions, including following County regulations that provide opportunities for and community input. This input is critically important. Recommendations to ensure that community engagement and education are present for the next CUP process and other future land use decisions are discussed below.

Committee recommendations include: providing more time for public comments, updating community outreach methods to include underserved populations, providing more language accessibility, expanding website and social media reach beyond the existing self-selected lists, and ensuring that public comments are organized and easily accessible for review.

Goals and Objectives

- Best practice recommendations for Benton County communication and outreach with the public for the future CUP's and communications concerning the Sustainable Materials Management Plan (SMMP.)
- Review past CUP processes and standard Benton County Communication practices.
- Provide ideas and feedback for the BCTTC, SWAC, and the PC to help in Community Engagement
- Develop an outreach plan that allows the Ccommunity members more time to be involved in the CUP and other Land Use processes in the future and gives the County more access to community input for decision-making.

SUBCOMMITTEE WEBPAGE LINK

SUBCOMMITTEE CHARGE

- 1) General History:
 - a. Directed at the public and those new to the issue.
 - b. Not as detailed as the initial draft
 - c. Narrative more than a table of newspaper articles
 - d. Other historical details will appear in the Capacity and CUP reports for cross-referencing.
- 2) Next CUP Communications Protocols:
 - a. Start with legal requirements from Legal Subcommittee
 - b. Develop protocols for the timely and broad distribution of CUP-related information to the public, other governmental entities, and internal committees, groups, and divisions.

- c. Look at wide distribution via multiple communication channels.
 - d. Note opportunities for input from the jump.
 - e. Possible Open House/Community Forum events
 - f. Benton County devoted website with public comment email/form, Etc.
 - g. Legal Issue: Apply to just landfill CUP or all CUPs – perhaps, two processes; one for big/large area impacts vs. smaller/localized impacts, etc. It may require code amendments.
- 3) Executive Summary:
 - a. Emphasis will be on recommendations.
 - b. Note where “consensus” and MAJ- MIN
 - 4) Community Education Plan:
 - a. Focus on the ending of the BCTT process and preparation for the next CUP.
 - b. SMMP info?
 - c. FAQs from a process perspective – not the substantive perspective
 - d. Outreach Plan
 - 5) Recommendations

SUBCOMMITTEE MEMBERS AT END OF PROCESS

- Cory Grogan /
- Ginger Rough
- JonnaVe Stokes
- Louisa Shelby
- Marge Popp
- Mark Henkels
- Mary Parmigiani

Staff: Amelia Webb

The **SUBCOMMITTEE’S REPORT** can be found linked [HERE](#), and in Appendix C.

The **SUBCOMMITTEE’S “MEETING NOTES”** can be found linked [HERE](#), and in Appendix D.

KEY FINDINGS AND KEY RECOMMENDATIONS

[This section lists Key Findings and Key Recommendations from the full subcommittee report below. These key findings and key recommendations do not capture the comprehensive discussions of the subcommittee, nor are they intended to do so. Instead, these provide a summary overview of key observations. The link adjacent to each Key Finding and Key Recommendation provides access to the full report. These summaries encourage readers to follow the links to find detailed content under in the full subcommittee report.](#)

~~[Key findings and key recommendations from the full subcommittee report have been listed below. These key findings and recommendations summarize more complete content found in the full report, which can be accessed by clicking on the link adjacent to each.](#)~~

Key Findings:

Public engagement needs to be widened and become more inclusive. This is most likely to be achieved through the following measures:

- CEO F-1. **[CEO F-1]** Insure language accessibility for at least the County's most used languages. (English, Spanish, Mandarin, and Cantonese)
- CEO F-2. **[CEO F-2]** Use methods that help target underserved populations, particularly youth and low-income demographics.
 - a. This can be achieved through more SMS communication and ensuring all websites and surveys are mobile-friendly.
 - b. Increase social media communication and expand to more platforms. (Reddit, TikTok, Sub-Reddit, etc.)
 - c. Utilize social media advertising.
- CEO F-3. **[CEO F-3]** Use outreach methods that do not require people to be pre-signed up or self-selected. This includes, but is not limited to, flyers in public spaces, paid advertising on social media, in newspapers, and on the radio, informational mailers, and other resources.)
- CEO F-4. **[CEO F-4]** Create user-friendly access to public input documents and testimonies during the process to ensure Benton County, Planning Commission, SWAC, and others.
- CEO F-5. It is important for CUP applicants to have a pre-application meeting with community members to further foster collaboration and open communication.

Commented [ND18]: NOTE: These "Findings" are all couched as Recommendations.

Key Recommendations:

NOTE: Maps displaying the different radii referenced in the following recommendations can be found in Appendix B:5 with the full CEO report and [linked here](#). Generally, these recommendations focus on the landfill. However, ~~we recognize that~~ absent a change to the [existing County Code](#) they could potentially apply to all CUP expansions. In addition, please note that recommendations are listed in chronological order of their application, and not necessarily in order of significance.

- CEO R-1. County Development Department and County PIO are responsible for conducting communication and outreach.
- CEO R-2. The Board should consider changes to these notification recommendations based on the potential impact of other CUP applications.
- CEO R-3. Notifications for the **BCTT Survey** for public input on the Workgroup Report should include an email blast, website post, and displays or presentations where people already spend time (i.e., Library, community events). Notifications should include a 10-Mile radius from the landfill and should go out ideally a month before the survey closes.
- CEO R-4. Notifications for the **BCTT Report completion** should include an email blast to the Interested Parties List, Organic Subscribers, those who spoke at the meetings, the Soap Creek Neighbors Group, and other landfill neighbors. Notifications should also include a possible postcard to the entire county with a link to go to and/or scan to get on a list to be informed of further updates and/or have an open house event/public informational meeting. It should be on a weekend during the day so that most people can attend, and the link and email list should be readily available. A 10-mile radius from the landfill is proposed, and notifications should be sent 72 hours after the report is finished.

Commented [ND19]: Several Recommendations include BOLD text - are these intended to be linked or offered for emphasis? If the latter, the bold should be removed for consistency throughout the Report.

Commented [ND20]: See comment above et seq throughout this section.

- CEO R-5.** Notifications for **Board Hearings on the report** should include a postcard, an email blast, a newspaper notification, and social media posts and advertisements. The postcards should be sent to everyone in a 10- or 15-Mile radius of the landfill, and notifications should be sent 24 hours after the board hearing is scheduled.
- CEO R-6.** The County should notify the public **when Republic first notifies the County** 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.
- CEO R-7.** Notifications for **CUP filings**, which includes **the application review process**, 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.
- CEO R-8.** Notification when **County determines the application is complete** 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.
- CEO R-9.** Notifications for **SWAC Meetings** should include website posts and email blasts to interested groups and people already on the existing email list. The notifications should be sent one to two weeks before the meeting.
- CEO R-10.** Notifications of **the SWAC Recommendation** should include website posts and email blasts to interested groups and people already on the existing email list. The notifications should be sent out 24 hours after the recommendation.
- CEO R-11.** Notifications for **Planning Commission Meetings** should include website posts and email blasts to interested groups and people already on the existing email list. The notifications should be sent no later than two weeks before the meeting.
- CEO R-12.** Notifications of the **Planning Commission's decision on the application** should include website posts and email blasts to interested groups and people already on the existing email list. The notifications should be sent out 24 hours after the recommendation.
- CEO R-13.** Notifications of **when the Board is hearing the CUP application for approval** will include a postcard, email blast, newspaper notification, and social media posts and advertisements. They should be sent to everyone within a 10- or 15-Mile radius of the CUP site and occur 24 hours after scheduled.
- CEO R-14.** Notifications of the **Board’s decision on the application** will include an email blast, website banner, newspaper notification, and social media posts. The notifications should be sent out 24 hours after the decision.

CEO R-15. Applicants of CUPs should have a pre-application meeting with communities affected by the CUP. These pre-application meetings should inspire transparency between the applicant and community members. Communication of these pre-application meetings should include an email blast, website post, and postings on the county's various social media outlets.

CONCLUSION

Community education and extended outreach are vital steps of the land use application process. Making sure everyone in the community gets information about this process requires two broad methods: specifically targeting underserved groups and using multiple outreach methods. Targeting underserved groups can include increased social media use and other outreach methods that can easily be accessed with a phone. It is also essential that communications are succinct and easily understood by the entire population. In addition, it is critical that some of the communications do not require community members to be pre-signed up. Using multiple outreach methods is also important, and during the process, the county should gauge the effectiveness of the communication strategy and change it if necessary.⁷¹

Commented [ND21]: This Conclusion would be strengthened with a Finding about specific underserved populations. The text above alludes to groups but is not clear about the needs of "underserved"

⁷¹ Benton County Oregon. (2022). Benton County Talks Trash solid waste process workgroup communication and outreach plan.
https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8384/imperati_grogan_121222_fw_bctt_subcommittee_e_swppwg_communication_outreach.pdf

WORKGROUP Member	Polling	Charge	Not Here	Abstain	1	2	3
1) Chuck Gilbert	X	All					
2) Marge Popp	X	All					
3) Elizabeth Irish	X	All					
4) Russ Knocke / Ginger Rough	X	All but C					
5) Shawn Edmonds/Julie Jackson	X	All but C					
6) John Deuel	X	All					
7) Kathryn Duvall	X	All					
8) Christopher McMorran	X	All					
9) Ryan McAlister	X	All					
10) Mary Parmigiani	X	All					
11) Ed Pitera	X	All					
12) Louisa Shelby	X	All					
13) Catherine Biscoe	X	All					
Polling Totals:							
RESULT: Consensus / No Consensus (Keep One)							
Majority-Minority Result: 1s = X and 2s = X 3s = X							
EX-Officio	Polling	Charge	Not Here	Abstain	1	2	3
Audrey O'Brien	No	All					
Brian May/Andrew Johnson	No	All					
Shane Sanderson	No	All					
Daniel Redick	No	All					
Sean McGuire/Jen Brown	No	All					
Ex-Officio Totals:							

V. Final Polling Template.

Last Meeting Transcript

The meeting recording can be found here:

Rev created a meeting transcript that can be found in Appendix X.

Member Statement in Alpha Order

Member	Affiliation	Statement Number
Audrey O'Brien	DEQ	1
Brian May ALT: Andrew Jonson	Marion County	2
Catherine Biscoe	Public	3
Christopher McMorran	Public	4
Chuck Gilbert	SWAC/DSAC	5
Daniel Redick	Benton County Staff	6
Ed Pitera	Public	7
Elizabeth Irish	Planning Commission	8
John Deuel	Public	9
Kathryn Duvall	Public	10
Louisa Shelby	Public	11
Marge Popp	SWAC/DSAC	12
Mary Parmigiani	Public	13
Russ Knocke. ALT: Ginger Rough	Planning Commission	14
Ryan McAlister	Public	15
Sean McGuire. ALT: Jen Brown	Benton County Staff	16
Shane Sanderson	Linn County	17
Shawn Edmonds. ALT: Julie Jackson	Republic: National	18

VI. Public Outreach and Process Reflections

(Will be updated after last meeting.)

Public Outreach Summary and Analytics

1. Benton County Solid Waste Situation Assessment
 - a. On Tuesday, July 19th, 2022, the Benton County Board of Commissioners heard the results of a Situational Assessment focused on solid waste and disposal, including Coffin Butte landfill. An independent third-party affiliated with Oregon Consensus presented the situation assessment. For a copy of the written report, please click [HERE](#). The assessment included a recommendation for the Board of Commissioners to create a temporary workgroup for making recommendations to the Board regarding specific solid waste topics. During the July 26th, 2022 meeting, the Board decided to move forward with the process of convening this workgroup.
 - b. Information about the Board meetings that approved the Assessment and the Charter, along with BOC meetings where members of the public gave testimony can be found at the [Solid Waste Process workgroup webpage](#)
2. Outreach: Sep 22 – Jan 23
 - a. Products:
 - i. Talking Points completed Sept. 15
 - ii. Strategic comms info completed Sept. 30
 - iii. Updates about workgroup prior to every meeting
 1. Sent to CC list every time.
 - iv. Periodic workgroup updates
 1. County internal and external newsletters
 2. Social media updates – analytics report being developed.
 - v. Public Engagement Events
 1. Tour of Coffin Butte Landfill – Sept. 24th
 - a. [Nextdoor](#)
 - b. Website [Press Release](#)
 - c. Sent to all Benton County employees.
 - d. [Benton County organic subscribers](#)
 - e. Sent SWPWG subscriber list.
 - f. [Sent to media partners](#) via FlashAlert
 - g. [Facebook](#)
 - h. [Twitter](#)
 - i. Instagram
 2. Tour of Neighborhood – Oct. 6th
 - a. [Nextdoor](#)
 - b. Website [Press Release](#)
 - c. Sent to all Benton County employees.
 - d. [Benton County organic subscribers](#)
 - e. Sent SWPWG subscriber list.
 - f. [Sent to media partners](#) via FlashAlert.
 - g. [Facebook](#)
 - h. [Twitter](#)
 - i. Instagram

3. Open House – Nov. 17th
 - a. [Nextdoor](#)
 - b. Website [Press Release](#)
 - c. Sent to all Benton County employees.
 - d. [Benton County organic subscribers](#)
 - e. Sent SWPWG subscriber list.
 - f. [Sent to media partners](#) via FlashAlert.
 - g. [Facebook](#)
 - h. [Twitter](#)
 - i. Instagram
 - j. Developed flyer.
 - k. Supported logistics.
- vi. Media releases
 1. "Benton County Talks Trash" work group scheduled to address future of solid waste! - Thu, 08/11/2022
 2. Benton County workgroup talking trash and the future of solid waste - Fri, 09/09/2022
 3. "Benton County Talks Trash" Solid Waste Process Workgroup's scheduled to offer landfill/neighborhood tours - Thu, 09/22/2022
- vii. Social media posts
 1. Sept. 8 official kickoff BOC updates completed Sept. 9
 2. Sept. 15 meeting post and event posted to Facebook and Nextdoor completed Sept. 15
 3. Sept. 24 landfill tour post and event posted to Facebook completed Sept. 22
 4. Oct. 1 neighborhood tour post and event posted to Facebook and Nextdoor
 5. Oct. 6 meeting #3 post and event posted to Facebook and Nextdoor completed 9/27
 6. Reminder email to SWPW committee about Oct. 6 meeting completed 10/5
 7. Oct. 24-25 subcommittee meetings email
 8. Oct. 25 SM posts for meeting #4
 9. Oct. 27 meeting #4 post, event posted to Facebook and Nextdoor, and email to committee.
 10. Reminder email to SWPW committee about Oct. 27 meeting
 11. CANCELLED Nov. 3 meeting #5 post and event posted to Facebook and Nextdoor
 12. Cancellation reminder email to SWPW committee about Nov. 27 meeting completed Nov. 1
 13. Nov. 17 meeting #5 post, events on FB and ND, and email to committee
 14. Reminder email to SWPW committee about Nov. 17 meeting and open house
 15. Dec. 15 meeting #6 post, events on FB and ND, and email to committee Survey (TBD)
 16. Reminder email to SWPW committee about Dec. 15 meeting and open house
 17. Jan. 19 meeting #7 post, events on FB and ND, and email to workgroup members
 18. Reminder email to SWPW committee about Jan. 19 meeting

[Another one bites the dustbin in Benton County trash committee](#)

Albany Democrat-Herald, Dec. 13, 2022. Benton County's elected board took another of its trash advisers to the curb, voting Tuesday morning, Dec. 13, to remove someone from the task force that focuses on a potential expansion at Coffin Butte.

DEADLINE APPROACHES, OFFICIALS ANNOUNCE DAYTIME WARMING CENTERS

Corvallis Advocate, Dec. 23, 2022. Ahead of the new year, the Benton County Board of Commissioners got another update from the Benton County Trash Talks workgroup during their meeting on Tuesday, Dec. 20.

Tour provides peek into landfill operations, Benton workgroup dynamics

Albany Democrat-Herald, Sep. 24, 2022. Operators of Coffin Butte had local leadership on hand, and views of the landfill near Corvallis during a tour on Saturday, Sept. 24 — but few answers.

BENTON COUNTY SEEKS LANDFILL BOARD MEMBERS, SPENDS \$88,000 ON FACILITATORS

Corvallis Advocate, Aug. 15, 2022. Benton County came out with some trashy news this week. Yes, things are moving forward for the question of what to do about the Coffin Butte landfill, as well as solid waste management in general for our County.

County awards more time, money to Coffin Butte workgroup; fires member

Albany Democrat-Herald, Oct. 25, 2022. Benton County's executive board took the unusual step of firing a volunteer adviser, voting 2-1 Tuesday, Oct. 25 to remove a delegate from its landfill task force.

COUNTY BACKS NEW TRAIL IN MONROE, CITY OFFERS MORE ASSISTANCE, MORE UPCOMING SOLID WASTE MEETINGS

Corvallis Advocate, Dec. 9, 2022. Trash Talks continue in Benton County with several upcoming meetings for the Solid Waste Process Workgroup, with the next scheduled on Dec. 15.

County awards more time, money to Coffin Butte workgroup; fires member

Albany Democrat-Herald, Oct. 25, 2022. Benton County's executive board took the unusual step of firing a volunteer adviser, voting 2-1 Tuesday, Oct. 25 to remove a delegate from its landfill task force.

OSU GROWS, ROCKIT COMES TO TOWN, DAIRY POLLUTANT PETITION FAILS BY FUNDING, UPDATE TO ROCK CREEK FOREST WATERSHED, OPEN HOUSE FOR TRASH TALKS, & CHAMBER EVENTS

Corvallis Advocate, Nov. 14, 2022. On Thursday, November 17, all are welcome to come to the Trash Talks Open House from 3:00-7:30 p.m. at the Benton County Kalapuya Building, located at 4500 SW Research Way, Corvallis.

JSIP & TRASH TALKS UPDATES, MHADDAC MEETING DISCUSSES MEASURE 110 FAILURES, ELECTION DENIERS & CORPORATE FUNDING

Corvallis Advocate, Nov. 3, 2022. Darren Nichols and Sam Imperati spoke about how things are going with the talks about the possible expansion of the Coffin Butte Landfill.

TRASH TALKS START UP, JSIP DRAFT OF MASTER PLAN, NEW PUBLIC HEALTH POSITIONS REQUESTED

Corvallis Advocate, Sep. 5, 2022. The Benton County Talks Trash workgroup will have its first meeting.

["Benton County Talks Trash" Solid Waste Process Workgroup scheduled to offer landfill/neighborhood tours](#)

Flashalert, Sep. 22, 2022. The Benton County Talks Trash Solid Waste Process Workgroup is offering the following tours:

Benton County workgroup talking trash and the future of solid waste.

Flashalert, Sep. 9, 2022. The "Benton County Talks Trash" workgroup officially kicked off Sept. 8 with a welcome from the Benton County Board of Commissioners, introductions, and discussion about a collaboration process that will be happening through mid-December to support decision-making about the future of solid waste in Benton County.

[Benton county talks trash - Twitter Search / Twitter](#)

Twitter, Aug. 12, 2022. The [#BentonCountyBoardOfCommissioners](#) want you to help "talk trash" this fall by participating in Benton County Talks Trash.

Twitter, Sep. 22, 2022. ICYMI: The Benton County Talks Trash Solid Waste Process Workgroup is offering a tour of the Coffin Butte Landfill this Saturday!

Twitter, Sep. 9, 2022. The "Benton County Talks Trash" workgroup officially kicked off yesterday with a welcome from the [#BoardOfCommissioners](#).

Twitter, Dec. 23, 2022. Ahead of the new year, the Benton County Board of Commissioners got another update from the Benton County Trash Talks workgroup, and there's some concern about tight deadlines for their report.

[Solid Waste Process Workgroup Meeting #7 | Facebook](#)

Facebook, Jan. 12, 2023. Solid waste process workgroup meeting #7.

[Solid Waste Process Workgroup Meeting #6 | Facebook](#)

Facebook, Dec. 7, 2022. Solid waste process workgroup meeting #6.

[Solid Waste Process Workgroup Meeting #5 & Open House Event | Facebook](#)

Facebook, Nov. 14, 2022. Solid Waste Process Workgroup Meeting #5 & Open House.

[Solid Waste Process Workgroup Meeting #4 | Facebook](#)

Facebook, Oct. 21, 2022. Solid Waste Process Workgroup Meeting #4.

[Solid Waste Process Workgroup Meeting #3 | Facebook](#)

Facebook, September 26, 2022. Solid Waste Process Workgroup Meeting #4.

[Solid Waste Process Workgroup meeting](#)

Nextdoor, Jan. 12, 2023. Please join us for the next Solid Waste Process Workgroup meeting on Jan 19.

[Solid Waste Process Workgroup Meeting #6](#)

Nextdoor, Dec. 7, 2022. Please join us for the next Solid Waste Process Workgroup Meeting #6.

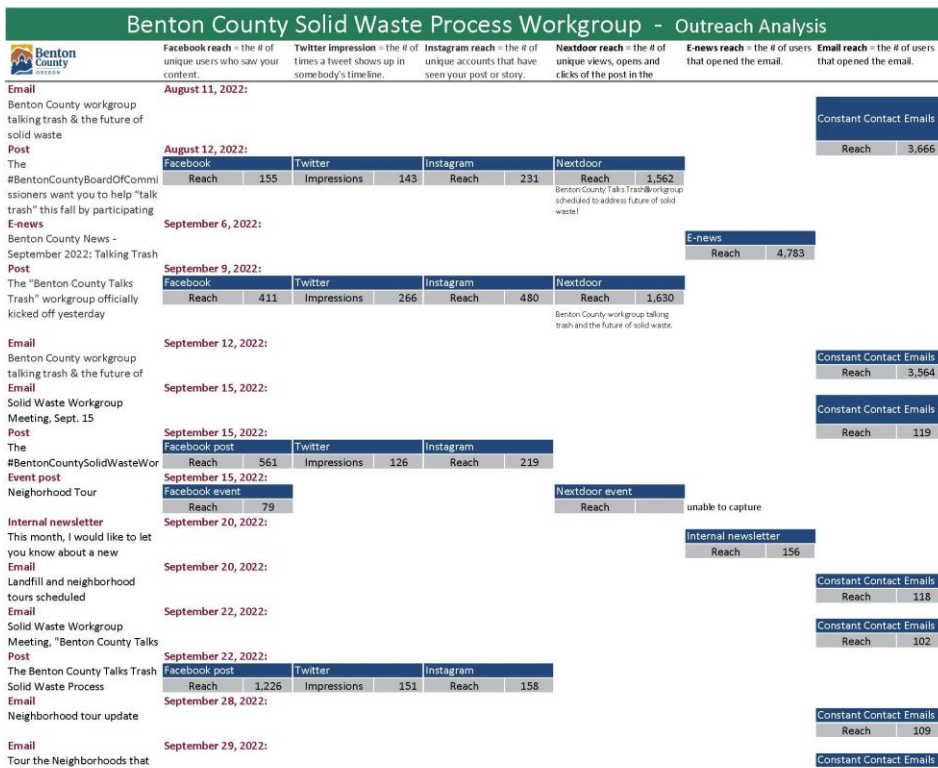
[Solid Waste Process Workgroup Meeting #5 & Open House Event](#)

Nextdoor, Nov. 14, 2022. Please join us for the next Solid Waste Process Workgroup Meeting #5 and a special open house event.

BENTON COUNTY WORKGROUP TALKING TRASH AND THE FUTURE OF SOLID WASTE

Nextdoor, Sep. 12, 2022. The “Benton County Talks Trash” workgroup officially kicked off Sept. 8 with a welcome from the Benton County Board of Commissioners, introductions, and discussion about a collaboration process that will be happening through mid-December to support decision-making about the future of solid waste in Benton County.

Analytics



surround the Coffin Butte										Reach	100
Event post	October 1, 2022:										
Neighborhood Tour	Facebook event							Nextdoor event			
	Reach	313						Reach		unable to capture	
E-news	October 5, 2022:										
Benton County News - October 2022: Solid Waste Process Workgroup tours Coffin Butte								Nextdoor	E-news		
								Reach	4,503	Reach	4,638
Post	October 5, 2022:										
ICYMI the Solid Waste Process Workgroup is holding meeting #3 tomorrow from 3-7pm.	Facebook	Twitter	Instagram								
Email	Reach	2	Impressions	139	Reach	161					
Reminder - Solid Waste Workgroup Meeting, "Benton Solid Waste Process Workgroup Meeting #3"	n/a Facebook error										
	October 5, 2022:									Constant Contact Emails	
Event post										Reach	111
Solid Waste Process Workgroup Meeting #3	October 6, 2022:										
	Facebook event							Nextdoor event			
	Reach							Reach		unable to capture	
Email	October 20, 2022:									Constant Contact Emails	
Solid Waste Process Workgroup Meeting, "Benton Solid Waste Process Workgroup Subcommittee"										Reach	108
Email	October 21, 2022:									Constant Contact Emails	
Solid Waste Process Workgroup Subcommittee										Reach	115
Email	October 25, 2022:									Constant Contact Emails	
REMINDER: Solid Waste Process Workgroup Meeting - Post										Reach	111
Attend the Solid Waste Process Workgroup meeting #4 this	October 25, 2022:										
Event post	Facebook	Twitter	Instagram								
Solid Waste Process Workgroup Meeting #4	Reach	778	Impressions	122	Reach	130					
Event post	October 27, 2022:										
Solid Waste Process Workgroup Meeting #4	Facebook event							Nextdoor event			
E-news	Reach	183						Reach		unable to capture	
Benton County News - November 2022: Solid Waste	November 1, 2022:										
Cancelled: Solid Waste Process Workgroup Meeting - Email								Nextdoor	E-news		
Open House at the next Solid Waste Process Workgroup Event post								Reach	5,054	Reach	3,732
Solid Waste Process Workgroup Meeting #5	November 1, 2022:									Constant Contact Emails	
Email										Reach	115
REMINDER: Solid Waste Process Workgroup Meeting - Email	November 10, 2022:									Constant Contact Emails	
Open House at the next Solid Waste Process Workgroup Event post										Reach	3,516
Solid Waste Process Workgroup Meeting #5	November 14, 2022:										
Email	Facebook event							Nextdoor event			
REMINDER: Solid Waste	Reach	220						Reach		unable to capture	
	November 15, 2022:									Constant Contact Emails	

Page 2 of 3

Process Workgroup Meeting & E-news										Reach	103	
Benton County News - December 2022: Upcoming	December 6, 2022:											
Email								Nextdoor	E-news			
Solid Waste Process Workgroup Meeting - Dec. 15								Reach	4,256	Reach	4,215	
Event post	December 7, 2022:									Constant Contact Emails		
Solid Waste Process Workgroup Meeting #6										Reach	105	
Post	December 7, 2022:											
Attend the Solid Waste Process Workgroup meeting #6 this	Facebook event							Nextdoor event				
Email	Reach	213						Reach		unable to capture		
REMINDER: Solid Waste Process Workgroup Meeting -	December 12, 2022:											
Benton County Solid Waste Process Workgroup totals:	Facebook	Twitter	Instagram							Constant Contact Emails		
	Reach	103	Impressions	142	Reach	179				Reach	109	
	December 13, 2022:											
	Reach total	4,408	Reach total	1,089	Reach total	1,558	Reach total	17,005	Reach total	17,534	Reach total	12,171
	Follower total	5,899	Follower total	3,079	Follower total	2,067	Follower total	21,922	Subscribers total	6,959	Subscribers total	6,959
Total Reach =	39,948 - as of 12/31/22											
Total Followers =												
Web visits	Media advisories											
SWPW page views	2,091											
Rec. Items on page	497											
Submittal page views	1,239											
Meeting links views	598											

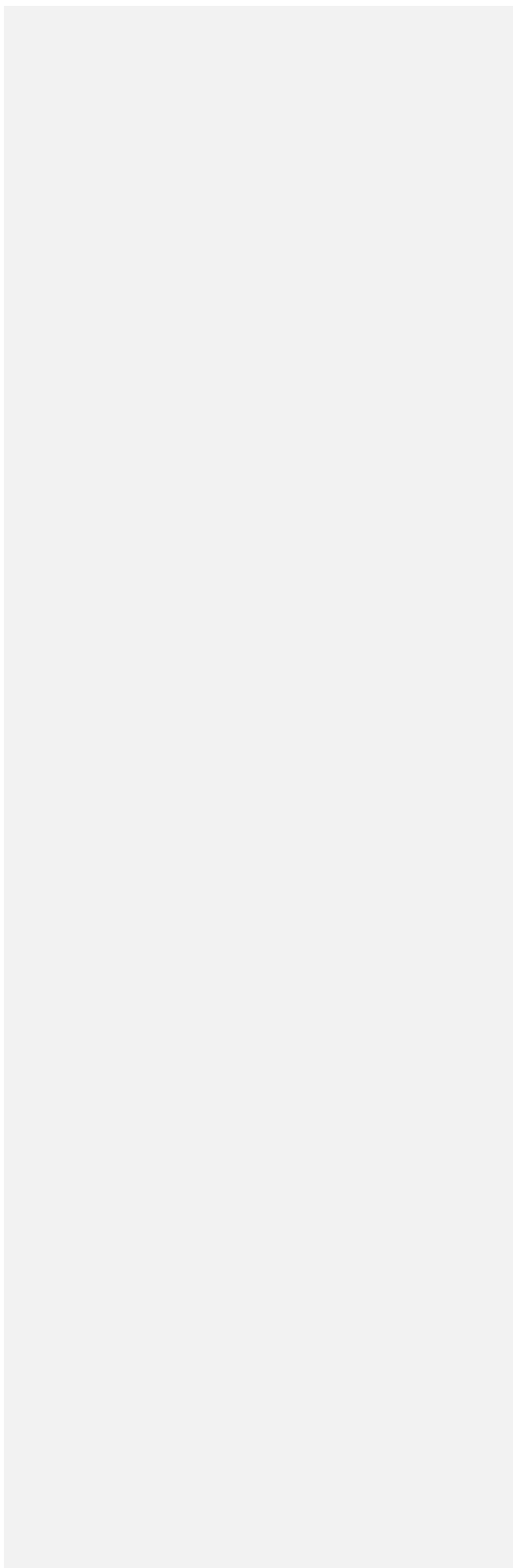
REACH:
 - The greatest reach was through the County's E-newsletter and Nextdoor (N3) platforms, which also have the most followers/subscribers. The next greatest reach is through email subscriptions, followed by Facebook (FB), Instagram (IG), and Twitter (TW) channels.
 - The County's total reach surpassed its total number of followers/subscribers.

ENGAGEMENT:
 - The County received a 2.4% overall engagement rate. 2022 industry standards for E-newsletters is 1%, ND = 0.45-0.55%, Email subscriptions = 1%, FB = 0.064%, IG = 0.67%, TW = 0.037%.
 - (Four engagement rates: E-newsletter = 5%, ND = 0.0%, Email subscriptions = 5.6%, FB = 2.9%, IG = 2.5%, TW = 1.5%. With the exception of ND, all of the engagement rates are higher than industry standards.

Member Process Evaluation Summary

TO BE PROVIDED AFTER LAST MEETING

Facilitator Process Reflections
TO BE PROVIDED AFTER LAST MEETING



VII. Conclusion

TO BE PROVIDED

Commented [S122]: There is stuff below

VIII. Appendix

Table of Contents

- A. Meeting Summary and Open House Topics
- B. BCTTW, CUP, Community Involvement FAQ sheet
- C. Subcommittee Reports
 - 1. Sustainable Materials Management Plan (SMMP)
 - 2. Landfill Size/Capacity/Longevity
 - 3. Legal Issues & Land Use Review
 - 4. Past Land Use Application Conditions
 - 5. Community Education & Outreach
- D. Subcommittee "Meeting Notes"
 - 1. Sustainable Materials Management Plan (SMMP)
 - 2. Landfill Size/Capacity/Longevity
 - 3. Legal Issues & Land Use Review
 - 4. Past Land Use Application Conditions
 - 5. Community Education & Outreach
- E. Draft #3 Feedback from the Planning Commission and SWAC/DSAC
 - 1. Sustainable Materials Management Plan (SMMP)
 - 2. Landfill Size/Capacity/Longevity
 - 3. Legal Issues & Land Use Review
 - 4. Past Land Use Application Conditions
 - 5. Community Education & Outreach

Appendix A: Meeting Summary and Open House Topics

A. Meeting One: 09/08/2022

1. Main Topics

- Welcome & Introductions
- Participant Meeting Instructions
- Participant Commitments
- How We Got Here
- Review Major Charter Sections:
- Collaboration 101 Training
- Public Comment
- Triage Charge Elements
- Draft Report Structure Explore Common Understandings Section
- Mechanics: Add Representative Table
- Next Steps

2. Materials Presented

- [Agenda](#)
- [Assessment](#)
- [Facilitator Observations](#)
- [Charter](#)
- [PowerPoint](#)
- [Survey Summary](#)
- [First Draft of Report](#)

3. WORK GROUP Discussion

The workgroup reviewed the major Charter sections: these were the general scope, charge elements, guiding principles, how polling works, and the “one table” concept. The workgroup triaged the draft report structure, exploring the Common Understandings section. The major themes were refining the list of missing topics/questions, providing additional information where needed, and commenting on the next draft. When discussing the mechanics of the workgroup, the central topics were establishing meeting times, and scheduling suggestions for the landfill and neighborhood tours.

For the complete Workgroup discussion, please review the [09/08/2022 Meeting Minutes here](#).

The Zoom video recording is available [here](#).

4. Action Items

Members were given the Meeting One Evaluation link. Homework for the next meeting included providing information on member alternates and submitting any final topics and/or questions with supporting materials.

The County agreed to work on increasing project visibility and public information and expanding the interested party list in the making with those that were on the CUP process list.

5. Public Comment

Themes from Public Comments:

- a) Mountain of garbage. Need to keep existing capacity in mind and what this means for the County.
- b) Only 7% of waste comes from Benton county and should not be dumping ground for others.
- c) Process should focus more on SMMP – not a CUP application.
- d) Once a cutting-edge facility; now never-ending community problem.
- e) Coffin Butte a tragedy of commons; make those furthest away pay more.
- f) Future-orientated focus removed from the Charter – focus on more than landfilling.
- g) Consider options for harvesting energy from the landfill
- h) He workgroup is in a unique position regarding common understandings. The workgroup should get the facts and work hard to develop common understandings. This could be a worthy outcome in and of itself.

B. Meeting Two: 09/15/2022

1. Main Topics

- Welcome & New Member Introductions
- Participant Meeting Instructions
- Participant Commitments
- Approve Draft Minutes from Meeting One
- Public Comment
- Meeting One Evaluation Highlights
- Homework Highlights
- Explore Common Understandings & Refine List of Missing Topics/Questions
- Discuss SWMP Table of Contents Concept
- Triage Charge Elements/Workplan
- Next Steps

2. Materials Presented

- [Agenda](#)
- [Draft 9/8/22 Minuets](#)
- [Comments](#)
- [Meeting One Evaluation](#)
- [Homework Summary](#)
- [Common Understandings Table of Contents](#)
- [SWMP Table of Contents](#)

3. WORK GROUP Discussion

Sam shared the results and explained how the evaluations and homework answers are compiled. Amelia pulls comments from SurveyMonkey and formats it for ease of review. The workgroup then had a brief discussion about fairness and balance. Important themes from exploring the Common Understandings Section and the SWMP include emphasizing that the workgroup's current purpose is to grow a full list of topics (not to finetune or get precise placement), brainstorming different areas of questioning. The

workgroup then triaged the Charge Elements/Workplan. The overarching theme was flushing out what the workgroup has the ability and resources to do.

For the complete Workgroup discussion, please review the [09/15/2022 Meeting Minutes here](#).

The Zoom video recording is available [here](#).

4. Action Items

Members were given the Meeting Two Evaluation link, and tour updates were given. Homework for the next meeting included members track changing the Charge Common Understandings and SMMP Table of Contents with any topics/questions they think are missing.

5. Public Comment

- Paul Nietfeld (engineer and resident living between Corvallis city limits and the landfill): Issues: Historic intake for coffin butte. Shows a graph with landfill input and a table with projections for landfill life, including Cell 6. Quarry challenge. Shared a desire to document intake, life, and quarry in a final report.
- Sam's shared an example about assumptions used by different parties and the need to test them collaboratively. The use of sensitivity analyses.
- Ryan McAlister adds that life events make landfill input ebb and flow.
- Chuck Gilbert: Referenced the memo submitted on sustainability & looking at the landfill as a resource and encouraged the members to read it.
- Ken Ekland: Followed up on Paul's presentation. He had concerns about volume numbers in the report/document being incorrect, so the lifespan Paul predicted may be too generous. Shared comments on the history of the Solid Waste Advisory Council (SWAC) and the Disposal Site Advisory Committee (DSAC.)
- Brian Fuller also shared comments on the topic of comparing the different assumptions and metrics used by different groups.
- A subcommittee should be set up so people from different groups can discuss these assumptions and then present them together to the workgroup. Sam also encourages people to send in additional written comments on these topics.

C. Meeting Three: 10/06/2022

1. Main Topics

- Welcome & New Member Introductions
- Review Participant Meeting Instructions & Agenda
- BOC Presentation
- Approve Draft Minutes: Last Meeting & Tours
- Landfill Tour Questions
- Public Comment
- Comments on Meeting Two Evaluation Suggestions
- Discuss County Counsel Deference Memo & Set Stage for Legal Subcommittee
- Check-in Activity
- Big Picture Discussion
- Stand-Up the Subcommittees

- Review Amended Workplan
- Next Steps

2. Materials Presented

- Agenda
- [Draft 9/15/2022 Minutes](#)
- [Landfill Tour Minutes & Landfill Tour Questions](#)
- [Neighborhood Tour Minutes & Neighborhood Tour Questions](#)
- [Meeting Two Evaluation](#)
- [Email Attachment Comments](#)
- [County Council Deference Memo](#)
- [Common Understandings Table of Contents with Track Changes](#)
- [SWMP Table of Contents with Track Changes](#)
- [CUP Conditions with Track Changes](#)
- [Member Memo](#)
- [Republic Memo: Section 2 C and Section 3](#)
- [Charge C](#)
- [Charge B](#)

3. WORK GROUP Discussion

The workgroup discussed what to do with the mass number of emails that get sent between meetings. Between meeting one and two it was roughly 1,600 emails. Many of these emails focused on understanding Charge b, so a legal subcommittee to present to the group on what the law was proposed. The big picture process discussion emphasized that the workgroup is engaging in a bridge process that will set the stage for subsequent processes and decisions. The subcommittees to stand up are as follows:

- Landfill Size/Capacity/Longevity Subcommittee (Existing)
- CUP Conditions Subcommittee (Existing)
- Law Subcommittee (Pending)
 - i. Land Use Law 101
 - ii. Deference Memos
 - iii. Rights and Obligations
 - iv. Entity Rights and Obligations
 - v. Reporting Requirements
- Potential SWMP Subcommittee and Potential Amendment Request to BOC

For the complete Workgroup discussion, please review the [10/06/2022 Meeting Minutes here](#).

The Zoom video recording is available [here](#).

4. Action Items

Members were given the Meeting Three Evaluation link. The facilitation team will schedule and conduct the subcommittee meetings before the next workgroup meeting. County staff will organize and add additional materials to the discussed documents and present them to the workgroup at the next meeting. Republic also committed to responding to tour questions for the subcommittees to review.

5. Public Comment

- Audrey Sterling (Community Member): Reflects that the talk in the community focuses on the idea that the landfill is full and what to do with the trash. They need to find a place for it, so the landfill does not overflow.
- Kristen Mitchell (Executive Director of Oregon Refuse & Recycling): Explains what her company does, noting that Coffin Bute is in very good standing. She also notes that because Senate Bill 882 was passed, RMA should come into effect soon
- Cris Reese (Community Member and Small Business Owner): Expresses appreciation for the work Republic does at Coffin Bute and notes he does not want small businesses to be forced to pay garbage trucks to haul longer distances.
- Chuck Gilbert (Community Member): Comments on how the landfill and rock removal are both valuable resources.
- Jennifer Holworth (Community Member): Reflects positively on Republic's compost and recycling programs.

D. Meeting Four: 10/27/2022

1. Main Topics

- Welcome & New Member Introductions
- Review Participant Meeting Instructions & Agenda
- Approve M3 Draft Minutes
- BOC Action on Updated Workplan
- Public Comment
- Update on Tour Questions & Answers
- SMMO Values & Goals Discussion
- Q&A Session with Representatives from other Counties
- Subcommittee Reports
- Next Steps

2. Materials Presented

- [Agenda](#)
- [Draft M3 Minutes](#)
- [M3 Evaluation Summary](#)
- [Updated Workplan](#)
- [Public Comments Document](#)
- [Member Comments Document](#)
- [BCTT Tour Questions 10/25](#)
- [SMMP Values & Goals Presentation: 2040 Initiative History & Overview](#)
- [Charge C](#)
- [A.1 Subcommittee Report](#)
- [A.2 Subcommittee _____](#)
- [A.3 Subcommittee Webpage](#)
- [C.1. Subcommittee Report](#)

3. WORK GROUP Discussion

The Facilitator reviewed the agenda, M3 Minutes, and updated workplan. The minutes were approved and the only significant change to the BOC Action and Workplan was more time was added between the Workgroup meetings, so there is time for

subcommittees to meet. After the public comment, the group went over the updated Tour Questions - Joel requested they be changed so it does not appear that the neighborhood leadership neglected to respond to Republic tour questions. Sean then presented on the SMMP Values & Goals with coverage of the 2040 Initiative, including History & Overview. Daniel had previously reached out to other Counties so they could talk about the issues/topics they have been dealing with. Key takeaways from this discussion:

1. Public engagement is critical, especially with the SWMP or SMMP.
2. Subcommittees can be very effective
3. The Recycling Modernization Act should be front and center
4. They should consider different housing types. EX: Multi-family homes have different recycling resources. How can you still support these homes?
5. Remember that solid waste is a transportation issue.
6. Keep in mind changing technologies (EX: JUNO)
7. Recycling is vital to the transient community. It is an equity issue.

Subcommittee reports were given to the group and there was discussion on ways to improve their action plans.

For the complete Workgroup discussion, please review the 10/27/2022 Meeting Minutes [here](#).

The Zoom video recording is available [here](#).

4. Action Items

Members were given the Meeting Four Evaluation link. The facilitation team will continue scheduling and conducting the subcommittee meetings with County staff. The discussion of applying Values to the CUP will be added to the agenda for the next applicable meeting. Staff and the Facilitation team will plan and communicate to members the plans for the Open House element of Workgroup Meeting Five.

5. Public Comment

- Doug Pollock (neighbor of the landfill, engineer, and parent): He explained how he documented that inkjet cartridges being sent to the landfill from HP were leaking ink into the landfill as they were crushed by landfill equipment. In response he helped develop a recyclable ink cartridges program which processed 200 tons of cartridges in its first year, half of that being ink. He also discussed how Corvallis public schools have been resistant to recycling and continue to put hazardous materials such as fluorescent tubes and epoxy into bins going to the landfill. Essentially, there is no audit of what is going into the landfill. He also emphasized that these consensus processes are hard for the real public to get involved with and be heard. He said these processes tend to favor process insiders more than the public.
- Debbie Palmer (resident) 11/16/22 Submittal: [She] expressed her opinion that the facilitator misrepresented the neighbors as wanting to close the landfill as soon as possible. She elaborated that the neighbors just want it to stop expanding, and that the County should take the estimated 10-15 years of landfill life left via already-permitted airspace to plan for post-closure waste management. She also noted the difference between intentionally-sited and accidentally-sited landfills, pointing out that Coffin Butte is an accidentally-sited one, and commented that since Republic

Services profits substantially from landfilling garbage, they have no incentive to pursue alternatives to landfilling. She summarized that she felt everyone wants to do something to combat the climate crisis, and that working towards eventual closure of the landfill would help.

- Linda Brewer (resident, soil scientist, and ten-year member of SWAC): stated that, in her opinion, Republic is doing a good job managing the landfill. She also noted that the Benton County trash rate has been held artificially low.
- Pat Schwartz (resident): expressed the belief that the Republic is an important part of the community.
- Cat Newsheller (resident): expressed the belief that Republic is simply trying a new tactic to get what they want – expanding the landfill and taking in more trash. She feels that Republic should not be making money off people's health, and if the County lets them expand, they will become out of control. She also shared personal experiences concerning the traffic and debris on HWY 99 from landfill trucks.
- Dale Elizabeth Draeger (resident): explained that they recently visited the landfill and were concerned that people were throwing away recyclable materials like metal. Republic should have someone to monitor the sorting.
- Pat Hare (City Manager of Adair Village): Pat reflected on their positive experiences working with Republic and noted that they are a large employer in the community. He also notes that when the cost to get rid of trash increases, more trash ends up on the street.
- James Rodell (resident, but not close to the landfill): He would like clear and transparent communication on whether Republic broke certain agreements and the consequences.

E. Meeting Five

1. Main Topics

- Welcome
- Review Participant Meeting Instructions & Agenda
- Approve M4 Draft Minutes
- Approve Updated Tour Q&A
- Updated Workplan Facilitator 11/16/22
- Public Comment
- Subcommittee Reports
- Reintroduce Charges D & E
- Next Steps
- Open House

2. Materials Presented

- [Agenda](#)
- [Draft M4 Minutes](#)
- [M4 Evaluation](#)
- [Tour Q&A Final Version](#)
- [Updated Workplan](#)
- [Public Comments](#)
- [Public & Member Comments](#) (passcode: Benton1!)

- [A.1. Subcommittee Report](#)
- [A.2. Subcommittee Homepage](#)
- [A.3. & B.1. Subcommittee Homepage](#)
- [C.1. Subcommittee Report](#)

3. WORK GROUP Discussion

Joel Geier introduces a motion to revise the M4 notes as per the recent email exchange, which Ed Pitera seconds. Ed also suggests alternative ideas like using a transcript. Sam holds a quick poll on the original motion: Substituting the language that Joel Geier presented in place of the existing Doug Pollock comments in the Public Comments section of the Meeting 4 Minutes. (See Polling Issue 1, below, and 07:53 – 10:00 of meeting recording). Sam responds to the alternative ideas raised by Ed and suggests that people can bring in written statements if they would like or send in a written statement the next week to encapsulate the comment they made at the Workgroup. This is viewed favorably by the workgroup. Daniel explains how the comments are currently accessible on the meeting agendas via FTP's, and the Tour Q&A and Project Workplan updates are approved.

Subcommittee reports were given to the group and there was discussion on ways to improve their action plans.

For the complete Workgroup discussion, please review the 11/17/2022 Meeting Minutes [here](#).

The Zoom video recording is available [here](#).

4. Action Items

Members were given the Meeting Five Evaluation link. The facilitation team will continue scheduling and conducting the subcommittee meetings with County staff, and subcommittee E will be formed and begin meeting. Notes created from the open house will be prepared for presentation at the next meeting.

Polling Issue 1: Substituting the language that Joel Geier presented for Doug Pollock's current comments in the Public Comments section of the Meeting 4 Minutes.

WORKGROUP Member	Polling	Charge	Not Here	Abstain	Yes	No
Joel Geier	X	All			X	
Marge Popp	X	All		X		
Elizabeth Irish	X	All		X		
Russ Knocke	X	All but C			X	
Shawn Edmonds	X	All but C		X		
John Deuel	X	All			X	
Kathryn Duvall	X	All	X			
Christopher McMorran	X	All	X			

Ryan McAlister	X	All			X	
Mary Parmigiani	X	All			X	
Ed Pitera	X	All			X	
Louisa Shelby	X	All			X	
Catherine Biscoe	X	All	X			
Polling Totals:				3	7	0
EX-Officio	Polling	Charge	Not Here	Abstain	Yes	No
Brian Fuller				X		
Brian May			X			
Shane Sanderson				X		
County	Polling	Charge	Not Here	Abstain	Yes	No
Daniel Redick					X	
Sean McGuire				X		
Ex-Officio Totals:				3	1	0
Grand Totals:				6	8	0

RESULT: Consensus / No Consensus

Facilitator counts a Majority, so the group is going to move forward with making the changes.

Minority Proposal: None

5. Public Comment

- Schmidt Pathman: His company promotes research on Solid Waste Management and partners with Universities, national, and international organizations. Some of their concerns about landfills are: 1) the underestimation of methane produced by landfills and lessening organic materials thrown away, and 2) lessening cross contamination of recyclable materials, which can be better achieved with the sorting system they have designed. (Pending receipt (full statement) by speaker to be placed in Appendix A of Meeting Minutes.)
- Debbie Palmer: Notes that the link to the FTP links is only good for a month. She also notes that she likes the need for fidelity between the oral and written public comments.
- Daniel: Explains that, yes, the links need to be reset each month. However, they will ensure the links are always updated and available.
- Dr. Skip Rochefort: (Associate Professor of Chemical Engineering at Oregon State University) He presents a recorded lecture/slideshow on how they have created a way to create diesel fuel from plastics using only heat. (See Appendix B of Meeting Minutes for slideshow).

F. Meeting Six

1. Main Topics

- Welcome & New Member Introduction
- Review Agenda
- Member Shares Original Document
- Public Comment
- Subcommittees A.1. & E.1. Report
- Review & Approve M5 Minutes & Evaluation Summary
- Discuss Consultant/Attorney for Next CUP
- Subcommittee A.2 Report and A.3 B.1 Report
- Introduce & Approve Third Attorney with Poll
- Subcommittee C.1. Reports
- Updated Project Workplan
- Next steps

2. Materials Presented

- [Working M6 Agenda](#)
- [Draft M5 Minutes and Open House Notes](#)
- [M5 Evaluations](#)
- [Comments](#)
- [Topic A.1. Landfill Capacity/Longevity](#)
- [E.1 Community Education](#)
- [Topic A.2. Past CUP Conditions](#)
- [A.3. Legal Issues and Topic B.1. Land Use Review](#)
- [Legal Subcommittee PPT](#)
- [Legal Subcommittee Statement](#)
- [Virginia Gustafson Lucker Resume](#)
- [C.1. SMMP](#)
- [BCTT Draft Workplan Gantt Chart](#)
- [BCTT Draft Workplan Calendar](#)

3. WORK GROUP Discussion

For the complete Workgroup discussion, please review the 12/15/2022 Meeting Minutes here. The meeting recording can be found [here](#).

4. Action Items

Members were given the Meeting Six Evaluation link. The facilitation team will continue scheduling and conducting the subcommittee meetings with County staff, an Informal Member Survey will be sent out for Members to complete over the holiday, and facilitation staff will begin drafting the first draft of the final report.

Polling Issue 1: Virginia (Ginny) Lucker will join the Legal Subcommittee to serve as the neutral “third leg of the stool.”

WORKGROUP Member	Polling	Charge	Not Here	Abstain	1	2	3
Chuck Gilbert	X	All			X		

Marge Popp	X	All	X				
Elizabeth Irish	X	All			X		
Russ Knocke	X	All but C				X	
Shawn Edmonds	X	All but C				X	
John Deuel	X	All			X		
Kathryn Duvall	X	All			X		
Christopher McMorran	X	All	X				
Ryan McAlister	X	All	X				
Mary Parmigiani	X	All			X		
Ed Pitera	X	All			X		
Louisa Shelby	X	All			X		
Catherine Biscoe	X	All			X		
Polling Totals:				3	8	0	0
EX-Officio	Polling	Charge	Not Here	Abstain	1	2	3
Brian Fuller					X		
Brian May					X		
Shane Sanderson					X		
County	Polling	Charge	Not Here	Abstain	1	2	3
Daniel Redick					X		
Sean McGuire					X		
Ex-Officio Totals:			0	0	5	0	0
Grand Totals:			3	0	13	2	0

RESULT: Consensus / No Consensus

Minority Proposal: None

5. Public Comment

- Camille Hall: (Resident) She is sad that the Board chose to remove Nancy, and now, Joel. These members have unique experiences and knowledge that was valuable. The County currently does not have a process to deal with the tons of trash that go into the landfill. She understands that the two removed people had complained about the facilitator and commissioners and is saddened they chose to remove them.
- Debbie Palmer: (Resident) Question: Who, in the end, will be writing the SMMP? Who will write the RFP? Darren: Answering - He does not know for sure, but staff

will put together a draft RFP to hire the consultant. They may ask the Board and maybe some Subcommittees / WG if appropriate. They are looking at other counties' successful plans, and they are invested in getting it right.

- Tom Hewes: (Resident since 1974.) He seconds Camille's statement and is also extremely disappointed in the facilitator and the County for removing the two members. Question - How does having the second biggest landfill on OR align with the Country's values?
- Kate Harris: (Lives in Soap Creek and kids go to school in Adair Village) Thanks the group for being here. Explains that the Adair Village water source is in an area that gets contaminated by the landfill. The contaminants go to the Corvallis treatment plant, but how do we know the water from the park is getting cleaned for all the things? What is the filtration process? We know fires at the landfill, earthquakes, even air quality is starting to be tracked, but water is a big issue too. She hopes the focus can be on minimizing the landfill need. How can we move landfill storage to drier climates, so they are not so hazardous?
- Ron Thompson: (From Newport and is a third-generation garbage disposal business.) Wants to share his concerns if Coffin Butte were to close. It is expensive to haul stuff farther away, more emissions from trucks, and more wear on roads. They also had rates go way up when their local landfill closed, and as they already have a notable dumping problem, raising rates so people cannot afford it would make things worse. He would love to recycle everything, but landfills are an important and needed tool.
- Marge Popp: (Workgroup Member) She is also disappointed that Nancy and Joel were removed. They were hardworking and knowledgeable - and while they could challenge authority, she wishes that their positive qualities could have been more prioritized.
- Brain Fuller: (DEQ Workgroup Member) lets folks know he is retiring from DEQ, and that Audrey O'Brien will be replacing him. Audrey then introduced herself and shared some of her background at DEQ.

G. Meeting Seven To be provided

- 1. Main Topics**
- 2. Materials Presented**
- 3. WORK GROUP Discussion**
- 4. Action Items**
- 5. Public Comment**

H. Meeting Eight To be provided

- 1. Main Topics**
- 2. Materials Presented**
- 3. WORK GROUP Discussion**
- 4. Action Items**
- 5. Public Comment**

I. Meeting Nine: March 16, 2023 To be provided

- 1. Main Topics**
- 2. Materials Presented**
- 3. WORK GROUP Discussion**
- 4. Action Items**
- 5. Public Comment**

Appendix B: BCTTW, CUP, Community Involvement FAQ sheet
(In progress)

Appendix C: Subcommittee Reports

1. Sustainable Materials Management Plan (SMMP)
2. Landfill Size/Capacity/Longevity
3. Legal Issues & Land Use Review
4. Past Land Use Application Conditions
5. Community Education & Outreach

Appendix C1: Subcommittee Reports: Sustainable Materials Management Plan (SMMP)

Key Findings

[SMMP F-1](#): Many Sustainable Materials Management Plans (SMMPs) and related Request For Proposals (RFP)s have been formulated, executed, and are in use in Oregon and beyond.

[SMMP F-2](#): The charges of the SMMP Subcommittee are intimately related to and should be embodied when scoping the necessary tasks to start a Long-Term Sustainable Materials Management Plan process.

[SMMP F-3](#): Contracting-out processes often include a Technical Advisory Committee (TAC), which vet technical information in the RFP, and a Community Advisory Committee (CAC), which review the RFP from the community perspective. Institutions of higher learning, including Oregon State University has a large population of faculty, faculty emeriti, staff and students that are subject matter experts in many of the technical areas that the SMMP will address.

[SMMP F-4](#): The overall length of the project can be heavily impacted and defined by the level of public interaction/engagement included in the project. The consultant may help define the scope of public engagement, including engagement in rural areas of the county and in communities outside the county.

[SMMP F-5](#): There are aspects of the work to be performed that are technical in nature or lend themselves toward extensive research, that the consultant may conduct at the same time as public engagement. In order to expedite the process, certain procedural elements can be done concurrently. The timeline can generally be defined throughout the process.

[SMMP F-6](#) – The SMMP aims to reduce the full lifecycle impacts of materials management practices in Benton County and where other jurisdictions’ practices overlap with Benton County. Addressing only materials from Benton County would have limited impacts compared to that of all of the materials from neighboring counties, as Benton County’s waste contribution to the landfill is relatively small. SMMPs are not specifically about landfills, but about materials management across the full lifecycle of materials, including addressing impacts from production, transportation, use, reuse, recovery, and disposal.

[SMMP F-7](#) - Benton County has limited control over the waste management practices of the counties that emplace the vast majority of the annual landfill waste intake, and the volume of waste material they haul to Coffin Butte Landfill, however, the county and its infrastructure is impacted by other counties’ waste stream contributions to facilities within Benton County (via Coffin Butte Landfill, Pacific Region Compost, and transportation methods through the county).

[SMMP F-8](#) – The 2040 Thriving Communities Initiative identified our communities’ Core Values and has been adopted by Benton County government which is used as a benchmark or lens for initiatives such as the Benton County SMMP.

Key Recommendations

[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 (DEQ's [Materials Management in Oregon 2020 Framework for Action](#)), plans, policies, ordinances, etc. relating to materials management and climate change, 3) examples of values and goals expressed in state and local jurisdiction materials management plans, and 4) long-term strategies (to 2040) with short-term action items (5 years or less).

[SMMP R-2](#) – Benton County should use the 2040 Thriving Communities Initiative as a high-level lens to frame our communities' Core Values in developing the SMMP.

[SMMP R-3](#): The SMMP should not just be about how Benton County can better manage materials, but to also address how to approach inter-county collaboration from a regional perspective. The RFP should 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 have the capability to address this need.

[SMMP R-4](#): Counties impacting Benton County through their materials management practices (including by contributing materials to Coffin Butte Landfill) should have an SMMP in place. The SMMP should have a perspective on how to strategize this.

[SMMP R-5](#): SMMP content should incorporate the sustainability of materials management strategies/tactics. The result of the process should give us a method of measuring costs and benefits to evaluate the impact on economic, social, and environmental indicators. Specific goals should be included of how materials in Benton County can fit within a circular economy, cradle-to-cradle, or similar framework.

[SMMP R-6](#): The SMMP should clarify Benefit-Cost perspectives being addressed through an equity analysis, including, 1) financial cost impacts associated with materials management and outcomes, 2) the equity of circular economy, how it engages and impacts consumers, 3) a perspective that goes beyond landfilling, and 4) a "who's at the table" list of stakeholder perspectives.

[SMMP R-7](#): Bring "lessons learned" into the process from other sources, including international examples as well as other counties, lessons from past Benton County experiences, and West Coast states. See full report for more sources.

[SMMP R-8](#): Beyond those in the County, a wide assortment of stakeholders should be brought to the table. Stakeholders include community members, advocacy groups, businesses and industry, local and state government, and resources for innovation. See report for full stakeholder list. The consultant should provide recommendations based on analysis and extensive outreach and engagement with community stakeholders from the "who should be at the table" list. These stakeholders should represent a broader area than Benton County.

[SMMP R-9](#): Benton County should use an RFP to find consultant(s) for developing a Sustainable Materials Management Plan.

[SMMP R-10](#): The SMMP subcommittee researched other jurisdiction's plans, compared and aggregated a list of subjects, and the SMMP should evaluate and address the subjects listed in the full subcommittee report, answering the 117 questions listed as RFP priorities allow, and include recommended courses of action.

[SMMP R-11](#): Recruitment for the RFP needs to be extensive, and selection of successful proposal should be careful and thorough. Qualities of a successful applicant should include those listed in the full subcommittee report.

[SMMP R-12](#): The scope of work for this project is expected to be broad and comprehensive, with specific goals recommended for the County to consider as milestones.

[SMMP R-13](#): The RFP development process should: 1) provide details about the Workgroup process and its findings to RFP applicants, 2) prioritize topics, adding additional topics that are important to consider, and 3) communicate accurate priorities to applicants.

[SMMP R-14](#): Members of this BCTT SMMP subcommittee should be offered to participate in subsequent stakeholder group meetings for RFP development and review. Benton County's Advisory Committees related to SMMP work should have an advisory role during the development of the plan.

[SMMP R-15](#): The RFP Release/Announcement should 1) communicate an expectation that this plan can be approached by teams (multiple firms), instead of just single firms, 2) put guidelines on the size/length of proposals and sections of proposals, and 3) be distributed to allow enough time for it to be posted to various trade groups, shared with underrepresented groups, and internationally minded outlets.

[SMMP R-16](#): The County should share the various steps of the process with the public, making updates available, and demonstrating transparency (cross-referencing subcommittee E.1. work).

[SMMP R-17](#): The RFP should demonstrate flexibility in allowing further work plan development after applications are reviewed and accepted.

[SMMP R-18](#): The SMMP Timeline should allow for extensive public interaction and engagement. In order to expedite the process, procedural elements should be done concurrently as possible. The timeline should generally be defined throughout the process.

[SMMP R-19](#): Applicants should include various scope/cost options for one year, two years, and three-year timelines. The report should be released in sections, based on timeline and content priorities.

[SMMP R-20](#): It's important that the SMMP process include extensive public outreach and engagement. In addition, a Technical Advisory Committee (TAC) should vet the consultant's technical work (SMMP development) and a Community Advisory Committee (CAC) to provide more general review. SMMP Sub-Committee members should be included in the CAC. The TAC should include subject matter experts from Oregon State University, and other regional academic institutions. Many of the subject areas of central importance to the SMMP are characterized by fast-moving science, and a SAC could help the SMMP consultant to navigate to the best available data and knowledge.

[SMMP R-21](#): Proposals contain the following information, with parameters around each of these items in terms of document length. Requested information includes project team experience and qualifications, understanding of the project, approach to the scope of work, cost of the proposal, the project schedule, social/environmental responsibility, and references. Each criteria includes a total set of points the proposal can be awarded. See full report for more information.

[SMMP R-22](#): An evaluation team consisting of County staff and members of the stakeholder group should determine the best proposal deemed most qualified based on the above criteria.

[SMMP R-23](#): The SMMP should emphasize impacts of the results of the RFP on social equity, innovation, to understand and emphasize the upstream aspects of material sustainability, and creative solutions that provide pathways for tangible long-term outcomes.

[SMMP R-24](#): The workplan should include ongoing adaptive management and refinement and include a timeline for completion. The sections of the workplan outline include RFP development and release, a webinar for prospective consultants, a pre-proposal Q&A period, a period for application submittal, and the selection committee to identify shortlisted firms who are given time for additional presentation. The committee then evaluates proposals, selects a consultant, and develops a workplan with selected consultant. See full report for more information.

[SMMP R-25](#): The County should evaluate if it would be in their best interest to have an SMMP in place prior to any major materials management decisions.

[SMMP R-26](#): The county should consider using alternative funding mechanisms, including landfill revenue, to support the SMMP recommendations.

[SMMP R-27](#): A complete materials audit is highly recommended as both a benchmark and a way to measure progress. Benton County should initiate a Waste Audit to characterize more precisely what is in the waste stream of Coffin Butte Landfill. The SMMP consultant can use this audit information when formulating this plan, and there is no up-to-date information specific to the landfill currently available. The benchmark audit should be completed as soon as possible, along with recommendations for follow up audits.

Appendix C2: Long Term Sustainable Materials Management Plan (SMMP) tasks

- 1) Topics covered in recent similar planning efforts across the state
- 2) Subjects to be covered
- 3) (New) Add in Vision 2040 and related County documents with similar from other counties referenced
- 4) (Moved from Common Understandings) Benefit-Cost Topics are only Outlined
- 5) What “lessons learned” should be brought forward in this process
- 6) Who needs to be at the table beyond those in the County
- 7) A workplan outline with a timeline for completion
- 8) Contracting out

Includes necessary foundational “common understandings” and protocols needed before beginning the actual planning process.

NOTE: This charge does not include completing the plan. It only includes a discussion of the preliminary scoping to start that planning process.

Possible Amendment for BOC Consideration: If there is sufficient time to complete the original Charge and the following activities, subcommittee to provide recommendations on:

- 1) the most important topics/subjects from the draft of the SWMP Table of Contents;

- 2) the brainstormed options for those topics/subjects; and
- 3) the reasoning, both pro and con, for their selection.

Common Terms and Definitions

What is circular economy?

A circular economy is an economic system where the waste and pollution generated by society is minimized, and resources are conserved and regenerated by reusing and recycling materials and products. It aims to reduce dependency on finite resources, eliminate waste, and create a more sustainable economy. The circular economy model is in contrast to the traditional linear economy, which operates on a "take, make, use, dispose" model.

What is a sustainable economy?

A sustainable economy is an economic system that meets the needs of the present without compromising the ability of future generations to meet their own needs. It is characterized by the efficient use of natural resources, reduced waste and pollution, and equitable distribution of wealth and opportunities. A sustainable economy prioritizes long-term economic, social, and environmental well-being and aims to balance economic growth with environmental protection, social equality, and preservation of natural resources for future generations.

What is net zero emissions?

Net zero refers to the balance between the amount of greenhouse gas emissions produced and the amount removed from the atmosphere. It means that the total amount of emissions produced is equal to the amount removed, resulting in no net increase in atmospheric greenhouse gas concentrations.

What is carbon neutral?

Carbon neutral refers to a state where the amount of carbon dioxide (CO₂) emissions produced is balanced by an equivalent amount removed from the atmosphere. This can be achieved through reducing emissions as much as possible and balancing any remaining emissions through offsetting activities, such as planting trees or investing in carbon capture and storage technology.

What is a solid waste management plan?

A solid waste management plan is a comprehensive plan for the collection, transport, processing, and disposal of solid waste, such as household trash, industrial waste, and construction and demolition debris. The purpose of a solid waste management plan is to ensure that waste is managed in an environmentally responsible and sustainable manner, while also considering economic and social factors.

The goal of a solid waste management plan is to minimize the environmental impact of waste, reduce the dependence on landfills, conserve resources through recycling and composting, and promote public health and safety.

What is a Sustainable Materials Management Plan (SMMP)?

Sustainable Materials Management (SMMP) plan is a comprehensive approach to managing the entire lifecycle of materials, from extraction of raw materials, through production, use, and disposal, with the goal of reducing their environmental impact. It seeks to conserve resources,

reduce waste, and minimize the environmental impacts of materials use, including greenhouse gas emissions, water and air pollution, and habitat destruction.

A SMM plan typically includes the following elements:

1. **Materials Inventory:** A comprehensive inventory of the types and quantities of materials used in a community, including data on generation, use, and disposal.
2. **Materials Reduction:** Strategies to reduce the amount of materials used, such as reducing packaging, promoting reuse, and designing products for recyclability.
3. **Materials Recycling:** Programs and policies to promote recycling and composting, including collection systems, processing facilities, and market development.
4. **Materials Disposal:** Strategies to minimize the environmental impacts of waste disposal, including reducing the use of landfills, promoting the use of incineration, and new technologies for waste conversion.
5. **Monitoring and Evaluation:** A plan for monitoring and evaluating the effectiveness of the SMM plan and making changes as necessary to ensure sustainability.

The goal of an SMM plan is to create a more sustainable and environmentally responsible materials management system, reducing waste, conserving resources, and minimizing environmental impacts.

What is an engineered sanitary landfill?

An engineered sanitary landfill is a type of landfill specifically designed and constructed to meet technical and regulatory standards for the safe and efficient disposal of solid waste. The design and construction of an engineered sanitary landfill typically involves several key components, including:

1. Base and bottom liner systems to prevent the release of waste into the environment
2. Collection and removal systems for leachate (liquid that has filtered through waste)
3. Gas collection and control systems to minimize the release of landfill gas (primarily methane) into the atmosphere
4. Final cover systems to prevent the escape of waste and landfill gas, and to promote drainage and evaporation of leachate.

The goal of an engineered sanitary landfill is to manage waste in a way that minimizes the risk to human health and the environment and provides a long-term solution for waste disposal.

What are landfill alternatives?

There are several alternatives to landfills for waste management, including:

1. **Incineration:** burning of waste to convert it into ash and gases
2. **Recycling:** process of collecting, sorting, reusing and reprocessing materials into new products
3. **Composting:** biological decomposition of organic matter to produce a nutrient-rich soil amendment

4. Anaerobic digestion: breaking down organic matter in the absence of oxygen to produce biogas
5. Mechanical biological treatment: a combination of mechanical processes (e.g. sorting, shredding) and biological processes (e.g. composting, anaerobic digestion) to treat waste
6. Waste-to-energy (WTE) plants: facilities that burn waste to generate electricity or heat
7. Solid waste gasification is a process of converting solid waste into a gas called synthesis gas (or "syngas") through high-temperature heating in the absence of oxygen.
9. Plasma gasification is a thermal waste treatment technology that uses high temperature plasma to convert waste into a syngas (synthesis gas), which is composed mainly of hydrogen and carbon monoxide. This syngas can be used as fuel for electricity generation or further processed into chemicals and fuels.

Each alternative has its own advantages and disadvantages, and the best option will depend on factors such as the type of waste, local infrastructure and resources, and government regulations.

What is an intermodal transfer station for solid waste and recyclables?

An intermodal transfer station for solid waste and recyclables is a facility where solid waste and recyclable materials are temporarily stored and transferred from one mode of transportation (such as a truck) to another (such as a train or barge) for disposal or processing. The purpose of this type of transfer station is to provide an efficient and cost-effective way to manage and dispose of solid waste and recyclables, and to minimize the impact of waste transportation on the environment.

What is public policy of Benton County to regulate solid waste management?

BCC 23.010 Purpose. Solid Waste Management Program.

In order to protect the health, safety and welfare of the people of Benton County and to provide a solid waste management program, it is declared to be the public policy of Benton County to regulate solid waste management to:

1. Provide for a coordinated solid waste management program and administration with cities within Benton County and with other counties or cities under existing and future regional programs.
2. Provide for cooperation and agreements between Benton County and cities and other counties involving joint or regional franchising of solid waste service.
3. Provide standards, regulations and franchising to ensure the safe and sanitary accumulation, storage, collection, transportation and disposal or resource recovery of solid wastes and ensure maintenance of solid waste collection, resource recovery and disposal service.

Introduction

Benton County is seeking a new Sustainable Materials Management Plan (SMMP) that will guide decisions and policies for future generations. The main theme of this subcommittee’s findings and recommendations are that the plan should help transition our re-focus from the

linear, end-of-life waste management to a more holistic, systemic, circular approach with the materials involved. The many positive impacts of this transition include:

- Efficiencies derived from full life cycle/cradle-to-cradle principles of sustainable material management
- Savings from waste reduction
- Creating opportunities for efficient circular economies both locally and regionally
- Better inclusion of Equity and shared prosperity in waste Considerations
- Recognizing and encouraging innovation

Traditionally, Benton County has managed waste materials with an end-of-life approach – largely by landfilling them locally in Coffin Butte Landfill, but also by recovery, recycling, and composting. This has presented challenges, which include, but are not limited to, the landfill’s limitations environmentally and economically. In our work we have sought to chart the expectation and aspirations for a longer-range vision that will guide the County towards more sustainable materials management. Our report advises the County on the parameters for a Request For Proposal (RFP) that will bring in consultants to develop a Plan that enables the County to achieve that longer-range vision.

Based upon the magnitude of ideas and possibilities we have encountered, it is anticipated that the SMMP could usher in a paradigm shift in how we view and interact with materials we use in our everyday lives. In addition to Findings and Recommendations, we have recorded a list of Questions the consultants and the County can use to frame their thinking about this new paradigm, its benefits, and the practical path to get there.

One task of the subcommittee was to develop a “table of contents” outlining the subjects to be covered in an SMMP. The group started by looking at examples of Solid Waste Management Plan (SWMP) documents from various Oregon counties, listing, reviewing, and comparing the topics covered in each. The group was able to add to and edit that list, creating a “table of contents” of topics to cover in a future SMMP, as well as an associated list of questions for the SMMP to answer. Benefits and costs were covered throughout the as it related to various topics and discussions, and are largely included in the overall approach of sustainable materials management approach, which evaluates the impacts across the full life cycle of materials, weighing the “costs and benefits” in the decision-making process.

The group also reviewed Benton County’s 2040 Thriving Communities Initiative and examples of values and goals expressed in other planning documents to develop overarching framework to be considered for developing an SMMP.

The more recent subcommittee work has focused on future next steps and recommendations around the RFP process, including contracting out, workplan and timeline, and who’s at the table. The group has included considerations of lesson’s learned from outside of Benton County, including neighboring county jurisdiction presentations provided to the full work group.

How to read the document:

The document is split up into the following major sections, each containing various related work group charge element. Each charge lists key findings and/or key recommendations. These key findings and recommendations summarize more complete content found in the rest of the report.

Development of Sustainable Materials Management Plan (SMMP)

Topics covered in recent similar planning efforts across the state

One task of the subcommittee was to develop a “table of contents” outlining the subjects to be covered in an SMMP. The group started by looking at examples of Solid Waste Management Plan (SWMP) documents from various Oregon counties, listing, reviewing, and comparing the topics covered in each. Subcommittee members reviewed and discussed pros and cons, and the differences between the various approach’s frameworks. Subcommittee members identified key topics to include on Benton County’s plan, including aspects of climate change, equity, health impacts, economic opportunities, and many others. The group was able to add to and edit that list, creating a “table of contents” of topics to cover in a future SMMP, as well as an associated list of questions for the SMMP to answer.

Among the planning documents referenced in the development of the “topics to be covered”, the subcommittee reviewed topics covered in the following recent similar planning efforts across the state:

- [Materials Management in Oregon 2020 Framework for Action](#)
- [Materials Management in Oregon 2050 Vision and Framework for Action \(2012\)](#)
- [Deschutes County Solid Waste Management Plan \(2019\)](#)
- [Lane County Solid Waste Management Plan \(2019\)](#)
- [Lincoln County Integrated Solid Waste Management Plan \(2004\)](#)
- Marion County
 - [Marion County, Oregon Solid Waste Management Plan Update \(2009\)](#)
 - [Marion County Solid Waste System Assessment Report \(2016\)](#)
 - [Marion County, Oregon Solid Waste and Energy Final Report \(2017\)](#)
- Metro:
 - [Metro 2030 Regional Waste Plan \(2019\)](#)
 - [Waste Prevention & Environmental Services Regional Waste Plan Progress Report \(January 2022\)](#)
- [Tillamook County Comprehensive Materials and Solid Waste Management Plan \(2012\)](#)

As an outcome of the discussion reviewing other plans, members organized the topics into an aggregated framework, including the questions below, as well as a “table of contents” in the appendix.

Subjects to be covered

Our expectation is that the consultant will perform an analysis and provide recommendations based on robust outreach to the stakeholders listed in this document. The RFP should ask “how will the applicant address this, and what is the applicant’s outreach plan?”

Questions that should be considered in the SMMP development

INTRODUCTION

- What is the context of the plan?
- What are the purpose and goals of the plan?
- What issues are addressed by the plan, and what issues are excluded?
- What is the new approach to managing waste: sustainable materials management framework vs. solid waste management framework?
- How does this plan lead with equity?
- What are the values, principles, and vision of the plan?
- How do these values translate to measurable criteria for evaluating and analyzing the full life cycle impacts of materials and the management system?
- What are the goals and actions of the plan across the material lifecycle, including shared prosperity, product design and manufacturing, product consumption and use, product end-of-life management, and disaster resilience?
- How do readers navigate the plan?
- How does the county measure progress on the plan?
- How will Implementation, compliance, and amendments to be plan work?
- What are the roles and responsibilities of the various agencies and stakeholders?
- What are the state and local requirements?
- What is the management planning process?
- How is stakeholder input used in the planning process?

CLIMATE CHANGE

- What climate change policies impact materials management?
- What materials management practices impact climate change?
- What are the waste stream impacts from climate change policy/shifts?
- What are the social, political, legislative dimensions of climate change as they relate to materials management?
- What are the possibilities for transition assistance from state and federal initiatives addressing climate change related to disposal alternatives?
- Climate change is associated with an emerging set of values and imperatives. How do the county's values adapt as these new values and imperatives evolve, when evaluating waste management alternatives?

LIFE CYCLE IMPACTS OF MATERIALS

- What is the scale of impacts (regional, state, national)?
- What are the full lifecycle/net environmental impacts of materials/systems?
- Which materials are most impactful?
- Which disposal methods are most impactful?
- What are the impacts of generation sources (industries, large quantity generators)?

BACKGROUND AND WASTE STREAM ANALYSIS

- what are the characteristics of the planning area?
- What is the description of the materials management system?
- What are the community impacts from the materials management system?

- What is the summary of annual solid waste generation across Benton County watershed (disposal and recovery)?
- What are the current and projected waste stream composition and quantities?
- What is the waste stream generation by economic sector/industry?
- What unique waste streams exist in Benton County?
- Where compared to waste management hierarchy is Benton County?
- What is the waste stream generation forecast, including economic, environmental, and material trend factors?

WASTE PREVENTION/REDUCTION/ REUSE AND RECYCLING ANALYSIS

- What are the existing waste reduction and reuse programs, their effectiveness, and needs and opportunities?
- What is the future potential for waste reduction and reuse programs, especially given its synergy with climate change initiatives?
- Equity and livability costs/impacts? How equitable are the current waste/recycling/prevention services provided in Benton County to traditionally underserved populations and all communities, and what are the standards to strive for?
- Can we foster legislation to encourage building codes that support recycling capabilities and other sustainable materials used in construction? Can we require a level of waste reduction and re-purposing of building materials and demolition debris?
- What is the most impactful approach to construction and demolition materials and deconstruction?
- What are the alternatives for increased waste reduction, reuse, and recycling?
- What are the potential impacts/benefits of utilizing alternative options, and what is needed to accomplish effectiveness?
- How do recommendations from advisory groups and public impact options?
- What are the analyses and recommendations for policy as related to increased waste reduction, reuse, and recycling?
- What are options for supporting circular economy?
- What are options for integrating extended producer responsibility?

RECYCLING AND MATERIALS PROCESSING

- What are the existing collection and processing services and facilities?
- What are the bottlenecks relating to expanding recycling and materials processing? What are the ways around those bottlenecks?
- How are food waste and organics treated?
- What are the needs and opportunities?
- What are the alternatives for processing recyclable materials, sorting technologies and MRF options?
- What are the proven vs. unproven alternatives?
- What are the recommendations for collection and recycling/processing?
- How can we encourage local construction companies to provide recycling facilities for tenants with the use of building codes, subsidies or penalties to encourage responsible construction that will continue to be viable in the future?

WASTE COLLECTION AND TRANSFER

- What is the regulatory framework?
- What is the local authority?
- What are the existing collection services?
- What is the commercial waste collection approach?
- What is the current transfer station operation approach?
- What are the waste and vehicle volumes to each recycling depot and collection event?
- How are unique wastes collected?
- What are the transfer station Facility benefits and costs related to disposal options?
- What are other operations-related requirements?
- What are collection considerations for specific wastes?
- What are the needs and opportunities for collection and transfer services?
- How to increase commercial waste collection of recyclable materials?
- What are the options, benefits, and costs of regional intermodal transfer station(s)?
- What are the comparative costs of landfilling vs. waste to energy vs. recycling?
- What is the comparison of different waste disposal and material management governance models?
- What European/global strategies to consider?
- What options are there for multiple franchised collection service providers?
- Can the issues of a franchise permit for an intermodal transfer station be compliant with BC 23.220 by a qualified third party compliant with BC 23.210 (1) (2), or
 - b. Can the intermodal transfer station be enjoined with the current Holder (hauler) franchise agreement (discretionary), or
 - c. Can the intermodal transfer station be enjoined with the current disposal site agreement party (discretionary)?
- What are the potential transportation and truck traffic impacts of the current disposal system, as well as alternative disposal options and recovery methods, across major impact areas both inside and outside of Benton County?

ALTERNATIVE TECHNOLOGIES AND SOLID WASTE DISPOSAL

- What are the alternative waste technologies available to lessen or replace landfilling?
- What options are there for material flow control?
- What are the waste disposal projections?
- What are the needs and opportunities?
- What are the alternatives and evaluation?
- What are the alternatives for municipal solid waste (MSW) disposal?
- What are the options for mixed waste processing?
- What is the technology summary?
- What is the evaluation of options?
- What are the findings and recommendations?
- What are disposal methods are utilized in Benton County and elsewhere – slash burning, open burning, etc. and what are their impacts?
- What means (funding, regional collaborations, etc.) are necessary to bring these technologies into Benton County or the region?

HAZARDOUS WASTE

- What is the existing collection and processing system?
- What are the collection and processing services?
- What are the processing/collection facilities?
- What are the needs and opportunities?
- What are the alternatives?
- What are the recommendations for collection /processing services and facilities?

LANDFILL DISPOSAL OPTIONS

- What is the county authority for waste disposal?
- What is the description of the existing landfill disposal system/process, and what are the pros and cons?
- What are the waste stream projections?
- What are the projection scenarios - climate change, regulatory environment, costs, etc.
- What is the landfill lifespan?
- What is the env. impact assessment of the landfill?
- What are the needs and opportunities?
- What are the landfill disposal options, including long-haul waste to out-of-county landfills and alternatives?
- What are the waste disposal recommendations?
- What are the true environmental impacts of landfilling for Benton County? Especially: what is the greenhouse gas footprint of the landfill? What do these impacts look like when projected into the future?
- What are the true economic costs and benefits of landfilling for the County? What do these costs and benefits look like when projected into the future?
- What are the various paths that the County can take to transition away from landfilling at Coffin Butte Landfill?
- What means (funding, collaborations, etc.) are necessary to make to embark upon these paths?
- Are there landfills other than Coffin Butte Landfill that should be considered? What are the tradeoffs (economic, environmental)?
- What is the path forward that balances these competing interests: reducing waste generation/increasing recovery vs. economic interests of landfilling?
- What is the risk assessment of the landfill? How can the County best manage these risks?
- What is the long-term outlook for the landfill? What is its best closure plan? What measures should be in place to manage the landfill's impacts after closure?
- What is the impact of leachate from the landfill site?
- How would closure of Coffin Butte Landfill, or use of alternate disposal sites, impact solid waste collection rates in Benton County?

ADMINISTRATION AND ENFORCEMENT

- How can we use government grants and programs that are being set up to combat the effects of climate change to create a truly unique and innovative program that makes the best use of the resources available in our county and highlights our most valuable

assets to enable our residents to 'be their best selves' in terms of living a sustainable life?

- How can the county explore potential for conflict between income from the landfill and the approach of reducing waste to the landfill?
- How will the county fund and/or support ongoing sustainable materials management recommendations of this plan, including an evaluation of funding options, for systemic longevity? Is there a possibility to use landfill revenue to support the SMMP recommendations? Currently landfill fees go into the general fund.

GENERAL

- Which options for addressing the above issues best reflect the County's (and the State's) stated values?
- How are each of the plan recommendations centered in equity?
- What are the details of the analysis, investigation/evaluation, and recommendations for each topic?
- How do we support and extend the Oregon 2050 Vision for Materials Management?
- How do we support Oregon SB 582, the [Plastic Pollution and Recycling Modernization Act](#), in our county?
- What is a practical, economically feasible, and innovative path for our county to move from where we are today to a responsible and sustainable community?
- How can we use our unique assets and any economic benefits we might glean from our county natural resources? Can we use our rivers and forests to foster more sustainable local practices?

2040 Thriving Communities Initiative and related County documents with similar from other counties referenced

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 (DEQ's [Materials Management in Oregon 2020 Framework for Action](#)), plans, policies, ordinances, etc. relating to materials management and climate change,
- 3) examples of values and goals expressed in state and local jurisdiction materials management plans, and
- 4) long-term strategies (to 2040) with short-term action items (5 years or less).

Benefit-Cost Topics are only outlined

Benefits and costs were covered throughout the as it related to various topics and discussions, and are largely included in the overall approach of sustainable materials management, which evaluates the impacts across the full life cycle of materials, weighing the "costs and benefits" in the decision-making process. The following list benefit and cost considerations are represented as more of an analysis of pros and cons, and not as an economic analysis in most cases.

- SMMP content should include cost-benefit analyses in the evaluation and recommendations of major topics.
- Circular economy costs/benefits should be addressed in the SMMP.
 - Description of different approaches (sustainable, cradle to cradle, circular economy) should also be outlined.
- The SMMP should clarify Benefit-Cost perspectives being addressed through an equity analysis, including:
 - Financial cost impacts associated with materials management and outcomes
 - A perspective that goes beyond landfilling
 - Equity of circular economy, how it engages and impacts consumers (product/material oriented)
 - “who’s at the table” list of stakeholder perspectives

What “lessons learned” should be brought forward in this process.

Staff invited members of various jurisdictions to share their experiences and processes in solid waste/materials and materials management during the “Benton County Talks Trash” Workgroup meeting #4 on October 27, 2023 ([BCTT Meeting #4 Recording](#), starting at 01:34:45). Here is a brief summary of the feedback received:

- The public engagement process is very important. The Solid Waste Advisory Committee can help with the planning process, including representatives from incorporated cities, franchised haulers, professionals with experience related to solid waste (local trucking companies), and the public. One jurisdiction experienced relatively low initial public engagement, which increased towards the end of the process with an Open House event, which was critical. Subcommittees of the committees can help with the process.
- The RFP process for another jurisdiction’s plan was competitive, with several qualified firms. Having a well-defined scope of work after embarking on negotiations was helpful.
- The process can take over two years from start to finish, including RFP, scoping and outreach. Creating and distributing an RFP, up to the point of hiring a consultant can take at least three months. Negotiating the contract can take another month. The report can be developed and drafted in sections, with an approximate 18-month timeline before a full draft is reviewed by the Board of Commissioners.
- The solid waste industry is changing and shifting towards full lifecycle approach.
- Oregon’s Recycling Modernizations Act should be a focus area for the SMMP.
- The plan can be integral to address key challenges, like landfills reaching capacity.
- Address new housing types for recycling, for example ensuring adequate space for recycling in increasing multi-family housing. A jurisdiction can work with building code requirements to ensure space is available for recycling.
- Planning and codes should have common grounds where roots can cross over between county and city planning and solid waste staff.
- Solid waste is a transportation issue, and changing transportation should be addressed in planning.
- Emerging technologies can be considered during the planning process, particularly established technologies that are already being used in the United States. The planning

should pay attention to the experimental process underway at the Georgia Pacific plant in Toledo, OR.

- Policy analyses were not included in the planning process for some Oregon jurisdictions.

In addition to those “lessons learned”, the group recommends considering the following:

- Feedback from other counties who have developed materials management plans
- International examples of landfill alternatives (such as Germany, Finland, Sweden, and South Korea)
- Examples from California and Washington
- Lessons from past Benton County experiences with contracts with Republic, engagement,
- Lessons from individual processes vs. integrated systems
- Workgroup process and its findings

Who needs to be at the table* beyond those in the County**

Subcommittee discussed and identified stakeholders that we felt needed to be included in various aspects of the SMMP process. This list is not prioritized in any way. These were presented to the full work group, and their feedback was incorporated into the list, including local and state agencies, non-profits, advocacy groups, communities, equity and health advocates, key private sector companies and industries, and more below:

Governmental Agencies

- DEQ
- Economic Development Office County/Corvallis
- Small Cities
- Government advisory groups relating to the subject matter
- Neighboring counties
- Equity, Diversity, Inclusion coordinator
- Waste generation sources (jurisdictions) – how much weight should non-county members be given? Economy of scale?
- Tribal governments

Community

- Community Members
- Low-income populations
- Multi-family residents
- Diverse Language Representation and underserved communities not speaking English as first language
- Residents and businesses from rural areas of the county

Advocacy Groups

- Local Advocacy groups (Willamette valley) – sustainability coalition, river keepers, watershed councils
- National Advocacy groups

- Youth organizations - civics/schools

Business and Industry

- Larger industry groups
- Large waste generators
- Building industry - USGBC
- Architecture (AIA) American Institute of Architects
- Designers – various materials, products, etc.
- OSU – Business/Administration
- OSU – Innovation, science around materials
- Hospital/medical,
- Business community
- Restaurants,

Materials Management and Processing

- Disposal sites
- Collectors/haulers
- Materials processors - MRF's
- End users of secondary materials)

*At the table - meaning who to be consulted for feedback through the development of this plan, discuss regional coalitions/partnerships/collaboration

**County government/staff

RFP Process

A workplan outline with a timeline for completion

Staff used Deschutes County RFP as an example and starting point for this discussion. Subcommittee brainstormed different components that they concluded should be in the RFP process and hiring of a consultant. The recommendations are as follows:

- RFP Development
 - RFP Development feedback opportunity from Technical Advisory Committees (TAC) and Community Advisory Committee (CAC)
 - Consider DEQ's RFP Process for Modernizing Oregon's Recycling System as an example
- RFP Release/Announcement
 - Distribution to allow time for it to be posted to various trade groups, equity-minded sharing to underrepresented groups, internationally-minded
- Webinar – interact *live*, field questions, make presentation
- Pre-proposal/bid/RFP Q&A opportunity for prospective applicants – possible to make this element required/mandatory
 - Early in the RFP release period
- Opportunity for respondents to express interest as primary or sub-contractors
- RFP Response Due Date

- At least 4 weeks' time that the RFP is available prior to application deadline.
- Review committee to shortlist firms
 - 2 weeks
- Shortlisted firms awarded additional time for presentation with optional funding for expected presentation/deliverables
 - Additional month (within 1 week if no work product/report is due, just an interview).
- Evaluation and Selection Timeline
 - Evaluation team review period
 - Including Technical Advisory Committees (TAC) and Community Advisory Committee (CAC) review opportunity
 - Presentations/Interviews
- Develop work plan further with contractor selected
- Length of overall project
- Plan Development
 - Technical Advisory Committees (TAC) - Vet technical information from consultant, get to a place of consensus
 - Community Advisory Committee (CAC) - Review in areas of disagreement for technical experts
 - SWAC/DSAC advisory role during the development of the plan
- General public meetings – number of meetings
- The plan-making process should prioritize completeness over promptness, i.e., a complete plan is more important to us than it being ready by any particular future date, for example.

Contracting out

There are many topics being recommended, which are likely beyond the capability of any single party. Multiple parties could be involved in the SMMP development process.

Benton County should use an RFP to find consultant(s) and/or other stakeholder groups to assist Benton County in developing a Sustainable Materials Management Plan.

Qualities of a successful applicant should include:

- Technical Knowledge and Abilities
 - Demonstrated familiarity with international examples of reduced or eliminated reliance on landfilling.
 - Conversant in the design and implementation of these alternative waste technologies, be able to evaluate their suitability for use in Benton County, and be able to map out rough timelines for their deployment
 - Demonstrate their ability to design a well-imagined and resilient Plan that can assess the likelihoods of such climate-impacted events as wildfires, floods, population migrations, unprecedented disruptions to energy and transportation infrastructure, and so on
 - Show their ability to map out the County's changing social, economic, environmental and regulatory landscapes, and ability to develop a Plan to navigate the County through them
 - Ability to show Economic/Env/Social impacts, and comparative analysis

- Be able to suggest programs and ways in which the community could participate, and measure their participation
- Be able to answer (most, almost all) questions (below table of contents) – RFP process, applicant
- Be able to map out the social, ethical and environmental landscape of climate change
- Experience
 - Experience with inclusivity, outreach campaigns
 - Experience in such community engagement.
 - Have some experience with large university communities
 - Experience with jurisdictions with non-standard waste streams – like high-tech industries, labs, forestry
 - Experience in analyzing policy impacts of materials
 - Have experience in SMMP development in the past (traditional and innovative)
 - Demonstrated experience with jurisdictions like Benton County (rural areas for example, industries)
 - Demonstrated experience showing Economic/Env/Social impacts, and comparative analysis
- Values
 - Show their understanding of the importance of the values listed in Benton County's "Core Values" and the State of Oregon's "Materials Management in Oregon 2050 Vision and Framework for Action," and will describe how these values will permeate the process and the product of the SMMP.
 - Be able to keep 2040 Thriving Communities Initiative core values in mind during the entire process of formulating an SMMP plan, and trace each recommendation back to the values expressed in the initiative
 - Be able to lay out innovative pathways for the County to reduce negative environmental impacts in keeping with county and state values
- Work Plan and Process
 - Able to incorporate measures into its Planning process and product that will help the County respond to various trends affecting current and projected waste streams
 - incorporate a map of social, ethical and environmental landscape of climate change into its Planning process and product
 - Able to allow and encourage community involvement in the development process, and demonstrated experience
 - Ability and willingness to communicate with the community
 - Be able to engage with the community throughout this process with any innovative measures on how this can take place, either virtually or with town hall type gatherings. Consider using the Justice System Improvement Project (JSIP) as a model of best practices when engaging with the community on the SMMP
 - Look at the unique qualities of our community, not a one size fits all plan
 - Will be able to incorporate these evolving Social, Political, Legislative Dimensions around climate change into its Planning process and product
 - Consider materials and links to BCTT SMMP Subcommittee work
 - Early-stage outreach to community, including students, multi-family residential, single-family residential, rural residential, businesses, local builders, developers

- Plan Content
 - Will delineate paths for the County to establish clearer knowledge about and control over these environmental impacts (methane and other GHGs) by its franchisees, and incorporate these responsibilities into its Planning process and product
 - SMMP document to answer (most, almost all) questions (below table of contents)
 - Should be able to articulate a clear narrative or set of scenarios that describe how the Plan will be a resilient guide for the future
 - Will provide an analysis and recommendation for the “subjects to be covered”, incorporating feedback from extensive public engagement and stakeholder engagement, SWAC/DSAC

RFP Development

- Provide details about Workgroup process and its findings to RFP applicants
- Prioritize topics, adding additional topics that are important to consider
- Communicate accurate priorities to applicants
- Members of this BCTT SMMP subcommittee should be offered to participate in subsequent stakeholder group meetings for RFP development and review
- SWAC/DSAC should have an advisory role during the development of the plan
- RFP Release/Announcement should:
 - communicate an expectation that this plan can be approached by teams (multiple firms), instead of just single firms
 - Put guidelines on the size/length of proposals and sections of proposals
 - Be distributed to allow enough time for it to be posted to various trade groups, equity-minded sharing to underrepresented groups, internationally minded outlets
- The county should share with the public the various steps of the process, making updates available, and demonstrating transparency (Cross-referencing subcommittee E.1. work)
- The RFP should demonstrate flexibility through allowing further work plan development after applications are reviewed and accepted
- Length of overall project:
 - Can be heavily impacted and defined by the level of public interaction/stakeholder engagement included in the project, and by requirements from the county
 - R&D from consultant can occur in the background
 - Applicants should include various scope/cost options for 1 year, 2 years, and 3-year timelines.
 - The report should be released in sections, based on timeline and content priorities.
- This RFP process should include Technical Advisory Committees (TAC), which Vet technical information from consultant, get to a place of consensus, and Community Advisory Committee (CAC), which Review in areas of disagreement for technical experts.
 - SMMP Sub-Committee members should be included in the CAC.

Proposal Format, Content, Review and Selection⁷²

Proposal must contain the following information, with parameters around each of these items in terms of document length:

- a) Cover Letter (P/F).
- b) Project Team Experience and Qualifications.
 - a. Experience, Capabilities and Resources of the Proposer. 25 points.
 - b. Experience of project team members. 25 points.
 - c. Experiences with other SMMP in the last 5 years
- c) Understanding of Project.
- d) Approach to the Scope of Work. 25 points
 - a. Fully and completely address all of the questions listed
- e) Cost Proposal (based on cost matrix)
 - a. Reasonableness of the Cost Proposal. 15 points
 - b. Various options based on timeline and scope
 - c. Review committee is not given the cost information until initial review is complete
 - d. Important consideration, but not the most important consideration
- f) Project Schedule. 10 points
- g) Social/environmental responsibility
 - a. Use county values as evaluation criteria
- h) References.
- i) Interview/presentation (how important compared to other criteria?)
 - a. Separate scoring criteria/process for the interview
 - b. The group preparing the RFP will want to make sure that they set enough points with this process so that it can swing the point selection one way or another.
The RFP group will want to prepare a list of questions or items they are wanting the interviewees to answer ahead of time and weigh out each question to ensure that it leads to a discovery of which consultant best fits the needs of the county.

An evaluation team consisting of County staff and members of the stakeholder group should determine the best proposal deemed most qualified based on the above criteria.

Conclusion

A good SMMP will serve the county and residents now and in the future – it will be adaptable to new technologies while aligning with clearly stated county/state goals.

The county should not rush the selection process or solicitation process – selecting the correct partner whose core values and vision align with what has been assembled will be a key component to getting the best outcome in this process.

⁷² Source of some section content: [Deschutes County 2017 SWMP RFP](#)

SMMP Appendix A: Drafted Table of Contents Outlining Elements of Recommendations

TOPICS
INTRODUCTION
Context of the Plan
Plan Purpose and Goals
Issues Addressed by the Plan (include discussion of exclusions to the Plan)
A new approach to managing waste: Sustainable materials management framework vs. Solid Waste management framework
1) Addressing the full life cycle of materials
2) Moving From Where We've Been to Our New Vision (provide timeline)
3) The life cycle of products and materials
4) The garbage and recycling system
5) Leading with equity
Environmental impacts of products and materials
1) Measuring environmental impacts (Full Life Cycle Analyses)
2) Reducing our impact
Values, principles, and vision
1) Overview
2) Values
3) Principles
4) Vision
Goals and actions
1) Overview
2) Navigating the action tables
3) Shared prosperity
4) Product design and manufacturing
5) Product consumption and use
6) Product end-of-life management

TOPICS
7) Disaster resilience
Measuring progress
1) Plan Indicators
Implementation, compliance, and amendments
1) Overview
2) Roles and responsibilities
3) The County’s Role in Solid Waste Management Planning and Operations
4) Oregon statutory requirements
5) Requirements for local governments
Address upcoming legislation, Oregon Recycling Modernization Act
6) Plan implementation
7) Plan oversight
Legal foundation and policy guidance
1) Overview
2) Legal foundation
3) Policy guidance
4) Plan Organization
Management Planning Process and Summary
1) Building On Previous Planning Work
2) Management Planning Process
3) Public And Stakeholder Input
4) Common Themes of Public and Stakeholder Input
6) Valuable Partnerships
Local Economic Development
Opportunities for innovation and entrepreneurship
CLIMATE CHANGE
Policy Impacts
Waste stream impacts from climate change policy/shifts
Social, Political, Legislative Dimensions

TOPICS
LIFE CYCLE IMPACTS OF MATERIALS
Introduction
Scale of impacts (Regional, state, national)
Which materials are most impactful
Which Disposal methods are most impactful
Impacts of generation sources (industries, large quantity generators)
Method and recommendations for ongoing analysis
BACKGROUND AND WASTE STREAM ANALYSIS
Introduction
Characteristics of the Planning Area
Description of the Solid Waste Management System
Analysis of community impacts from solid waste management system
Summary of Annual Solid Waste Generation
1) Refuse Collection
2) Transfer Stations
3) Disposal Facilities
4) Recycling Facilities
Current and Projected Waste Stream Composition and Quantities
1) Definition
2) Historical Solid Waste Data
3) Waste Stream Composition
4) Waste stream generation by economic sector/industry
5) Unique waste streams – timber wastes ex.
6) Disposal methods – slash burning, open burning, etc. and their impacts
7) Waste Stream Generation Forecast, including Economic, environmental, and material trend factors
WASTE PREVENTION/REDUCTION/ REUSE AND RECYCLING ANALYSIS
Introduction
Background
Existing Waste Reduction and Reuse Programs

TOPICS

- 1) Waste Reduction Programs, including food
- 2) Reuse Programs
- 3) Recycling Programs
- 4) Composting
- 5) Needs and Opportunities

Construction and Demolition materials and Deconstruction

Alternatives for Increased Waste Reduction, Reuse, and Recycling

- 1) Enhance Current Promotion/Education/Support Services
- 2) Target Certain Types of Generators or Waste Streams to Increase Diversion by Expanding Basic Services
- 3) Targeted high impact materials for Reduction, Reuse, and Recovery

Sorting at point of generation

- 4) Target Recovery of New Materials

Potential impacts/benefits of utilizing alternative options. How do these impact Benton County? What is needed to accomplish effectiveness?

Analysis of Recommendations from Advisory Groups and Public

Analysis and recommendations for policy as related to Increased Waste Reduction, Reuse, and Recycling

Options for supporting circular economy

Options for integrating extended producer responsibility

- 5) Recommendations

RECYCLING AND MATERIALS PROCESSING

Background and Existing Conditions

- 1) Existing Collection and Processing
- 2) Collection and Processing Services
- 3) Processing/collection Facilities
- 4) Yard Debris and Wood Waste Process Facilities

Food Waste - Organics

- 5) Needs and Opportunities

Alternatives

- 1) Processing Recyclable Materials

TOPICS

Sorting Technologies and MRF options

Proven vs. Unproven alternatives

2) Recommendations for Collection and Recycling/Processing

WASTE COLLECTION AND TRANSFER

Background and Existing Conditions

1) Regulatory Framework

2) Local Authority

3) Existing Collection Services

4) Commercial Waste Collection

5) Transfer Station Operation Approach

6) Waste and Vehicle Volumes to Each Transfer Station

7) Recycling at Transfer Stations

Unique wastes

Transfer Station Descriptions

1) Facility Needs

2) Disposal at a New In-County Landfill

3) Disposal at an Out-of-County Landfill

4) Other Operation Related Requirements

5) Collection Considerations for Specific Wastes

Needs and Opportunities

1) Collection Services

2) Need to Implement Transfer Station Capacity

Alternatives and Evaluation – Analysis and Investigation

1) Increase Commercial Waste Collection of Recyclable Materials

2) Develop Transfer Stations Capacity

Regional Intermodal transfer station

Comparative costs of landfilling vs. waste to energy vs. recycling

Comparison of different waste disposal and material management governance models

3) Recommendations

TOPICS

European/Global Strategies to Consider

Multiple vendor options

ALTERNATIVE TECHNOLOGIES AND SOLID WASTE DISPOSAL

Background and Existing Conditions

- 1) Introduction
- 2) Flow Control
- 3) Existing Landfill Disposal

Waste Stream Projections

- 1) Waste Disposal Projections
- 2) Needs and Opportunities

Alternatives and Evaluation

- 1) Alternatives for Municipal Solid Waste (MSW) Disposal
- 2) Mixed Waste Processing
- 3) Technology Summary
- possibilities for transition assistance from state and federal initiatives addressing climate change
- 4) Evaluation of Options
- 5) Findings and Recommendations

HAZARDOUS WASTE

Background and Existing Conditions

- 1) Existing Collection and Processing
- 2) Collection and Processing Services
- 3) Processing/collection Facilities
- 5) Needs and Opportunities

Alternatives

- 1) Collection and Processing services and facilities
- 2) Recommendations for Collection /Processing services and facilities

LANDFILL DISPOSAL OPTIONS

Background

County Authority for Waste Disposal

TOPICS
Existing Landfill Disposal And list pros and cons of it
Waste Stream Projections
Projection Scenarios - climate change, regulatory environment, costs, etc.
Landfill Lifespan
Env. Impact Assessment
Needs and Opportunities
Disposal Options
1) Long-Haul Waste to Out-of-County Landfills
2) Alternative Options
3) Evaluation of Disposal Options
4) Recommendations
ADMINISTRATION AND ENFORCEMENT
Introduction
Background and Existing Conditions
1) Solid Waste Administrative Agencies
2) Solid Waste Advisory Council (SWAC) and Disposal Site Advisory Committee (DSAC)
3) Solid Waste Enforcement
4) Financing and Funding Sources
5) Economic footprint
6) Economic impact
7) System revenue
Monitoring plan progress
Ensuring Policies are followed
County community and business engagement
What grant opportunities, and how can county leverage them?
Needs and Opportunities
1) Management Considerations
2) Financing and Funding Considerations
3) Management Issues

TOPICS
Structure of Solid Waste-related governmental and decision-making bodies
Policy Development
Alternatives and Evaluation
Basis for deciding franchise contracts; annual renewals; capital costs
1) Administration/Management
2) Finance and Funding
3) Recommendations
CONCLUSION
RESOURCES

Appendix C2: Subcommittee Reports: Landfill Size/Capacity/Longevity

Background

Charge

Workgroup charter and bylaws 8-23-2022

From the "[Benton County Talks Trash](#)" [Workgroup Charter and Bylaws](#) document, Topic A:

A. Develop Common Understandings to form the basis of the work.

- 1) A chronological history of key Coffin Butte Landfill topics:
 - a. Size;
 - b. Specific locations;
 - c. Conditions of past land use approvals;
 - d. Compliance with prior land use approvals and SWMP;
 - e. Reporting requirements;
 - f. Assumptions (e.g. when will the landfill close;)
 - g. Economics (i.e. Benefit – Cost, etc.;;) and
 - h. Examples from other jurisdictions hosting landfills, e.g.:
 - i. Typical land use conditions of approval; and
 - ii. Issue sequencing, (e.g. in what order are landfill versus hauling approvals done, etc.

Subcommittee A.1 charge

The A.1 subcommittee was charged with a subset of the tasks listed above. Specifically, per the [A.1 Subcommittee web page](#):

Charge A: Common Understandings Tasks

- 1) A chronological history of key Coffin Butte Landfill topics:
 1. Size;
 2. Specific locations;
 3. Assumptions (e.g. when will the landfill close;)

Thus the A.1 subcommittee addresses components 1(a), 1(b) and 1(f) of the workgroup charter Topic A tasks.

Charge 3 "Assumptions" is interpreted to mean estimation of the landfill operational lifetime including the assumptions behind this estimation.

Note that for the A.1 subcommittee, "chronological history" is limited specifically to these three topics; a more general history of the landfill will be addressed by another body.

Membership Composition

The A.1 Subcommittee membership is composed of four primary representative groups:

1. Franchisee: 3 members (Ian Macnab, Ginger Rough, Bill Bromann, all of Republic Services)
2. Benton County community members: 4 members (Chuck Gilbert*, Mark Yeager*, Ken Eklund*, Paul Nietfeld)

3. County governments: 3 members (Daniel Redick (Benton County), Brian May (Marion County), Shane Sanderson (Linn County))

Daniel Redick, a Benton County Community Development Department staff member, acts as Chair of this subcommittee.

Sam Imperati, the workgroup facilitator, normally attends subcommittee meetings and provides guidance in regard to aligning with workgroup objectives.

* Also members of the Solid Waste Advisory Council and the Disposal Site Advisory Committee for Benton County

Document Organization

This document is organized into sections that correspond to the “Charge” items assigned to the A.1 Subcommittee (i.e. Sections 1, 2, 3 correspond to Charges 1, 2, 3).

References to specific sections in this document are in the format <Section #>.<Subsection Letter>.<Subpart Designation>. Thus this location would be referenced as O.C, and the A.1 Subcommittee Charge may be found in O.A.ii.

Common Terms and Definitions

Landfill: Landfill means a facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface. ORS 459.005(14)

Sanitary Landfill: Sanitary landfills are intended as biological reactors (bioreactors) in which microbes will break down complex organic waste into simpler, less toxic compounds over time.

Disposal Site: Disposal site means land and facilities used for the disposal, handling or transfer of, or energy recovery, material recovery and recycling from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, energy recovery facilities, incinerators for solid waste delivered by the public or by a collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site. ORS 459.005 (8)

Regional Disposal Site: 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. ORS 459.005 (22). From all particular measures, a landfill is a subset of a disposal site.

Landfill Cell: Landfill cell means a discrete volume of a landfill which uses a liner system to provide isolation of solid waste from adjacent cells of solid waste. (RI 250-RICR=140-05-1)

Coffin Butte Landfill: Coffin Butte Landfill is a regional disposal site and an engineered sanitary landfill in Benton County, north of Corvallis, located off Coffin Butte Road.

Landfill Life: Expected time remaining in which the landfill will continue to accept waste, typically in Years. Landfill Life (longevity) in a landfill linear economy model is the consumption of its resources in reserve as well as ancillary resources thereby extinguishing its maximum capacity to further dispose refuse?

End of Life (EOL): Expected calendar date when the landfill ceases to accept waste, typically in Calendar Years AD.

Remaining Landfill Life (longevity): The available timeline a landfill will remain open to accept waste placement into its permitted capacity.

Franchisee, landfill owner, landfill operator: Republic Services/ Valley Landfills, Inc. Republic Services has been the owner/operator of Coffin Butte Landfill since 2008.

Intake Tonnage: The total quantity of solid waste accepted at the landfill in US short Tons (1 Ton = 2000 lbs.). Conversion to airspace volume in cubic yards (yd³) is obtained by mathematically dividing the Intake Tonnage value by the density figure provided by the franchisee for the relevant period (stated in Tons/yd³).

Permitted Airspace: The physical volume available for the placement of solid waste. Benton County approves the land use for the landfill's footprint. However, DEQ and the franchisee (Valley Landfills Inc.), approve the cell design that determines the physical volume available. "Airspace" is the resulting volume left within the permitted space for the disposal of solid waste. Permitted airspace refers to the maximum amount of space that is authorized by regulatory agencies for use as a landfill. It is typically specified in a landfill's permit issued by the relevant regulatory agency, and it represents the total volume of waste that the landfill is permitted to accept over its operating life. The permitted airspace takes into account various factors, such as the size of the landfill, the type of waste it can accept, the geology and hydrology of the area, and the potential environmental impacts of the landfill. It is important for landfill operators to carefully manage their landfill to ensure that they do not exceed their permitted airspace and to minimize the environmental impact of their operations. Exceeding permitted airspace can result in fines or other regulatory actions, and can also have significant environmental consequences.

Service Area: Total geographic area from which waste feeds into Coffin Butte Landfill. These areas represent the geographic area of the landfill's customer base, which is not constant and may change over time based on business choices of the landfill.

Landfill threshold: A landfill threshold, also known as a fill line, is the designated level or height within a landfill at which waste is no longer allowed to be deposited. It represents the maximum height to which a landfill can be filled, as determined by regulatory agencies and landfill permits. The threshold is typically marked by a physical barrier or layer of soil, and is designed to ensure that the landfill does not exceed its permitted airspace or pose a risk to public health and the environment.

2000 Landfill Franchise Agreement: The 2000 Landfill Franchise Agreement between Benton County and Valley Landfills Inc., signed December 31, 2000 and effective from December 31, 2000 until December 31, 2020.

2000 Intake Threshold: The intake tonnage level specified mathematically in the 2000 Landfill Franchise Agreement. If the volume of solid waste accepted at the landfill in any calendar year exceeded the annual level, or if the cumulative volume of solid waste accepted at the

landfill in any two consecutive calendar years exceeded the two-year level, the County was allowed, at its expense, to perform a new Baseline assessment, and if the County determined this assessment indicated an adverse impact relative to the 2001 Baseline Study an immediate renegotiation of the Franchise Fee and/or Host Surcharge was required.

2001 Baseline Study: The assessment of environmental and infrastructure conditions and areas of potential impacts from the volume of solid waste accepted at the landfill, as mandated in the 2000 Landfill Franchise Agreement. This assessment was completed by the Benton County Health Department with results documented in a report released in 2001. This study included the following elements: Traffic, Soil Conditions and Contamination Levels, Air Quality, Surface and Groundwater Conditions and Contamination Levels, Noise, Odor, Visual Screening, Litter, Hours of Operation, Solid Waste Control Systems and Compliance with all Solid Waste Permits.

2020 Landfill Franchise Agreement: The 2020 Landfill Franchise Agreement between Benton County and Valley Landfills Inc., signed December 21, 2020 and effective from January 1, 2021 until December 31, 2040.

Tonnage Cap: The 1.1 M Tons/year “Limit on Solid Waste” defined in the 2020 Landfill Franchise Agreement, in place until “Franchisee’s governmental applications to expand the landfill onto the Expansion Parcel are granted” and stipulated as the level which the total tonnage of solid waste deposited by the franchisee “shall not exceed” during any calendar year, with exceptions for fire, flood, other natural disaster or any Force Majeure event.

Expansion Parcel: As specified in the 2020 Landfill Franchise Agreement, the “expansion parcel” is tax lot 104180001107, listed as 59.23 Ac.

Circular Economy:

An expansion of a landfill alone without a circular economy would only consume valuable landfill reserve resources in a traditional linear economy model, which operates on a “take, make, use, dispose” model.

A circular economy is an economic model where the waste and pollution generated by society is minimized, and resources are conserved and regenerated by reusing and recycling materials and products. It aims to reduce dependency on finite resources, eliminate waste, and create a more sustainable economy. The circular economy model is in contrast to the traditional linear economy model.

In Republic Services 2021 Sustainability Report, Jon Vander Ark, President and Chief Executive Officer reports, “This is our company vision, which is intentionally ambitious because we believe we are uniquely positioned to help our customers achieve their own sustainability goals. That commitment begins with our Elements of Sustainability – Safety, Talent, Climate Leadership and Communities – and these elements anchor our 2030 sustainability goals”.

A solid waste management plan is a comprehensive plan for the collection, transport, processing, and disposal of solid waste, such as household trash, industrial waste, and construction and demolition debris. The purpose of a solid waste management plan is to ensure that waste is managed in an environmentally responsible and sustainable manner, while also considering economic and social factors of a circular economy.

In the 2020 landfill franchise agreement under article 5a Benton County and the Franchisee acknowledge that there may be adverse effects to the County's infrastructure and environmental conditions due to increased annual volumes of solid waste accepted at the landfill.

In other words, a solid waste management plan needs to work shoulder to shoulder with sustainability goals in a circular economy within Benton County's proposed sustainable materials management plan and transportation plan.

What is the economical principal of demand and supply equilibrium?

The economic principle of demand and supply equilibrium is a fundamental concept in economics. It states that in a free market, the price of a good or service will settle at a level where the quantity demanded by buyers is equal to the quantity supplied by sellers.

What are the economics of a franchise?

A franchise is a business model in which a franchisor grants a franchisee the right to use its trademarks, products, services, and business methods for a specified period of time in exchange for an initial fee and ongoing royalty payments. The economics of a franchise depend on various factors, including the type of franchise, the market conditions, and the terms of the franchise agreement.

What is the economics of a landfill?

The economics of a landfill refers to the financial costs and benefits associated with operating and managing a landfill. Landfills are a type of waste management facility where garbage and other forms of solid waste are buried underground in order to minimize their impact on the environment.

The economics of a landfill can be broken down into several components:

1. **Capital Costs:** These are the costs associated with building the landfill, including site preparation, infrastructure development, construction of waste cells, and installation of monitoring systems.
2. **Operating Costs:** These are the ongoing costs associated with running the landfill, including labor costs, equipment maintenance, waste collection, transportation, and disposal costs.
3. **Revenues:** These are the revenues generated from the landfill, which may come from tipping fees charged to waste generators or from the sale of recovered materials such as metals, plastics, or glass.
4. **Environmental Costs:** These are the costs associated with the environmental impact of the landfill, including pollution, greenhouse gas emissions, and impacts on local ecosystems.
5. **Regulatory Costs:** These are the costs associated with complying with local, state, and federal regulations governing the operation of landfills, including permitting, monitoring, and reporting requirements.

Overall, the economics of a landfill depend on a number of factors, including the size, capacity and location of the landfill, the amount and type of waste it receives, the

regulatory environment, and the cost of alternative waste management options. Proper management of a landfill can result in a profitable operation, but this must be balanced with the potential negative environmental impacts and the costs associated with mitigating them.

What are resources in reserve in a landfill?

In the context of a landfill, resources in reserve typically refer to the remaining capacity of the landfill to accept waste before it reaches its maximum capacity. This can be estimated by conducting periodic surveys and measurements of the landfill's remaining space, as well as assessing the rate at which waste is being deposited.

The resources in reserve of a landfill are a key consideration in waste management planning, as they determine how long the landfill can continue to accept waste before it reaches its maximum capacity and must be closed. Once a landfill reaches its maximum capacity, it must be closed and monitored for an extended period of time to ensure that it does not pose a threat to human health or the environment.

In addition to the remaining capacity of the landfill, other resources in reserve in a landfill may include materials that can be recovered and reused, such as metals, plastics, and other recyclable materials. Landfills may also be equipped with systems for capturing and utilizing landfill gas, which is a byproduct of the decomposition of organic materials in the landfill.

Overall, the resources in reserve of a landfill are an important consideration in waste management planning, as they determine the landfill's remaining lifespan and its potential for resource recovery and utilization.

What are ancillary resources in a landfill?

Landfill ancillary resources are the resources that can be extracted or generated from a landfill in addition to its primary function of waste disposal. These resources can include both tangible and intangible assets that have value for the landfill operator or for other entities.

Examples of landfill ancillary resources include:

1. **Landfill gas:** Landfills generate methane and other gases as waste decomposes. This gas can be captured and used to generate electricity, heat, or fuel.
2. **Recoverable materials:** Certain materials, such as metals, plastics, and glass, can be recovered from the waste stream and sold or recycled.
3. **Compost:** Some landfills may have the capability to compost organic waste, such as food and yard waste, which can be sold as a soil amendment or fertilizer.
4. **Land:** Once a landfill has reached the end of its useful life, the land can be repurposed for other uses, such as parks, recreation areas, or commercial or industrial development.
5. **Environmental credits:** Landfills that reduce their greenhouse gas emissions or implement other environmentally beneficial practices may be eligible for credits that can be sold on carbon markets or other environmental markets.
6. **Water:** Some landfills may have groundwater resources that can be used for irrigation or other purposes.

Overall, landfill ancillary resources can provide additional revenue streams for landfill operators, reduce the environmental impact of landfill operations, and provide value to the broader community.

What is a landfill linear economy?

A landfill linear economy refers to a waste management approach in which waste is generated, collected, and disposed of in a linear manner, without much emphasis on resource recovery or reuse. This approach is often characterized by a "take-make-dispose" model, where resources are extracted, processed into products, used, and then discarded as waste.

In a landfill linear economy, waste is typically sent to landfills for disposal, without much effort to recover or recycle materials from the waste stream. This can result in the depletion of natural resources and the generation of significant amounts of waste that can pose environmental and health hazards.

In contrast, a circular economy approach to waste management emphasizes resource recovery and reuse, with the goal of reducing waste and conserving natural resources. In a circular economy, waste is treated as a valuable resource, and materials are reused, recycled, or repurposed, rather than being disposed of in landfills or incinerators.

Overall, the concept of a landfill linear economy highlights the need for more sustainable waste management practices that prioritize resource recovery and reuse over disposal. By adopting a circular economy approach to waste management, it may be possible to minimize waste, conserve natural resources, and reduce the environmental impact of waste disposal.

What is refuse?

Refuse is a term used to describe any material or object that is thrown away or discarded because it is no longer wanted or needed. Refuse typically includes waste, garbage, trash, or other types of discarded materials, such as food scraps, old papers, empty containers, and broken household items.

Refuse can take many forms and can come from a variety of sources, including households, businesses, and industrial processes. Proper disposal of refuse is important to prevent environmental pollution, reduce health risks, and conserve resources. Recycling, composting, and other waste reduction strategies can help to minimize the amount of refuse that ends up in landfills or incinerators.

What is consumption of resources in a landfill?

The consumption of resources in a landfill refers to the use of resources, such as energy, water, and raw materials, that are required to operate and maintain a landfill. Landfills consume resources in several ways, including:

1. Construction and operation of the landfill facility: This includes the use of energy and raw materials to construct the landfill, install infrastructure (such as access roads and monitoring systems), and operate heavy equipment (such as bulldozers and excavators) to manage and compact waste.

2. Transportation of waste: Waste must be transported to the landfill from its point of origin, which requires energy and resources to operate vehicles, such as garbage trucks and hauling equipment.
3. Leachate management: Landfills generate leachate, which is liquid that is generated as water percolates through the waste. Leachate must be collected and treated to prevent contamination of the surrounding environment, which requires energy and resources.
4. Gas management: Landfills also generate methane gas, which must be collected and managed to prevent it from escaping into the atmosphere, where it can contribute to climate change.

The consumption of resources in landfills can have environmental impacts, including air pollution, water pollution, and greenhouse gas emissions. Therefore, landfill operators must carefully manage their operations to minimize resource consumption and environmental impacts. This may include implementing a circular economy using in part energy-efficient practices, which use renewable energy sources, and implementing waste reduction and recycling programs to reduce the amount of waste that enters the landfill.

Table of Findings

Key Findings:

Landfill Estimated Remaining Life, Projected End of Life (EOL)

LSCL F-1: In 2003 EOL was projected to be approximately 2074, with a Landfill Life estimate of 71 years (2003 East Triangle CUP document, Benton County file PC-03-11.pdf). Twenty years later EOL is projected to be 2037-2039 with a Landfill Life of 14.5-16 years, a reduction of approximately 36 years of estimated life in 20 elapsed years. In 2013 Valley Landfills Inc. reevaluated an area of Landfill Site zoned property in the northeast corner of the site for waste placement stability engineering. This area was removed from the landfill’s site development plan based on updated state seismic guidance for landfill stability.

LSCL F-2: In 2013 EOL was projected to be 2053-2062, with a Landfill Life estimate of 40-49 years⁷³. Ten years later EOL is projected to be 2037-2039 with a Landfill Life of 14-16 years, a lower and upper range reduction of approximately 16 and 23 years respectively.

LSCL F-3: Current (1Q2023) estimate for landfill EOL = CY 2037 – 2039, with a landfill life estimate of 14-16 years, based on an annual intake level of 1.0 – 1.1 MTons/year and a density of 0.999 Tons/yd³, assuming the quarry area will be fully excavated by the time the current disposal areas are full. Valley Landfills, Inc. has represented that this nominal life projection (“baseline”) is derived from a few data points in annual measurements, and is the product of a modeling process that is standard in the landfill industry. Valley Landfills, Inc. acknowledges that a variety of factors, including human factors, can impact landfill site life, but are not included in this baseline calculation. Valley Landfills, Inc.’s baseline projection of a 2037-2039 closure date is based both upon existing demand and Valley Landfill Inc.’s efforts to maintain and/or grow its service area and business in the market.

LSCL F-4: The 2021 Site Development Plan is a registered engineer of record stamped and dated plan set which includes but not limited to a projected a 2039 EOL based on an annual intake of approximately 846,000 Tons/year, but this intake tonnage is not considered binding or

⁷³ [2013 Coffin Butte Landfill and Pacific Region Compost Annual Report](#)

controlling by either ODEQ or Valley Landfills, Inc. This is based on the best information available at time of approval by Oregon DEQ, which can change based upon service area impacts.

LSCL F-5: Under the 2020 Franchise Agreement, the 1.1M tonnage cap is eliminated upon Benton County's approval of a CUP (expansion). If intake volumes increase, an **expansion would not necessarily guarantee an increase in site life** or the extension of the Landfill's closure date. For example, if an expansion increases available airspace but intake volumes increase the fill rate even more, the overall life of the landfill could decrease. Republic Services said it was unlikely such a scenario would occur, due to operational limitations at the Landfill and in the Service Area [could not reach consensus].

Nonetheless, transitioning from the current linear landfill economy to a circular economy landfill can potentially extend the life of a landfill. This is because a circular economy landfill is designed to minimize the amount of waste sent to the landfill and extract value from the materials that are discarded. By recovering valuable materials through recycling, composting, and other forms of recovery, a circular economy landfill reduces the volume of waste that needs to be disposed of in the landfill. This, in turn, reduces the rate at which the landfill is filled up, which can extend its lifespan with or without tonnage cap limitation.

Notwithstanding, a landfill tonnage cap is a regulatory limit on the amount of waste that can be disposed of in a landfill over a certain period of time. The tonnage cap is typically set by the local or state government and is intended to prevent the landfill from becoming overfilled and causing environmental or problems such as contamination of groundwater, soil, air, or demand and supply equilibrium problems, while transitioning to a circular economy.

LSCL F-6: For purposes of this discussion, the subcommittee agreed to rely on data from the annual reports and other landfill filings with the county. EPA also provides data in its greenhouse gas reporting webpage that uses different data from another source.

LSCL F-7: Factors such as population growth and debris from disasters may drive up intake rates and thus shorten landfill life; factors such as recycling and waste diversion, plus emerging factors such as extended producer responsibility (EPR) incentives and climate crisis legislation, may drive down intake rates and thus lengthen landfill life.

LSCL F-8: Landfill Life (longevity) is the availability of the landfill reserve resources and landfill ancillary resources that currently operates the landfill's demand, supply and equilibrium of refuse disposal in a linear economy model.

LSCL-F-9: The subcommittee identified these factors that could impact usable landfill airspace: Landfill expansion(s) and associated removal of tonnage cap; the quarry excavation schedule; water table concerns; disasters that happen to the landfill itself.

LSCL F-10: The subcommittee identified many factors that could impact the landfill's annual tonnage; i.e., the rate at which its usable volume fills up. These included: exceedance of the tonnage cap; recession(s); economic growth; structural and societal reductions in waste generation; disposal alternatives; transportation alternatives; global health issues such as pandemics; climate change and other environmental legislation concerning methane and other greenhouse gases; climate change and other environmental legislation concerning the reduction of waste and pollution in landfilled material; state and local legislation upgrading waste diversion efforts; environmental activism, especially about the climate crisis; wildfires

and other disasters that generate debris for landfilling; service area changes; changes in population in the service area.

LSCL F-11: Recognizing that the question “What factors could make the landfill close earlier than the Baseline Scenarios (by 2037–39)?” is of particular importance to this report’s readers, the subcommittee has prepared a table that contains background information about each factor and proposes questions for the County and the SMMP to answer. This information can be found in Table 4.

LSCL F-12: Landfills are known to be major emitters of methane, but previously these emissions have typically been estimated through mathematical modeling, because the emissions themselves were hard to measure directly. The methane emissions from Coffin Butte Landfill have not been well-characterized, so the possible effects of methane-reducing legislation on the landfill’s waste intake rates are also hard to characterize.

LSCL F-13: One proven way to reduce a landfill’s greenhouse gas emissions is to divert organic material. Landfill gas collection systems are another tool to lessen the greenhouse gas impact but do not remediate it. In 2019 the EPA estimated that Coffin Butte Landfill’s gas collection system operates at 57% efficiency.

LSCL F-14: The impetus to curtail methane emissions is focusing attention on ways to divert organic waste from landfill wastestreams. The 2023 Food Donation Improvement Act, for example, enables existing food donation organizations to expand operations and incentivizes the creation of new methods and innovations in preventing food waste, both to stop wasting a valuable resource and to reduce methane emissions.

Landfill Size: Capacity

LSCL F-15: A significant portion of the permitted airspace in the quarry area (also known as Cell 6) is currently unavailable for waste disposal due to unexcavated rock. As with other cells at Coffin Butte, permitted airspace is ultimately the result of two separate decisions by two separate entities. Benton County approves the land use for the landfill’s footprint, while DEQ and the franchisee (Valley Landfills Inc.), approve the cell design that determines the physical volume available.

LSCL F-16: The addition of Cell 6 added approximately 13,400,000 cubic yards. Landfill total capacity increased by approximately 9,000,000 cubic yards in 2003 with the addition of the West and East triangle areas for a total of approximately 35,500,000 cubic yards. The formal County approval of Cell 6 as a disposal area has not been identified or confirmed. Since 2004, reported remaining airspace has decreased gradually, while total permitted airspace has remained somewhat constant. As of end 2021 approximately 44% of permitted capacity remained unused.

Landfill Size: Intake Tonnage

LSCL F-17: The amount of waste placed into the landfill has grown dramatically over the past 40 years. In 1983, 375 tons per day were placed into the landfill (117,000 tons per year). By 1993, the tonnage volume increased to 310,000 tons per year. In 2003 550,000 tons were placed into the landfill. In 2013, the waste tonnage was 479,000, and in 2021, 1,046,000 tons were emplaced.

LSCL F-18: The official 2022 Coffin Butte annual intake tonnage is not available at the time of this report (February 2023). The size of the Host Fee payment to Benton County in January 2023 indicates a 2022 intake volume of 1,066,436 Tons. The actual tonnage figure should be updated after the receipt of the 2022 Coffin Butte Landfill Annual Report.

LSCL F-19: The 2000 Landfill Franchise Agreement stipulated that the County was to perform a "Baseline" study as a reference for measuring potential future adverse effects (completed in 2001), and defined a ramping intake tonnage threshold to be applied during the term of the agreement (CY2001-2019). Intake volumes in excess of this threshold granted the County clear right to pursue specific remedies: a) the County, at its expense, could perform an updated Baseline assessment, and b) if the County determined that the new assessment indicated an adverse impact on "the Baseline," the agreement stipulated that "the parties shall immediately proceed in good faith to negotiate an increase in the Franchise Fee and/or Host Surcharge...".

LSCL F-20: The 2000 intake tonnage threshold was exceeded in calendar years 2017, 2018 and 2019.

LSCL F-21: Washington County waste tonnage accepted at the landfill increased by over 400% between 2016-2017, with the increased tonnage continuing through 2019. Riverbend Landfill was a regional landfill that accepted waste from many counties, including Washington County. Riverbend's owner/operator diverted tonnage to Coffin Butte in an effort to extend Riverbend's site life.

LSCL F-22: Benton County did not utilize either of the contractual remedies available to it as a result of the intake tonnage exceeding the threshold in 2017-2019. No updated Baseline study was performed, and no renegotiation of the landfill fee structure was undertaken.

LSCL F-23: Benton County received approximately \$3.1M of incremental revenue from the increased intake volumes over the 2017-2019 period. Of this, approximately \$1.08M was the result of intake volume in excess of the annual limits over the three-year period. This equates to roughly \$11.50 total per Benton County resident for the three-year period.

LSCL F-24: In an official 2018 presentation to Benton County Board of Commissioners, Benton County represented the 2000 Franchise Agreement intake threshold as "Annual Maximums Specified in Franchise Agreement." However, the 2000 Franchise Agreement does not describe the tonnage threshold as a "limit" or "maximum" and does not limit the number of tons that can be accepted.

LSCL F-25: Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement include a section stating that "The parties acknowledge that there may be adverse effects to the County's infrastructure and environmental conditions due to increased annual volumes of Solid Waste accepted at the Landfill." In both agreements this section of the agreement then stipulates terms regarding intake volumes.

LSCL F-26: The intake threshold defined in the 2000 Landfill Franchise Agreement and the Tonnage Cap defined in the 2020 Landfill Franchise Agreement were stipulated as contractual provisions, with consequences explicitly defined in the 2000 agreement and implicit (violation of contract) consequences in the 2020 agreement.

LSCL F-27: The 2020 Landfill Franchise Agreement defined a 2020 Tonnage Cap of 1.1 M Tons/year that the Landfill "shall not exceed." That includes 75,000 tons reserved annually for

Benton County. The Tonnage Cap does not apply to fire, flood, natural disaster, or Force Majeure event materials.

LSCL F-28: The 2020 Landfill Franchise Agreement also includes a provision that the tonnage cap would be eliminated upon governmental approval of an application to “expand the landfill onto the Expansion Parcel.”

LSCL F-29: It is unclear if the 2020 Franchise Agreement’s enforcement mechanisms are strong enough to prevent agreement violation or if the County will pursue the options at its disposal.

LSCL F-30: The landfill operator generally chooses how much tonnage to accept, based on demand and their contracts with various jurisdictions and haulers. Some of the increasing tonnage accepted at the landfill from 1993-2021 reflect the increase in business development.

LSCL F-31: The slow downward trend in intake volume in the 2006-2010 period is explained by the franchisee as resulting from the economic downturn of 2008.

LSCL F-32: Republic Services states that the drop in volumes to Coffin Butte in 2020 is due to the global COVID-19 pandemic, coupled with diversion of tonnage from Riverbend Landfill to other landfills besides Coffin Butte. However, tonnage volumes increased again in 2021 due in part to changes in lifestyle/development/at home shopping patterns as a result of the pandemic, as well as debris from the Oregon wildfires.

LSCL F-33: A range of human factors have been seen to influence the landfill’s intake rate and therefore its operating life in the past. These include business factors such as expansions or contractions of the Service Area, social factors such as recessions and population growth, and environmental factors such as recycling and other initiatives that divert materials out of the waste stream.

LSCL F-34: More human factors are emerging that could influence the landfill’s intake rate and therefore its operating life in the future. These include newly enacted state legislation assigning responsibility for disposal costs to the producers of waste material, newly enacted national legislation addressing food waste, and national legislation being rolled out that targets methane and other greenhouse gas pollution.

LSCL F-35: A 2016 MOU between Benton County and Republic Services acknowledged “Coffin Butte Landfill will be accepting municipal solid waste currently being delivered to Waste Management’s Riverbend Landfill for a term of 1-2 years, beginning in January of 2017.”

LSCL F-36: The 2016 MOU does not contain language preventing Benton County from exercising its rights under the 2000 Landfill Franchise Agreement (see Recommendations).

Specific Locations

LSCL F-37 : Valley Landfills Inc. anticipates it will no longer be able to place waste in Cell 5 by mid-year 2025. When Cell 5 is full, Republic Services is working on a plan to deposit waste in the permitted area of the landfill known as the quarry known as Cell 6. Excavation of the primary quarry footprint is scheduled to begin in Spring of 2023 with completion in Spring 2025.

LSCL F-38: Approval of the 1983 rezoning was recommended by SWAC and CAC with on the condition that “No landfill be allowed on property south of Coffin Butte Road.”

LSCL F-39: 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 new disposal area would require approval of the Planning Commission in a public vote. The process for approving 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.

Landfill Size: Footprint and Structure

LSCL F-40: The 1983 rezoning action defined 194 acres as Landfill Size (LS) zone. An additional 59-acre parcel south of Coffin Butte Road, while zoned LS, would not be used for disposal of solid waste 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.

LSCL F-41: Twenty-three tax lots are owned by landfill-affiliated entities. Six of these taxlots are zoned LS, and the 5 LS tax lots on the north side of Coffin Butte Road contain landfill cell disposal areas. The most recent tax lots associated with the landfill were purchased in 2001 (non-disposal areas).

LSCL F-42: The landfill has developed visually over time in accordance with site development plans. Coffin Butte Landfill has changed visually since its designation as a regional landfill in 1974, growing in both height and size, and visual appearance. However, the overall landfill acreage hasn’t changed significantly since 1983; it has filled in more of its footprint.

Table of Recommendations

Key Recommendations:

LSCL R-1: The Sustainable Materials Management Plan should further develop scenarios and factors that may impact the landfill lifespan, including detailed analyses of likely projections. The Commissioners and County staff should keep the questions about these factors and their effects in mind when making decisions affecting the landfill.

LSCL R-2: Benton County should create and share a plan for the enforcement of all franchise agreements-

LSCL R-3: Benton County should contract for 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 ground water conditions and contamination levels, noise, odor, visual screenings, litter, hours of operation, solid waste control systems and compliance with all solid waste Permits. This baseline study could help inform Benton County in decision making and financial choices regarding how to use the income from the landfill.

LSCL R-4: The County should, as soon as possible, consider the public record of the deliberations leading to the execution of the 2020 Landfill Franchise Agreement in order to assess a) which party requested that the 2020 Tonnage Cap be eliminated if expansion was approved, b) if Benton County proposed the elimination of the 2020 Tonnage Cap, determine why this was done, c) determine the County’s expectation for the benefit(s) to the County of accepting up to

1.1M Tons of waste per year when the County's reserve portion is approximately 6.8% of that amount, d) interpretation of the "Tonnage Cap", specifically relative to the 2020 Tonnage Cap, and e) expectations of both parties for future landfill site expansion, including any plans for multiple (repeated) future expansions. The county should then use this information to inform landfill-related decision-making. These negotiations were conducted privately (not in public meetings), and there are elements of these discussions that may be proprietary and/or fall under attorney-client privilege.

[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.).

[LSCL R-6](#): The County should clarify when formal approval of Cell 6 as a disposal area was granted.

[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 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.

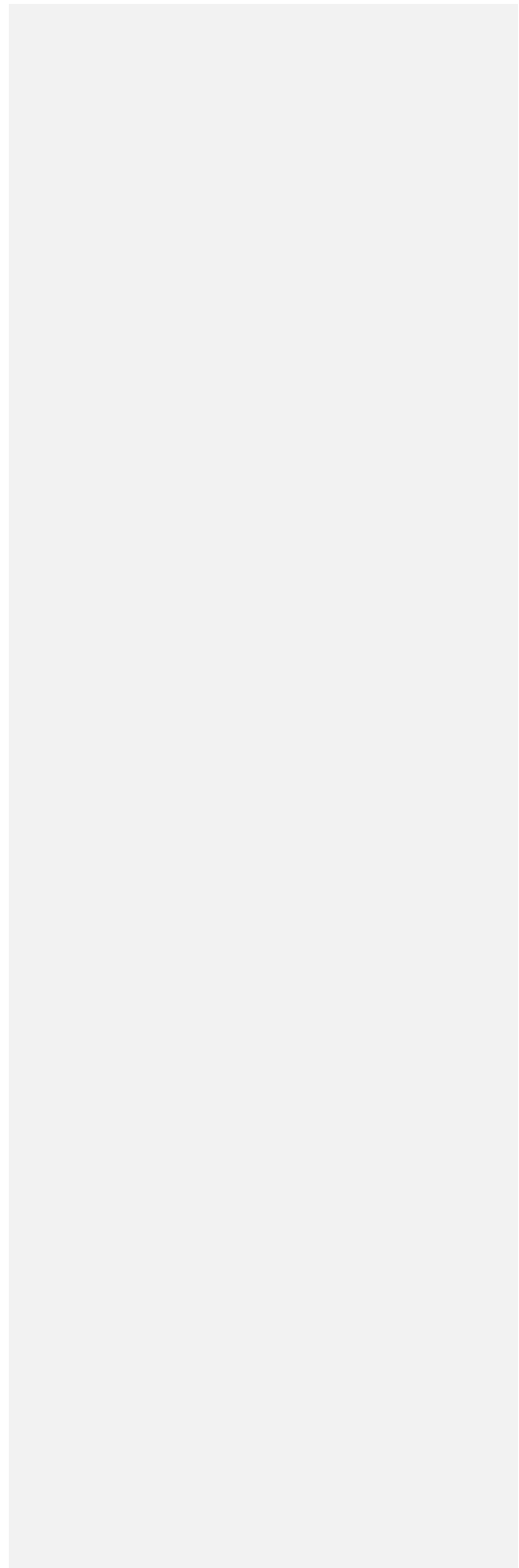
[LSCL R-8](#): Benton County should secure information from Republic Services about the Annual Tonnage figures for presentation to SWAC/DSAC as soon as they are available, and not wait to include them for the first time in the Annual Report.

[LSCL R-9](#): The baseline scenarios laid out in this report assume that landfilling will continue as it is doing today for the next 16 years. That expectation should be tempered by signals of factors that can reshape Coffin Butte Landfill's social and regulatory landscape, especially environmental considerations related to the climate crisis. This reshaping is something that Benton County can participate in, on behalf of its citizens, as the landfill's permitted volume is filled.

[LSCL R-10](#): Benton County should take steps to acquire better information about the methane emissions of Coffin Butte Landfill, because the landfill's emissions are currently not well-characterized and use this information to guide diversion programs that could limit the amount of organic waste going to the Landfill.

[LSCL R-11](#): In its current actions and in concert with its Sustainable Materials Management Plan, the County should be aware of and prepare for changes in Coffin Butte Landfill's social and regulatory landscape, as the future could hold significant opportunities for the County and affiliated organizations to bring waste management closer to the County's goals and values.

[LSCL R-12](#): Benton County should keep in mind that the most effective way to curtail a landfill's greenhouse gas emissions is to divert organic material from being landfilled. This can inform County and area-wide decisions regarding recycling, composting, food waste, and other initiatives affecting how the landfill's permitted volume is filled.



Executive Summary

The current landfill activities north of Coffin Butte Road consist of a total of 194 acres, with 6 cells currently slated or approved for disposal of waste.

In 2003 the End of Life “EOL” of Coffin Butte Landfill was projected to be approximately to year 2074, with a Landfill Life estimate of 71 years.

In 2013 EOL was projected to be years 2053-2062, with a Landfill Life estimate of 40-49 years.

In the current year of 2023 the EOL is projected to be years 2037 -2039, with a landfill life estimate of 14-16 years.

The above landfill progression is a linear economy model that represents a waste management approach in which waste is generated, collected, and disposed of in a linear manner, without much emphasis on resource recovery or reuse. This approach is often characterized by a "take-make-dispose" model, where resources are extracted, processed into products, used, and then discarded as waste by society.

The linear model of a landfill economy is being replaced by more sustainable models, such as the circular economy. In a circular economy, waste is minimized by prioritizing waste reduction and recycling, and by designing products and processes with a focus on sustainability and longevity. In this model, waste is seen as a valuable resource that can be reused, repurposed, or recycled, rather than being discarded into a landfill.

This approach supports the solid waste management plan of Benton County working shoulder to shoulder with a sustainable materials management plan being developed by Benton County Community Development in conjunction with Oregon Department of Environmental Quality, members of Benton County, as well neighboring Counties and municipality using Republic Services waste management services.

In Republic Services 2021 Sustainability Report, Jon Vander Ark, President and Chief Executive Officer reports, “This is our company vision, which is intentionally ambitious because we believe we are uniquely positioned to help our customers achieve their own sustainability goals. That commitment begins with our Elements of Sustainability – Safety, Talent, Climate Leadership and Communities – and these elements anchor our 2030 sustainability goals”.

The reader of this executive summary is encouraged to read further into subcommittee reports to appreciate the wealth of information the members of the community have brought forwarded in the short amount of time granted under the Benton County Talks Trash bridge approach into a needed sustainable landfill economy and transportation plan for waste disposal.

Landfill Life Projections

Coffin Butte Site Life Projection: 2023 to closure

The landfill life projections shown below are provided Republic Services. They are designed to establish a baseline – a simple operational projection that more sophisticated scenarios can be built upon.

It presumes:

- a) A steady annual tonnage intake of between 1 million and 1.1 million tons for the duration of the landfill’s projected remaining site life.

- b) Site life is currently projected by Republic Services to be between 14.5 and 16 years, with a closure date between 2037-2039.
 Note: This also presumes that the landfill area known as “the quarry” can be fully excavated. A significant portion of permitted airspace at Coffin Butte is currently unusable due to unexcavated rock.
- c) As indicated in the assumptions, this baseline is not a “default future,” in that it does not incorporate outside factors.

Scenario 1

Tons per Year	1,000,000 Tons
Projected Remaining Airspace 12/31/22	16,008,557 CY
2022 3-year Density Avg	0.999 Tons/CY
Site Life	15.99 Years

Scenario 2

Tons per Year	1,100,000 Tons
Projected Remaining Airspace 12/31/22	16,008,557 CY
2022 3-year Density Avg	0.999 Tons/CY
Site Life	14.54 Years

Definitions:

Tons per Year: Projected tonnage based off recent history*

Projected Remaining Airspace: Airspace remaining at the end of 2022 based off projected 2022 tons and 2022 3-year density average

2022 3-year Density Avg: Average density measured during 2020, 2021 and 2022 measurements

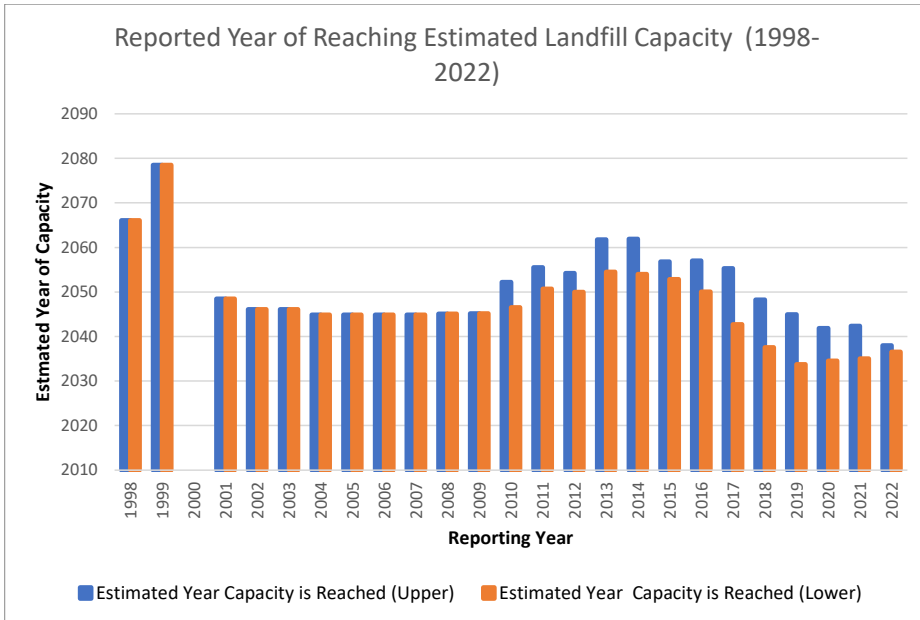
Site Life: Total site life including the fully excavated quarry area

*Variables can and do impact tonnage and available airspace, and can include changes in disposal and diversion rates, natural disasters and other unforeseen market changes, etc.

The table shown above represents industry-accepted modeling for estimating a Landfill’s remaining life. Modeling is based on three factors: remaining permitted airspace, volume, and density. As noted in the text below the graphic, Republic Services acknowledges that a wide variety of variables, independently or in concert with each other, can impact the baseline(s) enumerated above.

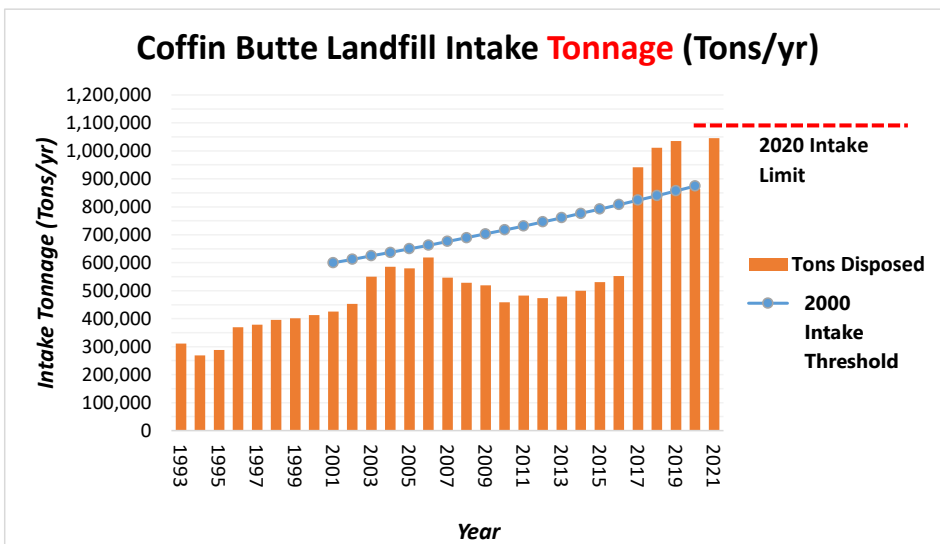
Historical Landfill Life Projections

Chart 4: Historical EOL Projections (source: Landfill Annual Reports)



Recent intake volume: 1993 – 2021

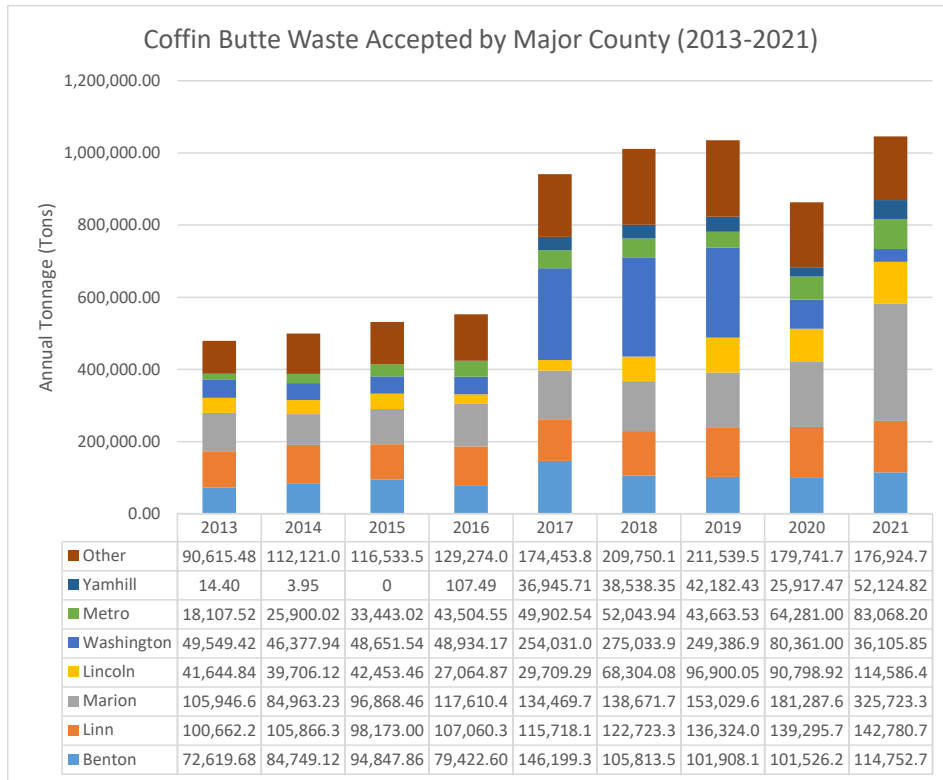
Chart 2: Coffin Butte Landfill Intake 1993 - 2021



Intake volume by source 2016 – 2021

See chart below for a breakdown of the Coffin Butte intake by source county for the period 2013-2021. This period includes the significant intake volume increase of 2016-2017. The intake shown for Benton County includes the volume of the landfill’s daily cover, the soil used to overlay waste at the end of each day.

Chart 3: Intake by Source, 2013 - 2021



Section 1: Landfill Size

Physical Real Estate Footprint

History

The Coffin Butte landfill was initiated in the early World War II era as a local burn dump for the Adair Air Force Base. The location was chosen because it was convenient to the Base, and was not necessarily the result of a careful selection and evaluation process.

Per the 2002 MOU [Benton County & Valley Landfills MOU Relating to Land Use Issues \(2002\)](#):

- 1974 CUP approved landfill activities on 184 acres north of Coffin Butte Road.
- 1983 rezoning added 10 acres for landfill activities north of Coffin Butte Road, for a total of 194 acres.
- The site map included in the 1983 rezoning consideration restricted “fill” activity to the north side of Coffin Butte Road.
- Since 1983, the total acreage of the permitted landfill site has remained largely unchanged.
- Franchisee (VLI) agrees that the approximately 56-acre parcel south of Coffin Butte Road, while zoned Landfill Site (LS), would not be used for disposal of solid waste unless approved by a conditional use permit and Department of Environmental Quality permit for solid waste landfill use.
- Total acreage owned by landfill franchisee unstated.

See Section 2 of this document for additional detail on land use and zoning actions impacting the landfill.

Images

Figure 1: Reported circa 1941 aerial view of Coffin Butte area, before Camp



From near Sec. Line 18, 19, T. 10S, R. 4W. Looking N.
Coffin Butte in right foreground. Hill on left.

Figure 2: Wide aerial view dated 6-10-63 (1963). Pond on south side of Coffin Butte was a result of military quarry operation.



Figure 3: Reported 1978 image of vehicles in line at the landfill.



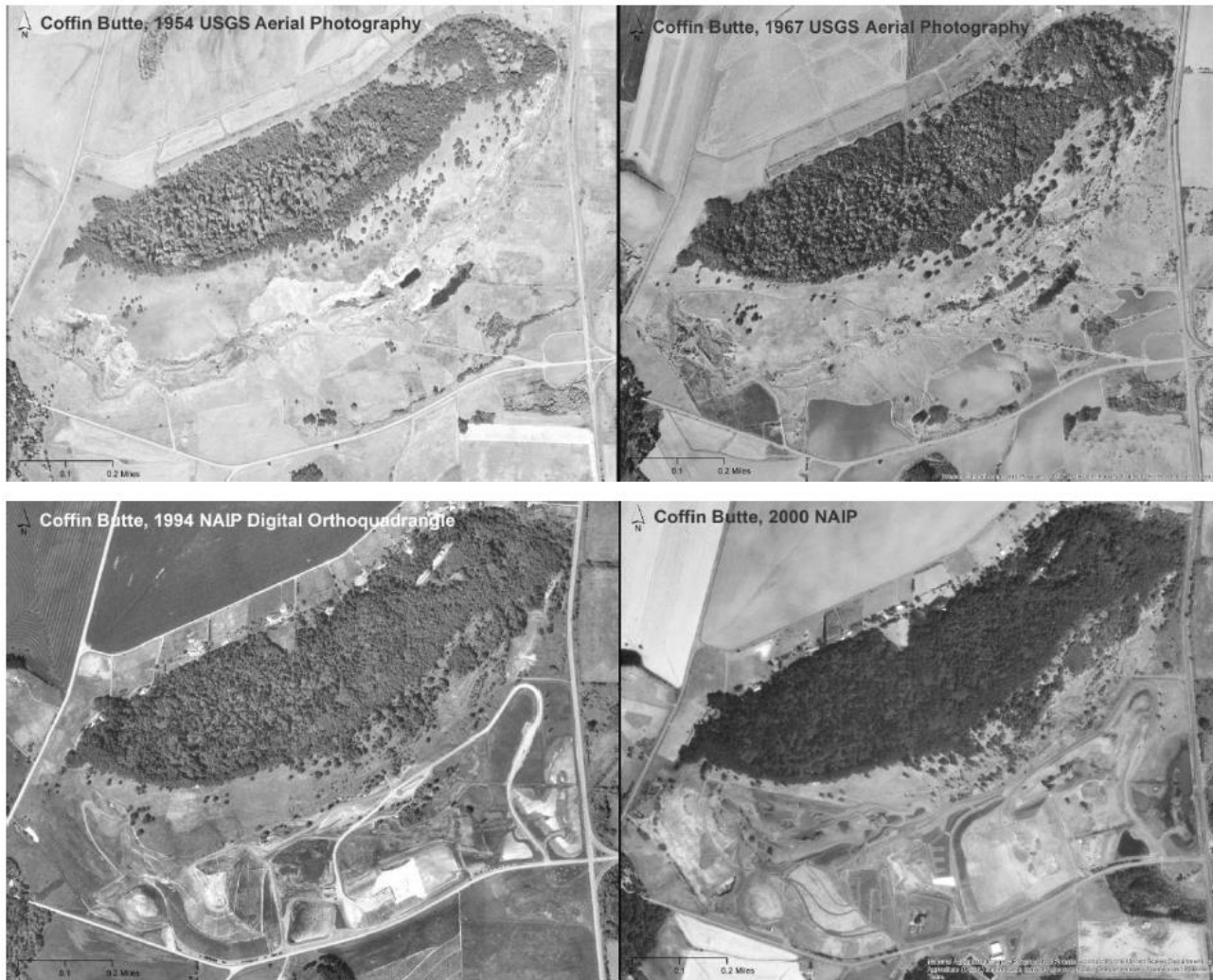
Figure 4: 2008 aerial view, from the 2008 Coffin Butte Landfill Annual Report, Republic Services, Inc.



Figure 5: Aerial image from Fall 2022



Figure 6: Additional Aerial Photography of Coffin Butte Landfill over Time (1954-2020)

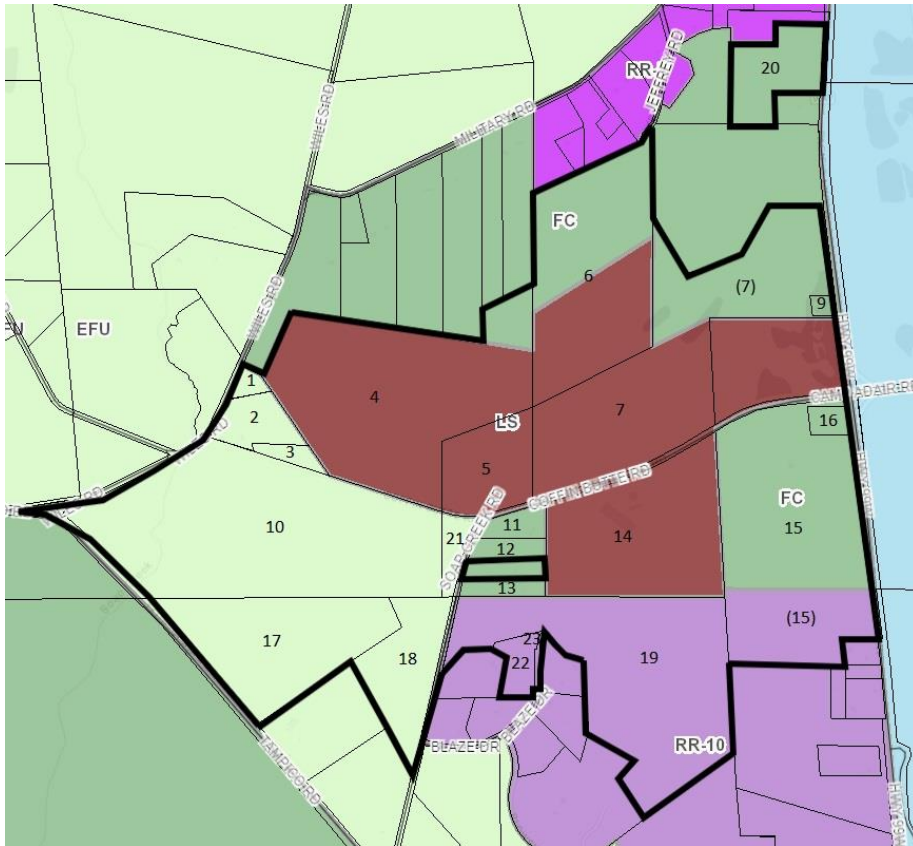




Current footprint

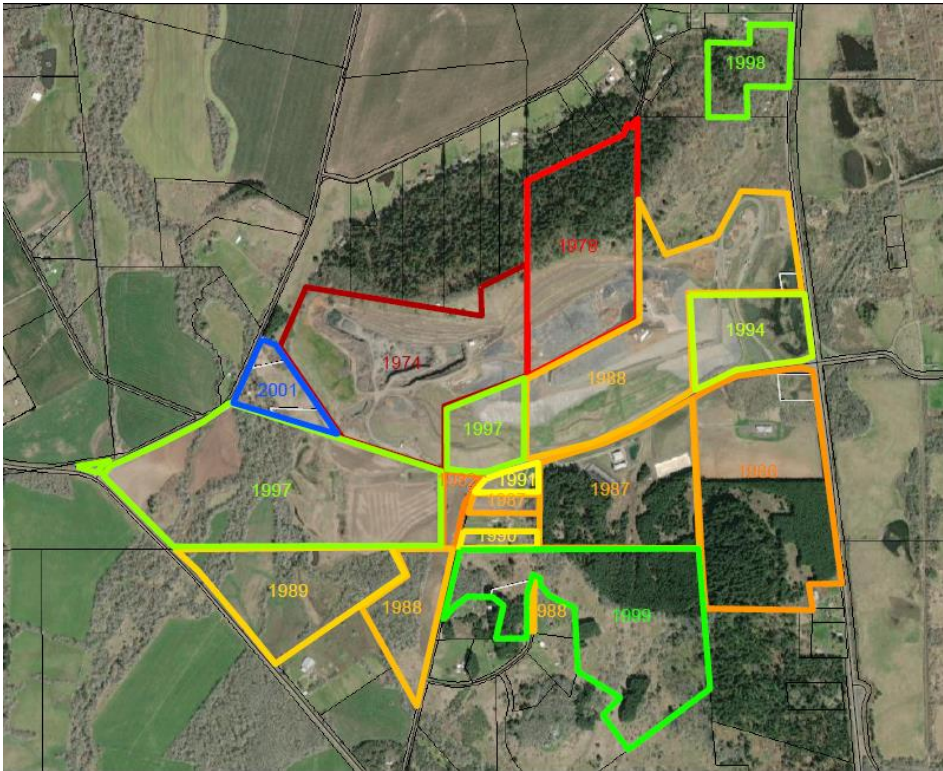
The real estate footprint of the landfill is shown in **Error! Reference source not found.**, and **Error! Reference source not found.**, below. See Appendix C for a detailed table of landfill property by taxlot.

Figure 7: Properties associated with the landfill, numbered in coordination with the table in Appendix C, and color-coded by zoning.



Note: Properties zoned LS (specifically #5, 7, 8 and 14) were likely purchased by landfill owners prior to 1983, but at the time of this report that property ownership information was not available, and only the more recent property records shown above were available.

Figure 8: Property map, with years each property was purchased by a landfill-affiliated organization.



Permitted Disposal Capacity

Historical permitted capacity benchmarks

The following table lists total expected/calculated permitted capacity for selected points in time. Note that before approximately CY 2000 the Coffin Butte annual reports are inconsistent in presenting an estimate of this capacity; thus, historical figures (e.g. 1983) are typically derived from a combination of archival data. For all but the latest figure (CY 2021), the figures should be interpreted as rough estimates and not precise volume numbers. The intent of providing the historical numbers is to document the growth of the expected/planned landfill size over time.

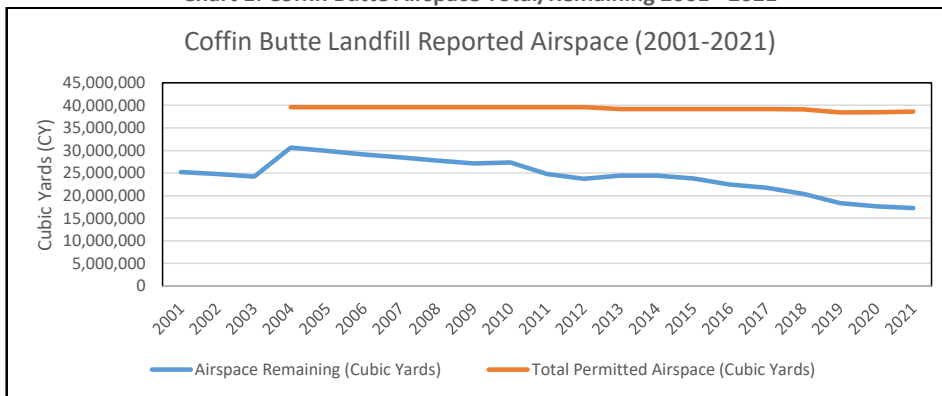
Table 1: Historical Capacity Values

Date	Total Capacity (yd ³)	Notes
1983	13,134,000	Capacities defined in the 2003 Site Development Plan for the cells ultimately located on the fill areas shown in Error! Reference source not found. areas (Cells 2-5)
?	35,531,000	With Cell 6, estimated at 13,397,000 yd ³ . Benton County staff are currently researching the Cell 6 approval date/status.
1995	18,000,000	1995 Annual Report, estimated total capacity of Cells 1-5
1999/2003	22,134,000	Addition of West and East triangles (3,400,000 yd ³ and 5,600,000 yd ³ respectively); calculated from 2003 Site Development plan 1999 cell volume figures
2003	35,531,000	2003 Site Development Plan, based on October 1999 cell volumes and adding West and East triangles, with Cell 6 estimated at 13,397,000 yd ³
2004	39,594,002	2004 Coffin Butte Landfill Annual Report
2013	39,172,992	2013 Coffin Butte Landfill Annual Report
2021	38,997,848	2021 Coffin Butte Landfill Annual Report

Capacity utilization 2001 – 2021

The plot below shows the total permitted airspace and the available (remaining) airspace over the period 2001 – 2021. Note that as of end 2021 approximately 44% of the total permitted capacity remained unused.

Chart 1: Coffin Butte Airspace Total/Remaining 2001 - 2021



Near-term (circa 2025) capacity adjustments for 5-year operating plan

Republic Services is currently in discussion with Knife River regarding necessary permitting/steps to begin accelerated excavation of the quarry (future cell 6).

Valley Landfills Inc. anticipates it will no longer be able to place waste in Cell 5 by mid-year 2025. Republic Services is working on a plan to deposit waste in the permitted area of the landfill known as the quarry (also referred to as Cell 6). Excavation of the primary quarry footprint is scheduled to begin in Spring of 2023 with completion in Spring 2025.

Intake Volume

Coffin Butte intake volume is documented in the annual reports produced by the landfill franchisee. Benton County has annual reports on file for years 1993 – 2021 (inclusive) with the exception of year 2000; intake data for 2000 is available in the 2021 report. Note that with older (pre-2008) reports, the annual intake volume figure is sometimes difficult to determine precisely due to inconsistent values stated within a given annual report (e.g. narrative summary vs. intake volume table) and/or discrepancies in values referenced in subsequent annual reports (e.g. historical comparisons). Where discrepancies exist within a given annual report, the figure documented in the intake volume table is used. See Appendix A for a detailed listing of the annual intake volumes used in this document.

I. 2000 and 2020 Landfill Franchise Agreement Intake Thresholds

Agreement Terms

Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement include a section with the stipulation “The parties acknowledge that there may be adverse effects to the County’s infrastructure and environmental conditions due to increased annual volumes of Solid Waste accepted at the Landfill.” In both agreements this section of the agreement then stipulates terms regarding intake volumes.

The 2000 Landfill Franchise Agreement mandated that the County was to perform a “Baseline” study as a reference for measuring potential future adverse effects (completed in 2001), and defined a ramping intake tonnage threshold to be applied during the term of the agreement (CY2001-2019). See Appendix A for a detailed calculation of the annual values of this threshold. In this document the threshold thus defined is termed the “2000 Intake Threshold.” Intake volumes in excess of this threshold granted the County clear right to pursue specific remedies: a) the County, at its expense, could perform an updated Baseline assessment, and b) if the County determined that the new assessment indicated an adverse impact on “the Baseline,” the “parties [Benton County and the franchisee] shall immediately proceed in good faith to negotiate an increase in the Franchise Fee and/or Host Surcharge...”.

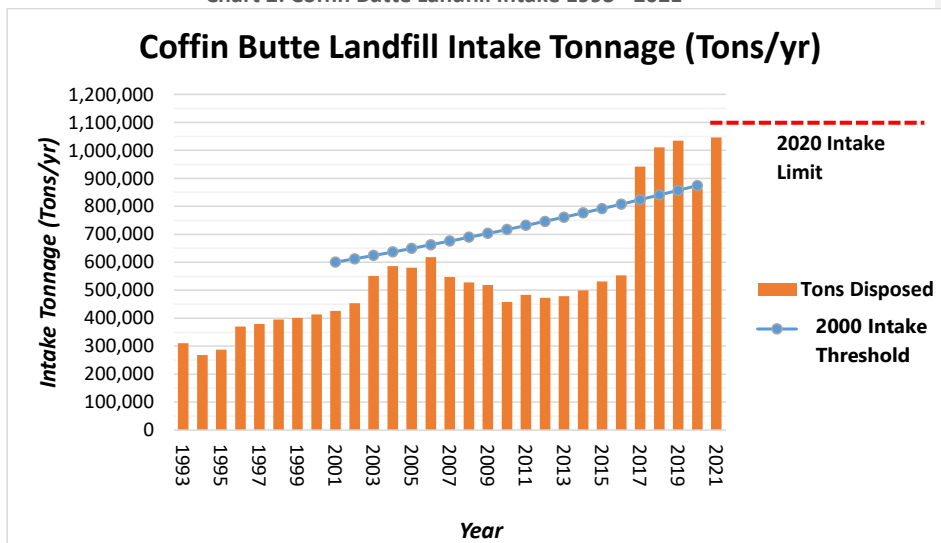
While the 2000 Landfill Franchise Agreement did not refer to the intake threshold as a “limit,” in a presentation compiled by the Benton County Health Department for consideration at the September 4, 2018 Benton County Board of Commissioners meeting the 2000 agreement intake threshold was described in a key chart as “Annual Maximums Specified in Franchise Agreement”; see Page 33 of the *BentonCountyBoardofCommissionersMeeting_4Sep2018_180904_tu_pkt.pdf* document.

The 2020 Landfill Franchise Agreement stipulates that the total tonnage deposited at the Landfill “shall not exceed” 1.1M Tons per calendar year (described as the “Limit on Solid Waste) until “applications to expand the Landfill onto the Expansion Parcel are granted (following any and all appeals to final judgement).” Of this 1.1 M Tons per year, 75,000 Tons per year were reserved for Solid Waste from the County exclusively, with the balance of 1.025 M Tons per year being termed the “Tonnage Cap.” It was stipulated that “The County agrees that the Tonnage Cap shall not apply to any Solid Waste generated from fire, flood, other natural disaster or any Force Majeure event.”

II. Recent intake volume: 1993 – 2021

Annual intake volume for 1993 – 2021 is shown in Figure 2.

Chart 2: Coffin Butte Landfill Intake 1993 - 2021



III. Comments/discussion:

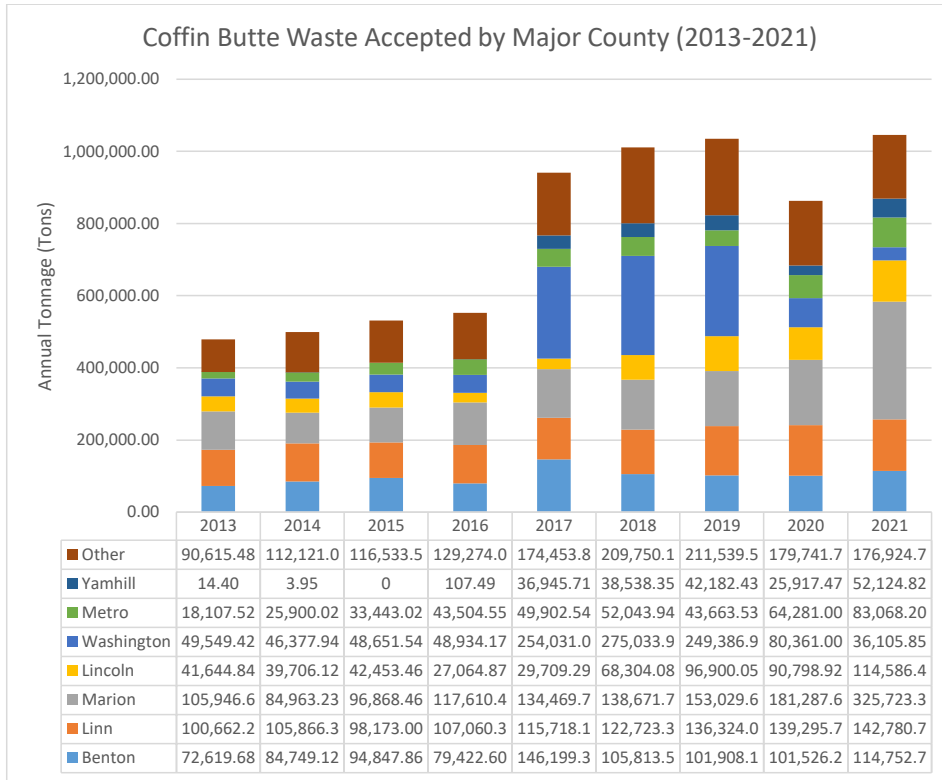
4. The landfill operator generally chooses how much tonnage to accept, based on demand and their contracts with various jurisdictions and haulers. Some of the increasing tonnage accepted at the landfill from 1993-2021 reflect the increase in business development.
5. The annual Coffin Butte intake tonnage exceeded the 2000 Intake Threshold in calendar years 2017, 2018, and 2019 (see Appendix A for exact figures). The County did not perform an updated impact assessment as a result of the 2017-2019 tonnage threshold exceedances and no fee increase negotiation was undertaken.
6. Due to an expected additional influx of volume in 2017 resulting from the onset of the closure process for Riverbend landfill in Yamhill County, in December 2016 the franchisee and Benton County executed a MOU ([Benton County & Republic Services MOU Relating to Additional Tonnage \(2016\)](#)) acknowledging an expected increase in Coffin Butte intake volume “for a term of 1-2 years.”

7. In documents provided to the A.1 Subcommittee, representatives of the franchisee have indicated that the approximately 70.25% year-over-year increase in CY2016-2017 was primarily due to redirected flow from Riverbend to Coffin Butte. Other factors, including rapid population growth in Willamette Valley and Western Oregon also played a role, according to the franchisee. Note that data from the Portland State University Population Center indicates the population of the 6-county service area defined in the 2000 Landfill Franchise Agreement grew 3.6% total in the period 2016-2019 (see Appendix A for population data).
8. The slow downward trend in intake volume in the 2006-2010 period is explained by the franchisee as resulting from the economic downturn of 2008.
9. The drop in volumes to Coffin Butte in 2020 is due to the global COVID-19 pandemic, coupled with diversion of tonnage from Riverbend Landfill to other landfills besides Coffin Butte. However, tonnage volumes increased again in 2021 due in part to changes in lifestyle/development/at home shopping patterns as a result of the pandemic, as well as debris from the Oregon wildfires.
10. The franchisee reported Coffin Butte Landfill accepted fire debris in 2021.
11. Benton County received approximately \$3.1M of incremental revenue from the increased intake volumes over the 2017-2019 period (approximately 450,000 additional Tons/year @ \$2.31/Ton x 3 years). Of this, approximately \$1.08M was the result of volumes in excess of the intake threshold over the three-year period (see yearly average figures in Appendix A; total = 466,479 Tons @2.31/Ton). This equates to roughly \$11.50 total per Benton County resident for the three-year period.
12. A clear understanding of the intent of language in the 2020 Franchise Agreement is necessary for a thorough interpretation of this document regarding questions such as the setting of the 1.1 M Tons/yr. intake limit relative to the expected life of the landfill over the term of the agreement, the proper interpretation of the “Tonnage Cap” term, stipulations that bear on questions of allowed intake capacity relative to expected landfill life, and the parties’ expectations of landfill expansion. To that end, release by Benton County of all available public records related to the negotiation of this agreement is necessary for proper consideration of these issues by this subcommittee and the larger workgroup.

IV. Intake volume by source 2016 – 2021

See chart below for a breakdown of the Coffin Butte intake by source county for the period 2013-2021. This period includes the significant intake volume increase of 2016-2017.

Chart 3: Intake by Source, 2013 - 2021



Landfill Structure

Overview

The disposal area and surrounding lots are shown in Figure 12: Property and Cell Structure Overview, 2021 Site Development Plan below. This drawing is reproduced from the 2021 Site Development Plan, Appendix A, Drawing No. G03, and is reproduced here for convenience.

Cell detail

Detail on individual disposal cells and the active dates for these cells is shown in Table 2: Cell Open/Closed Detail below.

Table 2: Cell Open/Closed Detail

Area	Date Opened	Date Capped/Closed
Closed Landfill (Burn Dump)	1940's	Relocated into lined landfill (no longer exists)
Cell 1	Late 1970's	Mid-1990's
Cell 1A	Late 1970's	Mid-1990's
Cell 2A	1988	TBD
Cell 2B	1994	TBD
Cell 2C	1995	TBD
Cell 2D	1998	TBD
Cell 3A	2003	TBD
Cell 3B	2004	TBD
Cell 3C	2005	TBD
Cell 3D Phase I	2007	TBD
Cell 3D Phase 2	2009	TBD
Cell 4	2012	TBD
Cell 5A	2014	TBD
Cell 5B	2018	TBD
Cell 5C	2020	TBD
Cell 5D	2022	TBD
Cell 5E	Future	TBD
Cell 6 (Quarry Area)	Future	TBD

Figure 9: Landfill Zoning

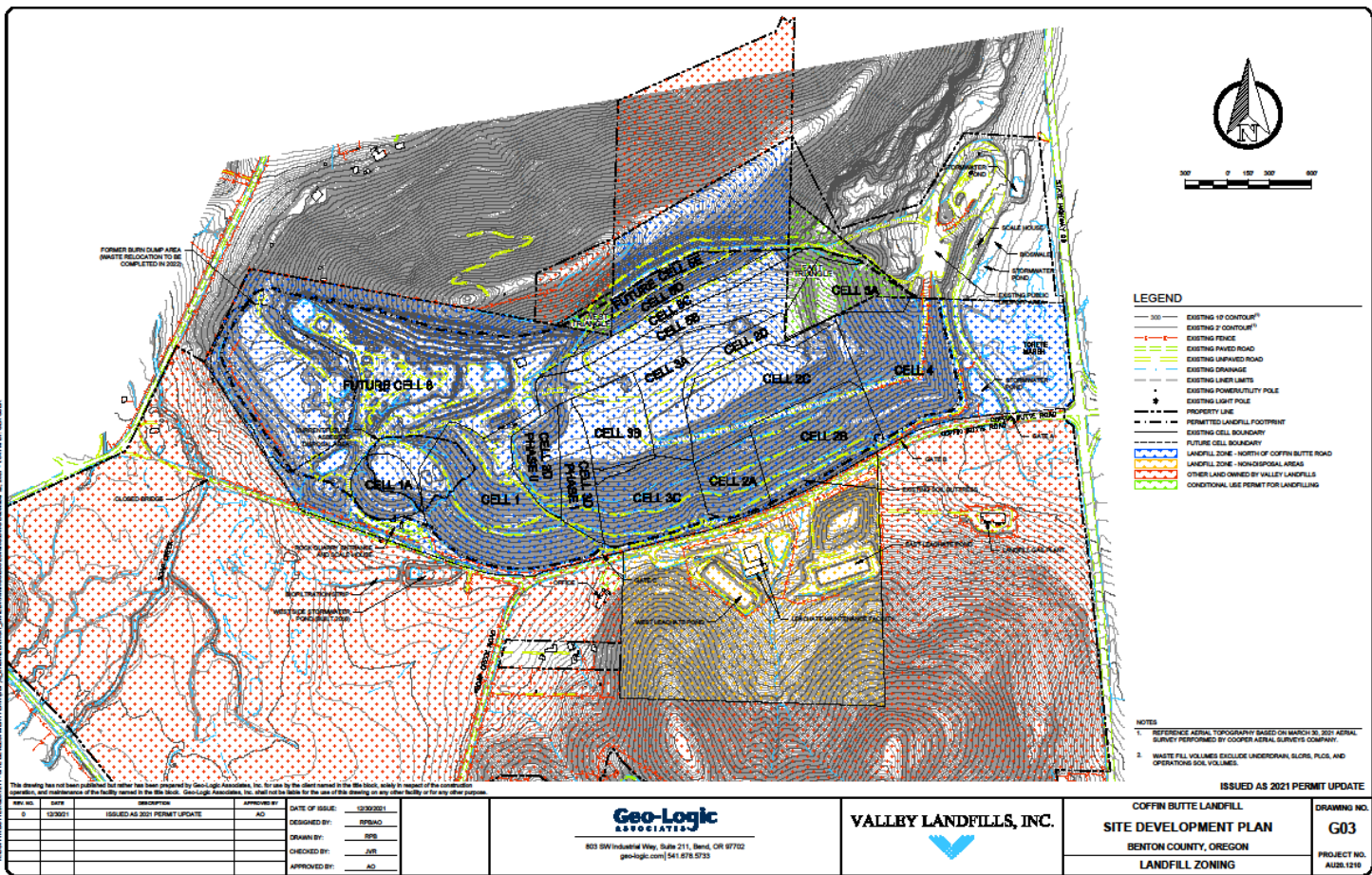
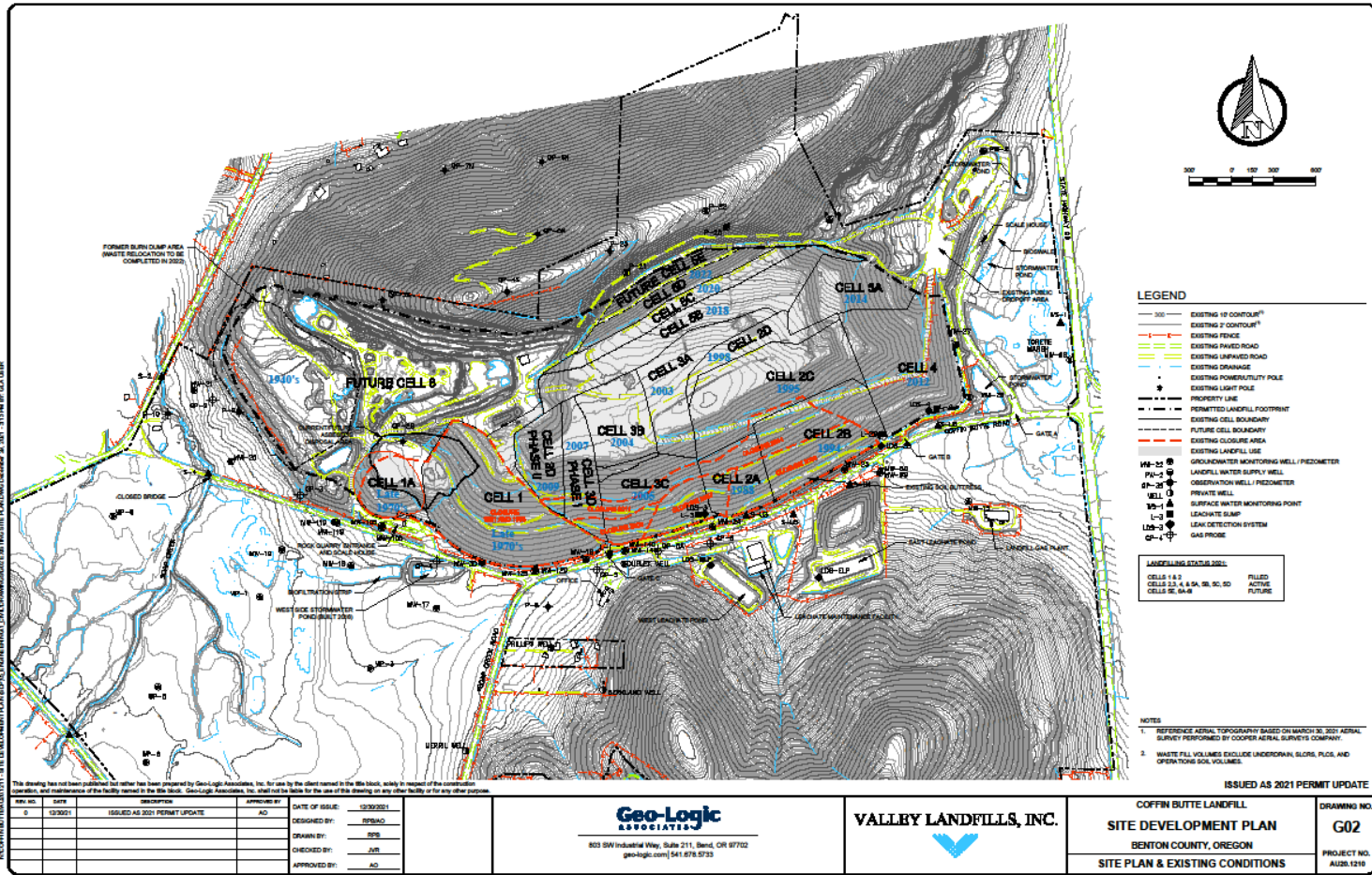


Figure 3: Landfill Cells



Specific Locations

This section summarizes the primary actions and events that define the current Coffin Butte landfill footprint.

1983 Rezoning Action

Per Benton County PC-83-07-C, in 1983 a new zoning category (“LANDFILL SITE”) was created for Benton County. Approximately 266 acres of land owned by Valley Landfill, Inc. were rezoned with this classification. Of these 266 acres, 194 acres, all on the north side of Coffin Butte Road, were approved for waste disposal. The acreage on the south side of Coffin Butte Road can be permitted for waste disposal if a CUP is obtained from Benton County.

At the time the application for a zone change was filed in 1983, the landfill was receiving “approximately 375 tons of refuse per day” per PC-83-07 applicant filing.

Error! Reference source not found. denotes the originally proposed outline for land to be rezoned as Landfill Site (LS). Note that the northernmost section of the proposed area, extending north from the ridgeline of Coffin Butte, was ultimately not rezoned as LS due to concerns from neighbors. Also note that the expected areas of landfill are delineated in this drawing: Completed fill (west side), Present fill (southwest section), and Future fill (large area in center/east).

The overview map included in the [Benton County & Valley Landfills MOU Relating to Land Use Issues \(2002\)](#) document, included here as **Error! Reference source not found.**, clarifies the zoning boundaries.

Figure 5: Proposed 1983 Rezoning Map

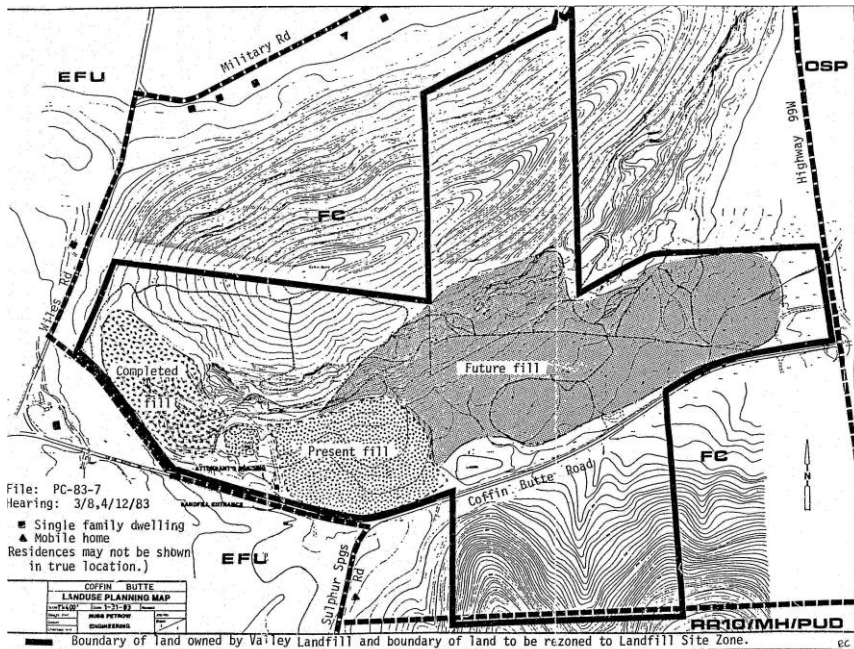
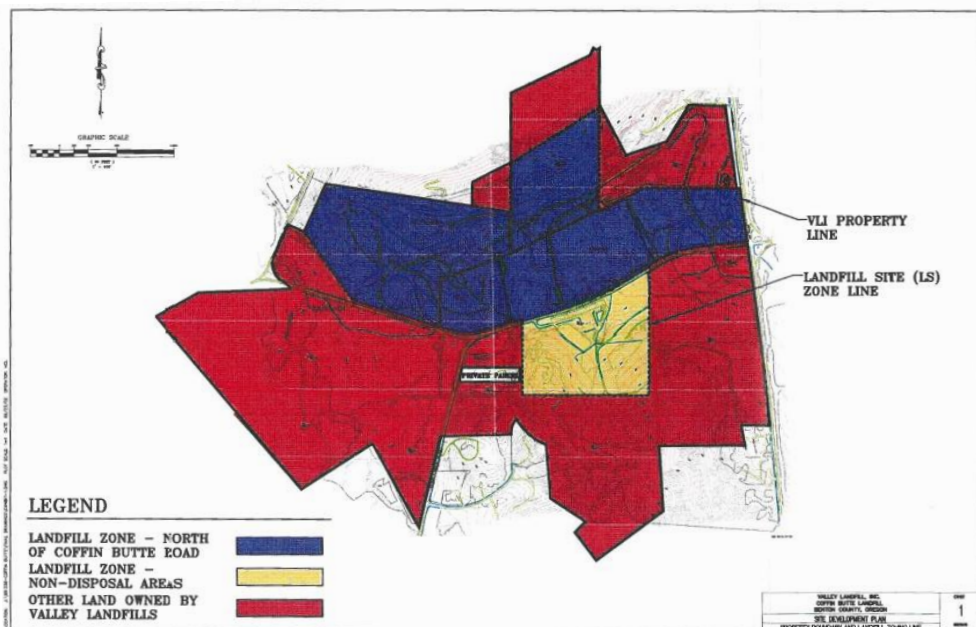


Figure 4: Zoning Map (2002 MOU)



West and East Triangle Additions

Two landfill areas were added in 2002 and 2003:

- The “West Triangle” was approved for landfill activities via Conditional Use Permit in 2002. This area is located on land zoned Forest Conservation (FC). Approximately 3,400,000 yd³ of expected landfill capacity were added by the approval of the West Triangle.
- The “East Triangle” was approved for landfill activities via Conditional Use Permit in 2003. This area is located on land zoned Forest Conservation (FC). Approximately 5,600,000 yd³ of expected landfill capacity were added by the approval of the East Triangle.

See Benton County document PC-03-11 for details.

Thus, a total of approximately 9,000,000 yd³ of landfill capacity was added in the 2002 – 2003 period. This constituted an approximately 68.5% increase in total permitted capacity using the cell capacity figures shown in Table 3.1 of the Site Development Plan Amendment A2 in document PC-03-11.

Cell 6 (Quarry) Addition

Benton County staff are currently researching the Cell 6 approval date/status.

LS Zone Parcel South of Coffin Butte Road

As part of the 1983 action considering the requests for rezoning of several parcels from Forest Conservation to Landfill Site, the Benton County Planning Department submitted a Staff Report. Within this report (Staff Report P2361/7 Page 3; Benton County document PC-83-07 Page 13) a Staff Comments section noted:

“Benton County Solid Waste Advisory Council recommended approval of the requests [for rezoning] subject to two conditions:

1. No landfill be allowed on north face of Coffin Butte.
2. No landfill be allowed on property south of Coffin Butte Road [Taxlot 104180001107, Index 14 in Appendix C].

These two conditions were also requested by the North Benton Citizens Advisory Committee (CAC) and they recommended approval of the requests.

Staff concurs with these conditions. The property on the North face of Coffin Butte (approximately 30 acres) should remain under the Comprehensive Plan Designation of Forestry Conservation (FC), from the crest of the butte North.”

However, the Benton County Planning Department Staff Report went on to state:

“The other issue concerning the property south of Coffin Butte Road can be resolved through Conditions of Development placed on any approval of the site plan by the Planning Commission. The proposed zone allows no additional landfill activities unless approved by the Planning Commission at a public hearing. Therefore, the Commission may limit expansion into any area that is not appropriate for a landfill.”

The staff recommendation was adopted as submitted by the Planning Commission in their April 26, 1983 meeting. The Staff Report was expressly adopted as Finding 4(a) by the Benton County Board of Commissioners and incorporated into the resulting Order on June 15, 1983.

The recommended approval of both SWAC and CAC for the 1983 rezoning action was conditioned on the agreement that no landfill would be allowed on the parcel south of Coffin Butte Road (Taxlot 104180001107, Index #14 in Appendix C).

Thus, Benton County Planning staff modified the clear recommendation from the Solid Waste Advisory Council (SWAC) and the recommendation of the North Benton Citizens Advisory Committee by weakening the terms governing the property south of Coffin Butte Road from “No landfill be allowed” to “...no additional landfill activities unless approved by the Planning Commission at a public hearing.”

The 1983 rezoning ordinance (Ord. 261) stated that “Any proposal to expand the area approved for landfill must be reviewed and approved by the Planning Commission at a Public Hearing.” No mention of a Conditional Use Permit process was stated in this ordinance as part of the process for expanding landfill area.

Per the Benton County Code Chapter 77 (77.305), “Any proposal to expand the area approved for landfill within the Landfill Size Zone is allowed by conditional use permit approved by the Planning Commission.” This change is apparently a result of Ord. 90-0069. The introduction of the conditional use permit process allows review and/or de novo judgement by the Board of Commissioners, as opposed to a final decision by the Planning Commission.

Landfill Life Projections

Waste in Place: Projection to End 2022

Coffin Butte Landfill’s 2022 intake volume has not yet been finalized, so we are using the projected figure of 1 million tons. As such, we are projecting the Landfill’s remaining permitted airspace to be 16,008,557 cubic yards. As noted in the subcommittee’s findings, remaining permitted airspace is not available airspace. A significant portion of what’s permitted is not currently useable to unexcavated rock.

This section of the report will first look at historical end of life projections and then try to address future scenarios.

Historical Landfill Life Projections

Chart 4: Historical EOL Projections (source: [Landfill Annual Reports](#))

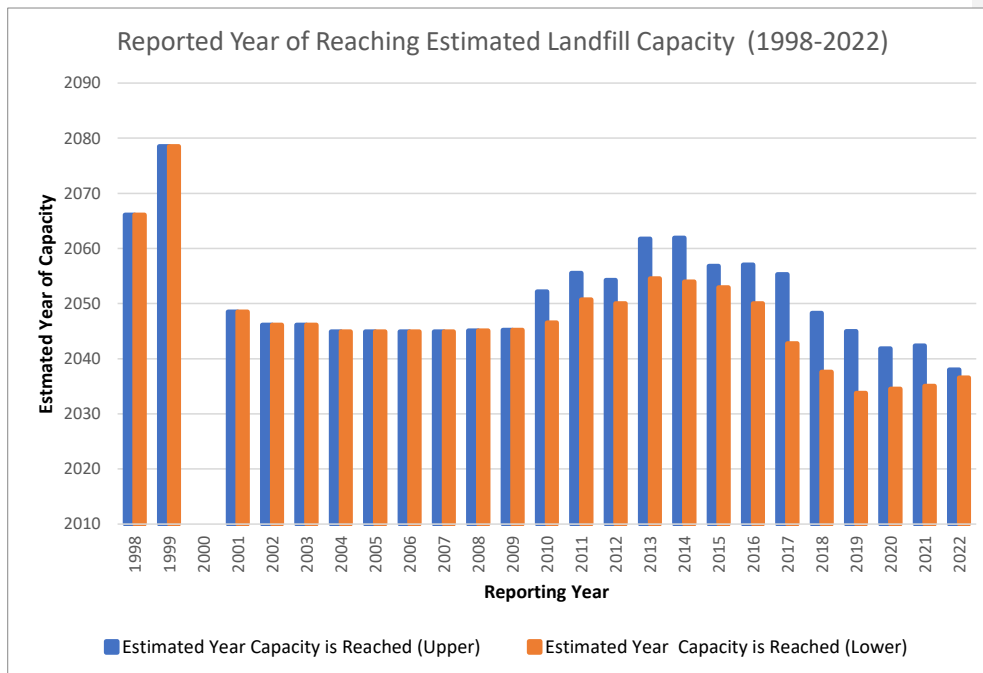


Table 3: Historical EOL Projections

Date of Projection	Projected EOL (CY)	Reference/Comment
1974	1989-2004+	February 19, 1974 Planning Commission Public Hearing Minutes (CP-74-01) 15-30 or more years estimated from 1974.
1974	1994	March 1, 1974 Letter from Chemeketa Region Solid Waste Management Program Director (CP-74-01) Based on 1,759,831 total tons received, at 32-40 feet, with Sweet Home and Lebanon area wastes directed towards "Lebanon Landfill"
1977	2000	WCSI Solid Waste Management Plan (1977)
1983	2033	March 7, 1983 Memo from Benton County Development Director to BOC (L-83-07) 50 years from 1983 estimated with approval of zoning change (estimate may include property South or Coffin Butte Road, the information was unclear).
1994	2024-2034	"Summary of Written Comments Received from Citizens Regarding Coffin Butte Zone Change Request" Prepared by Benton County Environmental Health Division for a 11/29/10994 community meeting (PC-94-10) 30-40 years from 1994. Estimate using only property North of coffin Butte Road, assuming material from current counties at the time.
1999	Late 2070	2003 Site Development Plan, Page 57, Table 3.1 71.1 Years from Oct 1999 Includes Cells 1-6 and East and West Triangles Based on 400,000 Tons/year and 0.8 Tons/yd ³
2001	2049	2001 Annual Report, prior to addition of East and West Triangles and Cell 6 47.5 years from Beginning 2002 Based on 425,000 Tons/year and 0.8 Tons/yd ³
2003	2046	2003 Annual Report (Referenced in the chart above)
2010	2053	United States Environmental Protection Agency*
2013	2064	United States Environmental Protection Agency*
2014	2065	United States Environmental Protection Agency*
2015	2061	United States Environmental Protection Agency*

2016	2058	United States Environmental Protection Agency*
2018	2048	United States Environmental Protection Agency*
2019	2044	United States Environmental Protection Agency*
2021	2039	2021 Site Development Plan, Appendix B With detailed breakdown of planned Cell 6 structure and corresponding subcell life expectancy Based on 846,274 Tons/year and 0.8 Tons/yd ³
* EPA Greenhouse Gas (GHG) Emissions Data from Large Facilities , 2010-2021		

Coffin Butte Site Life Projection: 2023 to closure

The landfill life projections shown below are provided Republic Services. They are designed to establish a baseline – a simple operational projection that more sophisticated scenarios can be built upon.

It presumes:

- a) A steady annual tonnage intake of between 1 million and 1.1 million tons for the duration of the landfill’s projected remaining site life.
- b) Site life is currently projected by Republic Services to be between 14.5 and 16 years, with a closure date between 2037-2039.
Note: This also presumes that the landfill area known as “the quarry” can be fully excavated. A significant portion of permitted airspace at Coffin Butte is currently unusable due to unexcavated rock.
- c) As indicated in the assumptions, this baseline is not a “default future,” in that it does not incorporate outside factors.

Scenario 1

Tons per Year	1,000,000 Tons
Projected Remaining Airspace 12/31/22	16,008,557 CY
2022 3-year Density Avg	0.999 Tons/CY
Site Life	15.99 Years

Scenario 2

Tons per Year	1,100,000 Tons
Projected Remaining Airspace 12/31/22	16,008,557 CY
2022 3-year Density Avg	0.999 Tons/CY
Site Life	14.54 Years

Definitions:

Tons per Year: Projected tonnage based off recent history*

Projected Remaining Airspace: Airspace remaining at the end of 2022 based off projected 2022 tons and 2022 3-year density average

2022 3-year Density Avg: Average density measured during 2020, 2021 and 2022 measurements

Site Life: Total site life including the fully excavated quarry area

*Variables can and do impact tonnage and available airspace, and can include changes in disposal and diversion rates, natural disasters and other unforeseen market changes, etc.

The table shown above represents industry-accepted modeling for estimating a Landfill's remaining life. Modeling is based on three factors: remaining permitted airspace, volume, and density. As noted in the text below the graphic, Republic Services acknowledges that a wide variety of variables, independently or in concert with each other, can impact the baseline(s) enumerated above.

Committee members also want to make clear that the two baseline scenarios shown in the graphic are built on certain assumptions. They are as follows:

- a) **Tons per year** – Projected tonnage based on recent history (2019-2021) and 2020 Franchise Agreement tonnage cap (1.1M tons/year). *Does not reflect variables such as changes in disposal and diversion rates, natural disasters, market, and regulatory changes, etc.*
- b) **Projected remaining airspace** – Airspace consumed in 2022 based on projected 2022 tonnage and the three-year density average. *“Remaining airspace” includes approximately 2.7M cubic yards of quarry rock; how much of and by when this rock can*

be converted to airspace is currently unknown. Quarry extraction in 2022 freed up approximately 140,000 cubic yards.

- c) **2022, three-year-density average** – Derived from 2020-22 measurements. 2022 density based on 2021 measurements.
- d) **Site Life** – Time to fill the projected remaining airspace, *including the permitted airspace that is currently unexcavated.*
- e) Landfill Life is the availability of landfill reserves and landfill alternatives that sustains the landfill’s demand, supply, and equilibrium of refuse disposal.

Events and Factors That Could Impact Life

As noted, Republic Services and other landfill owners/operators generally estimate a facility’s lifespan by calculating three variables on an annual basis, using data from previous years as a roadmap:

- Amount of space available (airspace)
- Amount of waste accepted (tonnage)
- Density of the waste (tons per cubic yard)

The main discussion in this section is around the various factors that impact the first and second variables: i.e. the amount of space available (airspace) and the amount of waste accepted (tonnage.)

Almost none of the factors relate to density of solid waste, so this discussion excludes that variable. The following graphic summarizes possible impacts of various factors on site life, meaning those that could impact the amount of space available and the amount of waste accepted:

The chart above, submitted by Republic Services, lists factors and elements that could impact Coffin Butte’s site life in ways not foreseen in the baseline (Scenario 1 and 2) approach outlined above. The subcommittee believes that it’s likely that one or more of these factors could occur in concert with each other.

For example, an expansion through approval of a CUP is listed as a “positive” factor – meaning one that could increase the Landfill’s site life and longevity. However, it is possible that any positive gain from such a factor would be neutralized or lessened by a “negative” element listed above (such as another wildfire or continued population growth in the region.)

Items listed in the neutral category are defined as such because they serve as “swing” factors – climate change legislation, for example, could yield either a positive or negative impact on site life depending on political influences and authors that shape it.

In addition, the future construction of a transfer station, alternate disposal options and other such factors as contemplated in a wide-ranging Sustainable Materials Management Plan could likely produce new options for refuse disposal for Benton County and neighboring municipalities and counties.

Therefore, the intent of the above graphic is not to provide an either/or solution, but to convey that an evolving array of factors, including future legislative and economic influences, could produce a matrix of outcomes that not only impact Landfill life but foster new waste management solutions as contemplated by the sustainable management sub-committee.

Assumptions and scenarios:

While the subcommittee has generated a list of potential factors that could impact site life, these are by no means exhaustive. Our goal was to begin to describe the “terrain” that the Landfill’s future could traverse.

The subcommittee also agrees that so-called “human factors” play a significant role in any Landfill’s longevity, because they determine not only the flow of material that fills up the Landfill’s permitted volume but what comprises that material.

Unlike the layout of the Landfill or its permitted airspace (factors which are either pre-determined or yield a planned impact) these so-called human variables have the power to shift a Landfill’s operating life unexpectedly and very quickly.

Business decisions and legal obligations, legislation, changing societal attitudes, technological advances global shifts in consumer habits are all key components of a broad system that ultimately determines what is reused as part of a circular economy -- and what is landfilled as waste.

While the A.1 Subcommittee agrees that these factors are real and present, we struggled with how best to present them in terms of predictive scenarios from which the reader could potentially draw conclusions. **We could not reach consensus on the merits of presenting them in terms of predictive scenarios from which the reader could potentially draw conclusions.** The subcommittee members who represent Republic Services and its interests support using the existing modeling data to shape its projections, while acknowledging the “caveats” presented in the graphic above. But they offer no speculative analysis.

The subcommittee members who represent community and neighborhood interests, meanwhile, supported a broader exploration of factors and impacts using predictive processes known as “futurecasting,” and “imagination training.”

Ultimately, we decided as a subcommittee that these human-caused factors and scenarios need further review and detailed analysis, a careful examination that we were neither qualified nor had time to pursue given time constraints and the limited scope of this bridge process.

Therefore, we have posed a multitude of questions that we would like the SMMP subcommittee and its hired experts to delve into, in hopes of providing a more detailed picture of solid waste disposal options and Landfill longevity.

Those questions are enumerated in the table below.

Table 4: Coffin Butte Landfill: How could site life change from the Baseline Scenario(s)?

Factors	Background	Questions
<i>Factors that could impact Airspace</i>		
Landfill expansion (and removal of tonnage cap)	Republic Services is likely to apply to expand the landfill’s permitted airspace. Republic Services currently operates under a 1.1 million annual tonnage cap. Under the terms of the 2020 Franchise Agreement,	If the tonnage cap were removed, by how many years could the Landfill's life be shortened, given the region’s capacity for generating landfill material?

	<p>this cap would be eliminated if the Landfill is expanded. MORE: see "4. Landfill expansion and intake limit removal" section below.</p>	
<p>Quarry excavation schedule</p>	<p>Our baseline scenario assumes 100 percent of the Landfill's permitted airspace is made usable by excavating rock from the quarry. MORE: see "2. Quarry excavation" section below.</p>	<p>What is the likelihood that the quarry is not fully excavated by the time landfilling operations need to begin in that area? Or that it cannot ever be fully excavated? How would that impact the Landfill's lifespan?</p>
<p>Water table concerns</p>	<p>A portion of the Landfill's permitted airspace seems to lie below the groundwater level, and it is unclear whether DEQ regulations allow this airspace to be used, or if it would be cost effective for the Landfill owner to excavate the area.</p>	<p>To what extent do DEQ regulations address the water table issue and what steps would the Landfill operator need to take to turn this into "useable airspace?" How could overall site life be reduced by the water table issue? What role if any does Benton County have in protecting its groundwater?</p>
<p>Disaster concerns (Landfill fire, earthquake)</p>	<p>Although it rarely happens, landfills can catch fire, either on their surface or as exothermic reactions deep under their surface. The ubiquitous presence of methane, a flammable gas, is a risk factor. A landfill fire ignited by an area wildfire is a troubling possibility. Exothermic reactions are deep in the landfill itself and can take years to extinguish. The Landfill is in an earthquake zone and that could also cause loss of access to permitted airspace. (Note: there are regulations and plans in place at the landfill regarding disasters)</p>	<p>How can Benton County better assess the risks of losing access to permitted airspace due to damage from disasters that directly or indirectly impact landfill infrastructure such as a landfill fire?</p>
<p>Factors related to annual tonnage (demand)</p>		
<p>Exceedance beyond tonnage cap</p>	<p>Benton County previously did not exercise its threshold options under the 2000 Franchise Agreement, when</p>	<p>How often does Benton County review its Franchise Agreements for contract compliance? Does the county have enforcement plans? Are the contracts written in such a</p>

	<p>Republic Services took in excess tonnages in 2017-2019. MORE: see "5. Intake Limit Exceeded" section below.</p>	<p>way that Benton County is incentivized to ignore exceedances of the tonnage cap or other aspects of the contract that would shorten landfill life?</p>
<p>Recession</p>	<p>A slowing or contracting economy, such as the Crash of 2008, generally reduces the volume of waste produced throughout the service area. We saw a decline in tonnage at Coffin Butte Landfill during 2006-2010.</p>	<p>Are current inflationary pressures likely to have any reduction in waste generation at Coffin Butte Landfill? Using history as a guide, how many recessions are we likely to experience between now and the Landfill's baseline closure dates? How could recessions/inflation alter the Landfill's projected site life?</p>
<p>Economic growth</p>	<p>If a slowing economy generally reduces waste production, a robust growth economy could increase it. EPA data from 2018 states that 4.9 pounds of municipal solid waste was generated per person per day.</p>	<p>How have waste generation rates changed over time, and specifically during periods of economic growth? Can we project any changes to a Landfill's site life using the data available and forecasting that against the likelihood of economic expansion?</p>
<p>Reductions in waste generation (structural and societal)</p>	<p>Oregon environmental policy emphasizes recovery and reuse of solid waste, to insure highest practicable protection of the public health and welfare and air, water and land resources. Desire to decrease the size of wastestreams and increased awareness of the importance of a "circular economy" are prompting structural and societal changes to divert material from landfilling. Example: SB 582, an extended producer responsibility (EPR) law for packaging, became law in 2021, giving producer responsibility organizations (PROs) mandates to improve recycling and other waste diversion plans beginning in 2025.</p>	<p>What is the likelihood that counties in the service area will decrease the size of their wastestreams over the next 20 years? What proportion of the tonnage that currently goes into the Landfill is divertible material? What role can Benton County play in reducing waste generation and landfilling in county and in the Landfill service area?</p>

Disposal alternatives	Outside of maximized recovery (recycling and composting), alternatives to landfilling exist in various forms, primarily in new disposal technology. An incinerator in Marion County burns waste and generates energy for example.	What other disposal alternatives exist in the U.S. and elsewhere in the world? Which ones are showing the greatest promise for success and replication (taking in factors like cost, longevity, political will, etc)? How readily could these be incorporated into the solid waste management plans for cities and counties in the service area? Will Benton County consider these alternatives in its own Sustainable Materials Management Plan?
Transportation alternatives	Solid waste is currently trucked to Coffin Butte Landfill. Alternative modes of transportation (barge, rail, etc.) are being used to haul trash from intermodal transfer stations to landfills in more remote, less-densely populated areas.	What are the options for transporting waste using via rail or boat? How could Western Oregon's current network of transfer stations play a role in diverting waste from Coffin Butte? What is the feasibility of using existing railroad networks to haul waste (consider costs, safety, reliability, etc.)?
Global health issues (pandemics)	The COVID-19 pandemic had a significant impact on Landfill tonnage, decreasing it dramatically in 2020, but waste generation surged back in 2021.	Is the COVID-19 pandemic still impacting waste generation? If so, how? What is the likelihood that we will experience other global health crises in the next two decades? How would that potentially extend or reduce the life of Coffin Butte Landfill?
Climate change and other environmental legislation (A)	People worldwide are increasingly concerned about the threat of uncontrolled releases of greenhouse gases to their quality of life. Methane releases are a focus, because methane is a potent and quick-acting greenhouse gas. Landfills are major sources of greenhouse gas emissions, especially methane, in the United States. (A) Concern by the public, science and industry, and financial entities about the	Are there plans to expand the requirements of the methane legislation to include landfills? If so, what is the likelihood of that passing and how could that impact Landfill operations? What other major pieces of legislation are circulating and gaining support? Do the climate pollution reduction incentives authorized in the Act present opportunities to fund waste-reduction projects in Benton County and throughout the Landfill service area? Are there opportunities for Benton

	<p>climate crisis is manifesting in legislation. President Biden rolled out the U.S. Methane Emissions Reduction Action Plan in November 2021, followed by the Inflation Reduction Act of 2022, which provided for more than \$300 billion in strategic investments to address the climate crisis. This includes incentives to detect, monitor and reduce methane emissions. MORE: see Appendix D below.</p>	<p>County to begin the monitoring of methane emissions at Coffin Butte Landfill?</p>
<p>Climate change and other environmental legislation (B)</p>	<p>(B) Regarding landfilling, the first effect of the EPA’s focus on methane reduction is the Food Donation Improvement Act, signed into law in January 2023. America wastes about 30-40% of its food, and food waste is the most common material found in landfills, estimated at roughly a quarter of material. When landfilled, food waste converts readily to methane. MORE: see Appendix D below.</p>	<p>How much food waste will the new legislation divert from landfills? How prohibitive is the "commerce clause" in diverting tonnage away from the Landfill? Is environmental legislation creating incentives and opportunities for Benton County and other counties in the service area to transition to cleaner, less wasteful trash management systems?</p>
<p>Wildfires/natural disasters (local and regional)</p>	<p>Fires, floods, spills, and other disasters can suddenly generate large amounts of landfill material. Disaster debris is not limited by the Landfill’s 1.1 million annual tonnage cap. Example: devastating wildfires in the mid-Willamette Valley in 2020 generated hundreds of thousands of tons of disaster debris, and Coffin Butte Landfill accepted roughly 300,000 tons of debris for landfilling in late 2020—early 2021. MORE: see “6. Disaster Debris” section below.</p>	<p>What is the forecast for wildfires and other disasters in the region? What options are there for disaster debris other than disposal at Coffin Butte Landfill?</p>
<p>Service area changes (closures and creation of other landfills/facilities)</p>	<p>In recent years Coffin Butte Landfill has taken in 25% to 30% of the total trash generated and disposed of in Oregon, according to DEQ reports. Closure of other</p>	<p>What is the current disposal picture for Western Oregon? How many landfills are operating and how much capacity is remaining in each? Are there landfills nearing</p>

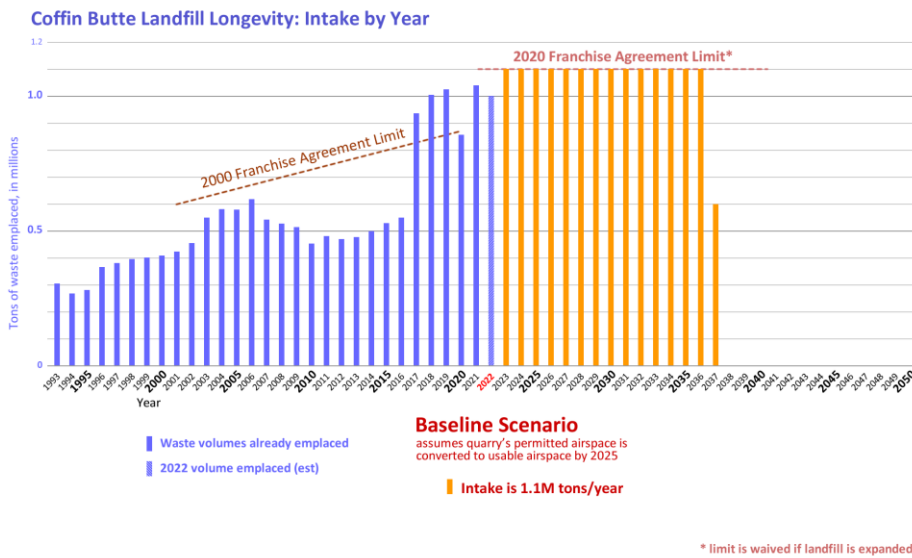
	regional landfills could create a opportunity for Coffin Butte Landfill to grow its service area if an expansion is granted and the tonnage cap removed.	capacity? How could these dynamics impact tonnage and airspace at Coffin Butte Landfill? Does Benton County have options for influencing or preparing for these outcomes?
Industry competition/business choices	Republic Services competes with other trash haulers and Landfill owners and operators. Industry competition can yield either an increase or decrease in the Coffin Butte waste shed, depending on Republic Services ability to successfully gain or maintain existing contracts.	What market factors could impact Republic Services (and Coffin Butte's) customer base? Who are the other competitors in the market? Which municipalities and counties are nearing the end of their franchise or hauling agreements? Where are the new business opportunities? How could these increase or decrease tonnage coming to the Landfill?
Population growth/change	The service area's population is forecast to grow modestly over the next 20 years, with annual growth rates of less than one percent. Under the 2020 Franchise Agreement, any additional waste tonnage generated would be subject to the Landfill's intake cap unless an expansion is granted.	Can Benton County make educated guesses about actual population trends in the Landfill's service area? Can Benton County make more detailed estimates about future waste generation in the service area? What options does Benton County have to influence a likely increase in waste generation, both in county and regionally?

Coffin Butte Landfill: What factors could make the landfill close earlier than the Baseline Scenario(s)?

The subcommittee paid particular attention to factors that could lead to a landfill closure date earlier than 2037, because such a development could have serious repercussions for Benton County and for everyone else in the landfill’s service area. These factors are discussed in more detail in this section, and graphs with representative assumptions are included to make these prospective outcomes easier to visualize.

1. The Baseline Scenario

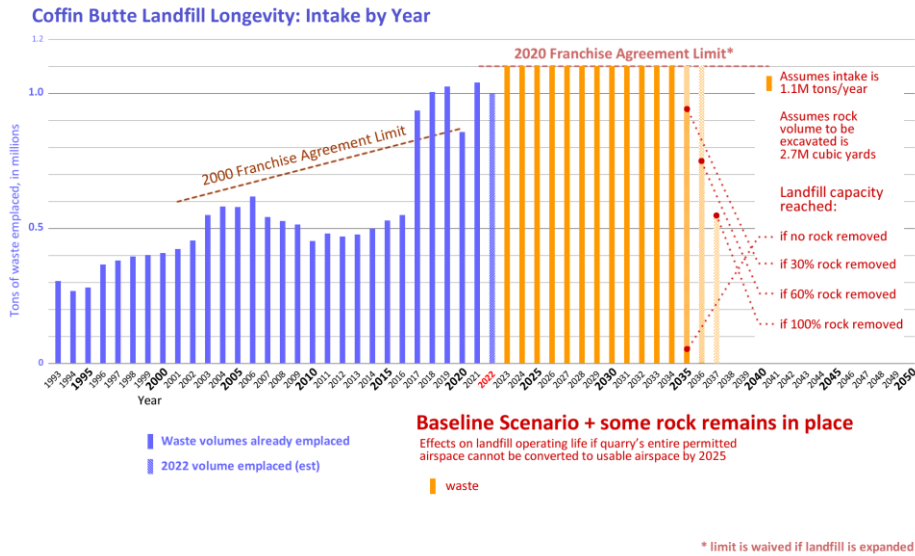
Graph 5: Baseline Scenario



The graph above visualizes Scenario 2 of the formal baseline projection (“baseline”) provided by the franchisee, from Section 3.C Table 1 above. This projection is derived from an upward limit of waste intake of 1.1 million tons a year, which is in turn derived from the limit specified in the 2020 Franchise Agreement, as shown on this graph. We will use this projection in the expanded scenarios that follow.

2. Quarry excavation: “What if the franchisee cannot excavate all of the quarry?”

Graph 6: Quarry excavation: “What if the franchisee cannot excavate all of the quarry?”



Roughly 2.7 million cubic yards of the landfill’s permitted airspace is currently unavailable because it is unexcavated rock.⁷⁴ The landfill’s owner holds a surface mining permit for this rock, and franchises it to Knife River as a quarry. For the past few years Knife River has currently quarried the rock at a rate of roughly 150,000 cubic yards a year,⁷⁵ so at a normal pace the airspace will not be fully available until the year 2040.

This poses a dilemma for the landfill’s owners because the landfill is on track to fill its current cell in 3 years, when it will look to move operations into the quarry area. As noted elsewhere in this document, Republic Services is working with Knife River on a possible solution to this problem, with the goal of accelerating excavations in the quarry over a two-year period.

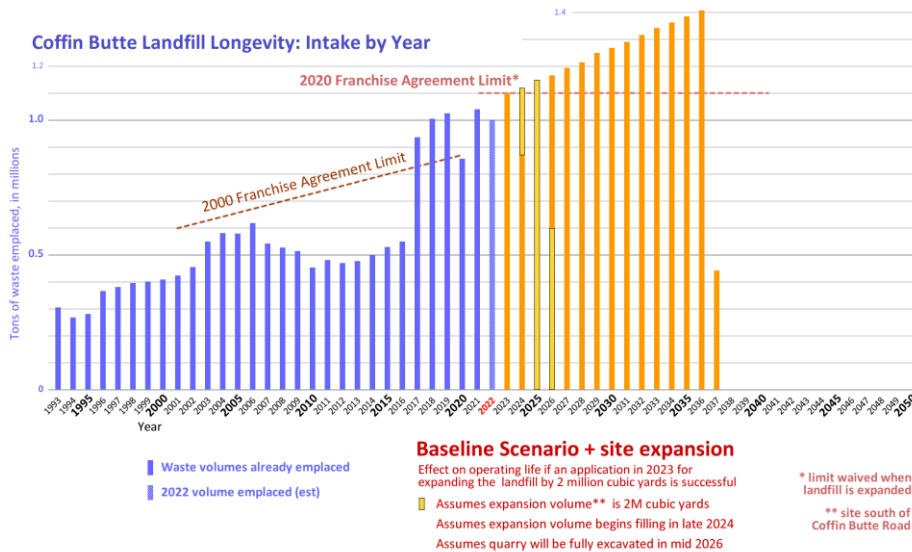
We do not currently know how much rock can be pre-excavated before landfilling operations move into the quarry airspace. We can display the possibility range graphically, assuming the unexcavated volume is 2.7 million cubic yards.

⁷⁴ Derived from Knife River testimony before the Benton County Planning Commission, November 2021.

⁷⁵ Derived from Knife River testimony before the Benton County Planning Commission, November 2021.

3. Landfill expansion and intake limit removal: “What if the franchisee obtains a permit to expand the landfill, which will remove the intake cap?”

Graph 7: Landfill expansion and intake limit removal: “What if the franchisee obtains a permit to expand the landfill, which will remove the intake cap?”



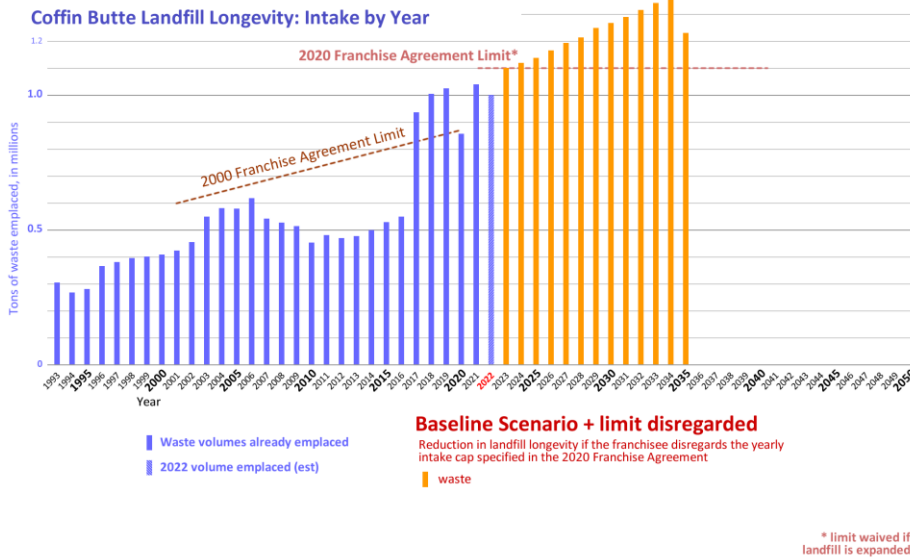
The baseline scenario may only be fully realized in combination with a landfill expansion – to serve as a bridge landfilling site that allows time for the quarry airspace to be pre-excavated. The landfill owner has indicated that it will apply for such an expansion, likely in the first half of 2023.

Republic Services does not currently have a CUP proposal before the County and has committed to not filing any application prior to the conclusion of this Workgroup’s deliberations and recommendations. At this time, Republic Services has not decided the scope of its CUP expansion request. The company has indicated it is open to discussing a continuation or renegotiation of the tonnage cap as part of a new CUP application process.

Given these unknowns, the graph above presumes two things: a) that a future expansion would include the area south of Coffin Butte Road, known as the “Expansion Parcel,” and b) the removal of the tonnage cap, as spelled out in the 2020 Franchise Agreement.

4. Intake Limit Exceeded: “What if the franchisee exceeds the 2020 Franchise Agreement limit?”

Graph 8: Intake Limit Exceeded: “What if the franchisee exceeds the 2020 Franchise Agreement limit?”

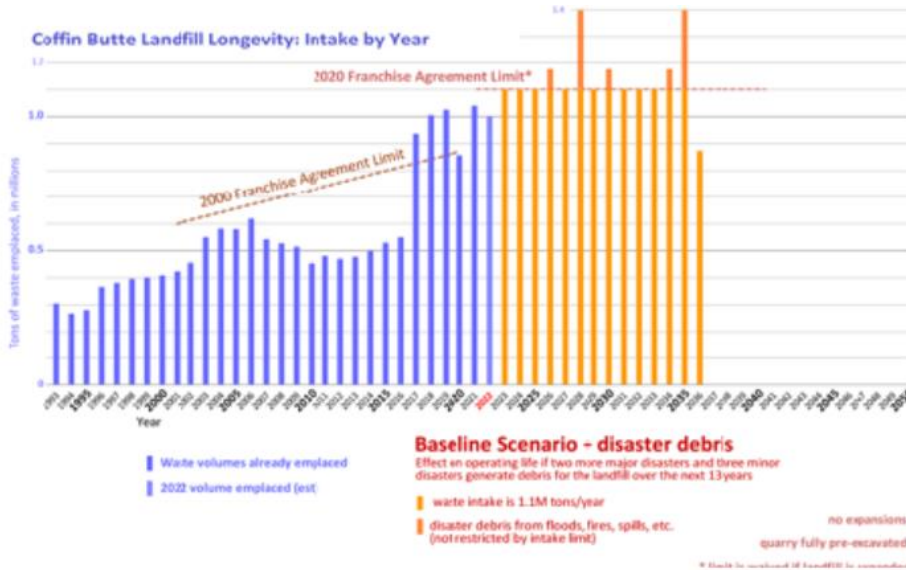


The 2020 Franchise Agreement limits the franchisee to a cap of 1.1M tons per year, but does not include any provisions for enforcement of that cap. There is historical precedent; as described earlier in Section 1.C, when the 2000 Franchise Agreement limit was exceeded, Benton County signed a Memorandum of Understanding that allowed the exceedance with no extra fees per ton. There is contemporary precedent also, as the 2020 Franchise Agreement also specifies a fee-per-ton that would apply if the cap were contractually lifted when an expansion was approved. The scenario assumes there are business opportunities that enable the franchisee to grow the yearly intake, because those are what would motivate the exceedance in the first place.

This scenario represents the effect on landfill longevity if annual intake volume at the Landfill exceeds that which is specified in the 2020 Franchise Agreement and the County responds either with no action or with an accommodation agreement such as a per-ton surcharge. It assumes a modest growth rate to intake (less than 2% per year).

5. Disaster debris: “What if there are more disasters like the 2020 wildfires, that generate debris for the landfill?”

Graph 9: Disaster debris: “What if there are more disasters like the 2020 wildfires, that generate debris for the landfill?”



Fires, floods, earthquakes, spills, and other major disasters can suddenly generate large amounts of debris to be landfilled. These events also occur more frequently at minor levels. These inflows can reduce the landfill’s life, as disaster debris takes up airspace in the Landfill and is not limited by the Landfill’s 1.1 million annual tonnage cap.

The visualization above assumes that two more major disasters occur in the region before close of Landfill, or roughly once every seven years; plus three minor disasters occur in the same time period, roughly every four years. The two major events each generate about 300,000 tons of debris (roughly the amount of material generated by the area wildfires of 2020) and the three smaller disasters generate 75,000 tons each. These inflows happen in addition to the normal waste stream, which as per the baseline is assumed to be 1.1 million tons per year.

Conclusion: A Confluence of Factors – Findings and Recommendations

The subcommittee has generated a Table calling attention to, and posing questions about, potential factors impacting site life; this list is not exhaustive and its characterizations are limited. We hope a more complete list and more detailed characterizations will come as Benton County prepares a Sustainable Materials Management Plan.

These factors are all relevant to understanding the possible longevity of Coffin Butte Landfill. Each factor has its own likelihood of being significant to landfill longevity and its own effect over time, and each joins with other factors to determine the actual longevity. These factors

have been included to enable the reader to form a conception of the likely “possibility space” for the landfill’s operation from current day to its End Of Life.

The possibility space shows landfill closure as early as 2034 and as late as 2045.⁷⁶ Within that range, the landfill’s 2021 Site Development Plan estimates the closure year to be 2039 and the EPA shows a closure year of 2044. The franchisee’s baseline projects a closure range of 2037-2039. The franchisee anticipates intake rates staying stable (close to their current level), as shown in their baseline projection. Intake-increasing factors such as population growth and debris from disasters may drive up intake rates and thus shorten landfill life within the range; intake reduction factors such as recycling and waste diversion, plus emerging factors such as extended producer responsibility (EPR) incentives and climate crisis legislation, may drive down intake rates and thus lengthen landfill life in the range and beyond.

⁷⁶ Closure outside of this date range is possible, but seen as less likely

LSCL Appendix A: Intake Tonnage and Capacity Data

Coffin Butte annual intake volume, derived from 1993-2021 Coffin Butte Annual Report (CBAR) documents. CY 2000 is highlighted to indicate this value was derived from the 2001 report because the 2000 report document is unavailable. Blue highlights below are assumptions and estimates, not actually recorded data.

Year	CBAR Volume (Tons)	2000 FA Threshold	Intake Exceeding 2000 FA Threshold (Tons)	CBR Density Ration	CBR Annual Airspace Used (CY)	CBR Remaining Airspace (cy)
1993	310,648	#N/A				
1994	268,472	#N/A				
1995	287,932	#N/A				
1996	369,835	#N/A				
1997	378,919	#N/A				
1998	395,751	#N/A				
1999	401,408	#N/A				
2000	413,493	#N/A				
2001	425,723	600,000		0.9	473,000	25,238,000
2002	453,261	612,000		0.98	561,592	24,776,627
2003	550,506	624,240		0.98	561,592	24,209,320
2004	586,076	636,725		0.80	736,434	24,513,192
2005	580,275	649,459		0.80	725,344	29,916,144
2006	618,340	662,448		0.8	781,094	29,135,051
2007	546,996	675,697		0.8	683,746	28,451,306
2008	528,396	689,211		0.8	660,494	27,785,082
2009	519,058	702,996		0.8	648,823	27,136,259
2010	458,590	717,056		0.892	514,111	27,382,241
2011	482,951	731,397		1.0375	465,495	24,807,718
2012	473,550	746,025		0.83	572,825	23,741,843
2013	479,160	760,945		0.92	523,100	24,458,567
2014	499,687	776,164		0.92	545,510	23,839,138
2015	530,971	791,687		0.89	595,593	23,839,138
2016	552,979	807,521		0.93	592,689	22,453,729
2017	941,430	823,671	117,759	0.97	969,048	21,727,371
2018	1,010,879	840,145	170,734	0.99	1,021,090	18,015,098
2019	1,034,934	856,948	177,986	0.8	1,293,668	18,352,257
2020	863,210	874,087		1	863,210	17,621,208
2021	1,046,067	#N/A		0.98	1,067,415	17,249,778
2022	1,100,000			0.999	1,089,900	16,008,557
2023	1,100,000			0.999	1,089,900	14,918,657
2024	1,100,000			0.999	1,089,900	13,828,757
2025	1,100,000			0.999	1,089,900	12,738,857

Year	CBAR Volume (Tons)	2000 FA Threshold	Intake Exceeding 2000 FA Threshold (Tons)	CBR Density Ration	CBR Annual Airspace Used (CY)	CBR Remaining Airspace (cy)
2026	1,100,000			0.999	1,089,900	11,648,957
2027	1,100,000			0.999	1,089,900	10,559,057
2028	1,100,000			0.999	1,089,900	9,469,157
2029	1,100,000			0.999	1,089,900	8,379,257
2030	1,100,000			0.999	1,089,900	7,289,357
2031	1,100,000			0.999	1,089,900	6,199,457
2031	1,100,000			0.999	1,089,900	5,109,557
2033	1,100,000			0.999	1,089,900	4,019,657
2034	1,100,000			0.999	1,089,900	2,929,757
2034	1,100,000			0.999	1,089,900	1,839,857
2035	1,100,000			0.999	1,089,900	749,957
2036	750,708			0.999	749,957	0

LSCL Appendix B: Calculation of 2000 Intake Threshold

From the 2000 Landfill Franchise Agreement Section 8 (b):

“One year after the Effective Date of this Agreement, the tonnage volumes identified in Section 8 (a) above (600,000 tons for one calendar year and 1,200,000 tons for two consecutive calendar years) shall each be increased at an annual rate of the greater of the following two percentages: (i) two percent (2%); or (ii) the increase in total population of Benton, Linn, Polk, Lincoln, Tillamook and Marion Counties as reported by Portland State University, based upon the preceding calendar year.”

Population data from Portland State University for the 2000-2019 period, with calculated Y/Y percentage increase:

Data from Portland State University Population Research Center																				1/4/2023	
https://drive.google.com/file/d/1g1ckFE8eSrLkztbeqcA9GIEadKsY043/view?usp=sharing																					
https://www.pdx.edu/population-research/population-estimate-reports																					
																				For 2010 - 2019 data, figures from individual "Certified Population Estimates" tables are used	
	April 1, 2000 Census	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
BENTON	78,153	78,334	78,777	79,542	80,006	81,121	82,071	83,226	84,266	84,950	85,420	85,735	85,995	86,785	87,725	88,740	90,005	91,320	92,575	93,590	94,360
LINCOLN	44,479	44,519	44,880	45,069	45,509	45,048	45,193	45,447	45,697	45,921	46,045	46,135	46,155	46,295	46,560	46,890	47,225	47,735	47,960	48,210	48,260
LINN	103,069	103,393	104,397	105,441	106,885	108,879	110,223	111,867	113,481	114,890	116,114	116,840	117,340	118,035	118,665	119,705	120,860	122,315	124,010	125,575	126,550
MARION	284,834	285,571	287,676	289,757	294,188	296,268	299,484	303,545	307,481	310,807	313,643	315,900	318,150	320,495	322,880	326,150	329,770	333,950	339,200	344,035	347,760
POLK	62,380	62,679	64,647	65,132	66,317	67,902	69,256	70,891	72,361	73,726	74,911	75,495	75,965	76,625	77,065	77,735	78,570	79,730	81,000	82,100	82,940
TILLAMOOK	24,262	24,287	24,450	24,359	24,568	24,527	24,691	24,925	25,149	25,273	25,252	25,260	25,255	25,305	25,375	25,480	25,690	25,920	26,175	26,935	26,500
Total		598,783	604,828	609,300	617,473	623,746	630,919	639,901	648,434	655,567	661,385	665,365	668,860	673,540	678,270	684,700	692,120	700,970	710,920	720,445	726,370
Y/Y Incr. (%)			1.010	0.740	1.341	1.016	1.150	1.424	1.333	1.100	0.887	0.602	0.525	0.700	0.702	0.948	1.084	1.279	1.419	1.340	0.822

From the table above, the population of the specified area did not increase more than 2% Year over Year in any consecutive two-year interval in the CY2000-2019 period.

Therefore, the mathematical value of the 2000 Intake Threshold defined in Section 8 of the 2000 Landfill Franchise Agreement is equal to the initial (CY2000) values of 600,000 tons per calendar year or 1,200,000 cumulative tons over any period of two consecutive calendar years, with each figure increased at a rate of 2% per calendar year. The calculated yearly values of the 2000 Intake Threshold are detailed in the table above.

LSCL Appendix C: Landfill Properties

Coffin Butte Landfill Properties					
	Tax Lot #	Current Zone	Previous Zone (Change Date)	Property Use	Date Acquired and Ownership
1	105130000901	Exclusive Farm Use	Agricultural and Forestry (AF) (1982)	Agriculture	March 2001, Valley Landfills, Inc. Deed 295810-01
2	105130000900	Exclusive Farm Use	Agricultural and Forestry (AF) (1982)	Agriculture, barn	March 2001, Valley Landfills, Inc. Deed 295810-01
3	105130000902	Exclusive Farm Use	Agricultural and Forestry (AF) (1982)	Agriculture	March 2001, Valley Landfills, Inc. Deed 295810-01
4	105130001000	Landfill Site/ Forest Conservation (Northeast Corner)	Forest Conservation Forty Acre Minimum (FC-40) (1983)	Disposal Cell 1A, Cell 1, Cell 5, Future Cell 6, Current/Future Asbestos Disposal area, Rock quarry entrance and scale house (2021 SDP); Quarry excavation and landfilling in FC zone (2002)	October 1974, Valley Landfills, Inc. Deed M-50855 Consolidated with Tax Lot 105130000205 (4.69 ACRE) and Tax Lot 105130000204 (1.74 ACRE) in 1992
5	104180001106	Landfill Site	Forest Conservation Forty Acre Minimum (FC-40) (1983)	Disposal Cell 1, Cell 3	November 1994, Valley Landfill, Inc. Deed M-192291-94 Segregated Parcels 104180001108 (29.22 AC) & 104180001109 (51.39 AC) in 2011. Went from 100 acres to 20.15 * This property was likely purchased by the landfill owner prior to 1983, however, that information was unavailable at the time of this report.
6	104180000301	Landfill Site (South)/ Forest Conservation (North)	Forest Conservation Forty Acre Minimum (FC-40) (1983)	Disposal Cell 5 and forested hillside	March 1978, Valley Landfills, Inc. Deed M-91774 Segregated from 104180000300 in 1972

Coffin Butte Landfill Properties					
	Tax Lot #	Current Zone	Previous Zone (Change Date)	Property Use	Date Acquired and Ownership
7	104180000801	Landfill Site/ Forest Conservation	Forest Conservation Forty Acre Minimum (FC-40) (1983)	Disposal Cell 2, Cell 3, Cell 4, Cell 5, Scale house, public disposal area, stormwater ponds, bioswale, Toretie Marsh (2021 SDP); landfilling in FC zone (2003); transfer facility, stormwater conveyance/detention, container/drop box storage area, landfill construction staging/storage area (2011)	July 1988, Valley Landfills, Inc Deed M-102558-88 Segregated from 104180000800 in 1988 * This property was likely purchased by the landfill owner prior to 1983, however, that information was unavailable at the time of this report.
8	104180001108	Landfill Site	Forest Conservation Forty Acre Minimum (FC-40) (1983)	Disposal Cell 4, Entrance, stormwater pond, Toretie Marsh (2021 SDP)	November 1994, Valley Landfill, Inc. Deed M-192291-94 Segregated from 104180001106 in 2011 * This property was likely purchased by the landfill owner prior to 1983, however, that information was unavailable at the time of this report.
9	104180000900	Forest Conservation	Agricultural and Forestry (AF) (1982)	Wetland, pond	July 1988, Valley Landfills, Inc. Deed 1988-101891 Segregated from 104180000800 in 1968
10	105130000800	Exclusive Farm Use	Agricultural and Forestry (AF) (1982)	Stormwater treatment facility (pond and biofiltration strip) (2015), Soap Creek, Agriculture	February 1997, Valley Landfills, Inc Deed 1997-224922
11	104180001101	Forest Conservation	Rural Residential, 5 Acre Minimum (1982)	Construction staging/storage area, office (2013)	December 1991, Valley Landfills, Inc Deed 142396-91
12	104180001104	Forest Conservation	Rural Residential, 5 Acre Minimum (1982)	Construction staging/storage area (2013)	January 1987, Valley Landfills Inc. Deed 1987-086356 Segregated from 104180001101 in 1969

Coffin Butte Landfill Properties					
	Tax Lot #	Current Zone	Previous Zone (Change Date)	Property Use	Date Acquired and Ownership
13	104180001102	Forest Conservation	Rural Residential, 5 Acre Minimum (1982)	Vacant, non-forested land	March 1990, Valley Landfills, Inc Deed 123022-90
14	104180001107	Landfill Site	Forest Conservation Forty Acre Minimum (FC-40) (1983)	Leachate Maintenance facility/leachate ponds (2021 SDP)	August 1987, Valley Landfills, Inc. Deed 1987-092809 Segregated from 104180001100 in 1977 * This property was likely purchased by the landfill owner prior to 1983, however, that information was unavailable at the time of this report.
15	104180001200	Forest Conservation	Rural Residential, 5 Acre Minimum (1982)	2.2 Megawatt power generation facility (originally on lot 1100) (1994)	September 1986, Valley Landfills, Inc. Deed 1986-081011
16	104180001000	Forest Conservation	Rural Residential, 5 Acre Minimum (1982)	forest	March 1986, Valley Landfills, Inc. Deed 1986-077318 Segregated from 104180001100 in 1968
17	105240000200	Exclusive Farm Use	Agricultural and Forestry (AF) (1982)	Agriculture, forest, creeks	December 1989, Valley Landfills, Inc Deed M-118414-89
18	105240000103	Exclusive Farm Use	Agricultural and Forestry (AF) (1982)	Minor Land Partition 1980-017312; Formerly part of 105240000100	April 1988, Valley Landfill Inc. Deed 1988-099247 Segregated from 105240000100 in 1980
19	10419B001600	Rural Residential - 10	RR-10 Planned Unit Development (PUD)	Vacant residential Former subdivision/Planned Development BCS-78-5, LD-82-11, Tampico Ridge Subdivision vacated in 1988	December 1999, Valley Landfills, Inc. Deed 1999-276868 Segregated from 10419B000100/00200/01400 in 1988, Segregated from 10419B001601 in 1999

Coffin Butte Landfill Properties					
	Tax Lot #	Current Zone	Previous Zone (Change Date)	Property Use	Date Acquired and Ownership
20*	10418000200	Forest Conservation		Forested land	01/07/1998, purchased by Peltier Real Estate Co Deed 239947-98 Taxes paid by Republic Services
21*	104180001105	Exclusive Farm Use		Agriculture	October 1982, purchased by Peltier Real Estate Co Deed 1982-041706 Taxes paid by Republic Services Property Tax
22*	10419B000300	Rural Residential - 10	RR-10	Vacant residential	09/07/1999, purchased by Peltier Real Estate Co Deed 277841-99 Taxes paid by Republic Services
23	10419B001301	Rural Residential - 10	RR-10	Vacated right-of-way Former subdivision/Planned Development BCS-78-5, LD-82-11, part of Tampico Ridge Subdivision vacated in 1988	September 1988, Valley Landfills Inc. Deed M-106768-88 Formerly part of 10419B000300

LSCL Appendix D: Climate change and other environmental activism/legislation

Table 4 of our report has two rows identifying “climate change and other environmental legislation” as factors that could change site life from the baseline projection, by reducing the amount of material to be landfilled coming from the service area. This Appendix has been created to characterize in some detail the emerging forces that may incentivize that reduction in waste intake.

Summary

Organic material placed in a landfill such as Coffin Butte Landfill is decomposed by anaerobic microbial action, which produces methane gas. Methane is a pollutant that has been identified as a main contributor to the climate crisis. Responses to the climate crisis are focusing on reducing methane emissions, because methane emissions act quickly to warm the planet. In the US, legislation is in place to prioritize and incentivize reductions in methane; programs are beginning with methane reduction as a goal.

Roughly 25-30% of the material going into US landfills is organic, which if applied to Coffin Butte Landfill, would translate into roughly 275,000 to 330,000 tons of organic matter going into the landfill each year (per Republic Services’ baseline projection). Republic Services currently diverts on average over 120,000 tons of green waste and food waste a year at its Pacific Region Compost Facility; its recycling center in Albany, Oregon, processes 20-25K tons of recycling material every year, much of which is organic material. If climate change and other environmental legislation further incentivize reduction or elimination of landfilling of organic material, it will further reduce the landfill’s waste intake and thus extend the landfill’s operating life in proportion to the additional volume thus diverted from the waste stream. Incentives could affect choices among disposal options in the future, which could also affect waste intake.

Background: the climate crisis imperative, landfills, and methane

People all over the world are growing increasingly concerned about the threat the uncontrolled release of greenhouse gases poses to the ecosystems that human societies depend upon. Worldwide, militaries, businesses, governments at all levels, other organizations and the public at large have incorporated or are incorporating responses to this threat into their planning, a response that collectively comprises the “climate crisis.”⁷⁷ Internationally, the 27th Conference

⁷⁷ “Global Risks: The heat is on businesses to respond to climate change,” World Economic Forum, January 2020. [link](#)

“Climate change poses a range of financial and economic risks to households, communities and market sectors across the United States... Climate change impacts threaten the stability of the US housing market.” Nature Climate Change, “Unpriced climate risk and the potential consequences of overvaluation in US housing markets,” Feb 2023. [link](#)

“Tackling the Climate Crisis – The planet’s changing climate has a significant effect on Defense Department missions, plans and installations. DOD is elevating climate change as a national security priority, integrating climate considerations into policies, strategies and partner engagements.” US Department of Defense, Spotlight, January 26, 2023. [link](#)

“President Biden’s Executive Order 14057, collectively referred to as ‘The Federal Sustainability Plan’, outlines an ambitious path to prepare Federal agency policy, programs, operations, and infrastructure to adopt adaptive and resilient strategies for future climate impacts.” Office of the Federal Chief Sustainability Officer, 2023. [link](#)

“Oregon is already experiencing the effects of the changing climate and ocean... State government has a duty to our communities, businesses, and future generations not only to reduce emission of Green House Gases (GHGs), the primary cause of climate and ocean change, but to take action to address the impacts of change across all sectors... to take advantage of emerging opportunities and harness existing state resources to protect people and the environment.” The 2021 Oregon Climate Adaption Framework. [link](#)

of the Parties to the United Nations Framework Convention on Climate Change (COP27) took place from 6 to 20 November in 2022, and hosted more than 100 Heads of State and Governments and over 35,000 participants who engaged in high-level meetings and key negotiations regarding climate action. UN Secretary-General António Guterres said that more needs to be done to drastically reduce emissions now. “The world still needs a giant leap on climate ambition... we can and must win this battle for our lives.” He urged the world not to relent “in the fight for climate justice and climate ambition.”⁷⁸

In the United States, this fight is focused on the release of methane, a potent greenhouse gas. Over a period of 20 years, a unit of methane causes between 84 and 87 times the climate damage of a unit of carbon dioxide.⁷⁹ The US is one of the world’s top 10 methane emitters, and methane emissions are a major contributor to climate change.⁸⁰ Last year the US announced that it was joining with more than 100 world governments to meet a Global Methane Pledge and reduce the world’s methane emissions 30% from 2020 levels by 2030.⁸¹ Humans produce the bulk of methane pollution, and atmospheric concentrations of methane have been trending upward for more than a decade,⁸² with landfills contributing 17% of US pollution,⁸³ a figure which many experts say significantly underestimates landfill methane.⁸⁴

Through the 2021 Methane Emissions Reduction Plan, the US government is using all available tools – “commonsense regulations, catalytic financial incentives, transparency and disclosure of actionable data, and public and private partnerships – to identify and cost-effectively reduce methane emissions from all major sources.” As part of this Plan, in a carrot-and-stick manner, the EPA has begun to catalyze multi-pronged action against, and assess penalties for, the

“This page provides resources for climate change materials and information. It includes links to documents, reports, web sites, and resources from local, state, federal, academic, and non-profit organizations.” Climate Change Resources, Oregon Department of Land Conservation and Development. [link](#)

“Americans who think global warming is happening outnumber those who think it is not happening by a ratio of more than 4 to 1 (70% versus 16%)... One in ten Americans (10%) have considered moving to avoid the impacts of global warming.” Yale Program on Climate Change Communication, “Change in the American Mind: Beliefs & Attitudes, December 2022.” [link](#)

⁷⁸ United Nations: Climate Action. [link](#)

⁷⁹ “CO2 ... has a Global Warming Potential (GWP) of one. Methane has a GWP of between 28 and 36 over 100 years, according to the EPA, meaning it is significantly more potent as a greenhouse gas than CO2. It gets worse. The GWP of methane gets even higher over shorter periods of time due to the gas’ shorter life span. Over a period of 20 years, methane has a GWP of between 84 and 87. According to the Environmental Defense Fund, while CO2 lasts for longer than methane, methane ‘sets the pace for warming’ in the short term.” “Methane Vs CO2: Which Is the Most Potent Greenhouse Gas As White House Unveils New Pledge,” Newsweek, November 2021. [link](#)

⁸⁰ The White House, “Fact Sheet: President Biden Tackles Methane Emissions, Spurs Innovations, and Supports Sustainable Agriculture to Build a Clean Energy Economy and Create Jobs,” November 2021. [link](#)

⁸¹ The White House, “Fact Sheet: President Biden Tackles Methane Emissions, Spurs Innovations, and Supports Sustainable Agriculture to Build a Clean Energy Economy and Create Jobs,” November 2021. [link](#)

⁸² “Methane Levels Hit New High, While the Cause of Rising Emissions Remains a Mystery,” Yahoo News, February 2021. [link](#)

⁸³ Environmental Protection Agency, “Overview of Greenhouse Gases: Methane.” [link](#)

⁸⁴ National Public Radio, “Your Trash Is Emitting Methane In The Landfill. Here’s Why It Matters For The Climate,” July 13, 2021 [link](#)

⁸⁴ “Existing measures to burn off the powerful greenhouse gas allow far more to slip by than had been believed, according to the [paper](#) published on Thursday in Science.” “Study: Methane emissions may be five times higher than previously thought,” The Hill, September 2022. [link](#)

release of methane into the atmosphere.⁸⁵ The global monetized benefits for all market and non-market effects are approximately \$4300 benefit per ton of methane reduced.⁸⁶

Relevance to Coffin Butte Landfill and its longevity

Landfills are major sources of methane, according to the EPA. Landfilling inherently creates methane as a natural byproduct of the decomposition of organic material in landfills. Coffin Butte’s landfill gas is composed of about 53 percent methane (the primary component of natural gas), 38 percent carbon dioxide (CO₂) and 9 percent other gases, according to the EPA.⁸⁷

Landfill methane generation rates are currently estimated using EPA models. These models are based on average waste composition from the country and don’t account for areas with high organics diversion rates. Currently, Republic Services diverts on average over 120,000 tons of green waste and food waste a year at its Pacific Region Compost Facility; its recycling center in Albany, Oregon, processes 20-25K tons of recycling material every year, much of which is organic material.

It’s known that Coffin Butte Landfill, like all landfills, has methane gas emissions, but also like many landfills its levels of “fugitive methane” are estimated rather than known. The US Environmental Protection Agency estimated in 2019 that Coffin Butte Landfill’s methane collection system converts 57% of its methane to CO₂, as compared to other Oregon landfills such as Columbia Ridge (85%) and Dry Creek (80%)⁸⁸; this finding is preliminary. Republic Services’ notes that data it submitted to the EPA for inclusion in its 2021 greenhouse gas report estimates that Coffin Butte’s landfill gas collection system has a collection efficiency of 91.2 percent.

Direct measuring technologies are coming online that can improve the characterization of landfill methane emissions, but currently they are better at providing snapshots of events rather than continuous data. Since methane generation varies daily and seasonally, models will continue to be needed to provide overall long-term emissions estimates, but these models will be improved by the more accurate event reports that direct-measuring technologies provide.

Waste disposal comprises a small percentage (roughly 2-3 percent) of Oregon’s total greenhouse gas emissions, which are largely comprised of carbon dioxide emissions associated with providing Oregonians with material of value.

In contrast, the emissions generated by waste disposal are mostly associated with methane escaping landfills. This “fugitive methane” is not of value to anyone: Republic Services, for example, has considerable infrastructure in place to capture as much methane as possible to burn in a waste-to-energy plant and in flare stacks. For Benton County as for the nation as a whole, addressing fugitive methane is an opportunity when seeking to lower total greenhouse gas emissions.

Changes to the Landfill’s emissions status in the near future

⁸⁵ “Methane Emissions Reduction Program: The Next Step in the United States’ Efforts to Tackle a Potent Greenhouse Gas,” Covington, July 2022. [link](#)

⁸⁶ “Global Methane Assessment: Benefits and Costs of Mitigating Methane Emissions,” United Nations Environment Programme and Climate and Clean Air Coalition, 2021. [link](#)

⁸⁷ “Emission Data for the Designated Pollutants,” Oregon Amended State Plan to Implement Emissions Guidelines for Municipal Solid Waste Landfills, Oregon Department of Environmental Quality, August 1, 2019.

⁸⁸ “Emission Data for the Designated Pollutants,” Oregon Amended State Plan to Implement Emissions Guidelines for Municipal Solid Waste Landfills, Oregon Department of Environmental Quality, August 1, 2019.

In the past methane pollution has been difficult to quantify. For landfills, historically the EPA has relied on theoretical calculations to estimate pollution, but these mathematical models by definition produce estimates, not exact data – useful at a national level but less so at a per-landfill level. In response, other organizations have engineered their own models that are more useful for assessing emissions at a particular landfill. In recent years, focus has shifted to better direct measurement technologies for more accurate and transparent emissions reporting.⁸⁹

Carbon-Mapper, a joint public-private enterprise, focuses on identifying super-emitters, because a previous flyover project across California discovered that only 1% of sites produced 50% of methane emissions, and the largest emissions were from landfills.⁹⁰ Carbon Mapper consulted with Republic Services and other major environmental services companies on their 2022 report of this project.⁹¹ Carbon-Mapper plans to launch two satellites in 2023, building to a suite of 20 satellites eventually; these will join other systems such as Kayrros, a French company, GHGSat, a Canadian company, and MethaneSAT, a subsidiary of the EDF.⁹² In March 2023, Kayrros announced a list of the planet’s 1,005 highest methane “super-emitting events,” and the list included leaks from waste facilities in the US; this data will begin to be released publicly later this year.⁹³

These developments could provide a clearer, more precise picture of methane emissions from U.S. landfills, including Coffin Butte, and lead to improved diversion efforts, regulatory changes and operations improvements at landfills themselves.

Improving environmental outcomes

The best-case environmental outcome for methane, once it is generated from municipal solid waste, is for it to oxidize into carbon dioxide, i.e., for it to transition from a quick-acting high-impact greenhouse gas into a slower-acting, durable greenhouse gas. In climate crisis terms, methane is not “destroyed” as it does not become carbon neutral. From an environmental point of view, the best mitigation for landfill methane is never to create it in the first place, i.e., to divert waste, especially organic waste, from ever entering a landfill. This fundamental logic applies to landfill methane now and into the future.⁹⁴

Climate crisis legislation

The US focus on methane reduction was codified in January 2023, with the signing of the Food Donation Improvement Act. America wastes about 30-40% of its food, and food waste is the most common material found in landfills. When landfilled, food waste converts readily to methane. Diverting food waste from Coffin Butte Landfill would lengthen the landfill’s

⁸⁹ “Methane menace: Aerial survey spots ‘super-emitter’ landfills,” Reuters, June 2021 [link](#)

⁹⁰ “Fugitive Methane Worsens Warming: New Assessments Point To Urgent Oil And Gas Fix,” Forbes, August 2021. [link](#)

⁹¹ “RMI and Carbon Mapper see better data and landfill upgrades as the keys to cutting methane emissions,” Waste Dive, Oct 2022. [link](#)

⁹² “With landfill methane in the climate spotlight, satellite and flyover measurements attract a following,” Waste Dive, November 2021 [link](#)

⁹³ “Revealed: 1,000 super-emitting methane leaks risk triggering climate tipping points,” The Guardian, March 2023. [link](#)

⁹⁴ “The first priority for landfills continues to be avoiding landfilling materials altogether,” the CARB spokesperson said, “which provides the most direct path for reducing landfill methane emissions.” “With landfill methane in the climate spotlight, satellite and flyover measurements attract a following,” Waste Dive, November 2021. [link](#)

operating life and reduce its methane emissions. The bipartisan Act offers benefits beyond methane reduction, which is typical when initiatives target waste.⁹⁵

The Inflation Reduction Act of 2023 imposed methane-corrective measures on the oil/gas industry. These measures are focusing on incentives to prevent methane from being emitted but include penalties for methane pollution. These penalties are being eased in over a four-year period, and establish a rate for methane pollution: \$1550 per metric ton in 2022 dollars.⁹⁶

It's possible that similar methane-corrective measures will be imposed upon the landfill industry, as a next development in the US 2021 Methane Emissions Reduction Plan.

Diverting organics from Coffin Butte Landfill would lengthen the landfill's operating life and reduce its methane emissions. Recyclers and other entities would have incentives to repurpose the organic sector of the landfill's intake (25-30% of total intake mass), which would benefit the landfill due to measures avoided. This change in waste flow may create knock-on opportunities to create circular economies for other types of waste, motivated by environmental concerns, economic efficiencies, and other reasons.

Climate crisis legal and shareholder action

As part of the climate crisis, environmentally engaged citizens and environmental organizations are suing governmental agencies (and investors are suing corporations) for failing to act on the climate crisis.⁹⁷ As with climate crisis legislation, these lawsuits may compel action to reduce emissions of greenhouse gases, which in turn may boost efforts to divert material, especially food and other high organic waste, from being landfilled. As with climate crisis legislation, the effect would be to reduce waste inflow into landfills.

Climate crisis environmental activism

As part of the climate crisis, environmental activists accelerate their efforts, and act as an across-the-board accelerator and forcer for all the environmentally motivated changes being discussed in this Appendix.

Environmental activism has already had significant effects on the operating life of Coffin Butte Landfill. Riverbend Landfill in Yamhill County was stopped from expanding in 2016, and environmental activists were a driving force; that outcome enabled Republic Services to increase trash intake at Coffin Butte Landfill by over 50% beginning in 2017.-Activism focused on trash reduction or on waste flows to the landfill itself may extend the landfill's life, if they act to reduce waste intake rates at the landfill.

Conclusion

⁹⁵ "Here's Why Congress Should Pass The Food Donation Improvement Act," Forbes, March 2022. [link](#)

"Reducing food waste seems to be one of those areas that is a win-win situation. No one is benefiting when we throw food away. The production of food itself causes emissions, and when the food goes to the landfill, it's a huge emitter of methane. So that's not good on either end of it." The Harvard Gazette, "How food donations can help fight hunger and climate change," August 2021. [link](#)

⁹⁶ "Inflation Reduction Act Adds First-time Charge for Methane Emissions for the Oil and Gas Sector," O'Melveny, August 2022. [link](#)

⁹⁷ "Growing numbers of customers and investors are insisting that all industries — waste included — record greenhouse gas emissions and shrink their carbon footprints. In a relatively short period, considering how a company may be exacerbating the effects of climate change morphed from a peripheral concern for investors to a mainstream inquiry." "Renewed focus on landfill calculations as waste industry faces pressure to reduce emissions," Waste Dive, March 2021. [link](#)

In recent years society and its structures have begun to take action on the climate crisis, due to the threat that greenhouse gases pose to natural and social systems. Responses to the climate crisis focus mainly on curtailing the release of greenhouse gases, but also include mitigating or adapting to the emerging effects of climate change. Efforts to curtail the release of greenhouse gases pay special attention to methane, because this pollutant has fast-acting effects. These efforts therefore involve landfills, as they produce methane.

The baseline scenarios laid out elsewhere in this report assume that landfilling will continue as normal for the next 16 years. That expectation should be tempered by the signals that environmental considerations, especially those related to the climate crisis, are emerging as a major factor that will reshape the social and legal landscape that Coffin Butte Landfill is in. This reshaping is something that Benton County can participate in, on behalf of its citizens. This is something the County should be aware of and prepare for, in current actions and in concert with its Sustainable Materials Management Plan, as the reshaping includes significant opportunities for the County and affiliated organizations to bring their waste management more in line with the County's stated goals and values.

Appendix C.3: Subcommittee Reports: Legal & Land Use Issues

Introduction

The purpose the subcommittee is to address: a) law relevant to, and the legal status of, landfill operation and oversight; b) relevant law related to land use regulation, and c) typical practices in land use regulation. The majority of the subcommittee's work product is in the form of objective legal information; however, the charge elements that relate to land use also include descriptions of practices and considerations and are noted as such. In all areas, the subcommittee's goal has been to be clear, concise and legally informative.

Membership of the subcommittee consists of Benton County Counsel Vance Croney, Planning Commissioner Liz Irish, Republic Services land use attorney Jeff Condit and Republic Services in-house counsel Holly Doyle. The facilitator invited participation by Jeff Kleinmann, land use attorney who represented a group of property owners in the vicinity of the landfill during the Planning Commission hearings on the proposed expansion. Mr. Kleinmann declined to participate and [submitted a letter stating his reasons](#). The facilitator subcontracted with Ginny Lucker, a highly regarded land use attorney and Benton County community member, to participate on the subcommittee and provide a third legal perspective. The County staff member supporting the subcommittee was Greg Verret, Deputy Director in the Community Development Department.

The Key Findings and Key Recommendations summarize most of the subcommittee's work. However, a wealth of information on each charge element is presented in the subcommittee's full report and readers are encouraged to refer to that report for a full accounting of any topic of interest.

SUBCOMMITTEE [WEBPAGE LINK](#)

SUBCOMMITTEE CHARGE

Charge A: A Summary of the County's current rights and obligations to Republic Services, and vice versa, surrounding:

8. The hauling franchise;
9. The landfill CUP; and
10. What legally can and cannot be conditions of any land use approvals (e.g., past compliance, compliance with future laws, codes, and policies, DEQ compliance, reopening, limitations on what can be brought into the County from where, required facilities and practices, reporting/compliance/financial monitoring requirements, etc.)
11. Interpretation and Deference: A Summary of the rights and obligations of other entities surrounding landfills, hauling, and sustainability initiatives, etc.:
 - C. Federal;
 - D. Tribal;
12. State (e.g., Is DEQ prohibited from permitting another landfill west of the Cascades and what does the "regional landfill" designation mean?);
13. Local Government; and
14. Summary of the step-by-step process in ORS chapter 459 and associated timing for the cross-jurisdictional approvals of landfill applications, (e.g. DEQ) including:
 - C. What topics are within whose authority, and

- D. Whether, for example, the County can or should consider the topics it does not have permitting authority over when assessing the criteria outlined in Code section 53.215?

Charge B: Land Use Review Tasks:

9. Create a common understanding document outlining which Development Code criteria are applicable to the review of a conditional use application for landfill expansion by reviewing:
 - D. 53.215 (Criteria)
 - E. 77.305 (Conditional Uses)
 - F. 77.310 (Review)
1. 77.405 (DEQ)
10. Review Chapters 50 and 51 for context, and then prepare a conceptual list of any other Development Code criteria the WORKGROUP recommends be applicable.
11. Developing recommended guidelines for interpreting any ambiguous provisions recognizing current statutes, regulations, case law, and County precedent, etc. In doing so, refer to Comprehensive Plan for policy guidance regarding interpretation of any ambiguous Development Code provisions (see, BCC 50.015,) and Review the Planning Commission comments made during its last review of Republic Services' CUP application for context. Examples for consideration include:
 - I. The phrase, "Other information as required by the Planning Official" 77.310(e)
 - J. The terms found in Section 53.215, e.g.
 - K. "seriously interfere"
 - L. "character of the area"
 - M. "purpose of the zone"
 - N. "undue burden"
 - O. "any additional criteria which may be required for the specific use of this code.
 - P. Other: _____
12. Necessary Tasks to Start Planning Reopening of Existing Hauling Agreement
13. Roles, Responsibilities, and Protocols of SWAC and DSAC
14. Specific Recommended Review Criteria for the Evaluation of Landfill CUP applications
15. SWAC/DSAC, Planning Commission, and BOC Use of the Review Criteria
16. Future Timeline for Discussing any Needed Changes to the Benton County Code Flowing From WORKGROUP Recommendations

SUBCOMMITTEE MEMBERS:

- Jeff Condit
- Liz Irish
- Vance Croney
- Holly Doyle
- Ginny Lucker

County Staff: Greg Verret

Key Findings and Key Recommendations

Key findings and key recommendations from the full subcommittee report have been listed below. These key findings and recommendations summarize more complete content found in the full report, which can be accessed by clicking on the link adjacent to each.

Key Findings:

- LLU F-1.** [\[Link\]](#) Do conditions of approval imposed as part of a later land use approval supersede conditions imposed as part of a prior approval? Unless a later land use approval expressly addresses whether conditions of a prior land use approval are superseded, the issue will be subject to interpretation by the local government (the Board of County Commissioners, in this case).
- LLU F-2.** [\[Link\]](#) Only the current franchise agreement has legal effect. The previous franchise agreement is superseded when a new agreement takes effect.
- LLU F-3a.** [\[Link\]](#) Up-front and ongoing financial assurance to cover the cost of closure, post-closure, and corrective actions are required by DEQ. Where this preliminary line of defense fails, Oregon statute holds any person owning or controlling the disposal site liable for closure and post-closure maintenance. [See additional DEQ information on this topic in full subcommittee report.]
- LLU F-3b.** [\[Link\]](#) DEQ reviewed the last annual FA update submittal which was dated April 1, 2022 and approved on April 13, 2022. DEQ's approval letter summarizes the following:
3. The updated cost estimates for closure (\$16,222,800) and post-closure care (\$5,743,202) were correctly updated, prepared, and stamped by a registered P.E.
 4. The current penal sum of your Bond, as provided by Evergreen National Indemnity Company, with your new Riders in place, covers the total of updated cost estimates.
- DEQ identifies Valley Landfill Inc. as the owner of the landfill and the DEQ solid waste permittee for DEQ permit #306. The operator of the landfill is Coffin Butte Landfill. The owner or operator of the landfill is responsible for compliance with the permit and permit conditions. The owner or operator is responsible for providing financial assurance for closure, post closure and any needed corrective action per ORS 459.272.
- Valley Landfill Inc. uses a bond to provide financial assurance. According to OAR 340-094-0140(6)(d) and (6)(e) the permittee is to recertify compliance every year which Valley Landfill Inc. did in a March 28, 2022 attachment to the annual financial assurance submittal that DEQ received.
- LLU F-3c.** [\[Awaiting final wording from Vance Croney\]](#) [\[Link\]](#) In negotiating the [2020 landfill franchise agreement](#), Benton County established three elements to provide assurance that costs of closure, post-closure and corrective action are covered: DEQ assurances, insurance, and the environment trust fund
- LLU F-4.** [\[Link\]](#) What legally can and cannot be conditions of any land use approvals? Conditions of approval must relate to approval criteria. To be approved, an applicant must demonstrate compliance with all discretionary approval criteria. Conditions of approval cannot substitute for compliance with applicable criteria

but may be imposed to ensure the criteria are met. The county may find compliance with approval criteria by establishing that compliance is feasible, subject to compliance with a specific condition(s) of approval. A preponderance of the evidence must support a finding that the condition is “likely and reasonably certain” to result in compliance. To lessen adverse impacts on surrounding 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)

LLU F-5. [\[Link\]](#) In reviewing a CUP for landfill expansion, the County has jurisdiction over only the proposed expansion. Existing and past operations are not within the County’s scope of review. Prior decisions are final and cannot be subjected to a new review or have additional/revised conditions of approval imposed as part of the CUP application for the expansion. The mechanism for enforcing conditions of approval is a separate process; see recommendation LLU R-11.

LLU F-6. [\[Link\]](#) Benton County may not prohibit a private landfill operator from accepting solid waste from outside Benton County.

LLU F-7. [\[Link\]](#) Is DEQ prohibited from permitting another landfill west of the Cascades? No.

LLU F-8. [\[Link\]](#) 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.

LLU F-9. [\[Link\]](#) Interpretation of the review criteria for a landfill-expansion conditional use permit requires determinations that are based on the facts of the specific application. The rules of statutory construction describe how ambiguous terms are to be interpreted: text, context, and legislative history. However, LUBA’s standard of review is highly deferential to the local decisionmaker’s interpretations, so if the interpretation is plausible (does not conflict with the provision’s language), LUBA (and the courts) will uphold the local interpretation. This gives the decision-maker a lot of flexibility in interpreting their own code provisions. In response to a request by the Board of Commissioners, the following four findings provide staff-provided historical information, particularly over the past 25 years, on how the County decision-makers have interpreted these terms across the full range of conditional use applications the County reviews. They are not recommendations on how the Planning Commission and Board should interpret future applications. Restated, each body fully retains its flexibility in interpreting those terms in the context of the specific application before it.

LLU F-9a. [\[Link\]](#) The first criterion requires the decision-maker to find that “*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*” [BCC 53.215(1)]. In applying the term “seriously interfere”, Staff reports that in past CUP applications the Planning Official, Planning Commission or Board has considered factors such as: does the proposed use make it difficult to continue uses on the adjacent property; would it

create significant disruption to the character of the area; would it conflict, in a substantive way, with the purpose of the zone. As noted above, the county decision-makers have wide discretion in evaluating whether a use will “seriously interfere.” In the past, “seriously interfere” has generally been applied as meaning more than an inconvenience or irritation but is a lesser threshold than rendering the uses on adjacent property impossible. Speculated effect on property values has not been a primary consideration in determining serious interference.

LLU F-9b. [\[Link\]](#) In the phrase “character of the area” in BCC 53.215(1), how narrow or broad has “the area” typically been?

When the County is evaluating the “character of the area”, the “area” is based on the facts of each application and how far the effects of the proposed land use are likely to extend. The impacted area will be unique to each application and may differ by particular effect—for example, the impact of noise might extend farther than visual impact (or vice versa).

Because each review is unique, examining past cases for the specific distances utilized may not be illuminating. Staff reports that in past CUP applications the Planning Official, Planning Commission or Board has considered these factors in determining the character of the area and its extent include:

- The particular attributes of the geographic setting (including existing operations in the vicinity.)
- Is there a distinct change in the area's physical characteristics beyond a certain point (such as a change from flat land to hills or from one river basin across a ridgeline into another)?
- What features or elements give the area its character? Is it a homogenous or heterogeneous character (is there a high degree of similarity, or is it mixed)?
- How far are the effects of the proposed land use likely to extend? This may differ by particular effect—for example, the impact of noise might extend farther than visual impact (or vice versa).

LLU F-9c. [\[Link\]](#) In the conditional use review criterion of: “*The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area*” [BCC 53.215(2)], what constitutes a “burden” is again based on the facts of the application. Staff has stated that in past CUP applications the Planning Official, Planning Commission or Board has considered a “burden” on public infrastructure and service is likely “undue” if it overloads the system or causes significant degradation in terms of quality, effectiveness or timeliness of infrastructure or service. Lesser burdens may also be “undue” if the effect jeopardizes people's health, safety, or welfare. Burdens that the County has typically not considered “undue” include those that can be mitigated through planned improvements, that are incremental service additions⁹⁸ consistent with that generated by other uses in the area or that fall below an established threshold (such as road classification standards). For planned improvements to be relied upon in determining that a burden is not undue, the implementation of

⁹⁸ Incremental service additions are additions to the overall burden on services that are small relative to the total. For example, adding 10 daily vehicle trips to a road currently experiencing 300 daily vehicle trips could be considered an incremental service addition.

those improvements must be certain, such as through a condition of approval specifying the improvement and the timeline for implementation. Again, as noted in LLU F-9 above, so long as the interpretation is plausible, the decision makers have wide discretion in interpreting the term “undue burden.”

LLU F-9d. [\[Link\]](#) With regard to the conditional use review criterion of BCC 53.215(3) [*“The proposed use complies with any additional criteria which may be required for the specific use by this code.”*], if the county has adopted additional code criteria that apply to a proposed use, then those code provisions would apply. This does not allow the county to apply unadopted criteria that are not in the code at the time of application. In applying for expansion in the Landfill Site zone, the BCC Chapter 77 does not adopt any additional criteria and, therefore, no additional criteria apply.

LLU F-10. [\[Link\]](#) SWAC’s bylaws require it to “assist the Board of Commissioners (Board) in Planning and implementing solid waste management, pursuant to BCC Chapter 23, the Benton County Solid Waste Management Ordinance.” BCC 77.305 directs the Solid Waste Advisory Council (SWAC) to review and make recommendations regarding the Site Development Plan and Narrative submitted on a landfill-expansion CUP; however, the code does not specify what criteria or considerations that recommendation should be based on. Based on SWAC’s bylaws and role in planning and implementing solid waste management, it appears that the intent of the language in BCC 77.305 is that the Planning Commission rely on SWAC for guidance on the impacts of the Site Development Plan and Narrative on solid waste management. However, the language of BCC 77.305 does not expressly limit the scope of SWAC’s recommendations.

LLU F-11. [\[Link\]](#) Pursuant to BCC 77.310(1)(e), to what extent may the Planning Official require additional information from an applicant for a Landfill Site Zone Conditional Use Permit? Only “other information” that relates to the approval criteria for a conditional use permit may be required under BCC 77.310(1)(e), and the applicant may choose to provide some, all, or none of the requested information. The land use decision must be based on demonstrating compliance with the code criteria, not on whether the applicant provided the requested information.

LLU F-12. [\[Link\]](#) BCC 77.310(1) lists the information required in the applicant’s narrative submitted with a conditional use application. The information required under BCC 77.310(1) includes the documents and information required to be part of the application. 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. A determination that an application is complete does not mean that the information satisfies the approval criteria.

LLU F-13. [\[Link\]](#) In addition to the list of information listed in BCC 77.310(1)(a)-(d), BCC 77.310(1)(e) allows the Planning Official to request that the conditional use application narrative include “other information”. This information must relate to the approval criteria. The applicant has the discretion whether to submit the requested information. The applicant’s failure to submit any requested information is relevant to the decision on the application only to the extent that the decision maker determines that the information is necessary to comply with an approval criterion.

LLU F-14. [\[Link\]](#) Pursuant to long-standing LUBA case law, representations and 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 as conditions of approval. See LLU R-10.

LLU F-15. [\[Link\]](#) 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.

- 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.

LLU F-16. [\[Link\]](#) Is there an opportunity for public input to determine whether an application is complete? The public may submit comments on the completeness of an application. However, the completeness process is not a review of the application’s merits; only whether sufficient information has been submitted to the application’s merits can be evaluated through the public hearing process. And there are no statutory or code requirements for incorporating public input on the county’s administrative determination of whether an application is complete.

LLU F-17. [\[Link\]](#) Once any land use application is submitted to the County, the County Planning Official must determine within 30 days whether the application is complete. Following the [completeness process](#) the County then has 150 days to make a final land use decision, including the completion of any appeal to the Board of Commissioners or other proceeding under County Code. If the County does not make a final decision within the prescribed time, an applicant may petition the circuit court for a “writ of mandamus.” ORS 215.429(1) et seq and citing ORS 34.130. This statute requires the circuit court to approve the application unless the County can prove it violates a substantive provision of the Comprehensive Plan or Code. If the court determines the County has not met that burden, the applicant may then proceed with the development as proposed.

LLU F-18. [\[Link\]](#) Section 2 of [the June 7, 2022, collection franchise agreement](#) between Benton County and Allied Waste Services of Corvallis (“Republic Services”) contains a mandatory limited reopener provision. Contract negotiations are not conducted in public. With that said, a process could be designed to allow public input, comment, and feedback on any provisions subject to Section 2 that may be negotiated between the parties to the agreement. The renegotiated collection franchise agreement must be agreed upon, in its entirety, by both Benton County and Republic Services.

LLU F-19. [\[Link\]](#) 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 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.

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.

LLU F-20. [\[Link\]](#) Could a new CUP approval be conditioned on cleaning up noncompliance with existing operations?

A new CUP cannot require as a condition of approval that an existing operation on a different property be modified or that noncompliance be rectified. Enforcement procedures (see Chapter 31 of the Benton County Code) would have to address the noncompliance. See recommendation R-11.

LLU F-21. [\[Link\]](#) Is compliance/noncompliance with conditions of past land use approvals a topic that can be considered in any way during a new land use application?

Generally, the new proposal must be evaluated on its own merits relative to the approval criteria. However, the current non-compliance of an existing land use condition could provide information that the Planning Commission considers in developing a condition on a new application. If an application is made to expand an existing land use that is currently out of compliance with a condition of approval of a previous decision, and that noncompliance is causing issues for surrounding land uses, noncompliance of the original land use decision is not in itself grounds to deny the new application. However, the decision-maker could potentially look at the fact of existing noncompliance in evaluating whether that noncompliance is causing the existing land use to "seriously interfere" with uses on surrounding properties. That fact can then be used as evidence in evaluating whether the proposed land use complies with the review criteria because the same land use in a similar location was seriously interfering with surrounding uses even though it was subject to conditions of approval. If the language in a condition of a past decision was unclear or insufficient to ensure compliance with an approval criterion, in evaluating a new application the decision maker could craft and impose a condition on a new decision that more clearly describes the measures necessary to ensure compliance. Past conditions superseded by subsequent decisions or changes in the law could not form a basis for such analysis.

LLU F-22. [\[Link\]](#) 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.

LLU F-23. [\[Link\]](#) 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.

CUP Subcommittee to F-23: seems to be in response to "LSCL R-6 the County should clarify when formal approval (emphasis added) of Cell 6 as a disposal area was granted." LLU F-23 includes the statement "Land Use File PC-83-7 has been interpreted by Benton County, including in the 2002 MOU, as authorizing landfilling of the area know as Cell 6, the current quarry." The Finding goes on to use current calculations of the land areas involved to deduce "Cell 6" was authorized in PC-83-7.

Some difficulties in supporting the LS statement are:

- A) Prior LS advice that PC-83-7 is not enforceable because of the way it was written by the County
- B) "Cell 6" is:

- not mentioned in PC-83-7.
- not show on applicant drawings of the landfill as late as 2011.
- is shown on applicant drawings dated 2022.
- C) The portion of a drawing LS offered showing the 1983 “Existing Quarry”:
 - places the quarry outside the “Approximate Solid Waste Disposal Boundary” and “Proposed Solid (illegible word) Disposal Boundary”.
 - does not show a quarry extending into the area identified in 2020 as Cell 6.
 - does not show what use the drawing was intended for, no date drawn, etc. i.e. cannot be validated.
 - shows a requirement for screening the landfill along Coffin Butte Road and Hwy 99 with about 3 dozen conifers.
- D) Regarding the 2002 MOU:
 - it does not mention how the MOU was intended to relate to land use decisions
 - is unclear as to what LUCS are referred to and their impact e.g.:
 - the 1996 LUCS referred to in the MOU has not been found,
 - a LUCS dated 12/18/00 has been found as a free standing document,
 - a 2000 Site Plan (Is the the last DEQ approve in 2000 the MOU refers to?) using a LUCS dated Feb 25 '22 was found i.e. an 8 year gap between LUCS issuance and use in an identified document.
 - the current Operating Permit was issued in 2019 but references a 12/18/00 LUCS i.e. 20 year gap
 - it was written years before a “Cell 6” was defined in a landfill operator's drawing.

LLU F-24. [\[Link\]](#) The County’s decision on a conditional use permit must be based on the evidence submitted into the record. Evidence must be submitted into the record before the record is closed. The Planning Commission makes the initial decision on a conditional use application to expand the landfill, and the record includes all evidence submitted into the record before the Planning Commission makes its decision. The Planning Commission’s decision may be appealed to the Board of Commissioners. The Board considers the record of the decision being appealed (all evidence and testimony submitted to the Planning Commission) and any new evidence or testimony that is submitted into the record at the Board’s appeal hearing. The record closes either at the end of the final hearing on the application, or if there has been a request to leave the record open before the end of the final hearing, on the date specified at that hearing.

LLU F-25a. A petition is circulating requesting the Board of Commissioners “OPPOSE ANY expansion of the Coffin Butte Landfill before Benton County completes a thorough, detailed waste management plan that focuses on future resilience and includes alternatives for decreasing and redistributing materials from the waste steam.” One of its sponsors said, “All [it] does is urge you, the Commissioners — if the application comes before you on appeal following a decision by the Planning Commission — to “oppose any expansion request before you have a materials

management plan in place to guide you. How can you approve a land-use action that will have a permanent impact on our county and its inhabitants, for generations to come, when you don't know what all the alternatives are?" (Emphasis in original.)

LLU F-25b. The petition sponsors agree with the County's position that it cannot legally postpone consideration of any landfill expansion pending completion of a Sustainable Materials Management Plan (SMMP). However, the petition essentially states that a future waste management plan is necessary before the Board can thoroughly evaluate a proposed expansion because that plan may provide evidence that a landfill expansion is not needed, or that it may demonstrate suitable alternatives to a landfill expansion. Opposition to a conditional use permit based on potential findings from a future waste management plan would effectively impose an impermissible de facto moratorium pending the development of that plan. As discussed in [Finding LLU F-17](#), failure by the County to reach a final decision, including all local appeals, within 150 days of a complete application can result in a writ of mandamus in which the circuit court may authorize the land use as proposed.

LLU F-25c. Petition sponsors have stated that they are asking the Board to conclude that, in the absence of a waste management plan, any proposal to expand the landfill necessarily violates one or more of the *current* discretionary approval criteria. A land use decision on a conditional use permit application must be based on the specifics of that application. To make a determination as to whether a land use application violates one or more conditional use criteria requires the decision-maker to review the application and make written findings as to whether and how the application complies with the criteria. This cannot be done prior to receipt of an application or outside of the land use review process.

LLU F-25d. The current CUP criteria give the Board discretion and, under the existing statute, [LUBA and the courts will defer to the Board's interpretation of its criteria so long as the interpretation is "plausible."](#) That discretion, however, is not unlimited and does not extend to applying unadopted criteria or to adding criteria that are not in the code at the time an application is filed. The current CUP criteria do not include – and cannot plausibly be interpreted to include -- any requirement that the applicant demonstrate need or that it must evaluate alternatives to a proposed landfill expansion. Interpreting the existing code criteria to require demonstration of "need" or alternatives is beyond the range of discretion afforded by state statute and would constitute an improper code amendment under the guise of interpretation.

LLU F-25e. Under both state law and the county code, an application must be evaluated based on the criteria in effect on the date the application is filed. Because the current CUP criteria do not require the applicant to address need or reasonable alternatives to the expansion, even if the evidence existed today, evidence regarding the need for or alternatives to landfill expansion is not relevant to the existing conditional use approval criteria; and therefore the possible evidence that might flow from a future SMMP is not relevant to the Board's evaluation of whether there is substantial evidence in the record as a whole related to compliance with the CUP criteria.

LLU F-25f. The County could amend BCC chapter 77 to add a criterion under BCC 53.215(3) to require compliance with specific provisions of an adopted SMMP. However, that criterion would apply only to applications filed after the code was amended to include, as criteria, specific requirements of such a plan. [See also Recommendation LLU R-8.]

LLU F-26. Oregon Department of State Lands (DSL) has regulatory authority for all wetlands that meet the definition of “jurisdictional wetlands.” Benton County has additional regulatory authority for wetlands the County has identified as “significant” in a wetland inventory adopted pursuant to the Oregon Administrative Rule 660 Division 23 (Statewide Planning Goal 5 procedures). No significant wetlands are identified in the vicinity of Coffin Butte Landfill on the County’s adopted inventory. The County has not conducted a comprehensive wetland inventory and analysis of significance since the 1980s. See LLU R-11.

Key Recommendations:

LLU R-12, LLU R-14. [\[Link\]](#) The County should enable public input on all franchise agreements. Specifically regarding the 2022 collection franchise agreement between Benton County and Allied Waste Services of Corvallis (“Republic Services”), a process to allow public input, comment, and feedback on any provisions subject to Section 2 of that agreement 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 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.”

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.

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.

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 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.

[LLU R-15.](#) [\[Link\]](#) 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.

[LLU R-13, LLU R-16.](#) [Benton County should engage with Oregon Department of Environmental Quality at the pre-application stage to understand relative permitting responsibilities and processes, with the goal of a more coordinated and informed review of both the land use application \(by Benton County\) and, if the County land use application is approved, the subsequent landfill-related permitting \(by DEQ\).](#)

[LLU R-14, LLU R-17.](#) [\[Link\]](#) BCC 77.310 states that “The applicant for a conditional use permit shall provide a narrative which describes: * * * Other information as required by the Planning Official.” [BCC 77.310(1)(e)] The workgroup could make recommendations regarding what “other information” would be helpful in a narrative. However, any committee recommendations would have to be limited to information related to the applicable criteria and could not expand that criteria. “Additional information” required by the Planning Official does not become part of the applicable criteria. BCC 77.310 states only what the applicant’s narrative shall include; it does not identify criteria for SWAC’s review of a CUP application. This absence contributed to the subcommittee’s recommendation in LLU R-6.

[LLU R-15, LLU R-18.](#) [\[Link\]](#) BCC 77.310(1) lists the information required for a conditional use application in the landfill site zone and permits the planning official to request that the applicant’s narrative include “additional information.” However, the development code does not specify how or when that information is to be requested. In the past, the Planning Official has used the statutory completeness review process to request additional information. However, in addition to the Planning Official’s review of the information after the application has been submitted, the Board could amend the code to require that the Planning Official conduct a “preapplication conference” with the applicant to discuss the information that is required. It could also require a “neighborhood meeting” before the application is filed that requires the applicant to present its proposal to the public and allow the applicant to obtain more information about the proposal. Public comment during a pre-application neighborhood meeting, as with other public comment submitted before the application is complete and notification is sent, is not part of the formal record of the land use review and cannot be considered by decision-makers. The record includes only public comment submitted after formal notification has been sent to affected parties stating that the comment period is open.

~~LLU R-16~~LLU R-19. [\[Link\]](#) BCC 77.305 directs the Solid Waste Advisory Council (SWAC) to review and make recommendations regarding the Site Development Plan and Narrative submitted on a landfill-expansion CUP; however, the code does not specify what criteria or considerations that recommendation should be based on. Consistent with SWAC's bylaws and Chapter 23 of the County Code, which require SWAC to "assist the Board of Commissioners (Board) in Planning and implementing solid waste management, pursuant to BCC Chapter 23, the Benton County Solid Waste Management Ordinance", the Board of Commissioners should more clearly define SWAC's role by articulating the scope, manner and timing of SWAC's review. Interpreting the existing County Code is within the Board's purview, but amending that code effects a more permanent solution. As an initial step, the Board could issue an official interpretation of SWAC's role pursuant to Chapter 23. Then, as a subsequent step, the Board could initiate amendments to Chapter 23 and/or Chapter 77, which would then proceed through a public hearings process. (If/when SWAC's overall role shifts to sustainable materials management, instances of the term "solid waste management" above should be replaced with "sustainable materials management.")

~~LLU R-17~~LLU R-20. [\[Link\]](#) Amendments to the Development Code may be needed to create a clear and legally consistent process for SWAC's involvement in reviewing a CUP. Pursuant to the Development Code as written, the only criteria that a CUP decision can be based upon are those of BCC 53.215, and the Planning Commission is the decision-making body. Yet, the code states an ambiguous role for SWAC in that process and seems to imply that other considerations beyond those of BCC 53.215 should go into the decision-making process. This needs clarification.

~~LLU R-18~~LLU R-21. In addition to the two criteria listed in BCC 53.215(1) and (2), [BCC 53.215\(3\)](#) requires the decision maker to consider whether the "proposed use complies with any additional criteria which may be required for the specific use by this code." Currently Chapter 77 (Landfill Site zone) does not include any additional criteria that must be considered in the review of a conditional use application for the expansion of a landfill in the landfill zone. If there are additional criteria that the Board of Commissioners determines are necessary for the review of a conditional use application in the landfill zone, the Board would have to amend Chapter 77 to specify those additional approval criteria. The Board could also require that compliance with the site plan and reclamation plan (currently [required by Chapter 77 to be submitted with the application](#)) be adopted as conditions of approval of any approved conditional use permit.

~~LLU R-19~~LLU R-22. [\[Link\]](#) When the County adopts its SMMP, it should amend BCC chapter 77 to add a criterion under BCC 53.215(3) to require compliance with specific provisions of an adopted SMMP.

~~LLU R-20~~LLU R-23. [\[Link\]](#) 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.

LLU R-24. [Compliance with Oregon Department of State Lands regulations and permitting requirements for any impacts to wetlands should be a condition of approval of any land use approval at the landfill.](#)

LLU R-21-LLU R-25. [\[Link\]](#) In issuing land use decisions, Benton County decision-makers should:

- a. Draft clear findings and be certain to incorporate into the conditions of approval the items that are intended to be binding.
- 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.

LLU R-22-LLU R-26. [\[Link\]](#) 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:

- f. What enforcement mechanisms exist within the County Code?
- g. Is there a mandamus option or a private right of action option?
- h. What is missing?
- i. What provisions and procedures do other counties have, particularly counties that host a privately operated landfill?
- [j.](#) The future cost of such a system, the benefits, and the consequences of not improving the current practices and procedures.

Topic Areas Benton County Can or Cannot Regulate

-- Summary Table --

<i>Topic Area</i>	<i>Primary Jurisdiction</i>	<i>County Allowed to Regulate?</i>	<i>Notes</i>
Wetlands	Department of State Lands	Yes, if the County has identified significant wetlands at the site in a wetland inventory adopted through the Statewide Planning Goal 5 procedure.	No significant wetlands are identified in the vicinity of the landfill on the County's adopted inventory. The County has not conducted a comprehensive wetland inventory and analysis of significance since the 1980s.
Groundwater quality	DEQ	No. Statute precludes.	County can regulate the impact of one land use on another.
Groundwater quantity	OWRD	No. Statute precludes.	County can regulate the impact of one land use on another.
Noise	DEQ	Yes. DEQ has adopted noise standards but does not enforce. County may apply (only) those standards and enforce.	
Odors	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.

Topic Area	Primary Jurisdiction	County Allowed to Regulate?	Notes
Methane emissions	DEQ	Precluded if regulated by DEQ.	
Wildlife	ODFW	Yes, if Benton County were to adopt a program pursuant to the Statewide Planning Goal 5 procedure.	Requires Comprehensive Plan Amendment.
Stormwater runoff	DEQ	Yes, pursuant to BCC 99.650-99.680.	
Point-source discharge to surface waters	DEQ	Yes, pursuant to BCC Chapter 36 Illicit (Non-Stormwater) Discharges.	
Light	None.	Yes, through CUP criteria and resulting conditions of approval. Not directly regulated in Development Code.	No state regulations that we are aware of.
<u>Leachate</u>	<u>DEQ</u>	<u>No. Statute precludes.</u>	<u>County can regulate the impact of one land use on another.</u>

Conclusion

Solid waste topics in Benton County intersect with legal and land use issues in several ways:

- Franchise agreements (in this case collection and landfill franchises) are contracts between a local government and a service provider.
- Legal requirements for permitting a landfill at a given location.
- Land use regulations.
- Benton County’s oversight of solid waste topics through Chapter 23 of the Benton County Code, including the Solid Waste Advisory Council and the state-mandated Disposal Site Advisory Committee.

Franchise agreements are subject to contract law, applicable state statutes and county code, and applicable federal law and court cases. Franchise agreements are the product of confidential contract negotiations between the parties. However, the County and Republic Services recognize and acknowledge the public interest in these agreements and the desire to ensure the agreements reflect community priorities. The U.S. Supreme Court has determined the federal constitution prevents the County from limiting the area from which the landfill can accept waste.

Permitting a landfill or changes to a landfill is a complex mixture of state law (involving a variety of agencies) and Benton County Code. Understanding the roles and limitations on authority of

each entity is important to enable community members to provide informed comment and for Benton County decision-makers to arrive at informed decisions.

Benton County has latitude to interpret the provisions of its own code and to interpret ambiguities in past decisions, provided those interpretations are plausible. Decisions and conditions of approval must be rooted in the applicable criteria in the County's Development Code and can only address the current application (not look to alter previous land use decisions or conditions). Subjective terms in the review criteria and procedures applicable to a conditional use permit (CUP) in Benton County, including a CUP to expand the landfill, were discussed in the subcommittee findings with the intent *not* of directing how these terms should be interpreted and applied in a future land use review but of providing such legal context as exists and how the County has historically interpreted them.

The County's long land-use history with Coffin Butte Landfill has resulted in legal and interpretation questions which the subcommittee has attempted to clarify from an objective legal perspective. The 1983 approval of the landfill did include approval for landfilling of Cell 6 (the present quarry) and did not establish the site plan and narrative as regulatory conditions of approval. The 2002 memorandum of understanding (MOU) between Benton County and the landfill operator memorialized the County's understanding that at that time the landfill was operating in compliance with local requirements but the MOU did not negate conditions of past land use approvals.

The subcommittee makes recommendations to:

- clarify the role of the Solid Waste Advisory Council in the land use conditional use review process
- consider specifying what "additional information" would be helpful in review of a conditional use application
- consider requiring a "pre-application conference" and a "neighborhood meeting"
- consider specifying any additional criteria necessary for CUP review and/or requiring compliance with the proposed site plan and reclamation plan
- clarify BCC 77.405 regarding review of DEQ permits
- provide the public with information regarding the initial review of the completeness of an application
- consider a proposed process for public input in the re-opener of the collection franchise agreement
- evaluate the system of compliance monitoring and enforcement
- ensure that land use findings are clear and that conditions of approval include all elements intended to be binding and are clear about what is necessary to comply with the conditions.

SECTION A: Develop Common Understandings

1) Republic Services and Benton County's Current Rights and Obligations

A Summary of the County's current rights and obligations to Republic Services, and vice versa surrounding the hauling franchise; The landfill CUP; and What legally can and cannot be conditions of any land use approvals (e.g. past compliance, compliance with future laws, codes, and policies, DEQ compliance, reopening, limitations on what can be brought into the County

from where, required facilities and practices, reporting/compliance/financial monitoring requirements, etc.)

a. Rights and obligations relative to past land use approvals

Question: Do conditions of approval imposed as part of a later land use approval supersede conditions imposed as part of a prior approval?

Answer: Unless the later land use approval expressly addresses whether the prior approval conditions continue or cease to be applicable, the issue will be subject to interpretation by the local government. LUBA will uphold the local government’s interpretation of approval conditions unless the local government has improperly construed the applicable law.

Discussion:

When evaluating the effect of later conditions of approval on earlier conditions, the analysis will depend on the specific land use approvals at issue. If the later land use decision unambiguously states that the earlier conditions either continue or no longer apply, the express language of the later decision resolves the issue. If the later decision does not unambiguously address the issue, it is subject to interpretation by the local government, and LUBA will uphold that interpretation unless the local government has improperly construed the applicable law.

When the meaning of an earlier land use decision is disputed during review of a later land use application, the local government (here, the Benton County Board of Commissioners) will interpret the previous land use decision, including any conditions of approval. *See M & T Partners, Inc. v. Miller*, 302 Or App 159, 164-65, 460 P3d 117 (2020); *Bradbury v. City of Bandon*, 33 Or LUBA 664 (1997).

Once the local government has made the determination, LUBA will review under ORS 197.835(9)(a)(D) to determine whether the decision maker “improperly construed the applicable law.” *Dahlen v. City of Bend*, ___ Or LUBA ___ (LUBA No. 2021-013, June 14, 2021). That is, LUBA will review for whether the interpretation is consistent with the statutory construction rules set out in ORS 174.010 to 174.090, *PGE v. Bureau of Labor and Indus.*, 317 Or 606, 611, 859 P2d 1143 (1993), and *State v. Gaines*, 346 Or 160, 206 P3d 1042 (2009). *Lennar Nw., Inc. v. Clackamas Cty.*, 280 Or App 456, 468, 380 P3d 1237 (2016).

This interpretative framework requires consideration of the text, context, and purpose of the land use approval. The fact that a specific condition was included in a prior decision but was not included in a later decision is relevant to the text, cotext, and purpose of the later decision.

Additionally, when reviewing a local government’s interpretation of its later land use approvals to determine whether prior approval conditions continue to apply, LUBA cannot insert what has been omitted or omit what has been inserted. *Lennar*, 280 Or App at 469 (citing ORS 174.010); *Gould v. Deschutes Cty.*, 322 Or App 11, 24, 518 P3d 978 (2022); *M & T Partners*, 302 Or App at 172. LUBA will also give effect to the entire text of the later land use approval to the extent possible. *See* ORS 174.010; *Willamette Oaks LLC v. City of Eugene*, 76 Or LUBA 187 (2017).

Accordingly, it is for the Benton County Board of Commissioners to determine whether the later land use decisions continued or discontinued the conditions of approval attached to earlier land use decision. And, so long as it applies the interpretative framework outlined above, LUBA will uphold that determination.

b. Rights and obligations relative to franchise agreements

Question: How do previous franchise agreements impact continuation of operations under a new franchise agreement?

Answer: Only the current franchise agreement has bearing. The previous franchise agreement is superseded at the time a new agreement takes effect. The provisions of the current (2020) franchise agreement are reflected in Table 1 below.

Discussion:

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

Table 1: Rights and Obligations Relative to Franchise Agreements

Landfill Rights and Obligations			
	Republic Right⁹⁹/Republic Obligation¹⁰⁰ (A Republic “right” is a County “obligation” and vice versa unless another entity is noted)	Authority	Comment
1	"Operate and maintain the Landfill as a sanitary landfill for disposal of Solid Waste"	Landfill Franchise Agreement §2(a)	
2	"Comply with Benton County’s solid waste ordinance and all provisions for service as set forth in Exhibit B" (current provisions detailed in this document)	Landfill Franchise Agreement §2(a)	Exhibit B contains Benton County Code Ch. 23.
3	"Charge tipping fees."	Landfill Franchise Agreement §2(b)	County hasn't participated in rate setting since 2000 franchise agreement eliminated county oversight. Section 7(f) designates Republic information related to tipping fees to be confidential. BCC 23.505 specified rate structures are not reviewed by BOC.
4	"Operate and promote the use of a Pacific Region Composting Facility (PRCF)."	Landfill Franchise Agreement §2(c)	

⁹⁹ A right is something one “is entitled to have * * * or receive.” *Barron’s Law Dictionary*, pg. 416.

¹⁰⁰ An obligation is the “legal or moral duty to do or not do something.” *Black’s Law Dictionary*, pg. 1102.

Landfill Rights and Obligations			
	Republic Right ⁹⁹ /Republic Obligation ¹⁰⁰ (A Republic "right" is a County "obligation" and vice versa unless another entity is noted)	Authority	Comment
5	"Shall accept for disposal at the Landfill, Solid Waste created or generated within Benton County."	Landfill Franchise Agreement §2(d)	This guarantees Benton County residents will have access to landfill as long as it is operational. Per §11(f), if Republic is unable to take Benton County-generated waste at the landfill, it will make other permitted landfills available to Benton County Solid Waste. In that case, the tipping fee shall be the same as if solid waste was disposed of at Coffin Butte. Same rate provision applies for 6 months.
6	"All persons holding a franchise to collect and transport municipal Solid Waste in Benton County will be permitted access to the Landfill" as long as they pay the tipping fee.	Landfill Franchise Agreement §2(d)	This ensures municipalities within Benton County which franchise collection services can access Coffin Butte. BCC 23.410(7) codifies this requirement as well.
7	Residential self-haulers will be accepted.	Landfill Franchise Agreement §2(f)	\$35 per residential vehicle flat fee established, to be revised by the CPI after 3 years.
8	Secure loads required and maintain litter control measures.	Landfill Franchise Agreement §2(h)	
9	Annual franchise fee to be paid to County.	Landfill Franchise Agreement §4(a)	Section 11(d) describes situation when uncontrollable circumstances excuse Republic from paying fees. If Republic disposes of solid waste elsewhere, but not because of uncontrollable circumstances, it must still pay franchise fee.

Landfill Rights and Obligations			
	Republic Right⁹⁹/Republic Obligation¹⁰⁰ (A Republic "right" is a County "obligation" and vice versa unless another entity is noted)	Authority	Comment
10	Annual host fee, based on an amount per ton of Solid Waste accepted at the landfill, will be paid to County.	Landfill Franchise Agreement §4(b)	The host fee is a credit against the franchise fee, with the franchise fee serving as the minimum amount Republic will pay County each year.
11	Until landfill expansion is approved, annual tonnage deposited at landfill is capped at 1,100,000 tons.	Landfill Franchise Agreement §5(b)	Within the tonnage cap, Republic must allow Benton County generated waste up to 75,000 annual tons. Solid waste deposited as a result of fire, flood, or other natural disasters is exempt from the tonnage cap.
12	Environmental Trust Fund to be maintained at no less than \$5,000,000.	Landfill Franchise Agreement §6(a)	
13	Republic to maintain pollution liability insurance policy with minimum coverage of \$10,000,000.	Landfill Franchise Agreement §6(b)	Section 6(d) requires the parties to meet every 4 years or after each 2,000,000 ton increment of solid waste is deposited to review the pollution liability insurance coverage.
14	Following year 1 of the agreement, Republic to furnish an annual report to County.	Landfill Franchise Agreement §7(a)	Annual report on environmental condition of the landfill, "covering air, water, Solid Waste Permits, pollution controls, and related issues as determined by the parties."
15	Beginning in year 2 of the agreement, Republic to furnish remaining capacity data to County.	Landfill Franchise Agreement §7(b)	Republic to provide BOC "necessary data to confirm the remaining capacity of the Landfill as determined by both parties." Data to include methods and calculations used.
16	Other reports to be provided to County, when submitted to other agencies.	Landfill Franchise Agreement §7(c)	Public information and reports to state or federal agencies relative to operation of landfill to be provided to County.

Landfill Rights and Obligations			
	Republic Right⁹⁹/Republic Obligation¹⁰⁰ (A Republic "right" is a County "obligation" and vice versa unless another entity is noted)	Authority	Comment
17	All current and future state and federal laws must be complied with.	Landfill Franchise Agreement §11(a)	Codified at BCC 23.410(8) and (11).
18	Republic may only "sell, convey, transfer or assign the Landfill or any of its rights, interests, or obligations under [the franchise agreement]" with County's prior written approval.	Landfill Franchise Agreement §11(b)	
19	90-day notice required prior to discontinuance of service.	BCC 23.410(9)	
20	DEQ permit required to operate landfill	ORS 459.205	Term of permit not to exceed 10 years. ORS 459.245(d).
21	Cleanup of hazardous substance contaminating ground water	ORS 459.248	
22	Closure of landfill site.	ORS 459.268 , OAR 340-0940100	
23	Groundwater monitoring	OAR 340-094-0080	
24	Emissions Standards	OAR 340-236-0500	
25	Franchise Agreement may only be reopened with "the mutual approval of both the Board and [Republic]."	BCC 23.310(2)	
26	Republic and County will "work together" to monitor the flow of C&D materials and work toward establishing a transfer facility.	Landfill Franchise Agreement §2(g)	
27	"Negotiate in good faith to establish a program to promote selfhaulers and cease activities by illegal dumpers."	Landfill Franchise Agreement §2(e)	Parties to negotiate in good faith during the period of Jan 1, 2021-July 1, 2021 to establish a Dump-Stoppers program with a joint report to BOC three years thereafter.
28	If landfill expansion occurs prior to 2024, host fee will be adjusted to reflect additional landfill space.	Landfill Franchise Agreement §4(c)(i)	

Landfill Rights and Obligations			
	Republic Right ⁹⁹ /Republic Obligation ¹⁰⁰ (A Republic "right" is a County "obligation" and vice versa unless another entity is noted)	Authority	Comment
29	If landfill expansion occurs 2025 or later, host fee and franchise fee will be adjusted.	Landfill Franchise Agreement §4(c)(ii)	
30	Inspections of landfill by County authorized.	Landfill Franchise Agreement §7(d)	County has the right to inspect landfill for "determining [Republic's] compliance" with the franchise agreement.
31	County may prevent interruption of service.	BCC 23.415	If failure or interruption of service would create an "immediate and serious health hazard or serious public nuisance," the BOC, with 24-hours' written notice to Republic, authorize county personnel or other persons to temporarily provide the service.

Collection Rights and Obligations				
	Republic Right/Republic Obligation (A Republic "right" is a County "obligation" and vice versa unless another entity is noted)	Responsible Party	Authority	Comment
1	Republic to provide solid waste collection and recycling services in the service areas specified in its application	Republic	Solid Waste Collection Franchise Agreement ¶1	Service area is all of the unincorporated area of Benton County. See Map attached to application.
2	Republic to pay fee of 5% of gross cash receipts from collection service provided in service area	Republic	Board Order D2022044 ¶3	
3	Republic to comply with applicable provisions of BCC Ch. 23 (Current provisions detailed in this document)	Republic	Board Order D2022044 ¶4	

Collection Rights and Obligations				
	Republic Right/Republic Obligation (A Republic “right” is a County “obligation” and vice versa unless another entity is noted)	Responsible Party	Authority	Comment
4	Annual submission of service/days of week map	Republic	Board Order D2022044 ¶18	
5	Coordinate recycling efforts with solid waste collection efforts to enhance recycling/recovery and meet state goals.	Republic	Board Order D2022044 ¶19	State goals found at ORS 459A.010.
6	Make reasonable effort to resolve customer complaints on service, record written complaints and their disposition.	Republic	Solid Waste Collection Franchise App. §5.E.	
7	Provide solid waste collection at least weekly.	Republic	BCC 23.410(1)	23.410 provide some exceptions to this baseline requirement.
8	Provide and maintain adequate equipment to handle and dispose of or resource recover solid waste.	Republic	BCC 23.410(2)	
9	Set rate structure.	Republic, County	BCC 23.505, 23.510	Republic proposes rates, county reviews and approves. Rate adjustments to accommodate Refuse Rate Index adjustments may not need BOC approval if contemplated in prior BOC order.
10	If County wants to consider a new solid waste service, Republic will provide written proposal within reasonable period of time, including proposed methods and costs for the service.	Republic, County	Solid Waste Collection Franchise Agreement ¶17	Also found in Order, paragraph 7.

Collection Rights and Obligations				
	Republic Right/Republic Obligation (A Republic "right" is a County "obligation" and vice versa unless another entity is noted)	Responsible Party	Authority	Comment
11	Agreement to be amended by July 1, 2024 "to include same or similar terms as the forthcoming City of Corvallis collection franchise agreement, including, but not limited to, the same termination date, as well as concepts from the consensus-seeking process."	Republic, County	Solid Waste Collection Franchise Agreement ¶12	This provision is also found in the BOC Order granting the franchise at section 2.
12	County may prevent interruption of service.	County	BCC 23.415	If failure or interruption of service would create an "immediate and serious health hazard or serious public nuisance," the BOC, with 24-hours' written notice to Republic, authorize county personnel or other persons to temporarily provide the service.
13	County to protect franchise rights and interests granted Republic to achieve compliance with BCC Ch. 23.	County	Solid Waste Collection Franchise Agreement ¶15	

c. Responsibility for landfill closure and post-closure obligations

Question: Who is responsible for complying with landfill closure and post-closure obligations?

Answer: DEQ regulations require up-front and ongoing financial assurance to cover the cost of closure, post-closure, and corrective actions. Where this preliminary line of defense fails, Oregon statute holds any person owning or controlling the disposal site liable for closure and post-closure maintenance.

Discussion:

DEQ regulations require up-front and ongoing financial assurance to cover the cost of closure and post-closure obligations, as well as the cost of any required corrective action. OAR 340-094-0140. The owner or operator of a landfill must provide the required financial assurance by the time DEQ issues the solid waste permit. (This applies to any landfills permitted after November 4, 1993. For landfills already in operation on November 4, 1993, DEQ required those initial financial assurances no later than October 9, 1997.) OAR 340-094-0140(3)(a).

The owner or operator is required to update its financial assurance plan annually, and the amount of the financial assurance mechanism must be increased (or may be reduced) consistent with each financial assurance plan update. OAR 340-094-0140(6)(e). A copy of the most recent annual financial assurance plan submitted by Valley Landfills, Inc. is attached as Appendix A to this report.

The owner or operator is restricted to certain allowable “financial assurance mechanisms,” each of which is designed to ensure that funds will be available to complete closure, post-closure, and corrective action obligations, even if the owner or operator becomes insolvent or otherwise fails to satisfy those obligations. Under OAR 340-094-0145 the allowable financial assurance mechanisms include:

- a. A trust fund whose purpose is to receive and manage funds paid by the permittee and to disburse those funds only for closure, post closure, or correction activities.
- b. A surety bond guaranteeing payment into a standby trust fund for closure or post-closure activities.
- c. A surety bond guaranteeing performance of closure, post-closure, or corrective action activities.
- d. An irrevocable letter of credit in conjunction with a standby trust fund.
- e. A closure or post-closure insurance policy guaranteeing that funds will be available to complete final closure and post-closure maintenance of the site.
- f. A corporate guarantee from an entity that passes a specified financial test, and which is subject to replacement by a substitute financial assurance mechanism if the guarantor no longer meets the financial test criteria.
- g. Alternative forms of financial assurance, so long as they provide an equivalent level of security as the specified mechanisms and are approved by DEQ.

Finally, if the owner or operator of the landfill fails to provide the required financial assurance, and also fails to satisfy its closure and post-closure obligations, then each person owning or controlling the property on which the disposal site is located will be liable for those closure and post-closure obligations. (ORS 459.205 and 459.268) Under a recent decision, the Oregon Supreme Court determined that both a person who actually exercises control over the site and a person with legal authority to control the site are liable for closure and post-closure activities.

Kinzua Res., LLC v. Oregon Dep't of Env'tl. Quality, 366 Or 674, 686, 468 P3d 410 (2020). Accordingly, an entity or individual with legal authority to control the site can be liable under ORS 459.205 and 459.268, even if that entity or individual does not operate the landfill or directly hold title to the site. The Oregon Supreme Court has also held that liability under ORS 459.205 and 459.268 is direct liability for that person's own failure to satisfy closure or post-closure obligations, such that ORS 63.165 (part of the Oregon Limited Liability Act) may not serve to protect a member of an LLC from such liability.

In negotiating the [2020 landfill franchise agreement](#), Benton County established three elements to provide assurance that costs of closure, post-closure and corrective action are covered: DEQ assurances, insurance, and the environment trust fund.

Additional related information from DEQ (submitted by Audrey O'Brien):

ORS 459.272 requires a landfill owner to provide financial assurance for closure, post-closure and corrective action and must annually review and update those assurances. OAR 340-094-0140 identifies the rules regarding financial assurance requirements and what must be included. OAR 340-094-0140(7)(c) states that DEQ will review the financial assurances. Permit conditions 13.1-13.5 of the DEQ solid waste permit #306 identify the requirements for financial assurance. The numbers may vary each year depending on the annual review conducted by the permittee and submitted to DEQ.

Query from Ed Pitera:

Oregon statute holds any person owning or controlling the disposal site *at the point in time closure rules are triggered* is liable for closure and post-closure maintenance. As of March 2023, the responsible entity is VLI with Republic Services of Corvallis, Limited Partnership next in line. Check if the owner is unable to perform the work, the landfill would likely become a CERCLA (Superfund) site. There is no foreseeable path for liabilities to fall solely on Benton County, but the County may have to contribute a share based on a criteria to be negotiated.

Response from Audrey O'Brien, DEQ:

DEQ has no evidence to support the following statement: "Check if the owner is unable to perform the work, the landfill would likely become a CERCLA (Superfund) site." DEQ is not aware of information that would lead to this landfill becoming a CERCLA Superfund site. State law directs the EQC to adopt regulations of disposal sites.

See ORS 459.045(1) "The Environmental Quality Commission shall adopt reasonable and necessary solid waste management rules governing the:

(a) Accumulation, storage, collection, transportation and disposal of solid wastes to prevent vector production and sustenance, transmission of diseases to humans or animals, air pollution, pollution of surface or ground waters, and hazards to service or disposal workers or to the public."

The rules established in OAR 340-093 and OAR 340-094 identify requirements for all stages of a disposal site including design, construction, operation, closure, post-closure and any needed corrective action.

Additional from Audrey O'Brien, DEQ:

DEQ reviewed the last annual FA update submittal which was dated April 1, 2022 and approved on April 13, 2022. DEQ's approval letter summarizes the following:

1. The updated cost estimates for closure (\$16,222,800) and post-closure care (\$5,743,202) were correctly updated, prepared, and stamped by a registered P.E.
2. The current penal sum of your Bond, as provided by Evergreen National Indemnity Company, with your new Riders in place, covers the total of updated cost estimates.

DEQ identifies Valley Landfill Inc. as the owner of the landfill and the DEQ solid waste permittee for DEQ permit #306. The operator of the landfill is Coffin Butte Landfill. The owner or operator of the landfill is responsible for compliance with the permit and permit conditions. The owner or operator is responsible for providing financial assurance for closure, post closure and any needed corrective action per ORS 459.272.

Valley Landfill Inc. uses a bond to provide financial assurance. According to OAR 340-094-0140(6)(d) and (6)(e) the permittee is to recertify compliance every year which Valley Landfill Inc. did in a March 28, 2022 attachment to the annual financial assurance submittal that DEQ received.

d. What legally can and cannot be conditions of any land use approvals

Question: What legally can and cannot be conditions of any land use approvals?

Answer: Conditions of approval must relate to approval criteria. To be approved, an applicant must demonstrate compliance with all discretionary approval criteria. Conditions of approval cannot substitute for compliance with applicable criteria but may be imposed to ensure the criteria are met. The county may find compliance with approval criteria by establishing that compliance is feasible, subject to compliance with a specific condition(s) of approval. A preponderance of the evidence must support a finding that the condition is "likely and reasonably certain" to result in compliance. To lessen adverse impacts on surrounding 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)

Discussion:

Benton County's Development Code 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, in approving a conditional use permit (CUP) application 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.

The county's conditional use criteria **focus on negative off-site impacts**. The applicant is required to demonstrate that the proposed use (a) does not "seriously interfere" with uses on adjacent property, with the character of the area or with the purpose of the zone, and (b) does not impose an "undue burden" on public improvements or services available to the area. (BCC

53.215) Attachment “A” to this memo provides further detail on the interpretation of the CUP criteria.

Conditions of approval are not a substitute for compliance with approval criteria. *See, e.g., Hodge Or. Props. v. Lincoln County*, 194 Or App 50 (2004). Rather, conditions of approval may be imposed to provide the details of how compliance will be achieved “and assure those criteria are met.” *Rhyné v. Multnomah County*, 23 Or LUBA 442, 447 (1992). Conditions of approval must relate to approval criteria. *Harra v. City of West Linn*, 77 Or LUBA 136 (2018). The decision maker does not have authority to impose conditions unrelated to the criteria. *Caster v. City of Silverton*, 560 Or. LUBA 250, 256-60 (2008).

The county may find compliance with approval criteria by establishing compliance is feasible, subject to compliance with specific condition(s) of approval. *Meyer v. City of Portland*, 7 Or LUBA 184 (1983), *aff’d* 67 Or App 274 (1984). If the applicant demonstrates feasibility of compliance, the County then has authority and obligation to impose conditions of approval to ensure compliance with these criteria. (For example, if limited hours of operation are necessary to establish that a use will not seriously interfere with uses on adjacent property, the decision maker may find that compliance with the criteria is feasible, subject to a condition that requires that the hours of operation be limited to a specified time period.) If a condition of approval is imposed in order to ensure compliance with an approval criterion based on a finding of feasibility, a preponderance of the evidence in the record must support a finding that the condition is “likely and reasonably certain” to result in compliance. *Gould v. Deschutes County*, 227 Or App 60, 606-607 (2009).

The existing landfill and expansion area are located on property specially designated for a landfill site on the comprehensive plan and zoning maps. *See Benton County Zoning Map, BCC ch. 77 and Benton County Comprehensive Plan, Additional Adopted Documents, pg. 4* The landfill is a permitted use in the landfill zone. (BCC 77.105) However, under the county development code, any expansion of the landfill within the landfill site zone requires CUP approval by the County. (BCC 77.305)

Therefore, under the CUP process the County only has jurisdiction over the proposed expansion as requested in the CUP application. Existing and past operations are not within the County’s scope of review. Prior decisions are final and cannot be subjected to a new review or have additional/revise conditions of approval imposed as part of the CUP application for the expansion. *See, e.g., Beck v. Tillamook Cnty.*, 313 Or 148, 153, 831 P2d 678 (1992). Any future application would have to be judged under the criteria in effect at the time of the application and any conditions of approval must be related to the impacts of the proposed expansion as that proposal relates to the approval criteria.

Notably, the Benton County Collection Franchise Agreement and the Landfill Franchise Agreement are not land use decisions that are subject to review through a CUP process, and therefore cannot be subject to land use conditions of approval. *See* ORS 197.015(10).¹⁰¹

¹⁰¹ Although both Corvallis Disposal Co. dba Allied Waste Services of Corvallis and Valley Landfills, Inc. are subsidiaries of the same parent company, the collection franchise for Benton County (“Benton County Collection Franchise”) (as well as that of the City of Corvallis) is comprised of a separate operation which is distinct from the landfill operations.

Both the Benton County Collection Franchise and the Landfill Franchise Agreement are controlled by BCC Chapter 23. BCC Chapter 23 is not a land use regulation. See ORS 197.015(10). It, along with ORS 459.065(1)(a) and 459.085(1)(b) authorizes negotiation of franchise agreements for collection and disposal of solid waste. ORS 459.005(10) defines a franchise as “a franchise, certificate, contract or license issued by a local government unit authorizing a person to provide solid waste management services.” A franchise is not a land use and the Benton County Development Code does not apply to franchise agreements. Because BCC Chapter 23 is a business regulation separate from the land use process, the County has no legal authority to require changes to the Benton County Collection Franchise or the Landfill Franchise Agreement in conjunction with the review of a CUP for the landfill expansion. Any changes to the Franchise Agreements must be negotiated between the parties.

ORS 459.095(1) preempts local government’s authority to adopt regulations or impose conditions that conflict with DEQ regulations.

Question: Could a new CUP approval be conditioned on cleaning up noncompliance with existing operations?

Answer: No.

A new CUP cannot require as a condition of approval that an existing operation on a different property be modified or that noncompliance be rectified. Enforcement procedures (see Chapter 31 of the Benton County Code) would have to address the noncompliance. 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:

- 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?
- The future cost of such a system, the benefits, and the consequences of not improving the current practices and procedures.

Question: Is compliance/noncompliance with conditions of past land use approvals a topic that can be considered in any way during a new land use application?

Answer:

Question: What options does the Planning Commission have if they determine that DEQ regulation of a particular parameter is inadequate or likely to be inadequate?

Answer: Any County action in this regard must be tied to the criteria in the Development Code.

First, the County's purview is limited to the review criteria listed in the Development Code. 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. DEQ rules do not allow the County to override DEQ environmental regulations.

Secondly, the County does not have authority to interpret, apply or enforce DEQ regulations.¹⁰² Whether an activity has resulted in noncompliance with DEQ regulations is a determination made by DEQ and, if noncompliant, addressed through DEQ's enforcement. Additionally, the County cannot assume that an activity will result in violation of DEQ parameters when the activity hasn't happened.

But what if the County determines that DEQ's regulation of a particular parameter is inadequate to prevent the proposed land use from seriously interfering with uses on surrounding properties? Such a determination could be within the County's purview; however, the County would need to articulate findings as to why the agency's established standards, permitting, monitoring and enforcement are insufficient to prevent the conditional use criteria from being exceeded. The County would face the challenge of demonstrating that its assessment of the hazard posed by a given pollutant should be substituted for that of the agency whose expertise it is. As a practical matter, the County typically lacks expertise or personnel to determine whether a particular environmental parameter is being exceeded.

The above is general guidance. Different environmental parameters may have different regulatory structures. For example, odor: DEQ regulates air quality by means of emissions standards and Benton County cannot substitute a different regulatory standard. Odor is not specifically addressed through DEQ standards, but DEQ does regulate nuisance odor through a complaint-based system (see DEQ's [Nuisance Odor Strategy](#)). Could the County determine that odor will seriously interfere with surrounding uses or the character of the area and then impose a condition regulating odor? In theory, yes. However, odor is a fairly subjective matter (we are not aware of an objective "odor meter" similar to a decibel meter for noise) and conditions of approval must be clear and objective. One approach could be to require specified odor mitigations to be in place (e.g., odor box?).

¹⁰² Except for regulatory programs that are formally delegated by DEQ to a local government, such as with on-site sewage disposal regulation.

e. What is the scope of Benton County’s authority to regulate activities at Coffin Butte?

Question: Can waste from outside Benton County be prohibited from being disposed of at Coffin Butte?

Answer: No.

Discussion:

The Commerce Clause, Art. I, §8, Cl. 3 of the U.S. Constitution, explicitly gives Congress the power “to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.” Implicit in this grant of authority is the prohibition on states (and local governments) against passage of legislation which discriminates or burdens interstate commerce. This is referred to as the “dormant Commerce Clause.”

The dormant commerce clause was the basis of a decision by the United States Supreme Court in which it ruled unconstitutional a Michigan law barring out-of-state solid waste from being deposited in landfills located in Michigan counties.

In *Fort Gratiot Sanitary Landfill, Inc. v. Michigan Dept. of Natural Resources*, 504 U.S. 353, 112 S.Ct. 2019 (1992), Michigan enacted legislation which prohibited private landfill operators from accepting solid waste originating outside the county where the facility was located, unless otherwise authorized by the county’s waste management plan. *Id.* at 353. In its challenge to that law, the landfill operator argued “that requiring a private landfill operator to limit its business to the acceptance of local waste constituted impermissible discrimination against interstate commerce.” *Id.* at 357.

As part of its analysis, the Supreme Court reexamined its holding in *Dean Milk Co. v. Madison*, 340 U.S. 349, 71 S.Ct. 295 (1951) in which the petitioner challenged a Wisconsin city ordinance “that made it unlawful to sell any milk as unpasteurized unless it had been processed at a plant ‘within a radius of five miles from the central square of Madison.’” *Dean*, at 350. That local ban, as it applied to adjacent Illinois dairy producers, was found to be unconstitutional under the Commerce Clause. *Id.* But, significantly, the Court also emphasized the intrastate unconstitutionality of the ban:

“The fact that the ordinance also discriminated against all Wisconsin producers whose facilities were more than five miles from the center of the city did not mitigate its burden on interstate commerce. As we noted, it was ‘immaterial that Wisconsin milk from outside the Madison area is subjected to the same proscription as that moving in interstate commerce.’” *Dean* at 345, n. 4.

Fort Gratiot, 504 U.S. at 362-63.

Relying on *Dean* and *Philadelphia v. New Jersey*, 437 U.S. 617, 98 S.Ct. 2531 (1978), the Court found Michigan’s ban “unambiguously discriminate[s] against interstate commerce and [is] appropriately characterized as protectionist measures that cannot withstand scrutiny under the Commerce Clause.” *Fort Gratiot*, 504 U.S. at 367-68.

Pursuant to the holding in *Fort Gratiot*, and the precedent cited by the U.S. Supreme Court, Benton County may not prohibit a private landfill operator from accepting solid waste from outside Benton County.

Question: For regulatory areas unrelated to land use approvals, what are the Benton County and other agency reporting requirements?

Answer: Each regulatory authority has specific reporting requirements for operations or permits within its jurisdiction.

Following is a summary of the state and local agencies with regulatory authority over Coffin Butte Landfill operations:

- i. **Oregon Department of Environmental Quality (DEQ) solid waste permit:** Includes semiannual inspections, semi-annual groundwater monitoring (usually in April and October); results are submitted in an annual report every month to DEQ.¹⁰³
- ii. **DEQ Title V air permit:** Bi-annual inspections; Coffin Butte also utilizes third-party technology to monitor landfill gas twice monthly. Results are reviewed in real time and submitted to DEQ twice a year. In addition, Coffin Butte submits monthly and semi-annual reports to DEQ on well readings, flare readings and other routine operations.
- iii. **DEQ stormwater permit:** Coffin Butte staff performs weekly and monthly visual inspections of the stormwater and stormwater related infrastructure. Stormwater monitoring (taking samples and sending them to a third-party laboratory for analysis) is conducted four times a year during rainy season and reported to DEQ quarterly. DEQ also conducts its own inspections every five years or so.
- iv. **City of Corvallis wastewater disposal permit:** Subject to an annual inspection as well as weekly monitoring and monthly reporting to the City.
- v. **City of Salem wastewater disposal permit:** Subject to semi-annual inspection as well as semi-annual monitoring to the City and reporting to the City.

The following table (Table 3) summarizes the reporting requirements for both Benton County other agency non-land use regulations.

¹⁰³ The references to an "annual report" and "every month" needs clarification.

Table 3: Reporting Requirements

#	Authority	Reporting Requirement
1	Landfill Franchise Agreement:	Operational Reports
2		Capacity Reports
3		Other Reports: copies relative to the operation of the landfill (Benton County & Valley Landfills, Inc., 2020)
4	OAR Chapter 340, Division 94: “(13) Records” (Oregon Secretary of State, 2022)	(A) Daily listing by load of the volume or weight of solid waste received;
5		(B) Monthly and quarterly accumulations of amounts of daily waste received.”
6	DEQ Solid Waste Permit Reporting Requirements (GeoLogic Associates, 2021)	Operating Record
7		Daily amount of each waste type received and approved alternative daily cover
8		If applicable, every quarter, record the amount of each material recovered for recycling or other beneficial purpose.
9		Solid Waste Disposal Report/Fee Calculation form.
10		Wasteshed Reporting (as part of the Opportunity to Recycle Reporting)
11		Retain copies of all records and reports for 10 years after their creation.
12		Update all records to reflect current conditions at the facility
13		Annual Environmental Monitoring Report (AEMR)
14		Statement of compliance
15		Annual leachate treatment report
16	Split sampling submittal Includes semiannual inspections, semi-annual groundwater monitoring (usually in April and October. Groundwater results are submitted annually (by 3/31). DEQ inspection results are submitted to VLI as they occur throughout the year.	
17		Quality Assurance and Quality Control (QA/QC)

#	Authority	Reporting Requirement
18	DEQ NPDES Permit (Geo-Logic Associates, 2021)	Coffin Butte staff performs weekly and monthly visual inspections of the stormwater and stormwater related infrastructure. Stormwater monitoring (taking samples and sending them to a third-party laboratory for analysis) is conducted four times a year during rainy season and reported to DEQ quarterly. DEQ also conducts its own inspections every five years or so.
19	Federal Fish and Wildlife Depredation Permit (Geo-Logic Associates, 2021)	Annual Report
20	Oregon Title V Operating Permit for Site Air Emissions (Geo-Logic Associates, 2021)	Bi-annual inspections; Coffin Butte also utilizes third-party technology to monitor landfill gas twice monthly. Results are reviewed in real time and submitted to DEQ twice a year. In addition, Coffin Butte submits monthly and semi-annual reports to DEQ on well readings, flare readings and other routine operations.
21	City of Corvallis wastewater disposal permit.	Subject to an annual inspection as well as weekly monitoring and monthly reporting to the City.
	City of Salem wastewater disposal permit.	Subject to an annual inspection as well as weekly monitoring and monthly reporting to the City.

f. How does the county interpret ambiguous terms in its code?

Question: How are ambiguous terms interpreted and what deference is given to that interpretation?

Answer: The rules of statutory construction describe how ambiguous terms are to be interpreted. When an interpretation is made, as long as it is plausible, LUBA's standard of review is highly deferential to that interpretation.

Discussion:

An ambiguous term is one that is typically undefined by statute or code. See *State v. Arnold*, 302 Or. App. 765, 772 (2020). If a term is capable of two or more plausibly reasonable explanations, it is ambiguous. *Hoffman Const. Co. of Alaska v. Fred S. James & Co. of Oregon*, 313 Or 464, 470-71 (1992). When confronted with an ambiguous term, the decision-making body must engage in what is referred to as "statutory construction."

PGE v. Bureau of Labor and Indus., 317 Or 606, 611 (1993) and *State v. Gaines*, 346 Or 160 (2009) establish a framework for interpreting statutes based upon text, context, and legislative history. This same framework also applies to the interpretation of local code provisions. *Church v. Grant County*, 187 Or App 518, 527 n.4 (2003) (citing *Lincoln Loan Co. v. City of Portland*, 317 Or 192, 199 (1993)).

The text is the best evidence of intent: If a term is not defined in the code or is not otherwise a term of art, the courts in Oregon apply a "plain, ordinary meaning" rule, where they turn to the dictionary.

Context includes provisions in the same code section and within the regulatory scheme.

Legislative intent is determined by reviewing evidence of the intent of the legislative body (in this case, the Benton County Board of Commissioners) at the time of enactment.

Within this framework, the governing body then reaches an interpretation of the ambiguous term.

This raises the next question: How much deference is given to the governing body's interpretation? The Oregon legislature and the state Supreme Court have both answered this question. ORS 197.829 reads:

- (1) The Land Use Board of Appeals shall affirm a local government's interpretation of its comprehensive plan and land use regulations, unless the board determines that the local government's interpretation:
 - (a) Is inconsistent with the express language of the comprehensive plan or land use regulation;
 - (b) Is inconsistent with the purpose for the comprehensive plan or land use regulation;
 - (c) Is inconsistent with the underlying policy that provides the basis for the comprehensive plan or land use regulation; or
 - (d) Is contrary to a state statute, land use goal or rule that the comprehensive plan provision or land use regulation implements.

ORS 197.829 refers to the Land Use Board of Appeal (LUBA)'s review of governing bodies' interpretations because appeals of land use decisions are made to LUBA.

The Oregon Supreme Court applied and explained the breadth of this statutory deference in a case involving the City of Medford’s interpretation of its development code: “[W]hen a governing body is responsible for enacting an ordinance, it may be assumed to have a better understanding than LUBA or the courts of its intended meaning. * * * [T]hat assumption is equally relevant to * * * the governing body’s intention.” *Siporen v. City of Medford*, 349 Or. 247, 258 (2010).

The Court found when a local government interprets its own development code, it is “entitled to the deference described in ORS 197.829(1).” *Id.* And the extent of that deference is substantial:

“[W]hen a local government plausibly interprets its own land use regulations by considering and then choosing between or harmonizing conflicting provisions, that interpretation must be affirmed, as held in *Clark v. Jackson County*, 313 Or. 508 (1992) and provided in ORS 197.829(1)(a), unless the interpretation is inconsistent with *all* of the “express language” that is relevant to the interpretation, or inconsistent with the purposes or policies underpinning the regulations. (emphasis in original).” *Id.* at 259.

When LUBA evaluates whether an interpretation is “plausible,” the standard of review is “highly deferential” to the governing body and the “existence of a stronger or more logical interpretation does not render a weaker or less logical interpretation ‘implausible.’” *Mark Latham Excavation, Inc. v. Deschutes County*, 250 Or. App. 543, 555 (2012), quoted in *Crowley v. City of Hood River*, 308 Or. App. 44, 52 (2020).

Thus, as long as the Benton County Board of Commissioners’ interpretation of its development code is plausible, LUBA must defer to that interpretation. It should be noted, deference only applies to interpretations by the governing body (the Board of Commissioners) and not to interpretations of other county decision-makers, such as staff, the Planning Commission, or the Solid Waste Advisory committee.¹⁰⁴

g. Other Entity Rights and Obligations

Question: What are other governmental entities’ rights and obligations related to operation of a landfill?

Answer: The environmental services industry is heavily regulated at the local, state and federal level, with specific rights or obligations established based on the scope of each entities’ regulatory authority.

Discussion:

The following table lists various federal, state, tribal, and local entities regarding rights and obligations. The table includes preliminary research relating to entity roles and authority.

¹⁰⁴ Note that the exercise of interpreting a code or statutory provision only applies if the term is ambiguous; an interpretation of a non-ambiguous term can’t be use to amend a code in the guise of an interpretation. *Central Eastside Indus. Council v. City of Portland*, 74 Or LUBA 221 (2016).

Table 4: Other Entity Rights and Obligation

Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
1		What are DEQ's rights and obligations regarding groundwater associated with landfills?	459.248 Cleanup of hazardous substance contaminating ground water. In addition to any other authority granted by law, if the Department of Environmental Quality finds that ground water is contaminated with a hazardous substance originating at a land disposal site, the department may require cleanup of the hazardous substance pursuant to authority under ORS 465.200 to 465.545. As used in this section, "hazardous substance" has the meaning given that term in ORS 465.200. [1993 c.526 §3] (State of Oregon, 2021)	Republic Services, Oregon DEQ	ORS 459.248	

Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
2		(continued) What are DEQ's rights and obligations regarding groundwater associated with landfills?	(6) Additional Requirements to Protect or to Monitor Potential Threats to Groundwater. When a person applies to construct a new or expanded landfill cell at a municipal solid waste landfill, the Department shall evaluate the need to provide protection to groundwater in addition to the requirements of 40 CFR, Part 258, Subpart D. The Department shall also evaluate whether the specific conditions at the site require an enhanced ability to monitor potential threats to groundwater in addition to the requirements in 40 CFR, Part 258, Subpart E. The evaluation shall be based on site-specific data, including but not limited to location, geography, hydrogeology and size of the site. To assist in the Department's evaluation, the applicant shall provide necessary relevant data. The Department may require a secondary leachate collection system, and/or leak detection system, or other design or technology providing equivalent protection to the environment if the Department determines that: (a) There is significant potential for adverse impact to groundwater from the proposed cell; or (b) Additional measures are necessary to provide adequate monitoring of potential threats to the groundwater.	Republic Services, Oregon DEQ	OAR 340-094-0060	

Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
3		(continued) What are DEQ's rights and obligations regarding groundwater associated with landfills?	Groundwater Monitoring and Corrective Action If a municipal solid waste landfill is subject to 40 CFR, Part 258 as provided in 40 CFR, §258.1, the owner or operator shall comply with groundwater monitoring and corrective action requirements in 40 CFR, Part 258, Subpart E. Consistent with those requirements, all municipal solid waste landfill owners and operators shall also comply with this rule: (See rule for more detail)	Republic Services, Oregon DEQ	340-094-0080	
4		(continued) What are DEQ's rights and obligations regarding groundwater associated with landfills?	(4) Sensitive Hydrogeological Environments. In addition to the requirements of 40 CFR, Part 258, Subpart B, no person shall establish or expand a landfill in a gravel pit excavated into or above a water table aquifer or other sensitive or sole source aquifer, or in a wellhead protection area, where the Department has determined that: (a) Groundwater must be protected from pollution because it has existing or potential beneficial uses (OAR 340040-0020); and (b) Existing natural protection is insufficient or inadequate to minimize the risk of polluting groundwater.	Republic Services, Oregon DEQ	340-094-0030	

Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
5		What are DEQ's rights and obligations regarding leachate associated with landfills?	(3) Leachate. In addition to the requirements of 40 CFR, Part 258, Subpart D, any person designing or constructing a landfill shall ensure that leachate production is minimized. Where required by the Department, leachate shall be collected and treated or otherwise controlled in a manner approved by the Department. Leachate storage and treatment impoundments shall be located, designed, constructed and monitored, at a minimum, to the same standards of environmental protection as municipal solid waste landfills.	Republic Services, Oregon DEQ	OAR 340-094-0060	
6		What are DEQ's rights and obligations regarding noise associated with landfills?	OAR 340-030-0035 established DEQ regulation of industrial or commercial noise levels. OAR 340-030-0110 states legislative funding for DEQ's oversight of noise control was defunded in 1991.		OAR 340-035-0030 , OAR 340-035-0110	
7		What are DEQ's rights and obligations regarding odors associated with landfills?	(4) Gas Control. No person shall establish, expand or modify a landfill such that: (a) The concentration of methane (CH ₄) gas at the landfill exceeds 25 percent of its lower explosive limit in facility structures (excluding gas control or gas recovery system components) or its lower explosive limit at the property boundary; (b) Malodorous decomposition gases become a public nuisance.	Republic Services, Oregon DEQ	OAR 340-094-0060	

Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
8		What fugitive methane emissions standards and monitoring is required by the landfill?	<p>ii. Air Quality Permit (1) All sources subject to this division must have an Oregon Title V Operating Permit that assures compliance by the source with all applicable requirements in effect as of the date of permit issuance. (Oregon Secretary of State, n.d.-a)</p> <p>OAR 340-239-0100 Landfills with Greater Than or Equal to 200,000 Tons of Waste-in-Place (4) The owner or operator of a landfill having greater than or equal to 200,000 tons of waste-in-place must submit an annual Waste-in-Place Report to DEQ pursuant to OAR 340-239-0700(3)(e) and an annual Methane Generation Rate Report, pursuant to OAR 340-2390700(3)(f), until the owner or operator submits a Closure Notification pursuant to OAR 340-239-0700(3)(a). The initial Waste-in-Place Report and Methane Generation Rate Report submitted by a landfill pursuant to sections (1), (2) or (3) shall satisfy this requirement for the initial year it applies to a landfill.</p> <p>OAR 340-239-0800 Test Methods and Procedures When required as provided in OAR 340239-0100 through 340-239-0700, the owner or operator of a landfill must comply with the test methods and procedures for monitoring and measurements in this rule. (Oregon Secretary of State, n.d.-b)</p>	Republic Services, Oregon DEQ	340-218-0010 340-239	

Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
9		Can or should the County consider DEQ permitting topics when assessing the local land use application criteria?	The county does consider, and incorporates, DEQ's permitting into its conditions of approval. Typically, conditions of approval will include the requirement that the applicant obtain, and maintain, the relevant and required approvals and/or permits from other regulatory agencies, e.g., DEQ, DSL, ODOT. The condition recognizes the outside agency's jurisdiction over the issue and links the lawful status of Benton County's permit to the applicant's compliance with the agencies rules and regulations. If the applicant later violates, or is unable to meet the agency's, regulations, that failure would constitute a violation of a condition of Benton County's approval.			
10	Oregon Department of Fish and Wildlife (ODFW)	a. What restrictions does the landfill have regarding wildlife ?	(3) Endangered Species. In addition to the requirements of 40 CFR, Part 258, Subpart B, no person shall establish, expand or modify a landfill in a manner that will cause or contribute to the actual or attempted: (a) Harassing, harming, pursuing, hunting, wounding, killing, trapping, capturing or collecting of any endangered or threatened species of plants, fish, or wildlife; (b) Direct or indirect alteration of critical habitat which appreciably diminishes the likelihood of the survival and recovery of endangered or threatened species using that habitat. (Oregon Secretary of State, 2022)	Republic Services, Oregon	OAR 340-094-0030	

Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
11	Oregon Department of State Lands (DSL)	What are the rights and obligations both retained and delegated by DSL, which are associated with landfills, hauling, and materials management?				
12	Water Resource Commission	What are the rights and obligations both retained and delegated by Water Resource Commission, which are associated with landfills, hauling, and materials management?				

Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
13	Oregon Department of Transportation (ODOT)	What are the rights and obligations both retained and delegated by ODOT, which are associated with landfills, hauling, and materials management?				
14	Metro	What are the rights and obligations associated with landfills, hauling, and materials management?	a. Financial Reporting	Republic Services, Metro	Designated Facility Agreement, Metro Contract No. 936520 (Metro, 2019)	

Other Entity Rights and Obligations						
	Agency	Question	Right or Obligation	Responsible Party	Authority	Comment
15	City of Corvallis	What are the rights and obligations both retained and delegated by Corvallis, which are associated with landfills, hauling, and materials management?	a. Stormwater Discharge Reporting	Republic services, City of Corvallis	City of Corvallis Industrial Wastewater Discharge Permit No. 5	
16			Solid Waste Collection Franchise, negotiations with the hauler heavily influence Benton County's agreement.	City of Corvallis, Republic Services	City of Corvallis Ordinance No. 2015-13	
17	City of Salem	What are the rights and obligations both retained and delegated by Salem, associated with landfills, hauling, and materials management?	a. Stormwater Discharge Reporting	Republic Services, City of Salem	City of Salem Wastewater Discharge Permit No. WD7577	

h. DEQ landfill permitting authority and “regional landfill” designation

Question: Is DEQ prohibited from permitting another land fill west of the Cascades?

Answer: No.

Discussion: See ORS 459.047 and 459.049.

Question: What does the “regional landfill” designation mean?

Answer: 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.

Discussion:

The State of Oregon implemented and began permitting “regional landfills” in the 1970s, as a more environmentally reasonable approach to solid waste management and disposal. Coffin Butte was designated a regional landfill in 1974 under a cooperative effort between Benton, Linn, Marion, Yamhill and Polk Counties. The plan noted that “individual communities will be unable to effectively solve the economic, social, scientific and technical problems of solid waste disposal” and that a “regional approach to solid waste disposal will be necessary” for the area’s economy. Today, these counties all depend upon Coffin Butte for responsible waste disposal through various contracts, requirements or other enforceable arrangements, which cannot be wished away.

Oregon Revised Statute (ORS) 459.005(23) defines a Regional Disposal Site as follows:

“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.

The immediate service area of Coffin Butte is Benton County. To constitute a regional disposal site, Coffin Butte must have been designed to “receive more than 75,000 tons of solid waste a year” from outside Benton County.

The definition set forth in ORS 459.005(23) was enacted in 1987, but at that time, limited the 75,000-ton threshold to solid waste received from commercial haulers. In 1993, the statutory definition of regional disposal site was amended to remove the reference to commercial haulers and has remained substantively unchanged since that time.

The 1994 annual report submitted by Benton County’s Environmental Health Department showed solid waste received at Coffin Butte from outside Benton County in 1993 totaled 250,655 tons. In every year thereafter, Coffin Butte has received solid waste in excess of 75,000 tons from outside Benton County.

While the statute uses the term “designed to receive” rather than “receives,” Coffin Butte has received more than 75,000 tons of out-of-county solid waste per year and the facility is clearly designed to accommodate those volumes. Its annual out-of-county solid waste volume exceeds the statutory threshold for meeting the definition of a regional disposal site.

Before the Oregon legislature defined regional disposal sites, Benton County established Coffin Butte as a regional disposal site through the land use process. The Board order dated May 15, 1974, declared “that the proposed Coffin Butte landfill be and is hereby approved as a regional sanitary landfill site as recommended by the Chemeketa Regional Solid Waste Program Report.” The staff report accompanying that order identifies Polk, Yamhill, Marion and Linn Counties as being served by the regional sanitary landfill. Benton County Comprehensive Plan Policy 6.5.8 identifies Coffin Butte as a “Regional Sanitary Landfill.”

The Chemeketa Report designated Coffin Butte as a regional landfill. Report, pg. 24. Pursuant to the Chemeketa Report, the region to be served by Coffin Butte included Polk, Yamhill, Marion, Linn and Benton Counties.

In 1988, by Board Order, Benton County included Tillamook County among the counties to be served by Coffin Butte. In 1993-94, the Board authorized the inclusion of Lincoln County in the region.

SECTION B: Land Use Review Tasks

1. *Create a common understanding document outlining which Development Code criteria are applicable to the review of a conditional use application for landfill expansion by reviewing:*
 1. *53.215 (Criteria)*
 2. *77.305 (Conditional Uses)*
 3. *77.310 (Review)*

77.405 (DEQ)

2. *Review Chapters 50 and 51 for context, and then prepare a conceptual list of any other Development Code criteria the WORKGROUP recommends be applicable.*
3. *Developing recommended guidelines for interpreting any ambiguous provisions recognizing current statutes, regulations, case law, and County precedent, etc. In doing so, refer to Comprehensive Plan for policy guidance regarding interpretation of any ambiguous Development Code provisions (see, BCC 50.015,) and Review the Planning Commission comments made during its last review of Republic Services' CUP application for context. Examples for consideration include:*
 1. *The phrase, "Other information as required by the Planning Official" 77.310(e)*
 2. *The terms found in Section 53.215, e.g.*
 3. *"seriously interfere"*
 4. *"character of the area"*
 5. *"purpose of the zone"*
 6. *"undue burden"*
 7. *"any additional criteria which may be required for the specific use by this code.*
 8. *Other: _____*
4. *Develop protocols for the timely and broad distribution of CUP-related information to the public, other governmental entities, and internal committees, groups, and divisions.*

A. State and Local Land Use Process

Overview of the Statewide Land Use Framework.

Under Oregon land use law, an application for a land use permit is considered "quasi-judicial" (as opposed to legislative) because the local government is judging whether an applicant has submitted sufficient evidence to demonstrate compliance with the applicable criteria. As part of the quasi-judicial process, an applicant is entitled to an impartial decision-maker, the ability to present and rebut evidence, and a written decision that applies the established applicable criteria to the facts, and which is subject to review by the Oregon Land Use Board of Appeals (LUBA). A local government may not apply criteria or policy choices outside the applicable approval criteria. ORS 215.416(8)(a).

An applicant is statutorily entitled to approval or denial of its application based upon the standards and criteria in effect at the time of the application. (This requirement is called the “no changing-of-the-goalposts” rule). ORS 215.427(3). If the local government desires to change the applicable criteria, it must first go through a post-acknowledgement plan amendment (PAPA) process. That process is considered “legislative” (meaning it applies generally rather than to a specific application). A PAPA is subject to notice from the local government; review by the Land Conservation and Development Commission; compliance with the comprehensive plan and Statewide Land Use Planning Goals; and a public hearing and adoption process. After they are approved, these regulations apply to applications submitted after the date the new regulations become effective, but can’t be retroactively applied to prior approvals or pending applications filed prior to their effective date.

How does a land use decision get made in Benton County?

1. Application submitted. Application must include:
 - a. Completed form;
 - b. Submission of fee;
 - c. Documentation to support a demonstration of compliance with the applicable criteria in the Development Code (and, in some instances, in state law).
2. 150-day clock¹⁰⁵ starts after application is deemed complete. County must reach a final decision within 150 days after county planning official deems the application complete.
3. County must determine whether application is complete within 30 days. If Planning Official determines application is “incomplete” (i.e., missing any of the documentation required by “c.” above) planning official must notify applicant within 30 days of application submittal.
 - a. Once application is complete or applicant directs application to proceed without the missing information, 150-day clock starts.
4. The County mails notice to property owners within ordinance-prescribed notification area and other interested parties identifying a public comment period. The County also publishes notice in the newspaper.
5. Staff researches and prepares a report evaluating the proposal relative to the applicable criteria.
6. Depending on type of application, Planning Official either issues a decision or recommendation to Planning Commission.
 - a. If Planning Official issues a decision, notice of decision is mailed as in #4.
 - b. 14-day appeal period; if no appeal, decision is final.
7. If appealed, or for land use applications that go directly to the Planning Commission, a Planning Commission hearing is scheduled. Notice of the hearing is mailed as in #4, above.
8. Planning Commission receives staff presentation, applicant presentation, public testimony, applicant’s rebuttal.
 - a. Planning Commission may ask questions of any testifiers.
 - b. Planning Commission may (and if requested by any participant must) keep record open for additional written testimony or may continue hearing for additional oral testimony.

¹⁰⁵ Discussed further in separate section below.

- c. Planning Commission deliberates, votes to approve or deny the application.
- 9. Notice of Planning Commission decision is sent to all participants and others requesting to be on notification list. Practice has been to mail as in #4, above.
 - a. 14-day appeal period.
 - b. If no appeal, decision is final decision
- 10. If appealed, Board of Commissioners hearing is scheduled. Process is the same as for Planning Commission hearing (#9, above)
- 11. Board of Commissioners decision is final local decision, and must be issued within 150-days after application is deemed complete.
- 12. Notice of Board of Commissioners decision mailed to, at minimum, all participants.
 - a. 21-day appeal period
 - b. Appeal is to the Oregon Land Use Board of Appeals and from there to the Oregon Court of Appeals and then to the Oregon Supreme Court. Federal constitutional issues (such as regulatory takings of property without just compensation) may be appealed to the U.S. Supreme Court.

Decision-making Process for Planning Commission or Board of Commissioners

- A) Criteria applicable to the land use proposal are identified.
 - County criteria are all within the Benton County Development Code
 - Some instances where state rules or statute are directly applicable; examples:
 - i. Exceptions to a statewide planning goal
 - ii. Expansion of an urban growth boundary
- B) Decision-makers consider available evidence in determining whether the proposed use complies with the applicable criteria. When the criteria are subjective, this analysis (either explicitly or implicitly) involves interpretation of what the criteria mean. Evidence and testimony can address the interpretation of the criteria as well as whether the proposal meets the criteria.
 - Staff research and analysis
 - Public testimony, including from other agencies
 - Members of the Planning Commission or Board of Commissioners are discouraged from doing their own research as that can lead to issues or perception of bias or ex parte contact.
- C) A motion is made; deliberations (oral discussion of the matter) are held by the decision-making body, including reasons why the proposal does or does not comply with the applicable criteria, and a vote is taken. If the motion fails, another motion is made, and so on, until a motion approving or denying the application passes.

The County's decision on a conditional use permit must be based on the evidence submitted into the record. Evidence must be submitted into the record before the record is closed. The Planning Commission makes the initial decision on a conditional use application to expand the landfill, and the record includes all evidence submitted into the record before the Planning Commission makes its decision. The Planning Commission's decision may be appealed to the Board of Commissioners. The Board considers the record of the decision being appealed (all evidence and testimony submitted to the Planning Commission) and any new evidence or testimony that is submitted into the record at the Board's appeal hearing. The record closes

either at the end of the final hearing on the application, or if there has been a request to leave the record open before the end of the final hearing, on the date specified at that hearing.

Interpretation of the Terms Found in BCC 53.215.

BCC 53.215 includes the criteria for approval of conditional use permits.

For context, Benton County’s Development Code (BCC) allows for both “permitted uses” and “conditional uses.” Permitted uses are land uses that are “consistent with the purpose of the zone” (BCC 53.105); and conditional uses are “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).¹⁰⁶ Conditional uses are required to demonstrate that compatibility by establishing compliance with specific criteria. (BCC 53.215.)¹⁰⁷ To reduce 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).

The existing landfill and expansion area are located on property specially designated for a landfill site on the comprehensive plan and zoning maps and are zoned Landfill Site (LS). The landfill is a permitted use in the Landfill Site zone. (BCC 77.105) However, under the county Development Code, any expansion of the landfill within the landfill site zone requires CUP approval by the County. (BCC 77.305).

Under BCC 53.315, an application to expand the existing landfill is approvable under criteria that focus on potential off-site impacts: The applicant is required to demonstrate that the expansion (1) does not “seriously interfere” with uses on adjacent property, with the character of the area, or with the purpose of the zone, and (2) does not impose an “undue burden” on public improvements or services available to the area. The decisional history contained in the Past Land Use Approvals section of the Workgroup Report indicates that these criteria should be considered in the context of the existing operation—e.g., whether a proposed expansion creates impacts that exceed or are more significant than the impacts of the existing landfill operation. The legislative and decisional history indicates that the purpose for creation of the Landfill Site zone was to recognize the existence of the landfill and to support its continued operation. These terms apply specifically under the county’s code, and are not defined by state law or case law.

Interpretation of the review criteria for a landfill-expansion conditional use permit requires determinations that are based on the facts of the specific application. The rules of statutory construction describe how ambiguous terms are to be interpreted: text, context, and legislative

¹⁰⁶ 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.”

¹⁰⁷ Under BCC 53.215, in order 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.”

history. However, LUBA's standard of review is highly deferential to the local decisionmaker's interpretations, so if the interpretation is plausible (does not conflict with the provision's language), LUBA (and the courts) will uphold the local interpretation. This gives the decision-maker a lot of flexibility in interpreting their own code provisions. In response to a request by the Board of Commissioners, the following section provides historical information from County staff, particularly regarding the past 25 years, on how the County decision-makers have interpreted these terms across the full range of conditional use applications the County reviews. This information is not a recommendation on how the Planning Commission and Board should interpret future applications. Restated, each body fully retains its flexibility in interpreting the conditional use criteria in the context of the specific application before it.

53.215 Criteria. *The decision to approve a conditional use permit shall be based on findings 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;

The term "seriously interfere" is crucial to the determination of whether a proposed conditional use can be approved, and it is a quite subjective term that must be interpreted in the context of a specific application based upon the evidence in the record. The term is not defined in Benton County Code.

Staff reports that in past CUP applications the Planning Official, Planning Commission or Board has considered factors such as: does the proposed use make it difficult to continue uses on the adjacent property; would it create significant disruption to the character of the area; would it conflict, in a substantive way, with the purpose of the zone. As noted above, the county decision-makers have wide discretion in evaluating whether a use will "seriously interfere." In the past, "seriously interfere" has generally been applied as meaning more than an inconvenience or irritation but is a lesser threshold than rendering the uses on adjacent property impossible. Speculated effect on property values has not been a primary consideration in determining serious interference.

Hypothetical examples: A building that obstructs a portion of the view from a neighboring residence typically is not, by itself, serious interference. A noise-generating use such as an auto-repair shop locating next to an established meditation retreat center could be considered as seriously interfering with the use on the adjacent property if the noise could not be mitigated and would make it difficult to continue the land use on the neighboring property.

In the findings adopted by the Planning Commission in the matter of the 2021 conditional use permit for expansion of Coffin Butte landfill (File No. LU-21-047; see attachment), the meaning of the term "seriously interfere" is not explicitly addressed. The Planning Commission identified a number of impacts to adjacent properties and the broader area and did not find it necessary to parse the term "seriously interfere" in order to reach a conclusion that the proposal did seriously interfere with uses on adjacent property, the character of the area and the purpose of the zone. Nonetheless, the Planning Commission's findings are useful to this charge topic in that they identify the types of concerns that are likely to be important in considering whether any future landfill-related conditional use permit application can be approved. A future application would be formally evaluated on its own merits, not in relation to the previous application, but the Planning Commission's findings provide information as to what applicants and decision-makers in the future would do well to consider.

In the phrase “character of the area” in BCC 53.215(1), how narrow or broad has “the area” typically been?

When the County is evaluating the “character of the area”, the “area” is based on the facts of each application and how far the effects of the proposed land use are likely to extend. The impacted area will be unique to each application and may differ by particular effect—for example, the impact of noise might extend farther than visual impact (or vice versa).

Because each review is unique, examining past cases for the specific distances utilized may not be illuminating. Staff reports that in past CUP applications the Planning Official, Planning Commission or Board has considered these factors in determining the character of the area and its extent include:

- The particular attributes of the geographic setting (including existing operations in the vicinity.)
- Is there a distinct change in the area's physical characteristics beyond a certain point (such as a change from flat land to hills or from one river basin across a ridgeline into another)?
- What features or elements give the area its character? Is it a homogenous or heterogeneous character (is there a high degree of similarity, or is it mixed)?
- How far are the effects of the proposed land use likely to extend? This may differ by particular effect—for example, the impact of noise might extend farther than visual impact (or vice versa).

(2) The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area; and

In the conditional use review criterion of: “*The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area*” [BCC 53.215(2)], what constitutes a “burden” is again based on the facts of the application. Staff has stated that in past CUP applications the Planning Official, Planning Commission or Board has considered a “burden” on public infrastructure and service is likely “undue” if it overloads the system or causes significant degradation in terms of quality, effectiveness or timeliness of infrastructure or service. Lesser burdens may also be “undue” if the effect jeopardizes people's health, safety, or welfare. Burdens that the County has typically not considered “undue” include those that can be mitigated through planned improvements, that are incremental service additions¹⁰⁸ consistent with that generated by other uses in the area or that fall below an established threshold (such as road classification standards). For planned improvements to be relied upon in determining that a burden is not undue, the implementation of those improvements must be certain, such as through a condition of approval specifying the improvement and the timeline for implementation. Again, as noted above, so long as the interpretation is plausible, the decision makers have wide discretion in interpreting the term “undue burden.”.

¹⁰⁸ Incremental service additions are additions to the overall burden on services that are small relative to the total. For example, adding 10 daily vehicle trips to a road currently experiencing 300 daily vehicle trips could be considered an incremental service addition.

(3) The proposed use complies with any additional criteria which may be required for the specific use by this code.

If the county has adopted additional code criteria that apply to a proposed use implicates other code provisions in effect at the time of application, then those code provisions would apply. This does not allow the county to apply unadopted criteria that are not in the code at the time of application or to require information about a topic that is not relevant to compliance with an applicable criterion. While BCC 77.305 lists requirements the narrative. In applying for a proposed landfill expansion application, those application requirements are not approval criteria. expansion in the Landfill Site zone, the BCC Chapter 77 does not adopt any additional criteria for a proposed expansion in the Landfill Site zone, and, therefore BCC 53.215(3) does not apply to a proposed landfill expansion, no additional criteria apply.

Provisions in the Landfill Site Zone Regarding a Conditional Use Application:

BCC 77.305 Conditional Uses Approved by the Planning Commission. Any proposal to expand the area approved for a landfill within the Landfill Site Zone is allowed by conditional use permit approved by the Planning Commission. The Benton County Environmental Health Division and the Solid Waste Advisory Council shall review and make recommendations through the Planning Official to the Planning Commission regarding the Site Development Plan Map and narrative. The Oregon Department of Environmental Quality shall be given an opportunity to review and comment on any proposal which may affect this site. [Ord 26I, Ord 90-0069]

This section directs the Solid Waste Advisory Council (SWAC) to review and make recommendations; however, the code does not specify any criteria or considerations that recommendation should be based on. Any action of SWAC should be consistent with that Council's role as specified in its bylaws: "assist the Board of Commissioners (Board) in Planning and implementation of solid waste management, pursuant to BCC Chapter 23, the Benton County Solid Waste Management Ordinance." As such, SWAC should review the proposal and provide input from a solid waste management perspective. (If/when SWAC's overall role shifts to sustainable materials management, instances of the term "solid waste management" above should be replaced with "sustainable materials management.") The Planning Commission's role is to review the proposal from a land use perspective, relative to specific criteria listed in the Development Code, and to make a decision. The Planning Commission is the body with land use expertise and tasked with considering the BCC 53.215 criteria, whereas SWAC's expertise is on questions of solid waste management. Based on SWAC's bylaws and role in planning and implementing solid waste management, it appears that the intent of the language in BCC 77.305 is that the Planning Commission rely on SWAC for guidance on the impacts of the Site Development Plan and Narrative on solid waste management. However, the language of BCC 77.305 does not expressly limit the scope of SWAC's recommendations.

Per BCC 51.405(3), the Planning Commission has exclusive decision-making authority on land use applications for which it is the initial decision maker (such as a conditional use permit to expand the landfill). BCC 77.305 states SWAC "shall review and make recommendations * * * regarding the Site Development Plan Map and narrative." BCC 77.310(2)¹⁰⁹ describes the Site

¹⁰⁹ 77.310 Conditional Use Review.

(1) The applicant for a conditional use permit shall provide a narrative which describes:

Development Plan. The second sentence of that section lists the elements to be included on the map. The third sentence says “[a] statement shall be placed on the map that the site plan map and narrative together are considered the Site Development Plan.” The question then is does BCC 77.305 limit SWAC’s review and recommendation to only the narrative on the site plan map? Or does the language of BCC 77.310(2) create sufficient ambiguity that “narrative” could include the entire land use application narrative?

That second option is doubtful when considering the detail included in 77.310(2) to describe what constitutes a site plan map. It is more likely the phrase “Site Plan Map and narrative” used in 77.305 is intended to mean the elements of the map plan described in 77.310(2).

To infer “Site Plan Map and narrative” includes the entire application would draw in every element of 77.310(1), when subsection (2) deliberately only included screening and access from the list of subsection (1) land use narrative components. To include all of the subsection (1) elements would subsume subsection (2) and render it meaningless. The intent of BCC 77.305 appears to be to set SWAC’s scope of review as that described in BCC 77.310(2).

Amendments to the Development Code may be needed in order to create a clear and legally consistent process for SWAC’s involvement in review of a CUP. Pursuant to the Development Code as written, the only criteria that a CUP decision can be based upon are those of BCC 53.215, and the Planning Commission is the decision-making body; yet the code states an ambiguous role for SWAC in that process and seems to imply that other considerations beyond those of BCC 53.215 should go into the decision-making process. This needs clarification. The Legal & Land Use Issues subcommittee recommends that the Board of County Commissioners:

- a. Amend the Development Code to clarify SWAC’s role in reviewing a CUP, and
- b. Articulate SWAC’s scope of review, focused on the solid waste management aspects of the application. Examples of areas that may be appropriate for SWAC to comment on:

-
- (a) Adjacent land use and impacts upon adjacent uses;
 - (b) Future use of site as reclaimed, and impacts of that reclamation on adjacent uses;
 - (c) Provisions for screening of the site from public roads and adjacent property;
 - (d) Egress and ingress; and
 - (e) Other information as required by the Planning Official.

- (2) A site plan map shall accompany a conditional use permit application. The map shall contain at least 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.
- (3) A conditional use permit application shall contain a reclamation plan describing present efforts and future reclamation plans related to the site.
- (4) The following environmental and operational considerations shall be reviewed prior to changes in the documents referenced above:
 - (a) Geology;
 - (b) Groundwater and surface water;
 - (c) Soil depth and classification, and erosion control factors;
 - (d) Slope; and

Cover material availability, transportation, and use.

- Is the proposed expansion consistent with long-term plans for the landfill site?
- Is the proposal consistent with principles of responsible solid waste management?
- What (solid waste management) benefits do you see to the proposed expansion?
- What potential (solid waste management) negative effects do you see?
- Are there ways to minimize or mitigate those effects?

(If/when SWAC's overall role shifts to sustainable materials management, instances of the term "solid waste management" above should be replaced with "sustainable materials management.")

BCC 77.310 Conditional Use Review.

(1) *The applicant for a conditional use permit shall provide a narrative which describes:*

- (a) *Adjacent land use and impacts upon adjacent uses;*
- (b) *Future use of site as reclaimed, and impacts of that reclamation on adjacent uses;*
- (c) *Provisions for screening of the site from public roads and adjacent property;*
- (d) *Egress and ingress; and*
- (e) *Other information as required by the Planning Official.*

(2) *A site plan map shall accompany a conditional use permit application. The map shall contain at least 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.*

(3) *A conditional use permit application shall contain a reclamation plan describing present efforts and future reclamation plans related to the site.*

(4) *The following environmental and operational considerations shall be reviewed prior to changes in the documents referenced above:*

- (a) *Geology;*
- (b) *Groundwater and surface water;*
- (c) *Soil depth and classification, and erosion control factors;*
- (d) *Slope; and*
- (e) *Cover material availability, transportation, and use.*

These provisions are application requirements; not approval criteria. They list the documents and information the Planning Official will consider in determining whether the application is complete for purposes of review. A determination that an application is complete for purposes of review does not mean that the applicant's information satisfies the approval criteria.

While most of the application requirements are fairly prescriptive, BCC 77.310(1)(e) lists "Other information as required by the Planning Official." With any land use application, one of the roles of the Planning Official is to identify information that is needed for the decision maker to

determine whether the applicable criteria have been met. As emphasized by LUBA, such information must relate to the approval criteria. And, as noted above, it is the applicant that determines whether to submit any information requested by the Planning Official; and the applicant's failure to submit any requested information is relevant to the decision on the application only to the extent that the decision maker determines that the information is necessary to comply with an approval criterion.

In *Murphy Citizens Advisory Committee v. Josephine County*, 25 Or LUBA 312 (1993), petitioner asserted information required by the local code had not been submitted by the applicant and that such omission rendered the application deficient. *Id.* at 320. LUBA rejected the argument, saying:

Thus, in order for a petitioner to obtain reversal or remand of a challenged decision because required information is missing from the subject application, petitioner must argue that the missing information is not found elsewhere in the record, and must explain why the missing information is necessary to determine compliance of the proposed development with applicable approval standards. In this case, petitioner does not relate the allegedly missing site plan information to specific requirements of JCZO 15.218(1)-(24), does not respond to intervenor's argument and citations that some of the allegedly missing information is found elsewhere in the record, and does not explain how the missing information prevents determination of compliance with applicable site plan or conditional use permit approval standards. (emphasis added)

Id. See also *Venable v. City of Albany*, 33 Or LUBA 1 (1997); *Hopper v. Clackamas County*, 15 Or LUBA 413, 418 (1987); *Hershberger v. Clackamas County*, 15 Or LUBA 401, 408-09 (1987).

The identification of "other information" most commonly occurs during the first 30 days after an application has been submitted. This timeframe is when the Planning Official reviews the initial application to determine whether it is complete for review purposes. If the Planning Official asks the applicant to submit additional information, it can be for two purposes: (1) to provide planning staff with enough information to allow it to review the application. *Sperber v. Coos County*, 56 Or LUBA 763, 770 (2008); see also *Frewing v. City of Tigard*, 59 Or LUBA 23, 31 (2009); or (2) "to allow or request that the applicant submit additional information believed necessary to satisfy the applicable approval standards." *Frewing* at 31.

In either case, the applicant may choose to provide all, some or none of the identified information. The failure to provide identified information is not grounds for denial of the application. If the applicant fails to provide additional information, or provides inadequate information, the issue then becomes an evidentiary matter. Once the application has been deemed complete (by staff or the applicant upon notification to county of refusal to submit additional information), staff reviews the application, based on the submitted information, and makes a determination or recommendation to approve or deny the application, based on whether the applicant has submitted substantial evidence sufficient to meet the approval criteria. This process is now codified for counties in ORS 215.427.

If the application is one that goes to the Planning Commission, it is the job of the planning commission to determine whether to approve or deny the application based upon whether the evidence submitted into the record during the hearing process demonstrates that the applicant has complied with each and every criterion for approval. The County's job as the trier of fact is

determine whether a preponderance of the evidence supports approval under the applicable criteria. *Friends of Yamhill County v. Yamhill County*, 351 Or 219, 246-247 (2011).

On appeal, LUBA reviews a County determine to determine whether it is supported by substantial evidence in the record. "Substantial evidence in the record" is evidence that a "reasonable person" would rely on to make a decision when considering all of the evidence in the record including any conflicting evidence. See e.g., *Younger v. City of Portland*, 305 Or 346, 353-57, 752 P2d 262 (1988). LUBA will uphold the local government's evidentiary determination if it concludes that "a reasonable decision maker could decide as the local government did in view of all the evidence in the record," i.e., evidence that supports and detracts from the decision.

The workgroup could make recommendations regarding what "other information" would be helpful in a narrative to adequately describe the items listed BCC 77.310. However, any committee recommendations would have to be limited to information related to the applicable criteria and could not expand that criteria. "Additional information" required by the Planning Official does not become part of the applicable criteria. When the County adopts a Sustainable Materials Management Plan, it should amend BCC chapter 77 to add a criterion under BCC 53.215(3) to require compliance with any appropriate, specific provisions of an adopted SMMP. BCC 77.310 states only what the applicant's narrative shall include; it does not identify criteria for SWAC's review of a CUP application.

In the past, the Planning Official has used the statutory completeness review process to request additional information. However, in addition to the Planning Official's review of the information after the application has been submitted, the Board could amend the code to require that the Planning Official conduct a "preapplication conference" with the applicant to discuss the information that is required. It could also require a "neighborhood meeting" before the application is filed that requires the applicant to present its proposal to the public and allow the applicant to obtain more information about the proposal. Public comment during a pre-application neighborhood meeting, as with other public comment submitted before the application is complete and notification is sent, is not part of the formal record of the land use review and cannot be considered by decision-makers. The record includes only public comment submitted after formal notification has been sent to affected parties stating that the comment period is open.

BCC 77.405 Review of DEQ Permits. 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 unusual and a bit unclear.¹¹⁰ How the Planning Official would determination that "permit application materials or conditions of DEQ permit are judged to merit public review" is subjective and the kind of public hearing is not specified. Typically, a public hearing results from an application submitted by a property owner which is then reviewed relative to code criteria and approved or denied. But this code provision does not state that the property

¹¹⁰ 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.

owner shall submit an application . The code may intend that a public hearing (more of a public conversation?) be held in which the terms of the DEQ permit are discussed but with no land use action to occur. Or the code may be obliquely stating that if the Planning Official determines that what the applicant proposes to DEQ or what DEQ permits is different from what the County has given land use approval to, then an application for a revised conditional use permit is required. This is already required by BCC 53.225¹¹¹, but the lack of cross-reference or use of similar terminology in section BCC 77.405 is confusing. The subcommittee’s initial interpretation is that BCC 77.405 simply requires new review of a conditional use permit if, as described in BCC 53.225, the use originally approved has been modified. The Planning Official could make such a determination by means of a formal “Interpretation” pursuant to BCC 51.205(1). A Workgroup recommendation on how public review of DEQ permit requirements could most benefit the public would be helpful. A code amendment is recommended. 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.

B. Land Use Process Questions

Question: Do statements in a land use application, in which the applicant says they will do certain things, become binding?

Answer: 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. While a statement that is not incorporated as a condition of approval is not part of the final *decision* it is still part of the *record*. Not everything in the record is part of the decision.

Discussion:

In *Hood River Valley Residents’ Committee v. City of Hood River*, 33 Or LUBA 233 (1997) a Conditional Use application included a statement of how it would comply with a grading and contour approval criteria. While the specific assignment of error alleged the statement was not supported by substantial evidence, LUBA ruled that allegation was immaterial: “While the planning commission adopted a finding very similar to the quoted application statement, the city council did not incorporate that finding in its decision. Petitioner has not established that the statement it described as a finding is, in fact, a part of the city’s final decision. Thus it is immaterial whether the identified statement is supported by substantial evidence in the record.” *Id.* at 234-35.

Additionally, in *Todd v. Columbia County*, 24 Or LUBA 289 (1992), one question posed was whether a local code provision had been interpreted in the final decision. LUBA found that, yes, county staff had interpreted the code provision at issue, but that “portion of the staff report was not incorporated into the board of county commissioners’ decision.” *Id.* at fn 3. As a result,

¹¹¹ 53.225 Modification of a Conditional Use Permit. An original applicant or successor in interest may request that a conditional use permit be modified if a change in circumstance has occurred since approval which would justify a change in the permit. Such application shall be processed as a new request for a conditional use permit.

LUBA found “the county has not interpreted and applied [its code] and this decision must be remanded.” *Id.* at 293.

A final decision must include all conditions the county wishes to impose on an applicant. Failure to include a condition, or finding, or interpretation in the final decision means the missing element is unenforceable or may not be relied upon when evaluating permit compliance. And, just to clarify: something can be included in the final decision either by direct statement or by reference. Both will suffice to bring a necessary component from the record into the decision. For example, a condition of approval requiring the applicant to establish the proposed use “as described in the application” binds the applicant to establishing the use in the manner they described in their application. That said, it is best practice for the approving authority to specifically identify parameters or other details which the applicant has proposed and which are particularly important to ensure that the use, over time, complies with the review criteria. For example, if limited hours of operation are necessary to mitigate interference with surrounding uses and the applicant states that the hours of operation will be 9am to 5pm, a condition of approval should specifically require those hours of operation.

In issuing land use decisions, Benton County decision-makers should:

- a. Draft clear findings and be certain to incorporate into the conditions of approval the items that are intended to be binding.
- 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.

Question: How does the 2002 Memorandum of Understanding fit into the Workgroup considerations?

Answer: The 2002 Memorandum 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.

Discussion:

In 2002 Benton County and Valley Landfills, Inc. (VLI) executed a Memorandum of Understanding (MOU) Relating to Land Use Issues. The purpose of this document was to clarify the parties’ understanding of how VLI could expand landfill activities into cells within the landfill area. That document can be found at:

www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/landfill_mou_2002.pdf

The MOU was created because knowledgeable, involved personnel, at both Benton County and VLI had changed such that little institutional memory remained to guide land use issues at the landfill site. More specifically, without knowledgeable individuals familiar with the history of the various land use approvals, it was unclear whether VLI had authority to expand landfill disposal operations within either the landfill areas or the landfill zone. The MOU clarified those questions.

Specifically, the MOU states:

1. VLI “is entitled to conduct all forms of landfill activities, including but not limited to the placement of solid waste, consistent with State and local regulations with the 194 acres as

designated within the Landfill Zone which is north of Coffin Butte Road.” MOU, pg. 3, §(16)(a).

2. VLI “will not conduct, without the prior approval of Benton County and the State of Oregon, the placement of solid waste on the approximate 56 acres, within the landfill zone which it owns south of Coffin Butte Road.” MOU, pg. 3, §(16)(b).
3. “Since 1996, Benton Co. has signed the Land Use Compatibility Statements, hereinafter referred to as (LUCS), indicating to DEQ that the landfill was being operated in compliance with Benton County Ordinances.” MOU, pg. 3, §14.
4. “Based upon the LUCS statement, DEQ has reviewed and found that the operations of the landfill are in compliance with the state law. The last approval from DEQ was granted in 2000.” MOU, pg. 3, §(15).
5. The MOU was reviewed by the Solid Waste Advisory Council (SWAC) on Aug. 27 and Sept. 24, 2022. The Benton County Board of Commissioners considered the MOU at its Nov. 5, 2002 meeting at which the MOU was “placed on the agenda * * * for public discussion prior to signature.” MOU, pg. 4, §§(16)(g) and (h).

Thus, the MOU acknowledges VLI’s authority to utilize existing or future cells within the 194-acre landfill area north of Coffin Butte Road without additional approval from Benton County. Conversely, County and State approval are required before VLI may dispose of waste on the 56 acres in the Landfill Zone south of Coffin Butte Road. Related landfill activities such as collection and management of leachate are permitted, without additional County approval, on the 56 acres south of Coffin Butte Road. MOU, pg. 3, §(16)(c).

Additionally, section 14 states Benton County signed LUCS documents verifying the landfill was operating in compliance with local requirements. 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. DEQ acted upon that verification to find Coffin Butte was operating in compliance with local land use regulations and state laws and regulations as of 2000. In Sections 14 and 15 the MOU indicates that there were no known land use violations at the landfill as of November 5, 2002, when the Benton County Board of Commissioners executed the MOU.. 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.

The MOU was not a land use decision but did address the status of land use approvals at the landfill. As of the date of the MOU, “the landfill was being operated in compliance with Benton County Ordinances.” It is not clear from the text of the MOU whether this statement includes both compliance with code and compliance with conditions of land use approvals. The land use compatibility statement (LUCS) signoffs referenced in the MOU *imply* that conditions as well as code were in compliance. A permit is not an ordinance; however, to operate in compliance with the ordinance requires being in compliance with the permit and conditions.

150-Day Time Limit on Land Use Application Review

The following was prepared to provide an understanding of the legal requirements for the County to process a land use application and to address the question that has arisen as to

whether the public can provide input to the determination of whether an application is complete.

Legal Requirements.

In Oregon, the statutory time limit for a local government to reach a final decision on a land use application is specified by ORS 215.427¹¹² (That statutory requirement is restated in Benton County Development Code BCC 51.535.) That time limit is 150 days¹¹³ from the time that an application is deemed complete. Pursuant to the Benton County Development Code, the determination of completeness is made by the Planning Official. The Planning Official must determine whether an application is complete within the first 30 days after the application was filed.

An application for land use action may be submitted at any time, following submittal procedures put in place by the County. Once an application is submitted, the Planning Official shall determine whether the application is complete and shall, within 30 days of the application's filing, notify the applicant either that the application is complete or that it is incomplete and exactly what information is missing from the application. If the application is complete, the 150-day clock begins on the date the Planning Official provides that notification. If the application was deemed incomplete and the applicant subsequently makes the application complete, then the 150-day clock starts on the date the additional information was submitted. If the applicant submits in writing that they will provide no additional information, then the clock starts on the date of that submittal.

What constitutes a complete application is a factual determination, which can also involve subjective determinations, depending on the application and what impacts may need to be mitigated. Clearly, if the applicant fails to address one of the applicable criteria, the application is incomplete. Less clear is when the applicant addresses all the criteria but falls short of providing enough information for the County to fully evaluate whether the application satisfies the criterion. In either case, the Planning Official may determine that application is incomplete. If the applicant disagrees, there is no appeal process; the applicant may simply state that no additional information will be submitted. At that point, the application is deemed "complete" regardless of whether the Planning Official believes enough information has been submitted to evaluate the application; the land use review process must commence.

If the County does not take final action on an application within 150 days of the date the application is deemed complete, "the applicant may elect to proceed with the application according to the applicable provisions of the county comprehensive plan and land use regulations or to file a petition for a writ of mandamus."¹¹⁴ In other words, the applicant "may either elect to continue with the application process or file a petition for writ of mandamus to compel the county to approve the application. Where the applicant elects to continue with the application process after the deadline, a subsequent county decision approving or denying the application is not void or moot because it is issued after the applicable deadline."¹¹⁵ Upon

¹¹² The governing body of a county or its designee shall take final action on all other applications for a permit . . . including resolution of all appeals under ORS 215.422 . . . within 150 days after the application is deemed complete.

¹¹³ The time limit is 120 days if the application regards mineral aggregate extraction or if the property is located within an urban growth boundary.

¹¹⁴ ORS 215.429

¹¹⁵ Oregon Land Use Board of Appeals opinion in *Davis v. Polk County, 58 Or LUBA 1 (2008)*.

filing a petition for writ, jurisdiction for all decisions regarding the application, including settlement, shall be with the circuit court.¹¹⁶

Of course, whether the application is “complete” or not, the absence of certain information from an application may lead to a determination by the decision maker (Planning Official, Hearings Officer, Planning Commission or Board of Commissioners) that one or more specific criteria are not met. The purpose of the 30-day completeness review is to attempt to provide the decision maker with the necessary information to make an informed decision; it does not *ensure* that the information provided is adequate.

The applicant may choose to pause the 150-day clock by stating in writing the time period for which they want the clock paused. The maximum allowable duration of any or all such pauses (or extensions of the 150-day time limit) is 215 days, for a total time of 365 calendar days from the time an application is deemed complete.

Question: Is there opportunity for public input to the determination of whether an application is complete?

Answer: The public may submit comments on the completeness of an application. However, the completeness process is not a review of the application’s merits; only whether sufficient information has been submitted to the application’s merits can be evaluated through the public hearing process. And there are no statutory or code requirements for incorporating public input on the county’s administrative determination of whether an application is complete.

Discussion:

“Completeness” is a statutorily required process for the Planning Official to determine whether an applicant has submitted sufficient information for the decision maker to evaluate the application for compliance with the approval criteria during the evaluation and public hearing process. Completeness does not indicate that the applicant has satisfied the applicable approval criteria; and the completeness process is not intended for a review of the merits of an application. If information submitted is not adequate to demonstrate compliance with the approval criteria, the public hearing process is intended to ensure that the public can assert that position on the record before the decision maker. In addition, even if the Planning Official determined an application incomplete and requested additional information, the applicant is not required to provide that information if it does not believe it is necessary.

With a complex application, reviewing the submitted materials in sufficient detail to determine whether the application is complete often takes substantial time. This is an internal review process conducted by professional planning staff, augmented by input from other agencies relevant to a given land use application. The Development Code does not preclude the Planning Official from obtaining input from the public during this process; and information from the public related to whether the applicant has submitted the code-required information can be useful to the Planning Official’s completeness review.

However, under state statute, the determination of whether an application is complete must happen fairly quickly. The statutory 30-day window for the completeness determination

¹¹⁶ ORS 215.429

presents challenges to obtaining and meaningfully reviewing public input related to completeness and incorporating it into the completeness determination. And the Planning Official's ability to review and incorporate completeness-related input is significantly limited if evidence or argument related to the merits of the application is interspersed with evidence specifically directed to completeness.

Because the completeness process is based on state statute, the county could not legislatively build into its process a delay in the completeness determination process for the public to provide input on whether the applicant had provided enough information for the county to determine the application is complete. The county could, however, amend the Development Code to further clarify the elements of a "complete" land use application concerning a landfill expansion. The county staff could also build into its process (without a code amendment) the means for the public to more easily review the application materials, both to assess whether sufficient information has been submitted to evaluate the application (the completeness process) and for future evaluation of the merits of whether the application satisfies the approval criteria (the public hearing process.)

To facilitate the public's review of the application and participation in all phases of the application review, including completeness, the county could post all of the application materials on its website and provide email notification to the public that an application has been received and is available for review. To ensure that the public is fully informed of the process, that notification could describe both the completeness review process and the public hearing review process; and describe the functions of each stage in the process. It could also set a time certain in which members of the public would be welcome to submit comments on the completeness of the materials.

That window for public comments would necessarily be fairly narrow. There would be no obligation on the part of the Planning Official to utilize or respond to such comments, but the comments could provide a useful, broader vetting of the application. Staff has concerns that the 30-day time frame may be too short for meaningful public review and comment and that public comments could range well beyond the question of completeness which would complicate making use of such comments in the completeness determination. For these reasons, staff encourages the BCTT workgroup to provide as much input as possible regarding what is needed for a complete application prior to County receipt of an application

Protocols for the timely and broad distribution of CUP-related information to the public, other governmental entities, and internal committees, groups, and divisions.

Legal Requirements and Past Practices

Note: The Legal & Land Use Subcommittee is limiting its input on this topic to legal requirements and past practices, understanding that the Charge E subcommittee will use that information to help in developing recommendations for future practice.

Required Notification. Requests for quasi-judicial land use decisions, such as an application for a conditional use permit, are subject to notification procedures mandated in ORS 215.146 and in Benton County Development Code Sections 51.605 through 51.630. The Benton County Development Code provisions reflect the statutory requirements and are designed to implement those requirements without need for reference to the statute.

Completeness Notification: Upon receipt of a land use application, the Planning Official must determine whether the application is complete and, within 30 days of the application’s filing, must notify the applicant either that it is complete or exactly what information if any is missing from the application. There is no legal requirement for notification to the public at this stage in the process. (See above for a complete discussion of the 150-day time limit.)

Notice of Application: In the case of a conditional use permit or similar application, the Development Code requires physically mailed notice to the owners of property located within a certain distance of the property that is the subject of the land use application. The distance is measured from the perimeter of the subject property; any property that lies partially or fully within that distance is entitled to mailed notification. The distance of the measurement depends on the zoning of the subject property:

100 feet if located within an urban growth boundary

250 feet if outside an urban growth boundary and not within a farm or forest zone

750 feet if located within a farm or forest zone

If the County sends notice to only property owners within the specified distance, the law has been fulfilled. However, these distances are minimums. The Code states an intent to notify property owners who could be affected by the proposed land use decision and states that additional notice beyond the distances listed above may be provided “where the County in its discretion deems additional notice to be appropriate.”

Additionally, notice is to be sent to any neighborhood or community organization recognized by the Board of County Commissioners and whose boundaries include the site. In Benton County, the recognized community organizations are the Community Advisory Committees (CAC), of which three are currently active.¹¹⁷

Public Hearing Notice: In the case of a land use request that involves a public hearing, the Code also requires publication of a notice in a newspaper of general circulation within the county as well, at least 10 days prior to the hearing.

Specifically in the Landfill Site zone, which encompasses the majority of the Coffin Butte landfill and the majority of the landfill expansion area proposed in 2021, a conditional use application for landfill expansion is subject to approval by the Planning Commission. Additionally, the code requires that “the Solid Waste Advisory Council [SWAC] shall review and make recommendations through the Planning Official to the Planning Commission regarding the Site Development Plan Map and narrative.” The procedure for this review by SWAC is not specified in the Development Code, including whether any specific notification of the SWAC meeting should be sent out (beyond the standard public meeting notice that is sent to the newspaper) and whether SWAC should conduct a public hearing with testimony from the public or should review and discuss among SWAC members without public testimony.

Notice of Decision: When a decision is rendered on a land use request, notice of decision is required to be mailed to all people who submitted testimony. If the decision was made by the Planning Official, then notification is also required to be mailed to owners of property within a

¹¹⁷ The North Benton CAC, which would encompass the Coffin Butte landfill and surrounding areas, is currently not active. Activating and maintaining a CAC is no small undertaking and doing so requires both action and capacity on the part of community members and the County.

certain distance of the subject property as described above. The notice of decision describes the nature of the decision and how to appeal the decision.

Notice of Appeal: If a decision is appealed, then notice of the appeal hearing is distributed following the same procedure as for the notice of application.

Typical Practice. In addition to providing the notification discussed above, Benton County staff have typically utilized some or all of the following for a given land use application:

- Prior to receiving a land use application for a complex land use action, staff will encourage a **pre-application conference**. The public is not involved at this stage because an application has not been filed. The pre-application meeting is not a public meeting, is not part of the land use review process, and involves no notification to the public.

In the case of an application for a subdivision, the pre-application conference is *required* by the Development Code. A pre-application conference is not required for a landfill-related request in the Landfill Site zone. A pre-application conference is a meeting between the applicant and County staff at which staff informs the applicant of the necessary applications to file, the review criteria that will be applied, and areas of concern to review, and provides an overview of the review process. Staff from external agencies with jurisdiction are invited to participate; for example, the Oregon Department of Transportation if the proposed land use is near or accesses a state highway.

- Staff may recommend to the applicant that they hold a **public informational meeting** prior to submitting an application. There is no requirement for this in the Development Code, so it is up to the applicant whether to hold such a meeting. These meetings can be helpful for informing members of the public about a pending application as well as for the applicant to obtain input from members of the public that the applicant may choose to address through modifications of their plans prior to submitting an application. Such meetings are not part of the land use review process.

Upon receipt of a land use application, the Planning Official determines completeness. Once the application is deemed complete, a decision-making process and schedule are determined. At the appropriate time in the schedule, the legally required notification is mailed out as described above. Additionally, typical practice in Benton County has been to notify by email a list of people who have requested notification of all land use applications or certain categories of land use applications. The mailed/emailed notifications summarize the proposed land use action and inform people how they can find out more information and how they can provide input. Additional information is available by phoning or emailing staff. For certain land use applications, staff posts the application materials on the Community Development Department website. These are typically applications that require a public hearing before the Planning Commission or applications that otherwise may generate substantial public interest. Not all applications are posted to the website due to limited staff time and the logistics of maintaining such a webpage.

- Once a decision has been made, the legally required notification is mailed as described in the prior section. While the legal requirement is that notice of a decision made at a

public hearing need be mailed only to those who testified, typical practice in Benton County has been to mail notice to owners of property in the vicinity as well.

Necessary Tasks to Start Planning Reopening of Existing Hauling Agreement

Section 2 of the June 7, 2022, collection franchise agreement between Benton County and Allied Waste Services of Corvallis (“Republic Services”) contains a limited reopener provision. Specifically, the provision states:

This agreement shall be amended by July 1, 2024 to include the same or similar terms as the forthcoming City of Corvallis collection franchise agreement, including, but not limited to, the same termination date, as well as concepts from the consensus-seeking process.

Contract negotiations are not conducted in public. With that said, there is enough public interest in a potential reopener negotiation that some believe a process should be implemented to allow public input, comment and feedback on any provisions subject to Section 2 that may be negotiated between the parties to the agreement.

One such process 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 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.”

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 identified by the Board of Commissioners.

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 as identified by the Board.

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 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.

Future Timeline for Discussing any Needed Changes to the Benton County Code Flowing From WORKGROUP Recommendations

Code Changes Process & Timeline

Code Amendments Generally

Process. Code changes to both the Benton County General Code and the Development Code are effected through enactment of an ordinance. An ordinance is the vehicle which carries code changes.

Benton County Charter Section 14 establishes the general procedure for enacting ordinances. That section allows the ordinance to be enacted by the Board of Commissioners following two readings by title, which occur no less than 13 days apart.

In practice, the following is the usual process for the Board to consider and enact an ordinance amending the Benton County General Code.

Typically, the responsible department will identify the need for a change to a particular code provision. Depending on the change, the department may choose from a number of processes to create new code language. For example, it may solicit feedback from outside agencies or citizens; or, it may convene a workgroup to work on and develop changes; or, it may contact other governmental entities for input and examples; or, as frequently happens if the amendments are to comply with statutory changes, staff may simply make the changes as required by the new laws.

Once the department has generated the code amendment language, it will schedule a work session with the Board of Commissioners (BOC). The purpose of this work session is to inform the Board of the need for the code amendment, the process the department used to engage the necessary interested parties and to give the Board a chance to see and understand the proposed new language.

Following the work session discussion, the Board will take one of three actions: (1) direct staff to bring the proposed code change, and the ordinance, to a public hearing at a regular board meeting; or (2) direct staff to make changes to the proposed language, re-engage interested parties or both; or (3) decline to authorize staff to bring the proposal to a public hearing.

If the Board directs staff to move the proposed amendment forward, the ordinance, with the code changes, is scheduled for a public hearing at which public testimony is taken. If the Board votes to enact the ordinance effecting the code amendment, it will conduct a reading of the ordinance title. At that point, the ordinance will be scheduled for a second reading, no less than 13 days later. The second reading takes place at a regular meeting, but not a public hearing. Once the ordinance has been read a second time, it becomes effective 30 days later.

Timeline. Following development of proposed new code language, regardless of the process used, a standard timeline for enactment would look like this:

Day 1 – Staff submits proposed language, supporting documentation and rationale to the BOC office for placement on a work session agenda. This must occur at least 14 days before the scheduled work session.

Day 14 – Work session held. If BOC directs the proposal to move forward to a formal public hearing, staff must work with BOC staff to identify a date for the public hearing.

Day 21 – Staff submits proposed code amendment language, ordinance and supporting documentation to BOC staff for placement on a Board agenda.

Day 35 – Public hearing is held to consider enactment of the ordinance and adoption of the new code language. If enacted, a first reading is conducted.

Day 49 – The Board conducts the second reading of the Ordinance, formally adopting the proposed new code language.

Day 80 – Ordinance and new code language become effective.

Development Code Changes

Amending the Development Code generally follows the above process, once the matter reaches the Board of Commissioners. However, state statute and the Benton County Development Code prescribe additional process and review criteria for amendments to a county's land use regulations. The procedure for amending the Development Code text is contained in BCC 53.605 through 53.630.¹¹⁸

Initiating the Amendment. Changes to the Development Code may be initiated by the Board of Commissioners, as described above. Alternatively, the Planning Commission may initiate a text amendment, provided the Planning Commission notifies the Board of Commissioners. The BOC must then conceptually approve the amendment before the Planning Commission may hold a public hearing.

Notification.

All text amendments: Notice of public hearings is published in the newspaper. The County notifies parties who, within the past year, have requested notification regarding the topic under consideration. The County also makes reasonable effort to notify parties who participated in previous legislative action on the same topic within the past four years. The County may provide notice to additional parties. The County must also provide notice to the State of Oregon Department of Land Conservation and Development not later than 35 days before the first evidentiary hearing on the proposed change (which would be the Planning Commission hearing, as noted below).

Text amendments that would limit or prohibit a use: In addition to the notification described above, individual property owners must be mailed notification if the amendment would re-zone their property or would limit or prohibit a land use currently allowed on the property. Notice must be mailed 20 to 40 days¹¹⁹ before the first public hearing.

Text amendments to conform to changes in state law: No notification or public hearing pursuant to the Development Code is required. Notification and public hearing held by the Board of Commissioners, as required by the Benton County Charter and discussed above for amending the General Code, is still required.

¹¹⁸The Development Code refers to this as a "text amendment," as opposed to a "zone change" which is the other amendment procedure associated with the Development Code.

¹¹⁹Or, at least 30 days if the amendment results from a requirement of periodic review of the comprehensive plan pursuant to state law ORS 197.

Public Hearings. The Planning Commission conducts a public hearing, receives public testimony, deliberates, and makes a recommendation to the Board of Commissioners. The BOC then holds a subsequent public hearing to make the final decision, as described above for the Benton County General Code.

Decision Criteria. The Development Code does not list specific criteria for text amendments. However, the adopted Development Code must be consistent with the Benton County Comprehensive Plan and with applicable statewide planning goals, Oregon statute and administrative rules.

Timeline. In practice, the timeline for amending the Development Code varies depending on the complexity of the topic, the clarity of any applicable guidance from state statute, rules or goals, the level of public participation, and the staff time available for the endeavor. The quickest text amendments take approximately four months from initiation to the ordinance going into effect. Most text amendments take longer, typically six to nine months. Complex topics requiring significant research, public input, numerous drafts and revisions can take one to two years or longer.

Process for Proposing Changes to General Code or Development Code

1. Identify topic areas or code sections where amendments are desired.
2. Determine whether it is the County General Code or the Development Code that should be amended, as this determines the amendment procedure.
3. Articulate desired outcomes.
4. Identify any requests of the process (such as interest groups to involve, research to consult, public engagement processes) and level of urgency.

Land Use File No. PC-83-7

1) Question: Were the site plan and narrative in PC-83-7 regulatory conditions of approval?

Answer: No.

Discussion:

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.

2) Question: Clarify when formal approval of landfilling Cell 6 (current quarry) was granted.

Answer: The subcommittee concludes that PC-83-7 included the quarry area in the area approved for landfills

Discussion:

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.

Appendix C4: Subcommittee Reports: Past Land Use Application Conditions

Introduction

The subcommittee's report is intended to provide an overview of all the Coffin Butte historical documents, starting in 1974, relating to land use provided to the Subcommittee by Benton County as of November 2022. It provides the context needed to better understand how Benton County got to where it is now regarding the Coffin Butte Landfill. All files were reviewed in depth by, at a minimum, the public members of the subcommittee (Catherine Biscoe, Edward Pitera, Mark Yeager).

The subcommittee's report contains a summary and plain language evaluation of each of the historical files. Where possible, real-world examples are used to explain a review. Some situations point to a need for further information from the Oregon Department of Environmental Quality (DEQ). Other situations are annotated as possibly involving requirements stated in the 50-year long historical record that may have been superseded by legal interpretations of land use decisions or new laws or modified by subsequent decisions.

Table 2. Assessments of Land Use Application Conditions of the subcommittee's report provides an overview of 13 historical documents representing 85 conditions of approval or other information contained in the reviewed files. The 85 conditions include 17 associated with power generation and 12 associated with the quarry. Although all conditions were reviewed, the subcommittee's efforts focused on the 56 associated with the landfill. The public members and the County indicated their evaluation of each condition in eight clearly defined categories including "In Compliance", "Compliance Unclear", "Not In Compliance", "No Opinion" etc. The Republic evaluations tended to be as comments making it difficult to summarize how close to consensus the three parties were.

Evaluations of legal theories impacting the enforceability of past land use decisions can be found in the section authored by the Legal Subcommittee with commentary where appropriate from public members of this subcommittee. Some key situations where the Legal Subcommittee findings point to Land Use commitments that may no longer be enforceable are: 1) limitations on the geographical area sending solid wastes to Coffin Butte (1974 CP-74-01) due to legal precedents; 2) screening the landfill from view from County roads, plus how the site is to appear and be used after solid waste disposal operations stop (1983 PC-83-07 / L-83-07) due to how the County decision was structured; 3) A 2002 County/Republic Memorandum of Understanding which provides "evidence" that Conditions of Approval prior to 2002 have been met.

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 along with 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.

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 CDD = Community Development Department	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

#	Date; Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions CDD = Community Development Department	Key Aspects
				<p>2. a motion relative to conditions, use application from Robert and Daniel Bunn/Corvallis Disposal Company including any qualifications or stipulations Planning Commission decision 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 BOC upholds PC decision with following amendments and additions to conditions: Condition No.4: adds, "when plans meet DEQ approval" Condition No. 5: Date change to July 1, 1976 Condition No. 6 (new)</p>

#	Date; Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions CDD = Community Development Department	Key Aspects
				<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>
3	1983; PC-83-07 / L-83-07	Comprehensive Plan and Map Amendments Zoning Ordinance (Development Code) and Zoning Map amendments	BOC Approved	<p>Amendments to the Benton County Comprehensive Plan and Plan Map (Ordinance 251), and amendments to the Zoning Ordinance and Zoning Map (Ordinance 261).</p> <p>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</p>

#	Date; Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions CDD = Community Development Department	Key Aspects
				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	CDD 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	CDD 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	CDD approved	A transfer of 37.94 acres from Tax Lot 10-4-18-800 to Tax Lot 10-4-18-1106
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	CDD Approved	A transfer of 37.94 acres from parcel A to parcel B.
9	1992; LD-92-24	Property Line Adjustment	CDD Approved	To transfer 6.5 acres from 10-5-13-202/203 to 10-5-13-1000

#	Date; Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions CDD = Community Development Department	Key Aspects
10	1994; PC-94-03	Conditional Use Permit	CDD Approved February 16, 1994	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. 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	CDD approved, applicant did not complete requirements to complete the transfer, file closed	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 CDD = Community Development Department	Key Aspects
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
17	2002; PC-02-07	Conditional Use Permit	PC approved December 18, 2002	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. 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-

#	Date; Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions CDD = Community Development Department	Key Aspects
				access/emergency road system, landfill activity limited to 600-foot contour elevation, copies of water quality, stormwater runoff and air quality permits and data) Applicant: Valley Landfills, Inc. Staff Contact: Chris Bentley
18	2002; Resolution 2002-070	Vacation of a portion of Coffin Butte Road	BOC approved	0.65 miles of road vacated, vacated a bridge at the westerly end of Coffin Butte Road that was closed in 1999
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 represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle). 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) Property Owner: Valley Landfills Inc. Staff Contact: Chris Bentley
20	2011; LU-11-004	Pre-application meeting	Planning staff review	For placing recycling facility on Tax Lot 104180000801

#	Date; Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions CDD = Community Development Department	Key Aspects
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> <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>

#	Date; Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions CDD = Community Development Department	Key Aspects
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> <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 of 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	CDD Approved September 16, 2015	<p>Conditions of Approval: 2 (Community Development Department will objectively determine compliance with all Conditions of Approval)</p>

#	Date; Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions CDD = Community Development Department	Key Aspects
		facility in the Exclusive Farm Use Zone, associated with Coffin Butte Landfill.		Development shall substantially comply with the plans and narrative in the applicant's proposal; modifications require approval, applicant shall obtain/maintain compliance with necessary federal state and local permits for construction and operation of stormwater system described in application Property Owner/Applicant: Valley Landfills, Inc./Republic Services, Inc. Staff Contact: Chris Bentley Planning Official: Greg Verret
24	2021; LU-21-047	Conditional Use Permit to expand Coffin Butte Landfill. Republic Services proposed: to create a new disposal cell for the Coffin Butte Landfill which will extend from the current cell south of Coffin Butte Road; close Coffin Butte Road to public traffic (vacate the right-of-way*) so the new cell can cover the road; relocate a replacement roadway (for landfill and quarry traffic only) around the area of the	PC Denied December 7, 2021; PC Decision Appealed; Appeal Withdrawn	Property Owner/Applicant: Valley Landfills, Inc./Republic Services Staff Contact: Inga Williams CAC Planning Area: North Benton (not active)

#	Date; Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions CDD = Community Development Department	Key Aspects
		new disposal cell; relocate the leachate ponds south of Coffin Butte Road, and move some other structures. Closing Coffin Butte Road will likely require improvement of at least one other roadway in the area to accommodate increased traffic— potentially Tampico Road or Wiles and Robison Roads.		

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 = Requirement no longer relevant. Cite over-riding County land use decision, DEQ reference, LUBA opinion, state statutes or administrative rules, county code, county 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.

Note

The format for evaluation of more complex conditions by subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager is:

Subcommittee Members

Compliance Opinion:

Basis:

Explanation:

Notes:

Open Item(s)

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 ¹²⁰ and Sanitary Landfill expansion.	PC Approved PC Decision Appealed BOC Approved
Conditions of Approval			
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 ¹²¹ . Expanding Coffin Butte to service additional areas should require a re-review by the Planning Commission.			
Comments			
<p><u>County</u></p> <p>County Requirement Superseded. This condition was rendered unenforceable by a 1998 Supreme Court decision that found that limiting areas to be served by a regional landfill were unconstitutional violations of the Commerce Clause (see memorandum prepared by Legal Subcommittee and appended to their report). Prior to that, it was superseded by the 1983 land use decision adopting the Landfill Site zone and text amendments to the Benton County Code and Comprehensive Plan.</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 • 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 			

¹²⁰ 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.

¹²¹ 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).

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and the conditions in the 1974 decision are no longer relevant. Further, Republic Services¹²² 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Compliance Opinion: Not In Compliance

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))

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 statutes or regulations that prohibit counties from limiting the areas from which wastes can be received from is suggested.

Notes: Support for 1977 geographical definition found in:

- ◆ 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:

“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.”

¹²² 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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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.htm> per B Fuller to S Imperati email 110722

Status of search for County business related documents mentioning geographic service area:

- ◆ 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_river_bend_landfill_500952_mou_120116.pdf)

Open Item: Search DEQ permits for information allowing geographic areas to use CB Landfill.

Subcommittee Member - Republic

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

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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.)			
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>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. First, this condition is directed at the county to complete, not the applicant, and should not have even been included as a Condition of Approval for the applicant. Second, staff has come across minutes and other documents that reference annual reporting by the County Sanitarian to the Planning Commission. Third, subsequent to the Solid Waste Advisory Committee being instituted, this information was relayed to that group, not the Planning Commission. Fourth, currently, the County Sanitarian has been replaced by a Solid Waste and Water Quality Program Coordinator.</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> <p>Compliance Opinion: Compliance Status Unclear</p>			

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<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>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. This is an oversight function for DEQ. The applicant supplies a description of the leachate collection system and monitoring wells within their annual reports.</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 (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 			

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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 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,

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<p>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>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. 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. This specific condition is no longer relevant as new reclamation plans have been approved.</p> <p><u>Workgroup Committee</u></p> <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 			

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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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Compliance Opinions:

- A. Physical Design Requirements: In Compliance
- B. Reclamation & Visual Requirements: Compliance Status Unclear

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.

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.

Explanations:

- "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.

Notes:

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<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>Comments</p> <p><u>County</u></p> <p>In Compliance. The condition was completed with the creation of the 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> <p>Basis: Document (1977 Waste Control Systems, Inc. Solid Waste Management Plan)</p>			

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Note: Not available via County records, subcommittee has procured and exists in appendix			
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>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. 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. This specific condition is no longer relevant as new reclamation plans have been approved.</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

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<p>Our interpretation of “MSWLF Unit” is that it applies to the entire landfill not individual cells. Being that the landfill is not yet full, the “clock” on final closure has not yet started. It is common for landfills to build new cells on top of older filled cells that are in temporary cover/closure. Final closure/capping under this scenario would occur when these uppermost cells are full or waste sequencing for an area is completed. This also allows for multiple cells to share leachate and gas collection and control systems. Approval could be considered granted via DEQ approval of the Site Development Plan and through the further refined final engineered closure plans.</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>			
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>Comments</p> <p><u>County</u></p> <p>In Compliance. 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			
<p>1. Cross reference the narrative and the map in both documents.</p> <p><i>*Clarification On Content Needed. See Subcommittee Comments</i></p>			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. The narrative was updated to provide information related to conditions 1 through 7. 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 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>			

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Conditions of Approval			
<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 used 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 B. Reclamation Requirements: Compliance Status Unclear (Not triggered see CP-74-01 (6))</p> <p>Compliance Opinion(s): A. Compliance Opinion for Physical Design & Geotechnical Requirements: County Requirements Superseded</p>			

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Conditions of Approval			
<p>Basis: Landfill design concepts conveyed in site plans from 1983 appear to be superseded by subsequent DEQ approved Site Development Plans.</p> <p>Explanation: DEQ requirements on landfill design, operation and closure have primacy over County requirements.</p> <p>Notes: County provided records are incomplete. Although referred to in "PC-83-07-C(3)", no site plan drawing is included.</p> <p>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))</p> <p>Basis: Closure not triggered see CP-74-01 (6)</p> <p>Explanation: Site is an on-going operation and not subject to DEQ reclamation requirements at this time.</p> <p>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.</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 current operation given the subsequent CUP approvals have changed the operation.</p>			
<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 effects of methane and internal heat generation on the long-term maintenance of the pasture, and include irrigation plans if proposed.</p>			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. The narrative was updated to provide information related to conditions 1 through 7. 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>			

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Conditions of Approval			
<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: "“Methane Statement” 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>			

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Conditions of Approval			
Republic agrees with staff. The 1983 narrative is no longer relevant to the operation given subsequent approvals and changes over time.			
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>Comments</p> <p><u>County</u></p> <p>In Compliance. The narrative was updated to provide information related to conditions 1 through 7. 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 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>			

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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			
<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)</p> <p>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 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>			

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Conditions of Approval			
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>Comments</p> <p><u>County</u></p> <p>In Compliance. The narrative was updated to provide information related to conditions 1 through 7. 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> <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>			

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Conditions of Approval			
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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. The narrative was updated to provide information related to conditions 1 through 7. 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 narrative, where are the 10 acres proposed for addition? need drawings <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: County Requirement Superseded</p> <p>Basis: Current DEQ permits supersede this condition From pdf file pages 7 & 8 (original document page 5 & 6)</p> <p>v. Other Information Required by the Development Director (Conditions No. 5 and 7)</p> <p>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>			

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Conditions of Approval			
<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>Open Item: Address DEQ primacy question</p> <p><u>Subcommittee Member – Republic</u></p> <p>Republic Agrees with staff for some of the reasons stated above.</p>			
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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. The narrative was updated to provide information related to conditions 1 through 7. 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>			

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Conditions of Approval			
<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> <p><u>Subcommittee Member – Republic</u></p> <p>Republic agrees with Staff.</p>			
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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. The narrative was updated to provide information related to conditions 1 through 7. 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 pond protection plans (note: presumably not in compliance since the small ponds currently appear to be buried below a large pile of waste) <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p>			

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Conditions of Approval			
<p>Compliance Opinion: Compliance Status Unclear</p> <p>Basis:</p> <p>Notes: From pages 6-8</p> <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 far below any toxicity levels.</p>			
<p>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. Leachate is an oversight function of DEQ.</p>			

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Conditions of Approval			
<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. 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><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> <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</p>			

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Conditions of Approval			
<p>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>			
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>Comments</p> <p><u>County</u></p> <p>In Compliance. This is an item under the oversight of 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>			

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Conditions of Approval			
<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> <p><u>Subcommittee Member – Republic</u></p> <p>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.</p>			
10. Screen the landfill operation with fencing or berms so it cannot be seen from the County Road or adjacent properties.			

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Conditions of Approval			
<p>Comments</p> <p><u>County</u></p> <p>Compliance Status Unclear. The screening may have been installed but has eroded or been removed during further site development. It should be recreated and maintained to be in compliance with the requirement.</p> <p><u>Workgroup Committee</u></p> <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. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>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.</p> <p>Compliance Opinion: Not In Compliance</p> <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>			

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			
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 ¼ of an acre during all other periods. This shall be adhere to.			
<p>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. This is under the oversight of DEQ. 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 ¼ 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. <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</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			
<p>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>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. Overseen by DEQ. This condition appears to be no longer be applicable. If the condition were still applicable, it authorizes the County to add a requirement in the future if leachate seeps through the berms. The applicant is in compliance unless a) the County has subsequently directed the applicant to channel leachate flows and b) the applicant has failed to do so; there is no evidence that both a) and b) have occurred, therefore the applicant is not out of compliance. Whether the County should have done more monitoring is a question that can be discussed but is not relevant to determining whether this condition has been complied with.</p> <p><u>Workgroup Committee</u></p> <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 			

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			
<ul style="list-style-type: none"> • 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>Comments</p> <p><u>County</u></p> <p>In Compliance. This is an advisory to the applicant rather than a condition that needed to be met.</p> <p><u>Workgroup Committee</u></p> <ul 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><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Compliance Status Unclear</p> <p>Basis: Compliance not demonstrated. Need DEQ solid waste permits from period 1983 to 2000.</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			
<u>Subcommittee Member – Republic</u> This condition is no longer relevant. There have been multiple iterations of subsequent DEQ permits since 1983.			

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			
1. The facility shall be housed in a structure approximately 50 by 100 feet or less in size, as described in the application materials.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. Original generator building 3,900 square feet. Superseded by subsequent expansion approval.</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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. Noise testing completed in 1997.</p> <p><u>Workgroup Committee</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			
<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>			
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>Comments</p> <p><u>County</u></p> <p>In Compliance. The applicant is only required to provide documentation at the request of the Planning Official. Available records do not indicate any such requests by the Planning Official.</p> <p><u>Workgroup Committee</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			
<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>			
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>Comments</p> <p><u>County</u></p> <p>In Compliance. The requirement is that the applicant send a copy of the DEQ permit to the county, so the county is simply a receiving body for this information. 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</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			
<p>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>Comments</p> <p><u>Staff</u></p> <p>In Compliance. The applicant submitted for a new CUP approval (S-97-58) for the expansion of the facility.</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 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>			

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			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. Monitoring of this condition is complaint driven. Staff has no records of complaints regarding lights at the power generation facility.</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> <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>			

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			
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."			
7. Obtain all required septic, access, building, plumbing, mechanical, electrical, and other applicable permits prior to construction.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. Staff was able to find the following permits: Electrical - C9500565, C9501197, C9600514, C9600852. No building permits were found but this does not mean that they were not submitted, it is more a function of the county's issues related keeping track of old records. Ultimately, if the permits had not been submitted and approved and the building inspected then the building could not have been put into use.</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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager believe that the record and rational of this land use proceeding is relevant to the evolution of the Coffin Butte Landfill.

Compliance Opinion: None given as of 12/11/22

Basis: Low Priority

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.

Open Items: need to review this documentation

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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager believe 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.

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			
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>Comments</p> <p><u>County</u></p> <p>In Compliance. 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>			
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>Comments</p> <p><u>County</u></p> <p>In Compliance. Staff was able to find the following permits: Permit B0700147 Phase I expansion & Permits B0700323, B0700416, B0700415, F0600068, B1400497. Zoning Compliance review occurs concurrent with the construction plan review to ensure that the site plan submitted with the building permit meets county regulations and conditions of approval.</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>Compliance Opinion: None given as of 12/11/22</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			
Basis: Low Priority			
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>Comments</p> <p><u>County</u></p> <p>In Compliance. 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 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>			

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			
<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>Comments</p> <p><u>County</u></p> <p>In Compliance. Available records do not indicate any requests for noise monitoring 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 • Not enough information <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>			

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			
<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> <ul style="list-style-type: none"> a) Drinking water within the generating plant building by a potable water container, refilled periodically; b) A portable toilet located at the generating plant site; 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; d) Generating plant employees shall have vehicles available for trips to the Coffin Butte Landfill office restroom facilities; e) The maximum number of generating plant employees shall be five (5). 			
<p><u>Comments</u></p> <p><u>County</u></p> <p>In Compliance. An OSHA letter from September 29, 1997, relating to the toilet facilities and drinking water stated that the facility was compliant with OSHA standards for sanitation. The County does not monitor ongoing compliance with conditions such as this, unless there is reason to believe the operation may be out of compliance.</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>			

Date	File #	Request	Result
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Conditions of Approval			
Compliance Opinion: None given as of 12/11/22			
Basis: Low Priority			
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>Comments</p> <p><u>County</u></p> <p>In Compliance. 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>			
7. Lighting shall be located so that it does not face directly, shine, or glare onto an adjacent road or property.			
Comments			

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			
<p><u>County</u></p> <p>In Compliance. Monitoring of this condition is complaint driven. There are no records of any complaints. If there is current concern that the power plant lighting is out of compliance with this condition that could be investigated, but at this time there is no evidence of noncompliance.</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 <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>			
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>Comments</p> <p><u>County</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			
<p>In Compliance. The document was submitted and recorded.</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> <p>Basis: Low priority</p>			
<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 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> <ol style="list-style-type: none"> Emergency access to the local water supply in the event of a wildfire or other fire-related emergency; 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 Emergency water supplies shall be clearly marked along the access route with a Fire District approved sign. 			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. This is a standard requirement for a building permit. The site plan and construction drawings are reviewed by the applicable fire agency. The agency supplies a review based on adopted fire requirements and state fire codes. The building permit for the addition could not have been approved without fire review.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • Republic: Republic Services is also conducting further research. 			

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Conditions of Approval			
<ul style="list-style-type: none"> • 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>Comments</p> <p><u>County</u></p>			

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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			
<p>In Compliance. Standard advisory condition. 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			
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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. 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>			
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			

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Conditions of Approval			
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>Comments</p> <p><u>County</u></p> <p>In Compliance. This would be Coffin Butte Road and this road is paved.</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> <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>			
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			

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Conditions of Approval			
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>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. The 1.43 acres is located along the north side of the quarry and the landfill. This is now part of a landfill cell so screening just this small piece of land is impracticable. The wording of this condition is unfortunately subjective, making determination of compliance not clear and objective.</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. <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>			

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<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>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. This 1.43 acres is no longer being quarried.</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>			

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Conditions of Approval			
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.			
5. Provide on-site parking for employees, customers, and visitors to the mining site.			
<p>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. This 1.43 acres is no longer being quarried.</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>			
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.			

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Conditions of Approval			
<p>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. This 1.43 acres is no longer being quarried.</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>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.			
<p>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. This 1.43 acres is no longer being quarried.</p> <p><u>Workgroup Committee</u></p>			

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Conditions of Approval			
<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. <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>			
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>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. This 1.43 acres is no longer being quarried.</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). 			

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Conditions of Approval			
<ul style="list-style-type: none"> • "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. <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>			
9. The applicant shall retain the dual-access road system to provide for emergency service access to the subject site.			
<p>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. This 1.43 acres is no longer being quarried.</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). 			

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Conditions of Approval			
<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>			
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>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. This 1.43 acres is no longer being quarried.</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>			

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Conditions of Approval			
<u>Subcommittee Member – Republic</u> 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.			
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.			
Comments <u>County</u> County Requirement Superseded. This 1.43 acres is no longer being quarried. <u>Workgroup Committee</u> <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. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. Compliance Status Unclear. County records need to be reviewed			

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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			
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.			
<p>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. This 1.43 acres is no longer being quarried.</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			
1. Obtain approval from the Oregon Department of Environmental Quality for landfill operations on this site.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. 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> <p>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</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			
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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. 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> <p><u>Subcommittee Member – Republic</u></p> <p>This condition is moot. There are no unpaved public roads serving the landfill; this condition is not applicable.</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			
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>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. This condition is only applicable to the 1.43-acre site, not the entire landfill. Since the site was incorporated into a cell, this condition is no longer relevant.</p> <p><u>Workgroup Committee</u></p> <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. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>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.</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>There is no evidence that Republic is not in compliance.</p>			
4. Provide on-site parking for employees, customers, and visitors to the landfill site.			

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			
<p>Comments</p> <p><u>County</u></p> <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</p> <p><u>Subcommittee Member – Republic</u></p> <p>Republic has multiple parking spots at its office and scale house.</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>Comments</p> <p><u>County</u></p> <p>In Compliance. 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>			

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Conditions of Approval			
<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>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. This condition only applies to the 1.43-acre site, not the entire landfill so cannot be enforced.</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. • "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. 			

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Conditions of Approval			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
<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>			
<u>Subcommittee Member – Republic</u>			
<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>			
7. The applicant shall retain the dual-access road system to provide for emergency service access to the subject site.			
Comments			

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Conditions of Approval			
<p><u>County</u></p> <p>In Compliance. Complete. The landfill is accessible from Tampico Road (via Soap Creek Road) and from Hwy 99W (via Coffin Butte Road).</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. <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>			
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>Comments</p> <p><u>County</u></p> <p>In Compliance. The applicant indicates they are in compliance with this condition.</p> <p><u>Workgroup Committee</u></p>			

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Conditions of Approval			
<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> <p>Compliance Opinion: Compliance Status Unclear</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>			
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>Comments</p> <p><u>County</u></p> <p>In Compliance. The condition only requires that copies of documentation are given to the County, not that the county review and ensure that the applicant is in compliance with DEQ conditions. The county regularly receives copies of these documents.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • Are these available for inspection, and if so, where? 			

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Conditions of Approval			
<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 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 “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><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>			
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.			
Comments			

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Conditions of Approval			
<p><u>County</u></p> <p>In Compliance. The condition only requires that copies of documentation are given to the County, not that the county review and ensure that the applicant is in compliance with DEQ conditions. The county regularly receives copies of these documents.</p> <p><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			
1. The applicant shall continue to operate within the approval of the Oregon Department of Environmental Quality Solid Waste Disposal Permit No 306.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. 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 with the County land use approval as well as DEQ rules.</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. • 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: In Compliance</p>			
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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. Coffin Butte Road was paved.</p> <p><u>Workgroup Committee</u></p>			

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Conditions of Approval			
<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>			
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>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. County monitoring of this condition is complaint-based and this condition would only have applied to landfill uses on the 9.45 acre property which has been incorporated into a larger landfill cell.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none"> • County does not monitor. • 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,</p>			

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Conditions of Approval			
<p>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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. Complied with.</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.</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>			
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.			

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Conditions of Approval			
<p>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. This condition was only applicable to the 9.45 acre site. But, all landfill areas adjacent to public roads have a security fence. 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>Comments</p> <p><u>County</u></p> <p>County Requirement Superseded. This condition only applied to the 9.45-acre site that has been incorporated into a larger landfill cell. No operating hour requirement has been applied to the entirety of the landfill.</p> <p><u>Workgroup Committee</u></p>			

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Conditions of Approval			
<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> <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. See further discussion above.</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			
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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. The landfill is accessible from Tampico Road (via Soap Creek Road) and from Hwy 99W (via Coffin Butte Road)</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 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>Comments</p> <p><u>County</u></p>			

Date	File #	Request	Result
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Conditions of Approval			
<p>In Compliance. The requirement for the county to receive copies of the documents and 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> <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>			

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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			
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>Comments</p> <p><u>County</u></p> <p>Compliance Status Unclear. The applicant indicates they placed a screen between the triangle and Hwy 99W but it either died or was destroyed by subsequent development.</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 <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>			

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Conditions of Approval			
<u>Subcommittee Member – Republic</u> As noted previously, Republic did plant a buffer in 2016.			
10. Approval shall be obtained from the Oregon Division of State Lands for any activities on the subject property that affect designated wetlands.			
Comments <u>County</u> In Compliance. 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. <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. • 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 <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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? Compliance Opinion: Compliance Not Demonstrated. Basis: No record of required action provided.			

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Conditions of Approval			
<u>Subcommittee Member – Republic</u>			
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			
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			
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).			
Comments			
<u>County</u>			
In Compliance. Standard condition requiring the applicant to implement the conditional use permit as described in their application. Planning staff reviews the building permit to ensure that the site plan meets county code requirements and Conditions of Approval. The building permit would not have been issued without planning staff approval.			

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			
<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> <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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. Completed. Issuance of the building permit is confirmation that the declaratory statement was signed.</p> <p><u>Workgroup Committee</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			
<ul style="list-style-type: none"> • has staff verified documentation <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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? Compliance Opinion: Compliance Not Demonstrated. Basis: No record of required action provided.			
3. The applicant shall demonstrate compliance with the applicable siting standards specified in BCC 60.405 through materials submitted for issuance of building permits.			
Comments <u>County</u> In Compliance. Standard advisory condition. Issuance of the building permit is confirmation that the siting standards were met. <u>Workgroup Committee</u> <ul style="list-style-type: none"> • certificate of occupancy? ADA compliance? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion			
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.			

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			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. Standard advisory condition.</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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. Standard advisory condition. 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? 			

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Conditions of Approval			
<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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. Coffin Butte Road is entirely paved.</p> <p><u>Workgroup Committee</u></p> <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, 			

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Conditions of Approval			
<p>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.</p> <ul style="list-style-type: none"> • 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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. This condition only applies to the recycling and transfer station which is unlikely to create more noise than the landfilling activities.</p> <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. 			

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Conditions of Approval			
<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 (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.			
<p>Comments</p> <p><u>County</u></p> <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 			

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Conditions of Approval			
<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>			
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>Comments</p> <p><u>County</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> <p><u>Subcommittee Member – Republic</u></p> <p>Republic is in compliance. The closest public road (HW 99) is more than 200 feet away from the public drop off facility.</p>			
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.			

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			
<p>Comments</p> <p><u>County</u></p> <p>This condition should have been revised to apply directly to the recycling and transfer station, not the entire landfill. This condition, as written, is unenforceable.</p> <p><u>Workgroup Committee</u></p> <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 <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>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?</p> <p>In Compliance_Edward Pitera (112322)</p>			

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Conditions of Approval			
<u>Subcommittee Member – Republic</u> 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).			
7. (11)The applicant shall retain the dual-access road system to provide for emergency service access to the subject site.			
Comments <u>County</u> In Compliance. <u>Workgroup Committee</u> <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. <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.			
8. OMITTED			N/A

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			
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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. 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"> • 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 • 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>			

Date	File #	Request	Result
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Conditions of Approval			
<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>			
<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>Comments</p> <p><u>County</u></p> <p>In Compliance. 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>			

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			
<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			
<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>Comments</p> <p><u>County</u></p> <p>In Compliance. This would have been checked through site plan review.</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>			
<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.</p>			
<p>Comments</p> <p><u>County</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			
<p>In Compliance. This was recorded as required.</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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. Standard advisory condition.</p> <p><u>Workgroup Committee</u></p> <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? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion</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			
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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. Standard advisory condition.</p> <p><u>Workgroup Committee</u></p> <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. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>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.</p> <p>Compliance Not Demonstrated. County records need to be reviewed.</p> <p><u>Subcommittee Member – Republic</u></p> <p>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.</p>			
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.			

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			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. 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> <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>			

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			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. 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> <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>Comments</p> <p><u>County</u></p> <p>In Compliance. This condition is only applicable to the staging and storage area which is unlikely to create noise greater than the landfill operation.</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			
<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>			
4. (8) Provide on-site parking for employees, customers, and visitors to the Landfill site.			
<p>Comments</p> <p><u>County</u></p> <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>			

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Conditions of Approval			
<p>No Compliance Opinion -Edward Pitera (112322)</p> <p><u>Subcommittee Member – Republic</u></p> <p>Republic agrees with Staff.</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>Comments</p> <p><u>County</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> <p><u>Subcommittee Member – Republic</u></p> <p>Republic agrees with staff.</p>			
<p>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.</p>			
<p>Comments</p> <p><u>County</u></p> <p>This condition should have been revised to only apply to the staging and storage area. As written, it is unenforceable.</p>			

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Conditions of Approval			
<p><u>Workgroup Committee</u></p> <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 <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>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?</p> <p>In Compliance_-Edward Pitera (112322)</p> <p><u>Subcommittee Member – Republic</u></p> <p>Republic references our prior comments on the same condition.</p>			
7. (11)The applicant shall retain the dual - access road system to provide for emergency service access to the subject site.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance.</p>			

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Conditions of Approval			
<p><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></p> <p>No Compliance Opinion (Mark Yeager 121622 & Edward Pitera (112322))</p> <p><u>Subcommittee Member – Republic</u></p> <p>Republic is in compliance</p>			
8. <i>OMITTED</i>		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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance.</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 			

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Conditions of Approval			
<p>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> <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 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>Comments</p> <p><u>County</u></p> <p>In Compliance.</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			
<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.			
<p>Comments</p> <p><u>County</u></p> <p>In Compliance. This is a standard condition requiring applicant to implement the land use as they proposed it in the application. The County has no evidence that implementation was significantly modified from what was approved.</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>			

Republic is in compliance
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>Comments</p> <p><u>County</u></p> <p>In Compliance. 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: 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>	Planning Commission Denied; PC Decision Appealed; Application Withdrawn
<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.</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: 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>			

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>
<p>Planning Department designated Conditions of Approval – as the application was withdrawn, these conditions hold no authority.</p> <p>Preliminary Approval Conditions</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>			

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.

- (A) 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.
- (B) 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.
- (C) 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.

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
<p align="center">2 1974 CP-74-01</p>	<p>Condition 3</p> <p>About 30 million gallons per year of leachate (about twenty 5,500 gallon tank trucks per day) are trucked offsite to city treatment systems</p>	<p>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.</p> <p><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.</p>
<p align="center">2</p>	<p>Condition 6</p> <p>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</p>	<p>The issue of when the landfill is ready for reclamation and what that reclamation will look like needs to be clarified to appropriately manage community expectations for the ultimate disposition of the landfill.</p> <p>It is suggested the County bring some clarity to this condition by:</p> <ol style="list-style-type: none"> 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? 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

Document Number from Table 1	Observations	Suggestions and Recommendations to the County
	slopes. There is no mention of visual screening.	<p>Commissioners.” e.g., a park with walking trails much like the Baylands Nature Preserve in Palo Alto, CA.</p> <ol style="list-style-type: none"> 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</p> <p>Concerning recycling program. 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>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
<p>3 1983 PC-83-07 / L-83-07</p>	<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>
<p>3</p>	<p>Decision text and "conditions" are sometimes difficult to easily determine especially in older County decision documents (See analysis by M Yeager (Dec 2022))</p>	<p>Future decisions clearly convey basis of Approval. Example: "Condition of Approval: This approval is based upon the application, 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>

Document Number from Table 1	Observations	Suggestions and Recommendations to the County
		<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 Lighting at Power Plant	Establish and widely advertise a County process for receiving, tracking, and resolving landfill and power plant related noise complaints.
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.

Document Number from Table 1	Observations	Suggestions and Recommendations to the County
15	<p>Condition 9</p> <p>“...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”.</p>	<p>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).</p>
General	<p>Odor issues do not seem to be mentioned</p>	<p>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).</p> <p>Reviews of Title V Permits are needed to determine if odor is addressed there.</p> <p><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.</p>

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>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: Instances of Unclear Compliance Monitoring by the County

PC-83-07/L-83-07	
Condition 9.	Staff Comment. In Compliance. This is an item under the oversight of 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.
PC-94-03	
Condition 4.	Staff Comment. In Compliance. The requirement is that the applicant send a copy of the DEQ permit to the county, so the county is simply a receiving body for this information. 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 6.	Staff Comment. In Compliance. Monitoring of this condition is complaint driven. Staff has no records of complaints regarding lights at the power generation facility.
S-97-58	
Condition 3.	Staff Comment. In Compliance. 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.
Condition 4.	Staff Comment. In Compliance. Available records do not indicate any requests for noise monitoring by the Planning Official.
Condition 6.	Staff Comment. In Compliance. 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 7.	Staff Comment. In Compliance. Monitoring of this condition is complaint driven. There are no records of any complaints. If there is current concern that the power plant lighting is out of compliance with this condition that could be investigated, but at this time there is no evidence of noncompliance.
PC-99-06	

Condition 1.	Staff Comment. In Compliance. 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.
PC-02-07	
Condition 9.	Staff Comment. In Compliance. The condition only requires that copies of documentation are given to the County, not that the county review and ensure that the applicant is in compliance with DEQ conditions. The county regularly receives copies of these documents.
Condition 10.	Staff Comment. In Compliance. The condition only requires that copies of documentation are given to the County, not that the county review and ensure that the applicant is in compliance with DEQ conditions. The county regularly receives copies of these documents.
PC-03-11	
Condition 3.	Staff Comment. County Requirement Superseded. County monitoring of this condition is complaint-based and this condition would only have applied to landfill uses on the 9.45 acre property which has been incorporated into a larger landfill cell.
Condition 8.	Staff Comment. In Compliance. The requirement for the county to receive copies of the documents and 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. In Compliance. 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. In Compliance. Standard condition requiring the applicant to implement the conditional use permit as described in their application. Planning staff reviews the building permit to ensure that the site plan meets county code requirements and Conditions of Approval. The building permit would not have been issued without planning staff approval.
Condition 3.	Staff Comment. In Compliance. Standard advisory condition. Issuance of the building permit is confirmation that the siting standards were met.
LU-13-061	

Condition 3.	Staff Comment. In Compliance. Standard advisory condition.
LU-15-001	
Condition 1.	Staff Comment. This is a standard condition requiring applicant to implement the land use as they proposed it in the application. The County has no evidence that implementation was significantly modified from what was approved
Condition 2.	Staff Comment. In Compliance. 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.

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

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 C5: Subcommittee Reports: Community Education & Outreach

Introduction and Themes

Community engagement “means having two-way communication with the public as plans are prepared, and decisions are made.”¹²³ Benton County relies on community participation for all aspects of government policies and decisions that affect the lives of County residents. In June 2021, Republic Services applied for a Conditional Use Permit (CUP), a County-required regulatory step that would have allowed for the expansion of Coffin Butte Landfill. Some community members felt they had little opportunity to offer input, provide information, or otherwise use their voices during the County’s land use decision-making.

The Benton County Planning Commission denied Republic’s CUP request in December 2021, at which point Republic Services withdrew its appeal; the company is expected to file a new CUP request in 2023. The Solid Waste Management Workgroup was formed to make recommendations about this future process of the CUP and promote more knowledge and communication throughout the community. The County and other community volunteer-led groups like the Solid Waste Advisory Committee (SWAC) and the Planning Commission have legal criteria they must follow to make decisions about land use issues. To make these decisions, community participants are critical. This document provides outreach recommendations to ensure that community inclusion is actively promoted in the next CUP process and future land use decisions that are vital to community development and well-being.

The main themes identified so far during the process of developing this plan include the need to provide more inclusive and expansive community outreach for the next CUP process, update community outreach methods to include more young, low-income, and underserved populations, provide language accessibility and translation, organize in-person events that occur where community members already go, utilized websites and other online technology since smartphones are highly accessible to most residents and organization of community comments and concerns need to be clearly accessible and utilized. The consultation of the Benton County Diversity and Inclusion department will be utilized.

Goals and Objectives

- Best practice recommendations for Benton County communication and outreach with the public for the next CUP and future communications concerning the Sustainable Materials Management Plan (SMMP.)
- Review past CUP processes and standard Benton County Communication practices.
- Provide ideas and feedback for the BCTTC, SWAC, and the PC to help in Community Engagement.
- Develop an outreach plan that allows the Community more time to be involved in the CUP and other Land Use processes in the future and gives the County more access to Community input for decision-making.
- Develop FAQs for Community Education resources.

¹²³ Oregon Department of Land Conservation and Development (DLCD). (2019). Putting the people in planning. https://www.oregon.gov/lcd/Publications/PPIP-Final_2019-06-30.pdf

Review of Past and Standard Legal Requirements for County Communication and Outreach with the Community for Coffin Butte Landfill CUP application and the Usual CUP Process

Benton County's Solid Waste Advisory Council recommended approval of Republic Services' CUP request in October 2021, sending it on to the Planning Commission. That body held two public hearings in November 2021, and the public was given an additional 15 days to comment after the second hearing, which was held on Nov. 16. On December 7, 2021, the Planning Commission denied the CUP request, "saying the proposed closing of Coffin Butte Road would create an "undue burden" on the surrounding neighborhood and that Republic had not effectively answered questions from the community on noise, odor, and other public health impacts of the expansion as well as its effects on the environment and wildlife." Republic Services appealed the CUP permit application denial and stated that the Planning Commission misapplied the criteria guidelines for the CUP acceptance.¹²⁴

This process ended with Republic Services withdrawing its appeal to work with Benton County and the community to try to come to a common understanding through the situational assessment and this workgroup process. During the CUP process, the community expressed that the County communicated ineffectively.¹²⁵

The Community Education and Outreach Report workgroup recommends that the County take steps to improve communication and outreach before the next CUP application is made by Republic Services to improve community participation and education in the process. The workgroup recommends that the notification process for the CUP allows more time for community involvement and education.

The usual Benton County criteria for notification and communication for CUP applications are noted below:

Once the CUP application is submitted, County officials have 30 days to decide whether it is complete. During these 30 days, the community can be given an opportunity to comment on the completeness of the application; however, while there is NO legal requirement for public comment during this period, it is encouraged. The time frame of 30 days to decide if the CUP is complete is short, allowing minimal time for meaningful public input. The County has encouraged BCTT to create a list of things that would signify a complete application.¹²⁶

The time limit for the final decision is 150 days from the time the CUP application is deemed complete; this process may be paused if the applicant states a reason in writing. The pause can last up to 215 days as an extension to the 150-day limit. Once this 150-day clock starts, all property owners located 750 feet from the property owned by the CUP applicant are legally required to be notified of the CUP per the Development Code. For Coffin Butte, this requirement is 750 feet from the property lines of the Landfill. Any property that lies partially

¹²⁴ Benton County Oregon. (n.d.). Planning commission home. <https://www.co.benton.or.us/pc>

¹²⁵ ICMresolutions. [n.d.]. *Benton County Solid Waste Situational Assessment Report* (Benton County) <https://www.co.benton.or.us/sites/default/files/fileattachments/planning_commission/page/2966/benton_county_solid_waste_assessment_7-12-22_final_report.pdf>

¹²⁶ Benton County Oregon. (2022). 150-Day Limit on Land Use Application Review. https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8384/150-day_time_limit_v3.docx

or fully in these 750 feet requirements is entitled to a mailed notification. The 750 feet requirement is a minimum, and the County is encouraged to send notifications to property owners who would be affected by the proposed land use decision even if these property owners aren't within the 750 feet requirement. However, this notification doesn't have to be physically mailed, as it does in the 750 feet requirement. Notices must also be sent to any neighborhood or community organization recognized by the Board of County Commissioners and whose boundaries include the site; an example is a Community Advisory Committee. When a hearing is required, there must be publication at least ten days before the hearing as a notice in a newspaper within the County. The CUP application must also be reviewed by the Solid Waste Advisory Council (SWAC); there is nothing stating that any specific notification of this SWAC meeting is required (beyond the normal notice that is sent out for regularly scheduled SWAC meetings.)¹²⁷

When there is a decision on the land use request, there are also communication requirements, including a notice of decision mailed to all people who submitted testimony (if there is a hearing). If a Planning Official made the decision, notifications must be sent to property owners within the 750 feet requirement. The same requirements as stated above also apply if the application is appealed.¹²⁸

County officials have provided a variety of community notifications beyond what is legally required. The notification plan includes staff encouraging the applicant to hold a public informational meeting before submitting the application. This can give the applicant beneficial public input as well as the applicant giving members of the public more information about the pending application. Once the application is complete and legal notifications have been fulfilled, the County often emails a list of people who have requested notification for land use applications. Sometimes, information on more extensive land use applications is posted on the Community Development Department website. These are often applications that require a public hearing before the Planning Commission. Once the decision has been made, the legal requirement for a decision made at a public hearing is to mail notice of decision for those who testified; however, often the County can mail notice to owners of property close to the land use applicant as well.¹²⁹

Standard and Past Benton County Community Outreach

The County already has channels of communication that are used to notify the public, including email lists, the Benton County website and newsletter, and social media. Facebook accounts include The Sheriff's Office, BC central page, Natural Areas & Parks, Human Resources, Event Center & Fairgrounds, Developmental Diversity Program, WIC, Community Health Centers of Benton and Linn Counties, and the Health Department. The County also organizes and

¹²⁷ " "

¹²⁸ " "

¹²⁹ Benton County Oregon. (2022). 150-Day Limit on Land Use Application Review. https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8384/150-day_time_limit_v3.docx

participates in Community events, advertising, mailers, and other communication tools are used when time and resources are available.¹³⁰

Benton County Standard Notification Channels and Examples:

1. Emails
 - a. Interested parties list and organic subscribers list.
 - b. Communication Partners (local network group)
2. Post in newsletters, both internal and external
 - a. [Benton County organic subscribers on Constant Contact](#)
 - b. [Constant Contact Health Community Partner email English/ Spanish](#) (PreK-12, Faith, Community Based Organizations (CBOs,) and HOPE, etc.)
3. County Website
 - a. Website Banner
 - b. Website [English Press Release](#)
 - c. Website [Spanish Press Release](#)
 - d. Website [Traditional Chinese \(Cantonese\) Press Release](#)
 - e. Website [Simplified Chinese \(Mandarin\) Press Release](#)
4. Local radio and newspaper advertisements are occasionally used, [LatinX Radio Partners](#)
5. Flash Alerts, [Media Partners](#)
6. Social Media (These are all sites are self-selected/need following)
 - a. [Nextdoor](#)
 - b. [Linktree](#)
 - c. [Facebook](#) Sheriff's Office, General BC Page, Health Department, Natural Areas & Parks, Human Resources, Event Center & Fairgrounds, Developmental Diversity Program, WIC, and Community Health Centers of Benton and Linn Counties.
 - d. [Twitter](#)
 - e. [LinkedIn](#)
 - f. [Instagram](#)
 - g. [Flick](#)

Recommendations by Subcommittee E for Considerations for Improved Outreach

There are many issues to consider with community engagement; one of these is community members being left out of notification channels. **This most frequently happens with engagement approaches based on interests, such as email lists and other channels, where**

¹³⁰ Benton County Oregon. (2022). Benton County Talks Trash solid waste process workgroup communication and outreach plan.
https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8384/imperati_grogan_121222_fw_bctt_subcommittee_e_swppwg_communication_outreach.pdf

community members are required to initiate contact. When projects center on time and money instead of community member empowerment, disadvantaged residents are the most affected. To include these underserved community members (See CEO Appendix A), it is crucial that organizations prioritize reaching out rather than solely focusing on their own interests. Studies have shown that underserved populations have reported never being asked to be involved in public decision-making.¹³¹ There are two main ways to improve outreach to these underserved groups - widening public engagement and using multiple outreach methods.

Widening public engagement can include specifically targeting underserved groups, such as low-income and younger residents. One way to specifically target younger residents is by using notifications that are mobile-friendly, such as texts and ensuring that website pages and documents are mobile-friendly. Broader methods of social media outlets such as Snapchat, Reddit, and Tik Tok should be explored.

To widen public engagement, it is also crucial that the information is easily understood; this includes language inclusion. Community members with limited English proficiency need to be included: Spanish, (Mandarin and Cantonese), and Pacific Islander languages must be considered for informational materials and interpreter services.¹³² While the County should focus on getting information to anyone with an interest in the land-use decision, the County should consider using an [EJScreen - EPA](#) to determine populations affected by environmental injustice and made be affected by land-use decisions.^{133 134}

Providing clearly defined procedures for how the community can get involved in easy-to-read language, including methods like infographics, is needed. It is also imperative that there is two-way communication and that the County listens to and incorporates voices from the community; this can include creating user-friendly access to public input documents and testimonies during the process to ensure the County, Planning Commission, SWAC, and other residents can access information.¹³⁵ This could be on a dedicated landfill website or an open house website. The County "Equity, Diversity, and Inclusion Coordinator" needs to be utilized to improve outreach efforts.

As mentioned in the Review of Past Communication with Public section above, it is legally required once the 150-day clock has started to notify individuals within 750 feet of the applicant's property lines. However, in order to widen communication it is recommended that this radius be expanded based on the magnitude of the notification (see Table 1 and Figures 1 and 2). As mentioned in the table, these notifications are intended for all CUP applications, not just the CUP for Coffin Bute Landfill. Further discussion is needed regarding notifications for

¹³¹ De Weger, E., Baan, C., Bos, C., Luijckx, K., & Drewes, H. (2022). 'They need to ask me first'. Community engagement with low-income citizens. A realist qualitative case- study. *Health expectations: an international journal of public participation in health care and health policy*, 25(2), 684–696. <https://doi.org/10.1111/hex.13415>

¹³² Samaritan Health Services. (2022). Equity and inclusion plan. <https://www.samhealth.org/-/media/SHS/Documents/English/001-General-Brand/001-SHS-Equity-and-Inclusion-Plan-0420.pdf>

¹³³ Oregon Department of Land Conservation and Development. (2019). Putting the people in planning. https://www.oregon.gov/lcd/Publications/PPIP-Final_2019-06-30.pdf

¹³⁴ Public Input (2021). How do I get the word out? The first step of public engagement. <https://publicinput.com/wp/get-the-word-out-first-step-of-public-engagement/>

¹³⁵ Oregon.gov. (2022). Oregon's Statewide Planning Goals and Guidelines <https://www.oregon.gov/lcd/OP/Documents/goal01.pdf>

CUPs that affect the community less significantly and if they may have different notification standards.

Secondly, using multiple outreach methods is imperative to improving outreach to underserved groups. An essential aspect of this is utilizing notification styles that don't require to be followed or self-selected. The County should initiate communication on other social media sites, such as the ones that these underserved populations frequent the most. The County needs to provide active outreach and seek out contact with the community on social media and other methods of communication.^{136 137} Posts in community groups on Facebook such as Corvallis Happenings, should be initiated by the County.

In addition to widening social media posts, social media advertisements would also allow the County to initiate contact and the user to then decide if they want to get further notifications on the topic. Social media advertisements are recommended due to allowing targeting of underserved populations and their cost-effective nature as governments and nonprofits can get low rates.^{138 139} Once the County has made a subsequent effort to initiate contact, it is essential to utilize email and online surveys.¹⁴⁰ The subcommittee also recommends that the County communicates and engages with the community before the CUP application is placed.

Other considerations can include recruiting members to the Planning Commission and the SWAC. The recruitment of members to these groups should be done through notification styles mentioned that widen community public engagement and use multiple outreach methods to ensure that as many groups as possible are being represented on the SWAC and the Planning Commission.¹⁴¹

Specific Plans for Communication have also been discussed and are shown below:

- Communicate via a Countywide postcard mailing that invites the community to an in-person Open House and/or Online Open House and provides a link and QR code to sign up to be on an email list for more information and to make comments. This method could also be used to create a survey for the public to comment on BCTT Workgroup recommendations. Then the results of this survey could be shared with the community to further inform the community of other residents' opinions and attitudes.¹⁴²
- Connecting with the community online is now standard for projects and is recommended. An open house or a website page dedicated to the Landfill CUP could

¹³⁶ De Weger, E., Baan, C., Bos, C., Luijckx, K., & Drewes, H. (2022). 'They need to ask me first'. Community engagement with low-income citizens. A realist qualitative case- study. *Health expectations: an international journal of public participation in health care and health policy*, 25(2), 684–696.
<https://doi.org/10.1111/hex.13415>

¹³⁷ Oregon.gov. (2022). Oregon's Statewide Planning Goals and Guidelines <https://www.oregon.gov/lcd/OP/Documents/goal01.pdf>

¹³⁸ Public Input (2021). How do I get the word out? The first step of public engagement.
<https://publicinput.com/wp/get-the-word-out-first-step-of-public-engagement/>

¹³⁹ Oregon.gov. (2022). Oregon's Statewide Planning Goals and Guidelines
<https://www.oregon.gov/lcd/OP/Documents/goal01.pdf>

¹⁴⁰ Land Conservation and Development Commission. (2019). Land conservation and development commission public participation guidelines for policy development.
https://www.oregon.gov/LCD/About/Documents/20190125_PublicParticipationGuidelines.pdf

¹⁴¹ Benton County Oregon. (2022). Dissemination of Information Draft Memo.

¹⁴² Oregon.gov. (2022). Oregon's Statewide Planning Goals and Guidelines
<https://www.oregon.gov/lcd/OP/Documents/goal01.pdf>

have links for comments, surveys, notices, and education and would provide easy and broad community access.¹⁴³

- If the mailer is too expensive, use multiple outreach methods and advertisements to provide outreach for an in-person open house and/or an online open house or website with interactions like surveys, notices, comments, and education. The community's interaction with the applicant is very important as well, so tours of the landfill, collaborative planning sessions, and further communication between the community and the applicant is suggested.¹⁴⁴
- Managing controversy requires in-person approaches. Community in-person interaction will be needed for this process due to the different points of view and concerns about landfill expansion. Transparency and trust between all stakeholders is imperative. This County can achieve this through increasing community conversations and input at meetings and providing in-person opportunities such as an open house, hearing, and other events where the County can listen for concerns and solutions. Community input needs to be organized and accessible. The County Website link where the public input is being composed is a good start. The BCTT Workgroup, SWAC, Planning Commission, and other communities need to be able to access the main concerns for community decision-making.^{145 146} A community involvement advisory committee specializing in outreach and engagement for all land use policy decisions could improve future communication.¹⁴⁷

Key Findings

Public engagement needs to be widened and become more inclusive. This is most likely to be achieved through the following measures:

CEO F-1 Insure language accessibility for at least the County's most used languages. (English, Spanish, Mandarin, and Cantonese)

CEO F-2 Use methods that help target underserved populations, particularly youth and low-income demographics.

- a. This can be achieved through more SMS communication and ensuring all websites and surveys are mobile-friendly.
- b. Increase social media communication and expand to more platforms. (Reddit, TikTok, Sub-Reddit, etc.)
- c. Utilize social media advertising.

¹⁴³ Oregon Department of Land Conservation and Development. (2019). Putting the people in planning. https://www.oregon.gov/lcd/Publications/PPIP-Final_2019-06-30.pdf

¹⁴⁴ Department of Land Conservation and Development. (2022). Wildfire adapted communities' community engagement and stakeholders summary. https://www.oregon.gov/lcd/NH/Documents/20220930_DLCD_Wildfire_Community-Stakeholder-Summary.pdf#

¹⁴⁵ Oregon Department of Land Conservation and Development. (2019). Putting the people in planning. https://www.oregon.gov/lcd/Publications/PPIP-Final_2019-06-30.pdf

¹⁴⁶ Public Input (2021). How do I get the word out? The first step of public engagement. <https://publicinput.com/wp/get-the-word-out-first-step-of-public-engagement/>

¹⁴⁷ Land Conservation and Development Commission. (2019). Land conservation and development commission public participation guidelines for policy development. https://www.oregon.gov/LCD/About/Documents/20190125_PublicParticipationGuidelines.pdf

CEO F-3 Use outreach methods that do not require people to be pre-signed up or self-selected. This includes, but is not limited to, flyers in public spaces, paid advertising on social media, in newspapers, and on the radio, informational mailers, and other resources.)

CEO F-4 Create user-friendly access to public input documents and testimonies during the process to ensure Benton County, Planning Commission, SWAC, and others.

Example of Possible Organizational Format for Community Discussions:

Community Comments

Issues/Concerns	Solutions

Examples of other Outreach Methods and Examples of other Community Engagement Campaigns

- Burnside Bridge Project in Multnomah County
 - a. An online open house was provided.
 - b. Instagram ads are used to reach the younger population.
 - c. Project has its own website [Earthquake Ready Burnside Bridge](#)
 - d. Provides community engagement survey results at several phases.
- SCORP (Statewide Comprehensive Recreation Plan) from OSU College of Forestry.
 - a. Used a letter with a link to a survey (See Example 1).

Conclusion

Community education and extended outreach is a vital steps of the land use application process. Making sure everyone in the community gets information about this process requires using two broad methods: specifically targeting underserved groups and using multiple outreach methods. Targeting underserved groups can include increased social media use and outreach methods that can be accessed with a phone. It is also imperative that communications are succinct and easily understood by the entire population as well as some communications that don't require community members to be pre-signed up. Using multiple outreach methods is also important, and during the process, the county should gauge the effectiveness of the communication strategy and change it if necessary.¹⁴⁸

¹⁴⁸ Oregon. gov (2022). Public Involvement Process Checklist
https://www.oregon.gov/lcd/About/Documents/Appendix_A-PI_Process_Checklist.pdf

Example 1.



Oregon State University

Forest Ecosystems and Society
Oregon State University
321 Richardson Hall
Corvallis, Oregon 97331
fes.forestry.oregonstate.edu

Para Español de vuelta a la página. November 14, 2022

7311 T21 P1
[Redacted]
[Redacted]
[Barcode]
[Redacted]

About a week ago, we sent you a survey on outdoor recreation and other topics as part of the 2024-28 Statewide Comprehensive Outdoor Recreation Plan project. If you've already completed the survey, please accept our thanks. If not, then please take a few minutes to complete it now.

Your responses are important, regardless of where you live or how often you engage in outdoor recreation. Outdoor recreation includes a variety of things you may do outdoors in your free time. Activities such as walking your dog, cycling on sidewalks, trails, and roads, relaxing at your local park, picnicking with family and friends, fishing and hunting, boating, camping, bird watching, sightseeing, playing outdoor sports like golf and tennis, attending outdoor concerts, are some of the many examples of outdoor recreation.

Please complete the survey even if you have not engaged in any outdoor recreation activities in the last 12 months. Please complete the survey at the following link by December 31, 2022.

Go to <https://bit.ly/3NOMU6s> and enter the following ID number to complete the survey: **16281**



If you have any questions about the survey, please contact me at 541-737-4425, or by e-mail at r.rosenberger@oregonstate.edu. Please visit our SCORP website at <http://bit.ly/3f1njPV> for more information. If you have any questions about your rights as a survey participant, please contact the OSU Institutional Review Board (IRB) Human Protections Administrator at 541-737-8008 or by e-mail at IRB@oregonstate.edu and reference OSU IRB #2022-1605.

Thank you very much for your participation,



Dr. Randall S. Rosenberger, PhD
Interim Department Head and Professor of Applied Economics

Table 1.

Key Recommendations

- Overarching recommendation that says to follow the following recommendations and who is responsible for doing them.
- County Development Department and county PIO are responsible for conducting communication and outreach.

Key Recommendations

Generally, these recommendations focus on the landfill. However, we recognize that absent a change to the code, they could potentially apply to all CUP expansions.

CEO R-1 County Development Department and County PIO are responsible for conducting communication and outreach.

CEO R-2 The Board should consider changes to these notification recommendations based on the potential impact of other CUP applications.

CEO R-3 Notifications for the **BCTT Survey** for public input on the Workgroup Report should include an email blast, website post, and displays or presentations where people already spend time (i.e., Library, community events). Notifications should consist of a 10-Mile radius from the landfill and should go out ideally a month before the survey closes.

CEO R-4 Notifications for the **BCTT Report completion** should include an email blast to the Interested Parties List, Organic Subscribers, those who spoke at the meetings, the Soap Creek Neighbors Group, and other landfill neighbors. Notifications should also include a possible postcard to the entire county with a link to go to and/or scan to get on a list to be informed of further updates and/or have an open house event/public informational meeting. It should be on a weekend during the day so that most people can attend, and the link and email list should be readily available. A 10-Mile radius from the landfill is proposed, and notifications should be sent 72 hours after the report is finished.

CEO R-5 Notifications for **Board Hearings on the report** should include a postcard, an email blast, a newspaper notification, and social media posts and advertisements. The postcards should be sent to everyone in a 10- or 15-Mile radius of the landfill, and notifications should be sent 24 hours after the board hearing is scheduled.

CEO R-6 The County should notify the public **when Republic first notifies the County** that they are planning on filing 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.

CEO R-7 Notifications for **CUP filings**, which includes **the application review process**, 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. A determination that an application is complete does not mean that the information satisfies the approval criteria.

CEO R-9 Notification when **County determines the application is complete** 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.

CEO R-10 Notifications for **SWAC Meetings** should include website posts and email blasts to interested groups and people already on the existing email list. The notifications should be sent one to two weeks before the meeting.

CEO R-11 Notifications of the **SWAC Recommendation** should include website posts and email blasts to interested groups and people already on the existing email list. The notifications should be sent out 24 hours after the recommendation.

CEO R-12 Notifications for **Planning Commission Meetings** should include website posts and email blasts to interested groups and people already on the existing email list. The notifications should be sent no later than two weeks before the meeting.

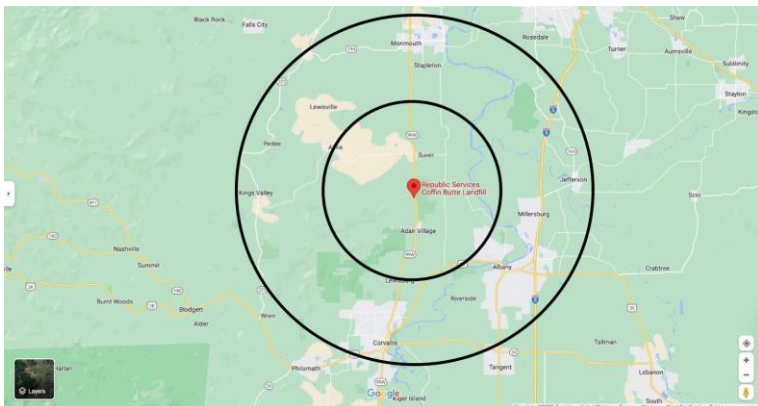
CEO R-13 Notifications of the **Planning Commission's decision on the application** should include website posts and email blasts to interested groups and people already on the existing email list. The notifications should be sent out 24 hours after the recommendation.

CEO R-14 Notifications of **when the Board is hearing the CUP application for approval** will include a postcard, email blast, newspaper notification, and social media posts and advertisements. They should be sent to everyone within a 10- or 15-Mile radius of the CUP site and occur 24 hours after scheduled.

CEO R-15 Notifications of the **Board's decision on the application** will include an email blast, website banner, newspaper notification, and social media posts. The notifications should be sent out 24 hours after the decision.

Notification Radius Area Proposals:

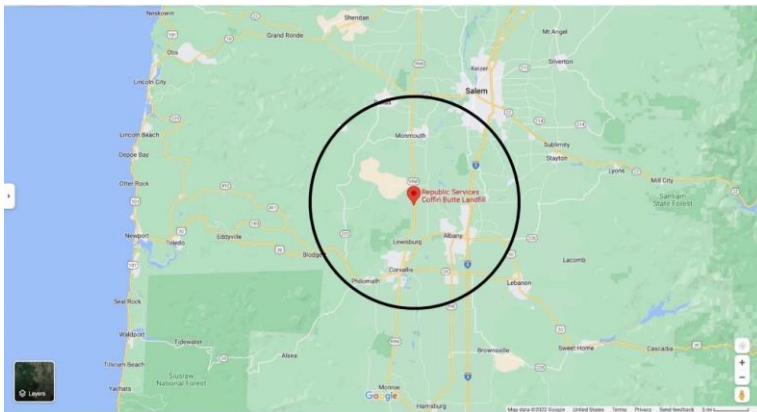
Figure 1.



Note: The center, smaller radius is a five-mile radius from Coffin Butte Landfill, and the other radius is 10 miles.

County	# within 5 mi	Note	# within 10 mi	Note	# within 15 mi	Note
Benton	2,543	Some overlap with Benton Addresses	4,441	The majority of the City of Albany included	8,991	All of the City of Albany included

Figure 2.



Note: 15-mile radius around Coffin Butte Landfill

Appendix A: List of Traditionally Underrepresented Groups¹⁴⁹

- Black/ African Americans
- Tribal Populations
- Latino/ Latina/ Latinx
- Asian and Pacific Islander
- People with Limited English Proficiency
- People living with Disabilities.
- People Experiencing Homelessness
- Low-Income Oregonians
- Renters
- Youth (Under 25)

¹⁴⁹ Group list is from Oregon DLCDC (2022)