

From: [Sam Imperati](#)
To: [Mark Yeager](#); [Condit, Jeffrey G.](#); [Edward Pitera](#); [Catherine Biscoe](#); [WILLIAMS Inga](#)
Cc: [Benton County Talks Trash](#)
Subject: RE: Past Land Use Subcommittee Meeting #8
Date: Tuesday, January 3, 2023 5:15:34 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[landfill_mou_2002.pdf](#)

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Greetings and Happy New Year!

I've attached a document that was discussed at this afternoon's Legal Subcommittee meeting. They will provide a cover memo but wanted to make sure you saw this before your next meeting.

Thanks, Sam

ICM **Sam Imperati, JD | Executive Director**
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SamImperati@ICMresolutions.com
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From: Mark Yeager <mayeager@gmail.com>
Sent: Tuesday, January 3, 2023 3:30 PM
To: Condit, Jeffrey G. <Jeff.Condit@millernash.com>
Cc: WILLIAMS Inga <Inga.Williams@co.benton.or.us>; Edward Pitera <ewpitera25@gmail.com>; Catherine Biscoe <catherinerae17@yahoo.com>; Sam Imperati <samimperati@icmresolutions.com>
Subject: Re: Past Land Use Subcommittee Meeting #8

Hi Inga - My apologies as well for not responding earlier - I can make the 18th work as well as MLK day.

Mark

On Tue, Jan 3, 2023 at 11:09 AM Condit, Jeffrey G. <Jeff.Condit@millernash.com> wrote:

My apologies for missing this! I can do the 18th at 3:00 (which I would prefer), but I can also do MLK day at 3:00 as well.

- Jeff

Jeffrey G. Condit

Partner (Pronouns: he/him/his)

Miller Nash LLP

US Bancorp Tower | 111 SW Fifth Ave, Ste 3400 | Portland, OR 97204

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Our attorneys regularly offer insights to address the challenges faced by our clients. To visit the Miller Nash industry-focused blog overview page on our updated website: [please click this link](#).

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From: WILLIAMS Inga <Inga.Williams@Co.Benton.OR.US>

Sent: Tuesday, January 3, 2023 10:15 AM

To: 'Edward Pitera' <ewpitera25@gmail.com>; 'Catherine Biscoe' <catherinerae17@yahoo.com>; Condit, Jeffrey G. <Jeff.Condit@millernash.com>; 'Mark Yeager' <mayeager@gmail.com>

Cc: Sam Imperati <samimperati@icmresolutions.com>

Subject: RE: Past Land Use Subcommittee Meeting #8

[EXTERNAL MESSAGE: This email originated from outside of the firm. Do not click links or open attachments unless you recognize the sender and know the content is safe.]



Inga Williams she/her

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Associate Planner

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Ps. Did you know the Community Development Department has relocated to the Kalapuya Building?! We're now located at [4500 SW Research Way, 2nd Floor](#).

Good morning,

Sam asked me to follow up on this proposed meeting. I did not receive any responses for the 18th. Ed, I know you won't be available. Catherine, Mark and Jeff – if I schedule this for Martin Luther King day, can you meet at the regular time on the 16th? I can log in from home with my work laptop.

Inga

From: WILLIAMS Inga <Inga.Williams@Co.Benton.OR.US>

Sent: Wednesday, December 21, 2022 2:12 PM

To: Edward Pitera <ewpitera25@gmail.com>; Catherine Biscoe <catherinerae17@yahoo.com>;
Jeff.Condit@millernash.com; Mark Yeager <mayeager@gmail.com>

Cc: Sam Imperati <samimperati@icmresolutions.com>

Subject: Past Land Use Subcommittee Meeting #8

Good afternoon. Our Subcommittee Meeting #8 falls on Martin Luther King holiday (#7 is on the 9th – you should already have that on your calendar). I plan on taking a vacation day the day after, so our only opportunity to meet before the Work Group meets on the 19th will be Wednesday the 18th. Are you all available at our usual time of 3:30 to 5?



Inga Williams *she/her*

Community Development Dept.
Associate Planner

Phone: 541-766-6819

Email:

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Memorandum of Understanding
Relating to Land Use Issues

**Between: Benton County (Benton Co.), a
Political Subdivision of the State of Oregon**

and

**Valley Landfills, Inc. (VLI),
an Oregon Corporation**

WHEREAS, there is an existing Franchise Agreement and an existing Environmental Trust Fund Agreement between Benton County, hereafter (Benton Co.), and Valley Landfills, Inc., hereafter (VLI); and

WHEREAS, over a period of years Benton County has reviewed various land use and solid waste applications submitted by VLI; and

WHEREAS, Benton Co., by and through its staff, and VLI, have been conducting a review of the operations of the Coffin Butte Landfill; and

WHEREAS, during the last review it became apparent that with the passage of time, there has been numerous changes in the personnel representing each party that has led to an uncertainty of prior Benton County approvals.

WHEREAS, both parties agree that it is in the mutual best interest of all parties and the public to form an understanding of the current status of the relationship and the legal responsibilities of each party;

NOW, THEREFORE, in consideration of the mutual terms, promises and conditions hereafter set forth, the parties agree as follows:

- (1) The above recitals are true, and by this reference incorporated herein.
- (2) VLI is the owner and operator of the landfill facility commonly known as the Coffin Butte Landfill, and was acquired by Allied Waste Industries in January of 2000.
- (3) The Coffin Butte Landfill has operated within the land use laws of Benton County prior to 1974.
- (4) In 1974, the Coffin Butte Landfill was operated by Corvallis Disposal Company. In 1974, Corvallis Disposal Company applied for and was

granted a Conditional Use Permit. That permit was finally granted by action of the Benton County Board of Commissioners on May 15, 1974.

- (5) One of the conditions of the 1974 approval was that a "Solid Waste Management Plan for Benton County" be submitted for review to the Planning Commission. This condition was met on March 29, 1977. From then until 1983, Coffin Butte Landfill was operated in compliance with the approved Management Plan.
- (6) In 1983, VLI applied to Benton Co. for the creation of a Landfill Zone, other amendments to the Comprehensive Plan and the application of the new Landfill Zone to the Coffin Butte Landfill within Benton County. After hearings before the Planning Commission and the Board of Commissioners, the requests were granted.
- (7) The 1974 approval had allowed all landfill activities, including but not limited to the placement of solid waste, on 184 acres north of Coffin Butte Road.
- (8) The 1983 approval added 10 more acres for landfill activities, including but not limited to the placement of solid waste, north of Coffin Butte Road, or a total of 194 acres. Non landfill activities such as leachate treatment and irrigation were allowed south of Coffin Butte Road. The 1983 approval specifically did not allow for the placement of solid waste south of Coffin Butte Road.
- (9) Activities continued under the 1983 approval until 1995. In 1994 and 1995, VLI submitted applications to Benton Co. Those applications would have expanded the allowed activities south of Coffin Butte Road. Because of opposition at that time, VLI withdrew its applications.
- (10) Benton County has a Solid Waste Advisory Council (SWAC) which reviews the operations of the landfill, and other matters of public interest. The Solid Waste Advisory Council, hereinafter referred to as (SWAC), has continually monitored the operations of VLI since 1980.
- (11) All recommendations of SWAC requiring action by the Benton County Board of Commissioners have been forwarded to and acted upon by the Benton County Board of Commissioners.
- (12) SWAC reviews and approves the Annual Operations Report on the Coffin Butte Landfill.
- (13) The operations of a municipal landfill are regulated generally by ORS Chapter 459 and the National Resource Conservation and Recovery

Act of 1976. Specific activities within the landfill are governed by other sections of Oregon and Federal law.

- (14) 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.
- (15) 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.
- (16) Based upon the changes in federal, state and local regulations, the inevitable turn over of personnel for both Benton Co. and VLI, the parties now agree that the permits previously granted by Benton Co. to VLI allow the following:
 - (a) 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, within the 194 acres as designated within the Landfill Zone which is north of Coffin Butte Road and further identified as the blue area on *Exhibit "1"* attached hereto.
 - (b) VLI agrees that it 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, and is further identified as the yellow area on Exhibit "1" attached hereto.
 - (c) Benton Co. agrees that on the 56 acres designated within the Landfill Zone south of Coffin Butte Road, VLI may conduct related landfill activities which include, but is not limited to, the collection of leachate and management of leachate.
 - (d) VLI and Benton Co. agree that VLI owns 2 parcels of ground which abut the north line of the Landfill Zone but are not included within the Landfill Zone. These 2 parcels of land are identified on the attached *Exhibit "2"*. VLI agrees that within the immediate future, it will file a separate Conditional Use Application to allow landfill activities on each of the 2 parcels described on *Exhibit "2"*.
 - (e) Benton Co. agrees that the identification on previously filed maps indicating cell areas and locations were specifically for the purpose of identifying the location of the particular cell and was not for the purpose of limiting the area where landfill activities

could take place. The specific exception are for those maps which were filed by VLI in 1994 and 1995 which showed the location of cell 6 and cell 7 south of Coffin Butte Road. VLI withdrew the application. There is no approval for any landfill activity south of Coffin Butte Road except for the related landfill activity which does not include the placement of solid waste.

- (f) Benton Co. and VLI specifically agree that the term "landfill or landfilling activity" has the meaning as set forth in ORS Chapter 459.
- (g) VLI and Benton Co. agree that the preliminary review of this Memorandum of Understanding was conducted by SWAC during its regularly scheduled meetings held on August 27, 2002 and September 24, 2002.
- (h) VLI and Benton Co. agree that this Memorandum of Understanding was signed at the conclusion of a regular meeting of the Benton County Board of Commissioners where this matter will be placed on the agenda for November 5, 2002, for public discussion prior to signature.

**VALLEY LANDFILLS, INC., an
Oregon corporation**

By 

**Merle Irvine
Vice President**

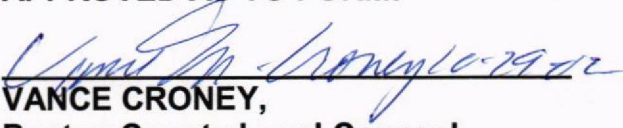
**BENTON COUNTY BOARD OF
COMMISSIONERS**

By 

By 

By 

APPROVED AS TO FORM:


**VANCE CRONEY,
Benton County Legal Counsel**

N:\ATTY\EFSEFS Clients\WASTE CONTROL\Memorandum of Understanding.4.doc

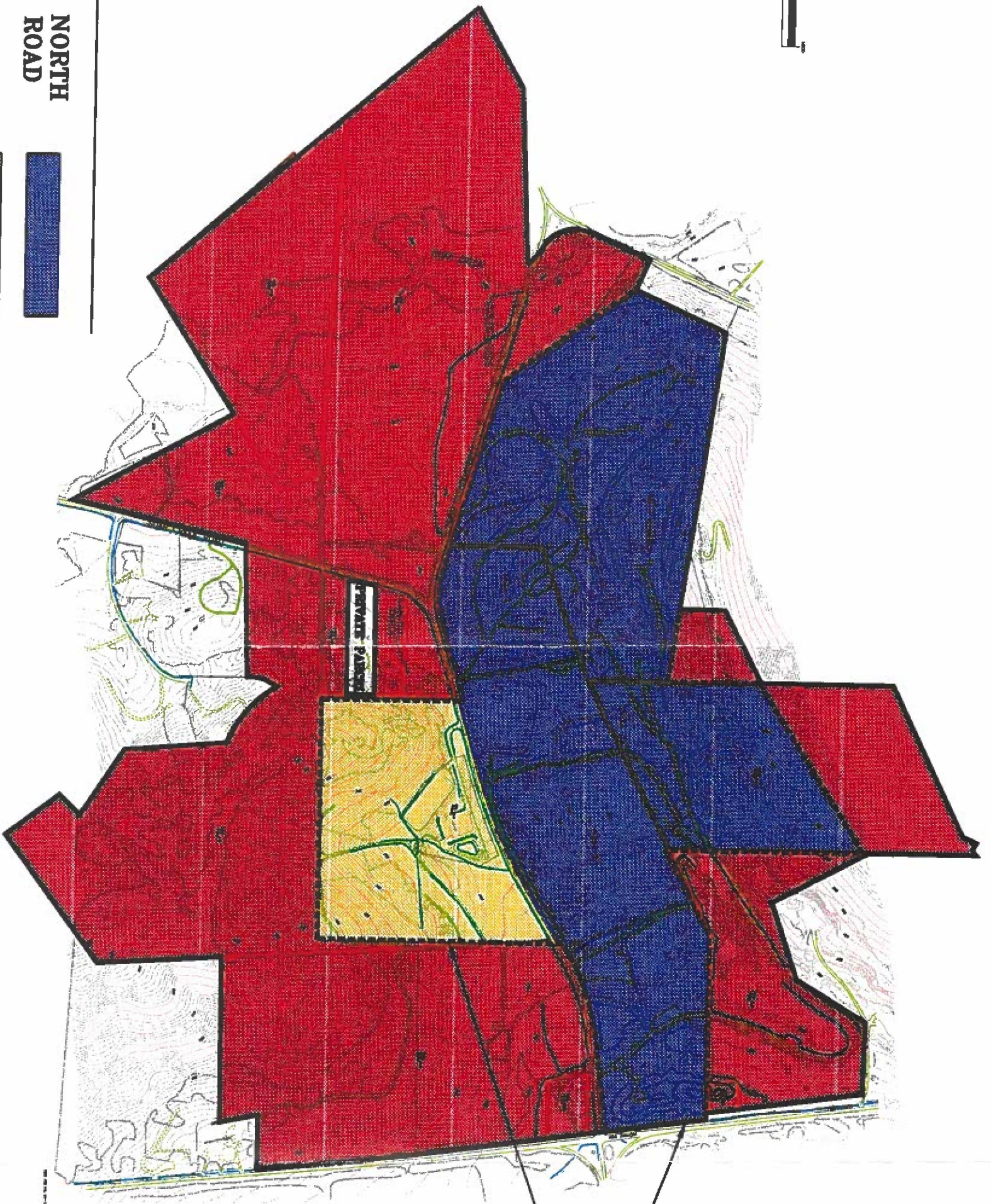


LEGEND

LANDFILL ZONE - NORTH
OF COFFIN BUTTE ROAD

LANDFILL ZONE -
NON-DISPOSAL AREAS

OTHER LAND OWNED BY
VALLEY LANDFILLS



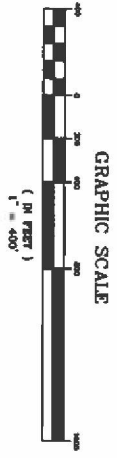
VLI PROPERTY
LINE

LANDFILL SITE (LS)
ZONE LINE

VALLEY LANDFILL, INC.
COFFIN BUTTE LANDFILL
BENTON COUNTY, OREGON

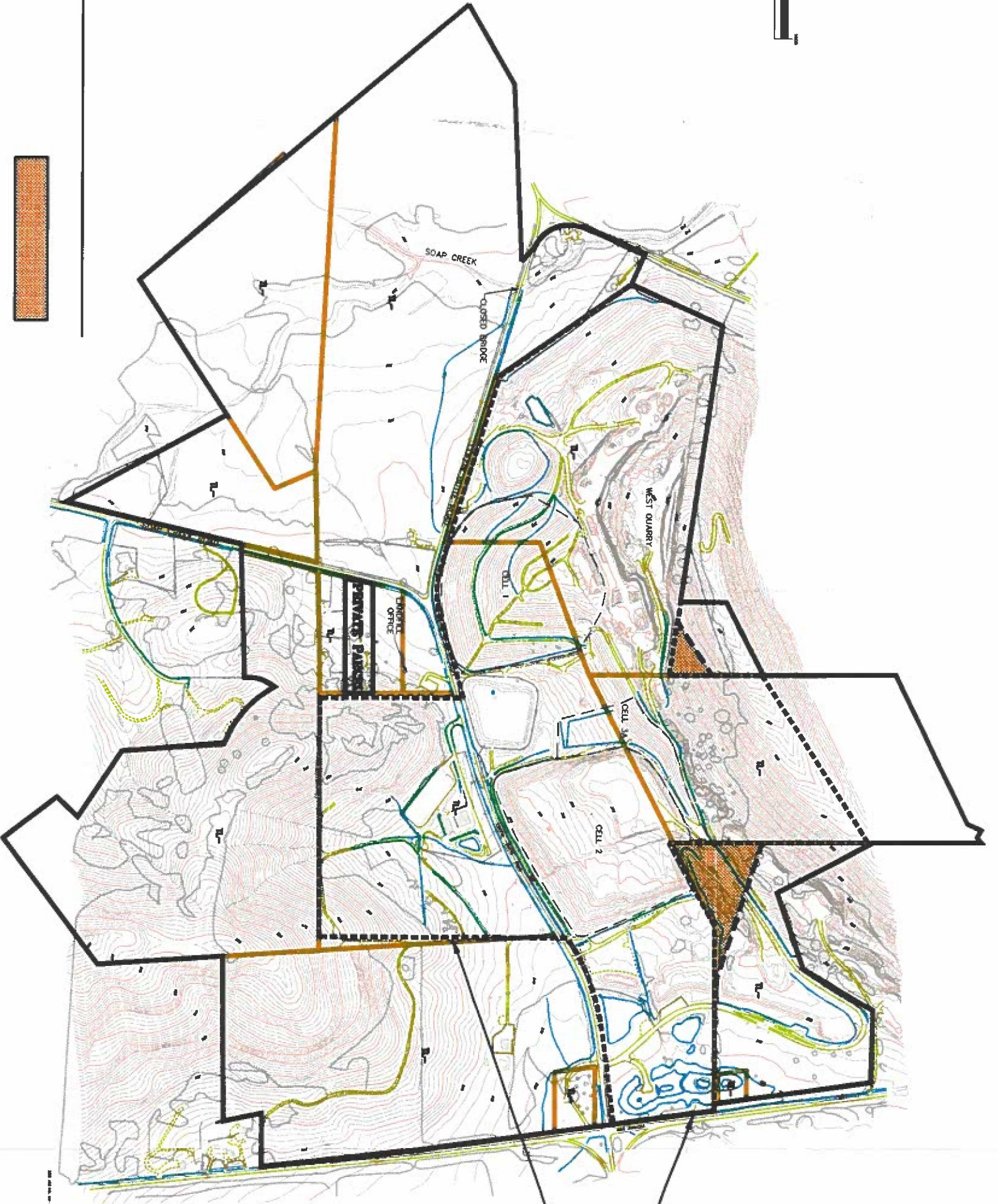
SITE DEVELOPMENT PLAN

PROPERTY BOUNDARY AND LANDFILL ZONING LINE



LEGEND

CONDITIONAL USE PERMIT AREAS



VII PROPERTY LINE
LANDFILL SITE (LS) ZONE LINE

VALLEY LANDFILL, INC. COFFIN BUTTE LANDFILL BENTON COUNTY, OREGON	DATE
SITE DEVELOPMENT PLAN	2
PROPERTY BOUNDARY AND LANDFILL ZONING LINE	REVISED