Benton County OREGON

Benton County "Talks Trash"

DRAFT 1-23-23T 1-17-23

Solid Waste Process Workgroup Final Report

Facilitator Notes

1) This is Draft Three of the BCTT Workgroup Report. All of its contents are works-in-progress.
2) Some sections contain placeholders and/or alternative language, yet to be vetted. Some material arrived as late as this afternoon with no opportunity to review. Please do not assume a consensus has been reach by the subcommittees, let alone the Workgroup.
3) Planning Commission and SWAC/DSAC feedback (Due: 2/10/23) will be considered by the subcommittees as soon as it is received.
4) I welcome the opportunity to speak with you about your review process and how best, formatting-wise, the feedback will be most helpful. Obviously, the content of the feedback is yours alone.
5) Further exploration and refinement by the subcommittees will take place while you are in the process of providing your feedback. There are several topics (issues, points, facts, charts, and tone, etc.,) where the subcommittees have not yet reached agreement and may not. Ultimately, it will be for the full Workgroup to decide on the final contents.
6) Informal Workgroup polling and a Public Survey are scheduled for 2/27/23 through 3/6/23… details to follow.
7) There will be two more drafts before the Final Draft.
8) The Workgroup's last meeting is scheduled for 3/16/23.
9) Each Workgroup member will have the opportunity to submit their own views as part of the Final Report.
10) The Final Report will be sent to the Board of Commissioners on 3/24/23. Its plan for review and public comment will follow.
11) Thank you for your consideration!

TABLE OF CONTENTS

D. Subcommittee Reports

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

Letter of Transmittal

March ____, 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 above process.

The Benton County Board of Commissioners (BOC) hired ICMresolutions to facilitate a Workgroup process for findings and recommendations for future Conditional Use Permits (CUP) and a Sustainable Materials management Plan (SMMP).

To accomplish this, the Board appointed Workgroup members that were representative of community voices. We then organized the Charter elements into different categories which later became Subcommittees. The Workgroup process began on September 8, 2022, and ended March _____, 2023, with the submission of this report. During that time, we conducted nine Workgroup meeting to address the following topics:

…

Our role was to facilitate these meetings, organize information, help develop recommendations, and produce this approved report. Our "client" was _____. At the final Workgroup meeting on March 16, 2023, the Workgroup recommended a series of _____. The results of that meeting can be found in section _____ of this report.

Thank you for the opportunity to support this important project.

Respectfully Submitted

Samuel J. Imperati

ICM resolutions **Sam Imperati, JD | Executive Director**
11524 SW Vacuna Ct. | Portland, OR 97219-8901
(P) 503.244.1174 | (C) 503.314.1156 | (F) 503.244.1038
SamImperati@ICMresolutions.com
ICMresolutions.com

Amelia R. Webb

ICM resolutions **Amelia Webb | ADR Associate**
11524 SW Vacuna Ct. | Portland, OR 97219-8901
(P) 503.924.9695 | (F) 503.244.1038
AmeliaWebb@ICMresolutions.com
ICMresolutions.com

Executive Summary

Benton County's "Benton County Talks Trash" Workgroup met nine times between September 8, 2022, and March 16, 2023. All Workgroup meetings were open to the public, and the project hosted an open house on November 17, 2022, after the fifth Workgroup meeting. Throughout the process ___#__ press releases were sent out and notifications for each Workgroup meeting went to _____, ____, and _____ channels. Recordings of the Workgroup meetings are available here, as well as meeting minutes and summaries.

During its process, the Workgroup created five Subcommittees to take on various parts of the Charter Elements. Information on the Subcommittee's work product can be found on page _____ of this report, and recordings of the Subcommittee meetings are available here.

The Workgroup's findings and recommendations will be provided to the Board of Commissioners on March ____, 2023, for their consideration. A summary of these findings and recommendations follows:

A. Key Findings

TO BE PROVIDED HERE ONCE FINALYZED

PLEASE SEE DRAFT FINDINGS FOR EACH SUBCOMMITTEE, BELOW

B. Key Recommendations

TO BE PROVIDED HERE ONCE FINALYZED

PLEASE SEE DRAFT FINDINGS FOR EACH SUBCOMMITTEE, BELOW

Project Acknowledgments

Board of Commissioners
Nancy Wyse – Chair
Pat Malone
Xan Augerot

Workgroup Members

Voting Members
Andrew Struthers
Brandon Bates
Catherine Biscoe
Christopher McMorran
Chuck Gilbert
Ed Piteria
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

Alternates
Andrew Johnson
Ginger Rough
Jen Brown
Julie Jackson

Previous Members
Brian Fuller
Joel Geier
Nancy Whitcomb
Scott Kruger

Project Team at Benton County
Cory Grogan
Daniel Redick
Darren Nichols
Greg Verret
Inga Williams
JonnaVe Stokes
Linda Ray
Sean McGuire

Facilitation Team
Sam Imperati, Facilitator, Institute for Conflict Management, Inc.
Amelia Webb, Associate Facilitator, Institute for Conflict Management, Inc

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

How to read this document
For a general overview of the process and key recommendations, please see the Executive Summary (page ___). For more detail, please read the body of the report.

Land Use Acknowledgment: The Land We're On

Indigenous tribes and bands have been with the lands that we inhabit today throughout Oregon and the 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, the federally recognized and the federally unrecognized 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 our relationships with Tribal Nations and members of their communities.

What we now know as Benton County was previously inhabited by Indian Tribes 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 this lands, this was and will continue to remain the home of the Kalapuya Tribe. 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 a collaborative partnerships with the Tribes and communities indigenous to these lands.

Acronyms

BCTT	Benton County Talks Trash
SMMP	**Solid Materials Management Plan**
CUP	Conditional Use Permit
RFP	
SWAC	**Solid Waste Advisory Council**

I. Process Background

A. 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 process at its July 26, 2022 meeting.

Subsequently, on August 23, 2022 the Board approved a Charter for the BCTT workgroup, which can be found here.

B. Membership

There are two categories: a) Polling Member; and b) Ex Officio Member. Polling Members have full rights of participation and "polling." Ex Officio Members are "non-polling" information sources. Each could bring technical resources to the meetings. The 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 member was allowed to assign one WORGROUP 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 Facilitator at least 72 hours in advance of a 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: National	Russ Knocke	X		All but C
Republic: 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 Jonson		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

C. Charter

1. Scope & Charge

This was a "bridge" process between past events and next steps. The process was 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.

This WORKGROUP is not a decision-making body. It is a recommendation-making group 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.

The WORKGROUP, with concurrence of the County staff, prioritized the following topics

A) Develop Common Understandings to form the basis of the work.
B) Clarifying 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 a 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. It decided it wanted to make packaged or individual recommendations at the end of the process.

"1-2-3" Consensus Polling: The Facilitator assisted the WORKGROUP in articulating points of agreement, as well as articulating concerns that require further exploration. It 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:

- "One" indicates full support for the proposal as stated.
- "Two" indicates that the participant agrees 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.
- "Three" 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 are voting "one" or "two." The results are noted in the WORKGROUP Report.

No Consensus – Majority and Minority Recommendations: If a 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 as supplemented by the addition of Polling Member statements who elect to submit additional information by the deadline established. The Facilitator packaged all this information into the WORKGROUP'S report to the BOC.

D. 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 by those with the most expertise and investment. 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." These sections also include a link to reach Subcommittee's webpage, where more detailed information and meeting recordings can be found. Each Subcommittee's section is organized as follows for ease of your review. First, we provide the Subcommittee's webpage link, then its Charge and Members. Over the course of a Subcommittees meeting's a running "Meeting Notes" was created that contains the agendas, attendance, and notes for each of its' meetings. A link to this document is provided next, and in Appendix D. Finally, the Subcommittee's Key Findings are provided, followed by their Recommendations.

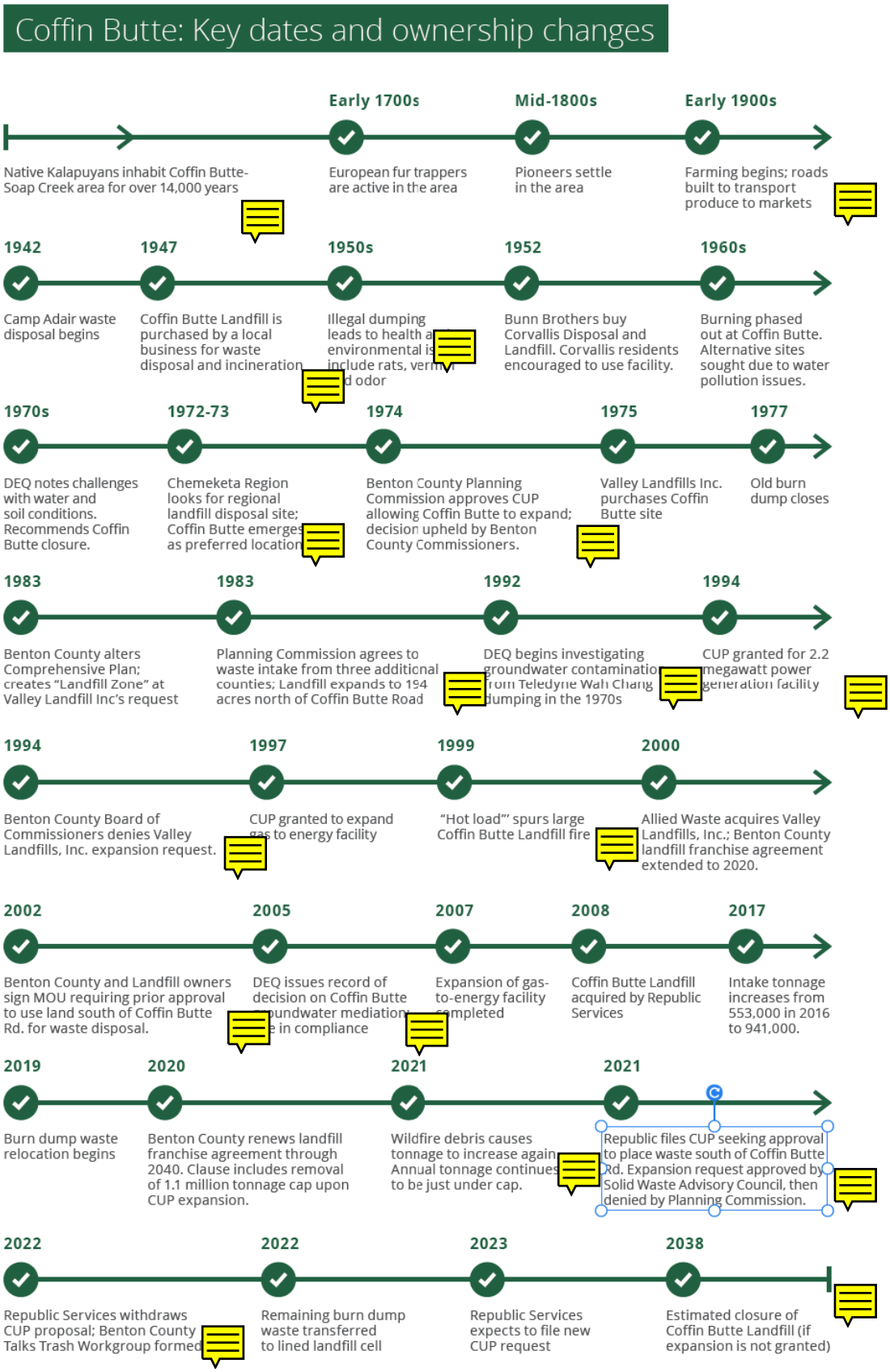
E. History of Coffin Butte

(This, like all of the sections, is a work-in-progress. No consensus has been reached.)

Main Themes

- The siting of the Coffin Butte location as a landfill was random and stemmed from historical uses by Camp Adair in the 1940s. Particularly in the 1970s, alternate sites were explored.
- Its designation as a regional landfill was driven by interests beyond Benton County.
- Coffin Butte Landfill ownership morphed unobtrusively from local ownership to becoming part of a national corporate strategy.
- 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 have been historically overestimated.
- Issues surrounding the Coffin Butte Landfill have been subject to strong public involvement. Periodic conflicts were equably 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. There was no public notice found for either the 2020 Franchise Agreement nor for the 2021 CUP application.
- Republic Services has interests beyond Benton County and our region that increase pressure for landfill expansion.

Timeline Coffin Butte Landfill (CBL)



History

The Historical and Geographical Context of the Coffin Butte Landfill

Coffin Butte Landfill was designated a regional landfill in the 1970s under the Chemeketa Regional Solid Waste Management Plan. It was selected from four possible sites after an 18-month process that included feasibility studies, public hearings and community debate.

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.

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 7 miles north of Corvallis on Highway 99W. The site is at the intersection of Highway 99 and Coffin Butte Road, 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 the entire county, the area 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, and agricultural areas to the east and north.

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, 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 south-southwest side of Coffin Butte has a rock quarry operated by Knife River. The rock quarry area is currently planned to be the next area of expansion for the landfill unless the permits are changed.

The landfill is located in a topographic divide between the two valleys.[1] Groundwater flows both east and west from the area of Coffin Butte and Tampico Ridge, depending on the underlying geology.[2] 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

[1] Zybach, Bob. Oregon State University "Using oral histories to document changing forest cover patterns : Soap Creek Valley, Oregon, 1500-1999", Masters Thesis: Master of Arts in Interdisciplinary Studies (M.A.I.S.), Oregon State University, ScholarsArchive@OSU. 2000, pps. 8-11. <https://ir.library.oregonstate.edu/concern/graduate_thesis_or_dissertations/3197xr742?

[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

National Wildlife Refuge."[3] Rainfall in the area is approximately 42 inches a year, with the majority falling between November and May.[4]

The earthquake hazard of this area is significant, particularly because of the Cascade subduction zone. Yu et al note that there have been over 40 great earthquakes of magnitude of over 8 and in 1700 one of magnitude 9. They calculate that, "The current calculated odds that a Cascadia earthquake will occur in the next 50 years range from 7-15 percent for a great earthquake affecting the entire Pacific Northwest …"[5][6]

Coffin Butte Landfill meets state and federal requirements regarding seismic activity.

The History of the Coffin Butte Area

The archeology and history of the region is 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 more densely populated nonagricultural regions of the world. However, with the introduction of smallpox, malaria, measles, influenza, and other diseases from explorers and traders, over 96% of the local Kalapuyan people died within two generations, particularly from malaria in 1831-2.[7]

Tools from the Kalapuyan people have been found throughout the Soap Creek and Coffin Butte area.[8] 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.[9]

Republic Services hired a third-party consultant to conduct the study, and it is currently underway.

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),

---

[3] Taylor, Steve, Bryan Dutton, and Pete Poston. "Luckiamute River Watershed, Upper Willamette Basin: An Integrated Environmental Study for K-12 Educators".

[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

[5] Yu, Q.-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.

[6] Scott Learn, "Bigger Yamhill Landfill OK'ed". *The Oregonian* (May 31, 2013).

[7] Zybach, 2000, p. 72-73.

[8] Ibid., P. 120.

[9] 2022 Conditional Use Permit Staff Report. Benton County Development Department. **File No.** LU-21-047

easier hunting, and other benefits such as gathering grasshoppers.[10] 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 to the 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 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."[11]

Letitia Carson is one of the most notable pioneers to settle in Soap Creek Valley. A freed African-American slave, 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.[12]

The biggest local change after 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 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 which emptied wetlands and channelized streams.[13]

Following the war, the residential population slowly increased until the 1970s, at which time growth accelerated rapidly. By the 2020s, hundreds of people lived in the regions to the north and south of Coffin Butte and in Soap Creek Valley. 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 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 the primary route for Soap Creek residents commuting north to Monmouth-Independence and Salem for work.

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

[10] Zybach, 2000, pp. 118-119.
[11] "Northwest Benton County Route". Benton County, Oregon. < https://www.co.benton.or.us/sites/default/files/fileattachments/historic_resources_commission/page/6876/driving_tour_part_ii.pdf>
[12] Leticia Carson Legacy Project. Oregon State University. < https://letitiacarson.oregonstate.edu/about-letitia-carson/>
[13] 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>

structure was restored by the community and remains a meeting place for local activities and an annual fund-raising event.[14]

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 EE 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 production of game species.[15]

The Coffin Butte Landfill and the EE Wilson Wildlife Area are located at the midpoint of a triangle of National Wildlife Refuges. This system of National Wildlife Refuges (refuges or NWRs), managed by the U.S. Fish and Wildlife Service (Service), was established in the mid-Willamette Valley during the 1960s when the Migratory Bird Commission approved 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.[16] Tampico Ridge, the next ridge immediately south of Coffin Butte, hosts a complex mix of

[14] Historic Soap Creek Schoolhouse Foundation, "Soap Creek Schoolhouse", 2021. <https://soapcreekschoolhouse.org/index.html>

[15] Oregon Department of Fish and Wildlife, EE Wilson Wildlife Management Plan (Updated January 2019) https://www.dfw.state.or.us//wildlife/management_plans/wildlife_areas/docs/ee_wilson.pdf

[16] For one example, see: "Benton County Prairie Species Habitat Conservation Program", Benton County Natural Areas and Parks Department, 2010. https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/20770/BentonCo_001-13_ADOPTION.PDF?sequence=1&isAllowed=y

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.[17]

Benton County Confronts Its Waste Issues: Up to 1983[18]

Waste disposal was simple in the early days of Benton County. What little waste there was could 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.

By April 5, 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.[19]

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.

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

[17] 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?pvideoid=1754

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

[19] *Corvallis Gazette-Times*, June 24, 1966.

on the Independence Road near Highway 20 where they hoped to develop a landfill despite some concerns about the proximity of the Willamette River.[20]

At the time, there were 17 disposal sites in a five-county area that included Benton County. Only two met the new standards for Landfills, as set by the Oregon Department of Environmental Quality. Coffin Butte was one of many sites recommended for "phasing-out" and closure.

The Chemeketa Selection Process

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 Region, a cooperative program funded via a grant from the Environmental Protection Agency.

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.

Two months later, Coffin Butte was designated as the preferred site. 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.

Ultimately, the Benton County Planning Commission approved a conditional use permit request allowing Coffin Butte to be expanded into a regional landfill. Residents appealed but two months later Benton County officials upheld the Planning Commission's decision.

A more detailed summary of events can be found in the attached timeline.

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

[20] *Corvallis Gazette-Times*, August 26, 1972.

County Planning Commission approved another expansion that they estimated would." (April 27, 1983) Although this expansion provoked less protest than in the early 1970s, the North Benton CAC specified that there would be no disposal of municipal solid waste on the 59.23 A(cre) property south of Coffin Butte Road, a similar stipulation as requested to the 2021 CUP application.[26]

27

Valley Landfills, Inc., Coffin Butte's owner and operator, purchased several properties around the existing Landfill site during the 1980s. It was later discovered that some of those properties had contaminated water supplies stemming from its early days as an open disposal site (the portion of the Landfill that closed in 1977.) In 1994, DEQ officials determined that there was sufficient contamination in a well at the "Helms' property" to pose a health threat. Valley Landfills Inc. installed a water treatment system for the property, and the waste from the 1977 portion of the Landfill has since been moved to a lined cell that is in compliance with current DEQ regulations and requirements.

Coffin Butte Landfill History: Operating as a Landfill, 1983-2010[28]

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 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 disposal site by 10 acres immediately.

In the mid-1980s the landfill operated with relatively little controversy.

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 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.

33

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 coming into Coffin Butte from Lincoln and Tillamook counties; the latter was being sued by a company that

[26] North Benton County Citizen's Advisory Council submission, Benton County File PC-83-07-c(5)
[27] 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
[28] References in this section are from the *Corvallis Gazette Times* or *Albany Democrat Herald*, which generally share their reporting on these issues.
[33] Wilson, Bob and Gordon Brown, Benton County Environmental Health Division. *Coffin Butte Landfill Annual Review 1994 Operations*. August 22, 1995. P. 4

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. 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 258,472 in 1994, down from 317,628 in 1993.

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. Today, Coffin Butte is capable of powering 4,000 homes with clean energy.

, Also in 1994, Valley Landfills filed a conditional use permit application, seeking to rezone 26 acres it owned from rural residential for use as a landfill, as part of its long-term planning efforts. As noted in the *Gazette Times* on November 3, 1994, this request encountered stiff opposition by landfill neighbors and other county residents concerned about smell, noise, groundwater contamination and how the expansion would harm the natural beauty of the area. About 50 people attended a Board of Commissioners' meeting.

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 public testimony would show a lack of concern about what the community thinks. Specifically 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 dumping wastes in the future.

Citizens also testified 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.[34] After delaying the vote at an earlier date, in a December 14, 1994 hearing, the Board of Commissioners denied the expansion unanimously

In the mid-1990s, Coffin Butte, its neighbors and elected officials worked cooperatively to solve problems related to leachate. Heavy rains in 1996 led DEQ to authorize the Landfill to pump leachate into the Williamette Riveron 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 raised the walls on its storage ponds, sent some leachate to the City of Corvallis for treatment and tried new techniques for processing the liquid.

By 1997, the Landfill property had grown to 790 acres, of which 194 acres was zoned for disposal. Coffin Butte was serving seven counties. Meeting tombstones regularly reported in the local paper by the county 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

[34] *Corvallis Gazette-Times*. November 3, 1994 and November 14, 1994.

On August 24, the 1999 landfill fire, took hold at about 6:30 PM.[37] This fire, never a danger to local residents, was contained to the landfill site and was likely caused by a 'hot load' delivered to the landfill and no damage was reported to any property outside the landfill zone.

Probably more notable in the long run, on December 14, 1999, after 40 years ofoperating 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.[38]

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."[39] 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.

Coffin Butte Landfill: The Contemporary Context

Rate increases occurred throughout the 2000s and 2010s with relatively little public concern.[40]

In 2018, however, a Republic Services proposal to increase the tipping frate from $28.75 a load to $85.75 was met with opposition. The company said the increase was designed to discourage the general public from bringing small loads of waste to the Landfill for disposal, and cited safety concerns.

"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 dangers to have the public there." Part of the challenge, according to a December 8, 2018. article in the Gazette-Times, was that Coffin Butte only had one weighing scale, which "can also create potential safety hazards as private citizens with pickups and utility trailers jockey for position with massive garbage trucks."

---

[37] *Corvallis Gazette-Times*. August 25, 1998.

[38] *Corvallis Gazette Times*. December 15, 1999.

[39] "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

[40] *Corvallis Gazette Times*. December 7, 2018.

In the article, Xan Augerot, who was then Commission Chair, said the board had only received one complaint about the proposed increase. The paper, however noted that there had been buzz on social media and that several people had called the newsroom with concerns.

.[41] Republic Services then revised its proposed increase to $40, a 39 percent increase. At a subsequent hearing, four members of the community testified against the proposed change.

Benton County does not have authority to regulate the rates Republic charges, but there was leverage in 2018 since the county was in the process of negotiating a franchise fee for the company to operate in the county which was expiring in 2020.

The current pressure for expansion is inexorably tied to the volume emplaced in Coffin Butte. Although Benton County contributes only 12% of the total intake at Coffin Butte in 2021, overall waste volume pressures are tied to factors such as population growth, diversion rate, and wildfire debris. According to EPA data, more waste is being generated per capita today than ever before in history.

.[42]

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 nearing capacity. Tonnage has continued to increase on an annual basis, with the exception of 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 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.

Some of the increase in 2017 might be explained by an unusual escalation in volume coming from Washington County that leapt from 49,000 tons in 2016 to 254,000 tons in 2017, an increase of 418%. But Washington County's share of the total tonnage received accounts for less than 10%. In terms of tonnage increase from 2000 to 2020, Marion County's contribution rose from 11% to 21%. Marion is the only county whose relative contribution increased more than one percentage point over that period when all but two of the other contributor counties' shares have fallen.[43]

The current Benton County Talks Trash(BCTT) process is a reaction to specific decisions made by Benton County officials and Republic Services regarding three situations. First, the public process and outcome of December 2020 franchise agreement between Benton County and Republic Services. Second, the BCTT process is heavily focused on the issues raised when

---

[41] *Corvallis Gazette Times*. December19, 2018.

[42] 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_from_coffin_butte_landfill_annual_reports.pdf

[43] Data from Coffin Butte Landfill PRC Annual Reports 1999-2012, hardcopies stored at Benton County offices, The 2013 Report is missing in those files.

Republic Services applied for a Conditional Use Permit 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. The third action leading to the creation of the BCTT process was the decision of Republic Services to not appeal the Planning Commission decision and instead request another CUP in the future and the County Commission's decision to prepare the county for the request.

As noted previously in this work document, The Benton County Talks Trash Process was initiated by County officials after Republic Services withdrew its conditional use permit request in March 2022. Community concerns about the CUP prompted residents to also question a December 2020 franchise agreement that presumed a future landfill expansion and a separate agreement between the County and Republic Services for trash hauling operations. The trash hauling contract was signed in June 2022.

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 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.

In the meantime, Benton County also negotiated a separate, not directly related, franchise agreement for trash hauling with Republic Services. County officials viewed this process very positively. That 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."[44] One explanation for the disconnect between county officials and their constituents is the apparent breakdown in communication between citizens and officials regarding landfill issues, as became very apparent in the process creating a new franchise agreement over Coffin Butte itself signed in mid-December 2020, which assumed an expansion of the landfill. This communications breakdown is recognized and addressed by the Subcommittee E 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. BCTT Subcommittee E1 Master Document.

Unlike the prior franchise negotiations that led to the signing of the 2000 franchise, 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. At the Board of Commissioners meeting to vote on the franchise agreement, the county attorney attested that there were no public comments.[45] Members of the SWAC acknowledged that they were told that this was not a matter for their consideration. This is surprising in light of the fact that a September 2020 solicitation notice for

[44] *Corvallis Gazette Times*. June 9, 2022.

[45] Benton County Commissioner Meeting, December 15, 2020. From recording archive.

Advisory Board membership explicitly states 'review franchise agreements' as a primary responsibility.[46]

The 2020 franchise agreement over landfill operations enhanced the financial incentives of the county for increased tippage. 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 financially pressure the county to favor increased volume of disposal and the expansion of the landfill by the addition of 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 goes up, the volume required to receive the host fee also goes up. Furthermore, the fees 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.[47] 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.[48] [49]

In May, 2021, Republic Services submitted an application to Benton County for a Conditional Use Permit 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.[50] Reporting at the time also noted Croney's financial arguments in favor of the expansion, particularly the revenue implications and possible future costs of disposal for county

[46] *Corvallis Gazette-Times*. September 8, 2020.

[47] 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>

[48] Benton County Board of Commissioners Meeting. December 15, 2000. Recording.

[49] "Republic Services, Inc. Reports Fourth Quarter and Full-Year Results; Provides 2021 Full-Year Guidance". Republic Service News Release. February 22, 2021. https://investor.republicservices.com/node/23311/pdf

[50] 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.

residents of denying the expansion request.[51] These arguments engendered a *Gazette Time*s editorial endorsing the expansion.[52]

Public notice of the Planning Commission Hearing for the Republic Services CUP application 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. 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 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 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.[53] 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 County Commission, but on March 15, 2022 the company informed the Board of Commissioners that they would pull the appeal. Meanwhile, over the period from October of 2021 to January of 2022 the membership of the Solid Waste Advisory Council changed radically as four members resigned without comment and new members were appointed.

The Benton County Board of Commissioners, seeking to find common ground between the very strong community resistance to the landfill and the operators, Republic Services, hired a consultant from Oregon Consensus and an Assessment Report was filed on July 12, 2022. This led to the Solid Waste Process Workgroup "Benton County Talks Trash" being formed. The first Solid Waste Process Workgroup meeting convened on September 8, 2022. According to its

[51] *Corvallis Gazette-Times*. October 31, 2021 and November 12, 2021.

[52] *Corvallis Gazette-Times*. December 2, 2021.

[53] *Corvallis Gazette-Times*. December 8, 2021.

charter, Benton County Solid Waste Process Workgroup, also entitled BCTT (Benton County Talks Trash), is 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.

The workgroup charges are reflected in the subcommittees that have been formed to drill down into clarifying aspects of solid waste management in Benton County. The workgroup must arrive at common understandings regarding the landfill and the pending Republic Services CUP, the legalities surrounding the relationship between the 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.

II. Project Website and Workplans

A. Project Website: Link

B. Initial Project Workplan: (Charter)

Meeting One: 9/8/22
• 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
• Charge A continued: Develop Common Understandings • Coffin Butte Tour • Next Steps and Homework
Meeting Three: 10/6/22
• 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
• 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
• 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

• Provide input on Charges D and E: Additional Topics
  ○ 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
• 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!

C. Updated Workplan: (10/27/2022)

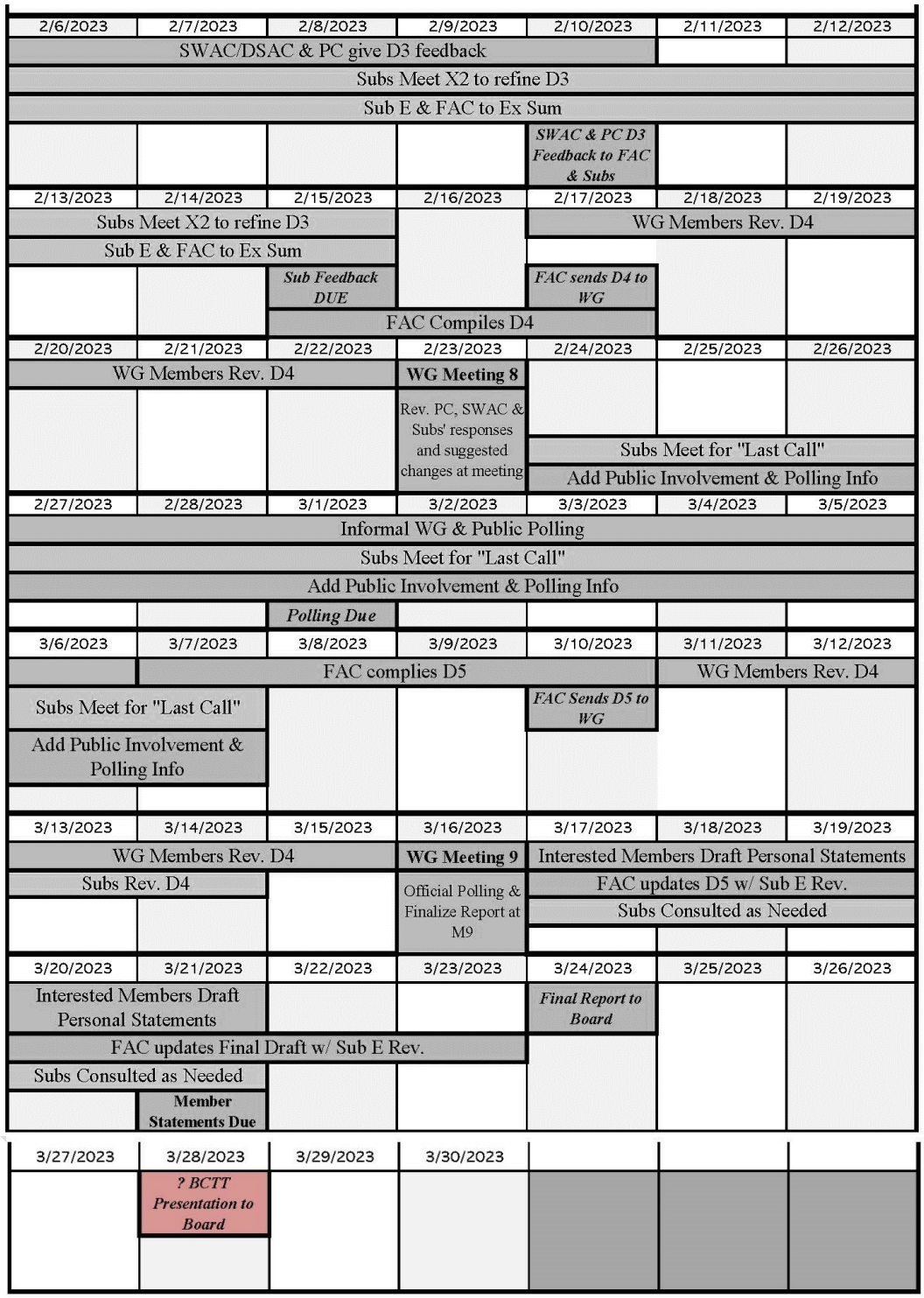
Subcommittee Meetings 10/19 through 10/25	10/27/22 Meeting Four Major Topics	Subcommittee Meetings 10/31 through 11/9	11/17/22 Meeting Five Major Topics and Public Open House	Subcommittee Meetings 11/21 through 12/7	12/15/22 Meeting Six Major Topics
Staff organizes existing documents by subcommittee One, 1.5-hour Subcommittee Kickoff Meeting Specific Dates Pending Doodle Poll Results	1) Four Subcommittee Reports 2) SMMP Goals: Vision 2040 3) Local Jurisdictions Discuss Charge C. SMMP and Charge E. Public Education Campaign		1) Four Subcommittee Reports 2) Introduce Charge D and Create Subcommittee: a) Scope tasks to Plan Hauling Reopener b) SWAC/DSAC Role Clarity and PC/BOC Criteria Use		1) Review Work, Authorize Draft, and Request Feedback

			c) Code Change Timeline 3) Introduce Charge E and Create Subcommittee: Public-Facing Document and Community Education Campaign 4) Open House – Process Status, Future SMMP, and Public Ed/Notification		
Staff Draft Report **12/19 through 1/4**	**Subcommittee Meetings** **1/5 through 11/11**	**1/19/22 Meeting Seven Major Topics**	**Final Report Subcommittee** **1/23 through 2/7**	**2/23/23 Meeting Eight** **Major Topics**	**Target Date: 3/3/23** **Could be: 3/31/23**
		1) Last Call 2) Review SWAC/DSAC and Planning Commission Feedback 3) Edit Report and Poll	Final Draft to Workgroup on 2/16	1) Loose Ends 2) Finalize Report and Official Poll 3) Member Statements Due: 3/6/22 @ Noon	**Final BCTT WG Report** **Assumes:** 1) Benefit-Cost Topics are only Outlined as part of SMMP Scoping 2) Landfill CUP Conditions From Other Jurisdictions is reserved for other processes. 3) WG Focus is on substance – not process.

D. Final Workplan: (12/20/22)

a. Calendar View

Calendar						
Monday	**Tuesday**	**Wednesday**	**Thursday**	**Friday**	**Saturday**	**Sunday**
12/12/2022	12/13/2022	12/14/2022	12/15/2022	12/16/2022	12/17/2022	12/18/2022
Subs Meet			**WG Meeting 6**			
12/19/2022	12/20/2022	12/21/2022	12/22/2022	12/23/2022	12/24/2022	12/25/2022
	Member SurveyMonkey					
FAC Preps D1						
12/26/2022	12/27/2022	12/28/2022	12/29/2022	12/30/2022	12/31/2022	1/1/2023
Member SurveyMonkey						
FAC Preps D1						
1/2/2023	1/3/2023	1/4/2023	1/5/2023	1/6/2023	1/7/2023	1/8/2023
Member SurveyMonkey		Subs Meet X2 to edit D1				
FAC Preps D1		*FAC sends D1 to WG*				
1/9/2023	1/10/2023	1/11/2023	1/12/2023	1/13/2023	1/14/2023	1/15/2023
	FAC compiles D2					
				FAC Send D2 to WG		
1/16/2023	1/17/2023	1/18/2023	1/19/2023	1/20/2023	1/21/2023	1/22/2023
			WG Meeting 7	FAC compiles D3		
			WG edits D2 at meeting			
1/23/2023	1/24/2023	1/25/2023	1/26/2023	1/27/2023	1/28/2023	1/29/2023
FAC Complies D3		SWAC/DSAC & PC give D3 feedback				
	FAC Send D3 to WG	Subs Meet X2 to refine D3				
		Sub E & FAC to Ex Sum				
1/30/2023	1/31/2023	2/1/2023	2/2/2023	2/3/2023	2/4/2023	2/5/2023
SWAC/DSAC & PC give D3 feedback						
Subs Meet X2 to refine D3						
Sub E & FAC to Ex Sum						


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 & Subs
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
Sub E & FAC to Ex Sum
WG Members Rev. D4
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
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"
Add Public Involvement & Polling Info
FAC Sends D5 to WG
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
Subs Rev. D4
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
3/27/2023
3/28/2023
3/29/2023
3/30/2023
? BCTT Presentation to Board

III. Workgroup Meeting Topics

Meeting Summaries and 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 Gillan) 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

- Joel (tour guide) began with some geology, local history, and comments about the community. Then Joel and Nancy provided comments on topics including bird watching, disc golf, airport for model airplanes, North Palestine Baptist church, Santiam Christian school, local geology, and fault lines

- At a stop three miles from the landfill discussed tree cover and property siting.
- As the tour moved to the archie rang the discussion covered vehicle traffic, Yamh landfill, Red Barn Farm, composting facility, WWII maintenance shed, zoning, land use, terracing v. continuous slope, vegetated or productive slopes, settling and gasification process, zoning, and siting of landfills.
- The tour stops at, and discusses, Bit-By-Bit Horse Farm.
- When viewing the quarry the discussion focuses on the leachate facility, republic's office, invasive species, properties purchased by landfill, OSU beef ranch, monitoring wells and water contamination.
- At the Santiam Christian School, Kevin Higgins, a firefighter with the Sherriff's office gave a talk on growing up in the area, landfill fires, types of items in landfi and DEQ. This was followed by a video testimony from Priya Tucker, of Rising Joy Flower Farm, and resident Elisabeth Pott.
- The 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

IV. Key Workgroup Findings & Recommendations

Each of the following Subcommittee sections is organized as follows for ease of your review. First, we provide the Subcommittee's webpage link, then its Charge and Members. Over the course of a Subcommittees meeting's a running "Master Document" was created 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. Finally, the Subcommittee's Key Findings are provided, followed by their Recommendations.

SECTION A: Legal issues and Land use Review

Introduction:

The purpose the subcommittee is to address: a) law relevant to, and the legal status of, landfill operation & 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 explaining land use practices and offering considerations result in findings and recommendations that are less clear-cut (more subjective or speculative). While the committee has reached agreement on the vast majority of its report, some areas remain under review and will be modified prior to the final report.

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.

The full Subcommittee Report can be found linked here, and in Section 4 of Appendix C.

The full Subcommittee "Meeting Notes" can be found linked here, and in Section 4 of Appendix D.

Webpage Link

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.:
  1. Federal;
  2. 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:
    1. What topics are within whose authority, and
    2. 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:
    1. 53.215 (Criteria)
    2. 77.305 (Conditional Uses)
    3. 77.310 (Review)
4. 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 of this code.
    8. 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
9. Recommendations

Members:

- Jeff Condit
- Liz Irish
- Vance Croney

• Staff: Greg Verret
Subcommittee Meetings and Notes: Document Link

Key Findings:

Disclaimer: ***These findings are in various stages of review and do not represent a final recommendation by the subcommittee.***

LLU F-1. LLU F-1. 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. LLU F-2. Only the current franchise agreement has legal effect. The previous franchise agreement is superseded at the time a new agreement takes effect.

LLU F-3. LLU F-3. 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.

LLU F-4. LLU F-4. What legally can and cannot be conditions of any land use approvals? Conditions of approval must relate to approval criteria. In order to be approved, an application must demonstrate compliance with all discretionary approval standards. The county may find compliance by establishing compliance is feasible, subject to compliance with specific condition(s) of approval. Conditions of approval may be imposed to assure the criteria are met; however, 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. LLU F-5. 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 revisited or collaterally attacked as part of the CUP application for the expansion.

LLU F-6. LLU F-6. Benton County may not prohibit a private landfill operator from accepting solid waste from outside Benton County.

LLU F-7. LLU F-7. Ambiguous terms. The rules of statutory construction describe how ambiguous terms are to be interpreted: text, context, and legislative history. When a local government interprets its plan and regulations, as long as the interpretation is plausible, LUBA's standard of review is highly deferential to that interpretation.

LLU F-8. LLU F-8. Is DEQ prohibited from permitting another landfill west of the Cascades? No.

LLU F-9. LLU F-9. 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 in every year since at least 1993. Coffin Butte Landfill is by definition a regional landfill.

LLU F-10. LLU F-10. The review criteria for a landfill-expansion conditional use permit require subjective determinations in the context of a specific application. In the criterion of "*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)], the term "seriously interfere" has generally been interpreted in Benton County land use decisions as: does the proposed use make it difficult to continue uses on 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. "Seriously interfere" has been applied as meaning more than an inconvenience or irritation to neighboring property residents but is a lesser threshold than rendering impossible the uses on adjacent property. Speculated effect on property values has not been a primary consideration in determining serious interference.

LLU F-11. LLU F-11. 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)], a burden on public infrastructure and service is clearly "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 is to jeopardize the health, safety or welfare of people. Burdens that have typically not been considered "undue" include those that can be mitigated through planned improvements, that are incremental service additions consistent with that generated by other uses in the area, or that fall below an established threshold (such as road classification standards).

LLU F-12. LLU F-12. If the proposed use implicates other code provisions in effect at the time of application, then those code provisions would apply. This is not a license 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.

LLU F-13. LLU F-13. BCC 77.305 directs the Solid Waste Advisory Council (SWAC) to review and make recommendations on a landfill-expansion CUP; however, the code does not specify what criteria or considerations that recommendation should be based on. SWAC's overall role as articulated 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. 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.

LLU F-14. LLU F-14. 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 a demonstration of compliance with the code criteria, not on whether the applicant provided requested information or not.

LLU F-15. LLU F-15. Statements made by the applicant do not become conditions of approval unless those statements are specifically included or incorporated, directly or by reference, into the final decision.

LLU F-16. LLU F-16. How does the 2002 Memorandum of Understanding fit into the Workgroup considerations? 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.

Key Recommendations:

Disclaimer: ***These recommendations are in various stages of review and do not represent a final recommendation by the subcommittee.***

LLU R-1. LLU R-1. SWAC's role in reviewing a landfill-expansion CUP should be from the perspective of solid waste management (see LLU F-13). The workgroup may wish to recommend specific areas of consideration by SWAC. For example: 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?

LLU R-2. LLU R-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.

LLU R-3. LLU R-3. 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.

LLU R-4. LLU R-4. BCC 77.405 states that "*Copies of materials submitted to the Oregon Department of Environmental Quality as a part of any permit process shall be submitted to the Planning Official. If at any time the Planning Official determines that permit application materials or conditions of DEQ permit are judged to merit public review, a Public Hearing before the Planning Commission shall be scheduled.*" This provision is unclear. The subcommittee interprets this section as requiring a review if the use originally approved has been or will be modified as a result of the DEQ permit. Recommend code amendment to clarify this provision. A workgroup recommendation on how public review of DEQ permit requirements could most benefit the public would also be helpful.

LLU R-5. LLU R-5. There are no statutory or code requirements for public input on whether an application is complete. "Completeness" does not indicate that the applicant has satisfied the applicable approval criteria; it is intended to determine whether the applicant has submitted sufficient information for the decision maker to evaluate the application against the approval criteria. 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. If members of the public believe that the 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.

Additional Information:

The following table, still in progress, summarizes the topic areas Benton County can and cannot regulate.

Table 2: Topic Areas Benton County Can or Cannot Regulate

-- Summary Table –

Topic Area	*Primary Jurisdiction*	*County Allowed to Regulate?*	*Notes*
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 [needs vetting]	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	???	
Methane emissions			
Wildlife			
Stormwater runoff			
Point-source discharge to surface waters			

SECTION B: Past Land Use Application Conditions

Introduction:

The full Subcommittees Report can be found linked here, and in Section 2 of Appendix C.

The full Subcommittee "Meeting Notes" can be found linked here, and in Section 2 of Appendix D.

Webpage Link
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;
Members: • Catherine Biscoe • Ed Pitera • Jeff Condit • Mark Yeager • Staff: Inga Williams
Subcommittee Meetings and Notes: Document Link

Key Findings:

CUP F-1 (CP-74-01)

Approved in 1974. Designated Coffin Butte Landfill as a regional sanitary landfill site as recommended in the Chemeketa Regional Solid Waste Program Report

CUP F-1 A.1: *Condition #1 defined the original area to be served by the landfill.* Further searches of County and RSI files and DEQ permits are needed to establish if or when this condition was superseded to authorize landfilling materials outside of the 1974 defined area. **Compliance Assessment**: yet to be determined.

CUP F-1 A.2: *Condition #1 defined the original area to be served by the landfill.* Current federal rules prohibit the county from limiting access to the landfill**. Compliance Assessment**: yet to be determined.

CUP F-1 B.1: *Condition #2, County Sanitarian shall make a report on compliance to the Planning Commission annually*. Solid Waste Advisory Committee reportedly receives annual landfill reports. **Compliance Assessment**: yet to be determined.

CUP F-1 B.2: *Condition #2, County Sanitarian shall make a report on compliance to the Planning Commission annually*. Planning Commission originally received updates from County Sanitarian. There is no longer a County Sanitarian position and updates are made to the SWAC. **Compliance Assessment**: yet to be determined.

CUP F-1 C.1: *Condition #3, establish efficient leachate collection and treatment and wells to monitor any potential seepage into underground aquifers.* 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. **Compliance Assessment**: yet to be determined.

CUP F-1 D.1: *Condition #4, provide visual reclamation of the Coffin Butte cliff side and screen along roadway.* DEQ has oversight of the geotechnical design of the landfill and regulates timing and scope of reclamation through closure and post closure requirements. **Compliance Assessment**: yet to be determined.

CUP F-1 D.2: *Condition #4, provide visual reclamation of the Coffin Butte cliff side and screen along roadway.* It is unclear how the County's requirements for the appearance of the closed landfill are reflected in closure and post closure plans. **Compliance Assessment**: yet to be determined.

CUP F-1 E.1: *Condition #5, Valley Landfills need to complete a solid waste resource recovery plan by July 1, 1976.* 1977 Waste Control Systems, Inc. Solid Waste Management Plan completed. **Compliance Assessment:** yet to be determined.

CUP F-1 F.1: *Condition #6, Phase landfill operations so that only a small acreage is used for fill at one time and return to grazing.* 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 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. **Compliance Assessment:** yet to be determined.

CUP F-1 G.1: *Condition #7, Encourage voluntary separation of recoverable materials.* RSI 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 draws material from. **Compliance Assessment:** yet to be determined.

CUP F-2 (PC-83-07/L-83-07)

Approved in 1983. Amendments to the County's Comprehensive Plan Map and Zoning Map and text amendments to Comprehensive Plan and Development Code to create a Landfill Site Zone.

CUP F-2 A.1: *Condition #1, Cross reference the narrative and the map in both documents; Condition #2, Expand the narrative statement on reclamation; Condition #3, In the narrative, describe the method of screening in more detail; Condition #4, Include in the narrative the anticipated chemical composition of any leachate material to be used for irrigation; Condition #5, Include in the narrative review of the Environmental and Operational Factors for 10-acre addition.* The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled "PC-83-07-C(3)" starting on Page 3 of 60. **Compliance Assessment:** yet to be determined.

CUP F-2 B.1: *Condition #6, Provide a detailed reclamation plan.* There is a very detailed description of the promised screening in the narrative. **Compliance Assessment:** yet to be determined.

CUP F-2 C.1: *Condition #7, Submit a plan detailing the proposed method to protect the small ponds found in the Northeast corner of the property***.** Pond location unclear. **Compliance Assessment:** yet to be determined.

CUP F-2 D.1: *Condition #8, Submit an updated, long-term leachate control plan as part of the DEQ permit renewal process.* 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. **Compliance Assessment:** yet to be determined.

CUP F-2 E.1: *Condition #9, Provide additional monitoring wells as site expands eastward.* Documentation unclear as to what wells are involved and which organization is to provide it. Presumed in RSI Annual Report. **Compliance Assessment:** yet to be determined.

CUP F-2 F.1: *Condition #10, Screen the landfill operation with fencing or berms so it cannot be seen from the County Road or adjacent properties.* The screening may have been done but has eroded or died in the interim. It should be recreated and maintained to be in compliance with the requirement. **Compliance Assessment:** yet to be determined.

CUP F-2 G.1: *Condition #11, Adhere to daily compaction of refuse and limit exposed refuse areas to 2 acres during the periods of October 15 to June 1 and to ¾ of an acre during all other periods.* The landfill uses an alternative daily cover approved by DEQ, which includes Covanta Ash material. The landfill also uses temporary cover. **Compliance Assessment:** yet to be determined.

CUP F-2 H.1: *Condition #12, Channel occasional leachate seeps into the leachate collection system within a timely period.* Republic Services complies with all current regulatory requirements, which include liners. Leachate does not seep through perimeter berms. **Compliance Assessment:** yet to be determined.

CUP F-2 I.1: *Condition #13, DEQ requires updated operational, and construction plans to reflect the current permit period and changes in environmental controls may be required.* Advisory. **Compliance Assessment:** yet to be determined.

CUP F-3 (PC-94-03)

Approved in 1994. A Conditional Use Permit for approval of a 2.2-megawatt gas generated power facility.

CUP F-3 A.1: *Condition #1, The facility shall be housed in a structure approximately 50 by 100 feet or less in size.* None

CUP F-3 B.1: *Condition #2, Noise levels shall comply with the New Industrial and Commercial Noise Standards.* Noise testing completed in 1997. **Compliance Assessment:** yet to be determined.

CUP F-3 C.1: *Condition #3, The applicant is responsible for ongoing monitoring of noise levels.* Available records do not indicate any noise monitoring requests by the Planning Official. **Compliance Assessment:** yet to be determined.

CUP F-3 D.1: *Condition #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.* **Compliance Assessment:** yet to be determined.

CUP F-3 E.1: *Condition #5, The Planning Official may require that the applicant obtain a new conditional use permit in order to expand the facility.* A new conditional use permit was submitted for expansion of the facility. Compliance Assessment: yet to be determined.

CUP F-3 F.1: *Condition #6, Lighting shall not impact streets or adjacent property.* There is no record of complaints received by the County. **Compliance Assessment:** yet to be determined.

CUP F-3 G.1: *Condition #7, Obtain required building permits.* None

CUP F-4 (S-97-58)

Approved in 1997. A Conditional Use Permit for approval of an expansion of the generating capacity of the existing electric generation plant.

CUP F-4 A.1: *Condition #1, Phase I facility shall be located in a structure approximately 75 by 85 feet; Phase 2 expansion shall be located in a building approximately 120 by 200 feet.* The expansion added 4,300 square feet to the original building. **Compliance Assessment:** yet to be determined.

CUP F-4 B.1: *Condition #2, Both the Phase 1 and Phase 2 expansions shall be constructed in accordance with the application materials.* Zoning compliance review during building permitting checks to make sure the site plan meets code requirements. **Compliance Assessment:** yet to be determined.

CUP F-4 C.1: *Condition #3, Noise levels for both Phase I and Phase 2 shall comply with the Noise Control Regulations for Industry and Commerce.* Noise Compliance Monitoring memorandum submitted on June 11, 1997, by Pacific Northwest Generating Cooperative. **Compliance Assessment:** yet to be determined.

CUP F-4 D.1: *Condition #4, The applicant is responsible for ongoing monitoring of noise levels.* Available records do not indicate any noise monitoring requests by the Planning Official. **Compliance Assessment:** yet to be determined.

CUP F-4 E.1: *Condition #5, Provide sanitation facilities for the generation plant employees.* None

CUP F-4 F.1: *Condition #6, The applicant shall obtain and comply with all applicable permits from the DEQ.* None

CUP F-4 G.1: *Condition #7, Lighting shall not impact an adjacent road or property.* No record of complaints received by the County. **Compliance Assessment:** yet to be determined.

CUP F-4 H.1: *Condition #8, Declaratory statement to be recorded that recognizes the rights of adjacent forest uses.* None

CUP F-4 I.1: *Condition #9, The applicant shall prepare a site-specific development plan addressing emergency water supplies for fire protection.* No information related to this condition has been found. **Compliance Assessment:** yet to be determined.

CUP F-4 J.1: *Condition #10, Obtain all required building permits.* None**.**

CUP F-5 (PC-02-07)

Approved in 2002. Conditional Use Permit for approval of landfilling an additional 1.43 acres.

CUP F-5 A.1: *Condition #1, Obtain approval from the DEQ.* None.

CUP F-5 B.1: *Condition #2, Keep unpaved, main access roads dust-free.* Coffin Butte Road is now paved, **Compliance Assessment:** yet to be determined.

CUP F-5 C.1: *Condition #3, Ensure that the landfill operation does not exceed the maximum sound level permitted by DEQ.* Available records do not indicate any noise monitoring requests by the Planning Official. **Compliance Assessment:** yet to be determined.

CUP F-5 D.1: *Condition #4, Provide on-site parking.* Security fence is present **Compliance Assessment:** yet to be determined.

CUP F-5 E.1: *Condition #5, Maintain a security fence between the landfill operation and the public road.* None.

CUP F-5 F.1: *Condition #6, The landfill operation hours 8:00 a.m. and 5:00 p.m. Monday through Saturday, 12:00 p.m. through 5:00 p.m. on Sundays, 24-hour access for commercial customers.* Condition is written poorly and would be improved with better clarification on Hours of Operation. **Compliance Assessment:** yet to be determined.

CUP F-5 G.1: *Condition #7, The applicant shall retain the dual-access road system.* None

CUP F-5 H.1: *Condition #8, The landfill activity shall be limited to the 600-foot contour elevation.* None

CUP F-5 I.1: *Condition #9, Copies of water quality and air quality permits, and data shall be placed on file with the Benton County.* The county receives copies of these permits. **Compliance Assessment:** yet to be determined.

CUP F-5 J.1: *Condition #10, Copies of storm-water runoff permits, and data shall be placed on file with the Benton County Community Development Department.* The county receives copies of these permits. **Compliance Assessment:** yet to be determined.

CUP F-6 (PC-03-11)

Approved in 2003, A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation.

Conditions 1 through 8 are copies from PC-02-07 Conditions.

CUP F-6 A.1: *Condition #9, Provide landscape buffer plan between Hwy 99 and east triangle.* This buffer is not evident. **Compliance Assessment:** yet to be determined.

CUP F-6 B.1: *Condition #10, Obtain DSL approval for activities that effect wetlands.* Advisory.

CUP F-7 (PC-11-016)

Approved in 2011. A Conditional Use Permit for approval of the construction of a new public recycling and refuse transfer facility.

CUP F-7 A.1: *Condition #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.* Compliance is not actively monitored. **Compliance Assessment:** yet to be determined.

CUP F-7 B.1: *Condition #2, The applicant shall record a declaratory statement acknowledging the rights of adjacent and nearby property owners to conduct forest operations.* Completed. **Compliance Assessment:** yet to be determined.

CUP F-7 C.1: *Condition #3, The applicant shall demonstrate compliance with the applicable siting standards specified in BCC 60.405.* Completed. **Compliance Assessment:** yet to be determined.

CUP F-7 D.1: *Condition #4, All new facilities constructed under this approval shall comply with the applicable provisions of Building Code.* Completed. **Compliance Assessment:** yet to be determined.

Conditions 5 through 13 are copies of PC-03-11 Conditions 1 through 8. Prior conditions regarding a DEQ permit, unpaved roads, noise, parking, security fence, hours of operation, dual-access road system, copies of water quality and air quality permits, and copies of stormwater runoff permits copied from prior approvals

CUP F-8 (LU-13-061)

Approved in 2013. 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.

CUP F-8 A.1: *Condition #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.* Compliance is not actively monitored. **Compliance Assessment:** yet to be determined.

CUP F-8 B.1: *Condition #2, The applicant shall record a declaratory statement acknowledging the rights of adjacent and nearby property owners to conduct forest operations.* Completed. **Compliance Assessment:** yet to be determined.

CUP F-8 C.1: *Condition #3, Get a Public Works permit for any new access to a county road or change to an existing access.* Advisory.

CUP F-8 D.1: *Condition #4, A National Pollutant Discharge Elimination System NPDES) permit is required for all construction activities that disturb one acre or more.* Advisory.

Conditions 5 through 13 are copies of PC-03-11 Conditions 1 through 8. Prior conditions regarding a DEQ permit, unpaved roads, noise, parking, security fence, hours of operation, dual-access road system, copies of water quality and air quality permits, and copies of stormwater runoff permits copied from prior approvals

CUP F-9 (LU-15-001)

Approved in 2015. Alteration of a nonconforming use to continue and enhance a stormwater treatment facility.

CUP F-9 A.1: *Condition #1, Development shall comply with the plans and narrative in the applicant's proposal identified as Attachment 'A'.* Compliance is not actively monitored. **Compliance Assessment:** yet to be determined.

CUP F-9 B.1: *Condition #2, The applicant shall obtain and maintain compliance with the terms of all necessary federal, state, and local permits.* Compliance is not actively monitored. **Compliance Assessment:** yet to be determined.

Key Recommendations:

CUP R-1 CUP R-1: Ascertain if the Site Plan and Narrative included in the applicant submittals for PC-83-07/L-83-07 are regulatory conditions the landfill was required to follow.

CUP R-2 CUP R-2: Consider the impact of leachate management on traffic safety, road maintenance, wastewater treatment plant, and the Willamette River (water, sediments, wildlife, etc.) in future assessment of the impact of landfilling in Benton County.

CUP R-3 CUP R-3: Clarify what appropriate reclamation will look like to appropriately manage community expectations for the ultimate disposition of the landfill.

CUP R-4 CUP R-4: Refine recycling program to encompass all jurisdictions that contribute product to the landfill and align expectations among all contributors.

CUP R-5 CUP R-5: Clarify the roles of the County and DEQ in future CUP actions.

CUP R-6 CUP R-6: Establish and widely advertise a County process for receiving, tracking, and resolving complaints.

CUP R-7 CUP R-7: Assess the landfill's emergency management plan.

CUP R-8 CUP R-8: Future conditional use permit conditions of approval and decisions should clearly convey basis of approval and completion.

CUP R-9 CUP R-9: Odor issues do not seem to be mentioned in any of the conditions but there should be further discussion on how to address this issue.

CUP R-10 CUP R-10: Review how the acquisition of buffer land by RSI is consistent with Vision 2040.

CUP R-11 CUP R-11: Benton County should actively monitor and enforce prior land use decision conditions of approval for the landfill or any other land use decisions.

CUP R-12 CUP R-12: Create a system that tracts Benton County review of 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).

CUP R-13 CUP R-13: Establish consistent terminology for describing what an applicant is required to do to be considered in compliance.

CUP R-14 CUP R-14: 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.

Additional Information:

SECTION C: Landfill Size/Capacity/Longevity

Introduction:

The following is a complete list of findings and recommendations put forth by individual members of the subcommittee. They have not been vetted and approved by the full subcommittee, and the majority and minority opinions have not been noted. The subcommittee will continue to work to refine these elements further. The subcommittee has worked collaboratively to develop a draft report focused on investigating and discussing elements of the charge.

The full Subcommittees Report can be found linked here, and in Section 1 of Appendix C.

The full Subcommittee "Meeting Notes" can be found linked here, and in Section 1 of Appendix D.

Webpage Link
Charge: A chronological history of key Coffin Butte Landfill topics: 1. Size 2. Specific locations 3. Assumptions (e.g., when will the landfill close?
Members: • Bill Bromann • Brian May • Chuck Gilbert • Daniel Redick • Ginger Rough • Ian Macnab • Ken Eklund • Mark Yeager • Paul Nietfeld • Shane Sanderson • Staff: Daniel Redick
Subcommittee Meetings and Notes: Document Link

Key Findings:

A) Size

LSCL F-1. LSCL-F-1: The 1983 rezoning action defined 194 acres as Landfill Size (LS) zone. An additional 56-acre parcel south of Coffin Butte Road, while zoned LS, would not be used for 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 included in this action restricted "fill" activity to the north side of Coffin Butte Road.

LSCL F-2. LSCL-F-2: The landfill has changed visually over time.

LSCL F-3. LSCL-F-3: 23 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-4. LSCL-F-4: Landfill total capacity increased by approximately 9,000,000 yd3 (68.5%) in 2003 with the addition of the West and East triangle areas. The addition of Cell 6 (in TBD) added approximately 13,400,000 yd3, for a total of approximately 35,500,000 yd3.

LSCL F-5. LSCL-F-5: Reported remining airspace increased by over 6,000,000 Cubic Yards between 2003 and 2004. Since 2004, reported remaining airspace has decreased gradually, while total permitted airspace has remaining somewhat constant. As of end 2021 approximately 44% of permitted capacity remained unused.

LSCL F-6. LSCL-F-6: The 2000 Landfill Franchise Agreement allows for exceedances over the listed tonnage threshold.

LSCL F-7. LSCL-F-7: The 2020 Landfill Franchise Agreement does not allow for exceedances over the listed tonnage threshold (described as a "Limit on Solid Waste", which the landfill "shall not exceed"), not applying to fire, flood, natural disaster, or Foce Majeaure event materials.

LSCL F-8. LSCL-F-8: Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement acknowledge the potential for "adverse effects to the County's infrastructure and environmental conditions due to increased annual volumes of Solid Waste accepted at the Landfill."

LSCL F-9. LSCL-F-9: Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement define landfill solid waste intake thresholds immediately following and in the same document section as the acknowledgement of the potential for adverse effects.

LSCL F-10. LSCL-F-10: 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 allows for exceedances over the listed threshold.

LSCL F-11. LSCL-F-11: The intake thresholds defined in both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement were instantiated as contractual provisions, with negative consequences explicitly defined in the 2000 agreement and implicit (violation of contract) consequences in the 2020 agreement.

LSCL F-12. LSCL-F-12: 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-13. LSCL-F-13: Representatives of the franchisee have indicated that the approximately 70% year-over-year increase in CY2016-2017 was primarily due to redirected flow from Riverbend to Coffin Butte. 2017-2019 volume increases are primarily due to the diversion of waste from Riverbend Landfill and rapid population growth in Willamette Valley and Western Oregon (the population of the 6-county area defined in the 2000 Landfill Franchise Agreement grew 3.6% total in the period 2016-2017).

LSCL F-14. LSCL-F-14: The 2000 Landfill Franchise Agreement imposed a ramping intake threshold to be applied during the term of the agreement (CY2001-2019), giving the County the option to perform an updated impact assessment if the threshold was exceeded, denoted in the chart by the blue line ("Threshold to update Baseline Study") , which then could result in increases to the landfill fees paid to the county. The County did not perform an updated impact assessment as a result of the 2017-2019 tonnage threshold exceedances.

LSCL F-15. LSCL-F-15: Due to an expected additional influx of volume in 2017 resulting from the disruption onset of the closure process for Riverbend landfill in Yamhill County, in December 2016 the franchisee and Benton County executed a MOU acknowledging an expected increase in Coffin Butte intake volume "for a term of 1-2 years."

LSCL F-16. LSCL-F-16: The 2020 Landfill Franchise Agreement states that the total tonnage deposited at the Landfill shall not exceed 1.1M tons per calendar year until "application to expand the Landfill on to the Expansion Parcel are granted (following any and all appeals to final judgement)." The 2020 intake limit is denoted in the chart by the dashed red line ("2020 FA Limit.")

LSCL F-17. LSCL-F-17: 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-18. LSCL-F-18: 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-19. LSCL-F-19: The 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-20. LSCL-F-20: The 2016 MOU does not contain language preventing Benton County from exercising its rights under the 2000 Landfill Franchise Agreement in the event of violations of the intake limit.

LSCL F-21. LSCL-F-21: The annual Coffin Butte intake tonnage exceeded the threshold defined in the 2000 Landfill Franchise Agreement as the tonnage threshold at which the County had the option to perform an updated baseline analysis of landfill impacts in calendar years 2017, 2018, and 2019.

LSCL F-22. LSCL-F-22: Benton County did not perform an updated baseline analysis of landfill impacts as the result of the exceeded intake limit that occurred in 2017, 2018 and 2019. Specifically, the County was allowed to reassess infrastructure and environmental impacts relative to a baseline established in 2001, and, if adverse impact was found, to force a renegotiation of the Franchise Fee and/or Host Fee.

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: 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. By 2013, the waste tonnage was 479,000, and in 2021, 1,046,000 tons were emplaced.

LSCL F-25. LSCL-F-25: Due to an expected additional influx of tonnage in 2017 (approximately 70% year-over-year increase in CY2016-2017 was partially due to redirected flow from Riverbend to Coffin Butte(approximately 70% year-over-year increase in CY2016-2017 was due to redirected flow from Riverbend to Coffin Butte), in December 2016 the franchisee and Benton County executed a MOU agreeing to an expected increase in Coffin Butte intake volume "for a term of 1-2 years." 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. The decreased intake volume in 2020 is attributed to the Covid-19 outbreak.

LSCL F-26. LSCL-F-26: Washington County waste tonnage accepted at the landfill increased by over 400% between 2016-2017, with the increased tonnage continuing through 2019.

LSCL F-27. LSCL-F-27: Map of the landfill shows current and planned cells (G-03)

LSCL F-28. LSCL-F-28: The overview map included in the Benton County & Valley Landfills MOU Relating to Land Use Issues (2002) document, included here as Figure 7: Zoning Map (2002 MOU), clarifies the zoning boundaries. Of these 266 acres, 194 acres, all on the north side of Coffin Butte Road, were approved for waste disposal.

LSCL F-29. LSCL-F-29: 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-30. LSCL-F-30: 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. The process for approving landfill south of Coffin Butte Road was subsequently changed to "allowed by conditional use permit" apparently via Ord. 90-0069 (BCC 77.305)

LSCL F-31. LSCL-F-31: Current (1Q2023) estimate for landfill EOL = CY 2037 – 2039 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.

LSCL F-32. LSCL-F-32: The quarry dynamics are construction of the needed cells for future disposal areas. The herculean construction task is to excavate basalt rock to form the excavated design dimensions for construction of future disposal cells. The assumption is that the excavated rock and the construction of future cells keep pace with the demands of increased volumes of refuse needed for disposal without interruption.

LSCL F-33. LSCL-F-33: The complexities of demand and availability of refuse disposal is the crux of the puzzle to provide a viable sustainable material management process under consideration.

Key Recommendations:

LSCL R-1. LSCL-R-1: Investigate the extent to which increased landfill revenue may have influenced Benton County's decision not to pursue contractual remedies for the 2017-2019 intake threshold exceedances. See "Economics" charge of the Workgroup Charter and Bylaws.

LSCL R-2. LSCL-R-2: The Sustainable Materials Management Plan should further develop scenarios and factors that may impact the landfill lifespan, including detailed analyses of likely projections.

Additional Information:

-

-

SECTION D: Sustainable Materials Management Plan (SMMP)

Introduction:

Introduction:
The main theme of this subcommittee's work around the Sustainable Materials Management Plan, is that the plan should help transition our communities from a focus on end-of-life waste management to a more holistic, systemic approach via a truly Sustainable Materials Management Plan. The many positive impacts include:

- Full Life Cycle/Cradle-to-Cradle Principles of Sustainable Material Management
- Circular Economy Opportunities both Locally and Regionally
- Inclusion of Equity Considerations
- Celebrate Innovation & Shared Prosperity

Benton county is seeking a new SMMP that will guide decisions and policies for future generations. Based upon the magnitude of content and ideas – this SMMP feels like it will be leading (ushering in) a paradigm shift in how we view and interact with materials we use in our everyday lives.

Work in Progress: Why? Why are we doing this and why do we need a new SMMP – if we can clearly tie the *why* behind the need for a better/newer/new SMMP – this will only strengthen the findings and recommendations.

The primary 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, 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:

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, or by reading content under "Key Finding" and "Key Recommendation" headings in the full subcommittee report.

The following is a complete list of findings and recommendations put forth by individual members of the subcommittee. They have not been vetted and approved by the full subcommittee, and the majority and minority opinions have not been noted. The subcommittee will continue to work to refined these elements further. The subcommittee has worked collaboratively to develop a draft report focused on investigating and discussing elements of the charge.

The full Subcommittees Report can be found linked here, and in Section 3 of Appendix C.

The full Subcommittee "Meeting Notes" can be found linked here, and in Section 3 of Appendix D.

Webpage Link
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 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.
Members: • Brian May • Daniel Redick • Joel Geier • John Deuel • Ken Eklund

• Marge Popp • Ryan McAlister • Sean McGuire • Staff: Daniel Redick
Subcommittee Meetings and Notes: Document Link

Key Findings:

SMMP-F-1. SMMP-F-1: Many best practices and model SMMP's exist in Oregon and beyond.

SMMP-F-2. SMMP-F-2: The charges of the BCTT Workgroup are intimately related and will be included within the RFP.

SMMP-F-3. SMMP-F-3: Contracting out processes often include a Technical Advisory Committee (TAC), which vet technical information from a consultant and get to a place of consensus, and a Community Advisory Committee (CAC), which provide review in the technical experts' areas of disagreement.

SMMP-F-4. SMMP-F-4: Length of overall project can be heavily impacted and defined by the level of public interaction/engagement included in the project.

SMMP-F-5. SMMP-F-5: The research and development of the plan can occur in the background, not using as much time as outreach.

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, 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: SMMP content should include Benefit-Cost analyses in the evaluation and recommendations of major topics. Circular economy costs/benefits should specifically be addressed in the SMMP.

SMMP-R-3. SMMP-R-3: 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-4. SMMP-R-4: Bring "lessons learned" into the process from other sources, including feedback from other counties, lessons from past Benton County experiences, examples from California, Washington, or international examples. See full report for more sources.

SMMP-R-5. SMMP-R-5: 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.

SMMP-R-6. SMMP-R-6: Benton County should use an RFP to find consultant(s) for developing a Sustainable Materials Management Plan.

SMMP-R-7. SMMP-R-7: The SMMP should address the subjects listed in the full subcommittee report, answering the questions listed as RFP priorities allow.

SMMP-R-8. SMMP-R-8: 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-9. SMMP-R-9: The scope of work for this project is expected to be broad and comprehensive, with specific goals recommended for the County to consider as reaching for as milestones.

SMMP-R-10. SMMP-R-10: 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-11. SMMP-R-11: 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.

SMMP-R-12. SMMP-R-12: 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-13. SMMP-R-13: 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-14. SMMP-R-14: The RFP should demonstrate flexibility in allowing further work plan development after applications are reviewed and accepted.

SMMP-R-15. SMMP-R-15: The length of overall project will depend heavily on the level of public interaction/stakeholder engagement included in the project, and by requirements from the county. During the public interaction/stakeholder engagement process, R&D from consultant can occur in the background.

SMMP-R-16. SMMP-R-16: 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-17. SMMP-R-17: Include a Technical Advisory Committee (TAC), which vet technical information from a consultant and get to a place of consensus, and a Community Advisory Committee (CAC), which provide review in the technical

experts' areas of disagreement. SMMP Sub-Committee members should be included in the CAC.

SMMP-R-18. SMMP-R-18: 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-19. SMMP-R-19: 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-20. SMMP-R-20: 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-21. SMMP-R-21: 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.

Additional Information:

SECTION E: Community Education & Public Involvement Summary

Introduction:

Benton County relies on community participation for all aspects of government policies and decisions. In November of 2021, Republic Services applied for a Conditional Use Permit (CUP) for landfill and community members affected felt they had limited input. Benton County did deny the CUP but per their legal right, Republic Services plans to re-apply soon. The County and other community led groups like the Solid Waste Advisory Committee (SWAC) and the Planning Commission have legal criteria they must follow to make land use decisions and community input is critical. Recommendations to ensure that community engagement and education are present for the next CUP process and other future land use decisions will be discussed below.

A summary of committee recommendations includes provisions for more inclusive community outreach for the next CUP process by 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 self-selected, 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 next CUP and for future communications concerning the Sustainable Materials Management Plan (SMMP.)
- Review past CUP process and standard Benton County Communication practices.
- Provide ideas and feedback for the BCTTC, SWAC and the PC to help in Community Engagement
- Develop 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 Community Education resources

The full Subcommittees Report can be found linked here, and in Section 5 of Appendix C.

The full Subcommittee "Meeting Notes" can be found linked here, and in Section 5 of Appendix D.

Webpage Link
Charge: 1) General History: a. Directed at public and those new to the issue b. Not as detailed as initial draft c. Narrative more than 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. 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 next CUP
   b. SMMP info?
   c. FAQs from a process perspective – not the substantive perspective
   d. Outreach Plan
5) Recommendations

Members:

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

Subcommittee Meetings and Notes: Document Link

Key Findings

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

CO F-1 Insure language accessibility for at least the County's most used languages. (English, Spanish, and Chinese.)

CO F-2 Use methods that help target underserved populations, practically the youth and low-income demographics.

a. This can be achieved through more SMS communication and insuring 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.

CO 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.)

CO F-4 Create user friendly access to public input documents and testimonies during the process to ensure Benton County, Planning Commission, SWAC and other.

Key Recommendations

CO R-1

Notification Subject	Notification Type	Who is Notified	Timeline
BCTT Report	Email blast Interested Parties List, Organic Subscribers, make sure those who spoke at the meeting are on the list. Soap Creek Neighbors Group, other landfill neighbors Possible postcard to the entire county here 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	*Radii maps mentioned in table are below 10 Mile Radius Proposed	72 hrs. After report if finished

	event/public informational meeting- weekend in the daytime where the link and email list is available. Information about Board Hearing coming up. AND/OR Community Open House Event		

CO R-2

Notification Subject	Notification Type	Who is Notified	Timeline
BCTT Survey re: Public Thoughts on Workgroup Report	Email blast, website post. Displays or Presentations where people already spend time (i.e., Library, community events) Postcard	10 Miles proposed	Open 1 month

CO R-3

Notification Subject	Notification Type	Who is Notified	Timeline
Board Hearing on Report	Post Card, email blast, newspaper Social media posts and ads	10 or 15 miles	24 hrs. after scheduled

CO R-4

Notification Subject	Notification Type	Who is Notified	Timeline
CUP Filing	Post Card, email blast, newspaper Social media posts and ads	10 or 15 miles	24 hrs. after initiation

CO R-5

Notification Subject	Notification Type	Who is Notified	Timeline
CUP Completion	Email blast, website post, newspaper Social Media	Entire County Same as CUP filing	24 hrs. after

CO R-6

Notification Subject	Notification Type	Who is Notified	Timeline
Franchise Agreement	Post Card, email blast, newspaper Social media posts and ads	Entire County	24 hours after

CO R-7

Notification Subject	Notification Type	Who is Notified	Timeline
Planning Commission Meetings	Website, email to interested groups	People on existing email list	2 weeks before meeting

CO R-8

Notification Subject	Notification Type	Who is Notified	Timeline

SWAC Meetings	Website, email to interested groups	People on existing email list	1 to 2 weeks before meeting

Additional Information:

Conclusion

Community education and extended outreach is a very vital step of the land use application process. Making sure everyone in the community gets information about this process requires us to use two broad methods, these include specifically targeting underserved groups as well as using multiple outreach methods. Targeting underserved groups can include the increased use of social media and using outreach methods that are able to be accessed with a phone. It is also very important 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[54].

[54]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

V. Final Polling

WORKGROUP Member	Polling	Charge	Not Here	Abstain	1	2	3
Chuck Gilbert	X	All					
Marge Popp	X	All					
Elizabeth Irish	X	All					
Russ Knocke	X	All but C					
Shawn Edmonds	X	All but C					
John Deuel	X	All					
Kathryn Duvall	X	All					
Christopher McMorran	X	All					
Ryan McAlister	X	All					
Mary Parmigiani	X	All					
Ed Pitera	X	All					
Louisa Shelby	X	All					
Catherine Biscoe	X	All					
Polling Totals:				**3**	**8**	**0**	**0**
EX-Officio	**Polling**	**Charge**	**Not Here**	**Abstain**	**1**	**2**	**3**
Brian Fuller							
Brian May							
Shane Sanderson							

County	Polling	Charge	Not Here	Abstain	1	2	3
Daniel Redick							
Sean McGuire							
Ex-Officio Totals:			**0**	**0**	**5**	**0**	**0**
Grand Totals:							

RESULT: Consensus / No Consensus

Minority Proposal: None

Last Meeting Transcript

Member Statement in Alpha Order or group by Support, Neutral, or do not Support [List 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

A. 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

Benton County Solid Waste Process Workgroup - Outreach Analysis

	Facebook reach = the # of unique users who saw your content.	**Twitter impression** = the # of times a tweet shows up in somebody's timeline.	**Instagram reach** = the # of unique accounts that have seen your post or story.	**Nextdoor reach** = the # of unique views, opens and clicks of the post in the	**E-news reach** = the # of users that opened the email.	**Email reach** = the # of users that opened the email.
Email Benton County workgroup talking trash & the future of solid waste	**August 11, 2022:**					Constant Contact Emails Reach 3,666
Post The #BentonCountyBoardOfCommissioners want you to help "talk trash" this fall by participating	**August 12, 2022:** Facebook Reach 155	Twitter Impressions 143	Instagram Reach 231	Nextdoor Reach 1,562 Benton County Talks Trash Workgroup scheduled to address future of solid waste!		
E-news Benton County News - September 2022: Talking Trash	**September 6, 2022:**				E-news Reach 4,783	
Post The "Benton County Talks Trash" workgroup officially kicked off yesterday	**September 9, 2022:** Facebook Reach 411	Twitter Impressions 266	Instagram Reach 480	Nextdoor Reach 1,630 Benton County workgroup talking trash and the future of solid waste.		
Email Benton County workgroup talking trash & the future of	**September 12, 2022:**					Constant Contact Emails Reach 3,564
Email Solid Waste Workgroup Meeting, Sept. 15	**September 15, 2022:**					Constant Contact Emails Reach 119
Post The #BentonCountySolidWasteWor	**September 15, 2022:** Facebook post Reach 561	Twitter Impressions 126	Instagram Reach 219			
Event post Neighorhood Tour	**September 15, 2022:** Facebook event Reach 79			Nextdoor event Reach	unable to capture	
Internal newsletter This month, I would like to let you know about a new	**September 20, 2022:**				Internal newsletter Reach 156	
Email Landfill and neighborhood tours scheduled	**September 20, 2022:**					Constant Contact Emails Reach 118
Email Solid Waste Workgroup Meeting, "Benton County Talks	**September 22, 2022:**					Constant Contact Emails Reach 102
Post The Benton County Talks Trash Solid Waste Process	**September 22, 2022:** Facebook post Reach 1,226	Twitter Impressions 151	Instagram Reach 158			
Email Neighborhood tour update	**September 28, 2022:**					Constant Contact Emails Reach 109
Email Tour the Neighborhoods that	**September 29, 2022:**					Constant Contact Emails

surround the Coffin Butte											Reach	100
Event post	**October 1, 2022:**											
Neighorhood 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							
	Reach	2	Impressions	139	Reach	161						
	n/a Facebook error											
Email	**October 5, 2022:**											
Reminder - Solid Waste Workgroup Meeting, "Benton											Constant Contact Emails	
											Reach	111
Event post	**October 6, 2022:**											
Solid Waste Process Workgroup Meeting #3	Facebook event						Nextdoor event					
	Reach	164					Reach		unable to capture			
Email	**October 20, 2022:**											
Solid Waste Process Workgroup Meeting, "Benton											Constant Contact Emails	
											Reach	108
Email	**October 21, 2022:**											
Solid Waste Process Workgroup Subcommittee											Constant Contact Emails	
											Reach	115
Email	**October 25, 2022:**											
REMINDER: Solid Waste Process Workgroup Meeting -											Constant Contact Emails	
											Reach	111
Post	**October 25, 2022:**											
Attend the Solid Waste Process Workgroup meeting #4 this	Facebook		Twitter		Instagram							
	Reach	778	Impressions	122	Reach	130						
Event post	**October 27, 2022:**											
Solid Waste Process Workgroup Meeting #4	Facebook event						Nextdoor event					
	Reach	183					Reach		unable to capture			
E-news	**November 1, 2022:**											
Benton County News - November 2022: Solid Waste							Nextdoor		E-news			
							Reach	5,054	Reach	3,732		
Email	**November 1, 2022:**											
CANCELLED: Solid Waste Process Workgroup Meeting -											Constant Contact Emails	
											Reach	115
Email	**November 10, 2022:**											
Open House at the next Solid Waste Process Workgroup											Constant Contact Emails	
											Reach	3,516
Event post	**November 14, 2022:**											
Solid Waste Process Workgroup Meeting #5	Facebook event						Nextdoor event					
	Reach	220					Reach		unable to capture			
Email	**November 15, 2022:**											
REMINDER: Solid Waste Process Workgroup Meeting &											Constant Contact Emails	
											Reach	103
E-news	**December 6, 2022:**											
Benton County News - December 2022: Upcoming							Nextdoor		E-news			
							Reach	4,256	Reach	4,215		
Email	**December 7, 2022:**											
Solid Waste Process Workgroup Meeting - Dec. 15											Constant Contact Emails	
											Reach	105
Event post	**December 7, 2022:**											
Solid Waste Process Workgroup Meeting #6	Facebook event						Nextdoor event					
	Reach	213					Reach		unable to capture			
Post	**December 12, 2022:**											
Attend the Solid Waste Process Workgroup meeting #6 this	Facebook		Twitter		Instagram							
	Reach	103	Impressions	142	Reach	179						
Email	**December 13, 2022:**											
REMINDER: Solid Waste Process Workgroup Meeting -											Constant Contact Emails	
											Reach	109
Benton County Solid Waste Process Workgroup totals:	Facebook		Twitter		Instagram		Nextdoor		E-news		Constant Contact Emails	
	Reach total	4,408	Reach total	1,089	Reach total	1,558	Reach total	17,005	Reach total	17,524	Reach total	12,171
	Follwers total	5,899	Follwers total	3,079	Follwers total	2,087	Follwers total	21,922	Subscribers total	6,959	Subscribers total	6,959

Total Reach =			
***Total Followers =**	39,946	*as of 12/31/22	

Web visits		Media advisories	
SWPW page views	2,084	Page views	437
Ave. time on page	4:07		
Subcommitte page views	1,276		
Meeting links views	558		

Benton County Solid Waste Process Workgroup outreach

REACH:

- The greatest reach was through the County's E-newsletter and Nextdoor (ND) 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 it's total number of followers/subscribers.

ENGAGEMENT:

- The County received a 3.5% overall engagement rate. 2022 industry standards for E-newsletters = 1%, ND = 0.45-0.55%, Email subscriptions = 1%, FB = 0.064%, IG = 0.67%, TW = 0.037%.
- Direct engagement rates: E-newsletter = 5%, ND = 0.09, 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.

B. Member Process Evaluation Summary

TO BE PROVIDED

C. Facilitator Process Reflections

TO BE PROVIDED

VII. Conclusion

TO BE PROVIDED

VIII. Appendix

A. Meeting Summary and Open House Topics

B. _____

C. Subcommittee Reports

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

D. Subcommittee "Meeting Notes"

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

Appendix A: Meeting 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:

1) Landfill Size/Capacity/Longevity Subcommittee (Existing)
2) CUP Conditions Subcommittee (Existing)
3) Law Subcommittee (Pending)
    i. Land Use Law 101

ii. Deference Memos
iii. Rights and Obligations
iv. Entity Rights and Obligations
v. Reporting Requirements

4) 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 lessoning 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 Subcommitee 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**

C. Subcommittee "Meeting Notes" – LINKS ABOVE

6. Landfill Size/Capacity/Longevity
7. Sustainable Materials Management Plan (SMMP)
8. Past Land Use Application Conditions
9. Legal Issues & Land Use Review
10. Community Education & Outreach

D. Subcommittee Reports

1. Landfill Size/Capacity/Longevity
2. Sustainable Materials Management Plan (SMMP)
3. Past Land Use Application Conditions

1. Legal Issues & Land Use Review
2. Community Education & Outreach

Benton County OREGON

Landfill Size/Capacity/Longevity

A.1. Subcommittee

DRAFT 1-25-23

Table of Contents

B. Table of Findings

LSCL-F-1: The 1983 rezoning action defined 194 acres as Landfill Size (LS) zone. An additional 56-acre parcel south of Coffin Butte Road, while zoned LS, would not be used for 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 included in this action restricted "fill" activity to the north side of Coffin Butte Road.

LSCL-F-2: The landfill has changed visually over time.

LSCL-F-3: 23 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-4: Landfill total capacity increased by approximately 9,000,000 yd3 (68.5%) in 2003 with the addition of the West and East triangle areas. The addition of Cell 6 (in TBD) added approximately 13,400,000 yd3, for a total of approximately 35,500,000 yd3.

LSCL-F-5: Reported remining airspace increased by over 6,000,000 Cubic Yards between 2003 and 2004. Since 2004, reported remaining airspace has decreased gradually, while total permitted airspace has remaining somewhat constant. As of end 2021 approximately 44% of permitted capacity remained unused.

LSCL-F-6: The 2000 Landfill Franchise Agreement allows for exceedances over the listed tonnage threshold.

LSCL-F-7: The 2020 Landfill Franchise Agreement does not allow for exceedances over the listed tonnage threshold (described as a "Limit on Solid Waste", which the landfill "shall not exceed"), not applying to fire, flood, natural disaster, or Foce Majeaure event materials.

LSCL-F-8: Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement acknowledge the potential for "adverse effects to the County's infrastructure and environmental conditions due to increased annual volumes of Solid Waste accepted at the Landfill."

LSCL-F-9: Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement define landfill solid waste intake thresholds immediately following and in the same document section as the acknowledgement of the potential for adverse effects.

LSCL-F-10: 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 allows for exceedances over the listed threshold.

LSCL-F-11: The intake thresholds defined in both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement were instantiated as contractual provisions, with

negative consequences explicitly defined in the 2000 agreement and implicit (violation of contract) consequences in the 2020 agreement.

LSCL-F-12: 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-13: Representatives of the franchisee have indicated that the approximately 70% year-over-year increase in CY2016-2017 was primarily due to redirected flow from Riverbend to Coffin Butte. 2017-2019 volume increases are primarily due to the diversion of waste from Riverbend Landfill and rapid population growth in Willamette Valley and Western Oregon (the population of the 6-county area defined in the 2000 Landfill Franchise Agreement grew 3.6% total in the period 2016-2017).

LSCL-F-14: The 2000 Landfill Franchise Agreement imposed a ramping intake threshold to be applied during the term of the agreement (CY2001-2019), giving the County the option to perform an updated impact assessment if the threshold was exceeded, denoted in the chart by the blue line ("Threshold to update Baseline Study") , which then could result in increases to the landfill fees paid to the county. The County did not perform an updated impact assessment as a result of the 2017-2019 tonnage threshold exceedances.

LSCL-F-15: Due to an expected additional influx of volume in 2017 resulting from the disruption onset of the closure process for Riverbend landfill in Yamhill County, in December 2016 the franchisee and Benton County executed a MOU acknowledging an expected increase in Coffin Butte intake volume "for a term of 1-2 years."

LSCL-F-16: The 2020 Landfill Franchise Agreement states that the total tonnage deposited at the Landfill shall not exceed 1.1M tons per calendar year until "application to expand the Landfill on to the Expansion Parcel are granted (following any and all appeals to final judgement)." The 2020 intake limit is denoted in the chart by the dashed red line ("2020 FA Limit.")

LSCL-F-17: 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-18: 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-19: The 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-20: The 2016 MOU does not contain language preventing Benton County from exercising its rights under the 2000 Landfill Franchise Agreement in the event of violations of the intake limit.

LSCL-F-21: The annual Coffin Butte intake tonnage exceeded the threshold defined in the 2000 Landfill Franchise Agreement as the tonnage threshold at which the County had the option to perform an updated baseline analysis of landfill impacts in calendar years 2017, 2018, and 2019.

LSCL-F-22: Benton County did not perform an updated baseline analysis of landfill impacts as the result of the exceeded intake limit that occurred in 2017, 2018 and 2019. Specifically, the County was allowed to reassess infrastructure and environmental impacts relative to a baseline established in 2001, and, if adverse impact was found, to force a renegotiation of the Franchise Fee and/or Host Fee.

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: 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. By 2013, the waste tonnage was 479,000, and in 2021, 1,046,000 tons were emplaced.

LSCL-F-25: Due to an expected additional influx of tonnage in 2017 (approximately 70% year-over-year increase in CY2016-2017 was partially due to redirected flow from Riverbend to Coffin Butte(approximately 70% year-over-year increase in CY2016-2017 was due to redirected flow from Riverbend to Coffin Butte), in December 2016 the franchisee and Benton County executed a MOU agreeing to an expected increase in Coffin Butte intake volume "for a term of 1-2 years." 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. The decreased intake volume in 2020 is attributed to the Covid-19 outbreak.

LSCL-F-26: Washington County waste tonnage accepted at the landfill increased by over 400% between 2016-2017, with the increased tonnage continuing through 2019.

LSCL-F-27: Map of the landfill shows current and planned cells (G-03)

LSCL-F-28: The overview map included in the Benton County & Valley Landfills MOU Relating to Land Use Issues (2002) document, included here as Figure 7: Zoning Map (2002 MOU), clarifies the zoning boundaries. Of these 266 acres, 194 acres, all on the north side of Coffin Butte Road, were approved for waste disposal.

LSCL-F-29: 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-30: 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. The process for approving landfill south of Coffin Butte Road was subsequently changed to "allowed by conditional use permit" apparently via Ord. 90-0069 (BCC 77.305)

LSCL-F-31: Current (1Q2023) estimate for landfill EOL = CY 2037 – 2039 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.

LSCL-F-32: The quarry dynamics are construction of the needed cells for future disposal areas. The herculean construction task is to excavate basalt rock to form the excavated design dimensions for construction of future disposal cells. The assumption is that the excavated rock and the construction of future cells keep pace with the demands of increased volumes of refuse needed for disposal without interruption.

LSCL-F-33: The complexities of demand and availability of refuse disposal is the crux of the puzzle to provide a viable sustainable material management process under consideration.

C. Table of Recommendations

LSCL-R-1: Investigate the extent to which increased landfill revenue may have influenced Benton County's decision not to pursue contractual remedies for the 2017-2019 intake threshold exceedances. See "Economics" charge of the Workgroup Charter and Bylaws.

LSCL-R-2: The Sustainable Materials Management Plan should further develop scenarios and factors that may impact the landfill lifespan, including detailed analyses of likely projections.

D. Section 0: Background

E. 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.

Common Terms

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 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 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 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 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 is a regional disposal site and an engineered sanitary landfill in Benton County, north of Corvallis, located off Coffin Butte Road. In progress: Verify that this language applies to cells 1 and 1a.

Need definition of Airspace.

Need definition of Permitted Space.

F. 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

G. 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). Section 4 provides additional detail on factors which may impact landfill life.

References to specific sections in this document are in the format <Section #>.<Subsection Letter>.<Subpart Designation>. Thus this location would be referenced as 0.C, and the A.1 Subcommittee Charge may be found in 0.A.ii.

Please note that staff have incorporated other subcommittee member's additions, edits, and comments by copying and pasting text from various draft reports received from subcommittee members into the current draft. While staff did provide suggested changes and comments in addition to those received by subcommittee members, the "Track Changes" view, will show that all edits were made by staff, however, much of the changed content was submitted by non-staff subcommittee members. Each draft represents staff's attempt at combining the entire group's suggested edits into a single document, and the draft content has not been vetted by the subcommittee. The draft in the full work group report is a simplified version to help with readability, which staff developed by removing redlined content, using the current "draft" content, and only keeping comments that are considered by staff to be essential to the understanding of the draft in the current form. The full subcommittee draft working document includes all of the unresolved comments and edits made over time, which is the document version that the subcommittee will continue to refine.

H. Section 1: Landfill Size

A. Physical Real Estate Footprint

i. 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):

- History prior to 1974 in progress
- 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. (Language source? In progress)
- 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.

Key Finding

LSCL-F-1. The 1983 rezoning action defined 194 acres as Landfill Size (LS) zone. An additional 56-acre parcel south of Coffin Butte Road, while zoned LS, would not be used for 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 included in this action restricted "fill" activity to the north side of Coffin Butte Road.

ii. Images

Figure 1: Reported circa 1941 aerial view of Coffin Butte area, before Camp Adair.

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.

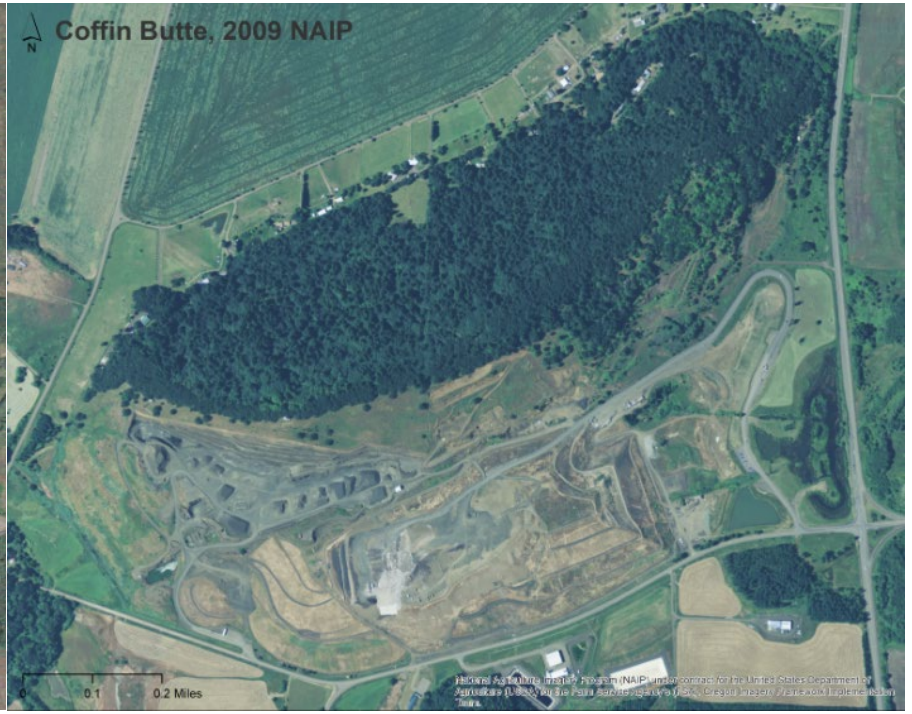
Aerial image from Fall 2022. Figure 5


Coffin Butte, 1954 USGS Aerial Photography
N
0
0.1
0.2 Miles


Coffin Butte, 1967 USGS Aerial Photography
N
0.1
0.2 Miles


Coffin Butte, 1994 NAIP Digital Orthoquadrangle
0
0.1
0.2 Miles
Coffin Butte, 2000 NAIP
0
0.1
0.2 Miles


Coffin Butte, 2005 NAIP
N
0
0.1
0.2 Miles


Coffin Butte, 2009 NAIP
N
0
0.1
0.2 Miles


Coffin Butte, 2016 NAIP
0 0.1 0.2 Miles
Coffin Butte, 2020 NAIP
0 0.1 0.2 Miles

Key Finding

LSCL-F-2. The landfill has changed visually over time.

iii. Current footprint

The real estate footprint of the landfill is shown in Figure 1: Properties associated with the landfill, numbered in coordination with the table in Appendix C, and Figure 2: Property map, with years each property was purchased by a landfill-affiliated organization, below. See Appendix C for a detailed table of landfill property by taxlot.

*(e.g. 1983 CUP: "*not exceed 2 acres during the periods of October 15 to June 1 and to not exceed 3/ 4 of an acre during all other periods.*").* Discussion of this language in progress

Figure 6: Properties associated with the landfill, numbered in coordination with the table in Appendix C, and color-coded by zoning.

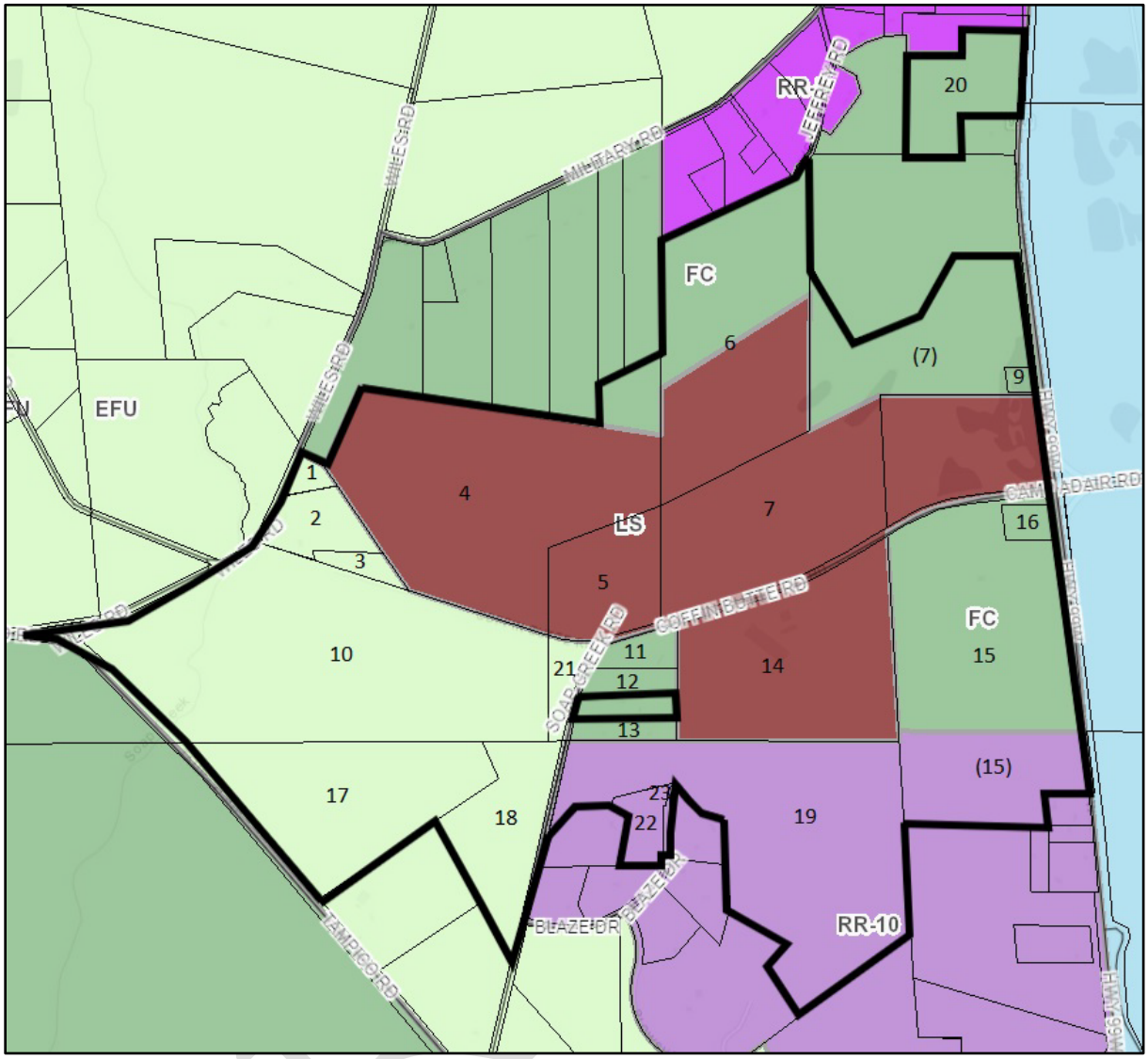
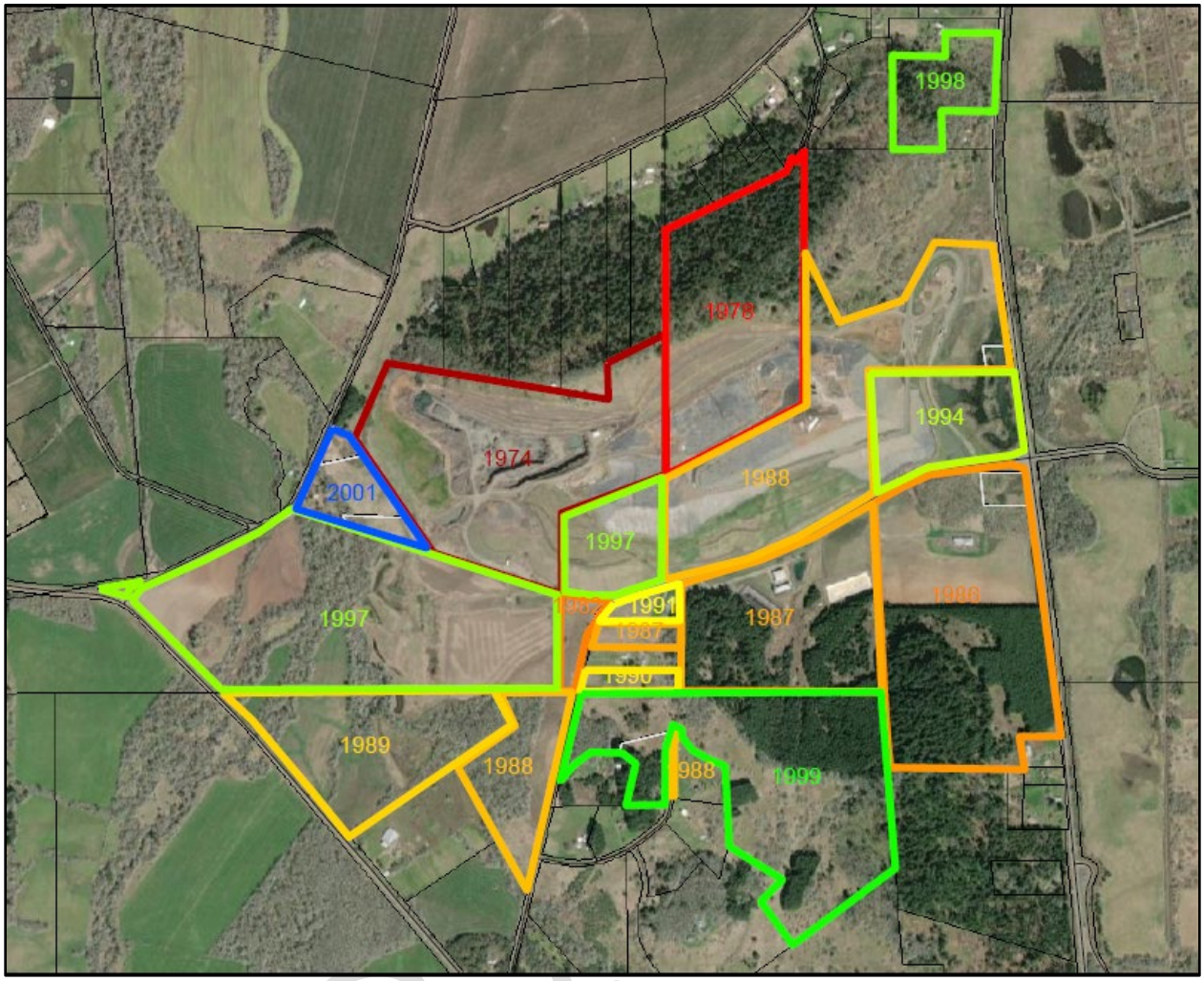


Figure 7: Property map, with years each property was purchased by a landfill-affiliated organization



Updating tax lot dates purchased on map. In progress. Dates should be updated for properties zoned LS, which were likely purchased prior to 1983.

Key Finding

LSCL-F-3. 23 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).

B. Permitted Disposal Capacity

i. 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 demonstrate 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 *Figure 8: Proposed 1983 Rezoning Map* areas (Cells 2-5) Republic to include Cell 1 volume. In progress.
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
~~?~~	35,531,000	With Cell 6, estimated at 13,397,000 yd^3 Date of addition of Cell 6 in progress.
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

To include historical lifespan projections and anticipated closure dates, instead of permitted capacity. Consult DEQ permit documents. In progress.

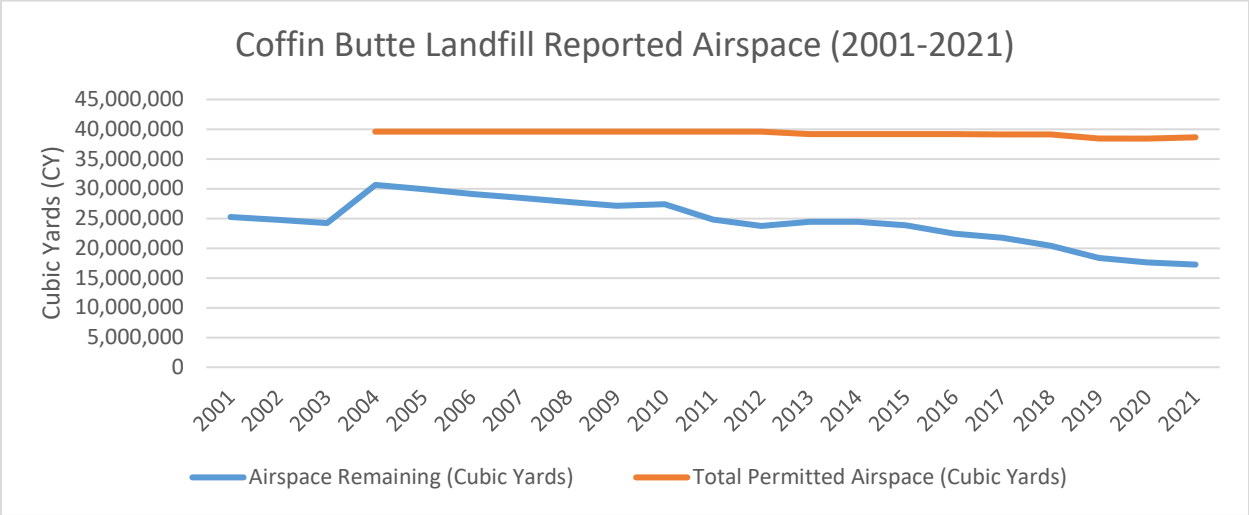
Key Finding

LSCL-F-4. Landfill total capacity increased by approximately 9,000,000 yd^3 (68.5%) in 2003 with the addition of the West and East triangle areas. The addition of Cell 6 (in TBD) added approximately 13,400,000 yd^3, for a total of approximately 35,500,000 yd^3.

ii. 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



Key Finding

LSCL-F-5. Reported remining airspace increased by over 6,000,000 Cubic Yards between 2003 and 2004. Since 2004, reported remaining airspace has decreased gradually, while total permitted airspace has remaining somewhat constant. As of end 2021 approximately 44% of permitted capacity remained unused.

iii. Near-term (circa 2025) capacity adjustments for 5-year operating plan

Republic Services is currently in discussion with both Knife River ~~and Benton County~~ regarding necessary permitting/steps to begin excavation of the quarry (future cell 6). Clarify language on quarry excavation. In progress.

C. Intake Volume

In progress. Change section title to scale weight, tonnage.

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

Work in Progress: Explaining 2000 and 2020 Franchise agreement tonnage limits

The 2000 Landfill Franchise Agreement between Benton County and Valley Landfills (Coffin Butte Landfill) includes a section regarding the impacts of waste volume, which states:

> *"If during the term of this Agreement the volume of solid waste accepted at the landfill in any calendar year exceeds 600,000 tons or 1,200,000 cumulative tons over any period of two consecutive calendar years, the County may perform a new assessment."*

The original assessment is known as "the Baseline", and was a study that assessed 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. The franchise agreement then describes the consequences of a new assessment showing adverse impacts on "the Baseline":

> *"If the County determines that information in the Baseline Updated indicates an adverse impact on "the Baseline," the parties shall immediately proceed in food faith to negotiate an increase in the Franchise Fee and/or Host Surcharge…"*

Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement preface the definition of their respective solid waste intake limits with an acknowledgement of potential "adverse effects to the County's infrastructure and environmental conditions due to increased annual volumes of Solid Waste accepted at the Landfill."

Each of these agreements then defined an intake threshold (in Tons/yr.). In the 2000 agreement, intake levels in excess of the threshold allowed the County to reassess infrastructure and environmental impacts relative to a baseline established in 2001, and, if adverse impact was found, to force a renegotiation of the Franchise Fee and/or Host Fee. The 2020 agreement noted that the total tonnage deposited into the landfill in any calendar year "shall not exceed" the limit level.

In both agreements the intake thresholds were defined immediately following the acknowledgement of potential adverse impact from increased annual volumes. In both agreements the intake thresholds were defined in the same section of the agreement as the adverse impact clause (Section 8 of the 2000 agreement, Section 5 of the 2020 agreement).

The calculation of the intake threshold defined in the 2000 agreement is somewhat complex; see Appendix A for details of this calculation. The result of this calculation is that the intake threshold defined in the 2000 agreement is set at 600,000 Tons in any calendar year or 1,200,000 Tons in any period of two consecutive calendar years, with both figures increasing by 2% per year. The intake limit defined in the 2020 agreement was stated as a flat 1,100,000 Tons per calendar year. Both of these thresholds are included in Figure 4: Coffin Butte Landfill Intake 1993 - 2021 below.

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 an intake volume chart as "Annual Maximums Specified in Franchise Agreement"; see Page 33 of the *BentonCountyBoardofCommissionersMeeting_4Sep20189_180904_tu_pkt.pdf* document. However, the 2000 Franchise agreement does not describe the tonnage threshold as a "limit" or "maximum", and allows for exceedances over the listed threshold.

Key Findings

LSCL-F-6. The 2000 Landfill Franchise Agreement allows for exceedances over the listed tonnage threshold.

LSCL-F-7. The 2020 Landfill Franchise Agreement does not allow for exceedances over the listed tonnage threshold (described as a "Limit on Solid Waste", which the landfill "shall not exceed"), not applying to fire, flood, natural disaster, or Foce Majeaure event materials.

LSCL-F-8. Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement acknowledge the potential for "adverse effects to the County's infrastructure and environmental conditions due to increased annual volumes of Solid Waste accepted at the Landfill."

LSCL-F-9. Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement define landfill solid waste intake thresholds immediately following and in the same document section as the acknowledgement of the potential for adverse effects.

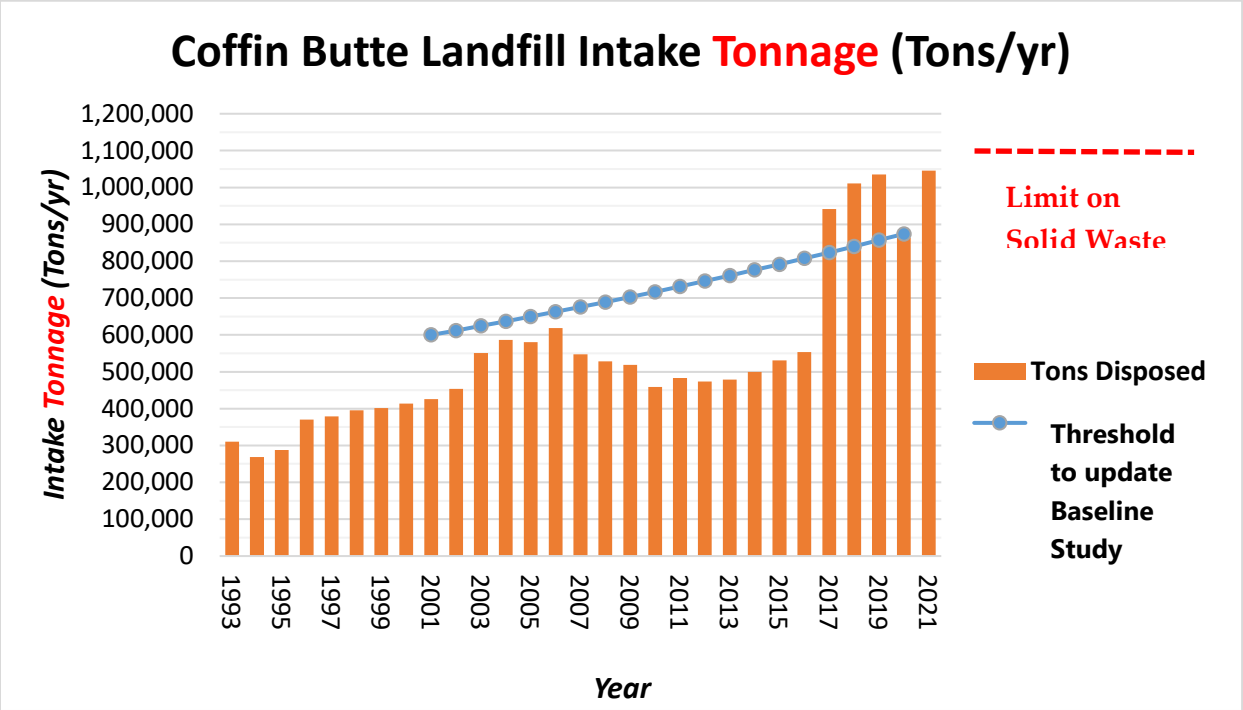
LSCL-F-10. In an official 2018 presentation to Benton County Board of Commissioners, Benton County represented the 2000 Franchise Agreement intake threshold as "Annual Maximums Specified in Franchise Agreement." However, the 2000 Franchise agreement does not describe the tonnage threshold as a "limit" or "maximum", and allows for exceedances over the listed threshold.

LSCL-F-11. The intake thresholds defined in both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement were instantiated as contractual provisions, with negative consequences explicitly defined in the 2000 agreement and implicit (violation of contract) consequences in the 2020 agreement.

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:

1. 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.
2. The 2000 Landfill Franchise Agreement imposed a ramping intake threshold to be applied during the term of the agreement (CY2001-2019), giving the County the option to perform an updated impact assessment if the threshold was exceeded, denoted in the chart by the blue line ("Threshold to update Baseline Study"). The County did not perform an updated impact assessment as a result of the 2017-2019 tonnage threshold exceedances.
3. Due to an expected additional influx of volume in 2017 resulting from the disruption 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."
    a. In Progress – Need to determine accurate characterization of what happened with Riverbend Landfill

4. In documents provided to the A.1 Subcommittee, representatives of the franchisee have indicated that the approximately 70% year-over-year increase in CY2016-2017 was primarily due to redirected flow from Riverbend to Coffin Butte. 2017-2019 volume increases are primarily due to the diversion of waste from Riverbend Landfill, in an effort to extend landfill life, and also rapid population growth in Willamette Valley and Western Oregon. The population of the 6-county service area area defined in the 2000 Landfill Franchise Agreement grew 3.6% total in the period 2016-2017 (see Appendix A for population data).
5. The 2020 Landfill Franchise Agreement states that the total tonnage deposited at the Landfill shall not exceed 1.1M tons per calendar year until "application to expand the Landfill on to the Expansion Parcel are granted (following any and all appeals to final judgement)." The 2020 intake limit is denoted in the chart by the dashed red line ("2020 FA Limit.")
6. 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.
    a. Work In Progress – Explaining 2008 recession related intake
7. 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.
8. The annual Coffin Butte intake tonnage exceeded threshold defined in the 2000 Landfill Franchise Agreement as the tonnage threshold at which the County had the option to perform an updated baseline analysis of landfill impacts, in calendar years 2017, 2018, and 2019 (see Appendix A for exact figures).
9. 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 limit over the three-year period (see yearly overage 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.
    a. In Progress – Add source/reference for data

Key Findings

LSCL-F-12. 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-13. Representatives of the franchisee have indicated that the approximately 70% year-over-year increase in CY2016-2017 was primarily due to redirected flow from Riverbend to Coffin Butte. 2017-2019 volume increases are primarily due

to the diversion of waste from Riverbend Landfill and rapid population growth in Willamette Valley and Western Oregon (the population of the 6-county area defined in the 2000 Landfill Franchise Agreement grew 3.6% total in the period 2016-2017).

LSCL-F-14. The 2000 Landfill Franchise Agreement imposed a ramping intake threshold to be applied during the term of the agreement (CY2001-2019), giving the County the option to perform an updated impact assessment if the threshold was exceeded, denoted in the chart by the blue line ("Threshold to update Baseline Study") , which then could result in increases to the landfill fees paid to the county. The County did not perform an updated impact assessment as a result of the 2017-2019 tonnage threshold exceedances.

LSCL-F-15. Due to an expected additional influx of volume in 2017 resulting from the disruption onset of the closure process for Riverbend landfill in Yamhill County, in December 2016 the franchisee and Benton County executed a MOU acknowledging an expected increase in Coffin Butte intake volume "for a term of 1-2 years."

LSCL-F-16. The 2020 Landfill Franchise Agreement states that the total tonnage deposited at the Landfill shall not exceed 1.1M tons per calendar year until "application to expand the Landfill on to the Expansion Parcel are granted (following any and all appeals to final judgement)." The 2020 intake limit is denoted in the chart by the dashed red line ("2020 FA Limit.")

LSCL-F-17. 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-18. 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-19. The 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-20. The 2016 MOU does not contain language preventing Benton County from exercising its rights under the 2000 Landfill Franchise Agreement in the event of violations of the intake limit.

LSCL-F-21. The annual Coffin Butte intake tonnage exceeded the threshold defined in the 2000 Landfill Franchise Agreement as the tonnage threshold at which the County had the option to perform an updated baseline analysis of landfill impacts in calendar years 2017, 2018, and 2019.

LSCL-F-22. Benton County did not perform an updated baseline analysis of landfill impacts as the result of the exceeded intake limit that occurred in 2017, 2018

and 2019. Specifically, the County was allowed to reassess infrastructure and environmental impacts relative to a baseline established in 2001, and, if adverse impact was found, to force a renegotiation of the Franchise Fee and/or Host Fee.

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. 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. By 2013, the waste tonnage was 479,000, and in 2021, 1,046,000 tons were emplaced.

LSCL-F-25. Due to an expected additional influx of tonnage in 2017 (approximately 70% year-over-year increase in CY2016-2017 was partially due to redirected flow from Riverbend to Coffin Butte(approximately 70% year-over-year increase in CY2016-2017 was due to redirected flow from Riverbend to Coffin Butte), in December 2016 the franchisee and Benton County executed a MOU agreeing to an expected increase in Coffin Butte intake volume "for a term of 1-2 years." 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. The decreased intake volume in 2020 is attributed to the Covid-19 outbreak.

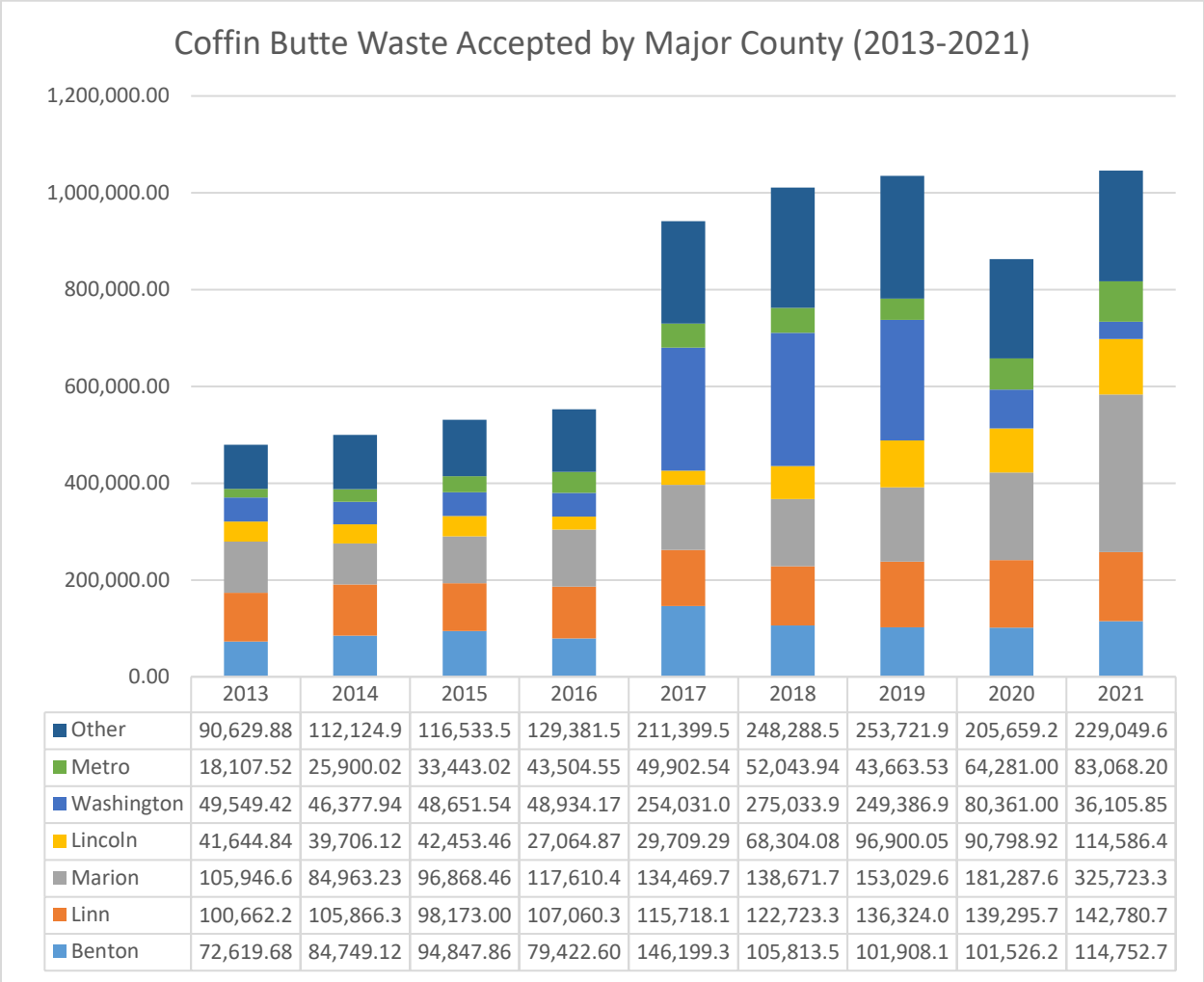
Key Recommendations

LSCL-R-1. Investigate the extent to which increased landfill revenue may have influenced Benton County's decision not to pursue contractual remedies for the 2017-2019 intake threshold exceedances. See "Economics" charge of the Workgroup Charter and Bylaws.

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



	2013	2014	2015	2016	2017	2018	2019	2020	2021
Other	90,629.88	112,124.9	116,533.5	129,381.5	211,399.5	248,288.5	253,721.9	205,659.2	229,049.6
Metro	18,107.52	25,900.02	33,443.02	43,504.55	49,902.54	52,043.94	43,663.53	64,281.00	83,068.20
Washington	49,549.42	46,377.94	48,651.54	48,934.17	254,031.0	275,033.9	249,386.9	80,361.00	36,105.85
Lincoln	41,644.84	39,706.12	42,453.46	27,064.87	29,709.29	68,304.08	96,900.05	90,798.92	114,586.4
Marion	105,946.6	84,963.23	96,868.46	117,610.4	134,469.7	138,671.7	153,029.6	181,287.6	325,723.3
Linn	100,662.2	105,866.3	98,173.00	107,060.3	115,718.1	122,723.3	136,324.0	139,295.7	142,780.7
Benton	72,619.68	84,749.12	94,847.86	79,422.60	146,199.3	105,813.5	101,908.1	101,526.2	114,752.7

Work In Progress: Adding discussion and details explaining this chart.

Key Finding

LSCL-F-26. Washington County waste tonnage accepted at the landfill increased by over 400% between 2016-2017, with the increased tonnage continuing through 2019.

v. Long-term intake volume TBD – 2021

Work In Progress: A long-term intake volume plot (from circa early 1980s to present)

D. Landfill Structure

i. Overview

The disposal area and surrounding lots are shown in Figure 6: 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.

ii. Cell detail

Detail on individual disposal cells and the active dates for these cells is shown in Figure 7: Cell Structure Detail with Cell Activation Dates below. Dates are summarized in the following table.

Table ?: Cell Open/Closed Detail

Area	Date Opened	Date Capped/Closed
Closed Landfill (Burn Dump)	1940's	
Cell 1	Late 1970's	
Cell 1A	Late 1970's	
Cell 2A	1988	
Cell 2B	1994	
Cell 2C	1995	
Cell 2D	1998	
Cell 3A	2003	
Cell 3B	2004	
Cell 3C	2005	
Cell 3D Phase I	2007	
Cell 3D Phase 2	2009	
Cell 4	2012	
Cell 5A	2014	
Cell 5B	2018	
Cell 5C	2020	
Cell 5D	2022	
Cell 5E	Future	
Cell 6 (Quarry Area)	Future	

Figure ?: Landfill Zoning

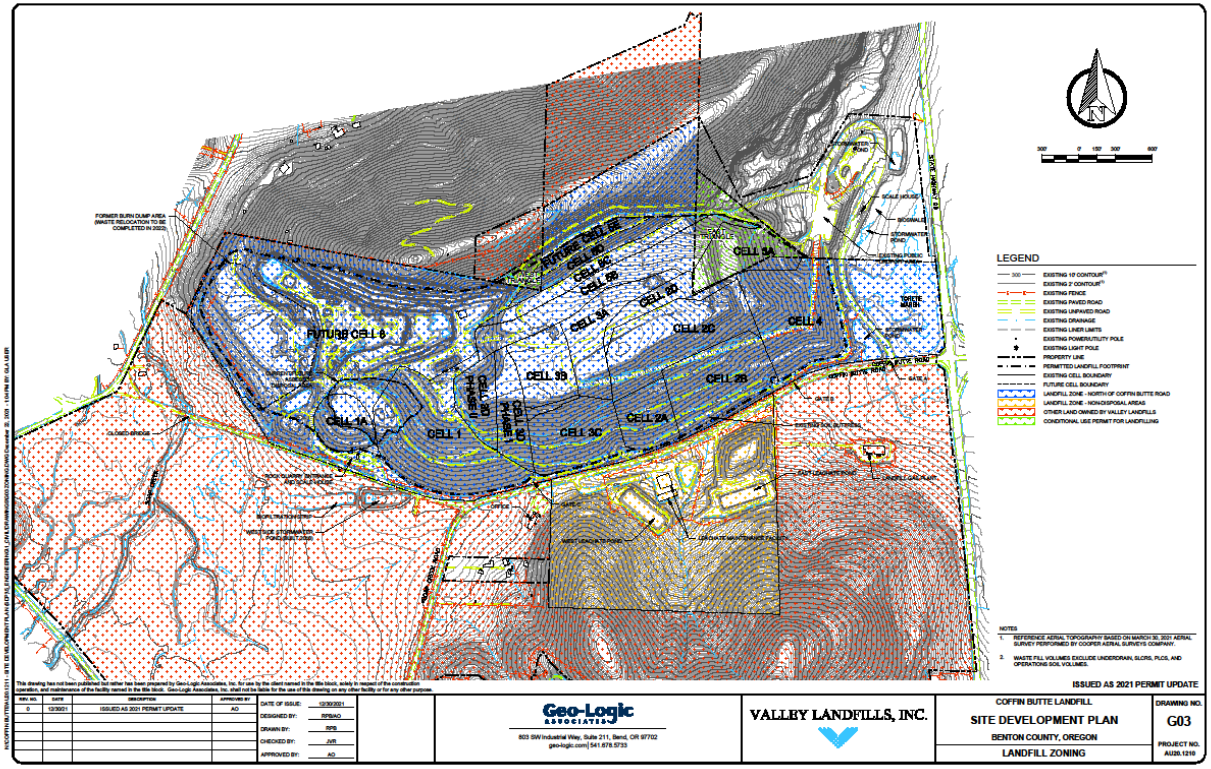
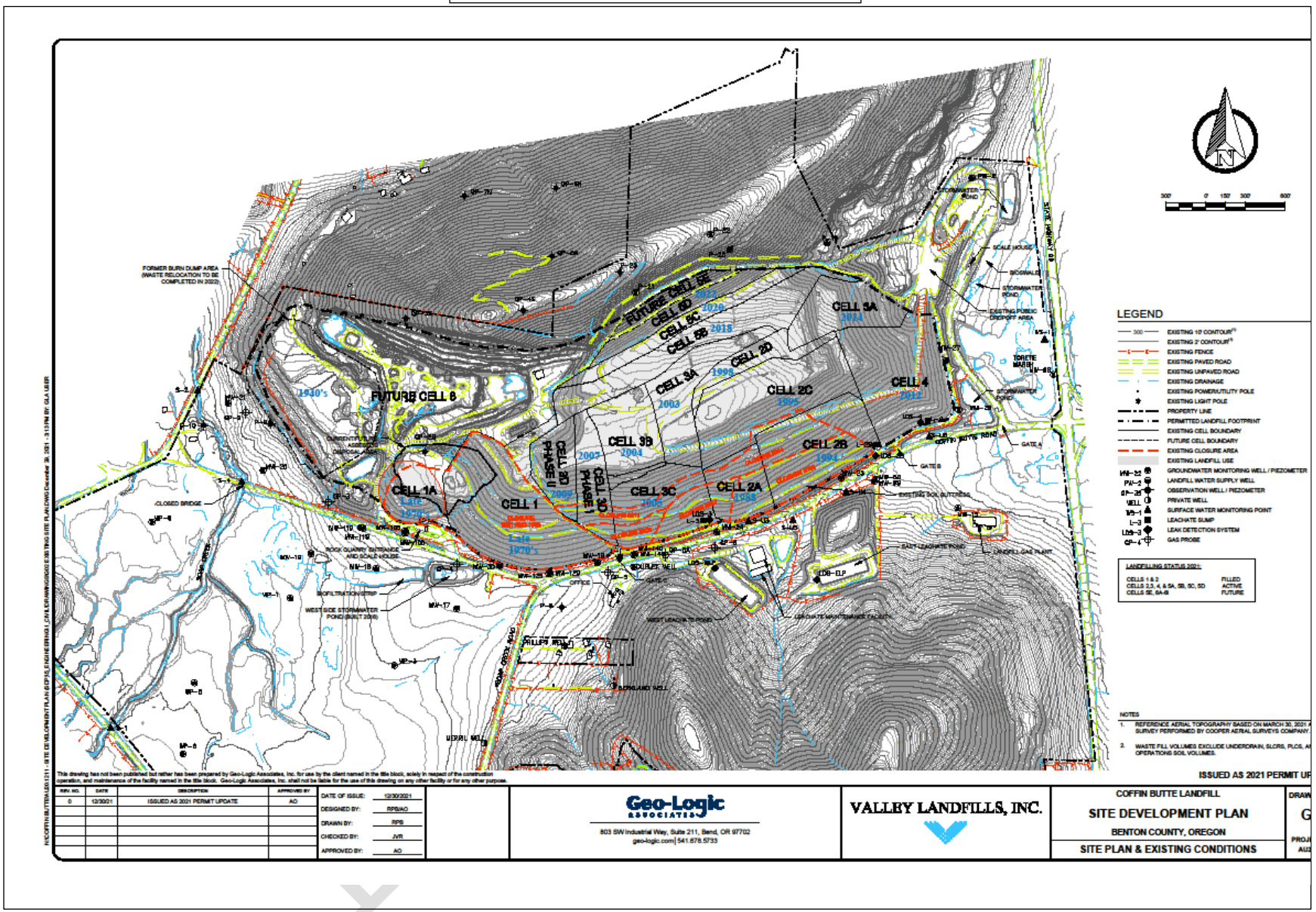


Figure ?: Site Plan and Existing



Key Finding

LSCL-F-27. Map of the landfill shows current and planned cells (G-03)

I. Section 2: Specific Locations

This section summarizes the primary actions and events that define the current Coffin Butte landfill footprint.

A. 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.

Figure 8: Proposed 1983 Rezoning Map 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 *Figure 9: Zoning Map (2002 MOU)*, clarifies the zoning boundaries.

Figure ?: Proposed 1983 Rezoning Map

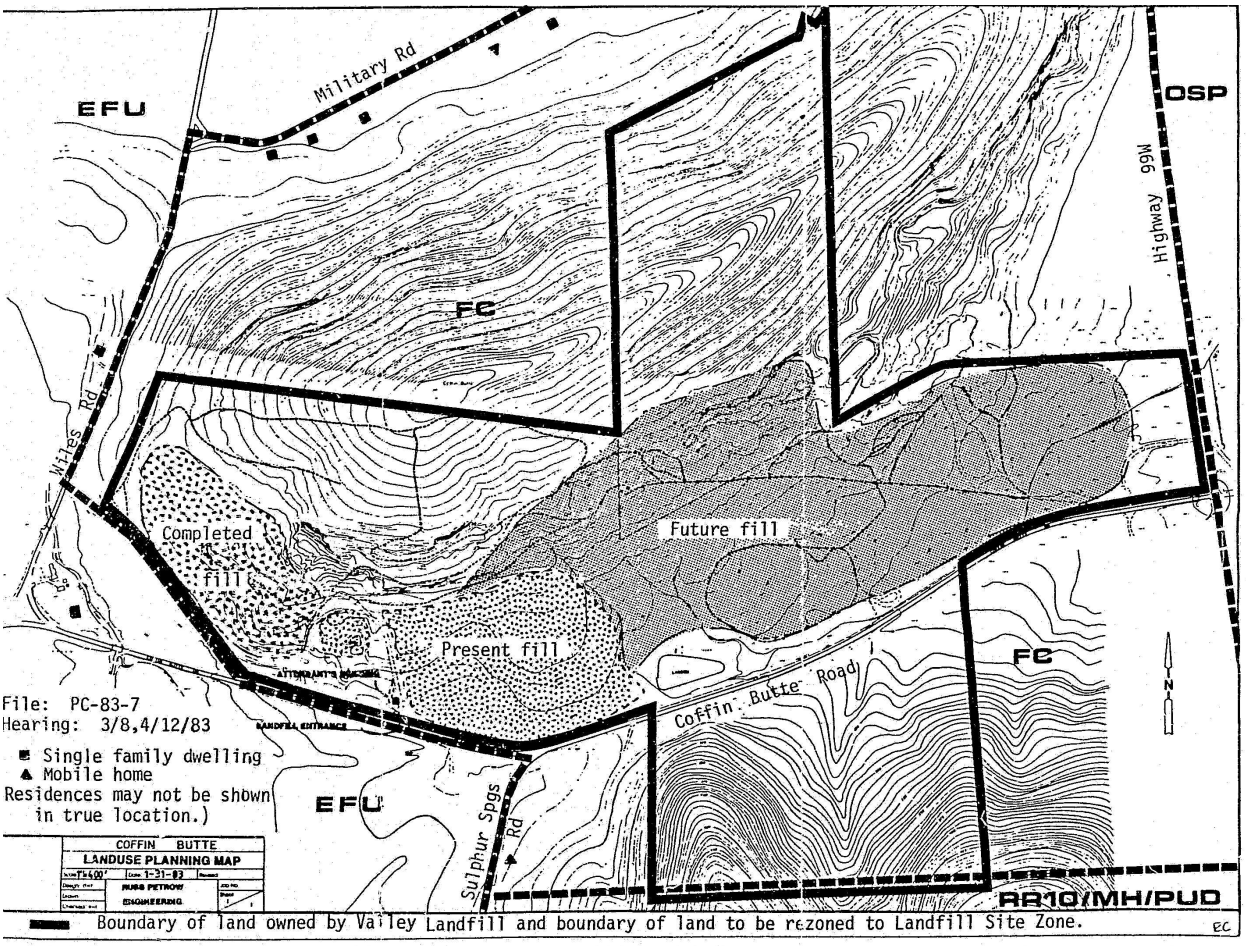
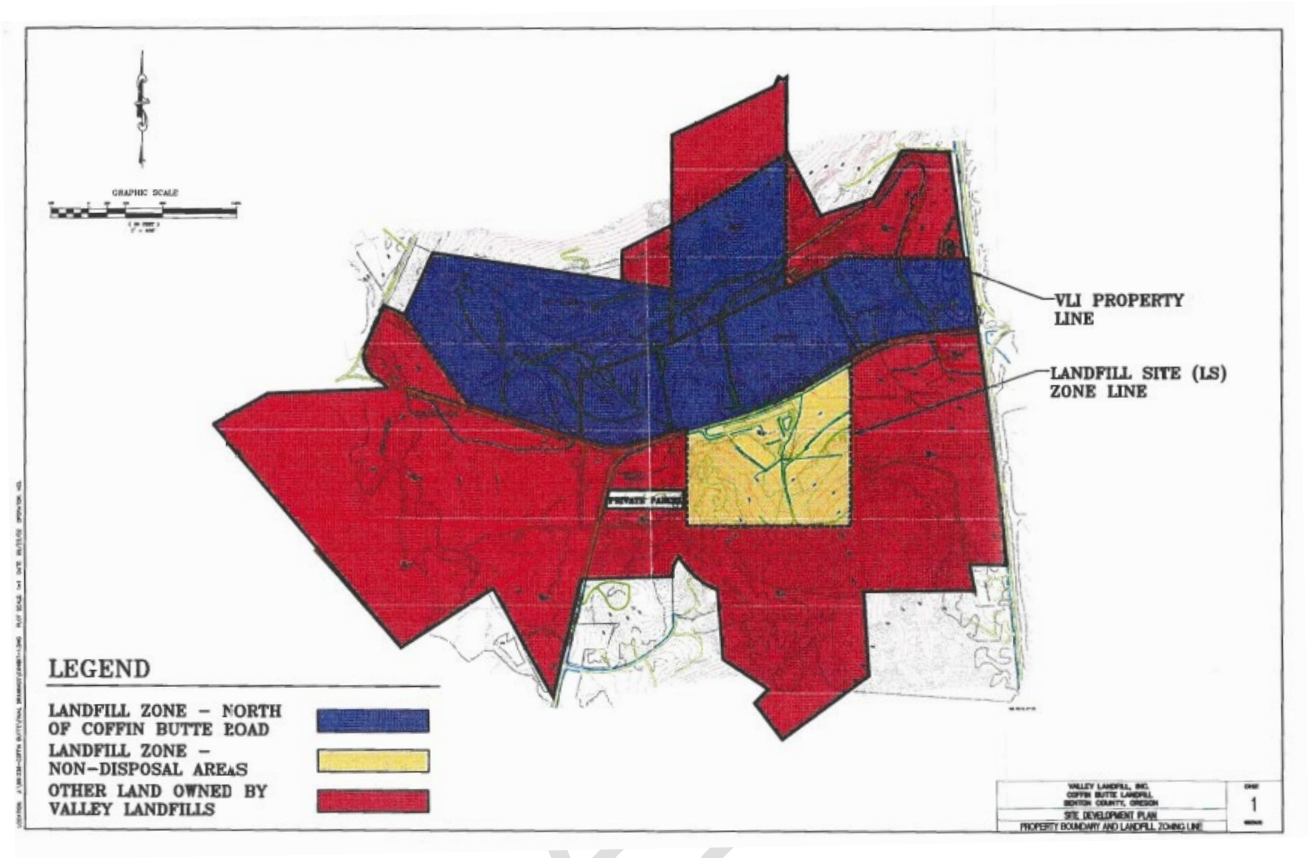


Figure ?: Zoning Map (2002 MOU)



Key Finding

LSCL-F-28. The overview map included in the Benton County & Valley Landfills MOU Relating to Land Use Issues (2002) document, included here as Figure 7: Zoning Map (2002 MOU), clarifies the zoning boundaries. Of these 266 acres, 194 acres, all on the north side of Coffin Butte Road, were approved for waste disposal.

B. 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 yd^3 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 yd^3 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 yd^3 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.

C. Cell 6 (Quarry) Addition

Need information from Benton County regarding the instrument formally approving Cell 6.

D. 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. 26I) 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.

Key Findings

LSCL-F-29. 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-30. 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. The process for approving landfill south of Coffin Butte Road was subsequently changed to "allowed by conditional use permit" apparently via Ord. 90-0069 (BCC 77.305)

J. Section 3: Landfill Life Projections

A. Baseline: Projection to End 2022

Definitions:

Landfill Life ≡ Expected time remaining in which the landfill will continue to accept waste, typically in Years.

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

Intake at Coffin Butte Landfill in 2022 have not been finalized at the time of this writing, so we are using the projected figure of 1M tons. This gives us a projected volume of 16,008,557 cubic yards as of end-of-year 2022. This projected volume is Remaining Permitted Airspace, not available airspace; it includes a significant volume of unexcavated rock.

B. Historical Landfill Life Projections

Table ?: Historical EOL Projections

Date of Projection	Projected EOL (CY)	Reference/Comment
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	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
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

C. Nominal Life Projection CY 2023 to End of Life

The landfill life projections shown below are provided by the franchisee.

Work in-progress, and items to address in this section:

The figure below (Figure 3B-1) establishes a baseline, a simple operational projection that more sophisticated scenarios can be built upon. It is our baseline because it models the idealized parameters and longevity intended for the landfill by the landfill's owner, which is: a steady annual intake of between 1M and 1.1M tons for the duration of the landfill's 14.5-16 year site life (to 2037-2039). As indicated in its Assumptions, this baseline scenario is not a "default future"; it is not realistic, in that it references itself only and 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* and 2020 Franchise Agreement Tonnage Cap (1.1 M Tons /year).

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

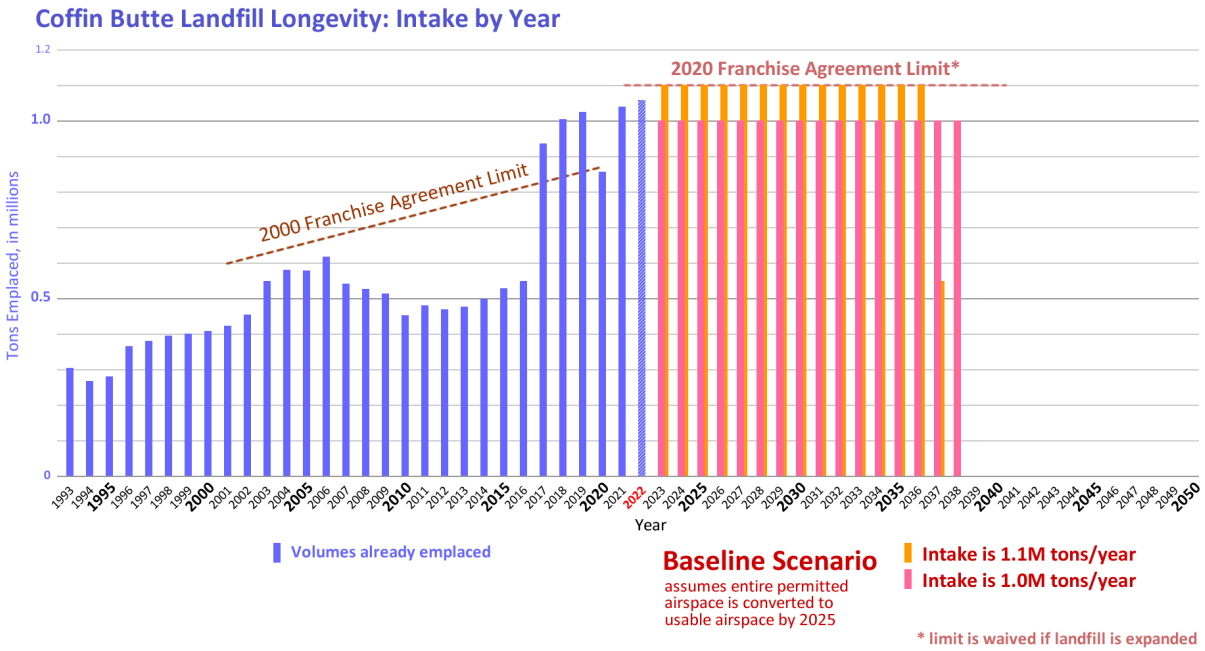
Site Life: Time to fill the projected remaining airspace, including the airspace currently unexcavated in the quarry area, given the projected Tons per Year intake rate

*Variables can and do impact tonnage and available airspace, and can include changes

Work in Progress: Need to add details and qualifiers.

Figure ?

-



The longevity timeline in the baseline is shown in Figure 3B-2; this figure includes historic data for context.

The baseline is a simple longevity projection prepared by the landfill owner for operational purposes, and by design does not reflect the influence of real-world variables. To estimate the landfill's real-world operational lifetime, these influences must be considered. We have identified some of these influences and outline their possible effects in Section 3C. For simplicity's sake, we will use the 1.1M tons/year assumption ("Scenario 2") and also assume full conversion of rock space in the quarry area into usable airspace as the baseline in Section 3C.

Key Findings

LSCL-F-31. Current (1Q2023) estimate for landfill EOL = CY 2037 – 2039 based on an annual intake level of 1.0 – 1.1 MTons/year and a density of 0.999 Tons/yd^3, assuming the quarry area will be fully excavated by the time the current disposal areas are full.

LSCL-F-32. The quarry dynamics are construction of the needed cells for future disposal areas. The herculean construction task is to excavate basalt rock to form the excavated design dimensions for construction of future disposal cells. The assumption is that the excavated rock and the construction of future cells keep pace with the demands of increased volumes of refuse needed for disposal without interruption.

LSCL-F-33. The complexities of demand and availability of refuse disposal is the crux of the puzzle to provide a viable sustainable material management process under consideration.

Key Recommendation

LSCL-R-2. The Sustainable Materials Management Plan should further develop scenarios and factors that may impact the landfill lifespan, including detailed analyses of likely projections.

D. Events and Factors with Potential Lifetime Impact[54]

Work In-Progress: Working on coming to consensus on how much detail to include in this section and the scenario sections that follow.

As seen in the two baseline scenarios above, the landfill's lifespan is generally determined by a calculation of three variables:

1. Amount of space available (airspace)
2. Amount waste is accepted (tonnage)
3. 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 above, the amount of space available (airspace), and the amount waste is accepted (tonnage) respectively. Almost none of the factors relate to density of solid waste, so this discussion excludes that variable.

These factors generally impact one another in complex ways. The direction of impact (increasing or decreasing lifespan), magnitude of impacts, and the dynamics between each factor is largely unknown by this subcommittee. However, this subcommittee has taken an initial guess at outlining several factors below which have the potential to impact the variables above, and thus the landfill's lifespan. Impacts on the landfill's lifespan may not be immediate, but experienced over the course of years. The discussion below simply lists factors, provides some background information on how they relate to the landfill's lifespan, includes an example of past events if available, and indicates how the factor could impact the lifespan. This section uses the following symbols to help inform the reader at a glance the various possibilities that the subcommittee determined are associated with each factor:

⬅ - Decrease Landfill lifespan

❎ - No Change in Landfill lifespan

➡ - Decrease Landfill lifespan

❓ - Unknown Impacts to Landfill lifespan

[54] We cannot predict the outcome or impact of every scenario

i. Factors Impacting Amount of space available (airspace)

- Quarry excavation schedule ⬅️ ❎
  - Our baseline assumes that 100% of the landfill's permitted airspace be converted into actual usable airspace before it is required for landfilling, but it is unclear at the time of this writing how much of the rock currently occupying the airspace is going to be successfully excavated. The timeline may require that some or all of the rock is left in place.
  - ❎ If the quarry is fully excavated by the time the current cell is filled, the landfill's airspace is expected to remain at the estimated 16,008,557 CY, with no changes to the calculated lifespan.
  - ⬅️ If the quarry is not fully excavated by the time the current cell is filled, the landfill's airspace is expected to decrease below 16,008,557 CY, with a reduction in lifespan.

- DEQ regulations regarding cell development below the water table ⬅️ ❎
  - A (currently unquantified) portion of the landfill's permitted airspace seems to lie below the groundwater level, and it is unclear at this time whether or not Oregon DEQ regulations will allow this theoretical airspace to be used, or if permitted, will be cost-effective for the landfill owner to undertake. If the portion below the groundwater line is not usable / used, airspace would decrease and the lifespan of the landfill would shorten, in proportion to the volume affected.
  - ❎ If the quarry is allowed to be fully excavated by the time the current cell is filled, the landfill's airspace is expected to remain at the estimated 16,008,557 CY, with no changes to the calculated lifespan.
  - ⬅️ If the quarry is not allowed to be fully excavated by the time the current cell is filled, the landfill's airspace is expected to decrease below 16,008,557 CY, with a reduction in lifespan.

- Landfill Expansion ➡️ ❓
  - The baseline assumes that no expansion occurs, and that the current available airspace is used. A landfill expansion would create an alternate additional landfilling space in addition to what is currently listed as available airspace (16,008,557 CY). The landfill owner has indicated that it will apply for such an expansion, likely in the first half of 2023. The new site would likely be the same as the 2021 application site, in the Landfill Site (LS) zone currently used for landfill operations south of Coffin Butte Road.
  - ➡️ Extends landfill life by increasing permitted volume
  - ❓ A combination of an expansion and removal of tonnage cap (detailed below) , which would occur simultaneously, would yield unknown results, because the magnitude of each are unknown.

ii. Factors Impacting Amount waste is accepted (tonnage)

Most of the factors discussed relate more specifically to the amount of waste accepted. Coffin Butte Landfill's operator generally chooses how much tonnage to accept, based on demand and their agreements with various jurisdictions and haulers. The following factors are related to those that impact tonnage accepted at the landfill by impacting the landfill's demand, and the subcommittee have taken an initial guess at how these factors may impact demand:

- Landfill Demand (contracts and business choices) ← ✕ →
  - ← Decreases lifespan if landfill increases business and agrees to accept more waste per year, increasing demand.
  - ✕ No change to lifespan if the landfill business stays the same, accepting the same amount of waste, and maintaining constant demand.
  - → Increases lifespan if landfill decreases business and accepts less waste per year, decreasing demand.

- Recession → ✕
  - Recessions reduce economic activity, which generally reduces the amount of waste produced per-capita.
  - → Increases lifespan if per-capita waste for landfill's service area decreases, decreasing demand.
  - ✕ No change to lifespan if per-capita waste for landfill's service area done not change, maintaining demand.
  - Example: 2008 Recession was attributed in part to decreases in waste accepted from 2006-2010.

- Economic Growth ← ✕
  - Increased economic activity from economic growth generally increases the amount of waste produced per-capita.
  - ← Decreases lifespan if per-capita waste for landfill's service area increases, decreasing demand.
  - ✕ No change to lifespan if per-capita waste for landfill's service area does not change, maintaining demand.

- Natural Disasters ← ✕ →
  - Disasters can produce large amounts of debris. Natural disasters like wildfires and flooding are generally expected to increase due to climate change, along with their debris. Disaster debris does not apply toward the landfill's intake cap.
  - ← Decreases lifespan if natural disasters increase demand, and the landfill agrees to accept more natural disaster debris per year.

- ❎ No change to lifespan if natural disasters do not change demand, and the landfill's intake tonnage remains constant.
- ➡️ Increases lifespan if natural disasters decrease demand by impacting the landfill's ability to accept waste (via reduced landfill access, for example).
- Example: 2020 wildfire debris contributed to tonnage accepted by the landfill in 2020 and 2021.

- Impacts to other disposal facilities ⬅️ ❎ ➡️ ❓
  - Coffin Butte Landfill currently takes in about 1/4 of the trash generated and disposed in Oregon. If a provider of the other 3/4 can no longer service its service area, it creates a business opportunity for the landfill owner to expand the Coffin Butte service area. Similarly, if another facility can capture business from an area or customer base currently served by Coffin Butte Landfill, then Coffin Butte Landfill's service area would decrease.
  - ⬅️ Decreases lifespan if there is an increase in demand through impacts to other facilities, and the landfill agrees to accept more materials per year.
  - ❎ No change to lifespan if there is no change in demand, and the landfill's intake tonnage remains constant.
  - ➡️ Increases lifespan if there is a decrease in demand through growth of other facility's businesses, and the landfill accepts less material per year.
  - ❓ It is unclear how impacts of simultaneously expanding and contracting customer bases (shifts in customer base) would impact lifespan.
  - Example: in 2016 the Riverbend Landfill in Yamhill County lost its bid to expand, and because it was nearly full, this enabled the landfill owner to capture its flows of approximately 500,000 tons of waste yearly for Coffin Butte Landfill.
  - Example: although Washington County sent over 275,000 tons of waste to Coffin Butte Landfill in 2018, that amount decreased precipitously and was down to 36,000 tons in 2021, due presumably to successful competition by another disposal facility.

- Localized fires, floods, spills and other disasters ⬅️ ❎ ➡️
  - Localized disasters can produce landfill material.
  - ⬅️ Decreases lifespan if disasters increase demand, and the landfill agrees to accept more disaster debris per year.
  - ❎ No change to lifespan if natural disasters do not change demand, and the landfill's intake tonnage remains constant.
  - ➡️ Increases lifespan if disasters decrease demand by impacting the landfill's ability to accept waste (via reduced landfill access, for example).
  - Example: a fuel tanker that spilled on Highway 99 generated many tons of contaminated dirt, which the landfill accepted.

- Changes to waste recovery system ⬅️ ❎ ➡️ ❓

- The waste recovery system, composed of service providers, materials collectors, material recovery facilities, material processors, recycled material markets, and more, can impact the demand on the landfill. We say the material headed for the landfill is "waste," but the majority of that material has productive utility. This profit incentive often is buttressed by cultural imperatives not to waste resources. The result is a wide array of initiatives at work ranging from system-wide resource recycling programs down to grassroots freesharing collaboratives.
- ⬅️ Decreases lifespan if there is an increase in landfill demand through negative impacts to the material recovery system, and the landfill agrees to accept more materials per year.
- ❎ No change to lifespan if there is no change in demand, and the landfill's intake tonnage remains constant.
- ➡️ Increases lifespan if there is a decrease in demand through positive impacts to the material recovery system, like new recovery facilities or growth in market for recovered materials, and the landfill accepts less material per year.
- ❓ It is unclear how impacts of simultaneously expanding and contracting customer bases (shifts in customer base) would impact lifespan.
- Example: China's 2017-2018 policies on importing waste materials reduced the ability for Oregon recyclers to export materials, changing the standards for recycling in Oregon, decreasing recycled materials, and increasing disposal.
- Examples: Too many to list, but the Food Donation Improvement Act, passed in 2022 with bipartisan support and signed into law in Jan 2023, aims to catalyze a major effort to address both hunger and the climate crisis by reducing food waste in America.[55]

- Population Change ⬅️ ❎ ➡️ ❓
  - As the landfill's service area adds more people, it also adds the waste they generate. Similarly, as the population decreases in the landfill's service area, the per-capita waste can decrease.
  - ⬅️ Decreases lifespan if there is an increase in demand through population growth and per-capita disposal either grows or stays constant, and the landfill agrees to accept more materials per year.
  - ❎ No change to lifespan if there is no change in demand, and the landfill's intake tonnage remains constant.
  - ➡️ Increases lifespan if there is a decrease in demand through population decline and per-capita disposal either declines or stays constant, and the landfill accepts less material per year.

[55] https://www.washingtonpost.com/business/americas-food-waste-problem-is-a-hunger-solution-in-disguise/2023/01/06/a6f5ba22-8dbe-11ed-b86a-2e3a77336b8e_story.html

- Example: Benton County's population is forecasted to grow steadily through 2071, with a population of over 120,000 in 2040[56]

- Removal of tonnage cap ⬅ ✖ ➡
  - If an expansion is approved, by terms of the 2020 Franchise Agreement, the tonnage cap of 1.1M tons/year is removed, enabling the landfill owner to increase the Coffin Butte wasteshed without limit.
  - ⬅ Shortens landfill life by enabling increased fill rates, if the landfill demand also increases and the landfill accepts more waste material.
  - ✖ No change to lifespan if removal of tonnage cap does not change demand, and the landfill tonnage intake remains constant.
  - ➡ Increases landfill life if the landfill demand decreases and the landfill accepts less waste material.

- Availability of landfill alternatives ⬅ ✖ ➡
  - Outside of maximized recovery (recycling and composting) and waste prevention, alternatives to landfilling exist in various forms, primarily in different disposal technology. An incinerator in Marion County burns waste and generates energy, for example.
  - ⬅ Decreases lifespan if there is an increase in landfill demand through impacts to other disposal facilities (like the closure or temporary closure of an alternative dispal facility), and the landfill agrees to accept more materials per year.
  - ✖ No change to lifespan if there is no change in demand, and the landfill's intake tonnage remains constant.
  - ➡ Increases lifespan if there is a decrease in demand through growth of other facility's businesses, and the landfill accepts less material per year.

- Lifestyle of waste generators ⬅ ✖ ➡
  - Changing lifestyles regarding material consumption (how much stuff people buy), and general materials management (how people choose to reduce, reuse, recycle, and dispose), have an impact on per capita waste generation.
  - ⬅ Decreases lifespan if it increases demand through increased disposal, and the landfill agrees to accept more waste material per year.
  - ✖ No change to lifespan if there is no change in demand, and the landfill does not change material intake per year.
  - ➡ Increases lifespan if it decreases demand through decreased disposal, and the landfill does not accept more waste material per year.

[56] https://www.pdx.edu/population-research/sites/g/files/znldhr3261/files/2021-06/Final_Report_Benton.pdf

- Legislation impacting landfill operations ⬅ ✖ ➡ ❓
    - The pressure generated by the public, science, financial, and industry communities concerned about the climate crisis is manifesting in legislation.
    - ⬅ Decreases lifespan if it increases demand through increased disposal, and the landfill agrees to accept more waste material per year.
    - ✖ No change to lifespan if there is no change in demand, and the landfill does not change material intake per year.
    - ➡ Increases lifespan if it decreases demand through decreased disposal, and the landfill does not accept more waste material per year.
    - Examples: in its 2021 Methane Emissions Reduction Plan, the US government is mobilizing "all available tools to identify and reduce methane emissions from all major sources," and in its 2023 Food Donation Improvement Act, it targets food waste, "the most common material found in landfills, constituting an estimated 24% of material" which generates large quantities of methane emissions.
    - Examples: The commerce clause prevents Benton County from limiting the source of waste materials into the landfill.

- Legislation impacting waste generation ⬅ ✖ ➡
    - ⬅ Decreases lifespan if it increases demand through increased disposal, and the landfill agrees to accept more waste material per year.
    - ✖ No change to lifespan if there is no change in demand, and the landfill does not change material intake per year.
    - ➡ Increases lifespan if it decreases demand through decreased disposal, and the landfill does not accept more waste material per year.

- Legal Action ⬅ ✖ ➡
    - Environmentally engaged citizens are suing governmental agencies, and investors are suing corporations, for failing to act responsibly on the climate crisis, and to force action to address the crisis. Legal action can also increase landfill demand.
    - ⬅ Decreases lifespan if it increases demand through increased disposal, and the landfill agrees to accept more waste material per year.
    - ✖ No change to lifespan if there is no change in demand, and the landfill does not change material intake per year.
    - ➡ Increases lifespan if it decreases demand through decreased disposal, and the landfill does not accept more waste material per year.
    - Example: the worldwide campaign of atmospheric trust litigation organized by Our Children's Trust, a public interest nonprofit law firm headquartered in Eugene.
    - Example: Legal action regarding the commerce clause prevent Benton County from limiting the source of waste materials into the landfill.

- Activism ⬅ ❎ ➡
    - 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. A major focus of activism worldwide is the release of methane, because methane is a potent and quick-acting greenhouse gas. While only 1.4% of emissions associated with the life cycle of materials in Oregon occurre in the post-consumer disposal life-cycle stage (including landfilling and transportation to landfills), landfills are major sources of greenhouse gas emissions, especially methane, in the United States. Activism thus constitutes a powerful and growing force that is highly motivated to push forward actions that move beyond landfilling. Similarly, a variety of activist efforts can drive demand to the landfill.
    - ⬅ Decreases lifespan if it increases demand through increased disposal, and the landfill agrees to accept more waste material per year.
    - ❎ No change to lifespan if there is no change in demand, and the landfill does not change material intake per year.
    - ➡ Increases lifespan if it decreases demand through decreased disposal, and the landfill does not accept more waste material per year.
    - Example: grassroots environmental activists successfully prevented landfill owners from expanding their landfills in both Yamhill and Benton counties in the last ten years.

- Climate change impacts to landfill operations ⬅ ❎ ➡
    - ⬅ Decreases lifespan if it increases demand through increased disposal, and the landfill agrees to accept more waste material per year.
    - ❎ No change to lifespan if there is no change in demand, and the landfill does not change material intake per year.
    - ➡ Increases lifespan if it decreases demand through decreased disposal, and the landfill does not accept more waste material per year.

- Landfill facility and technical challenges/successes ⬅ ❎ ➡
    - ⬅ Decreases lifespan if it increases demand through increased disposal, and the landfill agrees to accept more waste material per year.
    - ❎ No change to lifespan if there is no change in demand, and the landfill does not change material intake per year.
    - ➡ Increases lifespan if it decreases demand through decreased disposal, and the landfill does not accept more waste material per year.

- Staffing in the local and regional solid waste industry ⬅ ❎ ➡
    - ⬅ Decreases lifespan if it increases demand through increased disposal, and the landfill agrees to accept more waste material per year.

- ❎ No change to lifespan if there is no change in demand, and the landfill does not change material intake per year.
- ➡️ Increases lifespan if it decreases demand through decreased disposal, and the landfill does not accept more waste material per year.

- Changes to Solid Waste transportation options ⬅️ ❎ ➡️
  - ⬅️ Decreases lifespan if it increases demand through increased disposal, and the landfill agrees to accept more waste material per year.
  - ❎ No change to lifespan if there is no change in demand, and the landfill does not change material intake per year.
  - ➡️ Increases lifespan if it decreases demand through decreased disposal, and the landfill does not accept more waste material per year.

- adjustments in diversion/recycling rates, and ⬅️ ❎ ➡️ ❓
  - ⬅️ Decreases lifespan if it increases demand through increased disposal, and the landfill agrees to accept more waste material per year.
  - ❎ No change to lifespan if there is no change in demand, and the landfill does not change material intake per year.
  - ➡️ Increases lifespan if it decreases demand through decreased disposal, and the landfill does not accept more waste material per year.

- tonnage volume in the broader market. ⬅️ ❎ ➡️ ❓
  - ⬅️ Decreases lifespan if it increases demand through increased disposal, and the landfill agrees to accept more waste material per year.
  - ❎ No change to lifespan if there is no change in demand, and the landfill does not change material intake per year.
  - ➡️ Increases lifespan if it decreases demand through decreased disposal, and the landfill does not accept more waste material per year.

Work in progress: Need to add detail to several of the factors above, including some information included in the content below. Also exploring options to integrate the information below into the information above for reduced redundancy.

E. Additional Events and Factors with Potential Lifetime Impact

Although the physical parameters of Coffin Butte Landfill play a role in its longevity, human factors drive the actual outcome, because they determine the inflow of material that fills up the landfill's permitted volume (and shape that volume itself). Unlike the physical factors, human factors – by which we mean decisions and agreements such as business and legal obligations, legislation, enforcement, civic action and attitudes, technological advances, risk assessments and risk taking, individual and collective values and choices, and so on – have the power to shift the landfill's operating life very quickly. Estimations of the operating life of the Coffin Butte Landfill necessarily rely on assessments of and assumptions about the entire system that

feeds waste to the landfill, and this wider system is created by, motivated by, operated by, and continuously being changed by human factors and the events they bring about.

The subcommittee has generated a Table of potential factors impacting site life, and characterized some of them briefly and others in more detail. Our goal was to begin to describe the "terrain" that the landfill's future will traverse. This list is not exhaustive and our characterizations limited; we hope a more complete list and more detailed characterizations will come as Benton County prepares a Sustainable Materials Management Plan.

←_Factors that shorten landfill life (trend the fill rate to baseline or beyond)

i. Landfill contracts and business choices

Landfilling at Coffin Butte is a business, subject to the standard pressures of customer loyalty, competitive pressure, price resistance, etc. This factor will tend to keep the landfill life at baseline, as the landfill owner strives to counteract any decline in intake by growing the wasteshed / by lowering prices, etc.

→← Shortens landfill life (only as far as the baseline)

This factor can also extend landfill life – loss of business, decrease in demand, operator's choice to extend business longevity, etc.

Lifestyle changes

Our society is constantly affording new opportunities for consumers to participate in, and this increased economic activity tends to generate more waste.

→← Shortens landfill life (only as far as the baseline)

This factor can also extend landfill life – more consumer resistance to single-use items, causing a decrease in landfill demand

Quarry excavation schedule

Our baseline assumes that 100% of the landfill's permitted airspace be converted into actual usable airspace before it is required for landfilling, but it is unclear at the time of this writing how much of the rock currently occupying the airspace is going to be successfully excavated. The timeline may require that some or all of the rock is left in place. Example: a similar situation occurred earlier in the landfill's history, and quarryable rock was covered over with landfill.

An expanded discussion and visualization of this factor is included below.

← Shortens landfill life by not liberating landfill airspace

Water table concerns and regulation

A (currently unquantified) portion of the landfill's permitted airspace seems to lie below the groundwater level, and it is unclear at this time whether or not Oregon DEQ regulations will allow this theoretical airspace to be used, or if permitted, will be cost-effective for the landfill owner to undertake. If the portion below the groundwater line is not usable / used, airspace would decrease and the lifespan of the landfill would shorten, in proportion to the volume affected.

← Shortens landfill life by not liberating landfill airspace

Area wildfires, floods, earthquakes and other disasters

Disasters can produce large amounts of debris. Example: Coffin Butte Landfill took in approximately 350,000 tons of debris in late 2020-early 2021 from the multiple area wildfires in 2020. The incidence of wildfire and flooding are generally expected to increase due to climate change. Disaster debris does not count toward the landfill's intake cap.

← Shortens landfill life by consuming landfill airspace

The landfill can also choose not to accept as much disaster debris, where haulers would bring disaster debris further away, extending the landfill life

Work In Progress – Add Source/reference for data

Impacts to other disposal facilities

Coffin Butte Landfill currently takes in about ¼ of the trash generated and disposed in Oregon. If a provider of the other 3/4 ~~2/3~~ can no longer service its service area, it creates a business opportunity for the landfill owner to expand the Coffin Butte service area. Example: in 2016 the Riverbend Landfill in Yamhill County lost its bid to expand, and because it was nearly full, this enabled the landfill owner to capture its flows of approximately 500,000 tons of waste yearly for Coffin Butte Landfill.

→← Shortens landfill life only as far as the baseline, if intake cap is maintained

← Shortens landfill life if intake cap is set aside

This factor can also extend landfill life – new or expanded disposal facilities elsewhere may decrease demand at Coffin Butte Landfill. Similarly, and change that makes other disposal facilities more favorable (cost for haulers, etc) would decrease demand at Coffin Butte Landfill, extending the landfill life.

Impacts to the waste recovery system

The landfill owner depends on outside suppliers for many services outside of landfilling, and if these relationships break down, then material that was formerly diverted ends up in

the landfill. Example: Chinese recycling companies imposed new quality standards on imported recycled plastic in 2017-2018, and local recycling efforts could not meet those standards.

← Shortens landfill life by consuming landfill airspace

This factor can also extend landfill life – if waste recovery becomes more accessible (new MRFs, new processors, stronger markets for material, etc) the demand on the landfill would decrease.

Population growth/Change

As the wasteshed adds more people, it also adds the waste they generate. Example: Benton County's population is forecasted to grow steadily through 2071, with a population of over 120,000 in 2040.[57]

← Shortens landfill life (only as far as the baseline)

This factor can also extend landfill life – if population moves out of the typical waste generation source counties, demand on the landfill could decrease.

This factor can also not impact landfill life – if population stays constant in the typical waste generation source counties,, demand on the landfill could potentially not change.

Localized fires, floods, spills and other disasters

Localized disasters can produce landfill material. Example: a fuel tanker that spilled on highway 9 generated many tons of contaminated dirt.

← Shortens landfill life by consuming landfill airspace

This factor can also either not impact or extend landfill life (depending on how much of this type of material is expected in the baseline scenarios – if the landfill either chooses not to accept this material, or the hauler chooses a different facility,

←←_Factors that shorten landfill life (threaten landfill operations)

Landfill fire

Although it is very rare, 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 take years to extinguish.

← Shortens or ends landfill life by ending operations

This factor can also not impact landfill life, if the fire does not effect landfill operations and the ability to accept waste.

[57] https://www.pdx.edu/population-research/sites/g/files/znldhr3261/files/2021-06/Final_Report_Benton.pdf

This factor can also extend landfill life, by reducing the amount of waste accepted temporarily while the operations are impacted, and then continuing operations with the full airspace available.

→ Factors that lengthen landfill life (diminish the fill rate)

Landfill expansion – removal of tonnage cap

Expansion. The baseline assumes that no expansion occurs, and that the current available airspace is used. ~~may only be fully realized in combination with~~ A landfill expansion~~, which~~ would create ~~an alternate~~ additional landfilling space ~~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. The new site would likely be the same as the 2021 application site, in the Landfill Site (LS) zone currently used for landfill operations south of Coffin Butte Road.

An expanded discussion and visualization of this factor is included below.

→ Extends landfill life by increasing permitted volume

Removal of tonnage cap. If an expansion is approved, by terms of the 2020 Franchise Agreement, the tonnage cap of 1.1M tons/year is removed, enabling the landfill owner to increase the Coffin Butte wasteshed without limit.

← Shortens landfill life by enabling increased fill rates

This factor can also either not impact or extend landfill life if the landfill's demand does not change with the removal of the tonnage cap.

The two of these factors together would yield unknown results, because the magnitude of each are unknown.

Successful competition from other disposal facilities

The landfill owner competes in the marketplace to establish and maintain the Coffin Butte wasteshed, and other facilities can and do successfully prevail. Example: although Washington County sent over 275,000 tons of waste to Coffin Butte Landfill in 2018, that amount decreased precipitously and was down to 36,000 tons in 2021, due presumably to successful competition by another disposal facility.

→ Extends landfill life by reducing source waste and therefore fill rate

Improvements to the waste recovery system / alternatives to landfilling

Waste recovery. We say the material headed for the landfill is "waste," but the truth is, the majority of that material has productive utility. This profit incentive often is buttressed by cultural imperatives not to waste resources. The result is a wide array of initiatives at work

ranging from system-wide resource recycling programs down to grassroots freesharing collaboratives. Examples: Too many to list, but the Food Donation Improvement Act, passed in 2022 with bipartisan support and signed into law in Jan 2023, aims to catalyze a major effort to address both hunger and the climate crisis by reducing food waste in America.[58]

→ Extends landfill life by reducing source waste and therefore fill rate

Landfill alternatives. Waste recovery is often augmented with measures that seek to prevent the harmful effects of landfilling, to get "beyond landfilling" by diverting materials to dedicated processing facilities or alternative disposal sites.

→ Extends landfill life by reducing source waste and therefore fill rate

Obsolescence. Landfilling is an old technology, and alternative processes already exist. Examples of this abound in Europe, where EU member nations are working together to move beyond landfilling.

→ Extends landfill life by reducing source waste and therefore fill rate

Reductions in waste generation

Systemic. No one enjoys throwing things away, but the systems by which we acquire and use material goods are often designed to generate trash. These systems are being redesigned to either recycle materials or to eliminate their trash components. Examples: there are many to choose from, but a focus right now is extended producer responsibility (EPR) initiatives such as Oregon SB 582, the Plastic Pollution and Recycling Modernization Act passed in 2021, which provides "a much more accessible, responsible and stable recycling system."[59]

→ Extends landfill life by reducing source waste and therefore fill rate

Cultural. People individually can prioritize reducing waste, often in response to cultural or systemic cues. Example: the current recycling system relies on social engagement with issues of environmental awareness and action to inspire its volunteer actions to reuse, recycle, compost, etc. Historically, as shown in the historical data, this engagement goes up (and per-capita trash generation goes down) during Democratic administrations, when environmental issues are emphasized; the reverse is generally true during Republican administrations, when they are not.

→ Extends landfill life by reducing source waste and therefore fill rate

Equity. Groups of people in the Coffin Butte wasteshed do not have equal access to recycling or other elements of waste reduction; measures are being designed to correct this.

[58] https://www.washingtonpost.com/business/americas-food-waste-problem-is-a-hunger-solution-in-disguise/2023/01/06/a6f5ba22-8dbe-11ed-b86a-2e3a77336b8e_story.html
[59] https://www.wastetodaymagazine.com/news/oregon-signs-extended-producer-responsibility-law-packaging/

Example: Oregon SB 582, the Plastic Pollution and Recycling Modernization Act, contains provisions to fund reuse and waste prevention programs in these communities.[60]

⮕ Extends landfill life by reducing source waste and therefore fill rate

Recessions

Recessions reduce economic activity, which generally reduces the amount of waste produced throughout the wasteshed. Example: the Crash of 2008 can explain in part the historical intake decline beginning in late 2008 and continuing through 2012.

⮕ Extends landfill life by reducing source waste and therefore fill rate

Materials transportation

Materials with inherent value currently go into landfills just because where they are is not where they need to be for that value to be extracted. Investments and improvements into relevant transportation systems (such as intermodal transfer stations, which enable materials to be shipped more economically by rail) can enable materials to become less wasteful and less environmentally harmful and participate more fully in circular economies.

⮕ Extends landfill life by reducing source waste and therefore fill rate

Work In Progress – Add Source/reference for data

The climate crisis

Activism. 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. A major focus of activism worldwide is the release of methane, because methane is a potent and quick-acting greenhouse gas. While only 1.4% of emissions associated with the life cycle of materials in Oregon occur in the post-consumer disposal life-cycle stage (including landfilling and transportation to landfills)[61], landfills are major sources of greenhouse gas emissions, especially methane, in the United States. Activism thus constitutes a powerful and growing force that is highly motivated to push forward actions that move beyond landfilling. Example: grassroots environmental activists successfully prevented landfill owners from expanding their landfills in both Yamhill and Benton counties in the last ten years.

⮕ Extends landfill life by reducing methane-generating waste going into the landfill

[60] https://www.wastetodaymagazine.com/news/oregon-signs-extended-producer-responsibility-law-packaging/

[61] Oregon's consumption-based greenhouse gas emissions in 2015

Litigation and Shareholder Action. Environmentally engaged citizens are suing governmental agencies, and investors are suing corporations, for failing to act responsibly on the climate crisis, and to force action to address the crisis. Example: the worldwide campaign of atmospheric trust litigation organized by Our Children's Trust, a public interest nonprofit law firm headquartered in Eugene.

→ Extends landfill life by reducing methane-generating waste going into the landfill

Legislation. The pressure generated by the public, science, financial, and industry communities concerned about the climate crisis is manifesting in legislation. Examples: in its 2021 Methane Emissions Reduction Plan, the US government is mobilizing "all available tools to identify and reduce methane emissions from all major sources," and in its 2023 Food Donation Improvement Act, it targets food waste, "the most common material found in landfills, constituting an estimated 24% of material" which generates large quantities of methane emissions.[62]

→ Extends landfill life by reducing methane-generating waste going into the landfill

→← Novel factors on landfill life

Pandemics

The COVID pandemic has had a significant but mixed impact on landfill life, which can be characterized as a profound reduction in waste generation in 2020 and a resurgence of waste generation in 2021, likely due to lifestyle adaptations such as increased at-home shopping. The pandemic will continue to have an effect as long as it is endemic.

→ Extends landfill life by reducing economic activity and therefore fill rate

→← Trends toward baseline by incentivizing activities that generate more waste

(These bullet points not yet addressed in the text above)

- Climate change impacts to landfill operations
- Landfill facility and technical challenges
- Staffing in the local and regional solid waste industry
- adjustments in diversion/recycling rates, and

[62] https://www.whitehouse.gov/wp-content/uploads/2021/11/US-Methane-Emissions-Reduction-Action-Plan-1.pdf

- tonnage volume in the broader market.

Selected scenario expanded views

To help with visualizing the factors, a few of them are discussed in greater detail below.

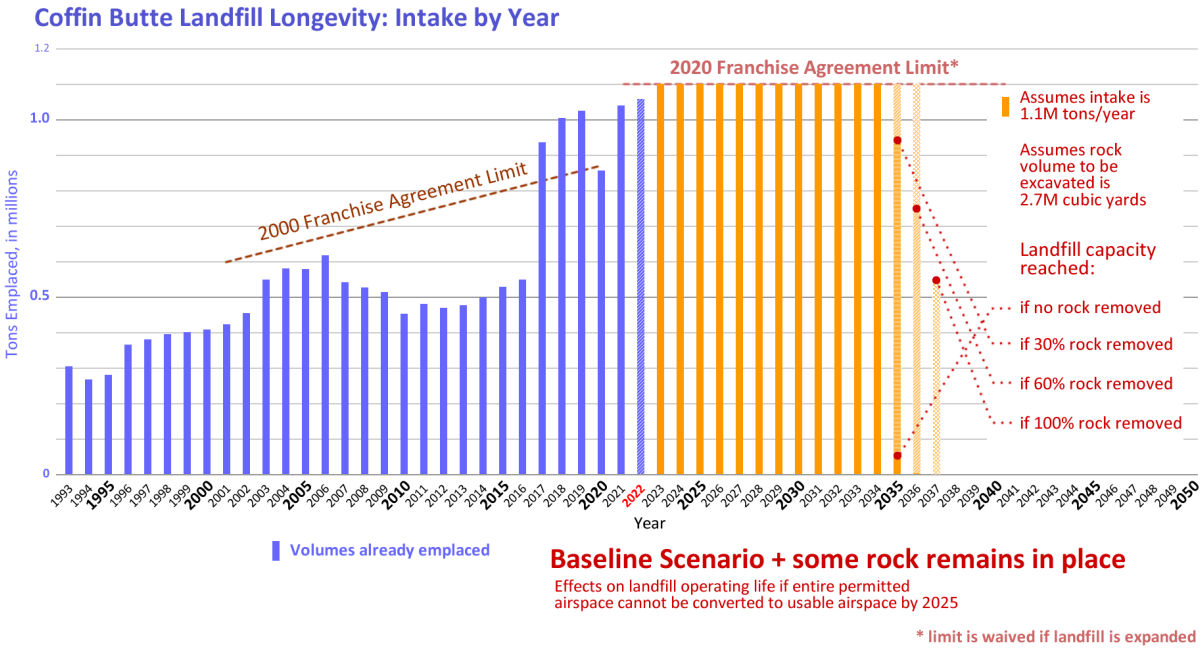
i. Scenarios built upon the Baseline: Quarry Levels

Roughly 2.7 million cubic yards of the landfill's permitted airspace is currently unavailable because it is unexcavated rock. 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, 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. The landfill and the quarry cannot safely overlap their operations in the airspace. Ideally, the quarry would pre-excavate all the rock by year-end 2024, and the landfill would then prepare the quarry site for landfilling. Alternatively, the landfill could use a new permitted area (a landfill expansion) as a "bridge" to give the quarry more time to pre-excavate, but it seems unlikely that a landfill expansion could be (a) successful and (b) legally resolved in time to be useful.

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, in Figure 3.3.

Figure ?



ii. Scenarios built upon the Baseline: Water Table

A (currently unquantified) portion of the landfill's permitted airspace seems to lie below the groundwater level, and it is unclear at this time whether or not Oregon DEQ regulations will allow this theoretical airspace to be used. if not permitted, actual permitted airspace would decrease and the lifespan of the landfill would shorten, in proportion to the volume affected.

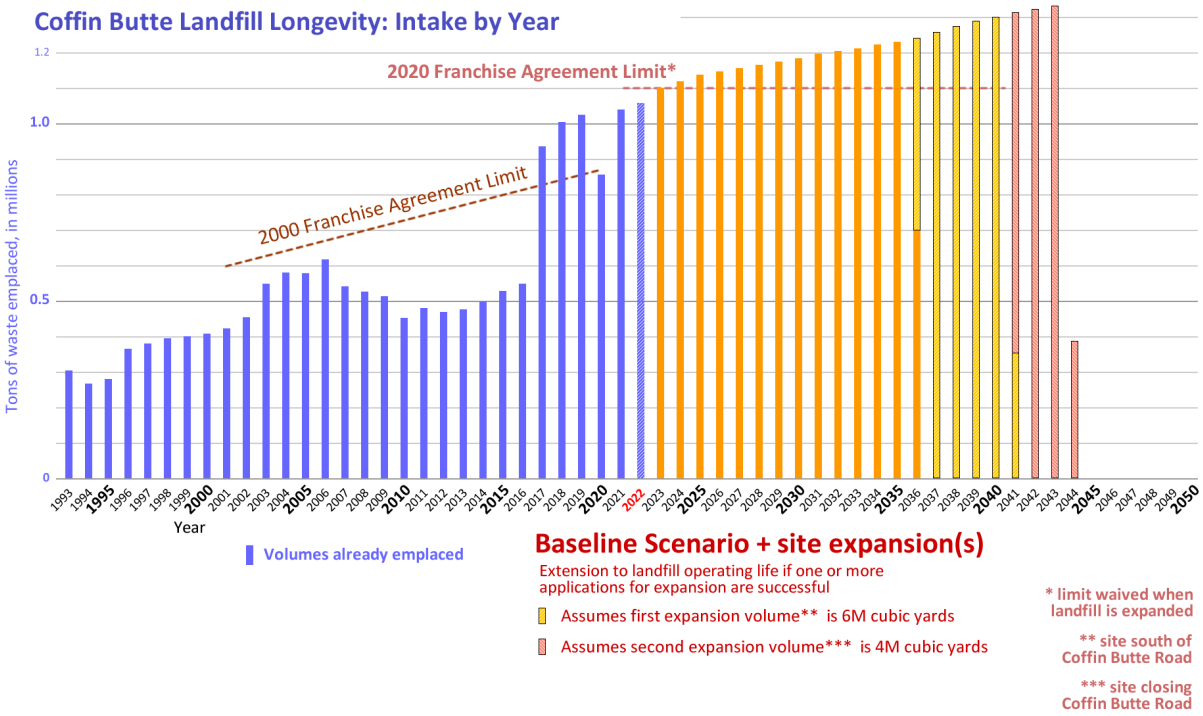
iii. Scenarios built upon the Baseline: Expansion(s)

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. Almost certainly this expansion site would be the area south of Coffin Butte Road that is already zoned as Landfill Site; it's unlikely that the expansion would involve the airspace over the road itself, as closing the road proved problematic in the 2021 expansion attempt. We can roughly estimate the size of this expansion airspace as 6M cubic yards.

This application may be followed by others, either to continue to act as bridges for quarry excavation or to take advantage of the removal of the intake cap, which happens once the first expansion is approved, according to the 2020 Franchise Agreement. These further expansions may close Coffin Butte Road or seek to rezone other areas around the landfill as Landfill Sites.

We can represent the effect this set of scenarios would have on baseline longevity, as Figure 3.4.

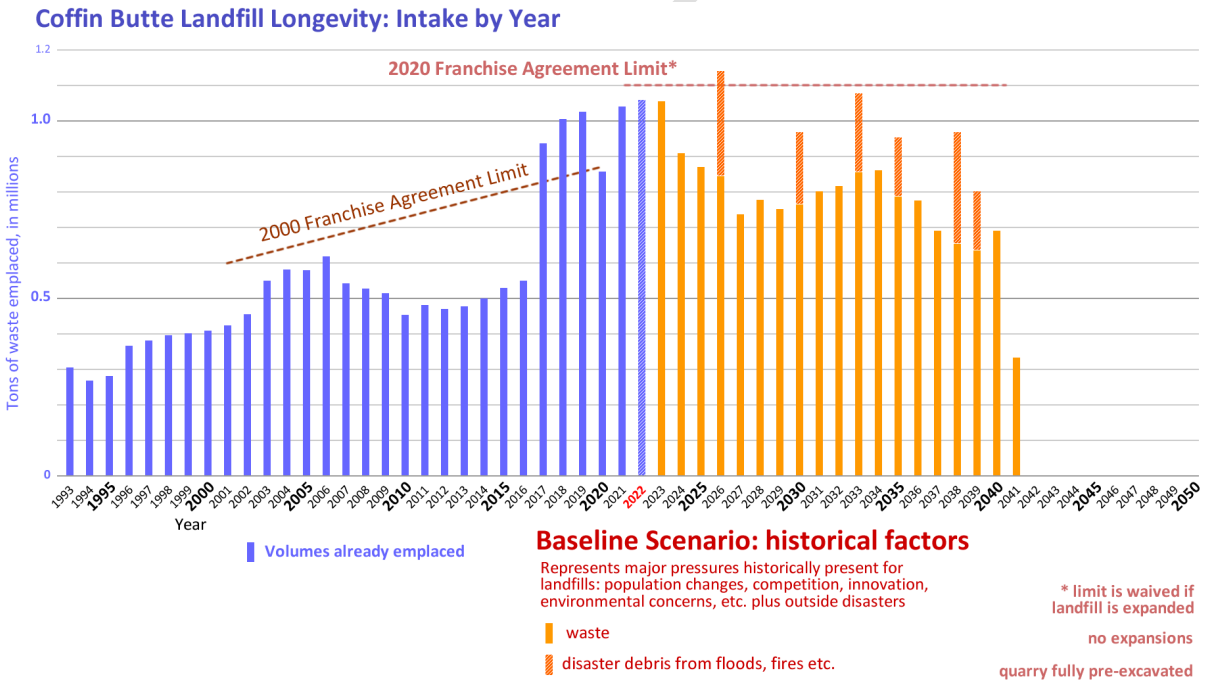
Figure 3.4



iv. Scenarios built upon the Baseline: Historical Variance

The baseline scenario is derived primarily from the annual intake the landfill owner has achieved and would like to maintain. In reality such stability occurs rarely if ever. Historically, the annual intake of a landfill is determined by many factors, many beyond the owner's ability to control or to counteract by expanding the wasteshed.

The following graphic (Figure 3.5) shows variance due to (a) slow but steady demand by people to reduce their "tax" of garbage disposal costs, (b) growing demand by people for less polluting alternatives to waste disposal, (c) growing population in the wasteshed, (d) competitive pressure from innovative alternatives to landfilling, (e) sudden spikes in intake due to wildfires, floods, and other climate-related disasters, and (f) pressure by the landfill



owner to maintain intake via downward pricing and cost-cutting. These "human factors" are discussed more fully in Section 4.

Figure 3.5

v. Scenarios built upon the Baseline: Climate Crisis Legislation/Legal Action/Activism

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. In the United States, this fight is focused on the release of methane, a potent greenhouse gas. Landfills are major sources of greenhouse gas emissions, especially methane. In its Methane Emissions Reduction Plan, the US government is using all available tools to identify and reduce methane emissions from all major sources. The Inflation Reduction Act of 2022 prioritized curtailing methane pollution in the oil and gas industry sector, initiating a program that catalyzes pollution detection and offers incentives for reduction and imposes penalties for continued releases of methane into the atmosphere. At the same time, environmentally engaged citizens are suing governmental agencies, and investors are suing corporations, for failing to act responsibly on the climate crisis. These signals of change are discussed in Section 4.

Since methane is not "destroyed" nor does it become carbon neutral, the best way to mitigate 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 is a fundamental logic when curtailing landfill methane.

The preceding graphic (Figure 3.5) does not take into account these increasing pressures for action. The following graphic (Figure 3.6) shows one range of possible effects of these regulatory, legal, political and competitive pressures.

<graphic to come>

Figure 3.6

K. Section 4: Human Factors Affecting Landfill Size/Capacity/ Longevity – Ken Eklund

i. Assessing Human Factors

Although the physical parameters of Coffin Butte Landfill play a role in its longevity ("operating life"), human factors drive the actual outcome, because they determine the inflow of material that fills up the landfill's permitted volume (and shape that volume itself). Unlike the physical factors, human factors – by which we mean decisions and agreements such as business and legal obligations, legislation, enforcement, civic action and attitudes, technological advances, risk assessments and risk taking, individual and collective values and choices, and so on – have the power to shift the landfill's operating life very quickly. Estimations of the operating life of the Coffin Butte Landfill necessarily rely on assessments and assumptions about the entire system that feeds waste to the landfill, and this wider system is created by, motivated by, operated by, and continuously being changed by human factors.

When mapping possible futures, experts use different methods to assess human factors than they do for physical factors. "Scenario planning" poses *what if* questions to anticipate future possibilities. "Futures signaling" looks for events that indicate coming trends or movements. Using these futurecasting methods is important because for many people, cognitive biases limit their view of the future to be a mere extension of the present, with only incremental changes, even though their actual experience is of a world in which radical and disruptive changes are occurring at an ever-faster rate. "Imagination training" can be a useful tool to be more successful at discerning these patterns of change.

ii. The Climate Change Imperative, 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. The 27th Conference of the Parties to the United Nations Framework Convention on Climate Change (COP27) took place from 6 to 20 November this year 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.[i] 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."[ii]

In the United States, this fight is focused on the release of methane, a potent greenhouse gas. The US is one of the world's top 10 methane emitters, and methane emissions are a major contributor to climate change, "which is why President Biden is taking critical, commonsense steps at home to reduce methane across the economy." 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. Humans produce the bulk of methane pollution, and atmospheric concentrations of methane have been trending upward for more than a decade, with 2020 seeing the biggest one-year jump on record.

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 both catalyze multi-pronged action against, and assess penalties for, the release of methane into the atmosphere.

Landfills are major sources of greenhouse gas emissions. Landfilling inherently creates methane as a natural byproduct of the decomposition of organic material in landfills. Landfill gas is composed of roughly 50 percent methane (the primary component of natural gas), 50 percent carbon dioxide (CO_2) and a small amount of non-methane organic compounds. Methane and carbon dioxide are odorless; "landfill smell" is from the trace non-methane organic compounds.

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.

Using area measurement tools deployed on satellites, aircraft, and towers, the Environmental Defense Fund has shown that landfill outputs are generally higher than EPA calculations indicate. 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. 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, and MethaneSAT, a subsidiary of the EDF.

These developments all signal a changed operating environment for Coffin Butte Landfill, one in which its greenhouse gas emissions move from being unknown and unexamined to being an open number impacting waste flows, operating costs, regulatory fines, corporate investment levels, public action, and more. Coffin Butte Landfill may be a particular target for negative effects, because its wet environment converts waste to methane quickly. This section details several Scenarios which explore these impacts upon the landfill's anticipated operating life.

It's important to note here that landfill methane poses a lesser-of-evils situation. 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. Methane is not "destroyed" nor does it become carbon neutral. Therefore, the best way to mitigate 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 is a fundamental logic at work with landfill methane now and into the future.

iii. Scenarios

A. Climate Crisis Legislation

Scenario: the methane-corrective measures imposed on the oil/gas industry are extended into the landfill industry, focusing on incentives to prevent methane from being emitted but including penalties for methane pollution. This extension happens in the year 2024.

In this scenario, as they are doing in the oil/gas industry, federal and state environmental agencies offer billions of dollars in incentives tailored to catalyze efforts that can curtail landfill methane.

In this scenario, federal and state environmental agencies announce and implement financial penalties (fines) for methane release to the atmosphere. As is currently happening in the oil/gas industry, these penalties are eased in over a four-year period, and cap at a rate around $1550 per metric ton in 2022 dollars.

In general, the effect of this carrot + stick scenario on Coffin Butte Landfill's operating life would be to lengthen it. The incentives would attract recyclers and other entities to target the high-organic sector of the landfill's intake (about a quarter of total intake mass) for diversion away from the landfill, and the penalties would bring the landfill operator into alignment with this diversion (and reduction of profit). This would be a sea change in the wasteflow, creating knock-on opportunities to create circular economies for other types of waste, motivated by environmental concerns, economic efficiencies, and other reasons.

It's also possible that this scenario would shorten the operating life of Coffin Butte Landfill, even precipitously, if the prospective penalties for incoming waste (plus the penalties for methane emissions from waste already emplaced) cut unacceptably into the profit schema of the landfill owner. The likelihood of this eventuality depends upon the actual methane output of the landfill, which is currently undocumented.

The signal for this scenario is strong, because it is based upon the stated goals of the US government, its commitments to climate action to the world, and goals and provisions already in place with the US 2021 Methane Emissions Reduction Plan.

Another legislative scenario to mention briefly, related to the climate crisis: efforts to limit atmospheric carbon widen to non-methane sources in the US, in the form of a carbon tax and/or subsidies for rail electrification. This scenario would disrupt the current operations in the Coffin Butte wasteshed, by establishing new incentives to transport waste by rail rather than truck. This scenario is likely to extend the operating

life of Coffin Butte Landfill, which has no rail connection and depends on trucking for its inflow. If entities can transport waste more economically by rail to cleaner landfills or to regional waste reclamation centers, that would cut inflow to Coffin Butte Landfill.

B. Climate Crisis Legal and Shareholder Action

Scenario: Environmentally engaged citizens sue governmental agencies (and investors sue corporations) for failing to act on the climate crisis. These lawsuits compel action to reduce emissions of greenhouse gases, which in turn boost efforts to divert material, especially food and other high organic waste, from being landfilled at Coffin Butte Landfill. In this scenario, these lawsuits have the potential to occur across the wasteshed.

Signals for this scenario set exist in plenty. Groups of environmentally engaged citizens are already pursuing lawsuits against states and nations; such cases appear regularly in the news as current ones wind their way through the courts and new ones are filed. Climate activism is already widespread in Oregon and the landfill's wasteshed includes areas disposed politically toward this kind of legal action. Benton County is more likely than most to be targeted for this kind of lawsuit, as its population generally prioritizes environmental concerns and the County has not shown concern over greenhouse gas emissions in its administration of Coffin Butte Landfill.

"I started looking at the world through a new lens recently — when my older daughter gave me the incredible news that I'll become a grandfather next year… I can sum up the solution to climate change: We need to eliminate global emissions of greenhouse gases by 2050… We need to revolutionize the entire physical economy… If we don't get to net-zero emissions, our grandchildren will grow up in a world that is dramatically worse off." The grandfather-to-be is Bill Gates, a major shareholder in Republic Services' stock.

This scenario would further extend the operating life of the landfill if methane studies show that Coffin Butte Landfill is a worse polluter than alternative landfills in drier climates (if Coffin Butte Landfill converts waste to methane more quickly, for example). The legal action would then not only divert high-organic material out of the wastestream, but divert unsorted waste away from Coffin Butte Landfill to less-polluting alternatives.

C. Climate Crisis Environmental Activism

Scenario: Environmental activists accelerate their efforts to increase accountability for, and limit waste intake at, Coffin Butte Landfill. These efforts consist mostly of expansion to the current level of civic engagement but also branch out as protests and other direct action when civic engagement cannot produce the depth and velocity of change required for environmental protection.

This scenario is similar to, and operates in tandem with, the "legal action" scenario, and has a similar effect of reducing intake at the landfill. Activism happens more quickly however, so the primary impact of this scenario is as an across-the-board accelerant and forcer for all the environmentally motivated changes being discussed in this section.

Signals for environmental activism's impact on the operating life of Coffin Butte Landfill are very strong. Environmental activism has already caused the single most impactful event on the operating life of Coffin Butte Landfill in its history: activists stopped the expansion of the Riverbend Landfill in Yamhill County, which effectively doubled trash intake at Coffin Butte Landfill to its current high level. Local activism is why the County has assembled its Workgroup studying the future of solid waste management in Benton County, and local activists feature prominently in the work done by the Workgroup so far.

D. Climate Crisis Effects Upon Landfill Operating Life

Scenarios: effects of the climate crisis itself circle back to affect the operating life of Coffin Butte Landfill, by increasing the incidence of wildfires, floods, droughts, and other disruptions to the landfill's extensive infrastructure; by causing rapid and novel shifts in population migrations and attitudes; by posing threats to the landfill's operational status itself.

Signals for this set of scenarios are strong. Worldwide, the number and severity of climate events and disasters is growing, made more extreme by climate-crisis effects. Locally, in 2020 the Beachie Creek–Lionshead wildfire generated about a third of a million tons of debris for Coffin Butte Landfill. The region continues to slide into multi-year drought, which extends the fire season in an area already at risk with high forest fuel loads. The Willamette Valley now has a regular "smoke season." Rain events are growing in severity, increasing chances for flood events in the landfill's wasteshed and on the landfill itself. As a creator of flammable methane, the landfill has clear potential for a major fire event; it has caught fire in the past, which on one occasion called for a large fire response and took over 24 hours to bring under control.

Despite these trends, the Pacific Northwest is seen as a haven for those elsewhere who have been even more severely impacted by heat, fire, flood and other disasters.

In the main, climate crisis events are likely to shorten the landfill's operating life. Fires and flooding have the potential to generate debris flows that will consume capacity, as would a population boost from climate refugees relocating into the wasteshed. None of these natural disaster waste streams are counted in the "tonnage cap" included in the 2020 franchise agreement.

The most extreme scenarios shorten the landfill's operating life precipitously. The landfill itself could have a flooding event, where leachate cannot be pumped out fast enough or overflows its collection ponds for example, with effects unknown upon the landfill's ability to continue operations. Wildfire is a clear existential threat, as landfills are full of both incendiary methane and flammable material; landfill fires can burn deep, are difficult to fight and have been known to burn for years and take over a hundred million dollars to extinguish.

These events concatenate: a storm event, for example, might knock out power to the landfill for an extended period, which then leads to a flood event as pumps cannot

operate. An earthquake could cause both a power outage, which collapses the landfill's ability to operate its methane extraction system, and multiple wildfires, which threaten to ignite the uncontrolled methane. In such scenarios, the landfill is not a direct threat to human life and thus not a priority for firefighters or other emergency action, so any incident can snowball.

E. Longevity: Post-Operational Costs

Climate legislation, activism, crisis events, and so on are all increasing the burden of monitoring and maintaining public safety for the decades required after the landfill ceases operations. It's estimated that the landfill will continue to produce significant amounts of methane for 20 years after it closes, for example. If that methane is incurring penalties, who will be paying them? If trees need to be prevented from growing on the landfill cover, who will be performing that maintenance? And so on, through a growing list of like questions.

Scenario: As a clearer picture of the landfill's post-operational burden emerges, it sparks action to cut the landfill's waste intake. This effort may be initiated by the County, in an effort to both reduce the landfill's pollution impacts and to put off the day when responsibility for the landfill is transferred to the County; it may be initiated by citizens, in an effort to both reduce the pollution impacts and to delay transition to another waste management scheme; it may be initiated by the landfill owner, in an effort to delay incurring expensive post-operation environmental mitigations, and/or to keep alive the legal option to file for expansion.

Signals for this scenario include the current litigation at Riverbend Landfill in Yamhill County, where the landfill owner is trying to avoid closing the landfill by taking in a minimal amount of trash per year, and county citizens are suing to force the landfill to **close.**

F. Unforeseen Novel Effects

The scenarios listed above have signals that are easy to discern, and they manifest in more or less familiar ways. The level of change at work here, however, signals the strong possibility for novel and unforeseen effects, especially concatenating ones. In the same way that COVID manifested itself in a myriad of ways that were difficult to anticipate, the climate crisis is causing changes with ripple effects that have yet to become apparent.

These effects inject (more) uncertainty into the agreements and infrastructure of the landfill's wasteshed, which in turn steers the entities in the wasteshed toward reducing their waste flows and increasing the resilience of their waste management by seeking other options. The unforeseen effects of climate change are likely to increase the landfill's operating life.

G. Contractual Obligations

From day to day the wasteflow to Coffin Butte Landfill is governed by business contracts that Republic Services holds with various entities; the landfill's wasteshed is

defined and redefined by these contracts. Republic Services will not provide detail about these contracts, citing their proprietary nature, so the wasteflow's net effect upon the operating life of the landfill is undocumented.

iv. Imagination Training

When thinking about the future, it's common for people to manifest a cognitive bias toward the status quo, to think the future is settled as an extension of the present. This bias can manifest itself even when change is clearly underway. To counteract this bias, it's useful to require the arguments FOR the continuation of the status quo (rather than just accepting it as being unquestioningly able to continue).

To refute the idea that measures to prevent methane leaks will be extended from the oil/gas industry to the landfill industry, for example, would require a line of reasoning as to why those measures wouldn't be extended into the landfill industry (which is known to leak methane).

Another example: minimizing the role of environmental activism (as a human factor in the landfill's operating life) would require a line of reasoning as to why such activism will cease impacting the state's landfilling ecosystem or will not continue to grow at its current pace.

Imagination training is also useful in exposing areas where data still holds sway, even though it is now known to be limited or obsolete, i.e., where an old idea perseveres purely through momentum or inertia. An example would be the methane emissions level at Coffin Butte Landfill: to persist in relying on an obsolete EPA estimate would require a line of reasoning as to why that estimate should hold sway over modern direct measurements.

Determining Landfill Longevity - Ken Eklund

< summary of human factors to come >

< graphic to come >

M. Appendix A: Intake Volume 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.

Year	CBAR Volume (Tons)	Year	CBAR Volume (Tons)
1993	310,648	2013	479,160
1994	268,472	2014	499,687
1995	287,932	2015	530,971
1996	369,835	2016	552,979
1997	378,919	2017	941,430
1998	395,751	2018	1,010,879
1999	401,408	2019	1,034,934
2000	413,493	2020	863,210
2001	425,723	2021	1,046,067
2002	453,261		
2003	550,506		
2004	586,076		
2005	580,275		
2006	618,340		
2007	546,996		
2008	528,396		
2009	519,058		
2010	458,590		
2011	482,951		
2012	473,550		

N. Appendix B: Capacity Data and Site Life Projections

Year	Annual CBR Tons Scaled Intake	CBR Density Aerials (tons/CY)	CBR Annual Airspace Used (CY) Landfilled	CBR Remaining Airspace (CY)	Geo Logic 2021 Plan Consumed Airspace (YD)	Geo Logic 2021 Plan Remaining Airspace (YD)
1993	310,648					
1994	268,472					
1995	287,932					
1996	369,835					
1997	378,919 Averaged					
1998	395,751					
1999	403,697					
2000	413,493					
2001	426,000	0.9	473,000			
2002	457,000	0.98	461,000			
2003	550,360	0.98	561,592			
2004	589,147	0.80	736,434			
2005	580,275	0.80	725,334			
2006	624,875	0.80	781,094			
2007	546,996	0.80	683,746			
2008	528,395	0.80	660,494			
2009	519,058	0.80	648,823			
2010	458,590	0.892	514,111	39,594,002		
2011	482,951	0.1.0375	465,495	24,807,718		
2012	473,440	0.83	572,825	23,741,813		
2013	479,160	0.92	523,100	24,458,567		
2014	499,687	0.92	545,510	24,458,363		
2015	530,971	0.89	595,593	23,839,138		
2016	552,979	0.93	592,689	22,453,729		
2017	941,430	0.97 tons/cy	969,048	21.727,371		
2018	1,010,879	0.99	1,021,090	20,427,503		
2019	1,034.934	0.80	1,293.668	18,352,257		
2020	863,210	1.0	863,210	17,621,208		

2021	1,046,067	0.98	1,046,415	17,249,778	1,072,037	4,834,330
2022					1,057,700	3,776,631
2023					1,057,700	2,718,931
2024					1,057,700	1,661,232
2025					1,057,700	603,532
2026					1,057,700	1,028,093
2027					1,057,700	999,823
2028					1,057,700	1,685,254
2029					1,057,700	626,554
2030					1,057,700	1,428,675
2031					1,057,700	370,975
2032					1,057,700	391,696
2032					1,057,700	1,020,066
2034					1,057,700	1,977,627
2035					1,057,700	919,927
2036					1,057,700	1,157,678
2037					1,057,700	99,978
2038					664,409	664,409

The data table to the left references the year, intake tons, density, annual airspace used and remaining airspace for Coffin Butte landfill.

The following Year 2021 is a summary of information used for the annual reports for Coffin Butte landfill.

Each year Republic Services produces an annual report for Coffin Butte Landfill & Pacific Region Compost (CBR).

In particular, during year of 2021 the landfill accepted 1,046,067 tons of solid waste. Based on historical aerial fly-over data, the average effective density of the in-place waste at the Coffin Butte Landfill is 0.98 tons/cy (1,961 lbs. /cy – 2021 Operational Density). Therefore, an estimated 1,067,415 cubic yards of airspace was used for the year. A total of 21,389,767 cubic yards has been consumed as of December 31, 2021. The remaining capacity for the entire permitted landfill footprint as of the end of 2021 was approximately 17,249,778 cubic yards. This information is updated annually with aerial flyovers. Using 0.80 tons/cy, the remaining available landfill space expressed in tons is about 13,799,822 tons. Using an average disposal rate of approximately 750,000 tons per year, there are about 18.40 years of landfill space available. If we use our 3-year density average of 0.93 tons/cy, the site life extends to 21.38 years.

This illustrates the importance of density on landfill site life.

As the density (compaction) is lowered per ton of solid waste due to the varying waste compostion, then more headspace is consumed in the landfill thereby lowering landfill space available.

The remaining Airspace (CY) in the table to the left for Year2022 is adjusted for Scenario 2 data provided by Ian MacNab member of Subcommittee A1 – Republic Services.

Reference MacNab's e-mail of 11/22/22 – Coffin Butte Landfill Capacity, which outlines the following scenarios for for site life of the landfill.

Site life scenarios are based on the capping of the cells when reaching the final design elevation of the landfill but does not include the decomposition cycle of the solid waste when the cell is capped.

Site:	Coffin Butte Landfill
Project Name:	2021 Site Development Plan Update
Date:	12/23/2021
Calc By:	ASO
Reviewed By:	RB

Projected Daily Waste Receipt 2,959 tons/day (from 2021 5 Yr Fill Plans)

Assume [1] 0.0 % growth rate

Operational Density 0.8 ton/cy (from 2021 5 Yr Fill Plans)

Operational Days 286 days/year

Remaining Site Life 18 Years

Note [1]: Growth Rate Based On Site Aerial Budget Model

Year	Consumed Airspace (cy)	Remaining Airspace (cy)	
2021	1,072,037	4,834,330	*Cell 5D/5E Constructed Remaining from 3/30/21 survey date
2022	1,057,700	3,776,631	
2023	1,057,700	2,718,931	
2024	1,057,700	1,661,232	
2025	1,057,700	603,532	
2026	1,057,700	1,028,093	Construct Phase 6A (Add 1,482,260 cy)
2027	1,057,700	999,823	Construct Phase 6B (Add 1,029,430 cy)
2028	1,057,700	1,684,254	Construct Phase 6C (Add 1,742,130 cy)
2029	1,057,700	626,554	
2030	1,057,700	1,428,675	Construct Phase 6D (Add 1,859,820 cy)
2031	1,057,700	370,975	
2032	1,057,700	391,696	Construct Phase 6E (Add 1,078,420 cy)
2033	1,057,700	1,020,066	Construct Phase 6F (Add 1,686,070 cy)
2034	1,057,700	1,977,627	Construct Phase 6G (Add 2,015,260 cy)
2035	1,057,700	919,927	
2036	1,057,700	1,157,678	Construct Phase 6H (Add 1,295,450 cy)
2037	1,057,700	99,978	
2038	1,057,700	664,409	Construct Phase 6I (Add 1,622,130 cy)
2039	664,409	0	

Year	Annual CBR Intake Tons	CBR Density Ration	CBR Annual Airspace Used (CY)	CBR Remaining Airspace (cy)
1993	310,648			
1994	268,472			
1995	287,932			
1996	369,835			
1997	378,919			
1998	395,751			
1999	403,697			
2000	413,493			
2001	426,000	0.9	473000	25,238,000
2002	457,000	0.98	561,592	24,776,627
2003	550,360	0.98	561,592	24,209,320
2004	589,147	0.80	736,434	24,513,192
2005	580,275	0.80	725,344	29,916,144
2006	624,875	0.8	781,094	29,135,051
2007	546,996	0.8	683,746	28,451,306
2008	528,395	0.8	660,494	27,785,082
2009	519,058	0.8	648,823	27,136,259
2010	458,590	0.892	514,111	27,382,241
2011	482,951	1.0375	465,495	24,807,718
2012	473,440	0.83	572,825	23,741,843
2013	479,160	0.92	523,100	24,458,567
2014	499,687	0.92	545,510	23,839,138
2015	530,971	0.89	595,593	23,839,138
2016	552,979	0.93	592,689	22453729
2017	941,430	0.97	969,048	21,727,371
2018	1,010,879	0.99	1,021,090	18,015,098
2019	1,034,934	0.8	1,293,668	18,352,257
2020	863,210	1	863,210	17,621,208
2021	1,046,067	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
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

O. 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[63]	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
6	104180000301	Landfill Site (South)/ Forest	Forest Conservation Forty Acre Minimum	Disposal Cell 5 and forested hillside	March 1978, Valley Landfills, Inc. Deed M-91774 Segregated from 104180000300 in 1972

[63] Highlighted cells show the properties which Republic Services said were likely purchased prior to the 1983 zoning changes. More research is needed.

Coffin Butte Landfill Properties					
	Tax Lot #	**Current Zone**	**Previous Zone (Change Date)**	**Property Use**	**Date Acquired and Ownership**
		Conservation (North)	(FC-40) (1983)		
7	1041800008016[4]	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
8	1041800011086[5]	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
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	Construction staging/storage area, office (2013)	December 1991, Valley Landfills, Inc Deed 142396-91

[64] Highlighted cells show the properties which Republic Services said were likely purchased prior to the 1983 zoning changes. More research is needed.

[65] Highlighted cells show the properties which Republic Services said were likely purchased prior to the 1983 zoning changes. More research is needed.

Coffin Butte Landfill Properties					
	Tax Lot #	**Current Zone**	**Previous Zone (Change Date)**	**Property Use**	**Date Acquired and Ownership**
			Minimum (1982)		
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
13	104180001102	Forest Conservation	Rural Residential, 5 Acre Minimum (1982)	Vacant, non-forested land	March 1990, Valley Landfills, Inc Deed 123022-90
14	104180001107[66]	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
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	forest	March 1986, Valley Landfills, Inc. Deed 1986-077318

[66] Highlighted cells show the properties which Republic Services said were likely purchased prior to the 1983 zoning changes. More research is needed.

Coffin Butte Landfill Properties					
	Tax Lot #	**Current Zone**	**Previous Zone (Change Date)**	**Property Use**	**Date Acquired and Ownership**
			Minimum (1982)		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
20*	104180000200	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

Coffin Butte Landfill Properties					
	Tax Lot #	**Current Zone**	**Previous Zone (Change Date)**	**Property Use**	**Date Acquired and Ownership**
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

Benton County OREGON

Sustainable Materials Management Plan (SMMP)

C.1. Subcommittee

DRAFT 1-25-23

Table of Contents

1. Table of Findings

SMMP-F-1: Many best practices and model SMMP's exist in Oregon and beyond.

SMMP-F-2: The charges of the BCTT Workgroup are intimately related and will be included within the RFP.

SMMP-F-3: Contracting out processes often include a Technical Advisory Committee (TAC), which vet technical information from a consultant and get to a place of consensus, and a Community Advisory Committee (CAC), which provide review in the technical experts' areas of disagreement.

SMMP-F-4: Length of overall project can be heavily impacted and defined by the level of public interaction/engagement included in the project.

SMMP-F-5: The research and development of the plan can occur in the background, not using as much time as outreach.

2. Table of 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, 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 content should include Benefit-Cost analyses in the evaluation and recommendations of major topics. Circular economy costs/benefits should specifically be addressed in the SMMP.

SMMP-R-3: 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-4: Bring "lessons learned" into the process from other sources, including feedback from other counties, lessons from past Benton County experiences, examples from California, Washington, or international examples. See full report for more sources.

SMMP-R-5: 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.

SMMP-R-6: Benton County should use an RFP to find consultant(s) for developing a Sustainable Materials Management Plan.

SMMP-R-7: The SMMP should address the subjects listed in the full subcommittee report, answering the questions listed as RFP priorities allow.

SMMP-R-8: 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-9: The scope of work for this project is expected to be broad and comprehensive, with specific goals recommended for the County to consider as reaching for as milestones.

SMMP-R-10: 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-11: 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.

SMMP-R-12: 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-13: 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-14: The RFP should demonstrate flexibility in allowing further work plan development after applications are reviewed and accepted.

SMMP-R-15: The length of overall project will depend heavily on the level of public interaction/stakeholder engagement included in the project, and by requirements from the county. During the public interaction/stakeholder engagement process, R&D from consultant can occur in the background.

SMMP-R-16: 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-17: Include a Technical Advisory Committee (TAC), which vet technical information from a consultant and get to a place of consensus, and a Community Advisory Committee (CAC), which provide review in the technical experts' areas of disagreement. SMMP Sub-Committee members should be included in the CAC.

SMMP-R-18: 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-19: 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-20: 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-21: 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.

3. Charge C: Long Term Sustainable Materials Management Plan (SMMP) tasks

SMMP F-1. Contracting out;

SMMP F-2. Subjects to be covered;

SMMP F-3. (Moved from Common Understandings) Benefit-Cost Topics are only Outlined

SMMP F-4. (New) Add in Vision 2040 and related County documents with similar from other counties referenced

SMMP F-5. Who needs to be at the table beyond those in the County;

SMMP F-6. A workplan outline with a timeline for completion;

SMMP F-7. Topics covered in recent similar planning efforts across the state; and

SMMP F-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.

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.

4. Introduction

The main theme of this subcommittee's work around the Sustainable Materials Management Plan, is that the plan should help transition our communities from a focus on end-of-life waste management to a more holistic, systemic approach via a truly Sustainable Materials Management Plan. The many positive impacts include:

- Full Life Cycle/Cradle-to-Cradle Principles of Sustainable Material Management
- Circular Economy Opportunities both Locally and Regionally
- Inclusion of Equity Considerations
- Celebrate Innovation & Shared Prosperity

Benton county is seeking a new SMMP that will guide decisions and policies for future generations. Based upon the magnitude of content and ideas – this SMMP feels like it will be leading (ushering in) a paradigm shift in how we view and interact with materials we use in our everyday lives.

Work in Progress: Why? Why are we doing this and why do we need a new SMMP – if we can clearly tie the *why* behind the need for a better/newer/new SMMP – this will only strengthen the findings and recommendations.

The primary 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 list key findings and/or key recommendations. These key findings and recommendations summarize more complete content found in the rest of the report.

The following is a complete report including findings and recommendations put forth by individual members of the subcommittee. The report, findings, and recommendations have not yet been vetted and approved by the full subcommittee, and the majority and minority opinions have not been noted. The subcommittee will continue to work to refine these elements further. The subcommittee has worked collaboratively to develop a draft report focused on investigating and discussing elements of the charge.

5. Development of Sustainable Materials Management Plan (SMMP)

1) Topics covered in recent similar planning efforts across the state

The primary 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 approaches 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.

Work In Progress: ADD FINDINGS

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.

2) Subjects to be covered

Questions to be answered in SMMP

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?

LIFE CYCLE IMPACTS OF MATERIALS

- What is the Scale of impacts (Regional, state, national)?
- What are the full lifecycle/Net environmental impact 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 wasteshed (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?
- 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 use 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 is the Analysis 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?
- How is Food Waste – 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 Operation 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)?

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?

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?

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?

3) (New) Add in 2040 Thriving Communities Initiative and related County documents with similar from other counties referenced

Highlight 2040 findings, examples and goals from other documents

KR: The Benton County Sustainable Materials Management Plan should be developed within a Sustainable Materials Management framework, reflecting full lifecycle impacts. The following information should be considered during the development of a Sustainable Materials Management Plan:

1. 2040 Thriving Communities Initiative and our communities' Core Values

2. National, State and local goals, vision documents, plans, policies, ordinances, etc. relating to materials management and climate change
3. Examples of values and goals expressed in state and local jurisdiction materials management plans
4. Long-term strategies (to 2040) with short-term action items (5 years or less)

Key Recommendations:

SMMP-R-22. Benton County Sustainable Materials Management Plan should be developed within a Sustainable Materials Management framework, reflecting full lifecycle impacts. The development of a Sustainable Materials Management Plan should consider, 1) the 2040 Thriving Communities Initiative and our communities' Core Values, 2) national, State and local goals, vision documents, plans, policies, ordinances, etc. relating to materials management and climate change, 3) examples of values and goals expressed in state and local jurisdiction materials management plans, and 4) long-term strategies (to 2040) with short-term action items (5 years or less).

4) (Moved from Common Understandings) 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 a 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

Key Recommendations:

SMMP-R-23. SMMP content should include Benefit-Cost analyses in the evaluation and recommendations of major topics. Circular economy costs/benefits should specifically be addressed in the SMMP.

SMMP-R-24. 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.

5) What "lessons learned" should be brought forward in this process.

Staff invited members of various jurisdictionsvarious jurisdictions to share their experiences and processes in solid waste/materials and materials management.

Work in Progress: Summarize lesson's learned from other jurisdictions present at full work group meeting

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

Key Findings

SMMP-F-6. Many best practices and model SMMP's exist in Oregon and beyond.

Key Recommendations

SMMP-R-25. Bring "lessons learned" into the process from other sources, including feedback from other counties, lessons from past Benton County experiences, examples from California, Washington, or international examples.

6) 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. 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:

Work in Progress: GROUP THESE

- DEQ
- Economic Development Office County/Corvallis
- Small Cities
- Neighboring counties
- Community Members
- Waste generation sources (jurisdictions) – how much weight should non-county members be given? Economy of scale?
- Local Advocacy groups (Willamette valley) – sustainability coalition, river keepers, watershed councils
- National Advocacy groups
- Equity, Diversity, Inclusion coordinator
- Low income populations
- Multi-family residents
- 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,
- Tribal governments
- Diverse Language Representation and underserved communities not speaking English as first language
- Youth organizations - civics/schools
- 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

Key Recommendations

SMMP-R-26. 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.

6. RFP Process

7) 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)
- RFP Release/Announcement
    - Distribution to allow time for it to be posted to various trade groups, equity-minded sharing to underrepresented groups, international-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 dead line.
- 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

8) Contracting out;

There are many topics being recommended, which are likely beyond the capability of any single party.

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.

Multiple parties could be involved

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
  - Look at the unique qualities of our community, not a once 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

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 Selection[67]

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 stakeholders group should determine the best proposal deemed most qualified based on the above criteria.

Key Findings

SMMP-F-7. The charges of the BCTT Workgroup are intimately related and will be included within the RFP.

[67] Source of some section content: Deschutes County 2017 SWMP RFP

SMMP-F-8. Contracting out processes often include a Technical Advisory Committee (TAC), which vet technical information from a consultant and get to a place of consensus, and a Community Advisory Committee (CAC), which provide review in the technical experts' areas of disagreement.

SMMP-F-9. Length of overall project can be heavily impacted and defined by the level of public interaction/engagement included in the project.

SMMP-F-10. The research and development of the plan can occur in the background, not using as much time as outreach.

Key Recommendations

SMMP-R-27. Benton County should use an RFP to find consultant(s) for developing a Sustainable Materials Management Plan.

SMMP-R-28. The SMMP should address the subjects listed in the full subcommittee report, answering the questions listed as RFP priorities allow.

SMMP-R-29. 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-30. The scope of work for this project is expected to be broad and comprehensive, with specific goals recommended for the County to consider as reaching for as milestones.

SMMP-R-31. 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-32. 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.

SMMP-R-33. 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-34. 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-35. The RFP should demonstrate flexibility in allowing further work plan development after applications are reviewed and accepted.

SMMP-R-36. The length of overall project will depend heavily on the level of public interaction/stakeholder engagement included in the project, and by requirements from the county. During the public interaction/stakeholder engagement process, R&D from consultant can occur in the background.

SMMP-R-37. 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-38. Include a Technical Advisory Committee (TAC), which vet technical information from a consultant and get to a place of consensus, and a Community Advisory Committee (CAC), which provide review in the technical experts' areas of disagreement. SMMP Sub-Committee members should be included in the CAC.

SMMP-R-39. 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-40. 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-41. 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-42. 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.

7. Conclusion

A good SMMP will serve the county and citizens 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.

9) 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
7) Disaster resilience
Measuring progress
1) Plan Indicators
Implementation, compliance, and amendments

TOPICS
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
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)

TOPICS
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
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

TOPICS
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
Sorting Technologies and MRF options
Proven vs. Unproven alternatives
2) Recommendations for Collection and Recycling/Processing
WASTE COLLECTION AND TRANSFER
Background and Existing Conditions

TOPICS
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
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

TOPICS
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
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

TOPICS
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
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 C.3: Subcommittee Reports: Past Land Use Application Conditions

Benton County OREGON

Compliance with Past Land Use Actions Report

A.2 Subcommittee

DRAFT 1-23-23

TABLE OF Contents

List of Appendices: A. Figure IV-7 from Chemeketa Regional Solid Waste Program Report 1974

B. Figure from Count Code

1) HOW TO USE THIS DOCUMENT

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

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

2) 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.

One 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.

3) INTRODUCTION

This document contains a historical summary of land use actions[68] including adopted conditions of approval for past Conditional Use Permits (CUPs) relevant to the Coffin Butte Landfill. It provides the context needed to better understand how we got to where we are now. Our goals for this section included:

1) Identify and organize the relevant documents;
2) Explain the key points clearly;
3) Identify areas of agreement on whether the various conditions of approval remain applicable or inapplicable today; and
4) Identify areas of agreement on the current status of compliance, monitoring, and enforcement.

For context, Benton County's Development Code (BCC) describes conditional uses as "land uses which may have an adverse effect on surrounding uses in a zone." (BCC 53.205). To lessen the adverse impacts, the county may "impose conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by the development activity, or to otherwise ensure compliance with the purpose and provisions of this code." (BCC 53.220).

For context, Benton County's Development Code (BCC) describes "permitted uses" as land uses that are "consistent with the purpose of the zone" (BCC 53.105); and conditional uses as "land uses which may have an adverse effect on surrounding uses in a zone." (BCC 53.205). Permitted uses are generally considered compatible in the zone in which they are allowed, without any review process. (BCC 53.110).[69] Conditional uses are required to demonstrate that compatibility by establishing compliance with specific criteria. (BCC 53.215.)[70] To lessen the adverse impacts of conditional uses, the county may "impose conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by the development activity, or to otherwise ensure compliance with the purpose and provisions of this code." (BCC 53.220). Implementation of the conditions of approval is requirement to ensure that the proposed use complies with the approval criteria. To be effective, conditions of approval must be monitored and enforced.

Conditions of approval must be related to and necessary to ensure compliance with approval criteria. They cannot expand the approval criteria; nor can they substitute for a finding of compliance with a criterion for approval. Rather, after the decision maker has determined

---

[68] Findings of Fact, notices of decision, conditions of approval, zone changes, code adoptions, code amendments, etc.

[69] 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."

[70] Under BCC 53.215, for a conditionally allowed use to be approved, the Planning Commission must determine that:

> "(1) The proposed use does not seriously interfere with uses on adjacent property, with the character of the area, or with the purpose of the zone;
> "(2) The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area; and
> "(3) The proposed use complies with any additional criteria which may be required for the specific use by this code."

compliance, or feasibility of compliance, with approval criteria, conditions may be imposed to ensure compliance with those criteria. BCC 53.215 establishes the approval criteria for conditional use permits in Benton County. All conditions of approval must relate to those approval criteria. Accordingly, for conditional use permits for landfill expansion in the Landfill Site Zone, conditions of approval may be imposed to mitigate negative impacts to adjacent property in order for the decision maker to find that "[t]he proposed use does not seriously interfere with uses on adjacent property, with the character or the area, or with the purpose of the zone"; and that "the proposed use does not impose an undue burden on any public improvements, facilities, utilities or services available to the area." (BCC 53.215(1) and (2). To be effective, conditions must be monitored and enforced.

Compliance with the required conditions of approval is the responsibility of the applicant. The County, along with DEQ, etc., is responsible for monitoring and enforcement. In Benton County, monitoring, and enforcement are complaint-driven (by residents, businesses, the traveling public, other governmental entities, or others) because Benton County has acknowledged it did not and does not have the resources to actively monitor or enforce the landfill conditions of approval. This is also true for other land use decisions in Benton County.

> The Benton County Talks Trash Workgroup (BCTT) was not charged with deciding the actual legal status of the factual and legal issues raised herein. The "common understandings" noted identify the BCTT's consensus agreements. Where there was no consensus, the differing points of views have been documented for consideration by the Benton County Board of Commissioners and others. Additionally, each workgroup member was given the opportunity to share their views, be they supportive or oppositional, as noted in Appendix X.

4) TABLE 1. LANDFILL LAND USE DOCUMENT TABLE

List of Land Use Documents associated with the Landfill

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

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
1	1972	CP-72-09	Preliminary communication regarding proposed landfill site.	None	Unfinished review of the proposed solid waste landfill site No conditions or conclusions.
2	1974	CP-74-01	Conditional Use Permit	PC Approved March 5, 1974; PC Decision Appealed by George Dannen and H. G. Olson March 15, 1974 (page 159 of 2 62 of the CP-74-01 pdf) BOC Approved	Designating Coffin Butte Landfill as a regional sanitary landfill site as recommended in the Chemeketa Regional Solid Waste Program Report and Sanitary Landfill expansion. Note: 2-decisions/2-motions 1. designation of the Coffin Butte area as a regional landfill site 2. a motion relative to conditions, use application from Robert and Daniel Bunn/Corvallis

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					Disposal Company including any qualifications or stipulations Planning Commission decision Conditions of Approval: 5 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. Planning Commission decision appealed BOC upholds PC decision with following amendments and additions to conditions:

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					Condition No.4: adds, "when plans meet DEQ approval" Condition No. 5: Date change to July 1, 1976 Condition No. 6 (new) 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 Condition No.7 (new) Efforts be made to encourage voluntary separation of recoverable materials…to reduce the amount of landfill materials. What are the other file numbers if any? (post-appeal of PC#...looking for possible BoC number?) Presumed applicant/Property Owner: Bob Bunn, Corvallis Disposal Company based on 1972 pre-application correspondence Benton County Planner: Larry Bauer and Virgil Adams listed in 1972 docs 1972 Pre-application work included Chemeketa Regional Model Plan (name for 5-county study) by Chemeketa Regional Operations Committee.

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
3	1983	PC-83-07 / L-83-07	Comprehensive Plan and Map Amendments Zoning Ordinance (Development Code) and Zoning Map amendments	BOC Approved	Amendments to the Benton County Comprehensive Plan and Plan Map (Ordinance 251), and amendments to the Zoning Ordinance and Zoning Map (Ordinance 261). Amendments to the Comprehensive Plan Text and Map, amendments to the Zoning Ordinance and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).Ord 261 – July 6, 1983 Any proposal to expand the area approved for landfill must be reviewed and approved by PC. Criteria for review includes: Provision of screening of site from public roads and adjacent property egress/ingress, site plan and reclamation plan
4	1983	LD-83-40	Minor Land Partition	Community Development Department approved	For Tax Lots 10-4-18-301 to create a 25.8-acre forest parcel and a 38.8-acre landfill parcel
5	1983	LD-83-41	Minor Land Partition	Community Development Department approved	To create two forest parcels of 11.37 acres (zoned FC-40) and 59.23 acres (zoned Landfill Site) Created Tax Lot 1107 and Tax Lot 1100
6	1988	LD-88-11	Lot Line Adjustment	Community Development	A transfer of 37.94 acres from Tax Lot 10-4-18-800 to Tax Lot 10-4-18-1106

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
				Department approved	
7	1988	Board Order	Order to Vacate a portion of Tampico Ridge Subdivision	BOC Approved	Original subdivision BOC approved in 1979 with Conditions of Approval. In 1988 some conditions had not been met which appeared to support vacation order decision. Applicant/Property Owner: Valley Landfill Inc./Bill Webber, Pres. / Dan Bunn Director of Public Works: James E. Blair Vacation Order approval document is unsigned, footnote shows November 10, 1988 date. Confirmation of this decision not apparent in docs at this time
8	1988	LD-88-11	Lot Line Adjustment	Community Development Department Approved	A transfer of 37.94 acres from parcel A to parcel B.
9	1992	LD-92-24	Property Line Adjustment	Community Development Department Approved	To transfer 6.5 acres from 10-5-13-202/203 to 10-5-13-1000
10	1994	PC-94-03	Conditional Use Permit	Community Development Department	For a 2.2 megawatt power generation facility. The facility would utilize the gas generated from the decomposing refuse in the landfill as the fuel source.

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
				Approved February 16, 1994	Applicant: Mr. Bill Webber Property Owner: Valley Landfills, Inc. Staff Contact: Bob Speaker
11	1994	PC-94-10	Zone change from Rural Residential to Landfill Site Zone, Comprehensive Plan change from Rural Residential to Landfill Site	BOC Denied Date of Decision: January 18, 1995	Involves approximately 26 acres including expansion south of Coffin Butte Rd. Property Owner: Valley Landfills, Inc Staff Contact: Jim Allen
12	1994	PC-94-11	Conditional Use Permit	PC Conditional Approval February 28, 1995 PC Decision Appealed March 13, 1995 Jeffery Morrell Application Withdrawn March 16, 1995	To expand the area approved for a landfill within the Landfill Site Zone and update the site development plan. Notice of Decision states PC-94-11 as "A conditional use permit to update the site development plan within the area that is currently zoned Landfill Site Zone." Property Owner: Valley Landfills, Inc. Staff Contact: Jim Allen
13	1994	PC-94-12	Application to Expand or Change a Nonconforming Use	PC Approved	A change of nonconforming use from a duplex to an office within the existing structure for on-site landfill management
14	1994	LD-94-26	Property Line Adjustment	Community Development Department approved,	Transferred 21 acres from 10-4-19B-1600 to 10-4-18-1107

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
				applicant did not complete requirements to complete the transfer, file closed	
15	1997	S-97-58	Conditional Use Permit	Community Development and Parks Department Approved (the departments were briefly combined)	To expand the generating capacity of the existing electric generation plant that is served by the gas produced at the Coffin Butte Landfill. Phase I of the expansion would increase the capacity of the plant from the current 2.2 MW to 5 MW and Phase II would increase the capacity to 10 MW. Approval contingent on compliance with Noise Control Regulations for Industry and Commerce (OAR 340-0335-0035). "Applicant responsible for ongoing monitoring of noise levels, available upon request of Planning Official to determine compliance." Property Owner: Valley Landfills, Inc.
16	1999	PC-99-06	Conditional Use Permit	PC approved	For mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation. Update: quarry operations on this parcel have ceased

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
17	2002	PC-02-07	Conditional Use Permit	PC approved December 18, 2002	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-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
19	2003	PC-03-11	Conditional Use Permit	PC approved October 3, 2003	For excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					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
21	2011	LU-11-016	Conditional Use Permit	PC approved April 6, 2011	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 Conditions of Approval: 1-4; also 1-10 below (Community Development Dept to determine compliance; approval valid for 2 years)

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					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. PC 03-11 Conditions of Approval that remain applicable: 1-10 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. Property Owner/Applicant: Valley Landfills, Inc Staff Contact: Eric Adams/Chris Bentley Planning Official: Greg Verret
22	2013	LU-13-061	Conditional Use Permit	PC approved November 5, 2013	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. Conditions of Approval: 1-4; also 1-10 below (Community Development Dept to determine compliance; approval valid for 2 years)

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					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 re: forest operations, any new/change to existing access shall require permit, NPDES permit requirement for construction disturbance o 1 acre or more. Conditions of Approval 1-10 from prior approvals that remain in effect: 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. Property Owner/Applicant: Valley Landfills, Inc
23	2015	LU-15-001	Alteration of a nonconforming use to continue and enhance a stormwater treatment facility in the Exclusive Farm Use Zone, associated with Coffin Butte Landfill.	Community Development Department Approved September 16, 2015	Conditions of Approval: 2 (Community Development Department will objectively determine compliance with all Conditions of Approval) Development shall substantially comply with the plans and narrative in the applicant's proposal; modifications require approval, applicant shall

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					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 new disposal cell; relocate the leachate ponds south of Coffin Butte Road, and move some other structures. Closing Coffin Butte Road will likely require	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	Key Aspects
			improvement of at least one other roadway in the area to accommodate increased traffic—potentially Tampico Road or Wiles and Robison Roads.		

5) ASSESSMENTS OF LAND USE CONDITIONS

a. Definitions Of The Compliance Phrases Used Within The Following Table:

- **In Compliance** = Compliance demonstrated. Basis: cite basis e.g., In County Records
- **Not In Compliance** = Basis: cite basis e.g., Need more specific information. Explanation: provide citations. References: provide when available. Suggestions or Open Items: for coming into compliance.
- **Compliance Status Unclear** = Assessment not made due to one or more of the following: regulatory requirements not triggered, information sources not available, condition appears to have lesser environmental / ecological / economic / public safety, etc. impact, or insufficient information available.
- **County Requirement Superseded** = Cite over-riding County land use decision, DEQ reference, Requirement No Longer Relevant, etc.
- **Legal Requirement Superseded** = by LUBA, court opinion, statutes, County Code, Comprehensive Plan, etc.
- **Compliance Not Demonstrated** = Additional information from the County and/or DEQ needed to assess compliance.
- **Use Decision Provided for Background** = Information in document provides useful insight of community/governmental perspectives at the time. (MAY NEED TO BE RETHOUGHT / REWORDED)

Format for Evaluation of more complex conditions is:

Subcommittee Members
Compliance Opinion:
Basis:
Explanation:
Notes:
Open Item(s)

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

B. 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[71] and Sanitary Landfill expansion.**	**PC Approved** **PC Decision Appealed** **BOC Approved**
Conditions of Approval		**Current Status**	
1. The service area to be served by the Coffin Butte Site should be defined and the approval should be confined to serving only areas MI, WS, DA, KV, MI, CO, AL, LV, and MH, as defined on the enclosed map72. Expanding Coffin Butte to service additional areas should require a re-review by the Planning Commission.		Consensus: Majority Opinion: Minority Opinion:	
Comments Staff Unsure when the change occurred to allow trash to be brought to the landfill from outside those areas identified above occurred. There is no information in any land use file that staff searched through. Workgroup Committee • 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			

[71] 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.

[72] The Chemeketa Regional Solid Waste Program Report labels specific Chemeketa Region Service Areas, including the general areas of Monmouth/Independence (MI), West Salem (WS), Dallas (DA), Kings Valley (KV), Corvallis (CO), Albany (AL), Lobster Valley (LV), and Monroe/Harrisburg/Halsey (MH), which are **mapped and detailed on Figure IV-7 of the Report** (Stevens, Thompson & Runyan, Inc., 1974b).

Date	File #	Request	Result
1974	**CP-74-01**	**Designating Coffin Butte Landfill as a regional sanitary landfill site as recommended in the Chemeketa Regional Solid Waste Program Report[71] and Sanitary Landfill expansion.**	**PC Approved** **PC Decision Appealed** **BOC Approved**

- Republic: Republic Services acquired Coffin Butte Landfill in 2008. Certain records prior to that date may be incomplete. We agree that the changes to the County's land use regulations and subsequent conditional use approvals mean that the analysis and the conditions in the 1974 decision are no longer relevant. Further, Republic Services[73] 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 statues 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:

[73] 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.

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[71] and Sanitary Landfill expansion.**	**PC Approved** **PC Decision Appealed** **BOC Approved**

"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."

- PC-83-07-C(3) PDF page 13

Note: 1974 Chemeteka report defines "regional" in physical geography terms, DEQ defines "regional" in terms of amount of tonnage received. DEQ Reference: 23) "Regional disposal site" means a disposal site that receives, or a proposed disposal site that is designed to receive more than 75,000 tons of solid waste a year from outside the immediate service area in which the disposal site is located. As used in this subsection, "immediate service area" means the county boundary of all counties except a county that is within the boundary of the metropolitan service district. For a county within the metropolitan service district, "immediate service area" means the metropolitan service district boundary. *From <https://www.oregonlegislature.gov/bills_laws/ors/ors459.html> per B Fuller to S Imperati email 110722*

- **PLACE KEEPER**: Add 2002 PC-02-07 geographic, regional landfill issue (Catherine)

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_riverbend_landfill_500952_mou_120116.pdf)

Open Item: Search DEQ permits for information allowing geographic areas to use CB Landfill.

Subcommittee Member - Republic

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[71] and Sanitary Landfill expansion.**	**PC Approved** **PC Decision Appealed** **BOC Approved**

Disagree with subcommittee members that conclude "not in compliance." This condition was superseded by the 1983 change to the County's regulatory structure as evidenced by subsequent decisions which did not carry forward this condition. It is also evidenced by the 2002 Memorandum of Understanding between Republic and Benton County, which concluded that the Republic was in full compliance with county regulations as of that date. In any event, such locational limitations were rendered unenforceable by a 1998 Supreme Court decision, which found that such limitations were unconstitutional violations of the Commerce Clause. (This decision is discussed in detail in a memorandum prepared by Legal Subcommittee and appended to their report.) This condition has been long superseded and any attempt to impose a similar condition would be unconstitutional (and is also now outside the County's scope of review under the Development Code.)

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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

It will need to be a decision of the Board of County Commissioners as to whether this condition should be resumed. Annual Reports from 2005 found here https://www.co.benton.or.us/cd/page/solid-waste-collection-franchisee-annual-reports

Workgroup Committee

- 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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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[71] and Sanitary Landfill expansion.**	**PC Approved** **PC Decision Appealed** **BOC Approved**

Compliance Opinion: Compliance Status Unclear

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 not the Planning Commission are involved in reviewing the reports.

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

Subcommittee Member - Republic

This condition was superseded by subsequent decisions that did not carry it forward.

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).	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

In first year, per the status report, a collection-retention lagoon was installed to treat leachate from the old site. No longer relevant, replaced with later conditions for run-off. County staff has no regulatory authority over leachate collection or disposal. This is a function for DEQ.

Workgroup Committee

- 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

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[71] and Sanitary Landfill expansion.**	**PC Approved** **PC Decision Appealed** **BOC Approved**

(2003), it is certainly possible to argue that the intent of this provision was not to have landfill leachate treatment burden public facilities (the Corvallis water treatment facility is so overburdened by leachate that 15 million gallons/year +/- are trucked to a Salem facility). Let's have the discussion about whether it is "efficient" to import waste into Benton County instead of diverting it to landfills with less precipitation (which consequently produce less leachate) and whether discharging dioxins/PFAS into the Willamette is "polluting…nearby waterways"

- These requirements are still relevant. Has the original collection-retention lagoon been maintained and was it effective in iterating leachate? Past members of SWAC assessed that it was not effective.
- Wells were required to monitor potential seepage of contaminants into groundwater. "Runoff" refers to surface waters, not groundwater, so this assessment does not address the original requirement.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Mark Yeager: The fate of leachate generated by the landfill should not simply be ignored by the County and delegated to DEQ. The requirement to "insure against pollution of nearby waterways" is very much still relevant. Trucking of leachate to Corvallis' sewage treatment plant does not result in effective treatment or insure against pollution of nearby waterways. Many of the toxic pollutants contained in leachate simply pass through the treatment plant with very little or no pollutant removal and end up in the Willamette River (PFAS, heavy metals, pesticides, pharmaceuticals, personal care products (PCP)). The Willamette River is a key recreation asset (boating, fishing, swimming, etc.) for residents of Benton County, and a source of drinking water supply for downstream residents (e.g., Adair Village).

Compliance Opinion: Compliance Not Demonstrated

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

Explanation: It is understood from RSI [Republic] that leachate treatment no longer occurs at the landfill. Leachate is being trucked to the city sewage treatment facilities in Corvallis and Salem for treatment and discharge to the Willamette River. Evidence that treatment to levels suitable for discharge to the river is needed to confirm RSI [Republic] is in compliance.

Notes: The landfill generates about 25 million to 32 million gallons per year of leachate to be trucked off site to city treatment facilities. This volume equates to approximately twenty trucks per day traveling to Corvallis or Salem. Concerns include the impacts on county roads, road traffic, road safety and the Willamette River. Many of the toxic pollutants contained in leachate

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[71] and Sanitary Landfill expansion.**	**PC Approved** **PC Decision Appealed** **BOC Approved**

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.

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.]

Subcommittee Member - Republic

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.

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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

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.

Workgroup Committee

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[71] and Sanitary Landfill expansion.**	**PC Approved** **PC Decision Appealed** **BOC Approved**

- Disagree strongly with staff. "Temporary" cover of tarp-covered closed landfill cells sitting "temporarily" for a generation is clearly not the intent of this provision. Meeting minutes and applicant statements provide clarification as to the intent of this provision. This provision additionally requires "visual reclamation" of an area which has been so deformed by an accumulation of garbage that is geographic in scope. This provision also addresses screening, which is also clearly a non-complied-with condition of approval.
- This was part of conditions of approval for a landfill that was then scheduled to close by 2000. The condition was not met. To date, no part of the site has been reclaimed by seeding with native vegetation. The "scars eroding the face of Coffin Butte" have in fact been increased by subsequent expansions, to a height well above the proposed grade for the currently permitted landfill design, even after expansions.

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.

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[71] and Sanitary Landfill expansion.**	**PC Approved** **PC Decision Appealed** **BOC Approved**

Notes:

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

Open Item(s): DEQ records concerning the landfill need to be reviewed.

Subcommittee Member – Republic

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.

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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Complete, 1977 Waste Control Systems, Inc. Solid Waste Management Plan

Workgroup Committee

- 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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Compliance Opinion: In Compliance

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[71] and Sanitary Landfill expansion.**	**PC Approved** **PC Decision Appealed** **BOC Approved**

Basis: Document (1977 Waste Control Systems, Inc. Solid Waste Management Plan)

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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

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.

Workgroup Committee

- 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)

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Compliance Opinions:

A. Physical Design Requirements: In Compliance

B. Reclamation & Visual Requirements: Compliance Status Unclear

A. Compliance Opinion for "small acreage" condition: In Compliance.

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[71] and Sanitary Landfill expansion.**	**PC Approved** **PC Decision Appealed** **BOC Approved**

Basis: Based on participant observations and company testimony during September 2022 County sponsored Coffin Butte Tour (see Site Tour Notes on BCTT website).

B. Compliance Opinion for "…shall be returned to grazing…" condition: Compliance Status Unclear

Basis: Per DEQ guidance, Closure of the landfill does not occur until all disposal operations cease. Potentially this is 15 or more years from now. RSI [Republic] is not required to submit a Closure Plan until 5 years prior to Closure. In the interim, if the landfill were to close today, RSI [Republic] provides a "Worst Case" Closure and Post-Closure Plan which describes the condition the site is to be left. The current "Worst Case" plan provides for a grass cover on slopes. There is no mention of visual screening.

Explanation: Landfill operations and closure are governed by DEQ requirements. Some of the landfill areas have not received wastes since the 1990s, others since 2011. RSI [Republic] has determined areas of the landfill are "In Closure" under Federal rules. Approximately 41.7 planimetric acres have already received Final Closure. This area should already have a 1.5 feet thick Vegetative Cover per Federal requirements and be suitable for reuse.

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

- RSI [Republic] Ref: County File: 5Reclamation Plan - Closure-Post Closure Plan_Report_Final. Report Title: "Worst Case" Closure and Post-Closure Plan, Coffin Butte Landfill, Benton County, Oregon, Prepared by GeoLogic, September 2020

  2.3 Areas to Receive Final Closure

  The present "worst case" closure scenario consists of constructing a final cover over the existing active landfill minus the areas that have already received final closures to-date. At present, landfill liner has been constructed through Cell 5C (see Figure 1), totaling 123.5 planimetric acres of lined waste footprint. Approximately 41.7 planimetric acres have already received final closure; therefore, the area still to receive final cover is 81.8 acres.

- DEQ

  Ref. From: FULLER Brian * DEQ <Brian.FULLER@deq.oregon.gov>, Sent: Monday, November 21, 2022 5:03 PM, To: Edward Pitera Subject: RE: Cells in Closure

  Our interpretation of "MSWLF Unit" is that it applies to the entire landfill not individual cells. Being that the landfill is not yet full, the "clock" on final closure has not yet started. It is common for landfills to build new cells on top of older filled cells that

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[71] and Sanitary Landfill expansion.**	**PC Approved** **PC Decision Appealed** **BOC Approved**

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.

CFR 258.2 Definitions

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 § 257.2 of this chapter. 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.

Open Items: A pathway to achieve the County's expectations of what closure of the landfill will look like is needed.

Subcommittee Member – Republic

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.

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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

The applicant has and is fulfilling this condition.

Workgroup Committee

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[71] and Sanitary Landfill expansion.**	**PC Approved** **PC Decision Appealed** **BOC Approved**

- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Compliance Opinion: Compliance Status Unclear

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.

Subcommittee Member – Republic

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.

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	Current Status
1. Cross reference the narrative and the map in both documents. *Clarification On Content Needed. See Subcommittee Comments*	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Completed. The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled "PC-83-07-C(3)" starting on Page 3 of 60

Workgroup Committee

- impossible to assess with missing narrative

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager *Clarification Of Condition Content

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."

Note: County records incomplete although referred to in "PC-83-07-C(3)" no site plan is included.

Excerpts follow:
Reclamation, physical layout, and maintenance provisions: From pdf file pages 4 & 5 (original document page 4)

"ii. Reclamation (Conditions No. 2 and 6)
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" sloping3/ 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

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	Current Status

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.

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 v.arrently use for this purpose. The area within the landfill reclaimed for pasture will be maintained by periodic regrading and replanting as required to compensate for settling. Otherwise, maintenance will consist of farming methods commonly used for pastureland."

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."

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 e fisting 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."

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."

End of quotations

Compliance Opinions:

A. Physical Design & Geotechnical Requirements: Compliance Status Unclear

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	Current Status
B. Reclamation Requirements: Compliance Status Unclear (Not triggered see CP-74-01 (6)) Compliance Opinion(s): A. Compliance Opinion for Physical Design & Geotechnical Requirements: County Requirements Superseded Basis: Landfill design concepts conveyed in site plans from 1983 appear to be superseded by subsequent DEQ approved Site Development Plans. Explanation: DEQ requirements on landfill design, operation and closure have primacy over County requirements. Notes: County provided records are incomplete. Although referred to in "PC-83-07-C(3)", no site plan drawing is included. Open Item: Referred to site plan is needed since it may point to areas where DEQ approved plans incorporate County requirements. B. Reclamation Requirements: Compliance Status Unclear (Not triggered per DEQ. See DEQ 2022 explanation in CP-74-01 (6)) Basis: Closure not triggered see CP-74-01 (6) Explanation: Site is an on-going operation and not subject to DEQ reclamation requirements at this time. Notes: The reclamation requirements cited in 1983 need review. Current practices to manage the risks to human health and the environment posed by a closed landfill plus current practices for maintaining the integrity of the final cap need to be considered. Open Item(s): None <u>Subcommittee Member – Republic</u> Republic agrees with Staff. The 1983 Narrative is no longer relevant to the current operation given the subsequent CUP approvals have changed the operation.	
2. Expand the narrative statement, section (1.a.ii), on reclamation to include the physical configuration of the completed landfill areas and method of maintenance of the proposed pasture uses. Include a statement regarding the	Consensus: Majority Opinion: Minority Opinion:

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	Current Status
effects of methane and internal heat generation on the long-term maintenance of the pasture, and include irrigation plans if proposed.	

Comments

Staff

Completed. The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled "PC-83-07-C(3)" starting on Page 3 of 60

Workgroup Committee

- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

*See 'Clarification Of Condition Content' under Subcommittee Comments for PC-83-07 / L-83-07 Condition 1

Compliance Opinions: County Requirements Superseded

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.

Notes:

Date	File #	Request	Result
1983	**PC-83-07** **L-83-07**	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	**Current Status**
"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." Explanation: None Open Item(s): None Subcommittee Member – Republic 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.	Consensus: Majority Opinion: Minority Opinion:
Comments Staff Completed. The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled "PC-83-07-C(3)" starting on Page 3 of 60 Workgroup Committee • 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	

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	Current Status

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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

Compliance Opinions. There are three aspects of this condition:

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

Basis:

Screening Requirements: physical berm, vegetative screening, and their maintenance
From pdf file pages 6 & 7 (original document page 4 & 5)
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.

"iii. Screening (Condition No. 3)
Additional screening will be provided in keeping with the current site screening program used at the landfill. This program consists of a keyed berm with conifers planted 10' on center along Coffin Butte Road from 99W to the landfill entrance _road, and similar plantings extending north along 99W from Coffin Butte Road to the north landfill property line.

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

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	Current Status
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. 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." Explanation: None Notes: 1983 site plan drawing was not provided in the County documentation. Open Item(s): None <u>Subcommittee Member – Republic</u> The landfill site has changed substantially since 1983, so it likely impossible to determine what was done or not done in 1983.	
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.	Consensus: Majority Opinion: Minority Opinion:
Comments <u>Staff</u> Completed. The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled "PC-83-07-C(3)" starting on Page 3 of 60 <u>Workgroup Comments</u>	

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	Current Status
• 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 Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager/ 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. Compliance Opinion: In Compliance 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. Subcommittee Member – Republic 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.	
5. Include in the narrative review of the Environmental and Operational Factors in Art.XXX.05.A.1.(f) for the approximately 10 acres proposed for addition to the landfill area.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Completed. The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled "PC-83-07-C(3)" starting on Page 3 of 60

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	Current Status

Workgroup Committee

- 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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Compliance Opinion: County Requirement Superseded

Basis: Current DEQ permits supersede this condition
From pdf file pages 7 & 8 (original document page 5 & 6)

v. Other Information Required by the Development Director (Conditions No. 5 and 7)

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.

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.

Open Item: Address DEQ primacy question

Subcommittee Member – Republic

Republic Agrees with staff for some of the reasons stated above.

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	Current Status
6. Provide a detailed reclamation plan that sets form the anticipated physical characteristics of the "terracing" including an average height and width of the terracing, provide documentation that the site is physically available to be reclaimed in this manner.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Completed. The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled "PC-83-07-C(3)" starting on Page 3 of 60

Workgroup Committee

- 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")

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

Compliance Opinion(s): Compliance Status Unclear

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.

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	**Current Status**
Subcommittee Member – Republic Republic agrees with Staff.	
7. Submit for review by the Development Director a plan detailing the proposed method Valley Landfills shall use to protect the small ponds found in the Northeast corner of the property.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Completed. The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled "PC-83-07-C(3)" starting on Page 3 of 60

Workgroup Committee

- 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)

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Compliance Opinion: Compliance Status Unclear

Basis:
Notes: From pages 6-8 (REFERENCE?)

Date	File #	Request	Result
1983	**PC-83-07** **L-83-07**	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	**Current Status**
"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." Explanation: Pond location unclear. Notes: None Open Item(s): Address DEQ primacy question <u>Subcommittee Member – Republic</u> Republic agrees with staff.	
8. The current DEQ operational permit will expire on January 31, 1984. Valley Landfills, Inc. has been requested to submit an updated, long-term leachate control plan as part of the permit renewal process. This plan must contain provisions for a leachate storage facility so leachate irrigation will not occur on pasture lands from November 1 through May 1 of each year. The control plan must also provide for a soil study that designates present and future leachate irrigation areas. This plan must show that the amount of irrigation area available is compatible with future leachate generation volumes so metal or nutrient accumulations in the soils will remain fat below any toxicity levels.	Consensus: Majority Opinion: Minority Opinion:

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	Current Status

Comments

Staff

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.
Overseen by DEQ. The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.

Workgroup Committee

- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	Current Status
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. The fate of leachate generated by the landfill should not simply be ignored by the County and delegated to DEQ. Trucking of leachate to Corvallis' sewage treatment plant does not result in effective treatment or insure against pollution of nearby waterways. Many of the toxic pollutants contained in leachate (PFAS, heavy metals, pharmaceuticals, personal care products, etc.) simply pass through the treatment plant with very little or no pollutant removal and end up in the Willamette River. The Willamette River is a key recreation asset (boating, fishing, swimming, etc.) for residents of Benton County, and a source of drinking water supply for downstream residents e.g. Adair Village Compliance Opinion: County Requirement Superseded (Specific requirement no Longer Relevant) 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 Note: Leachate processing at a wastewater treatment facility may not be an appropriate or effective treatment for leachate and subcommittee recommends further evaluation Open Item(s): Management and effectiveness of current leachate transfer/treatment at city treatment works. <u>Subcommittee Member – Republic</u> 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.	
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.	Consensus: Majority Opinion: Minority Opinion:

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	Current Status

Comments

Staff

Overseen by DEQ. The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.

Workgroup Committee

- 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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Compliance Opinion: Compliance Status Unclear

Basis: Documentation unclear as to what wells involved and which organization is to provide it. Presumed in RSI [Republic] Annual Report.

Explanation: Presumed in RSI [Republic] Annual Report. Needs further information on how the reports are reviewed for compliance with site groundwater contamination goals.

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	**Current Status**
Subcommittee Member – Republic Republic agrees with Staff. Monitoring wells are within the jurisdiction of DEQ. The County can exercise no oversite of DEQ's responsibilities. Republic has a DEQ approved Environmental Monitoring Plan that includes a map of all monitoring wells.	
10. Screen the landfill operation with fencing or berms so it cannot be seen from the County Road or adjacent properties.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Not completed. The screening may have been done but has eroded or died in the interim. It should be recreated and maintained to be in compliance with the requirement.

Workgroup Committee

- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Mark Yeager: The revised narrative submitted by the applicant is very detailed. None of the requirements have been completed or maintained. The County has not taken any enforcement action to ensure that these requirements be met.

Compliance Opinion: Not In Compliance

Date	File #	Request	Result
1983	**PC-83-07 L-83-07**	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	**Current Status**
Basis: Personal observations Subcommittee Member – Republic 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.)	
11. Daily cover of refuse with earth is not possible at this site due to the clay soils. The current (and future) permit addresses requiring daily compaction of refuse and require exposed refuse areas to not exceed 2 acres during the periods of October 15 to June 1 and to not exceed ¾ of an acre during all other periods. This shall be adhere to.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

The landfill uses an alternative daily cover approved by DEQ, which includes Covanta Ash material. The landfill also uses temporary cover.

Workgroup Committee

- Republic: Republic Services generally agrees with this assessment but would like the record to reflect that we do use site soils as daily cover, in addition to alternative daily covers.
- land use requirement not addressed by staff: this is a land use requirement; DEQ is not mentioned, and does not have override authority need more information: does the area of open fill exceed ¾ of an acre from June 2 through October 14? what is it now? does the area of open fill exceed 2 acres during the periods of October 15 through June 1?
- The statement here does not address whether exposed refuse areas have been limited to the acreages stated. There should be a more clear statement of whether this has been complied with, and whether the county has done any monitoring.

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	**Current Status**
Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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. Compliance Opinion: County Requirement Superseded by Subsequent DEQ Operating and Monitoring Permits Notes: Unclear if there are environmental impacts of the alternative cover material used at the site such as leaching constituents in wet weather, airborne dust generation in dry weather, etc. An example issue of Covanta incinerator ash as alternate daily cover. Information on chemical composition and physical testing should be made available. Generally recognized assessments of leachable materials such as the Toxic Characteristic Leaching Procedure (TCLP) should be used. Subcommittee Member – Republic 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.	
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.	Consensus: Majority Opinion: Minority Opinion:
Comments Staff Overseen by DEQ. This condition is no longer be applicable. Workgroup Committee	

Date	File #	Request	Result
1983	PC-83-07 L-83-07	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	**Current Status**

- Republic: This condition was put in place prior to today's highly-engineered landfill design requirements. At the time, landfill liners were not required. Republic Services complies with all current regulatory requirements, which include liners. Leachate does not seep through perimeter berms.
- disagree with staff: DEQ not mentioned, therefore DEQ does not have regulatory authority. question: does leachate seep through site berms? is not answered
- Whether overseen by DEQ or not, there should be a clear statement of whether this condition has been complied with, and whether the county has ever checked on this.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Compliance Opinion: Compliance Status Unclear

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.

Subcommittee Member – Republic

Republic complies the current DEQ requirements for leachate management.

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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

This is an advisory to the applicant rather than a condition that needed to be met.

Date	File #	Request	Result
1983	**PC-83-07** **L-83-07**	**Amendments to the Comprehensive Plan Text and Map, amendments to the Development Code and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).**	**BOC Approved.**

Conditions of Approval	Current Status
Workgroup Committee • As mentioned therefore it is appropriate to refer to DEQ compliance, although if the LUCS is not current, the permit may not be valid Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager Compliance Opinion: Compliance Status Unclear Basis: Compliance not demonstrated. Need DEQ solid waste permits from period 1983 to 2000. Subcommittee Member – Republic 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	**Current Status**
1. The facility shall be housed in a structure approximately 50 by 100 feet or less in size, as described in the application materials.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Superseded by subsequent expansion approval. Original generator building 3,900 square feet

Workgroup Committee

- 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?)

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Compliance Opinion: None given as of 12/11/22

Basis: Low Priority

Subcommittee Member – Republic

Republic agrees with staff.

Conditions of Approval	**Current Status**
2. Noise levels shall comply with the New Industrial and Commercial Noise Standards (OAR 30403-355)-as measured at the nearest dwellings existing on the date of approval of this conditional use permit.	Consensus: Majority Opinion: Minority Opinion:

Comments

Date	File #	Request	Result
1994	**PC-94-03**	**A conditional use permit for a 2.2 megawatt power generation facility. The facility would utilize the gas generated from the decomposing refuse in the landfill as the fuel source.**	**Community Development Department Approved**

Conditions of Approval	**Current Status**

Staff

Noise testing completed in 1997.

Workgroup Committee

- 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?

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

Compliance Opinion: Compliance Status Unclear

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.

Subcommittee Member – Republic

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.

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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Date	File #	Request	Result
1994	PC-94-03	**A conditional use permit for a 2.2 megawatt power generation facility. The facility would utilize the gas generated from the decomposing refuse in the landfill as the fuel source.**	**Community Development Department Approved**

Conditions of Approval	Current Status
Staff Noise testing completed in 1997. Available records do not indicate any such requests by the Planning Official. Workgroup Committee • 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 Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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. Compliance Opinion: Compliance Status Unclear 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. Subcommittee Member – Republic 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.	
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.	Consensus: Majority Opinion: Minority Opinion:
Comments	

Date	File #	Request	Result
1994	**PC-94-03**	**A conditional use permit for a 2.2 megawatt power generation facility. The facility would utilize the gas generated from the decomposing refuse in the landfill as the fuel source.**	**Community Development Department Approved**

Conditions of Approval	**Current Status**
Staff 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. Workgroup Committee • when was the most recent LUCS on file at DEQ completed? Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager Compliance Opinion: Compliance Not Demonstrated Basis: No record of required action provided. Subcommittee Member – Republic This condition was imposed on the power plant.	
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.	Consensus: Majority Opinion: Minority Opinion:
Comments Staff A new CUP was submitted and approved to expand the size of the facility.	

Date	File #	Request	Result
1994	PC-94-03	**A conditional use permit for a 2.2 megawatt power generation facility. The facility would utilize the gas generated from the decomposing refuse in the landfill as the fuel source.**	**Community Development Department Approved**

Conditions of Approval	Current Status
Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager Compliance Opinion: Compliance Not Demonstrated Basis: No record of required compliance with noise levels provided. Note: need to add CUP document reference as notated above in staff comment	
6. Lighting shall be located so that it does not face directly, shine or reflect glare onto an adjacent street or property.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Monitoring of this condition is complaint driven. Staff has no records of complaints regarding lights at the landfill.

Workgroup Committee

- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Date	File #	Request	Result
1994	**PC-94-03**	**A conditional use permit for a 2.2 megawatt power generation facility. The facility would utilize the gas generated from the decomposing refuse in the landfill as the fuel source.**	**Community Development Department Approved**

Conditions of Approval	**Current Status**
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. Compliance Opinion: Compliance Not Demonstrated Basis: No record of addressing compliance with lighting complaints provided. <u>Subcommittee Member – Republic</u> 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.	Consensus: Majority Opinion: Minority Opinion:

Comments

<u>Staff</u>

This building permit(s) is finaled [Electrical - C9500565, C9501197, C9600514, C9600852]

<u>Workgroup Committee</u>

- septic/ada/building/plumbing/mechanical? certificate of occupancy?

<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>

Compliance Opinion: None given as of 12/11/22

Basis: Low Priority

Date	File #	Request	Result
1994	**PC-94-10**	**Zone change from Rural Residential to Landfill Site Zone, Comprehensive Plan change from Rural Residential to Landfill Site.**	**BOC Denied**

Conditions of Approval	Current Status
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	Current Status
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	Current Status
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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

The expansion added 4,300 square feet to the original building.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Compliance Opinion: None given as of 12/11/22

Basis: Low Priority

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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Zoning compliance reviewed completed along with building permits – completed [Permit B0700147 Phase I expansion & Permits B0700323, B0700416, B0700415, F0600068, B1400497]

Workgroup Committee

Date	File #	Request	Result
1997	S-97-58	**A conditional use permit to expand the generating capacity of the existing electric generation plant that is served by the gas produced at the Coffin Butte Landfill. Phase I of the expansion would increase the capacity of the plant from the current 2.2 MW to 5 MW and Phase II would increase the capacity to 10 MW.**	**Community Development and Parks Department Approved**

Conditions of Approval	Current Status
• certificate of occupancy? Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager Compliance Opinion: None given as of 12/11/22 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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

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.

Workgroup Committee

- 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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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

Date	File #	Request	Result
1997	S-97-58	**A conditional use permit to expand the generating capacity of the existing electric generation plant that is served by the gas produced at the Coffin Butte Landfill. Phase I of the expansion would increase the capacity of the plant from the current 2.2 MW to 5 MW and Phase II would increase the capacity to 10 MW.**	**Community Development and Parks Department Approved**

Conditions of Approval	Current Status
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. Compliance Opinion: Compliance Status Unclear 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. <u>Subcommittee Member – Republic</u> The Power Plant was in compliance at the time of approval and there have been no complaints since.	
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.	Consensus: Majority Opinion: Minority Opinion:

Comments

<u>Staff</u>

Available records do not indicate any such requests by the Planning Official.

<u>Workgroup Committee</u>

- Republic: Republic Services agrees with the County's assessment. Our available records do not indicate any such requests by the Planning Department.
- County has not monitored
- noise is an issue at the landfill; ensure the facility is still in compliance

Date	File #	Request	Result
1997	S-97-58	**A conditional use permit to expand the generating capacity of the existing electric generation plant that is served by the gas produced at the Coffin Butte Landfill. Phase I of the expansion would increase the capacity of the plant from the current 2.2 MW to 5 MW and Phase II would increase the capacity to 10 MW.**	**Community Development and Parks Department Approved**

Conditions of Approval	Current Status
• Not enough information Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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. Compliance Opinion: Compliance Status Unclear 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. Subcommittee Member – Republic 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.	
5. The applicant shall continue to provide sanitation facilities for the generation plant employees that are located on site. The facilities shall include: **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;**	Consensus: Majority Opinion: Minority Opinion:

Date	File #	Request	Result
1997	S-97-58	**A conditional use permit to expand the generating capacity of the existing electric generation plant that is served by the gas produced at the Coffin Butte Landfill. Phase I of the expansion would increase the capacity of the plant from the current 2.2 MW to 5 MW and Phase II would increase the capacity to 10 MW.**	**Community Development and Parks Department Approved**

Conditions of Approval	Current Status
e) The maximum number of generating plant employees shall be five (5).	

Comments

Staff

OSHA letter from September 29, 1997 included relating to the toilet facilities and drinking water being compliant with OSHA standards for sanitation.

Workgroup Committee

- 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?

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Date	File #	Request	Result
1997	S-97-58	**A conditional use permit to expand the generating capacity of the existing electric generation plant that is served by the gas produced at the Coffin Butte Landfill. Phase I of the expansion would increase the capacity of the plant from the current 2.2 MW to 5 MW and Phase II would increase the capacity to 10 MW.**	**Community Development and Parks Department Approved**

Conditions of Approval	Current Status
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. Workgroup Committee when was the most recent LUCS on file at DEQ completed? Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager Compliance Opinion: Compliance Not Demonstrated Basis: No record of required actions provided. Subcommittee Member – Republic This is a responsibility of the power plant.	
7. Lighting shall be located so that it does not face directly, shine, or glare onto an adjacent road or property.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Monitoring of this condition is complaint driven. There are no records of any complaints.

Workgroup Committee

- check the facility at night
- County has not monitored
- Not enough information

Date	File #	Request	Result
1997	S-97-58	**A conditional use permit to expand the generating capacity of the existing electric generation plant that is served by the gas produced at the Coffin Butte Landfill. Phase I of the expansion would increase the capacity of the plant from the current 2.2 MW to 5 MW and Phase II would increase the capacity to 10 MW.**	**Community Development and Parks Department Approved**

Conditions of Approval	**Current Status**

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

Compliance Opinion: Compliance Not Demonstrated

Basis: No record of addressing compliance with lighting complaints provided.

Subcommittee Member – Republic

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.

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().	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Completed.

Workgroup Committee

- provide copy in documentation

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Compliance Opinion: No compliance opinion

Date	File #	Request	Result
1997	S-97-58	**A conditional use permit to expand the generating capacity of the existing electric generation plant that is served by the gas produced at the Coffin Butte Landfill. Phase I of the expansion would increase the capacity of the plant from the current 2.2 MW to 5 MW and Phase II would increase the capacity to 10 MW.**	**Community Development and Parks Department Approved**

Conditions of Approval	**Current Status**
Basis: Low priority	
9. The applicant shall prepare a site-specific development plan addressing emergency water supplies for fire protection. The plan shall be submitted to the local fire protection agency for review. The plan approved by the local fire protection agency shall be shall submitted to the Community Development and Parks Department prior to the issuance of building permits for the structure for Phase 1. A revised site-specific development plan shall be completed prior to issuance of construction permits for the Phase 2 expansion. The site development plan shall address: **a) Emergency access to the local water supply in the event of a wildfire or other fire-related emergency;** **b) Provision of an all-weather road or driveway to within 10 feet of the edge of identified water supplies which contain 4,000 gallons or more and exist within 100 feet of the driveway or road at a reasonable grade (e.g. 12 percent or less);and** **c) Emergency water supplies shall be clearly marked along the access route with a Fire District approved sign.**	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Additional research needed, compliance with this condition is not confirmed.

Workgroup Committee

Date	File #	Request	Result
1997	S-97-58	**A conditional use permit to expand the generating capacity of the existing electric generation plant that is served by the gas produced at the Coffin Butte Landfill. Phase I of the expansion would increase the capacity of the plant from the current 2.2 MW to 5 MW and Phase II would increase the capacity to 10 MW.**	**Community Development and Parks Department Approved**

Conditions of Approval	Current Status
• Republic: Republic Services is also conducting further research. • appears to be not in compliance. these (plus assurance of power generation in an outage) would be a good start at considering requirements for the LS zone in a potential revisit of chapter 77 • This explanation of status cannot be accepted until the topic has been researched. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. Compliance Opinion: Compliance Not Demonstrated Basis: No record of required action provided. <u>Subcommittee Member – Republic</u> 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.	
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.	Consensus: Majority Opinion: Minority Opinion:

Date	File #	Request	Result
1997	**S-97-58**	**A conditional use permit to expand the generating capacity of the existing electric generation plant that is served by the gas produced at the Coffin Butte Landfill. Phase I of the expansion would increase the capacity of the plant from the current 2.2 MW to 5 MW and Phase II would increase the capacity to 10 MW.**	**Community Development and Parks Department Approved**

Conditions of Approval	**Current Status**

Comments

Staff

Completed for Phase 1. Phase 2 of the expansion has not been utilized by the applicant.

Workgroup Committee

- 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?

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Compliance Opinion: No compliance opinion

Basis: Low priority

Date	File #	Request	Result
1999	**PC-99-06**	**A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.**	**Planning Commission approved**

Conditions of Approval	Current Status
1. Obtain approval of a reclamation plan from the Oregon Department of Geology and Mineral Industries or the Oregon Division of State Lands. Operation and reclamation plan shall demonstrate consistency with the intended subsequent site use.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

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.

Workgroup Committee

- extraction believed to be completed, see next permit request, staff should verify. is there a CUP closeout process at Benton County CDD?

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

Compliance Status Unclear. No record of required action provided.

Subcommittee Member – Republic

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.

Date	File #	Request	Result
1999	**PC-99-06**	**A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.**	**Planning Commission approved**

Conditions of Approval	Current Status
2. if the mining is the primary cause of traffic on the unpaved public road, that road shall be kept dust-free by the applicant if dwellings are located within 300 feet of the roadway. The applicant and lease-holding operator shall endeavor to use only those public roads designated for truck usage, unless making local deliveries of mineral and aggregate resources to residential areas serviced by roads not designated for truck usage.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Public roads serving primarily quarry traffic are paved. Complete.

Workgroup Committee

- 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?

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

Compliance Status Unclear. No record of required action provided.

Subcommittee Member – Republic

Date	File #	Request	Result
1999	**PC-99-06**	**A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
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.	
3. The applicant or lease-holding operator shall provide screening to partially obscure the mining site from view by adjoining occupied property and public roads in Soap Creek Valley and north Benton County to the extent reasonable and practicable to do so. The screening shall consist of an ornamental fence or wall, a vegetated berm, or preservation of vegetated natural slope in character with the natural landscape of Soap Creek Valley.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Staff will need to field verify but it appears through comments that the applicant is not in compliance with this condition.

Workgroup Committee

- Republic: Republic Services did not own Coffin Butte Landfill at this time. Therefore, we do not have detailed records about any screening that was done. While the owner/operator of Coffin Butte Landfill was the applicant for this CUP request, primary responsibility for compliance with these and other requirement would have been the third-party quarry contractor. It appears from Google Earth historical photos that the third-party contractor did make an attempt to construct some berms and screening, but Republic Services do not have access to those records.
- extraction believed to be completed, see next permit request, staff should verify. is there a CUP closeout process at Benton County CDD?
- Not in compliance. The quarry is visible for miles around.

Date	File #	Request	Result
1999	PC-99-06	**A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.**	**Planning Commission approved**

Conditions of Approval	Current Status
Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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. Compliance Status Unclear. Field verification needed.	
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.	Consensus: Majority Opinion: Minority Opinion:
Comments	

Date	File #	Request	Result
1999	PC-99-06	**A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.**	**Planning Commission approved**

Conditions of Approval	Current Status

Staff

Staff will need to field verify but it appears that the applicant is not in compliance with this condition. Staff is unaware of any noise data being submitted to the Community Development Department.

Workgroup Committee

- 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?

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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. No record of required action provided.

Subcommittee Member – Republic

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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Date	File #	Request	Result
1999	**PC-99-06**	**A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
Additional Research Needed Workgroup Committee • 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 Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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. Condition No. 5 No Compliance Opinion	
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.	Consensus: Majority Opinion: Minority Opinion:
Comments Staff Additional Research Needed Workgroup Committee	

Date	File #	Request	Result
1999	**PC-99-06**	**A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
• 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 Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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. No Compliance Opinion	
7. Not excavate in a manner which would result in disturbance of perimeter fencing or screening, or would impair the intent of the reclamation plan.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Additional Research Needed

Workgroup Committee

- Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.
- extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?
- The provision for screening has not been met, as noted above.

Date	File #	Request	Result
1999	PC-99-06	**A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.**	**Planning Commission approved**

Conditions of Approval	Current Status
Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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. No Compliance Opinion	
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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Additional Research Needed

Workgroup Committee

- Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.
- extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?
- Generally in compliance (the quarry has been a better neighbor than the landfill, in this regard).
- "Operating hours" seem to be where there is most reluctance to make a clear statement that the landfill is out of compliance. Three or four special kinds of "operations" are mentioned that take place outside of the operating hours that were stated as conditions for the permits. On this last issue, for comparison I took a look at Lane County's Short Mountain Landfill. That landfill only serves commercial account holders, yet they seem to be able to restrict those haulers to their stated operating hours (7 AM to 5 PM weekdays and Saturdays). Seems like there's a lesson for Benton County our working group in there.

Date	File #	Request	Result
1999	**PC-99-06**	**A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.**	**Planning Commission approved**

Conditions of Approval	**Current Status**

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

Limiting "quarry operations" to 7:00 am to 5:00 pm creates a potential conflict with prior condition #4.

In Compliance: Periodic County inspections are suggested to address resident concerns.

9. The applicant shall retain the dual-access road system to provide for emergency service access to the subject site.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Additional Research Needed

Workgroup Committee

- 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).

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Date	File #	Request	Result
1999	**PC-99-06**	**A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
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	
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.	Consensus: Majority Opinion: Minority Opinion:

Comments

<u>Staff</u>

Additional Research Needed

<u>Workgroup Committee</u>

- 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.

<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.

Date	File #	Request	Result
1999	**PC-99-06**	**A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.**	**Planning Commission approved**

Conditions of Approval	**Current Status**

PLACEKEEPER: NEED TO CONFIRM ELEVATIONS CB

Subcommittee Member – Republic

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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Workgroup Committee

- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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

Date	File #	Request	Result
1999	**PC-99-06**	**A Conditional Use Permit for mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.**	**Planning Commission approved**

Conditions of Approval	Current Status
12. Copies of storm-water runoff permits and data produced from associated monitoring programs required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way, with the Benton County Community Development Department for public inspection.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Additional Research Needed

Workgroup Committee

- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

Date	File #	Request	Result
2002	PC-02-07	**A Conditional Use Permit for landfilling of an area that will be excavated for mining of mineral and aggregate resources Approved by the Planning Commission with Conditions. (West Triangle Expansion). The proposed area consists of 1.43 acres adjacent to the existing quarrying and landfill operation, and is designed to fulfill the reclamation plan for the previously approved quarry on this site.**	**Planning Commission approved**

Conditions of Approval	Current Status
1. Obtain approval from the Oregon Department of Environmental Quality for landfill operations on this site.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

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.

Workgroup Committee

- 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?

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

Compliance Status Unclear. Site plan for area of interest needs to be provided.

Subcommittee Member – Republic

Date	File #	Request	Result
2002	PC-02-07	**A Conditional Use Permit for landfilling of an area that will be excavated for mining of mineral and aggregate resources Approved by the Planning Commission with Conditions. (West Triangle Expansion). The proposed area consists of 1.43 acres adjacent to the existing quarrying and landfill operation, and is designed to fulfill the reclamation plan for the previously approved quarry on this site.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
Republic Services has obtained all the necessary approvals and permits from the Oregon Department of Environmental Quality and remains in compliance with these conditions and approvals. Republic has to have both permits in hand to begin operation in a new area, and the County will know because of the requirement that the Landfill file copies of the approved permits with the County.	
2. In cases where landfill operations are the primary cause of traffic on unpaved public roads in the area, those roads shall be kept dust-free by the applicant.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

No longer applicable. Coffin Butte Road is entirely paved. The county considers this condition to be completed.

Workgroup Committee

- 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?

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

No Compliance Opinion

Date	File #	Request	Result
2002	PC-02-07	**A Conditional Use Permit for landfilling of an area that will be excavated for mining of mineral and aggregate resources Approved by the Planning Commission with Conditions. (West Triangle Expansion). The proposed area consists of 1.43 acres adjacent to the existing quarrying and landfill operation, and is designed to fulfill the reclamation plan for the previously approved quarry on this site.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
Subcommittee Member – Republic This condition is moot. There are no unpaved public roads serving the landfill; this condition is not applicable.	
3. The applicant or lease-holding operator shall ensure that the landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

County monitoring of this condition is complaint-based.

Workgroup Committee

- noise is an issue at the landfill; ensure the facility is still in compliance
- Not enough information.
- Not monitored by the county.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Mark Yeager: How and when does the County ensure that the maximum sound level has not been exceeded. Since this is another example of complaint-based enforcement, what system is in place to document, respond to, and resolve noise related complaints? The landowner cannot delegate regulatory compliance or accountability with these types of requirements to a lease-holding operator.

Compliance Not Demonstrated. No evidence of County process to capture / respond to action provided.

Subcommittee Member – Republic

Date	File #	Request	Result
2002	**PC-02-07**	**A Conditional Use Permit for landfilling of an area that will be excavated for mining of mineral and aggregate resources Approved by the Planning Commission with Conditions. (West Triangle Expansion). The proposed area consists of 1.43 acres adjacent to the existing quarrying and landfill operation, and is designed to fulfill the reclamation plan for the previously approved quarry on this site.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
There is no evidence that Republic is not in compliance.	
4. Provide on-site parking for employees, customers, and visitors to the landfill site.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Completed.

Workgroup Committee

- 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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

No compliance opinion

Subcommittee Member – Republic

Republic has multiple parking spots at its office and scale house.

5. Maintain a security fence between the landfill operation and the public road when such road is located within 200 feet of the landfill operation.	Consensus: Majority Opinion: Minority Opinion:

Comments

Date	File #	Request	Result
2002	**PC-02-07**	**A Conditional Use Permit for landfilling of an area that will be excavated for mining of mineral and aggregate resources Approved by the Planning Commission with Conditions. (West Triangle Expansion). The proposed area consists of 1.43 acres adjacent to the existing quarrying and landfill operation, and is designed to fulfill the reclamation plan for the previously approved quarry on this site.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
Staff Security fence is present Workgroup Committee • 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 Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager No Compliance Opinion Subcommittee Member – Republic The subject property is more than 200 feet from any public road.	
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.	Consensus: Majority Opinion: Minority Opinion:
Comments Staff A definition of Operation Hours is what appears to be needed for this condition. Staff considers operation hours to be those hours when the landfill is open to the public. Staff would have been aware at the time this condition was imposed that the landfill would need to work outside of the hours identified above to complete activities necessary to the maintenance of the landfill. Workgroup Committee	

Date	File #	Request	Result
2002	**PC-02-07**	**A Conditional Use Permit for landfilling of an area that will be excavated for mining of mineral and aggregate resources Approved by the Planning Commission with Conditions. (West Triangle Expansion). The proposed area consists of 1.43 acres adjacent to the existing quarrying and landfill operation, and is designed to fulfill the reclamation plan for the previously approved quarry on this site.**	**Planning Commission approved**

Conditions of Approval	Current Status

- Republic: 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.

<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>

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?

No Compliance Consensus for Subcommittee

Date	File #	Request	Result
2002	**PC-02-07**	**A Conditional Use Permit for landfilling of an area that will be excavated for mining of mineral and aggregate resources Approved by the Planning Commission with Conditions. (West Triangle Expansion). The proposed area consists of 1.43 acres adjacent to the existing quarrying and landfill operation, and is designed to fulfill the reclamation plan for the previously approved quarry on this site.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
Note: Condition is written poorly and would be improved with better clarification on Hours of Operation Subcommittee Member – Republic 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.	
7. The applicant shall retain the dual-access road system to provide for emergency service access to the subject site.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Complete

Workgroup Committee

- 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.

Date	File #	Request	Result
2002	**PC-02-07**	**A Conditional Use Permit for landfilling of an area that will be excavated for mining of mineral and aggregate resources Approved by the Planning Commission with Conditions. (West Triangle Expansion). The proposed area consists of 1.43 acres adjacent to the existing quarrying and landfill operation, and is designed to fulfill the reclamation plan for the previously approved quarry on this site.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager No Compliance Opinion Subcommittee Member – Republic Republic agrees with staff.	
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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

The applicant indicates they are in compliance with this condition.

Workgroup Committee

- 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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Mark Yeager: Compliance Not Demonstrated. Did the staff do any independent verification that the landfill is operating within the 600-foot contour?

Date	File #	Request	Result
2002	**PC-02-07**	**A Conditional Use Permit for landfilling of an area that will be excavated for mining of mineral and aggregate resources Approved by the Planning Commission with Conditions. (West Triangle Expansion). The proposed area consists of 1.43 acres adjacent to the existing quarrying and landfill operation, and is designed to fulfill the reclamation plan for the previously approved quarry on this site.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
Compliance Opinion: Compliance Status Unclear PLACEKEEPER: NEED TO CONFIRM ELEVATIONS CB Check USGS Topo Map, Benton County GIS Subcommittee Member – Republic Republic is in compliance with 600 foot limit; the condition does not apply to parts of the landfill outside of the 1.43 acres.	
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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

The county regularly receives copies. Appendix I https://www.co.benton.or.us/cd/page/materials-management-document-library

Workgroup Committee

- Are these available for inspection, and if so, where?
- landfill not in compliance with June surface emission methane monitoring required by DEQ; Benton County should obtain an independent assessment of overall methane emissions, arsenic levels in monitoring wells are high, odor: per public records requests, odor complaints to DEQ are not documented/investigated/logged to the extent that residents have given up on making complaints to DEQ. per testimony at CU-21-047, odors are significant enough at the landfill that people sometimes cannot leave their homes; DEQ is apparently unaware of this situation, suggested action: ask DEQ how better to communicate current odor problems at the landfill to DEQ, annual report to DEQ: for many years, the reports required by Benton County DSAC to DEQ

Date	File #	Request	Result
2002	**PC-02-07**	**A Conditional Use Permit for landfilling of an area that will be excavated for mining of mineral and aggregate resources Approved by the Planning Commission with Conditions. (West Triangle Expansion). The proposed area consists of 1.43 acres adjacent to the existing quarrying and landfill operation, and is designed to fulfill the reclamation plan for the previously approved quarry on this site.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
"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 Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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? Compliance Status Unclear. County records need to be reviewed Subcommittee Member – Republic 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.	
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.	Consensus: Majority Opinion: Minority Opinion:
Comments Staff	

Date	File #	Request	Result
2002	**PC-02-07**	**A Conditional Use Permit for landfilling of an area that will be excavated for mining of mineral and aggregate resources Approved by the Planning Commission with Conditions. (West Triangle Expansion). The proposed area consists of 1.43 acres adjacent to the existing quarrying and landfill operation, and is designed to fulfill the reclamation plan for the previously approved quarry on this site.**	**Planning Commission approved**

Conditions of Approval	Current Status

The county regularly receives copies. https://www.co.benton.or.us/cd/page/materials-management-document-library

Workgroup Committee

- 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 indistiguishable from landfill parcels. this incrementally blights the neighborhood and should be addressed in a bcc code revamp

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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?

Compliance Status Unclear. County records need to be reviewed

Subcommittee Member – Republic

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.

Date	File #	Request	Result
2003	PC-03-11	**A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).**	**Planning Commission approved**

Conditions of Approval	Current Status
1. The applicant shall continue to operate within the approval of the Oregon Department of Environmental Quality Solid Waste Disposal Permit No 306.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

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.

Workgroup Committee

- 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?

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Compliance Opinion: In Compliance

2. In cases where landfill operations are the primary cause of traffic on unpaved public roads in the area, those roads shall be kept dust-free by the applicant.	Consensus: Majority Opinion: Minority Opinion:

Comments

Date	File #	Request	Result
2003	**PC-03-11**	**A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).**	**Planning Commission approved**

Conditions of Approval	**Current Status**

Staff

No longer relevant.

Workgroup Committee

- 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?

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Mark Yeager: Compliance Not Demonstrated. Same comment as before – who and how is "primary cause" defined and enforced?

Compliance Opinion: Compliance Status Unclear

Subcommittee Member – Republic

Republic agrees with Staff. All county roads to and from the landfill are paved, so this condition is moot.

3. The applicant or lease-holding operator shall ensure that the landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

County monitoring of this condition is complaint-based.

Workgroup Committee

- County does not monitor.

Date	File #	Request	Result
2003	**PC-03-11**	**A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).**	**Planning Commission approved**

Conditions of Approval	**Current Status**
• noise is an issue at the landfill; ensure the facility is still in compliance Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager Mark Yeager: Compliance Not Demonstrated. How and when does the County ensure that the maximum sound level has not been exceeded. Since this is another example of complaint-based enforcement, what system is in place to document, respond to, and resolve noise related complaints? The landowner cannot delegate regulatory compliance or accountability with these types of requirements to a lease-holding operator. Compliance Not Demonstrated. No evidence of County process to capture / respond to action provided. Subcommittee Member – Republic Republic is in compliance, there is no evidence of any formal complaints about noise levels.	
4. Provide on-site parking for employees, customers, and visitors to the landfill site.	Consensus: Majority Opinion: Minority Opinion:
Comments Staff Complied with. Workgroup Committee • 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 Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager	

Date	File #	Request	Result
2003	PC-03-11	**A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).**	**Planning Commission approved**

Conditions of Approval	Current Status
No Compliance Opinion. Subcommittee Member – Republic Queuing onto 99 happens rarely, usually doing big projects. Our gates don't open until 5:00 a.m.	
5. Maintain a security fence between the landfill operation and the public road when such road is located within 200 feet of the landfill operation.	Consensus: Majority Opinion: Minority Opinion:
Comments Staff Complied with. Workgroup Committee • check fence perimeter to ensure fencing is intact and there are no deferred maintenance issues Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager No Compliance Opinion. Subcommittee Member – Republic This area is more than 1000 feet from any public road.	
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.	Consensus: Majority Opinion: Minority Opinion:

Date	File #	Request	Result
2003	**PC-03-11**	**A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).**	**Planning Commission approved**

Conditions of Approval	Current Status

Comments

Workgroup Committee

- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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?

No Compliance Consensus for Subcommittee

Note: Condition is written poorly and would be improved with better clarification on Hours of Operation

Subcommittee Member – Republic

Date	File #	Request	Result
2003	**PC-03-11**	**A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).**	**Planning Commission approved**

Conditions of Approval	**Current Status**
Republic agrees that the condition could be better written, but County's interpretation that "operating" means open to the public is at least as plausible as Mark's interpretation, particularly given the second part of the sentence which creates an exception for industrial customers. See further discussion above.	
7. The applicant may relocate the eastern haul road, and shall retain the dual-access road system to provide for emergency service access to the subject site.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Additional Research Needed

Workgroup Committee

- 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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

No Compliance Opinion

Subcommittee Member – Republic

Republic is in compliance.

8. Copies of water quality, stormwater runoff, and air quality permits; and data produced from associated monitoring	Consensus:

Date	File #	Request	Result
2003	**PC-03-11**	**A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).**	**Planning Commission approved**

Conditions of Approval	Current Status
programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way with the Benton County Community Development Department for public inspection.	Majority Opinion: Minority Opinion:

Comments

Staff

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

Workgroup Committee

- Are these documents available for public inspection, and it 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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Date	File #	Request	Result
2003	**PC-03-11**	**A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).**	**Planning Commission approved**

Conditions of Approval	**Current Status**
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? Compliance Status Unclear. County records need to be reviewed <u>Subcommittee Member – Republic</u> 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.	
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.	Consensus: Majority Opinion: Minority Opinion:

Comments

<u>Staff</u>

Not completed

<u>Workgroup Committee</u>

- 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

Date	File #	Request	Result
2003	**PC-03-11**	**A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).**	**Planning Commission approved**

Conditions of Approval	**Current Status**
Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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. Compliance Opinion: Not In Compliance Basis: Visual inspection. Subcommittee Member – Republic 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.	Consensus: Majority Opinion: Minority Opinion:
Comments Staff 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. Workgroup Committee	

Date	File #	Request	Result
2003	**PC-03-11**	**A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).**	**Planning Commission approved**

Conditions of Approval	Current Status

- 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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

Subcommittee Member – Republic

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	Current Status
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).	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Standard condition requiring the applicant to implement the conditional use permit as described in their application. Compliance is not actively monitored.

Workgroup Committee

- 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?

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Date	File #	Request	Result
2011	LU-11-016	**Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.**	**Planning Commission approved**

Conditions of Approval	Current Status
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? Compliance Opinion: Compliance Not Demonstrated. Basis: No record of required action provided. Subcommittee Member – Republic Republic is in compliance with this site plan.	
2. As required by BCC 60.220 (2) the applicant shall record a declaratory statement acknowledging the rights of adjacent and nearby property owners to conduct forest operations consistent with the Forest Practices Act and Rules prior to issuance of building permits.	Consensus: Majority Opinion: Minority Opinion:
Comments Staff Completed. Workgroup Committee • has staff verified documentation Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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?	

Date	File #	Request	Result
2011	**LU-11-016**	**Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
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.	Consensus: Majority Opinion: Minority Opinion:
Comments Staff Completed. Workgroup Committee • certificate of occupancy? ADA compliance? Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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.	Consensus: Majority Opinion: Minority Opinion:
Comments	

Date	File #	Request	Result
2011	**LU-11-016**	**Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
Staff Completed. Workgroup Committee • certificate of occupancy? Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager No Compliance Opinion	
*Conditions of Approval from PC-03-11 that remain applicable and should be continued (as of the time of this decision)***:**	*References Conditions #'s 1 through 8 of PC-03-11*
1. (5)Obtain necessary approvals from the Oregon Department of Environmental Quality for landfill operations on this site.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

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.

Workgroup Committee

- Republic: Republic Services is in compliance with the DEQ requirement.
- DEQ permit approvals should be listed here. Are all of them up to date?

Date	File #	Request	Result
2011	LU-11-016	**Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.**	**Planning Commission approved**

Conditions of Approval	Current Status
• when was the most recent LUCS on file at DEQ completed? Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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) Compliance Opinion: Compliance Not Demonstrated. Basis: No record of required action provided. Subcommittee Member – Republic 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.	
2. (6)In cases where landfill operations are the primary cause of traffic on unpaved public roads in the area, those roads shall be kept dust-free by the applicant.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

No longer applicable. Coffin Butte Road is entirely paved.

Workgroup Committee

Date	File #	Request	Result
2011	LU-11-016	**Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
• The status assessment here does not address whether unpaved public roads were kept dust-free prior to paving. For example, Tampico Road has only been fully paved within the past 3 years, and received frequent landfill traffic. Did the applicant demonstrate compliance by performing dust suppression on that road prior to the recent paving by the county? Robison Road, Wiles Road, and Rifle Range Road still receives frequent traffic associated with the landfill, as well as frequent illegal dumping. All of these are still unpaved, except for small sections of Robison Rd. east of Military Rd and at the Soap Creek crossing. • there continue to be unpaved public roads in the vicinity of the landfill. does the landfill contribute to traffic on those roads? if so, how much? Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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? No Compliance Opinion Edward Pitera (112322) Subcommittee Member – Republic Republic agrees with staff; this condition is moot.	
3. (7)The applicant or lease-holding operator shall ensure that the landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

County monitoring of this condition is complaint-based.

Date	File #	Request	Result
2011	LU-11-016	**Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
Workgroup Committee • It should be stated more clearly that compliance cannot be confirmed, as the county has never checked. • noise is an issue at the landfill; ensure the facility is still in compliance Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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. Compliance Opinion: Compliance Not Demonstrated. Basis: No record of County process to capture / respond to complaints provided. Subcommittee Member – Republic 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.	
4. (8)Provide on-site parking for employees, customers, and visitors to the landfill site.	Consensus: Majority Opinion: Minority Opinion:
Comments Staff	

Date	File #	Request	Result
2011	LU-11-016	**Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.**	**Planning Commission approved**

Conditions of Approval	Current Status
In compliance. Workgroup Committee • 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 Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager No Compliance Opinion Edward Pitera (112322) Subcommittee Member – Republic Republic is in compliance; all staff and visitors have space to park on site.	
5. (9)Maintain a security fence between the landfill operation and the public road when such road is located within 200 feet of the landfill operation.	Consensus: Majority Opinion: Minority Opinion:
Comments Staff In compliance. Workgroup Committee • check fence perimeter to ensure fencing is intact and there are no deferred maintenance issues Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager No Compliance Opinion (Mark Yeager 121622 & Edward Pitera (112322))	

Date	File #	Request	Result
2011	**LU-11-016**	**Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
Subcommittee Member – Republic Republic is in compliance. The closest public road (HW 99) is more than 200 feet away from the public drop off facility.	
6. (10)The landfill operation hours shall occur between 8:00 a.m. and 5:00 p.m. Monday through Saturday, and 12:00 p.m. through 5:00 p.m. on Sundays, with 24-hour access for commercial customers.	Consensus: Majority Opinion: Minority Opinion:

Comments

Workgroup Committee

- 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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Mark Yeager: Not In Compliance (121622) Staff and RS do not get to interpret operating hours to mean something different than what was imposed as a written condition of approval. The words are the words. By definition the industrial activity of operating an active landfill is an incompatible use in an agricultural, forest and rural residential area. As such, operating hours are critical to mitigation of the numerous deleterious effects of the landfill operation. Requiring the landfill to limit operations to mitigate impacts "The landfill operation hours shall occur between 8:00 a.m. and 5:00 p.m. Monday through Saturday, and 12:00 p.m. through 5:00 p.m. on Sundays, with 24-hour access for commercial customers" means what it says, and the condition of approval was adopted by the Planning Commission. The public has a right to expect the operating hours to be enforced as approved and

Date	File #	Request	Result
2011	**LU-11-016**	**Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.**	**Planning Commission approved**

Conditions of Approval	Current Status
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? In Compliance Edward Pitera (112322) Subcommittee Member – Republic 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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

In compliance.

Workgroup Committee

- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

No Compliance Opinion (Mark Yeager 121622 & Edward Pitera (112322))

Date	File #	Request	Result
2011	**LU-11-016**	**Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
Subcommittee Member – Republic Republic agrees with staff.	
8. OMITTED	*N/A*
9. (12)Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

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

Workgroup Committee

- landfill not in compliance with June surface emission methane monitoring required by DEQ; Benton County should obtain an independent assessment of overall methane emissions, arsenic levels in monitoring wells are high, odor: per public records requests, odor complaints to DEQ are not documented/investigated/logged to the extent that testimony has been given that residents have given up on making complaints to DEQ, annual report to DEQ: for many years, the reports required by Benton County DSAC to DEQ "documenting local citizens' concerns and the manner in which the owner or operator [of the landfill] is addressing those concerns" (ORS 459.325) have not been completed and submitted as required by Oregon statute. even now,

Date	File #	Request	Result
2011	LU-11-016	**Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.**	**Planning Commission approved**

Conditions of Approval	Current Status
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. Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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? Compliance Opinion: Compliance Status Unsure Basis: Insufficient information provided to demonstrate compliance e.g. a documented work process, summary reports, etc. Subcommittee Member – Republic 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.	
10. (13)Copies of storm-water runoff permits and data produced from associated monitoring programs required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way, with the Benton County Community Development Department for public inspection.	Consensus: Majority Opinion: Minority Opinion:
Comments	

Date	File #	Request	Result
2011	**LU-11-016**	**Conditional Use Permit for the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone.**	**Planning Commission approved**

Conditions of Approval	Current Status

Staff

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

Workgroup Committee

- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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?

Compliance Opinion: Compliance Status Unsure

Basis: Insufficient information provided to demonstrate compliance e.g. a documented work process, summary reports, etc.

Subcommittee Member – Republic

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.

Date	File #	Request	Result
2013	**LU-13-061**	**Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.**	**Planning Commission approved**

Conditions of Approval	Current Status
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).	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Complied with.

Workgroup Committee

- narrative not provided, attachment a not provided

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

No Compliance Opinion

Subcommittee Member – Republic

In the absence of any evidence that Republic in not in compliance, the assumption should be that it is in compliance.

Date	File #	Request	Result
2013	LU-13-061	Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.	Planning Commission approved

Conditions of Approval	Current Status
2. As required by BCC 60.220 (2), the applicant shall record a declaratory statement acknowledging the rights of adjacent and nearby property owners to conduct forest operations consistent with the Forest Practices Act and Rules prior to issuance of building permits.	Consensus: Majority Opinion: Minority Opinion:

Comments

Workgroup Committee

- 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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

No Compliance Opinion

3. Any new access to a county road or change to an existing access shall require a permit issued through the Benton County Public Works Department.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Advisory

Workgroup Committee

Date	File #	Request	Result
2013	**LU-13-061**	**Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.**	**Planning Commission approved**

Conditions of Approval	Current Status
• 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? Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager No Compliance Opinion	
4. Disturbance of 1 Acre or More. A National Pollutant Discharge Elimination System NPDES) permit is required for all construction activities that disturb one acre or more. The NPDES permit must be obtained through Benton County Public Works and the Oregon Department of Environmental Quality.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

Advisory

Workgroup Committee

- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Mark Yeager: Compliance Not Demonstrated. This is a new requirement and will likely make the list of standard conditions of approval that will not be monitored or enforced.

Compliance Not Demonstrated. County records need to be reviewed.

Subcommittee Member – Republic

Date	File #	Request	Result
2013	**LU-13-061**	**Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
The access and NPES are independent permitting requirements; Republic must comply with these requirements regardless of whether they are imposed as a condition of approval. That is why staff call them "advisory." The purpose of these kinds of condition is put the applicant on notice that could be additional permitting requirements. As noted above, Republic's operation hasn't triggered either of these permitting requirements, so we shouldn't be expected to prove a negative.	
Conditions of Approval from prior approvals that remain in effect *(as of the time of this decision)*:	*References Conditions #'s 1 through 8 of PC-03-11*
1. (5)Obtain necessary approvals from the Oregon Department of Environmental Quality for Landfill operations on this site.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

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.

Workgroup Committee

- 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 aprroval, would DEQ still approve all necessary permits?

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

Date	File #	Request	Result
2013	**LU-13-061**	**Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
Compliance Opinion: Compliance Not Demonstrated. Basis: No record of required action provided. Subcommittee Member – Republic 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.	
2. (6)In cases where Landfill operations are the primary cause of traffic on unpaved public roads in the area, those roads shall be kept dust -free by the applicant.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

No longer applicable. Coffin Butte Road is entirely paved.

Workgroup Committee

- 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?

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

Date	File #	Request	Result
2013	**LU-13-061**	**Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
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? No Compliance Opinion- Edward Pitera (112322) Subcommittee Member – Republic Republic agrees with staff. The public roads are paved; this condition is moot.	
3. (7)The applicant or lease - holding operator shall ensure that the Landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

County monitoring of this condition is complaint-based.

Workgroup Committee

- 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

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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.

Compliance Opinion: Compliance Not Demonstrated.

Basis: No record of County process to capture / respond to complaints provided.

Date	File #	Request	Result
2013	**LU-13-061**	**Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.**	**Planning Commission approved**

Conditions of Approval	**Current Status**
Subcommittee Member – Republic As noted above, there is no evidence complaint or violation of this standard.	
4. (8)Provide on-site parking for employees, customers, and visitors to the Landfill site.	Consensus: Majority Opinion: Minority Opinion:
Comments Staff In compliance. Workgroup Committee • 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 Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager No Compliance Opinion -Edward Pitera (112322) Subcommittee Member – Republic Republic agrees with Staff.	
5. (9)Maintain a security fence between the Landfill operation and the public road when such road is located within 200 feet of the Landfill operation.	Consensus: Majority Opinion: Minority Opinion:
Comments Staff	

Date	File #	Request	Result
2013	**LU-13-061**	**Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.**	**Planning Commission approved**

Conditions of Approval	Current Status
In compliance. Workgroup Committee • check fence perimeter to ensure fencing is intact and there are no deferred maintenance issues Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager No Compliance Opinion (Mark Yeager 121622 & Edward Pitera (112322)) Subcommittee Member – Republic Republic agrees with staff.	
6. (10)The Landfill operation hours shall occur between 8: 00 a.m. and 5: 00 p.m. Monday through Saturday, and 12: 00 p.m. through 5: 00 p.ni. on Sundays, with 24 -hour access for commercial customers.	
Comments Workgroup Committee • 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 Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager 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.	

Date	File #	Request	Result
2013	**LU-13-061**	**Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.**	**Planning Commission approved**

Conditions of Approval	Current Status
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? In Compliance_-Edward Pitera (112322) Subcommittee Member – Republic Republic references our prior comments on the same condition.	
7. (11)The applicant shall retain the dual - access road system to provide for emergency service access to the subject site.	Consensus: Majority Opinion: Minority Opinion:
Comments Workgroup Committee • 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. Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager No Compliance Opinion (Mark Yeager 121622 & Edward Pitera (112322)) Subcommittee Member – Republic Republic is in compliance	
8. *OMITTED*	N/A

Date	File #	Request	Result
2013	**LU-13-061**	**Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.**	**Planning Commission approved**

Conditions of Approval	Current Status
9. (12)Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.	Consensus: Majority Opinion: Minority Opinion:

Comments

Workgroup Committee

- Republic: There are no permits or monitoring data as this relates to a material storage facility.
- As noted above, these are not available for public inspection as required.
- landfill not in compliance with June surface emission methane monitoring required by DEQ; Benton County should obtain an independent assessment of overall methane emissions, arsenic levels in monitoring wells are high, odor: per public records requests, odor complaints to DEQ are not documented/investigated/logged to the extent that testimony has been given that residents have given up on making complaints to DEQ, annual report to DEQ: for many years, the reports required by Benton County DSAC to DEQ "documenting local citizens' concerns and the manner in which the owner or operator [of the landfill] is addressing those concerns" (ORS 459.325) have not been completed and submitted as required by Oregon statute. even now, there is no DSAC meeting dedicated to this required activity. as a result, DEQ has not been informed of many of the problems that citizens experience at coffin butte landfill. contamination: domestic wells have been contaminated

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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?

Compliance Opinion: Compliance Status Unsure

Basis: Insufficient information provided to demonstrate compliance e.g. a documented work process, summary reports, etc.

Date	File #	Request	Result
2013	**LU-13-061**	**Conditional Use Permit for "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.**	**Planning Commission approved**

Conditions of Approval	**Current Status**

Subcommittee Member – Republic

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.

10. (13)Copies of storm -water runoff permits and data produced from associated monitoring programs required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way, with the Benton County Community Development Department for public inspection.	Consensus: Majority Opinion: Minority Opinion:

Comments

Workgroup Committee

- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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?

Compliance Opinion: Compliance Status Unsure

Basis: Insufficient information provided to demonstrate compliance e.g. a documented work process, summary reports, etc.

Date	File #	Request	Result
2015	LU-15-001	**Alteration of a nonconforming use to continue and enhance a stormwater treatment facility in the Exclusive Farm Use Zone, associated with Coffin Butte Landfill.**	**Community Development Department Approved**

Conditions of Approval	Current Status
1. Development shall substantially comply with the plans and narrative in the applicant' s proposal identified as Attachment A. Significant modifications to the construction or operation of the stormwater system other than those addressed through this decision shall require additional approval.	Consensus: Majority Opinion: Minority Opinion:

Comments

Workgroup Committee

- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

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?

Compliance Opinion: Compliance Not Demonstrated.

Basis: No record of required action provided.

Subcommittee Member – Republic

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.	Consensus: Majority Opinion: Minority Opinion:

Comments

Staff

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.

Workgroup Committee

- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

(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.

Compliance Opinion: Compliance Not Demonstrated.

Basis: No record of required action provided

Subcommittee Member – Republic

Republic is in compliance.

Date	File #	Request	Result
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 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.**	**Planning Commission Denied; PC Decision Appealed; Application Withdrawn**

Comments

Workgroup Comments

- 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.

Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager

Use Decision Provided for Background

Subcommittee believes that the record and rational of this land use proceeding is relevant to the evolution of the Coffin Butte Landfill.

Review of the record in this land use proceeding provides important historical context. The public comments and the Notice of Decision in this matter are critical to understanding the history of the landfill and the sentiment of the residents of Benton County at that time.

Open Items: Subcommittee needs to review this documentation

Subcommittee Member – Republic

Any new CUP application filed by Republic will be a new application accompanied the appropriate studies and justifications.

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

Document Number from Table 1	Observations	Suggestions and Recommendations to the County
2 1974 CP-74-01	Condition 3 About 30 million gallons per year of leachate (about twenty 5,500 gallon tank trucks per day) are trucked offsite to city treatment systems	Consider the impact of leachate management on traffic safety, road maintenance, and Willamette River (water, sediments, wildlife, etc.) in future assessment of the impact of landfilling in Benton County. Also consider the impact on the functioning of the wastewater treatment plant and impact on the service life of the facility. Financial considerations should be transparent. Republic Disagrees: The County has no authority to regulate leachate; that is within the exclusive jurisdiction of DEQ, as is wastewater treatment. The impact of truck traffic generated by the Landfill on the public street system has to be judged under the same criteria as applied to any other user and may not be based on the type of cargo.
2	Condition 6 Per DEQ guidance, Closure of the landfill does not occur until all disposal operations cease. Potentially this is 15 or more years from now. RSI [Republic] is not required to submit a Closure Plan until 5 years prior to Closure. In the interim, if the landfill were to close today, RSI [Republic] provides a "Worst Case" Closure and Post-Closure Plan which describes the condition the site is to be left.	The issue of when the landfill is ready for reclamation and what that reclamation will look like needs to be clarified to appropriately manage community expectations for the ultimate disposition of the landfill. It is suggested the County bring some clarity to this condition by: 1. reevaluating the appropriateness of the …"shall be returned to grazing, another farm-type operation…". Questions to consider include: Given current public perceptions of landfills, does it make sense to expect grazing on top of a landfill to yield products for people? Given the steepness of the as-built landfill cover slopes, is it reasonable to expect grazing animals will not damage the cover system exposing wastes and allowing air to be drawn into the landfill mass? 2. giving nearby residents and travelers on Hwy 99 some sense of what can reasonably be expected under "…or other permitted use as

Document Number from Table 1	Observations	Suggestions and Recommendations to the County
	The current "Worst Case" plan provides for a grass cover on slopes. There is no mention of visual screening.	approved by the Planning Commission and the Board of County Commissioners." e.g., a park with walking trails much like the Baylands Nature Preserve in Palo Alto, CA. 3. considering Franchise language that addresses the post closure condition of the landfill, 4. engaging with DEQ to understand what is possible for "Worst Case" and ultimate closure of the landfill. Republic Disagrees. Closure regulation is in the exclusive jurisdiction of DEQ. The County has no basis to regulate closure under the CUP requirements. Additionally, it is recommended the County consider: 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. Republic disagrees: These plans may need to account for the landfill, but it has been in this location for fifty years.
2	Condition 7 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	This should be addressed in next Vision Plan or Materials Management Plan. Flag this condition for BCTT SW Plan Subcommittee. Republic Comment: How to improve recycling is appropriately considered as part of the long-term materials management plan; it not relevant to a CUP.

Document Number from Table 1	Observations	Suggestions and Recommendations to the County
	more than 20 counties RSI [Republic] draws material from.	
3 1983 PC-83-07 / L-83-07	Condition 1 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). Republic Comment: 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.	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. Republic Comment: 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.
3	Decision text and "conditions" are sometimes difficult to easily determine especially in older	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.

Document Number from Table 1	Observations	Suggestions and Recommendations to the County
	County decision documents (See analysis by M Yeager (Dec 2022))	Any substantial change as determined solely by Benton County in the approved plan will require a new application." Is there a written Benton County Compliance Policy & Process including a complaint lodging, tracking, and resolution process? Republic comment: Republic would also appreciate that any conditions of approval imposed on a potential CUP approval be clear.
7 1988 Board Order	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. 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)	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. Republic Comment: 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.
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.

Document Number from Table 1	Observations	Suggestions and Recommendations to the County
15 1997 S-97-58	Condition 7 Lighting at Power Plant	Establish and widely advertise a County process for receiving, tracking, and resolving landfill and power plant related noise complaints.
15	Condition 9 "…applicant shall prepare a site specific development plan addressing emergency water supplies for fire protection. The plan shall be submitted to the local fire protection agency for review".	Establish if the applicant is in compliance with this 1997 condition. Reassess the emergency preparedness plan given the lessons learned from the nationally reported 1999 landfill fill fire and emergency services available to address new fire situations such as a hypothetical nearby forest fire. Consider integration with other plans such as Community Wildfire Protection Plan. See Adair Village Fire Chief Testimony (most recent CUP application).
General	Odor issues do not seem to be mentioned	Request feedback / discussion on how to address this especially for nearby areas undergoing development. (Logsdon Ridge, Santiam Christian School, Adair Village UGB expansion, North Albany). Reviews of Title V Permits are needed to determine if odor is addressed there. Republic Comment: A landfill has been at this site since WW II. Any person considering developing close to a landfill needs to take that into consideration as with any other adjacent preexisting use. The CUP process is designed to ensure that any expansions do not have addition undue impacts.

GENERAL COMMENT BY REPUBLIC: [Table 3] should be deleted from the report; the policy recommendations go way beyond the Subcommittee's Charter. Members of the Committee are free to submit these to workgroup as their suggestions, but they should not

be part of the subcommittee report. In addition, the references to Republic Services, Inc. ("RSI") throughout this entire section are inaccurate and should be removed. Valley Landfills, Inc. is the owner/operator of Coffin Butte.

D. Table 4. Monitoring and Compliance Enforcement Issues

Observations	Recommendations for Post BCTT Consideration
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.	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. Republic Comment: 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.
Over time the format and wording of what information is being requested has changed.	Establish consistent terminology for describing what an applicant is required to do to be considered in compliance. Republic Comment: 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.
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. *See Table 5 for a list of these occurrences*	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. Republic Comment: This a county budgetary issue and much of it outside of the scope of the County's regulatory expertise and or authority.
The following Observations were made by Mark Yeager without any input or discussion from the full subcommittee.	

Benton County did not and does not actively monitor or enforce prior land use decision conditions of approval for the landfill or any other land use decisions.	
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.	
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. 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.	
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.	
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.	

F. Table 5. Supporting Information For Monitoring And Compliance Enforcement Issues

Summary: 39 Instances of Unclear Compliance Monitoring by the County

PC-83-07/L-83-07	
Condition 8.	**Staff Comment.** Overseen by DEQ. The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance. Republic Comment: Leachate regulation is in exclusive jurisdiction of DEQ. This condition is no longer relevant because leachate is no longer irrigated on site, which is now prohibited by DEQ. Except as noted or expanded on, Republic agrees with the Staff comments in this [table].
Condition 9.	**Staff Comment.** Overseen by DEQ. The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.
PC-94-03	
Condition 4.	**Staff Comment.** This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit.
Condition 6.	**Staff Comment.** Monitoring of this condition is complaint driven. Staff has no records of complaints regarding lights at the landfill.
S-97-58	
Condition 3.	**Staff Comment.** Subsequent to the compliance monitoring memorandum, the County would require additional testing only if there was reason to believe the noise standards were no longer being met (such as through a noise complaint received from an adjacent dwelling
Condition 4.	**Staff Comment.** Available records do not indicate any such requests by the Planning Official.
Condition 6.	**Staff Comment.** This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit.

	Republic Comment: Republic notes that these conditions are common because the statutory coordination requirements noted above.
Condition 7.	**Staff Comment.** Monitoring of this condition is complaint driven. There are no records of any complaints.
Condition 9.	**Staff Comment.** -Additional research needed, compliance with this condition is not confirmed. Republic Comment: This condition was imposed on the approval of the power plant and does not apply to the Landfill generally.
PC-99-06	
Condition 1.	**Staff Comment.** This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit.
Condition 3.	**Staff Comment.** Staff will need to field verify but it appears through comments that the applicant is not in compliance with this condition. Republic Comments: Based upon historical Google Earth photos, it appears that a berm was constructed at this site. We note that this CUP is limited to a small triangle of land on the NE corner of the overall quarry footprint. The area was quarried long ago and no longer is in operation. The berms are no longer there because the quarrying of the non-CUP portions of the quarry removed the land they were placed on.
Condition 4.	**Staff Comment.** Staff will need to field verify but it appears that the applicant is not in compliance with this condition. Staff is unaware of any noise data being submitted to the Community Development Department. Republic Comment: As noted above, quarrying operations on this site ceased long ago, so this and the other conditions are no longer relevant.
Condition 11.	**Staff Comment.** None Republic Comment: This condition was carried forward as Condition 9 in PC-02-07 and County Staff notes that Republic has been in compliance.
Condition 12.	**Staff Comment.** Additional Research Needed Republic Comment: Again, this condition is not relevant.
PC-02-07	
Condition 3.	**Staff Comment.** County monitoring of this condition is complaint-based.

Condition 9.	**Staff Comment.** The county regularly receives copies. Appendix I https://www.co.benton.or.us/cd/page/materials-management-document-library
Condition 10.	**Staff Comment.** The county regularly receives copies. https://www.co.benton.or.us/cd/page/materials-management-document-library
PC-03-11	
Condition 3.	**Staff Comment.** County monitoring of this condition is complaint-based.
Condition 8.	**Staff Comment.** The county regularly receives copies. Appendix I https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf
Condition 10.	**Staff Comment.** This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit.
LU-11-016	
Condition 1.	**Staff Comment.** Standard condition requiring the applicant to implement the conditional use permit as described in their application. Compliance is not actively monitored.
Condition 1.	**Staff Comment.** The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.
Condition 3.	**Staff Comment.** County monitoring of this condition is complaint-based.
Condition 9.	**Staff Comment.** The county regularly receives copies. Appendix I https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf
Condition 10.	**Staff Comment.** The county regularly receives copies. https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf
LU-13-061	

Condition 1	**Staff Comment.** The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.
Condition 3.	**Staff Comment.** County monitoring of this condition is complaint-based.
Condition 9.	**Staff Comment.** None
Condition 10.	**Staff Comment.** None
LU-15-001	
Condition 1.	**Staff Comment.** None Republic Comment. Republic constructed these facilities per the approved site plan, and as can verified by Google Earth.
Condition 2.	**Staff Comment.** The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.

General Comments from Committee Members (October 2022):

- I understand that county staff might want to explain why, for many conditions (lighting, noise etc.) they have not been monitoring. But it makes the document less clear than it ought to be. "Complaint-based monitoring" really means "no monitoring" in practice. In such cases, I've suggested this more direct language.

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

- Some of the responses really seem to be beating around the bush to avoid saying, "not in compliance." For example if screening is "not completed" even 20 years after a permit was issued, why not just state clearly, "Not in compliance."

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

- This is really a lot of applications to do things that are not allowed by right, 14 individual applications with many missing (Tampico vacation, coffin butte vacation, 1977 cup (?)). has any other business or individual in the history of Benton County been the applicant in so many land use actions? if the landfill is the record holder, is that overall situation something that should be considered when additional special permissions are requested?

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

References (Numbers need to be redone in Final Doc)

Ref 1 DEQ Record of Decision 2005 Page 22:

7.1 DESCRIPTION OF THE SELECTED ALTERNATIVE

The remedial actions have already met the protectiveness standard since there were no unacceptable risks identified by the risk screening for the exposure pathways. However, to maintain this level of protectiveness and to provide for further improvement in groundwater quality consistent with the intent of groundwater quality protection rules, maintenance of the remedy as supplemented by additional actions was recommended. The remedy employs the following elements:

- Landfill closure and cover with engineered cap on Cell 1A and parts of Cell 1. The eastern slope of Cell 1 will retain interim plastic cover until it is covered with the base liner of Cell 3D. The Closed Landfill was covered with soil in 1977.
- Surface controls to prevent surface water run-on and infiltration of surface water through the waste, and to slow down the rate of cap erosion.
- Access restrictions to areas of waste by fencing around the landfill units.
- Leachate collection from Cell 1 and management by various strategies.
- Landfill gas collection from Cell 1 and use for supplemental electricity generation.
- Deed restrictions on property within the LOF to prevent development of groundwater resource.
- Decommissioning two water supply wells to prevent their future use.
- Property purchases as buffer around the landfill.

In addition to these actions, the solid waste permit requires groundwater monitoring downgradient of the landfill cells and LFG monitoring around the landfill cells and in structures to assess protectiveness between the landfill and potential receptors.

7) APPENDIX A

Conditional Use Permit land use applications that were NOT APPROVED

Date	File #	Request	Result

1994	**PC-94-10**	**Zone change from Rural Residential to Landfill Site Zone, Comprehensive Plan change from Rural Residential to Landfill Site.**	**BOC Denied**
There are no conditions proposed for a zone change.			

Date	File #	Request	Result
1994	**PC-94-11**	**A conditional use permit to expand the area approved for a landfill within the Landfill Site Zone and update the site development plan.**	**PC Approved; PC Decision Appealed; Application Withdrawn**

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

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**	**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.**	**Planning Commission Denied; PC Decision Appealed; Application Withdrawn**

		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.	

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

Preliminary Approval Conditions

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

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

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

PA-2 Site Plan Map. The applicant shall submit to the Planning Official a final site plan map of the approved proposal. The map shall contain a scale, north arrow, assessor map numbers, location of existing landfill, access, proposed alteration, leachate treatment or monitoring areas surface water systems, and existing and proposed screening (location and types of materials). A statement shall be placed on the map that the site plan map and narrative together are considered as the Site Development Plan. A signature block shall be included for the date the approval is given and the signature of the Planning Official indicating approval.

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

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

(a) The wildlife biologist hired by the applicant shall map the perimeter of the rookery as defined by the outermost nest trees, and then identify a 300-ft buffer of trees around the rookery. Trees within this 300-ft buffer shall not be disturbed unless the disturbance will provide better nesting habitat for the herons, or it is determined by ODFW that the rookery is abandoned.

(b) The western rookery shall be surveyed for three successive years to determine if the rookery is abandoned. Should the western rookery be determined to be active (used within the last three years) based on the surveys, the applicant shall coordinate with the ODFW to determine an appropriate mitigation plan. Additionally, the applicant shall work with the Oregon Department of Forestry to ensure compliance with the Forest Practices Act when working in this stand.

(c) The applicant's biologist shall conduct follow-up surveys of both rookeries in accordance with the following survey methodology: During each visit, surveyors would observe each heron nesting site for a 2-hour observation period during daylight hours when weather conditions are mild. A heron nest would be considered active if it has known or inferred presence of a mated pair as indicated by observance of at least one of the following activity patterns:

- Two adult herons are present on or near a nest, which has recently been repaired with fresh sticks (clean breaks) or fresh boughs on top, and/or having droppings and/or molted feathers on its rim or the ground underneath
- One adult heron is sitting low in the nest, presumably incubating
- Either adult is carrying prey to nest
- Eggs are present
- Young in nest or fledglings are present A heron nest would be considered unoccupied for the year if no presence activity (as described above) is observed during three consecutive visits.

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

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

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

PA-7 Noise.

(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.

Benton County
OREGON

Legal Issues and Land Use Review Report

A.3 and B.1 Subcommittee

DRAFT 1-23-23

TABLE OF CONTENTS

LIST OF TABLES

1. DESCRIPTION OF SUBCOMMITTEE RESPONSIBILITIES

1. Charge A: Common Understandings Tasks

2. ***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***
3. ***A Summary of the rights and obligations of other entities surrounding landfills, hauling, and sustainability initiatives, etc.:***
    1. ***Federal;***
    2. ***Tribal;***
    3. ***State (e.g. Is DEQ prohibited from permitting another landfill west of the Cascades and what does the "regional landfill" designation mean?);***
    4. ***Local Government; and***
    5. ***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:***
        1. ***What topics are within whose authority, and***
        2. ***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?***

2. Charge B: Land Use Review Tasks

3. ***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)***

4. *77.405 (DEQ)*

4. *Review Chapters 50 and 51 for context, and then prepare a conceptual list of any other Development Code criteria the WORKGROUP recommends be applicable.*
5. *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: _____*
6. *Develop protocols for the timely and broad distribution of CUP-related information to the public, other governmental entities, and internal committees, groups, and divisions.*

7. Charge C. Additional Charge Tasks

1. *Necessary Tasks to Start Planning Reopening of Existing Hauling Agreement*
2. *Roles, Responsibilities, and Protocols of SWAC and DSAC*
3. *Specific Recommended Review Criteria for the Evaluation of Landfill CUP applications*
4. *SWAC/DSAC, Planning Commission, and BOC Use of the Review Criteria*
5. *Future Timeline for Discussing any Needed Changes to the Benton County Code Flowing From WORKGROUP Recommendations*

Table of Findings

Disclaimer: These findings are in various stages of review and do not represent a final recommendation by the subcommittee.

LLU F-1. 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. Only the current franchise agreement has legal effect. The previous franchise agreement is superseded at the time a new agreement takes effect.

LLU F-3. 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.

LLU F-4. What legally can and cannot be conditions of any land use approvals? Conditions of approval must relate to approval criteria. In order to be approved, an application must demonstrate compliance with all discretionary approval standards. The county may find compliance by establishing compliance is feasible, subject to compliance with specific condition(s) of approval. Conditions of approval may be imposed to assure the criteria are met; however, a preponderance of the evidence must supporta 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. 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 revisited or collaterally attacked as part of the CUP application for the expansion.

LLU F-6. Benton County may not prohibit a private landfill operator from accepting solid waste from outside Benton County.

LLU F-7. Ambiguous terms. The rules of statutory construction describe how ambiguous terms are to be interpreted: text, context, and legislative history. When a local government interprets its plan and regulations, as long as the interpretation is plausible, LUBA's standard of review is highly deferential to that interpretation.

LLU F-8. Is DEQ prohibited from permitting another landfill west of the Cascades? No.

LLU F-9. 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 in every year since at least 1993. Coffin Butte Landfill is by definition a regional landfill.

LLU F-10. The review criteria for a landfill-expansion conditional use permit require subjective determinations in the context of a specific application. In the criterion of "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)], the term "seriously interfere" has generally been interpreted in Benton County land use decisions as: does the proposed use

make it difficult to continue uses on 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. "Seriously interfere" has been applied as meaning more than an inconvenience or irritation to neighboring property residents but is a lesser threshold than rendering impossible the uses on adjacent property. Speculated effect on property values has not been a primary consideration in determining serious interference.

LLU F-11. 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)], a burden on public infrastructure and service is clearly "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 is to jeopardize the health, safety or welfare of people. Burdens that have typically not been considered "undue" include those that can be mitigated through planned improvements, that are incremental service additions consistent with that generated by other uses in the area, or that fall below an established threshold (such as road classification standards).

LLU F-12. If the proposed use implicates other code provisions in effect at the time of application, then those code provisions would apply. This is not a license 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.

LLU F-13. BCC 77.305 directs the Solid Waste Advisory Council (SWAC) to review and make recommendations on a landfill-expansion CUP; however, the code does not specify what criteria or considerations that recommendation should be based on. SWAC's overall role as articulated 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. 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.

LLU F-14. 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 a demonstration of compliance with the code criteria, not on whether the applicant provided requested information or not.

LLU F-15. Statements made by the applicant do not become conditions of approval unless those statements are specifically included or incorporated, directly or by reference, into the final decision.

LLU F-16. How does the 2002 Memorandum of Understanding fit into the Workgroup considerations? 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.

Recommendations

Disclaimer: These recommendations are in various stages of review and do not represent a final recommendation by the subcommittee.

LLU R-1. SWAC's role in reviewing a landfill-expansion CUP should be from the perspective of solid waste management (see LLU F-13). The workgroup may wish to recommend specific areas of consideration by SWAC. For example: 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?

LLU R-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.

LLU R-3. 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.

LLU R-4. BCC 77.405 states that "Copies of materials submitted to the Oregon Department of Environmental Quality as a part of any permit process shall be submitted to the Planning Official. If at any time the Planning Official determines that permit application materials or conditions of DEQ permit are judged to merit public review, a Public Hearing before the Planning Commission shall be scheduled." This provision is unclear. The subcommittee interprets this section as requiring a review if the use originally approved has been or will be modified as a result of the DEQ permit. Recommend code amendment to clarify this provision. A workgroup recommendation on how public review of DEQ permit requirements could most benefit the public would also be helpful.

LLU R-5. There are no statutory or code requirements for public input on whether an application is complete. "Completeness" does not indicate that the applicant has satisfied the applicable approval criteria; it is intended to determine whether the applicant has submitted sufficient information for the decision maker to evaluate the application against the approval criteria. 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. If members of the public believe that the 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.

Appendices

A. 2022 Annual Financial Assurance Plan submitted by Valley Landfills, Inc., to DEQ

4. WORKGROUP RECOMMENDATIONS

8. 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: [to be added]

[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 Right[74]/Republic Obligation[75] **(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)	

[74] A right is something one "is entitled to have * * * or receive." *Barron's Law Dictionary*, pg. 416.

[75] 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[74]/Republic Obligation[75] **(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 Right[74]/Republic Obligation[75] **(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.

Landfill Rights and Obligations			
	Republic Right[74]/Republic Obligation[75] **(A Republic "right" is a County "obligation" and vice versa unless another entity is noted)**	**Authority**	**Comment**
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.
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)	

Landfill Rights and Obligations			
	Republic Right[74]/Republic Obligation[75] **(A Republic "right" is a County "obligation" and vice versa unless another entity is noted)**	**Authority**	**Comment**
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)	
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	
4	Annual submission of service/days of week map	Republic	Board Order D2022044 ¶8	
5	Coordinate recycling efforts with solid waste collection efforts to enhance recycling/recovery and meet state goals.	Republic	Board Order D2022044 ¶9	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)	

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**
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 ¶7	Also found in Order, paragraph 7.
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 ¶2	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.

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**
13	County to protect franchise rights and interests granted Republic to achieve compliance with BCC Ch. 23.	County	Solid Waste Collection Franchise Agreement ¶5	

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 Envtl. 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.

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: The county may impose conditions of approval to CUP application approvals to mitigate negative impacts of conditional uses on adjacent property. Conditions must be related to, and necessary to ensure compliance with, the approval criteria.

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." *Rhyne 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 comply with an approval criterion based on a finding of feasibility, substantial 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 revisited or collaterally attacked as part of the CUP application for the expansion. *See, e.g., Beck v. Tillamook Cnty.*, 313 Or 148, 153, 831 P2d 678 (1992). Any future application would have to be judged under the 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). [76]

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.

[76] 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.

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:

vi. **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.[77]

vii. **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.

viii. **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.

ix. **City of Corvallis wastewater disposal permit:** Subject to an annual inspection as well as weekly monitoring and monthly reporting to the City.

x. **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.

[77] 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 in 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. [78]

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.

[78] 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	

2			(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			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	

Other Entity Rights and Obligations						
	Agency	**Question**	**Right or Obligation**	**Responsible Party**	**Authority**	**Comment**
4			(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**
6		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	
7		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	

Other Entity Rights and Obligations						
	Agency	**Question**	**Right or Obligation**	**Responsible Party**	**Authority**	**Comment**
8		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 (CH4) 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	

10		What fugitive methane emissions standards and monitoring is required by the landfill?	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) 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. 340-239-0800 Test Methods and Procedures	Republic Services, Oregon DEQ	340-218-0010 340-239	

Other Entity Rights and Obligations						
	Agency	**Question**	**Right or Obligation**	**Responsible Party**	**Authority**	**Comment**
			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)			

Other Entity Rights and Obligations						
	Agency	**Question**	**Right or Obligation**	**Responsible Party**	**Authority**	**Comment**
12		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.			
13	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,	Republic Services, Oregon	OAR 340-094-0030	

Other Entity Rights and Obligations						
	Agency	**Question**	**Right or Obligation**	**Responsible Party**	**Authority**	**Comment**
14			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)			
15	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?				

Other Entity Rights and Obligations						
	Agency	**Question**	**Right or Obligation**	**Responsible Party**	**Authority**	**Comment**
16	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?				
17	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?				
19	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**
20	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	
21			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	
22	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: The term "regional landfill" is defined under state statute, and the designation of a landfill as a "regional landfill" and denotes facility that receives or is designed to receive more than 75,000 tons of solid waste a year from outside the immediate service area.

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.

9. 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 clock[79] 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.

[79] Discussed further in separate section below.

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.
    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.

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).[80] Conditional uses are required to demonstrate that compatibility by establishing compliance with specific criteria. (BCC 53.215.)[81] 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

---

[80] 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."

[81] 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."

public improvements or services available to the area. The decisional history posted on the Work Group website 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.

As noted above, all of the terms in BCC 53.215 have to be interpreted under the rules of statutory construction discussed above. The legislative and decisional history included on the Work Group website 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.

> ***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. Over at least the past twenty years, the County Board of Commissioners has generally interpreted "seriously interfere" as: Does the proposed use make it difficult to continue uses on 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. "Seriously interfere" has been applied to mean more than an inconvenience or irritation to neighboring properties' residents, but is a lesser threshold than rendering impossible the uses on adjacent property.

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.

Note that staff recalls no instances in which the potential or perceived effect on property values was a primary element in the determination of whether a proposed use "seriously interferes."

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.

(2) The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area; and

The term "undue burden" is also not defined and must be interpreted in the context of a specific application based upon the evidence in the record. In practice, it has been applied generally as follows: A burden on public infrastructure and service is clearly "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 of the added burden is to jeopardize the health, safety or welfare of other people. Burdens that have typically not been considered "undue" include those that can be mitigated through planned improvements (particularly in cases where road improvements will be funded by the applicant as a condition of approval); burdens that are incremental service additions consistent with that generated by other uses in the area; burdens that fall below an established threshold (such as road classification standards that are tied to traffic levels).

(3) The proposed use complies with any additional criteria which may be required for the specific use by this code.

If the proposed use implicates other code provisions in effect at the time of application, then those code provisions would apply. This is not a license 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 for a proposed landfill expansion application, those application requirements are not approval criteria. 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.

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. 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 Commissionis 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.

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 suggests that the full workgroup consider making recommendations:

a. to amend the Development Code to clarify SWAC's role in reviewing a CUP, and

b. The criteria or considerations SWAC utilize in evaluating a CUP be focused on the solid waste management aspects of the application and be along the lines of:

- 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?

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 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.

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. 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 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 53.225[82], 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.

Workgroup recommendation on how public review of DEQ permit requirements could most benefit the public would be helpful.

[82] 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.

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, 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.

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 ordinances. 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. Sections 14 and 15 of the MOU provide evidence that there were no land use violations at the landfill as of November 5, 2002, when the Benton County Board of Commissioners executed the MOU.

150-Day Time Limit on Land Use Application Review

This section may be relocated to the Legal Issues portion of the report and re-framed in a question-answer-discussion format. Two questions would be addressed: first, what is the purpose of the completeness process and second, can the public participate?

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 215.427[83] (That statutory requirement is restated in Benton County Development Code BCC 51.535.) That time limit is 150 days[84] 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

[83] 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.

[84] The time limit is 120 days if the application regards mineral aggregate extraction or if the property is located within an urban growth boundary.

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." [85] 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."[86] Upon filing a petition for writ, jurisdiction for all decisions regarding the application, including settlement, shall be with the circuit court.[87]

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: While the public is not precluded from submitting comments on the completeness of an application, the completeness determination does not involve any evaluation the merits of an application, and there are no statutory or code requirements for public input on whether an application is complete

Discussion:

"Completeness" does not indicate that the applicant has satisfied the applicable approval criteria; it is intended only to determine whether the applicant has submitted sufficient information for the decision maker to evaluate the application against the approval criteria. In addition, even if the Planning Official determined an application incomplete and requested

[85] ORS 215.429

[86] Oregon Land Use Board of Appeals opinion in *Davis v. Polk County, 58 Or LUBA 1 (2008).*

[87] ORS 215.429

additional information, the applicant is not required to provide that information if it does not believe it is necessary. If members of public believe that the 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.

Statutorily, the determination of whether an application is complete must happen fairly quickly. With a complex application, such as a landfill expansion, 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. However, the completeness process is not a review of the merits of the application; only whether sufficient information has been submitted so the merits of the application can be evaluated through the public hearing process. And, 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 following text was proposed for deletion by some members of the subcommittee and is still under discussion. Subommittee members recognize the interest in providing information to the public as quickly as possible. Enabling members of the public to review and provide input solely on the completeness of the submitted materials can be beneficial to the application review process. On the other hand, this is not an opportunity for input on the merits of the application and the timeframe for providing input on completeness is very short. If information is provided to the public, but no process guidelines for commenting on that information, confusion may result. This section will be reviewed further by the subcommittee.

> The 30-day window for the determination presents challenges to obtaining and meaningfully reviewing public input and incorporating it into the determination, but the public could be given opportunity to comment during this time. Hypothetically, if the County was prepared for and expecting a particular land use application, it could, upon receipt of the application, post the submitted materials, send email notification to members of the public, and set a time certain in which members of the public would be welcome to submit comments on the completeness of the materials.
>
> Because of this, having guidelines identified prior to receiving an application is preferrable to having to review an application once it has been submitted. Benton County would greatly value the BCTT Workgroup's insights identifying elements that should be considered in deeming that a land use application concerning the landfill is "complete."
>
> The 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.[88]

[88] 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.

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 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

[To be added.]

Future Timeline for Discussing any Needed Changes to the Benton County Code Flowing From WORKGROUP Recommendations

<u>Code Changes Process & Timeline</u>

<u>Code Amendments Generally</u>

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.

<u>Development Code Changes</u>

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.[89]

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 days[90] 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.

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

[89]The 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.

[90]Or, at least 30 days if the amendment results from a requirement of periodic review of the comprehensive plan pursuant to state law ORS 197.

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.

SECTION D: Legal issues and Land use Review

Introduction:

Key Findings:

Key Recommendations:

Additional Information:

-
-

Appendix C.5: 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"[91]. Benton County relies on community participation for all aspects of government policies and decisions that affect the lives of County residents. In November of 2021, Republic Services applied for a Conditional Use Permit (CUP) for the expansion of Coffin Butte Landfill and not all the community felt they had the chance to provide input or information to use their voices in the process of land use decision making. Benton County did deny the CUP but per their legal right, Republic Services plans to re-apply soon. The Solid Waste Management Workgroup was formed to make recommendations about this future process of the CUP and bring more knowledge and communication to the table throughout the community. The County and other community 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 was written to provide outreach recommendations to ensure that community inclusion is actively accessed for the next CUP process and future land use decisions that are so 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 younger, 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 smart phones 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 for future communications concerning the Sustainable Materials Management Plan (SMMP.)
- Review past CUP process and standard Benton County Communication practices.
- Provide ideas and feedback for the BCTTC, SWAC and the PC to help in Community Engagement.

[91] 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

- Develop 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 Community Education resources.

Review of Past and Standard Legal Requirements for County Communication and Outreach with Community for Coffin Butte Landfill CUP application and the Usual CUP Process

When Republic Services applied for a CUP to expand Coffin Butte Landfill in November of 2021, the Planning Commission held public hearings on November second and sixteenth. The public was given fifteen more days to comment, and Republic Services was allowed one more week per stature to submit their final documents for the CUP. On December seventh, the Planning Commission reached a decision to deny the CUP based on their decision that the landfill doesn't meet CUP criteria due to community testimony that the landfill interferes with use, character, and zoning of the property of the neighbors and community. The commission also concluded that the landfill imposes an undue burden on public improvements, facilities, or services available to the area. The concerns included noise, odor, air and water quality, the defacing of the landscape, concern for wildlife conservation and safety issues such as road closures and wildfire risk. Republic service applied to appeal the CUP landfill expansion denial and stated that the Planning Commission misapplied the criteria guidelines for the CUP acceptance[4].

This process ended in Republic Services suspending their appeal to work with Benton County and the community to try to come to common understanding through the situational assessment and this workgroup process. During the CUP process the community expressed that the County communicated ineffectively.

The Community Education and Outreach Report workgroup recommends 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 if it is complete or not. During this 30-day period the community could be given an opportunity to comment, however it is a challenge to get meaningful public input due to the short time frame (30 days). However there is NO legal requirement for public comment during this period. If the County is expecting a land use application they may be able to get meaningful public input, however it would still be difficult within the 30-day window. The public comment for this period would be

regarding the completeness of the application. The County has encouraged BCTT to create a list of things that would signify a complete application[92].

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 in writing why they want it paused. 150-day happens the longest time the pause can last is 215 days, this would be an extension to the 150-day limit . Once this 150-day clock starts there are legal requirements regarding communication. These include: a mailed notice to owners of property located a certain distance from the property that is owned by the applicant, this is stated by the Development Code. For Coffin Butte this requirement is 750 feet from the property lines of the Landfill. Any property that lies partially or fully in this 750 feet requirement is entitled to the physical mailed notification. This 750 feet requirement is a minimum and the County is obligated to send notification 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 like it does in the 750 feet requirement. Notification also must be sent to any neighborhood/ community organization recognized by the Board of County Commissioners and whose boundaries include the site; right now these organizations are the Community Advisory Committees. When a hearing is required there must be publication at least 10 days before the hearing of 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 are required (beyond the normal notice that is sent out for regularly scheduled SWAC meetings) [55].

When there is a decision on the land use request there are also requirements for communication which include: a notice of decision mailed to all people who submitted testimony (if there is a hearing). If the decision was made by a Planning Official, notification is required to be sent to owners of property within the 750 feet requirement. The same requirements as stated above also apply if the application is appealed [55].

County officials have typically done other sorts of notification beyond what is legally required. The notification plan includes staff encouraging the applicant to hold a public informational meeting before the submission of 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 for bigger land use applications information 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 will mail notice to owners of property close to the land use applicant as well[54.]

[92] 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

Standard and Past Benton County Community Outreach

The County already has channels of communication that are used to notify the public including email lists and the County website. The least expensive of these is email. The County has interested party email lists, these include the Solid Waste Process Workgroup interested parties list as well as the Organic Subscribers list, where information is sent more frequently. The County uses quite a few social media platforms including LinkedIn, Twitter, Nextdoor, Linktree, and Instagram. The County also uses Facebook and has multiple accounts including: 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 participates in Community events. To contact local media partners a Flash Alert can be used, these media partners include the Gazette-Times, Democrat-Herald, and The Advocate. Advertisements in these newspapers as well as advertisements on local radio are used with less frequency as they are expensive. The County also uses direct contact, subscription lists, and distribution lists to share information with media partners. Notifications can also be sent via a newsletter both internal and external, an example of this can be found below. Lastly, the County's website is also heavily used. It is typical that the County provides these notifications in both English and Spanish as there is significant need for this. It should also be stated that the County will often use a combination of the communication channels with the known constraints like money and time. However, advertising, mailers. and other communication tools are used when time and resources are available[54].

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

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

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 tends to most frequently happen with the engagement approaches that are based on interests such as email lists and other channels where 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 Appendix A), it is important 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[93]. There are two main ways to improve outreach to these underserved groups, which includes 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. As well as using a broader list of social media outlets that are common among young people, these include, Snapchat, Reddit, and Tik Tok, among others.

In order to widen public engagement it is also important that the information is easily understood, this includes language inclusion. Community members with limited English proficiency need to be included. Spanish, Chinese, Asian and Pacific Islander languages need to be considered for informational materials and interpreter services[94]. The County should

[93] De Weger, E., Baan, C., Bos, C., Luijkx, 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

[94] 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

consider using an EJScreen - EPA to determine populations affected by environmental injustice[95] [96].

Providing clearly defined procedures for how the community can get involved in easy-to-read language, including using 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[97]. This could be on a dedicated landfill website or 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 Figure 1 and 2). As is mentioned in the table, these notifications are intended to be used for all CUP applications not just Republic Services, however the level of notification could change based on how influential the CUP application is.

Secondly, using multiple outreach methods is imperative to improving outreach to underserved groups. An important 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[59] [60]. Informational posts in Corvallis Happenings and other local County groups should be initiated.

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 [59] [60]. Once the County has made a subsequent effort to initiate contact it is important to utilize email and online surveys [98]. The subcommittee also recommends that the County communicates and engages with the community before the CUP application is placed.

---

[95] 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

[96] 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/

[97] Oregon.gov. (2022). Oregon's Statewide Planning Goals and Guidelines https://www.oregon.gov/lcd/OP/Documents/goal01.pdf

[98] 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

Other considerations can include the recruitment of 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[99].

Specific Plans for Communication have also been discussed and are shown below:

- Communicate via a County wide 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 [60].

- 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 have links for comments, surveys, notices and education and would provide easy and wide community access[58] .

- If mailer is too expensive, use multiple methods of outreach and advertisements to provide outreach for an in person open house and/or an online open house or website with interaction like surveys, notices, comments and education. The community's interaction with the applicant is very important as well, so tours or the landfill, collaborative planning sessions, and further communication between the community and the applicant is suggested[100.]

- 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 in imperative and

  This can be done through continued community conversations and input at meetings and providing in person opportunities such as the 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 themes of input [58, 59] . A community involvement advisory committee that specializes in outreach and engagement for all land use policy decisions could improve future communication [62.]

[99] Benton County Oregon. (2022). Dissemination of Information Draft Memo.

[100] 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#

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

- The Multnomah County Burnside Bridge project

  a. An online open house was provided.
  b. Instagram adds used to reach younger population.
  c. Project has its own website Earthquake Ready Burnside Bridge
  d. Provides community engagement survey results at several phases.

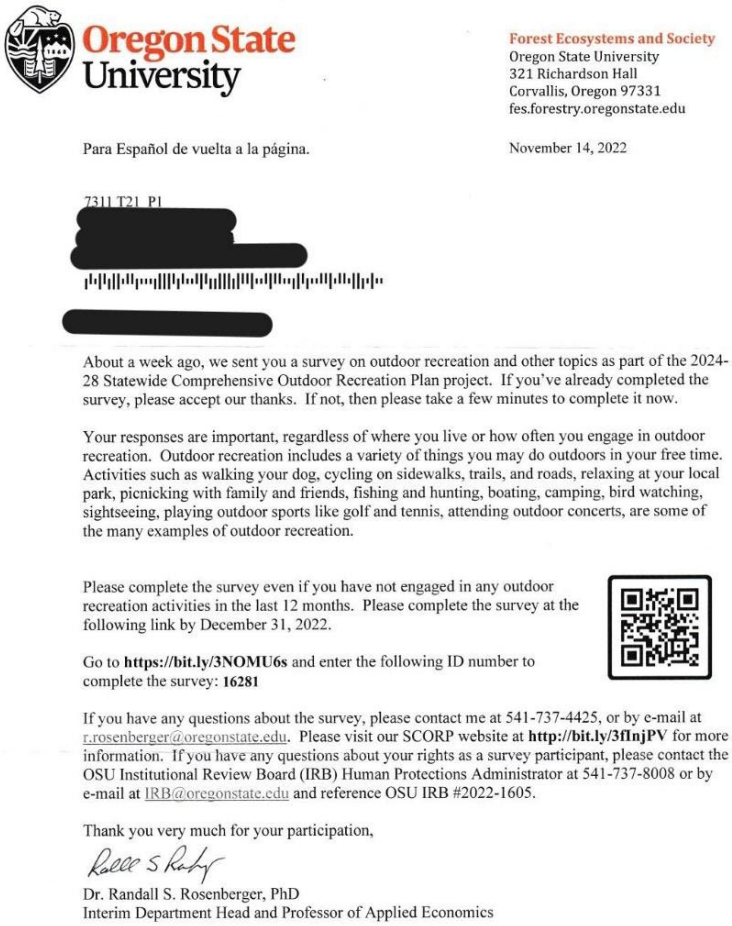
- SCORP (Statewide Comprehensive Recreation Plan) from OSU College of Forestry.

  a. Used a letter with a link to a survey (See Example 1).

Conclusion

Community education and extended outreach is a very vital step of the land use application process. Making sure everyone in the community gets information about this process requires us to use two broad methods, these include specifically targeting underserved groups as well as using multiple outreach methods. Targeting underserved groups can include the increased use of social media and using outreach methods that are able to be accessed with a phone. It is also very important 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[54].

[1] 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_bcct_subcommittee_e_swppwg_communication_outreach.pdf



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]

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/3flnjPV** 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,

Randall S Rosenberger

Dr. Randall S. Rosenberger, PhD
Interim Department Head and Professor of Applied Economics

Example 1.

Table 1.

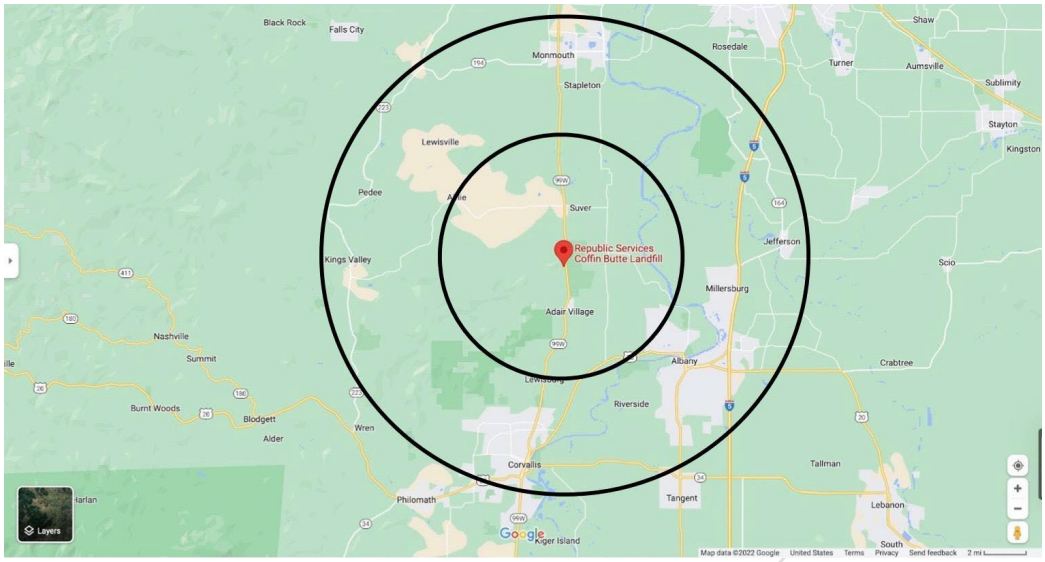
Benton County Talks Trash Notification Suggestions Chart			
Notification Subject	**Notification Type**	**Who is Notified**	**Timeline**
BCTT Report	Email blast Interested Parties List, Organic Subscribers, make sure those who spoke at the meeting are on the list. Soap Creek Neighbors Group, other landfill neighbors Possible postcard to the entire county here 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- weekend in the daytime where the link and email list is available. Information about Board Hearing coming up. AND/OR Community Open House Event	*Radii maps mentioned in table are below 10 Mile Radius Proposed	72 hours After report is finished
BCTT Survey re: Public Thoughts on Workgroup Report	Email blast, website post. Displays or Presentations where people already spend time (i.e., Library, community events) Postcard	10 Miles proposed	Open 1 month

Board Hearing on Report	Email blast, website post	10 Miles proposed	24 hours after scheduled.
CUP Filing	Post Card, email blast, newspaper Social media posts and ads	10 or 15 miles	24 hours after initiation
CUP Completion	Email blast, website post, newspaper Social Media	Entire County Same as CUP filing	24 hours after
Planning Commission Meetings	Website, email to interested groups.	People on existing email list	2 weeks before meeting
SWAC Meetings	Website, email to interested groups	People on existing email list	1 to 2 weeks before meeting
Franchise Agreement	Post Card, email blast, newspaper Social media posts and ads	Entire County	24 hours after

***This notification suggests are meant to be used on all CUP related processes not just with Republic Services**

Notification Radius Area Proposals:

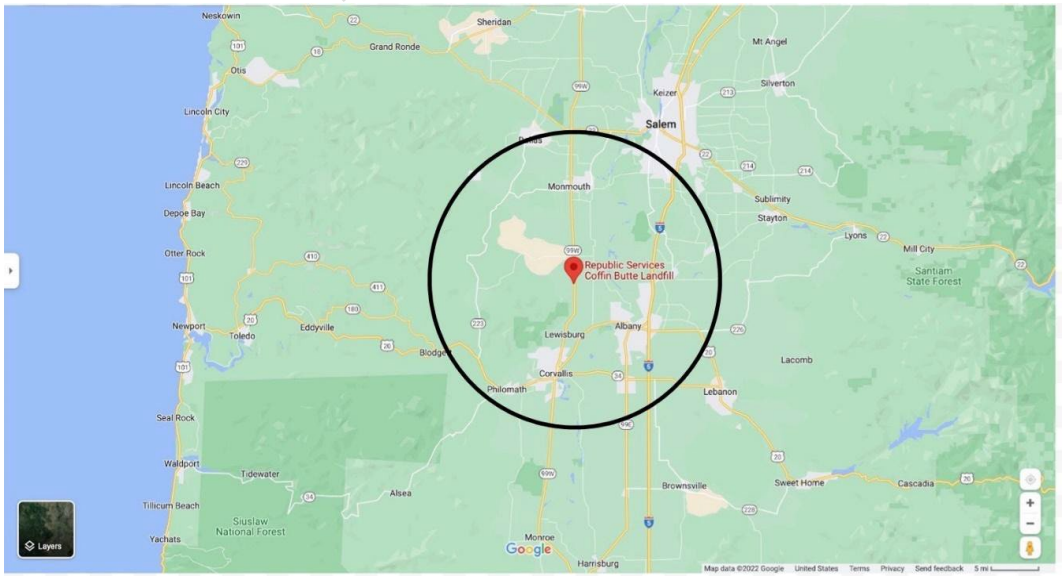
Figure 1.



Note: Center, smaller radius is a five-mile radius from Coffin Butte Landfill and the other radius is 10 mile.

County	# within 5 mi	Note	# within 10 mi	Note	# within 15 mi	Note
Benton	2,543	Some overlap with Benton Addresses	4,441	Majority of City of Albany included	8,991	All of the City of Albany included
Linn	728		26,751		31,480	

Figure 2.



Note: 15-mile radius around Coffin Butte Landfill

Appendix A: List of Traditionally Underrepresented Groups

- 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)

From (Oregon DLCD (2022)

Appendix B: List of Stakeholders and Recommended Communication Outreach Methods

(In progress)

Appendix C: BCTTW, CUP, Community Involvement FAQ sheet

(In progress)

[i] Endnotes to come.

[ii] Endnotes to come…