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To: [Benton County Talks Trash](#)
Subject: FW: Republic's comments on Land Use Conditions report.
Date: Tuesday, January 24, 2023 12:11:34 PM
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[Compliance with Past Land Use Approvals - BC Reformat 12-30-22 \(002\) Republic Comments-4877-2860-8583-v3.docx](#)
[Redline - Compliance with Past Land Use Approvals - BC Reformat 12-30-22 \(002\) Republic Comments-4877-2860-8583-v1 and Compliance with Past Land Use Approvals -.docx](#)

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ICM **Sam Imperati, JD | Executive Director**
resolutions 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

From: Condit, Jeffrey G. <Jeff.Condit@millernash.com>
Sent: Tuesday, January 24, 2023 10:52 AM
To: WILLIAMS Inga <Inga.Williams@Co.Benton.OR.US>; Sam Imperati <samimperati@icmresolutions.com>; Mark Yeager <mayeager@gmail.com>; Catherine Biscoe <catherinerae17@yahoo.com>
Cc: Doyle, Holly <HDoyle@republicservices.com>
Subject: Republic's comments on Land Use Conditions report.

Fellow Land Use Conditions Subcommittee members and staff: Attached are clean and redline versions of Republic's comments, additions, and revisions to the Committee's draft report.

- Jeff

Jeffrey G. Condit

Partner (Pronouns: he/him/his)

Miller Nash LLP

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

Direct: 503.205.2305 | Cell: 503.522.9903 | Office: 503.224.5858

[Email](#) | [Bio](#) | [Insights](#) | [Website](#)

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Compliance with Past Land Use Actions and Their Status

A.2 Subcommittee

WORK IN PROGRESS

Executive Summary

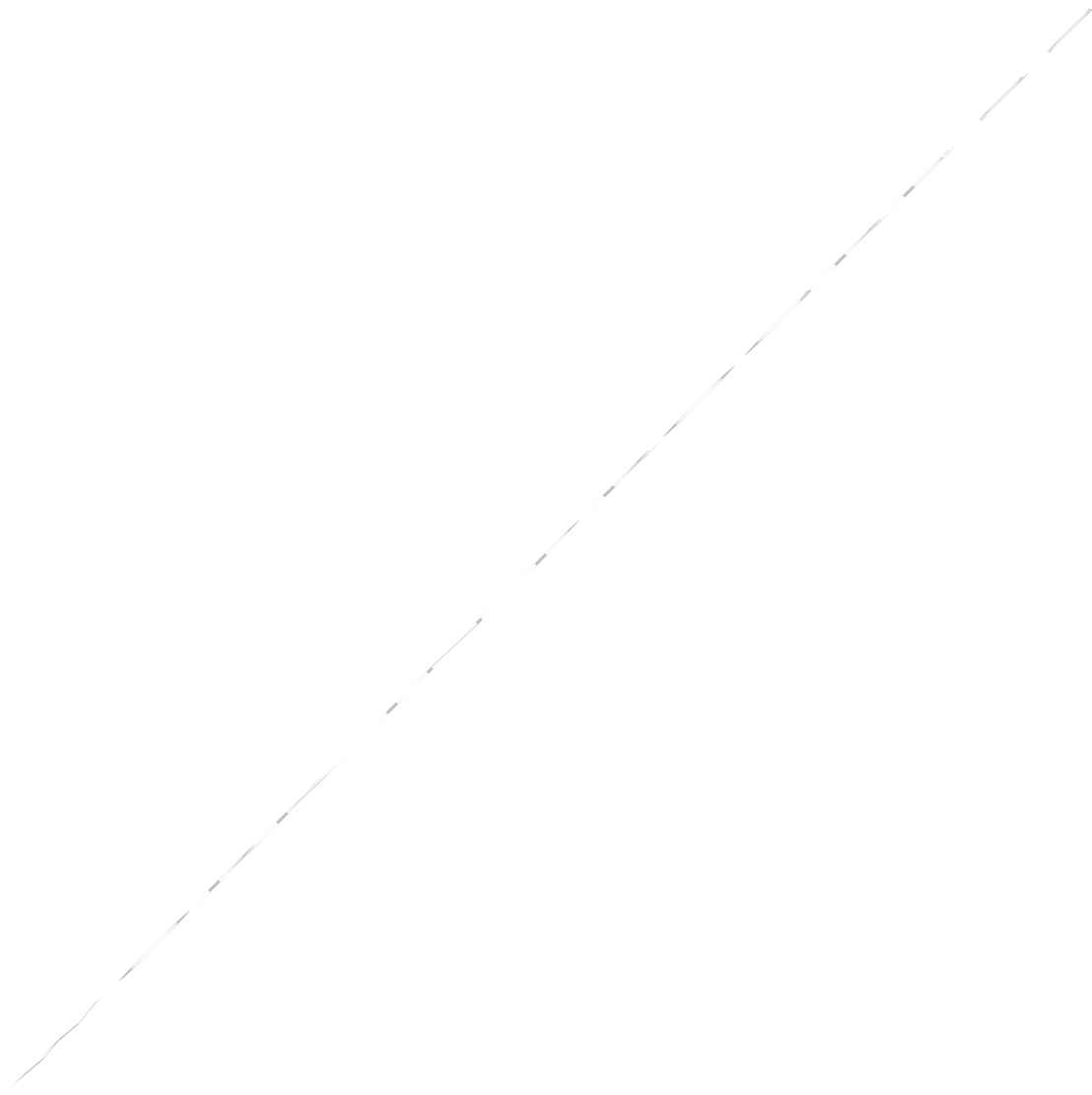


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HOW TO USE THIS DOCUMENT

(Insert FAQ's as reader instructions), what's here, what it conveys



INTRODUCTION

Add in Material based on “Yeager/ Sam Introduction/Legal Review”

WORK IN PROGRESS

LIST OF LAND USE DOCUMENTS REVIEWED

#	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 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

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					<p>BOC upholds PC decision with following amendments and additions to conditions:</p> <p>Condition No.4: adds, “when plans meet DEQ approval”</p> <p>Condition No. 5: Date change to July 1, 1976</p> <p>Condition No. 6 (new)</p> <p>The landfill operation shall be phased so that only a small acreage is used for fill at one time and then acreage shall be returned to grazing, another farm-type operation or other permitted use as approved by the PC and BoC</p> <p>Condition No.7 (new)</p> <p>Efforts be made to encourage voluntary separation of recoverable materials...to reduce the amount of landfill materials.</p> <p>What are the other file numbers if any?</p> <p>(post-appeal of PC#...looking for possible BoC number?)</p> <p>Presumed applicant/Property Owner: Bob Bunn, Corvallis Disposal Company based on 1972 pre-application correspondence</p> <p>Benton County Planner: Larry Bauer and Virgil Adams listed in 1972 docs</p> <p>1972 Pre-application work included Chemeketa Regional Model Plan (name for 5-county study) by Chemeketa Regional Operations Committee.</p>
3	1983	PC-83-07 / L-83-07	Comprehensive Plan and Map Amendments Zoning Ordinance (Development Code) and Zoning Map amendments	BOC Approved	<p>Amendments to the Benton County Comprehensive Plan and Plan Map (Ordinance 251), and amendments to the Zoning Ordinance and Zoning Map (Ordinance 261).</p> <p>Amendments to the Comprehensive Plan Text and Map, amendments to the Zoning Ordinance and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).Ord 261 – July 6, 1983</p> <p>Any proposal to expand the area approved for landfill must be reviewed and approved by PC.</p>

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					Criteria for review includes:- Provision of screening of site from public roads and adjacent property <u>Egress/Ingress</u> , 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 Department approved	A transfer of 37.94 acres from Tax Lot 10-4-18-800 to Tax Lot 10-4-18-1106
7	1988	Board Order	Order to Vacate a portion of Tampico Ridge Subdivision	BOC Approved	Original subdivision BOC approved in 1979 with Conditions of Approval. In 1988 some conditions had not been met to allow for development 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		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 Approved February 16, 1994	For a 2.2-megawatt power generation facility. The facility would utilize the gas generated from the decomposing refuse in the landfill as the fuel source. Applicant: Mr. Bill Webber Property Owner: Valley Landfills, Inc.

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					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		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		LD-94-26	Property Line Adjustment	Community Development Department approved, applicant did not complete requirements to complete the transfer, file closed	Transferring 21 acres from 10-4-19B-1600 to 10-4-18-1107
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).

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					<p>"Applicant responsible for ongoing monitoring of noise levels, available upon request of Planning Official to determine compliance."</p> <p>Property Owner: Valley Landfills, Inc.</p>
16	1999	PC-99-06	Conditional Use Permit	PC approved	<p>For mining and processing of mineral and aggregate resources. The proposed area consists of 1.43 acres adjacent to the existing quarry operation.</p> <p>Update: Quarry operations on this parcel have ceased</p>
17	2002	PC-02-07	Conditional Use Permit	PC approved December 18, 2002	<p>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.</p> <p>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)</p> <p>Applicant: Valley Landfills, Inc. Staff Contact: Chris Bentley</p>
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	<p>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).</p> <p>Conditions of Approval: 10 (Operate within DEQ approval, dust-free roads, permitted sound levels,</p>

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					<p>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)</p> <p>Property Owner: Valley Landfills Inc.</p> <p>Staff Contact: Chris Bentley</p>
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	<p>For the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone</p> <p>Conditions of Approval: 1-4; also 1-10 below</p> <p>(Community Development Dept to determine compliance; approval valid for 2 years)</p> <p>Development shall comply with plans and narrative in applicant proposal, modifications require request and approval, record of declaratory statement of rights of adjacent/nearby property owners to conduct forest operations, compliance with siting standards (BCC60.405), comply with applicable facility code provisions.</p> <p>PC 03-11 Conditions of Approval that remain applicable: 1-10</p> <p>Obtain DEQ approvals for landfill operations, dust-free roads, maximum sound levels, on-site parking, security fencing, operational hours, dual-access/emergency road system, water quality, air quality, storm-water runoff permits and data available for public inspection.</p> <p>Property Owner/Applicant: Valley Landfills, Inc</p> <p>Staff Contact: Eric Adams/Chris Bentley</p> <p>Planning Official: Greg Verret</p>

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
22	2013	LU-13-061	Conditional Use Permit	PC approved November 5, 2013	<p>For "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.</p> <p>Conditions of Approval: 1-4; also 1-10 below</p> <p>(Community Development Dept to determine compliance; approval valid for 2 years)</p> <p>Development shall comply with plans and narrative in applicant's proposal (Attachment 'A') except as modified by conditions below; all other modifications shall require review and approval by request, declaratory statement of rights of adjacent/nearby property owners</p> <p>re: forest operations, any new/change to existing access shall require permit, NPDES permit requirement for construction disturbance o 1 acre or more.</p> <p>Conditions of Approval 1-10 from prior approvals that remain in effect:</p> <p>Obtain DEQ approvals for landfill operations, dust-free roads, maximum sound levels, on-site parking, security fencing, operational hours, dual-access/emergency road system, water quality, air quality, storm-water runoff permits and data available for public inspection.</p> <p>Property Owner/Applicant: Valley Landfills, Inc</p>
23	2015	LU-15-001	Alteration of a nonconforming use to continue and enhance a stormwater treatment facility in the Exclusive Farm Use Zone, associated with Coffin Butte Landfill.	Community Development Department Approved September 16, 2015	<p>Conditions of Approval: 2</p> <p>(Community Development Department will objectively determine compliance with all Conditions of Approval)</p> <p>Development shall substantially comply with the plans and narrative in the applicant's proposal; modifications require approval, applicant shall obtain/maintain compliance with necessary federal state and local permits for construction and operation of stormwater system described in application</p> <p>Property Owner/Applicant: Valley Landfills, Inc./Republic Services, Inc.</p> <p>Staff Contact: Chris Bentley</p>

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					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 improvement of at least one other roadway in the area to accommodate increased traffic—potentially Tampico Road or Wiles and Robison Roads.	PC Denied December 7, 2021; PC Decision Appealed; Appeal Withdrawn	<p>Property Owner/Applicant: Valley Landfills, Inc./Republic Services</p> <p>Staff Contact: Inga Williams</p> <p>CAC Planning Area: North Benton (not active)</p> <p>*Note past Conditions of Approval that indicate requirement of duel <u>dual access</u>/emergency road services to CBL</p> <p>*Question about buffer requirements to adjacent/nearby properties and land use if leachate ponds to be relocated</p>

Table of Summary Statistics Needed? Here?

Cite how many conditions involved, how many ~~consensus~~consensuses, how many majority / minority opinions

OBSERVATIONS AND RECOMMENDATIONS (Post BCTT Workgroup Tasks)

GENERAL COMMENT BY REPUBLIC: This whole section 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.

OVERALL CONSIDERATIONS

Refers to Document Number	Observations	Suggestions and Recommendations to the County
2 1974 CP-74-01	Observation triggered by 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. <u>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.</u>
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 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 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.	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 people? Given the steepness of the as-built landfill cover slopes, is it reasonable to expect grazing animals will not damage the cover system exposing wastes and allowing air to be drawn into the landfill mass? 2. giving nearby residents and travelers on Hwy 99 some sense of what can reasonably be expected under "...or other permitted use as approved by the

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Refers to Document Number	Observations	Suggestions and Recommendations to the County
		<p>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.</p> <ol style="list-style-type: none"> 3. considering Franchise language that addresses the post closure condition of the landfill, 4. engaging with DEQ to understand what is possible for “Worst Case” and ultimate closure of the landfill. <p><u>Republic Disagrees. Closure regulation is in the exclusive jurisdiction of DEQ. The County has no basis to regulate closure under the CUP requirements.</u></p> <p>Additionally, it is recommended the County consider:</p> <ol style="list-style-type: none"> 1. the impact of ongoing landfill operation on community development programs such as the Bike Transit Corridor. Note the only east/west bike crossing of Hwy 99W for about 55 minutes is across from the landfill; 2. the compatibility of a landfill of this size with the County’s Vision 2040. <p><u>2-Republic disagrees: These plans may need to account for the landfill, but it has been in this location for fifty years.</u></p>
2	<p>Condition 7 Concerning recycling program.</p> <p>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.</p>	<p>?? Not sure how to handle?? To be addressed in next Vision Plan or Materials Management Plan? Just flag this condition for BCTT SW Plan Subcommittee?</p> <p><u>Republic Comment: How to improve recycling is appropriately considered as part of the long-term materials management plan; it not relevant to a CUP.</u></p>
3 1983 PC-83-07 / L-83-07	<p>Condition 1</p> <p>It is very important to note that the existing visual appearance of the landfill is a significant concern. The landfill is being constructed in ways that do not reflect the description set out by the applicant and approved plan of 1983 (refer to PC-83-07; L-83-07).</p> <p><u>Republic Comment: 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</u></p>	<p>Consider clarifying the roles of the County and DEQ in future CUP actions. Which organization has primacy over what? A clear understanding is needed of DEQ’s and the County’s role in addressing aspects of the landfill such as design, operation, monitoring (including noise, light pollution, odor, etc.), appearance, and screening from public view, etc.</p> <p><u>Republic Comment: 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</u></p>

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Refers to Document Number	Observations	Suggestions and Recommendations to the County
	<p><u>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.</u></p>	<p><u>land use regulations, which is why DEQ requires Republic to first obtain the CUP from the County.</u></p>
3	<p>Decision text and “conditions” are sometimes difficult to easily determine especially in older County decision documents (See analysis by M Yeager (Dec 2022))</p>	<p>Future decisions clearly convey basis of Approval. Example: “Condition of Approval: This approval is based upon the application, site plan, and supporting documentation submitted by the applicant. Any substantial change as determined solely by Benton County in the approved plan will require a new application.”</p> <p>NEED EDUCATION FROM COUNTY STAFF: Is there a written Benton County Compliance Policy & Process including a complaint lodging, tracking, and resolution process?</p> <p><u>Republic comment: Republic would also appreciate that any conditions of approval imposed on a potential CUP approval be clear.</u></p>
7 1988 Board Order	<p>1988 Board Order to Vacate a portion of Tampico Ridge Subdivision consolidated three lots and a portion of right-of-way into an 85-acre parcel.</p> <p>DEQ in the 2005 Record of Decision for the landfill specifies "Property purchases as buffer around the landfill." as one of the remedies for groundwater contamination. (See References)</p>	<p>In assessing the public burden associated with the landfill, it appears necessary for the County to understand how much land has been acquired by RSI in pursuit of creating environmental or other buffers near the landfill. Address how these actions are consistent with Vision 2040.</p> <p><u>Republic Comment: 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.</u></p>
10 1994	<p>Condition 2 & 5 Noise</p>	<p>Establish and widely advertise a County process for receiving, tracking, and resolving landfill and power plant related noise complaints.</p>

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Refers to Document Number	Observations	Suggestions and Recommendations to the County
PC-94-03		
10	Condition 6 Lighting at Power Plant	Establish and widely advertise a County process for receiving, tracking, and resolving landfill and power plant related noise complaints.
15 1997 S-97-58	Condition 7 Lighting at Power Plant	Establish and widely advertise a County process for receiving, tracking, and resolving landfill and power plant related noise complaints.
15	Condition 9 “...applicant shall prepare a site-specific <u>site-specific</u> 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 Title V Permits are needed to determine if odor is addressed there. <u>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.</u>

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.	<p>The Board of Commissioners update or establish an easily understandable policy concerning how the County is to require, manage, and interpret regulatory related information from RSIRepublic and DEQ.</p> <p><u>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.</u></p>
Over time the format and wording of what information is being requested has changed.	<p>Establish consistent terminology for describing what an applicant is required to do to be considered in compliance.</p> <p><u>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.</u></p>
<p>Within the Tables of Land Use Conditions Assessments, there are locations where County staff have stated that they do not actively review materials applicants provide as ongoing evidence of compliance with land use decisions. Confirmation of compliance is only made by the County after receiving a resident's complaint.</p> <p>SEE FOLLOWING TABLE for a list of these occurrences</p>	<p>The Board of Commissioners consider a proactive compliance confirmation program for facilities contributing to environmental burdens on the County such as a landfill, industrial scale composting, or direct dischargers to water bodies within the county.</p> <p><u>Republic Comment: This a county budgetary issue and much of it outside of the scope of the County's regulatory expertise and or authority.</u></p>
ADD OTHERS???	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

SUPPORTING INFORMATION FOR MONITORING AND COMPLIANCE ENFORCEMENT ISSUES

Summary: 39 Instances of Unclear Compliance Monitoring by the County

Land Use Document #3 1983 PC-83-07/L-83-07 <i>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))</i>	
Condition 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.	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. <u>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.</u> <u>Except as noted or expanded on, Republic agrees with the Staff comments in this section.</u>
Condition 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.	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.
Land Use Document #10 1994 PC-94-03 <i>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.</i>	
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.	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. Lighting shall be located so that it does not face directly, shine or reflect glare onto an adjacent street or property.	Staff Comment. Monitoring of this condition is complaint driven. Staff has no records of complaints regarding lights at the landfill.
Land Use Document #15 1997 S-97-58 <i>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.</i>	

Compliance with Past Land Use Actions and Their Status

A.2 Subcommittee Discussion Work in Progress

<p>Condition 3. Noise levels for both Phase I and Phase 2 expansions shall comply with the Noise Control Regulations for Industry and Commerce in Oregon Administrative Rules 340-035- 0035 as measured at the nearest dwellings existing on the date of approval of this conditional use permit.</p>	<p>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)</p>
<p>Condition 4. The applicant is responsible for ongoing monitoring of noise levels. Upon request of the Planning Official, the applicant shall provide the County with sufficient information to determine whether the facility is in compliance with Condition 3 of this permit.</p>	<p>Staff Comment. Available records do not indicate any such requests by the Planning Official.</p>
<p>Condition 6. The application shall obtain and comply with all applicable permits from the Oregon Department of Environmental Quality (DEQ). The applicant shall provide copies of all DEQ permits for the generation facility to the Community Development and Parks Department.</p>	<p>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.</p> <p><u>Republic Comment: Republic notes that these conditions are common because the statutory coordination requirements noted above.</u></p>
<p>Condition 7. Lighting shall be located so that it does not face directly, shine, or glare onto an adjacent road or property.</p>	<p>Staff Comment. Monitoring of this condition is complaint driven. There are no records of any complaints.</p>
<p>Condition 9. The applicant shall prepare a site specific<u>site-specific</u> 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<u>site-specific</u> development plan shall be completed prior to issuance of construction permits for the Phase 2 expansion. The site development plan shall address:</p> <ul style="list-style-type: none"> 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. 	<p>Staff Comment. -Additional research needed, compliance with this condition is not confirmed.</p> <p><u>Republic Comment: This condition was imposed on the approval of the power plant and does not apply to the Landfill generally.</u></p>
<p>Land Use Document #16 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. Update: Quarry operations on this parcel have ceased, <u>so these conditions are no longer applicable</u></p>	

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<p>Condition 1. Obtain approval of a reclamation plan from the Oregon Department of Geology and Mineral Industries or the Oregon Division of State Lands. Operation and reclamation plan shall demonstrate consistency with the intended subsequent site use.</p>	<p>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.</p>
<p>Condition 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.</p>	<p>Staff Comment. Staff will need to field verify but it appears through comments that the applicant is not in compliance with this condition.</p> <p>Republic Comments: <u>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.</u></p>
<p>Condition 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 <u>notwithstanding</u> a minimum of one time per year. Noise data and reports of findings from this monitoring shall be placed on file, in a timely way with the Benton County Community Development Department for public inspection. A berm, or other sound-absorbing construction materials such as acoustical cinder blocks or other similar methods may be used to reduce the sound off-site to levels at or below those permitted by the Oregon Department of Environmental Quality. Any sound-reduction construction will be consistent with the visual buffering required in Condition #3 above. The applicant or lease-holding operator shall limit blasting to the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday.</p>	<p>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.</p> <p>Republic Comment: <u>As noted above, quarrying operations on this site ceased long ago, so this and the other conditions are no longer relevant.</u></p>
<p>Condition 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.</p>	<p>Staff Comment. None</p> <p>Republic Comment: <u>This condition was carried forward as Condition 9 in PC-02-07 and County Staff notes that Republic has been in compliance.</u></p>
<p>Condition 12. Copies of storm-water runoff permits and data produced from associated monitoring programs required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way, with the Benton County Community Development Department for public inspection.</p>	<p>Staff Comment. Additional Research Needed</p> <p>Republic Comment: <u>Again, this condition is not relevant.</u></p>
<p>Land Use Document #17 2002 PC-02-07</p>	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

<p><i>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.</i></p>	
<p>Condition 3. The applicant or lease-holding operator shall ensure that the landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.</p>	<p>Staff Comment. County monitoring of this condition is complaint-based.</p>
<p>Condition 9. Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.</p>	<p>Staff Comment. The county regularly receives copies. Appendix I https://www.co.benton.or.us/cd/page/materials-management-document-library</p>
<p>Condition 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</p>	<p>Staff Comment. The county regularly receives copies. https://www.co.benton.or.us/cd/page/materials-management-document-library</p>
<p>Land Use Document #19 2003 PC-03-11 <i>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).</i></p>	
<p>Condition 3. The applicant or lease-holding operator shall ensure that the landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.</p>	<p>Staff Comment. County monitoring of this condition is complaint-based.</p>
<p>Condition 8. Copies of water quality, stormwater runoff, and air quality permits; and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way with the Benton County Community Development Department for public inspection.</p>	<p>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</p>
<p>Condition 10. Approval shall be obtained from the Oregon Division of State Lands for any activities on the subject property that affect designated wetlands.</p>	<p>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.</p>
<p>Land Use Document #21 2011 LU-11-016 <i>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.</i></p>	
<p>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 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</p>	<p>Staff Comment. Standard condition requiring the applicant to implement the conditional use permit as described in their application. Compliance is not actively monitored.</p>

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conformance with the submitted conceptual site plan, shall require approval through a Modification of a Conditional Use Permit request (BCC 53.225).	
<p><i>Conditions of Approval from PC-03-11 that remain applicable and should be continued (as of the time of this decision):</i></p> <p>Condition 1. Obtain necessary approvals from the Oregon Department of Environmental Quality for landfill operations on this site.</p>	<p>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.</p>
<p>Condition 3. The applicant or lease-holding operator shall ensure that the landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.</p>	<p>Staff Comment. County monitoring of this condition is complaint-based.</p>
<p>Condition 9. Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.</p>	<p>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</p>
<p>Condition 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.</p>	<p>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</p>
<p>Land Use Document #22 2013 LU-13-061 <i>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.</i></p>	
<p>Conditions of Approval from prior approvals that remain in effect (as of the time of this decision):</p> <p>Condition 1. Obtain necessary approvals from the Oregon Department of Environmental Quality for Landfill operations on this site.</p>	<p>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.</p>
<p>Condition 3. The applicant or lease – holding operator shall ensure that the Landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.</p>	<p>Staff Comment. County monitoring of this condition is complaint-based.</p>
<p>Condition 9. Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.</p>	<p>Staff Comment. None</p>
<p>Condition 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.</p>	<p>Staff Comment. None</p>
<p>Land Use Document #23 2015 LU-15-001</p>	

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<i>Alteration of a nonconforming use to continue and enhance a stormwater treatment facility in the Exclusive Farm Use Zone, associated with Coffin Butte Landfill.</i>	
Condition 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.	Staff Comment. None Republic Comment. Republic constructed these facilities per the approved site plan, and as can verified by Google Earth.
Condition 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.	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.

TABLES OF LAND USE CONDITION ASSESSMENTS

GENERAL NOTES

Definitions Used in Compliance Assessment:

- **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:

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.

Open Item(s)

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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 ¹ 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 map2. Expanding Coffin Butte to service additional areas should require a re-review by the Planning Commission.		Consensus: Majority Opinion: Minority Opinion:	
Comments			
<u>Staff</u> 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.			
<u>Workgroup Committee</u> <ul style="list-style-type: none">• Unable to accept this assessment until additional research is complete.• Modified in 1983, but still relevant as to intent – not sure how to rank this...with every land use application there has consistently been discussion about how much Benton County residents did not want out-of-county waste being deposited into the landfill; I believe the meeting minutes reflect that the applicant stated that the landfill was just for Benton County• Republic: Republic Services acquired Coffin Butte Landfill in 2008. Certain records prior to that date may be incomplete. We agree that the changes to the County’s land use regulations and subsequent conditional use approvals mean that the analysis and the conditions in the 1974 decision are no longer relevant. Further, Republic Services³ 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.			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> Compliance Opinion: Not In Compliance Basis: RS 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 RS Republic annual report (add link to most recent report))			

¹ 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.

² 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). INCLUDE FIGURE IN APPENDIX "Y"

³ 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.

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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 ¹ and Sanitary Landfill expansion.	PC Approved PC Decision Appealed BOC Approved
Conditions of Approval		Current Status	
<p>Explanation: Further searches of County and RSRepublic files are needed to establish if or when this condition was superseded to authorize landfilling materials outside of the 1974 defined area. Benton County Code 25I dated 1983 authorizes acceptance of material from Sweet Home and Lebanon. Alternatives to finding historical authorization may include BOC and Planning Commission action to void limitations on the geographic area allowed to bring material to Coffin Butte. A relevant concept is the DEQ definition of “regional” landfill. It is based on tonnage received. It does not refer to a geographic area. It is based on tonnage processed. Additional searches for State statutes or regulations that prohibit counties from limiting the areas from which wastes can be received from is suggested.</p> <p>Notes:</p> <p>Support for 1977 geographical definition found in:</p> <ul style="list-style-type: none">◆ 1983 Code reference “BEFORE THE BOARD OF COMMISSIONERS FOR BENTON COUNTY, OREGON An Ordinance Amending the Benton County Comprehensive Plan and Specifically Amending the Public Facilities and Services and Environmental Quality Elements and Amending the Comprehensive Plan Map Ordinance 25I” Specific language to be inserted in the code under “Landfill and Solid Waste Policies” includes: “27. The Coffin Butte site shall have a landfill site designation and shall serve as a regional landfill servicing a geographical area including Linn, Polk, and Benton Counties.”◆ PC-83-07-C (3) PDF page 13 <p>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. <i>From</i> https://www.oregonlegislature.gov/bills_laws/ors/ors459.html> <i>per B Fuller to S Imperati email 110722</i></p> <ul style="list-style-type: none">• PLACE KEEPER: Add 2002 PC-02-07 geographic, regional landfill issue (Catherine) <p>Status of search for County business related documents mentioning geographic service area:</p> <ul style="list-style-type: none">◆ 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 / RSRepublic 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) <p>Open Item: Search DEQ permits for information allowing geographic areas to use CB Landfill.</p> <p><u>Republic Comments: 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.)</u></p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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Conditions of Approval		Current Status	
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			
<u>Staff</u> 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 <u>Workgroup Committee</u> <ul style="list-style-type: none">• The report was supposed to be annual, but this assessment only mentions one year. More information needed to confirm compliance.• I see annual reports dating back to 2005. Were there annual reports submitted before then?• Replaced by DSAC in 1983, but still relevant as to intent; if DSAC had been regularly informed of non-compliance with conditions of approval, perhaps the landfill would have been more compliant <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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 nor 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 <u>Republic Comment: This condition was superseded by subsequent decisions that did not carry it forward.</u>			
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			
<u>Staff</u> 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.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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1974	CP-74-01	Designating Coffin Butte Landfill as a regional sanitary landfill site as recommended in the Chemeketa Regional Solid Waste Program Report ¹ and Sanitary Landfill expansion.	PC Approved PC Decision Appealed BOC Approved
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<u>Workgroup Committee</u> <ul style="list-style-type: none">Disagree strongly with staff: “efficient leachate collection and treatment” is extremely relevant, a continuing problem, and in fact domestic wells have been contaminated, which should be noted in the “common understandings” document. Contamination of domestic wells has been a continuing concern of owners of parcels adjacent to the landfill, for good reason (see 1993 Coffin Butte Annual Report, the Helms Well, page 4). Current leachate treatment is impossible onsite, as promised in the most recent CUP (2003), it is certainly possible to argue that the intent of this provision was not to have landfill leachate treatment burden public facilities (the Corvallis water treatment facility is so overburdened by leachate that 15 million gallons/year +/- are trucked to a Salem facility). Let’s have the discussion about whether it is “efficient” to import waste into 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. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>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).</p> <p>Compliance Opinion: Compliance Not Demonstrated</p> <p>Basis: A review of DEQ and RSI<u>Republic</u> records is needed. Evidence that “Efficient leachate collection and treatment...” is occurring is needed.</p> <p>Explanation: It is understood from RSI<u>Republic</u> 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<u>Republic</u> is in compliance.</p> <p>Notes: The landfill generates about 25 million to 32 million gallons per year of leachate to be trucked off site to city treatment facilities. This volume equates to approximately twenty trucks per day traveling to Corvallis or Salem. Concerns include the impacts on county roads, road traffic, road safety and the Willamette River. Many of the toxic pollutants contained in leachate simply pass through the treatment plant with very little or no pollutant removal and end up in the Willamette River (PFAS, heavy metals, pesticides, pharmaceuticals, personal care products (PCP)). The Willamette River is a key recreation asset (boating, fishing, swimming, etc.) for residents of Benton County, and a source of drinking water supply for downstream residents, e.g., Adair Village.</p> <p>Open Items: Staff’s comments on the applicability of “later conditions for run-off” to leachate need clarification. Caution to readers, “Leachate” is not the same as “runoff”. [Note OUT OF BCTT CHARGE: A review treatment system performance records would be prudent.] prudent<u>prude</u></p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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<u>Republic Comment: 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.</u>			
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			
<u>Staff</u>			
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.			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none">Disagree strongly with staff. “Temporary” cover of tarp-covered closed landfill cells sitting “temporarily” for a generation is clearly not the intent of this provision. Meeting minutes and applicant statements provide clarification as to the intent of this provision. This provision additionally requires “visual reclamation” of an area which has been so deformed by an accumulation of 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.			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
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:			
<ul style="list-style-type: none">“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?			

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<ul style="list-style-type: none">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. <p><u>Republic Comment: 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.</u></p> <p>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</p> <p>Open Item(s): DEQ records concerning the landfill need to be reviewed.</p>			
5. That by July 1, 1976, a plan including detailed elements on design, location, management, and financing of a solid waste resource recovery system be prepared and submitted to the Planning Commission for further consideration. Until such a plan is completed, the conditional use approval shall be limited to only the sanitary landfill method of waste disposal.		Consensus: Majority Opinion: Minority Opinion:	
Comments			
Staff			
Complete, 1977 Waste Control Systems, Inc. Solid Waste Management Plan			
Workgroup Committee			
<ul style="list-style-type: none">Needs detail, & relevant as to intent: This plan said that the landfill would close by the year 2000 and be replaced by a waste-to-energy facility. Approval of a landfill in 1974 was not a “forever landfill” – it was a bridge to a different way of dealing with solid waste. It is important to note that, in order to not repeat prior mistakes			
Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager			
Compliance Opinion: In Compliance			
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 full 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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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<u>Staff</u> 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.			
<u>Workgroup Committee</u> <ul style="list-style-type: none">• DEQ approval of a reclamation plan does not supersede county conditions of approval. No part of the landfill has yet been restored to grazing, farming, or even natural alternatives such as native prairie vegetation.• Disagree strongly with staff. Land use is land use, and is a County regulation. Unless specifically referred to in the land use language, DEQ has parallel, authority, not overriding authority. Land use policies deal with compatibility issues (i.e. generation of odors/dust); DEQ policies deal with environmental quality. Those are different regulatory bodies and one saying “this is OK” does not negate the authority of the other (Unless that is specified within the regulation itself, which in this case it is not)			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
Compliance Opinions: <ul style="list-style-type: none">A Physical Design Requirements: In ComplianceB Reclamation & Visual Requirements: Compliance Status Unclear			
A Compliance Opinion for “small acreage” condition: In Compliance.			
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:			
<ul style="list-style-type: none">• RSIRepublic 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.			
<ul style="list-style-type: none">• 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 are in temporary cover/closure. Final closure/capping under this scenario would occur when these uppermost			

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<p>cells are full or waste sequencing for an area is completed. This also allows for multiple cells to share leachate and gas collection and control systems. Approval could be considered granted via DEQ approval of the Site Development Plan and through the further refined final engineered closure plans.</p> <p>CFR 258.2 Definitions 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.</p> <p>Open Items: A pathway to achieve the County’s expectations of what closure of the landfill will look like is needed.</p> <p><u>Republic Comment: Republic agree 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.</u></p>			
7. That efforts be made to encourage voluntary separation of recoverable materials such as tin, aluminum, paper, glass, etc. to reduce the amount of landfill materials.		Consensus: Majority Opinion: Minority Opinion:	
Comments			
<u>Staff</u> The applicant has and is fulfilling this condition.			
<u>Workgroup Committee</u> <ul style="list-style-type: none">Some efforts have been made but they have been largely ineffective. Benton County's ratio of recycling to landfilling has not improved appreciably since the 1970s.Presumably the intent of this provision was to have recycling efforts contribute to increasing the life of the landfill. Currently, Benton County could go to zero waste tomorrow, and presumably, the landfill would still take in the maximum volume cap within a short time, because of the new owner’s vertical integration. This should be noted in the Common Understandings document.			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
Compliance Opinion: Compliance Status Unclear			
Explanation: RS 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 RS Republic draws material from.			

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<u>Republic Comment: 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.</u>			

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	L-83-07	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)).	
Conditions of Approval		Current Status	
1. Cross reference the narrative and the map in both documents.		Consensus:	
*CLARIFICATION ON CONTENT NEEDED. SEE SUBCOMMITTEE COMMENTS		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			
<ul style="list-style-type: none">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 of 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 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)			

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Conditions of Approval		Current Status	
<p>“Reclamation of the: landfill in the manner described will be compatible with the existing predominant open space and resource lands characteristics of the adjacent and surrounding lands and the current uses of these lands, and will be consistent with the expected future use of these lands as indicated by the existing farm and forest land use designations.”</p> <p>Reclamation From pdf file page 18 (original document page 8): ... “Reclamation of the landfill in the manner proposed will be compatible with the predominately open space and resource lands characteristics of the adjacent and surrounding lands and the current uses of these lands, and will be consistent with the expected future use of these lands as indicated by the current farm and forest land use designations. Based on the need to provide facilities for waste disposal, the lack of any other existing or planned disposal sites within this area, the environmental, economic, social and energy benefits from maintaining the 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.”</p> <p>Reclamation From pdf file page 16 (original document page 6): “The long- term environmental consequences of this proposal to the region served by the landfill will be to have a recognized site for waste disposal operating under a D.E.Q.- approved development plan and meeting D.E.Q. standards.”</p> <p style="text-align: center;">End of quotations</p> <p>Compliance Opinions: A Physical Design & Geotechnical Requirements: Compliance Status Unclear B Reclamation Requirements: Compliance Status Unclear (Not triggered see CP-74-01 (6))</p> <p>Compliance Opinion(s): A Compliance Opinion for Physical Design & Geotechnical Requirements: County Requirements Superseded 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.</p> <p>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</p> <p><u>Republic Comments: Republic agrees with Staff. The 1983 Narrative is no longer relevant to the current operation given the subsequent CUP approvals have changed the operation.</u></p>			
2. Expand the narrative statement, section (1.a.ii), on reclamation to include the physical configuration of the completed landfill areas and method of maintenance of the proposed pasture uses. Include a statement regarding the effects of methane and internal heat		Consensus: Majority Opinion: Minority Opinion:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
generation on the long-term maintenance of the pasture, and include irrigation plans if proposed.			
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 Committee</u> <ul style="list-style-type: none">impossible to assess with missing narrativeWe 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.			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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: “Methane Statement” From pdf file pages 5 (original document page 3) “The completed disposal areas will be covered by a minimum eight-inch 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			
<u>Republic Comment: Republic agrees with staff. The 1983 narrative is no longer relevant to the operation given subsequent approvals and changes over time.</u>			

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Conditions of Approval		Current Status	
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 <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 Committee</u> <ul style="list-style-type: none">For this and other statements regarding "updates of the narrative, the Solid Waste working group has not been supplied with sufficient information to evaluate compliance. This same comment applies to all entries below. We are being asked to opine on these things without adequate information. I suggest that we should not be giving a rubber stamp of approval to statements that we have not actually had opportunity to examine fully -- it's both meaningless and likely to be abused in future CUP applications.impossible to assess with missing narrative <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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			

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Conditions of Approval		Current Status	
<p>outside slope of 3/ 1. The depth of the key is three feet. The berm is composed of low permeability materials from on- site sources. The berm has been hydroseeded and will be grazed.</p> <p>Screening plants will consist of trees from the tree farm owned by Valley Landfills on their land south of Coffin Butte Road. Initial height of the plantings will range from 6 - 10 feet. Additional plantings can be made on the terraces to screen disposal operations on the slopes, as needed. The plantings will receive ongoing maintenance by the landfill operators.”</p> <p>Explanation: None</p> <p>Notes: 1983 site plan drawing was not provided in the County documentation.</p> <p>Open Item(s): None</p> <p><u>Republic Comments: The landfill site has changed substantially since 1983, so it likely impossible to determine what was done or not done in 1983.</u></p>			
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			
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 Comments			
<ul style="list-style-type: none">For this and other statements regarding "updates of the narrative, the Solid Waste working group has not been supplied with sufficient information to evaluate compliance. This same comment applies to all entries below. We are being asked to opine on these things without adequate information. I suggest that we should not be giving a rubber stamp of approval to statements that we have not actually had opportunity to examine fully -- it's both meaningless and likely to be abused in future CUP applications.impossible to assess with missing narrative			
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			
<u>Republic Comment: 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.</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1983	PC-83-07	Amendments to the Benton County Comprehensive Plan and Plan Map (Ordinance 251), and amendments to the Zoning Ordinance and Zoning Map (Ordinance 261).	BOC Approved.
	L-83-07	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)).	
Conditions of Approval		Current Status	
Basis: Analysis was provided and is still being performed on leachate sent offsite for disposal. Per RS Republic, leachate use for onsite irrigation ceased many years ago.			
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			
<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 Committee</u> <ul style="list-style-type: none">For this and other statements regarding "updates of the narrative, the Solid Waste working group has not been supplied with sufficient information to evaluate compliance. This same comment applies to all entries below. We are being asked to opine on these things without adequate information. I suggest that we should not be giving a rubber stamp of approval to statements that we have not actually had opportunity to examine fully -- it's both meaningless and likely to be abused in future CUP applications.impossible to assess with missing narrative, where are the 10 acres proposed for addition? need drawings			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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			
<u>Republic Comment: Republic Agrees with staff for some of the reasons stated above.</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1983	PC-83-07	Amendments to the Benton County Comprehensive Plan and Plan Map (Ordinance 251), and amendments to the Zoning Ordinance and Zoning Map (Ordinance 261).	BOC Approved.
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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 <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 Committee</u> <ul style="list-style-type: none">For this and other statements regarding "updates of the narrative, the Solid Waste working group has not been supplied with sufficient information to evaluate compliance. This same comment applies to all entries below. We are being asked to opine on these things without adequate information. I suggest that we should not be giving a rubber stamp of approval to statements that we have not actually had opportunity to examine fully -- it's both meaningless and likely to be abused in future CUP applications.impossible to assess with missing reclamation plans (which would probably be in the form of drawings, not “narrative”) <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. <u>Republic Comment: Republic agrees with Staff.</u>			
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 <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 Committee</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1983	PC-83-07 L-83-07	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)).	BOC Approved.
Conditions of Approval		Current Status	
<ul style="list-style-type: none">For this and other statements regarding "updates of the narrative, the Solid Waste working group has not been supplied with sufficient information to evaluate compliance. This same comment applies to all entries below. We are being asked to opine on these things without adequate information. I suggest that we should not be giving a rubber stamp of approval to statements that we have not actually had opportunity to examine fully -- it's both meaningless and likely to be abused in future CUP applications.Impossible to assess with missing pond protection plans (note: presumably not in compliance since the small ponds currently appear to be buried below a large pile of waste) <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Compliance Status Unclear</p> <p>Basis:</p> <p>Notes:</p> <p>From pages 6-8 (REFERENCE?)</p> <p>“The small ponds will remain as at present for the next ten years. At the end of this period the use of the ponds and surroundings will be reevaluated and, if anything is to be done, state of the art engineering practices will be employed in conformance with the standards in effect at that time. A modified site development plan will be submitted for County review when appropriate.”</p> <p>Explanation: Pond location unclear.</p> <p>Notes: None</p> <p>Open Item(s): Address DEQ primacy question</p> <p><u>Republic Comment: Republic agrees with staff.</u></p>			
8. The current DEQ operational permit will expire on January 31, 1984. Valley Landfills, Inc. has been requested to submit an updated, long-term leachate control plan as part of the permit renewal process. This plan must contain provisions for a leachate storage facility so leachate irrigation will not occur on pasture lands from November 1 through May 1 of each year. The control plan must also provide for a soil study that designates present and future leachate irrigation areas. This plan must show that the amount of irrigation area available is compatible with future leachate generation volumes so metal or nutrient accumulations in the soils will remain fat below any toxicity levels.		Consensus: Majority Opinion: Minority Opinion:	
Comments			
<u>Staff</u> 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.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	L-83-07	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)).	
Conditions of Approval		Current Status	
<p>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.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">• DEQ does not monitor soil toxicity• request has been made of Brian fuller, DEQ to find out if DEQ monitors soil toxicity• there has never been a cup submitted to Benton County that included off-haul of all leachate generated at the landfill for treatment at municipal facilities & release into the Willamette. all cup's (1974/1983/2003) where documentation is available have contained, in the application, assertions that all leachate would be treated on-site.• This statement is not adequate to confirm that these conditions were met, or that they were fully evaluated by DEQ. Certainly, in the case of "irrigation area," any such plan did not work and as a result the leachate is being hauled to wastewater treatment plants rather than being irrigated. It would be more accurate to characterize this as a failure of design that led to non-compliance, which required alternative methods to maintain DEQ permitting.• Republic: Republic Services maintains an active solid waste permit with the Oregon Department of Environmental Quality and is in compliance with that permit. Further, leachate irrigation ceased in the late 1990s, as a result of new regulatory rules. All leachate is sent to a local wastewater treatment plant. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: The effort to absolve the County of any responsibility for ensuring proper management and treatment of leachate ignores the County's duty to ensure compatible land use in Benton County. Leachate generation is a by-product of approving the hosting a landfill in the County. Ignoring the fate of leachate generated by the landfill is akin to approving a residential subdivision without any consideration of how and where the sewage generated is safely disposed.</p> <p>The fate of leachate generated by the landfill should not simply be ignored by the County and delegated to DEQ. Trucking of leachate to Corvallis' sewage treatment plant does not result in effective treatment or insure against pollution of nearby waterways. Many of the toxic pollutants contained in leachate (PFAS, heavy metals, pharmaceuticals, personal care products, etc.) simply pass through the treatment plant with very little or no pollutant removal and end up in the Willamette River. The Willamette River is a key recreation asset (boating, fishing, swimming, etc.) for residents of Benton County, and a source of drinking water supply for downstream residents e.g., Adair Village</p> <p>Compliance Opinion: County Requirement Superseded (Specific requirement no Longer Relevant)</p> <p>Basis: Leachate storage exists on site for holding leachate prior to trucking to off-site locations. No leachate is currently being land applied on landfill properties. No soil study needed</p> <p>Note: Leachate processing at a wastewater treatment facility may not be an appropriate or effective treatment for leachate and subcommittee recommends further evaluation</p> <p>Open Item(s): Management and effectiveness of current leachate transfer/treatment at city treatment works.</p> <p><u>Republic Comments: 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.</u></p>			
9. As the site expands eastward, additional monitoring wells will be required. Depending on DEQ budget limitations, the permittee may have to share in the responsibility for sampling and monitoring of these wells.		Consensus: Majority Opinion: Minority Opinion:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
Comments <u>Staff</u> 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. <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services has added additional monitoring wells as required and continues to be in compliance with its DEQ permits.• As above, there should be a check of whether DEQ has actually evaluated this. Just because DEQ approved a permit does not necessarily mean that this condition was met.• domestic wells have been contaminated. current subchapter part “d” dual landfill liners have been required since 1993. this technology is less than 30 years old, and may have to continue to perform for hundreds of years, during which time the liner can become brittle. the EPA has concluded that all landfills will eventually leak "no liner ... can keep all liquids out of the ground for all time. eventually liners will either degrade, tear, or crack and will allow liquids to migrate out of the unit. some have argued that liners are devices that provide a perpetual seal against any migration from a waste management unit. EPA has concluded that the more reasonable assumption, based on what is known about the pressures placed on liners over time, is that any liner will begin to leak eventually. "citation: EPA, 1988• is any leachate collected in the secondary collection system? if so, the liner is already leaking <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. <u>Republic Comment: Republic agrees with Staff. Monitoring wells are within the jurisdiction of DEQ. The County can exercise no oversight of DEQ’s responsibilities. Republic has a DEQ approved Environmental Monitoring Plan that includes a map of all monitoring wells.</u>			
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 <u>Staff</u> 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. <u>Workgroup Committee</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	L-83-07	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)).	
Conditions of Approval		Current Status	
<ul style="list-style-type: none">• Republic: Republic Services’ records are incomplete, as this amendment is nearly 40 years old, and the company was neither the owner, nor the operator of the landfill at that time. However, Republic Services has planted trees to screen the landfill from Highway 99. Based on the age of the condition and the changing site conditions over the past four decades, Republic disagrees with the conclusion that this condition has not been completed.• not in compliance document not included letter from the Oregon justice department regarding screening requirement per the 1967 highway beautification act• There should be a more clear statement that the applicant is not in compliance with this requirement. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Mark Yeager: The revised narrative submitted by the applicant is very detailed. None of the requirements have been completed or maintained. The County has not taken any enforcement action to ensure that these requirements be met.</p> <p>Compliance Opinion: Not In Compliance</p> <p>Basis: Personal observations</p> <p><u>Republic Services: 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.)</u></p>			
11. Daily cover of refuse with earth is not possible at this site due to the clay soils. The current (and future) permit addresses requiring daily compaction of refuse and require exposed refuse areas to not exceed 2 acres during the periods of October 15 to June 1 and to not exceed ¼ of an acre during all other periods. This shall be adhered to.		Consensus: Majority Opinion: Minority Opinion:	
Comments			
<u>Staff</u> The landfill uses an alternative daily cover approved by DEQ, which includes Covanta Ash material. The landfill also uses temporary cover.			
<u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services generally agrees with this assessment but would like the record to reflect that we do use site soils as daily cover, in addition to alternative daily covers.• land use requirement not addressed by staff: this is a land use requirement; DEQ is not mentioned, and does not have override authority need more information: does the area of open fill exceed ¼ of an acre from June 2 through October 14? what is it now? does the area of open fill exceed 2 acres during the periods of October 15 through June 1?• The statement here does not address whether exposed refuse areas have been limited to the acreages stated. There should be a more clear statement of whether this has been complied with, and whether the county has done any monitoring.			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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 with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
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Conditions of Approval		Current Status	
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. <u>Republic Comments: 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 not longer relevant because DEQ now requires the landfill to fully cover the waste each day with soil or approved alternative daily cover.</u>			
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 <u>Staff</u> Overseen by DEQ. This condition is no longer be applicable. <u>Workgroup Committee</u> • Republic: This condition was put in place prior to today’s highly-engineered <u>highly engineered</u> 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. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> Compliance Opinion: Compliance Status Unclear <u>Republic Comment: Republic complies the current DEQ requirements for leachate management.</u> 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.			
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:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
Comments <u>Staff</u> This is an advisory to the applicant rather than a condition that needed to be met. <u>Workgroup Committee</u> <ul style="list-style-type: none">• s mentioned therefore it is appropriate to refer to DEQ compliance, although if the LUCS is not current, the permit may not be valid <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> Compliance Opinion: Compliance Status Unclear Basis: Compliance not demonstrated. Need DEQ solid waste permits from period 1983 to 2000. (Note: Make sure dates in DEQ request) <u>Republic Comment: This condition is no longer relevant. There have been multiple iterations of subsequent DEQ permits since 1983.</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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 <u>Staff</u> Superseded by subsequent expansion approval. Original generator building 3,900 square feet <u>Workgroup Committee</u> <ul style="list-style-type: none">missing information: application materialsThis 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?) <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> Compliance Opinion: None given as of 12/11/22 Basis: Low Priority <u>Republic Comments: Republic agrees with staff.</u>			
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 <u>Staff</u> Noise testing completed in 1997. <u>Workgroup Committee</u> <ul style="list-style-type: none">noise is an issue at the landfill and 1997 was a long time ago -- ensure the facility is still in compliance; verify that noise standards have not been updatedWas there ever a follow-up study after the facility was expanded? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
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.			
Republic Comments: 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			
Staff			
Noise testing completed in 1997. Available records do not indicate any such requests by the Planning Official.			
Workgroup Committee			
<ul style="list-style-type: none">• Republic: Republic Services agrees with the County's assessment. Our available records do not indicate any such requests by the Planning Department.• County has not monitored.• noise is an issue at the landfill: ask the applicant to demonstrate that the facility is in compliance			
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.			
Republic Comment: 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			
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.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
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Conditions of Approval		Current Status	
<u>Workgroup Committee</u> <ul style="list-style-type: none">when was the most recent LUCS on file at DEQ completed? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>Compliance Opinion: Compliance Not Demonstrated</p> <p>Basis: No record of required action provided.</p> <u>Republic Comment: This condition was imposed on the power plant.</u>			
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 <u>Staff</u> <p>A new CUP was submitted and approved to expand the size of the facility.</p> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>Compliance Opinion: Compliance Not Demonstrated</p> <p>Basis: No record of required compliance with noise levels provided.</p> <p>Note: need to add CUP document reference as notated above in staff comment</p>			
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 <u>Staff</u> <p>Monitoring of this condition is complaint driven. Staff has no records of complaints regarding lights at the landfill.</p> <u>Workgroup Committee</u> <ul style="list-style-type: none">County has not monitoredNot enough information to determine if this condition is met.staff comment is non-responsive; check the facility at night			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<ul style="list-style-type: none">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.			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
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>Republic Comments: 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.”</u>			
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 finalized [Electrical - C9500565, C9501197, C9600514, C9600852]			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none">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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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	
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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			
<u>Staff</u> The expansion added 4,300 square feet to the original building. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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			
<u>Staff</u> Zoning compliance reviewed completed along with building permits – completed [Permit B0700147 Phase I expansion & Permits B0700323, B0700416, B0700415, F0600068, B1400497] <u>Workgroup Committee</u> <ul style="list-style-type: none">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			
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:

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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			
<u>Staff</u>			
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.			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none">• And were complaints received? Not enough information to determine if this condition was met.• County has not monitored subsequent• Is this document available to the public?• noise is an issue at the landfill; ensure the facility is still in compliance; verify that noise standards have not been updated			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
MARK YEAGER: Can the County describe the system for documenting, responding to, and resolving complaints received? To ensure land use compatibility, compliance with noise requirements cannot be a snapshot in time. Periodic testing and monitoring to ensure continued compliance is required and the County does not monitor or enforce land use (e.g., noise impacts) requirements. A complaint driven system of enforcement is unsatisfactory, particularly when Benton County residents are unaware of specific requirements and certainly rely on Benton County staff to monitor and enforce land use requirements.			
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>Republic Comments: The Power Plant was in compliance at the time of approval and there have been no complaints since.</u>			
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>			
<ul style="list-style-type: none">• Republic: Republic Services agrees with the County’s assessment. Our available records do not indicate any such requests by the Planning Department.• County has not monitored• noise is an issue at the landfill; ensure the facility is still in compliance			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<div>• Not enough information</div> <div>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</div> <div>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.</div> <div>Compliance Opinion: Compliance Status Unclear</div> <div>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.</div> <div>Republic Comments: 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.</div>			
5. The applicant shall continue to provide sanitation facilities for the generation plant employees that are located on site. The facilities shall include: <div>a) Drinking water within the generating plant building by a potable water container, refilled periodically;</div> <div>b) A portable toilet located at the generating plant site;</div> <div>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;</div> <div>d) Generating plant employees shall have vehicles available for trips to the Coffin Butte Landfill office restroom facilities;</div> <div>e) The maximum number of generating plant employees shall be five (5).</div>		<div>Consensus:</div> <div>Majority Opinion:</div> <div>Minority Opinion:</div>	
Comments <div>Staff</div> <div>OSHA letter from September 29, 1997 included relating to the toilet facilities and drinking water being compliant with OSHA standards for sanitation.</div> <div>Workgroup Committee</div> <div>• 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?</div> <div>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</div> <div>Compliance Opinion: None given as of 12/11/22</div> <div>Basis: Low Priority</div>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
6. The application 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 <u>Staff</u> This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit. <u>Workgroup Committee</u> when was the most recent LUCS on file at DEQ completed? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> Compliance Opinion: Compliance Not Demonstrated Basis: No record of required actions provided- <u>Republic Comment: This is a responsibility of the power plant.</u>			
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 <u>Staff</u> Monitoring of this condition is complaint driven. There are no records of any complaints. <u>Workgroup Committee</u> <ul style="list-style-type: none">• check the facility at night• County has not monitored• Not enough information <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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 with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
Compliance Opinion: Compliance Not Demonstrated			
Basis: No record of addressing compliance with lighting complaints provided.			
Republic Comments: If there is not 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			
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:		Consensus: Majority Opinion: Minority Opinion:	
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.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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 <u>Staff</u> Additional research needed, compliance with this condition is not confirmed. <u>Workgroup Committee</u> <ul style="list-style-type: none">• 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>Republic Services: This condition was imposed on expansion of the power plant, not on the landfill. We note that the landfill maintains n 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.</u>			
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:	
Comments <u>Staff</u> Completed for Phase 1. Phase 2 of the expansion has not been utilized by the applicant. <u>Workgroup Committee</u> <ul style="list-style-type: none">• CO for Phase 1? CO for Phase 2?• Republic Services’ records do not show any non-compliance issues with Phase II. While the owner/operator of Coffin Butte Landfill was the applicant for this CUP request, primary responsibility for compliance would have been with Pacific Northwest Generating Cooperative, an independent third-party contractor and not a Republic Services’ subsidiary.• What about Phase 2?			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
Compliance Opinion: No compliance opinion			
Basis: Low priority			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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			
<u>Staff</u> This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit. <u>Workgroup Committee</u> <ul style="list-style-type: none">extraction believed to be completed, see next permit request, staff should verify. is there a CUP closeout process at Benton County CDD? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. <u>Republic Comment: 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.</u>			
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			
<u>Staff</u> Public roads serving primarily quarry traffic are paved. Complete. <u>Workgroup Committee</u> <ul style="list-style-type: none">extraction believed to be completed, see next permit request, staff should verify. is there a CUP closeout process at Benton County CDD?			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<ul style="list-style-type: none">Is there no equivalent condition about dropping rocks which create road hazards on the highway? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: This is a classic example of an unenforceable condition of approval – who or how will the “primary cause” of traffic be determined? Then the requirement that the applicant or quarry lease holder “endeavor” to use only roads designed for truck traffic, what does that mean? A meaningless condition that does not have any chance of being enforced. Issuing a land use approval to a property owner binds the property owner and that obligation cannot be transferred to the lease holder.</p> <p>Compliance Status Unclear. No record of required action provided.</p> <p><u>Republic Comment. 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.</u></p>			
3. The applicant or lease-holding operator shall provide screening to partially obscure the mining site from view by adjoining occupied property and public roads in Soap Creek Valley and north Benton County to the extent reasonable and practicable to do 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 <u>Staff</u> Staff will need to field verify but it appears through comments that the applicant is not in compliance with this condition. <u>Workgroup Committee</u> <ul style="list-style-type: none">Republic: Republic Services did not own Coffin Butte Landfill at this time. Therefore, we do not have detailed records about any screening that was done. While the owner/operator of Coffin Butte Landfill was the applicant for this CUP request, primary responsibility for compliance with these and other requirement would have been the third-party quarry contractor. It appears from Google Earth historical photos that the third-party contractor did make an attempt to construct some berms and screening, but Republic Services do not have access to those records.extraction believed to be completed, see next permit request, staff should verify. is there a CUP closeout process at Benton County CDD?Not in compliance. The quarry is visible for miles around. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Further, making an attempt to provide screening is not compliance. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless.</p> <p>Compliance Status Unclear. Field verification needed.</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
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 <u>notwithstanding</u> 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 <u>Staff</u> 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. <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD? <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. No record of required action provided. <u>Republic Comment: 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.</u>			
5. Provide on-site parking for employees, customers, and visitors to the mining site.		Consensus: Majority Opinion: Minority Opinion:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<div>Comments</div> <div><div>Staff</div><div>Additional Research Needed</div><div>Workgroup Committee</div><div><div><div>• 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.</div><div>• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?</div><div>• In compliance</div></div><div>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</div><div>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.</div><div>Condition No. 5</div><div>No Compliance Opinion</div></div></div>			
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.		<div>Consensus:</div> <div>Majority Opinion:</div> <div>Minority Opinion:</div>	
<div>Comments</div> <div><div>Staff</div><div>Additional Research Needed</div><div>Workgroup Committee</div><div><div><div>• 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.</div><div>• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?</div><div>• In compliance</div></div><div>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</div><div>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.</div><div>No Compliance Opinion</div></div></div>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
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			
<u>Staff</u> Additional Research Needed <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?• The provision for screening has not been met, as noted above. <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. 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			
<u>Staff</u> Additional Research Needed <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?• 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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<p>Mountain Landfill. That landfill only serves commercial account holders, yet they seem to be able to restrict those haulers to their stated operating hours (7 AM to 5 PM weekdays and Saturdays). Seems like there's a lesson for Benton County our working group in there.</p> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless.</p> <p>Limiting “quarry operations” to 7:00 am to 5:00 pm creates a potential conflict with prior condition #4. <u>[Republic comment – Condition 4 applies to blasting; this condition applies to all operations.]</u></p> <p>In Compliance: Periodic County inspections are suggested to address resident concerns.</p>			
9. The applicant shall retain the dual-access road system to provide for emergency service access to the subject site.		Consensus: Majority Opinion: Minority Opinion:	
Comments			
<u>Staff</u> Additional Research Needed <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?• 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). <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless.</p> <p>Compliance Status Unclear</p>			
10. The quarrying activity shall be limited to the 600-foot contour elevation and below, as shown by the applicant on Attachment 2 to the application.		Consensus: Majority Opinion: Minority Opinion:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
Comments			
<u>Staff</u>			
Additional Research Needed			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none">Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?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.			
PLACEKEEPER: NEED TO CONFIRM ELEVATIONS CB Republic Comment: 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			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none">Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?This explanation of status cannot be accepted until the topic has been researched.			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless.			
Compliance Status Unclear. County records need to be reviewed			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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			
<u>Staff</u> Additional Research Needed <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?• This explanation of status cannot be accepted until the topic has been researched. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless. Compliance Status Unclear. County records need to be reviewed.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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 <u>Staff</u> This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit. <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services has obtained all the necessary approvals and permits from the Oregon Department of Environmental Quality and remains in compliance with these conditions and approvals.• does the most recent LUCS on file with DEQ predate• this cup application? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. <u>Republic comment: 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.</u>			
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 <u>Staff</u> No longer applicable. Coffin Butte Road is entirely paved. The county considers this condition to be completed. <u>Workgroup Committee</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<ul style="list-style-type: none">See previous comment on this issue re: Robison Rd. and Wiles Rd.The public section of Coffin Butte Road is entirely paved.there continue to be unpaved public roads in the vicinity of the landfill. does the landfill contribute to traffic on those roads? if so, how much? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: This is a classic example of an unenforceable condition of approval – who or how will the “primary cause” of traffic be determined? Many roads in the vicinity of the landfill are unpaved and are likely to receive traffic headed to the landfill.</p> <p>No Compliance Opinion</p> <p><u>Republic Services: This condition is moot. There are no unpaved public roads serving the landfill; this condition is not applicable.</u></p>			
3. The applicant or lease-holding operator shall ensure that the landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>County monitoring of this condition is complaint-based.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">noise is an issue at the landfill; ensure the facility is still in complianceNot enough information.Not monitored by the county. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: How and when does the County ensure that the maximum sound level has not been exceeded. Since this is another example of complaint-based enforcement, what system is in place to document, respond to, and resolve noise related complaints? The landowner cannot delegate regulatory compliance or accountability with these types of requirements to a lease-holding operator.</p> <p>Compliance Not Demonstrated. No evidence of County process to capture / respond to action provided.</p> <p><u>Republic Comment: There is no evidence that Republic is not in compliance.</u></p>			
4. Provide on-site parking for employees, customers, and visitors to the landfill site.		Consensus: Majority Opinion: Minority Opinion:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
Comments			
<u>Staff</u>			
Completed.			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none">truck traffic to the landfill begins backing up HWY 99 beginning before 4:30am; ensure that traffic to the landfill does not pose a safety hazard			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
No compliance opinion			
<u>Republic comment: Republic has multiple parking spots at its office and scale house.</u>			
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			
<u>Staff</u>			
Security fence is present			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none">check fence perimeter to ensure fencing is intact and surrounds the entire perimeter; from a casual inspection, it appears deferred maintenance may be in order			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
No Compliance Opinion			
<u>Republic comment: The subject property is more than 200 feet from any public road.</u>			
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:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
Comments			
<u>Staff</u>			
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.			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none">• Republic: Republic Services is in compliance with this requirement, which governs landfill operations. However, it's important to note that internal operations, which include the arrival of field personnel on-site, begins at 4:30 a.m., Monday through Friday, and at 7:30 a.m. on Saturday. Additional operations not governed by the conditional use permit include work by third party contractors on landfill infrastructure, and commercial customers, who have 24-hour access to the Landfill.• "Operating hours" seem to be where there is most reluctance to make a clear statement that the landfill is out of compliance. Three or four special kinds of "operations" are mentioned that take place outside of the operating hours that were stated as conditions for the permits. On this last issue, for comparison I took a look at Lane County's Short Mountain Landfill. That landfill only serves commercial account holders, yet they seem to be able to restrict those haulers to their stated operating hours (7 AM to 5 PM weekdays and Saturdays). Seems like there's a lesson for Benton County our working group in there.• How does 24 hour access work with compliance to noise complaints?• Not in compliance• Not in compliance. See previous note regarding operating hours.			
<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			
Note: Condition is written poorly and would be improved with better clarification on Hours of Operation			
<u>Republic comment: 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.</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
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 <u>Staff</u> Complete <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services is in compliance with this requirement and has made a dual-access road system. Access is available via Highway 99 and Tampico Road.• good candidate for Chapter 77 review• This explanation of status cannot be accepted until the topic has been researched. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion <u>Republic Comment: Republic agrees with staff.</u>			
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 <u>Staff</u> The applicant indicates they are in compliance with this condition. <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services is in compliance and operating within the 600-foot contour elevation as specified in the Site Development Plan.• applicant should provide lidar, coordinate & verify with county GIS• Not in compliance. The south face of Coffin Butte is scarred/eroded by excavations above the landfill up to approximately 675 ft elevation, per GoogleEarth images dated 8/13/2020 <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> MARK YEAGER: Compliance Not Demonstrated. Did the staff do any independent verification that the landfill is operating within the 600-foot contour? Compliance Opinion: Compliance Status Unclear			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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 Comment: Republic is in compliance with 600 foot limit; the condition does not apply to parts of the landfill outside of the 1.43 acrea.			
PLACEKEEPER: NEED TO CONFIRM ELEVATIONS CB Check USGS Topo Map, Benton County GIS			
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 <u>Staff</u> The county regularly receives copies. Appendix I https://www.co.benton.or.us/cd/page/materials-management-document-library <u>Workgroup Committee</u> <ul style="list-style-type: none">• 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 “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 <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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>Republic comment: 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.</u>			
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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<u>Staff</u> The county regularly receives copies. https://www.co.benton.or.us/cd/page/materials-management-document-library			
<u>Workgroup Committee</u> <ul style="list-style-type: none">• Are these available for inspection, and if so, where?• see CUP LU-15-001 the area zoned LS is inadequate to fully contain landfill operations and as a result ancillary landfill operations spill out onto properties not zoned for landfill operations (forest conservation/exclusive farm use/rural residential). this is why the landfill has had so many applications for non-by-right land uses over the past 50 years. this is a question that should be addressed holistically, not piecemeal. once landfill operations begin to be allowed on non-landfill parcels, those non-landfill parcels, over time, become indistinguishable from landfill parcels. this incrementally blights the neighborhood and should be addressed in a bcc code revamp			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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 <u>Republic comment: 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.</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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			
<u>Staff</u> 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.			
<u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services has obtained all the necessary approvals and permits from the Oregon Department of Environmental Quality and remains in compliance with these conditions and approvals.• when was the most recent LUCS on file at DEQ completed?			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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			
<u>Staff</u> No longer relevant.			
<u>Workgroup Committee</u> <ul style="list-style-type: none">• See previous notes re: Robison Rd. and Wiles Rd.• there continue to be unpaved public roads in the vicinity of the landfill. does the landfill contribute to traffic on those roads? if so, how much?			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> MARK YEAGER: Compliance Not Demonstrated. Same comment as before – who and how is “primary cause” defined and enforced?			
Compliance Opinion: Compliance Status Unclear.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<u>Republic Comment: Republic agrees with Staff. All county roads to and from the landfill are paved, so this condition is moot.</u>			
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			
<u>Staff</u> County monitoring of this condition is complaint-based. <u>Workgroup Committee</u> <ul style="list-style-type: none">County does not monitor.noise is an issue at the landfill; ensure the facility is still in compliance <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. <u>Republic Response. Republic is in compliance, there is no evidence of any formal complaints about noise levels.</u>			
4. Provide on-site parking for employees, customers, and visitors to the landfill site.		Consensus: Majority Opinion: Minority Opinion:	
Comments			
<u>Staff</u> Complied with. <u>Workgroup Committee</u> <ul style="list-style-type: none">truck traffic to the landfill begins backing up hwy 99 beginning before 4:30am; ensure that traffic to the landfill does not pose a safety hazard <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<u>Republic Comment: Queuing onto 99 happens rarely, usually doing big projects. Our gates don’t open until 5:00 a.m.</u>			
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 <u>Staff</u> Complied with. <u>Workgroup Committee</u> • check fence perimeter to ensure fencing is intact and there are no deferred maintenance issues <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion. <u>Republic Comment: This area is more than 1000 feet from any public road.</u>			
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 <u>Workgroup Committee</u> • 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. <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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

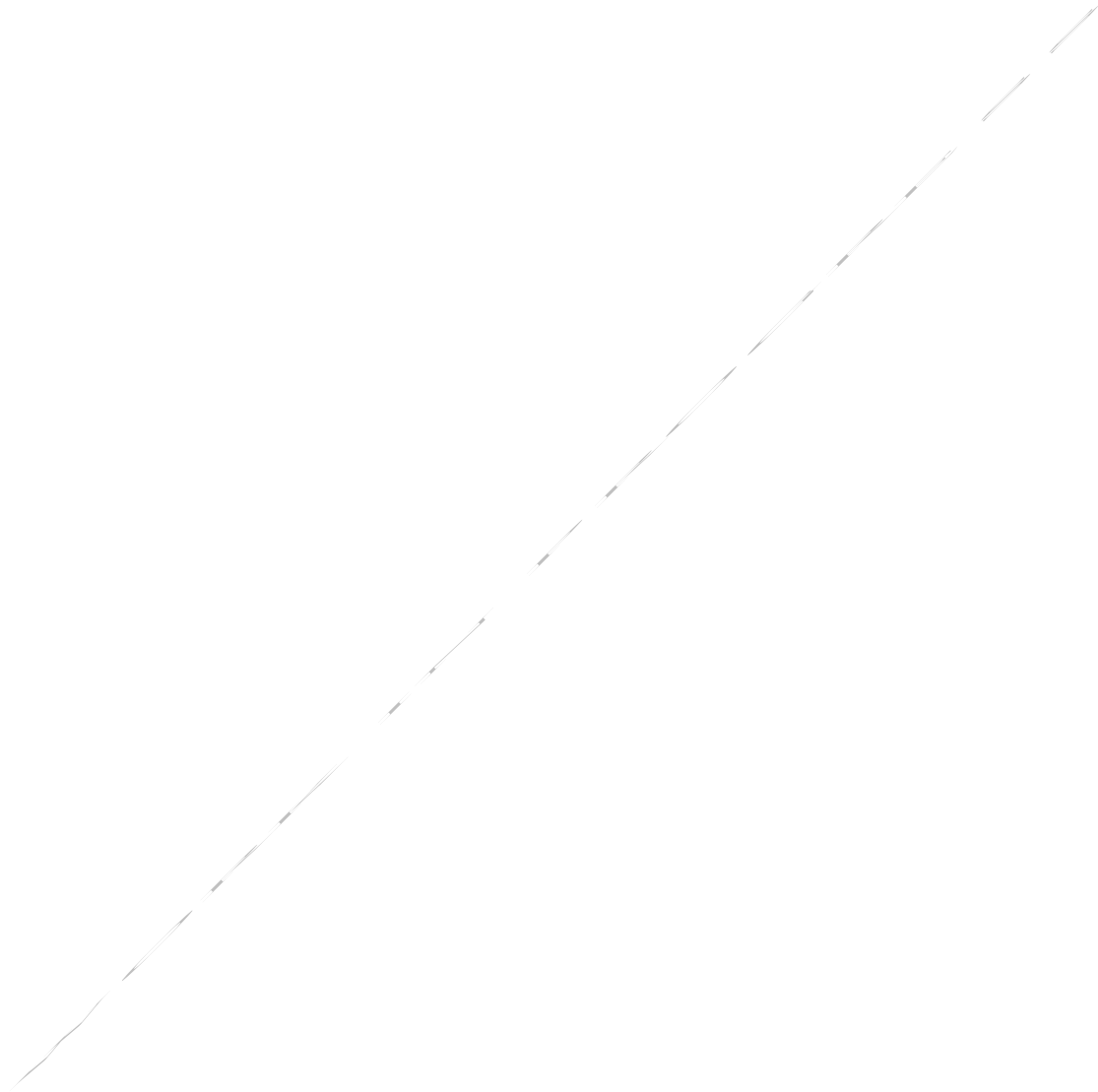
Date	File #	Request	Result
2003	PC-03-11	A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation, approved by planning commission with conditions. This portion of the landfill would represent an addition to the existing, previously approved, Landfill Site Zone. (East triangle).	Planning Commission approved
Conditions of Approval		Current Status	
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			
Republic Comment: 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			
<ul style="list-style-type: none">• Republic: Republic Services is in compliance with this requirement. The eastern haul access road was relocated, per county regulations, during the construction of Cell 4 in 2012. Access is maintained today.• good candidate for chapter 77 review• This explanation of status cannot be accepted until the topic has been researched			
Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager			
No Compliance Opinion			
Republic Comment: Republic is in compliance.			
8. Copies of water quality, stormwater runoff, and air quality permits; and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way with the Benton County Community Development Department for public inspection.		Consensus: Majority Opinion: Minority Opinion:	
Comments			
Staff			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<p>The county regularly receives copies. Appendix I https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">Are these documents available for public inspection, and if so, where?landfill not in compliance with June surface emission methane monitoring required by DEQ; Benton County should obtain an independent assessment of overall methane emissions, arsenic levels in monitoring wells are high, odor: per public records requests, odor complaints to DEQ are not documented/investigated/logged to the extent that residents have given up on making complaints to DEQ, annual report to DEQ: for many years, the reports required by Benton County DSAC to DEQ “documenting local citizens’ concerns and the manner in which the owner or operator [of the landfill] is addressing those concerns” (ORS 459.325) have not been completed and submitted as required by Oregon statute. even now, there is no DSAC meeting dedicated to this required activity. as a result, DEQ has not been informed of many of the problems that citizens experience at coffin butte landfill. contamination: domestic wells have been contaminated <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Are the reports reviewed? Any independent verification by staff that the monitoring requirements for both air quality and water quality are being met and reported as required? The June 2022 report of methane exceedances and re-testing looks suspect – 7 hours to perform first test, just over an hour for the re-test?</p> <p>Compliance Status Unclear. County records need to be reviewed</p> <p><u>Republic Comment: 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.</u></p>			
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:	
<p>Comments</p> <p><u>Staff</u></p> <p>Not completed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">Republic: Republic Services was unable to find records relating to this requirement, nor does it have any indication that there was any enforcement action from the County. Republic Services did plant a mitigating/vegetative buffer in 2016.Not in compliancenot in compliance <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<p>MARK YEAGER: Not In Compliance. The County freely admits that it does no monitoring or enforcement of its adopted conditions of approval, and the County states that it relies on the applicant to comply with the requirements. Republic says they can't find their records related to the screening requirements and states further "nor does it have any indication that there was any enforcement action from the County." Review of this extensive record of land use actions for the landfill demonstrates this exact circumstance over and over. Apparently, the conditions of approval have absolutely no meaning and cannot be relied on to mitigate the impacts of incompatible land use activities performed at the landfill.</p> <p>Compliance Opinion: Not In Compliance</p> <p>Basis: Visual inspection.</p> <p><u>Republic Response: As noted previously, Republic did plant a buffer in 2016.</u></p>			
10. Approval shall be obtained from the Oregon Division of State Lands for any activities on the subject property that affect designated wetlands.		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">• Republic: Republic Services has obtained all the necessary approvals and permits from the Oregon Department of Environmental Quality and remains in compliance with these conditions and approvals.• 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 <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>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?</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of required action provided.</p> <p><u>Republic Response. 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</u></p>			



Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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			
<u>Staff</u> Standard condition requiring the applicant to implement the conditional use permit as described in their application. Compliance is not actively monitored. <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services believes it is in compliance with the terms of the 2011 conditional use permit.• narrative not provided, attachment A not provided• Why doesn't the county monitor compliance. considering that the county receives \$X million per biennium which originally was supposed to be dedicated to issues associated with hosting a landfill? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. <u>Republic Comment: Republic is in compliance with this site plan.</u>			
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			
<u>Staff</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<p>Completed.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">has staff verified documentation <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>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?</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of required action provided.</p>			
3. The applicant shall demonstrate compliance with the applicable siting standards specified in BCC 60.405 through materials submitted for issuance of building permits.		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Completed.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">certificate of occupancy? ADA compliance? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion</p>			
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.		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Completed.</p> <p><u>Workgroup Committee</u></p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<ul style="list-style-type: none">certificate of occupancy? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion			
Conditions of Approval from PC-03-11 that remain applicable and should be continued (as of the time of this decision):		Note” The conditions for LU-11-016 are the conditions from PC-03-11 that remain applicable plus 4 new ones	
1. Obtain necessary approvals from the Oregon Department of Environmental Quality for landfill operations on this site.		Consensus: Majority Opinion: Minority Opinion:	
Comments <u>Staff</u> 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. <u>Workgroup Committee</u> <ul style="list-style-type: none">Republic: Republic Services is in compliance with the DEQ requirement.DEQ permit approvals should be listed here. Are all of them up to date?when was the most recent LUCS on file at DEQ completed? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. <u>Republic comment: 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.</u>			
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:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
Comments			
<u>Staff</u>			
No longer applicable. Coffin Butte Road is entirely paved.			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none">• The status assessment here does not address whether unpaved public roads were kept dust-free prior to paving. For example, Tampico Road has only been fully paved within the past 3 years, and received frequent landfill traffic. Did the applicant demonstrate compliance by performing dust suppression on that road prior to the recent paving by the county? Robison Road, 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?			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
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)			
<u>Republic Comment: Republic agrees with staff; this condition is moot.</u>			
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			
<u>Staff</u>			
County monitoring of this condition is complaint-based.			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none">• 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			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
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 with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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 County process to capture / respond to complaints provided.			
<u>Republic Response: 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.</u>			
4. Provide on-site parking for employees, customers, and visitors to the landfill site.		Consensus: Majority Opinion: Minority Opinion:	
Comments <u>Staff</u> In compliance. <u>Workgroup Committee</u> <ul style="list-style-type: none">truck traffic to the landfill begins backing up HWY 99 beginning before 4:30am; ensure that traffic to the landfill does not pose a safety hazard <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion EDWARD PITERA (112322) <u>Republic: Republic is in compliance; all staff and visitors have space to park on site.</u>			
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 <u>Staff</u> In compliance. <u>Workgroup Committee</u> <ul style="list-style-type: none">check fence perimeter to ensure fencing is intact and there are no deferred maintenance issues <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion (MARK YEAGER 121622 & EDWARD PITERA (112322))			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<u>Republic: Republic is in compliance. The closest public road (HW 99) is more than 200 feet away from the public drop off facility.</u>			
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			
<u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic Services: Republic Services is in compliance with this requirement, which governs landfill operations. However, it’s important to note that internal operations, which include the arrival of field personnel on-site, begins at 4:30 a.m., Monday through Friday, and at 7:30 a.m. on Saturday. Additional operations not governed by the conditional use permit include work by third party contractors on landfill infrastructure, and commercial customers, who have 24-hour access to the Landfill.• Clearly not in compliance. if landfill operations routinely start at 4:30 am M-F. Operations are operations, no way to spin this.• Not in Compliance <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>MARK YEAGER: Not In Compliance (121622) Staff and RS do not get to interpret operating hours to mean something different than what was imposed as a written condition of approval. The words are the words. By definition the industrial activity of operating an active landfill is an incompatible use in an agricultural, forest and rural residential area. As such, operating hours are critical to mitigation of the numerous deleterious effects of the landfill operation. Requiring the landfill to limit operations to mitigate impacts “The landfill operation hours shall occur between 8:00 a.m. and 5:00 p.m. Monday through Saturday, and 12:00 p.m. through 5:00 p.m. on Sundays, with 24-hour access for commercial customers” means what it says, and the condition of approval was adopted by the Planning Commission. The public has a right to expect the operating hours to be enforced as approved and adopted. Beginning operations at 4:30 a.m. is a violation of this condition of approval. Under staff and RS interpretation, could the landfill operate 24 hours a day?</p> <p>In Compliance_EDWARD PITERA (112322)</p> <u>Republic Comment: 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).</u>			
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			
<u>Staff</u> <p>In compliance.</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services is in compliance with this requirement. The eastern haul access road was relocated, per county regulations, during the construction of Cell 4 in 2012. Access is maintained today.• good candidate for chapter 77 review• This assessment of status is not possible for the working group to confirm until research has been completed. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>No Compliance Opinion (MARK YEAGER 121622 & EDWARD PITERA (112322))</p> <u>Republic: Republic agrees with staff.</u>			
8. OMITTED		N/A	
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 <u>Staff</u> <p>The county regularly receives copies. Appendix I https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</p> <u>Workgroup Committee</u> <ul style="list-style-type: none">• landfill not in compliance with June surface emission methane monitoring required by DEQ; Benton County should obtain an independent assessment of overall methane emissions, arsenic levels in monitoring wells are high, odor: per public records requests, odor complaints to DEQ are not documented/investigated/logged to the extent that testimony has been given that residents have given up on making complaints to DEQ, annual report to DEQ: for many years, the reports required by Benton County DSAC to DEQ “documenting local citizens’ concerns and the manner in which the owner or operator [of the landfill] is addressing those concerns” (ORS 459.325) have not been completed and submitted as required by Oregon statute. even now, there is no DSAC meeting dedicated to this required activity. as a result, DEQ has not been informed of many of the problems that citizens experience at coffin butte landfill. contamination: domestic wells have been contaminated• These have not all been made available for public inspection. Whether this is the fault of the applicant, or the county is impossible to judge, as a member of the interested public. During the 2021 CUP process, I had to use Public Information Request procedures to obtain information from DEQ that was not available from Benton County. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>MARK YEAGER: Compliance Not Demonstrated. Are the reports reviewed? Any independent verification by staff that the monitoring requirements for both air quality and water quality are being met and reported as required?</p> <p>Compliance Opinion: Compliance Status Unsure</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<p>Basis: Insufficient information provided to demonstrate compliance e.g. a documented work process, summary reports, etc.</p> <p><u>Republic Comment: 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.</u></p>			
10. Copies of storm-water runoff permits and data produced from associated monitoring programs required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way, with the Benton County Community Development Department for public inspection.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>The county regularly receives copies. https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">During the July 2022 DSAC meeting, Applicant's representative stated that runoff reports for the PRC composting facility were provided to DEQ but not to Benton County, because the county had never requested those explicitly. This needs to be clarified. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated. Are the reports reviewed? Any independent verification by staff that the monitoring requirements for both air quality and water quality are being met and reported as required?</p> <p>Compliance Opinion: Compliance Status Unsure</p> <p>Basis: Insufficient information provided to demonstrate compliance e.g. a documented work process, summary reports, etc.</p> <p><u>Republic Comment: 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.</u></p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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			
<u>Staff</u> Complied with. <u>Workgroup Committee</u> • narrative not provided, attachment a not provided <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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 <u>Republic Comment: In the absence of any evidence that Republic in not in compliance, the assumption should be that it is in compliance.</u>			
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			
<u>Workgroup Committee</u> • 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 <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
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 <u>Staff</u> Advisory <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services has not added or requested additional access and understands the stated requirement.• have changes in landfill access received a public works permit? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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 <u>Staff</u> Advisory <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services has not added or requested additional access and understands the stated requirement.• have there been construction activities that disturb one acre or more? if so, have NPDES permits been obtained?• No evidence of compliance. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. <u>Republic Comments: The access and NPES are independent permitting requirements; Republic must comply with these requirements regarding of whether they are imposed as a condition of approval. That is why staff call they “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.</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
Conditions of Approval from prior approvals that remain in effect (as of the time of this decision):			
1. Obtain necessary approvals from the Oregon Department of Environmental Quality for Landfill operations on this site.		Consensus: Majority Opinion: Minority Opinion:	
<div>Comments</div> <div>Staff</div> <p>The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.</p> <div>Workgroup Committee</div> <ul style="list-style-type: none">• Republic: This is not part of the Landfill and DEQ permits are not required. If such approvals become necessary in the future, Republic Services will obtain them.• when was the most recent LUCS on file at DEQ completed? if the landfill is not compliant with land use conditions of approval, would DEQ still approve all necessary permits? <p>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</p> <p>MARK YEAGER: Compliance Not Demonstrated. This list of standard conditions that never get reviewed for compliance or enforced does not build confidence in the land use planning process in Benton County.</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of required action provided.</p> <p><u>Republic comments: 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.</u></p>			
2. In cases where Landfill operations are the primary cause of traffic on unpaved public roads in the area, those roads shall be kept dust -free by the applicant.		Consensus: Majority Opinion: Minority Opinion:	
<div>Comments</div> <div>Staff</div> <p>No longer applicable. Coffin Butte Road is entirely paved.</p> <div>Workgroup Committee</div>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<ul style="list-style-type: none">No evidence of compliance.there continue to be unpaved public roads in the vicinity of the landfill. does the landfill contribute to traffic on those roads? if so, how much? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated. Many previous comments submitted regarding this condition of approval. Many unpaved roads still exist in the vicinity of the landfill.</p> <p>MARK YEAGER: Compliance Not Demonstrated (121622) The comments above capture the concern – there are several unpaved roads in the vicinity of the landfill that receive landfill traffic. Who determines “primary cause” and what does the County do about it?</p> <p>No Compliance Opinion EDWARD PITERA (112322)</p> <p><u>Republic comment: Republic agrees with staff. The public roads are paved; this condition is moot.</u></p>			
3. The applicant or lease - holding operator shall ensure that the Landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>County monitoring of this condition is complaint-based.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">Republic: Republic Services has no record of complaints on this parcel.County cannot confirm compliance.noise is an issue at the landfill; ensure the facility is still in compliance <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated. Property owner cannot delegate compliance to 3rd party This list of standard conditions that never get reviewed for compliance or enforced does not build confidence in the land use planning process in Benton County.</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of County process to capture / respond to complaints provided.</p> <p><u>Republic Comment: As noted above, there is no evidence complaint or violation of this standard.</u></p>			
4. Provide on-site parking for employees, customers, and visitors to the Landfill site.		Consensus: Majority Opinion: Minority Opinion:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
Comments <u>Staff</u> In compliance. <u>Workgroup Committee</u> <ul style="list-style-type: none">truck traffic to the landfill begins backing up HWY 99 beginning before 4:30am; ensure that traffic to the landfill does not pose a safety hazard <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion EDWARD PITERA (112322) <u>Republic Comment: Republic agrees with Staff.</u>			
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 <u>Staff</u> In compliance. <u>Workgroup Committee</u> <ul style="list-style-type: none">check fence perimeter to ensure fencing is intact and there are no deferred maintenance issues <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion (MARK YEAGER 121622 & EDWARD PITERA (112322)) <u>Republic: Republic agrees with staff.</u>			
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.			
Comments <u>Workgroup Committee</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<ul style="list-style-type: none">• Republic: This is not part of Coffin Butte Landfill operations. It is a material storage facility. There are no operating hours here.• Clearly not in compliance• not in compliance <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Not In Compliance (121622) Staff and RS do not get to interpret operating hours to mean something different than what was imposed as a written condition of approval. The words are the words. By definition the industrial activity of operating an active landfill is an incompatible use in an agricultural, forest and rural residential area. As such, operating hours are critical to mitigation of the numerous deleterious effects of the landfill operation. Requiring the landfill to limit operations to mitigate impacts “The landfill operation hours shall occur between 8:00 a.m. and 5:00 p.m. Monday through Saturday, and 12:00 p.m. through 5:00 p.m. on Sundays, with 24-hour access for commercial customers” means what it says, and the condition of approval was adopted by the Planning Commission. The public has a right to expect the operating hours to be enforced as approved and adopted. Beginning operations at 4:30 a.m. is a violation of this condition of approval. Under staff and RS interpretation, could the landfill operate 24 hours a day?</p> <p>In Compliance <u>EDWARD PITERA (112322)</u></p> <p><u>Republic Comment: Republic references our prior comments on the same condition.</u></p>			
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 <u>Workgroup Committee</u> <ul style="list-style-type: none">• Awaiting additional research.• Republic: Republic Services is in compliance with this requirement. The eastern haul access road was relocated, per county regulations, during the construction of Cell 4 in 2012. Access is maintained today. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion (MARK YEAGER 121622 & EDWARD PITERA (112322))</p> <p><u>Republic Comments: Republic is in compliance.</u></p>			
8. OMITTED		N/A	
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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: There are no permits or monitoring data as this relates to a material storage facility.• As noted above, these are not available for public inspection as required.• landfill not in compliance with June surface emission methane monitoring required by DEQ; Benton County should obtain an independent assessment of overall methane emissions, arsenic levels in monitoring wells are high, odor: per public records requests, odor complaints to DEQ are not documented/investigated/logged to the extent that testimony has been given that residents have given up on making complaints to DEQ, annual report to DEQ: for many years, the reports required by Benton County DSAC to DEQ “documenting local citizens’ concerns and the manner in which the owner or operator [of the landfill] is 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 <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>MARK YEAGER: Compliance Not Demonstrated Material storage areas can and do generate stormwater runoff unless they are completely covered. How and when does the County know if permits for this facility are procured from DEQ?</p> <p>Compliance Opinion: Compliance Status Unsure</p> <p>Basis: Insufficient information provided to demonstrate compliance e.g., a documented work process, summary reports, etc.</p> <p><u>Republic Comment: 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.</u></p>			
10. Copies of storm -water runoff permits and data produced from associated monitoring programs required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way, with the Benton County Community Development Department for public inspection.		Consensus: Majority Opinion: Minority Opinion:	
Comments <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: There are no permits or monitoring data as this relates to a material storage facility.• As noted above, these are not available for public inspection as required. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>MARK YEAGER: Compliance Not Demonstrated. Material storage areas can and do generate stormwater runoff unless they are completely covered. How and when does the County know if permits for this facility have been issued by DEQ?</p> <p>Compliance Opinion: Compliance Status Unsure</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
Basis: Insufficient information provided to demonstrate compliance e.g. a documented work process, summary reports, etc.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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			
<u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: This development condition was at the County’s discretion. However, as it relates to stormwater system construction and monitoring, Republic Services has all the DEQ permits necessary and is in compliance.• attachment a is not provided• We are missing a clear statement from the county on whether the site is in compliance, independent of DEQ. See previous comments. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>MARK YEAGER: Compliance Not Demonstrated. Nonagricultural uses in the EFU zone are specifically limited by ORS. Whether the continuation and alteration of a non-conforming use in the EFU zone is appropriate may be beyond the scope of this review. However, that fact that this action was approved at the staff level, and apparently at the behest of the department, requires further review. More time is needed to review the record. Was Oregon Department of Land Conservation and Development (DLCD) notified of this land use action?</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of required action provided.</p> <p><u>Republic comment: Republic is in compliance</u></p>			
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			
<u>Staff</u> <p>The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.</p> <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: This development condition was at the County’s discretion. However, as it relates to stormwater system construction and monitoring, Republic Services has all the DEQ permits necessary and is in compliance.• the stormwater system is in an area identified as “wetlands” – does this trigger additional permitting requirements			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

- 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

Republic comment: Republic is in compliance.

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
2021	LU-21-047	<p>Conditional Use Permit to expand Coffin Butte Landfill. Republic Services proposed: to create a new disposal cell for the Coffin Butte Landfill which will extend from the current cell south of Coffin Butte Road; close Coffin Butte Road to public traffic (vacate the right-of-way*) so the new cell can cover the road; relocate a replacement roadway (for landfill and quarry traffic only) around the area of the new disposal cell; relocate the leachate ponds south of Coffin Butte Road, and move some other structures.</p> <p>Closing Coffin Butte Road will likely require improvement of at least one other roadway in the area to accommodate increased traffic—potentially Tampico Road or Wiles and Robison Roads.</p>	Planning Commission Denied; PC Decision Appealed; Application Withdrawn
<p>Comments</p> <p><u>Workgroup Comments</u></p> <ul style="list-style-type: none"> Republic Services appealed the Planning Commission’s decision, but voluntarily withdrew that appeal to engage with the community and participate in the Oregon Consensus process. Republic Services and Coffin Butte Landfill remain committed to the Oregon Consensus process and this group’s work. We look forward to being part of Benton County’s long-term solid waste management and diversion solution strategy. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Use Decision Provided for Background</p> <p>Subcommittee believes that the record and rational of this land use proceeding is relevant to the evolution of the Coffin Butte Landfill.</p> <p>Review of the record in this land use proceeding provides important historical context. The public comments and the Notice of Decision in this matter are critical to understanding the history of the landfill and the sentiment of the residents of Benton County at that time.</p> <p>Open Items: Subcommittee needs to review this documentation</p> <p><u>Republic Comments: Any new CUP application filed by Republic will be a new application accompanied the appropriate studies and justifications.</u></p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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.

List of Revisions

Development Documents

Revisions:

Compliance with Past Land Use Approvals - 11-14-22 Draft EDWARD PITERA Input (As base document)

Mark Yeager's Entries added from Inga Williams' Compliance with Past Land Use Approvals - 11-28-22 Draft

Compliance with Past Land Use Approvals - 11-14-22 Draft EDWARD PITERA Input Mark Catherine Zoom

Compliance with Past Land Use Approvals - 11-14-22 Draft EDWARD PITERA Input Mark Catherine Zoom 120722

Compliance with Past Land Use Approvals - 11-14-22 Draft EDWARD PITERA Input Mark Catherine Zoom 121022

Compliance with Past Land Use Approvals - 11-14-22 A2 Small Group Markup 121222 v1

Compliance with Past Land Use Approvals - 11-14-22 A2 Small Group Markup 121222 v2

Compliance with Past Land Use Approvals - 11-14-22 A2 Small Group Markup 121222 v3 EDWARD PITERA MY

Subcommittee Working Drafts

Compliance with Past Land Use Approvals - A2 Small Group Markup 121922 Working v1

List of Appendices

- 1 Figure IV-7 from Chemeketa Regional Solid Waste Program Report 1974
- 2 Figure from Count Code

References

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.

<p align="center">Summary report: Litera Compare for Word 11.3.0.46 Document comparison done on 1/24/2023 10:34:46 AM</p>	
Style name: Black and White	
Intelligent Table Comparison: Active	
Original DMS: nd://4877-2860-8583/1/Compliance with Past Land Use Approvals - BC Reformat 12-30-22 (002) Republic Comments.docx	
Modified DMS: nd://4877-2860-8583/3/Compliance with Past Land Use Approvals - BC Reformat 12-30-22 (002) Republic Comments.docx	
Changes:	
<u>Add</u>	241
<u>Delete</u>	46
<u>Move From</u>	0
<u>Move To</u>	0
<u>Table Insert</u>	0
<u>Table Delete</u>	0
<u>Table moves to</u>	0
<u>Table moves from</u>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	287

Compliance with Past Land Use Actions and Their Status

A.2 Subcommittee

WORK IN PROGRESS

Executive Summary

WORK IN PROGRESS

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HOW TO USE THIS DOCUMENT

(Insert FAQ's as reader instructions), what's here, what it conveys

WORK IN PROGRESS

INTRODUCTION

Add in Material based on “Yeager/ Sam Introduction/Legal Review”

WORK IN PROGRESS

LIST OF LAND USE DOCUMENTS REVIEWED

#	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 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:

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					<p>Condition No.4: adds, “when plans meet DEQ approval”</p> <p>Condition No. 5: Date change to July 1, 1976</p> <p>Condition No. 6 (new)</p> <p>The landfill operation shall be phased so that only a small acreage is used for fill at one time and then acreage shall be returned to grazing, another farm-type operation or other permitted use as approved by the PC and BoC</p> <p>Condition No.7 (new)</p> <p>Efforts be made to encourage voluntary separation of recoverable materials...to reduce the amount of landfill materials.</p> <p>What are the other file numbers if any?</p> <p>(post-appeal of PC#...looking for possible BoC number?)</p> <p>Presumed applicant/Property Owner: Bob Bunn, Corvallis Disposal Company based on 1972 pre-application correspondence</p> <p>Benton County Planner: Larry Bauer and Virgil Adams listed in 1972 docs</p> <p>1972 Pre-application work included Chemeketa Regional Model Plan (name for 5-county study) by Chemeketa Regional Operations Committee.</p>
3	1983	PC-83-07 / L-83-07	Comprehensive Plan and Map Amendments Zoning Ordinance (Development Code) and Zoning Map amendments	BOC Approved	<p>Amendments to the Benton County Comprehensive Plan and Plan Map (Ordinance 251), and amendments to the Zoning Ordinance and Zoning Map (Ordinance 261).</p> <p>Amendments to the Comprehensive Plan Text and Map, amendments to the Zoning Ordinance and Zoning Map, and a Site Development Plan (M-48615-83, PC-83-07-C(1)).Ord 261 – July 6, 1983</p> <p>Any proposal to expand the area approved for landfill must be reviewed and approved by PC.</p> <p>Criteria for review includes Provision of screening of site from public roads and adjacent property <u>Egress/Ingress</u>, site plan and reclamation plan</p>

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
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 Department approved	A transfer of 37.94 acres from Tax Lot 10-4-18-800 to Tax Lot 10-4-18-1106
7	1988	Board Order	Order to Vacate a portion of Tampico Ridge Subdivision	BOC Approved	Original subdivision BOC approved in 1979 with Conditions of Approval. In 1988 some conditions had not been met to allow for development 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		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 Approved February 16, 1994	For a 2.2-megawatt power generation facility. The facility would utilize the gas generated from the decomposing refuse in the landfill as the fuel source. Applicant: Mr. Bill Webber Property Owner: Valley Landfills, Inc. Staff Contact: Bob Speaker
11	1994	PC-94-10	Zone change from Rural Residential to Landfill Site Zone, Comprehensive Plan	BOC Denied Date of Decision: January 18, 1995	Involves approximately 26 acres including expansion south of Coffin Butte Rd. Property Owner: Valley Landfills, Inc

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#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
			change from Rural Residential to Landfill Site		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		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		LD-94-26	Property Line Adjustment	Community Development Department approved, applicant did not complete requirements to complete the transfer, file closed	Transferring 21 acres from 10-4-19B-1600 to 10-4-18-1107
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.

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					Update: Quarry operations on this parcel have ceased
17	2002	PC-02-07	Conditional Use Permit	PC approved December 18, 2002	<p>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.</p> <p>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)</p> <p>Applicant: Valley Landfills, Inc. Staff Contact: Chris Bentley</p>
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	<p>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).</p> <p>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)</p> <p>Property Owner: Valley Landfills Inc. Staff Contact: Chris Bentley</p>
20	2011	LU-11-004	Pre-application meeting	Planning staff review	For placing recycling facility on Tax Lot 104180000801

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
21	2011	LU-11-016	Conditional Use Permit	PC approved April 6, 2011	<p>For the construction of a new public recycling and refuse transfer facility at Coffin Butte Landfill. The request also includes enhancements to the stormwater conveyance and detention system, as well as a container and drop box storage area, and a landfill construction staging and storage area in FC zone</p> <p>Conditions of Approval: 1-4; also 1-10 below (Community Development Dept to determine compliance; approval valid for 2 years)</p> <p>Development shall comply with plans and narrative in applicant proposal, modifications require request and approval, record of declaratory statement of rights of adjacent/nearby property owners to conduct forest operations, compliance with siting standards (BCC60.405), comply with applicable facility code provisions.</p> <p>PC 03-11 Conditions of Approval that remain applicable: 1-10</p> <p>Obtain DEQ approvals for landfill operations, dust-free roads, maximum sound levels, on-site parking, security fencing, operational hours, dual-access/emergency road system, water quality, air quality, storm-water runoff permits and data available for public inspection.</p> <p>Property Owner/Applicant: Valley Landfills, Inc Staff Contact: Eric Adams/Chris Bentley Planning Official: Greg Verret</p>
22	2013	LU-13-061	Conditional Use Permit	PC approved November 5, 2013	<p>For "minor additions and modifications" at Coffin Butte Landfill to change the location of a construction staging and storage area in the vicinity of the existing office structure.</p> <p>Conditions of Approval: 1-4; also 1-10 below (Community Development Dept to determine compliance; approval valid for 2 years)</p> <p>Development shall comply with plans and narrative in applicant's proposal (Attachment 'A') except as modified by conditions below; all other modifications shall require review and approval by request, declaratory statement of rights of adjacent/nearby property owners</p>

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#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
					<p>re: forest operations, any new/change to existing access shall require permit, NPDES permit requirement for construction disturbance o 1 acre or more.</p> <p>Conditions of Approval 1-10 from prior approvals that remain in effect:</p> <p>Obtain DEQ approvals for landfill operations, dust-free roads, maximum sound levels, on-site parking, security fencing, operational hours, dual-access/emergency road system, water quality, air quality, storm-water runoff permits and data available for public inspection.</p> <p>Property Owner/Applicant: Valley Landfills, Inc</p>
23	2015	LU-15-001	Alteration of a nonconforming use to continue and enhance a stormwater treatment facility in the Exclusive Farm Use Zone, associated with Coffin Butte Landfill.	<p>Community Development Department Approved</p> <p>September 16, 2015</p>	<p>Conditions of Approval: 2 (Community Development Department will objectively determine compliance with all Conditions of Approval)</p> <p>Development shall substantially comply with the plans and narrative in the applicant's proposal; modifications require approval, applicant shall obtain/maintain compliance with necessary federal state and local permits for construction and operation of stormwater system described in application</p> <p>Property Owner/Applicant: Valley Landfills, Inc./Republic Services, Inc.</p> <p>Staff Contact: Chris Bentley</p> <p>Planning Official: Greg Verret</p>
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	PC Denied December 7, 2021; PC Decision Appealed; Appeal Withdrawn	<p>Property Owner/Applicant: Valley Landfills, Inc./Republic Services</p> <p>Staff Contact: Inga Williams</p> <p>CAC Planning Area: North Benton (not active)</p> <p>*Note past Conditions of Approval that indicate requirement of dual access/emergency road services to CBL</p> <p>*Question about buffer requirements to adjacent/nearby properties and land use if leachate ponds to be relocated</p>

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#	Date	Planning File #	Applicant Request	Result PC = Planning Commission BOC = Board of County Commissions	Key Aspects
			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.		

WORK IN PROGRESS

Table of Summary Statistics Needed? Here?

Cite how many conditions involved, how many consensuses, how many majority / minority opinions

WORK IN PROGRESS

OBSERVATIONS AND RECOMMENDATIONS (Post BCTT Workgroup Tasks)

GENERAL COMMENT BY REPUBLIC: This whole section 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.

OVERALL CONSIDERATIONS

Refers to Document Number	Observations	Suggestions and Recommendations to the County
2 1974 CP-74-01	Observation triggered by 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. <u>Republic Disagrees:</u> The County has no authority to regulate leachate; that is within the exclusive jurisdiction of DEQ, as is wastewater treatment. The impact of truck traffic generated by the Landfill on the public street system has to be judged under the same criteria as applied to any other user and may not be based on the type of cargo.
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 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 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.	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 people? Given the steepness of the as-built landfill cover slopes, is it reasonable to expect grazing animals will not damage the cover system exposing wastes and allowing air to be drawn into the landfill mass? 2. giving nearby residents and travelers on Hwy 99 some sense of what can reasonably be expected under "...or other permitted use as approved by the Planning Commission and the Board of County Commissioners." e.g., a park with walking trails much like the Baylands Nature Preserve in Palo Alto, CA.

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Refers to Document Number	Observations	Suggestions and Recommendations to the County
		<p>3. considering Franchise language that addresses the post closure condition of the landfill,</p> <p>4. engaging with DEQ to understand what is possible for “Worst Case” and ultimate closure of the landfill.</p> <p><u>Republic Disagrees.</u> Closure regulation is in the exclusive jurisdiction of DEQ. The County has no basis to regulate closure under the CUP requirements.</p> <p>Additionally, it is recommended the County consider:</p> <ol style="list-style-type: none"> 1. the impact of ongoing landfill operation on community development programs such as the Bike Transit Corridor. Note the only east/west bike crossing of Hwy 99W for about 55 minutes is across from the landfill; 2. the compatibility of a landfill of this size with the County’s Vision 2040. <p><u>Republic disagrees:</u> These plans may need to account for the landfill, but it has been in this location for fifty years.</p>
2	<p>Condition 7 Concerning recycling program.</p> <p>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.</p>	<p>?? Not sure how to handle?? To be addressed in next Vision Plan or Materials Management Plan? Just flag this condition for BCTT SW Plan Subcommittee?</p> <p><u>Republic Comment:</u> How to improve recycling is appropriately considered as part of the long-term materials management plan; it not relevant to a CUP.</p>
3 1983 PC-83-07 / L-83-07	<p>Condition 1</p> <p>It is very important to note that the existing visual appearance of the landfill is a significant concern. The landfill is being constructed in ways that do not reflect the description set out by the applicant and approved plan of 1983 (refer to PC-83-07; L-83-07).</p> <p><u>Republic Comment:</u> It is very important to note that each CUP is an expansion of the landfill to a different cell area or to undertake a different activity in a different area. The purpose of the CUP process is to determine whether such a change will have undue additional impacts. It should be</p>	<p>Consider clarifying the roles of the County and DEQ in future CUP actions. Which organization has primacy over what? A clear understanding is needed of DEQ’s and the County’s role in addressing aspects of the landfill such as design, operation, monitoring (including noise, light pollution, odor, etc.), appearance, and screening from public view, etc.</p> <p><u>Republic Comment:</u> We believe the distinction is clear: The County regulates the land use impacts of the landfill and DEQ regulates the environmental impacts. State law (ORS Chapter 197) requires all state agencies to coordinate their activities with local land use regulations, which is why DEQ requires Republic to first obtain the CUP from the County.</p>

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Refers to Document Number	Observations	Suggestions and Recommendations to the County
	completely unsurprising that the landfill has changed since 1983; indeed, it is to be expected.	
3	Decision text and “conditions” are sometimes difficult to easily determine especially in older County decision documents (See analysis by M Yeager (Dec 2022))	<p>Future decisions clearly convey basis of Approval. Example: “Condition of Approval: This approval is based upon the application, site plan, and supporting documentation submitted by the applicant. Any substantial change as determined solely by Benton County in the approved plan will require a new application.”</p> <p>NEED EDUCATION FROM COUNTY STAFF: Is there a written Benton County Compliance Policy & Process including a complaint lodging, tracking, and resolution process?</p> <p><u>Republic comment:</u> Republic would also appreciate that any conditions of approval imposed on a potential CUP approval be clear.</p>
7 1988 Board Order	<p>1988 Board Order to Vacate a portion of Tampico Ridge Subdivision consolidated three lots and a portion of right-of-way into an 85-acre parcel.</p> <p>DEQ in the 2005 Record of Decision for the landfill specifies "Property purchases as buffer around the landfill." as one of the remedies for groundwater contamination. (See References)</p>	<p>In assessing the public burden associated with the landfill, it appears necessary for the County to understand how much land has been acquired by RSI in pursuit of creating environmental or other buffers near the landfill. Address how these actions are consistent with Vision 2040.</p> <p><u>Republic Comment:</u> Republic Services, Inc. is a holding company; it does not own and has never acquired any land around the landfill. Valley Landfills, Inc. and Pelletier Real Estate, Inc. own the land associated with the landfill. Regardless, the extent of Republic’s (or any other person’s) real estate portfolio is unrelated to any applicable CUP criteria (and arguably the County’s regulatory jurisdiction). Ownership of the land does not change the underlying zoning designation of the land; unless the zoning is changed, it will continue to be available for residential use even if the current owner doesn’t put it to such use.</p>
10 1994 PC-94-03	Condition 2 & 5 Noise	Establish and widely advertise a County process for receiving, tracking, and resolving landfill and power plant related noise complaints.
10	Condition 6 Lighting at Power Plant	Establish and widely advertise a County process for receiving, tracking, and resolving landfill and power plant related noise complaints.

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Refers to Document Number	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 Title V Permits are needed to determine if odor is addressed there. <u>Republic Comment:</u> A landfill has been at this site since WW II. Any person considering developing close to a landfill needs to take that into consideration as with any other adjacent preexisting use. The CUP process is designed to ensure that any expansions do not have addition undue impacts.

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.	<p>The Board of Commissioners update or establish an easily understandable policy concerning how the County is to require, manage, and interpret regulatory related information from Republic and DEQ.</p> <p><u>Republic Comment:</u> We note that in the almost 60 years that have elapsed since the 1974 decision the requirements for records retention and land use decisions have gotten significant more robust. (The Public Records Law was first enacted in 1973). We can't fix the past, but going forward, the current regulatory scheme should be sufficient to preserve the required records.</p>
Over time the format and wording of what information is being requested has changed.	<p>Establish consistent terminology for describing what an applicant is required to do to be considered in compliance.</p> <p><u>Republic Comment:</u> As noted above, Republic would welcome clear and consistent wording of conditions. As with our comment above, the regulatory framework and terminology is not immutable; it evolves over time and will continue to do so.</p>
<p>Within the Tables of Land Use Conditions Assessments, there are locations where County staff have stated that they do not actively review materials applicants provide as ongoing evidence of compliance with land use decisions. Confirmation of compliance is only made by the County after receiving a resident's complaint.</p> <p>SEE FOLLOWING TABLE for a list of these occurrences</p>	<p>The Board of Commissioners consider a proactive compliance confirmation program for facilities contributing to environmental burdens on the County such as a landfill, industrial scale composting, or direct dischargers to water bodies within the county.</p> <p><u>Republic Comment:</u> This a county budgetary issue and much of it outside of the scope of the County's regulatory expertise and or authority.</p>
ADD OTHERS???	

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SUPPORTING INFORMATION FOR MONITORING AND COMPLIANCE ENFORCEMENT ISSUES

Summary: 39 Instances of Unclear Compliance Monitoring by the County

Land Use Document #3 1983 PC-83-07/L-83-07 <i>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))</i>	
Condition 8. The current DEQ operational permit will expire on January 31, 1984. Valley Landfills, Inc. has been requested to submit an updated, long-term leachate control plan as part of the permit renewal process. This plan must contain provisions for a leachate storage facility so leachate irrigation will not occur on pasture lands from November 1 through May 1 of each year. The control plan must also provide for a soil study that designates present and future leachate irrigation areas. This plan must show that the amount of irrigation area available is compatible with future leachate generation volumes so metal or nutrient accumulations in the soils will remain far below any toxicity levels.	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 section.
Condition 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.	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.
Land Use Document #10 1994 PC-94-03 <i>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.</i>	
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.	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. Lighting shall be located so that it does not face directly, shine or reflect glare onto an adjacent street or property.	Staff Comment. Monitoring of this condition is complaint driven. Staff has no records of complaints regarding lights at the landfill.
Land Use Document #15 1997 S-97-58 <i>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.</i>	
Condition 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	Staff Comment. Subsequent to the compliance monitoring memorandum, the County would require additional testing only if there was reason to

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340-035- 0035 as measured at the nearest dwellings existing on the date of approval of this conditional use permit.	believe the noise standards were no longer being met (such as through a noise complaint received from an adjacent dwelling)
Condition 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.	Staff Comment. Available records do not indicate any such requests by the Planning Official.
Condition 6. The application shall obtain and comply with all applicable permits from the Oregon Department of Environmental Quality (DEQ). The applicant shall provide copies of all DEQ permits for the generation facility to the Community Development and Parks Department.	<p>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.</p> <p><u>Republic Comment:</u> Republic notes that these conditions are common because the statutory coordination requirements noted above.</p>
Condition 7. Lighting shall be located so that it does not face directly, shine, or glare onto an adjacent road or property.	Staff Comment. Monitoring of this condition is complaint driven. There are no records of any complaints.
<p>Condition 9. The applicant shall prepare a site-specific development plan addressing emergency water supplies for fire protection. The plan shall be submitted to the local fire protection agency for review. The plan approved by the local fire protection agency shall be submitted to the Community Development and Parks Department prior to the issuance of building permits for the structure for Phase 1. A revised site-specific development plan shall be completed prior to issuance of construction permits for the Phase 2 expansion. The site development plan shall address:</p> <ul style="list-style-type: none"> 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. 	<p>Staff Comment. -Additional research needed, compliance with this condition is not confirmed.</p> <p><u>Republic Comment:</u> This condition was imposed on the approval of the power plant and does not apply to the Landfill generally.</p>
<p>Land Use Document #16 1999 PC-99-06 <i>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.</i> <i>Update: Quarry operations on this parcel have ceased, so these conditions are no longer applicable</i></p>	
Condition 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.	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

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	been met then the applicant is also out of compliance with the Benton County permit.
Condition 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.	<p>Staff Comment. Staff will need to field verify but it appears through comments that the applicant is not in compliance with this condition.</p> <p>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.</p>
Condition 4. The applicant or lease-holding operator shall ensure that the mining operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality. The applicant or lease-holding operator shall monitor noise generated by mining activities on one randomly selected day per month when noise complaints are received, notwithstanding a minimum of one time per year. Noise data and reports of findings from this monitoring shall be placed on file, in a timely way with the Benton County Community Development Department for public inspection. A berm, or other sound-absorbing construction materials such as acoustical cinder blocks or other similar methods may be used to reduce the sound off-site to levels at or below those permitted by the Oregon Department of Environmental Quality. Any sound-reduction construction will be consistent with the visual buffering required in Condition #3 above. The applicant or lease-holding operator shall limit blasting to the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday.	<p>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.</p> <p>Republic Comment: As noted above, quarrying operations on this site ceased long ago, so this and the other conditions are no longer relevant.</p>
Condition 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.	<p>Staff Comment. None</p> <p><u>Republic Comment:</u> This condition was carried forward as Condition 9 in PC-02-07 and County Staff notes that Republic has been in compliance.</p>
Condition 12. Copies of storm-water runoff permits and data produced from associated monitoring programs required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way, with the Benton County Community Development Department for public inspection.	<p>Staff Comment. Additional Research Needed</p> <p>Republic Comment: Again, this condition is not relevant.</p>
<p>Land Use Document #17 2002 PC-02-07 <i>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.</i></p>	
Condition 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.	Staff Comment. County monitoring of this condition is complaint-based.

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<p>Condition 9. Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.</p>	<p>Staff Comment. The county regularly receives copies. Appendix I https://www.co.benton.or.us/cd/page/materials-management-document-library</p>
<p>Condition 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</p>	<p>Staff Comment. The county regularly receives copies. https://www.co.benton.or.us/cd/page/materials-management-document-library</p>
<p>Land Use Document #19 2003 PC-03-11 <i>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).</i></p>	
<p>Condition 3. The applicant or lease-holding operator shall ensure that the landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.</p>	<p>Staff Comment. County monitoring of this condition is complaint-based.</p>
<p>Condition 8. Copies of water quality, stormwater runoff, and air quality permits; and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way with the Benton County Community Development Department for public inspection.</p>	<p>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</p>
<p>Condition 10. Approval shall be obtained from the Oregon Division of State Lands for any activities on the subject property that affect designated wetlands.</p>	<p>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.</p>
<p>Land Use Document #21 2011 LU-11-016 <i>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.</i></p>	
<p>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 below. Modifications to the operation of the facility other than those addressed through this decision, including, but not limited to, the relocation of additional activities, or the configuration of relocated activities in a manner not substantially in conformance with the submitted conceptual site plan, shall require approval through a Modification of a Conditional Use Permit request (BCC 53.225).</p>	<p>Staff Comment. Standard condition requiring the applicant to implement the conditional use permit as described in their application. Compliance is not actively monitored.</p>
<p><i>Conditions of Approval from PC-03-11 that remain applicable and should be continued (as of the time of this decision):</i> Condition 1. Obtain necessary approvals from the Oregon Department of Environmental Quality for landfill operations on this site.</p>	<p>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.</p>

Compliance with Past Land Use Actions and Their Status

A.2 Subcommittee Discussion Work in Progress

Condition 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.	Staff Comment. County monitoring of this condition is complaint-based.
Condition 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.	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. 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.	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
Land Use Document #22 2013 LU-13-061 <i>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.</i>	
Conditions of Approval from prior approvals that remain in effect (as of the time of this decision): Condition 1. Obtain necessary approvals from the Oregon Department of Environmental Quality for Landfill operations on this site.	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. 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.	Staff Comment. County monitoring of this condition is complaint-based.
Condition 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.	Staff Comment. None
Condition 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.	Staff Comment. None
Land Use Document #23 2015 LU-15-001 <i>Alteration of a nonconforming use to continue and enhance a stormwater treatment facility in the Exclusive Farm Use Zone, associated with Coffin Butte Landfill.</i>	
Condition 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.	Staff Comment. None Republic Comment. Republic constructed these facilities per the approved site plan, and as can verified by Google Earth.
Condition 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.	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.

WORK IN PROGRESS

TABLES OF LAND USE CONDITION ASSESSMENTS

GENERAL NOTES

Definitions Used in Compliance Assessment:

- **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:

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.

Open Item(s)

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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 ¹ 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 map2. Expanding Coffin Butte to service additional areas should require a re-review by the Planning Commission.		Consensus: Majority Opinion: Minority Opinion:	
Comments			
<u>Staff</u> 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.			
<u>Workgroup Committee</u> <ul style="list-style-type: none">• Unable to accept this assessment until additional research is complete.• Modified in 1983, but still relevant as to intent – not sure how to rank this...with every land use application there has consistently been discussion about how much Benton County residents did not want out-of-county waste being deposited into the landfill; I believe the meeting minutes reflect that the applicant stated that the landfill was just for Benton County• Republic: Republic Services acquired Coffin Butte Landfill in 2008. Certain records prior to that date may be incomplete. We agree that the changes to the County’s land use regulations and subsequent conditional use approvals mean that the analysis and the conditions in the 1974 decision are no longer relevant. Further, Republic Services³ 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.			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> Compliance Opinion: Not In Compliance Basis: 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 Republic annual report (add link to most recent report))			

¹ 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.

² 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). INCLUDE FIGURE IN APPENDIX "Y"

³ 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.

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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 ¹ and Sanitary Landfill expansion.	PC Approved PC Decision Appealed BOC Approved
Conditions of Approval		Current Status	
<p>Explanation: Further searches of County and Republic files are needed to establish if or when this condition was superseded to authorize landfilling materials outside of the 1974 defined area. Benton County Code 25I dated 1983 authorizes acceptance of material from Sweet Home and Lebanon. Alternatives to finding historical authorization may include BOC and Planning Commission action to void limitations on the geographic area allowed to bring material to Coffin Butte. A relevant concept is the DEQ definition of “regional” landfill. It is based on tonnage received. It does not refer to a geographic area. It is based on tonnage processed. Additional searches for State statutes or regulations that prohibit counties from limiting the areas from which wastes can be received from is suggested.</p> <p>Notes:</p> <p>Support for 1977 geographical definition found in:</p> <ul style="list-style-type: none">◆ 1983 Code reference “BEFORE THE BOARD OF COMMISSIONERS FOR BENTON COUNTY, OREGON An Ordinance Amending the Benton County Comprehensive Plan and Specifically Amending the Public Facilities and Services and Environmental Quality Elements and Amending the Comprehensive Plan Map Ordinance 25I” Specific language to be inserted in the code under “Landfill and Solid Waste Policies” includes: “27. The Coffin Butte site shall have a landfill site designation and shall serve as a regional landfill servicing a geographical area including Linn, Polk, and Benton Counties.”◆ PC-83-07-C (3) PDF page 13 <p>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. <i>From</i> https://www.oregonlegislature.gov/bills_laws/ors/ors459.html> per B Fuller to S Imperati email 110722</p> <ul style="list-style-type: none">• PLACE KEEPER: Add 2002 PC-02-07 geographic, regional landfill issue (Catherine) <p>Status of search for County business related documents mentioning geographic service area:</p> <ul style="list-style-type: none">◆ 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 / 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) <p>Open Item: Search DEQ permits for information allowing geographic areas to use CB Landfill.</p> <p><u>Republic Comments:</u> 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.)</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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 ¹ and Sanitary Landfill expansion.	PC Approved PC Decision Appealed BOC Approved
Conditions of Approval		Current Status	
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			
<u>Staff</u> 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 <u>Workgroup Committee</u> <ul style="list-style-type: none">• The report was supposed to be annual, but this assessment only mentions one year. More information needed to confirm compliance.• I see annual reports dating back to 2005. Were there annual reports submitted before then?• Replaced by DSAC in 1983, but still relevant as to intent; if DSAC had been regularly informed of non-compliance with conditions of approval, perhaps the landfill would have been more compliant <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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 nor 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 <u>Republic Comment:</u> 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			
<u>Staff</u> 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.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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 ¹ and Sanitary Landfill expansion.	PC Approved PC Decision Appealed BOC Approved
Conditions of Approval		Current Status	
<u>Workgroup Committee</u> <ul style="list-style-type: none">Disagree strongly with staff: “efficient leachate collection and treatment” is extremely relevant, a continuing problem, and in fact domestic wells have been contaminated, which should be noted in the “common understandings” document. Contamination of domestic wells has been a continuing concern of owners of parcels adjacent to the landfill, for good reason (see 1993 Coffin Butte Annual Report, the Helms Well, page 4). Current leachate treatment is impossible onsite, as promised in the most recent CUP (2003), it is certainly possible to argue that the intent of this provision was not to have landfill leachate treatment burden public facilities (the Corvallis water treatment facility is so overburdened by leachate that 15 million gallons/year +/- are trucked to a Salem facility). Let’s have the discussion about whether it is “efficient” to import waste into 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.			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>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).</p> <p>Compliance Opinion: Compliance Not Demonstrated</p> <p>Basis: A review of DEQ and Republic records is needed. Evidence that “Efficient leachate collection and treatment...” is occurring is needed.</p> <p>Explanation: It is understood from 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 Republic is in compliance.</p> <p>Notes: The landfill generates about 25 million to 32 million gallons per year of leachate to be trucked off site to city treatment facilities. This volume equates to approximately twenty trucks per day traveling to Corvallis or Salem. Concerns include the impacts on county roads, road traffic, road safety and the Willamette River. Many of the toxic pollutants contained in leachate simply pass through the treatment plant with very little or no pollutant removal and end up in the Willamette River (PFAS, heavy metals, pesticides, pharmaceuticals, personal care products (PCP)). The Willamette River is a key recreation asset (boating, fishing, swimming, etc.) for residents of Benton County, and a source of drinking water supply for downstream residents, e.g., Adair Village.</p> <p>Open Items: Staff’s comments on the applicability of “later conditions for run-off” to leachate need clarification. Caution to readers, “Leachate” is not the same as “runoff”. [Note OUT OF BCTT CHARGE: A review treatment system performance records would be prudent]</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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 ¹ and Sanitary Landfill expansion.	PC Approved PC Decision Appealed BOC Approved
Conditions of Approval		Current Status	
Republic Comment: 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			
<ul style="list-style-type: none">Disagree strongly with staff. “Temporary” cover of tarp-covered closed landfill cells sitting “temporarily” for a generation is clearly not the intent of this provision. Meeting minutes and applicant statements provide clarification as to the intent of this provision. This provision additionally requires “visual reclamation” of an area which has been so deformed by an accumulation of 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:			
<ul style="list-style-type: none">“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?			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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 ¹ and Sanitary Landfill expansion.	PC Approved PC Decision Appealed BOC Approved
Conditions of Approval		Current Status	
<ul style="list-style-type: none">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. <p><u>Republic Comment</u>: Republic agrees with Staff. The landfill has changed substantially since 1974 and certain areas of the landfill have been closed and covered and seeded over time per DEQ regulations. This condition is no longer relevant. Reclamation of the site will continue as cells close and will be part of the final Closure Plan.</p> <p>Notes:</p> <p>Ref: County File: Reclamation Plan - Closure-Post Closure Plan_Report_Final. Report Title: “Worst Case” Closure and Post-Closure Plan, Coffin Butte Landfill, Benton County, Oregon, Prepared by Geologic, September 2020</p> <p>Open Item(s): DEQ records concerning the landfill need to be reviewed.</p>			
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			
<u>Staff</u> Complete, 1977 Waste Control Systems, Inc. Solid Waste Management Plan			
<u>Workgroup Committee</u> <ul style="list-style-type: none">Needs detail, & relevant as to intent: This plan said that the landfill would close by the year 2000 and be replaced by a waste-to-energy facility. Approval of a landfill in 1974 was not a “forever landfill” – it was a bridge to a different way of dealing with solid waste. It is important to note that, in order to not repeat prior mistakes			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> Compliance Opinion: In Compliance 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 full 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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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 ¹ and Sanitary Landfill expansion.	PC Approved PC Decision Appealed BOC Approved
Conditions of Approval		Current Status	
<u>Staff</u> 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.			
<u>Workgroup Committee</u> <ul style="list-style-type: none">• DEQ approval of a reclamation plan does not supersede county conditions of approval. No part of the landfill has yet been restored to grazing, farming, or even natural alternatives such as native prairie vegetation.• Disagree strongly with staff. Land use is land use, and is a County regulation. Unless specifically referred to in the land use language, DEQ has parallel, authority, not overriding authority. Land use policies deal with compatibility issues (i.e. generation of odors/dust); DEQ policies deal with environmental quality. Those are different regulatory bodies and one saying “this is OK” does not negate the authority of the other (Unless that is specified within the regulation itself, which in this case it is not)			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
Compliance Opinions: <ul style="list-style-type: none">A Physical Design Requirements: In ComplianceB Reclamation & Visual Requirements: Compliance Status Unclear			
A Compliance Opinion for “small acreage” condition: In Compliance. 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. 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, 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. 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: Republic closure representations and DEQ position: <ul style="list-style-type: none">• 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@deg.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 are in temporary cover/closure. Final closure/capping under this scenario would occur when these uppermost			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
<p>cells are full or waste sequencing for an area is completed. This also allows for multiple cells to share leachate and gas collection and control systems. Approval could be considered granted via DEQ approval of the Site Development Plan and through the further refined final engineered closure plans.</p> <p>CFR 258.2 Definitions Municipal solid waste landfill (MSWLF) unit means a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under <u>§ 257.2 of this chapter</u>. A MSWLF unit also may receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, very small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion. A construction and demolition landfill that receives residential lead-based paint waste and does not receive any other household waste is not a MSWLF unit.</p> <p>Open Items: A pathway to achieve the County’s expectations of what closure of the landfill will look like is needed.</p> <p><u>Republic Comment</u>: Republic agree with staff. Republic notes that the active landfill area remains approximately the same size when the Landfill moves from one cell to another. This has been true for the life of the Landfill.</p>			
7. That efforts be made to encourage voluntary separation of recoverable materials such as tin, aluminum, paper, glass, etc. to reduce the amount of landfill materials.		Consensus: Majority Opinion: Minority Opinion:	
Comments			
<u>Staff</u> The applicant has and is fulfilling this condition.			
<u>Workgroup Committee</u> <ul style="list-style-type: none">Some efforts have been made but they have been largely ineffective. Benton County's ratio of recycling to landfilling has not improved appreciably since the 1970s.Presumably the intent of this provision was to have recycling efforts contribute to increasing the life of the landfill. Currently, Benton County could go to zero waste tomorrow, and presumably, the landfill would still take in the maximum volume cap within a short time, because of the new owner’s vertical integration. This should be noted in the Common Understandings document.			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
Compliance Opinion: Compliance Status Unclear			
Explanation: 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 Republic draws material from.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

LAND USE ACTIONS TABLE			
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Conditions of Approval		Current Status	
<u>Republic Comment:</u> 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.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1983	PC-83-07 L-83-07	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)).	BOC Approved.
Conditions of Approval		Current Status	
1. Cross reference the narrative and the map in both documents. <u>*CLARIFICATION ON CONTENT NEEDED. SEE SUBCOMMITTEE COMMENTS</u>		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 Committee</u> • impossible to assess with missing narrative			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> *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 of 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 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)			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
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	L-83-07	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)).	
Conditions of Approval		Current Status	
<p>“Reclamation of the: landfill in the manner described will be compatible with the existing predominant open space and resource lands characteristics of the adjacent and surrounding lands and the current uses of these lands and will be consistent with the expected future use of these lands as indicated by the existing farm and forest land use designations.”</p> <p>Reclamation From pdf file page 18 (original document page 8): ... “Reclamation of the landfill in the manner proposed will be compatible with the predominately open space and resource lands characteristics of the adjacent and surrounding lands and the current uses of these lands and will be consistent with the expected future use of these lands as indicated by the current farm and forest land use designations. Based on the need to provide facilities for waste disposal, the lack of any other existing or planned disposal sites within this area, the environmental, economic, social and energy benefits from maintaining the 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.”</p> <p>Reclamation From pdf file page 16 (original document page 6): “The long- term environmental consequences of this proposal to the region served by the landfill will be to have a recognized site for waste disposal operating under a D.E.Q.- approved development plan and meeting D.E.Q. standards.”</p> <p style="text-align: right;">End of quotations</p> <p>Compliance Opinions:</p> <p>A Physical Design & Geotechnical Requirements: Compliance Status Unclear</p> <p>B Reclamation Requirements: Compliance Status Unclear (Not triggered see CP-74-01 (6))</p> <p>Compliance Opinion(s):</p> <p>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.</p> <p>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</p> <p><u>Republic Comments:</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.</p>			
2. Expand the narrative statement, section (1.a.ii), on reclamation to include the physical configuration of the completed landfill areas and method of maintenance of the proposed pasture uses. Include a statement regarding the effects of methane and internal heat		Consensus: Majority Opinion: Minority Opinion:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
generation on the long-term maintenance of the pasture and include irrigation plans if proposed.			
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 Committee</u> <ul style="list-style-type: none">impossible to assess with missing narrativeWe 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.			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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: "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			
<u>Republic Comment</u> : Republic agrees with staff. The 1983 narrative is no longer relevant to the operation given subsequent approvals and changes over time.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1983	PC-83-07 L-83-07	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)).	BOC Approved.
Conditions of Approval		Current Status	
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			
<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 Committee</u> <ul style="list-style-type: none">For this and other statements regarding "updates of the narrative, the Solid Waste working group has not been supplied with sufficient information to evaluate compliance. This same comment applies to all entries below. We are being asked to opine on these things without adequate information. I suggest that we should not be giving a rubber stamp of approval to statements that we have not actually had opportunity to examine fully -- it's both meaningless and likely to be abused in future CUP applications.impossible to assess with missing narrative <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	L-83-07	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)).	
Conditions of Approval		Current Status	
<p>outside slope of 3/ 1. The depth of the key is three feet. The berm is composed of low permeability materials from on- site sources. The berm has been hydroseeded and will be grazed.</p> <p>Screening plants will consist of trees from the tree farm owned by Valley Landfills on their land south of Coffin Butte Road. Initial height of the plantings will range from 6 - 10 feet. Additional plantings can be made on the terraces to screen disposal operations on the slopes, as needed. The plantings will receive ongoing maintenance by the landfill operators."</p> <p>Explanation: None</p> <p>Notes: 1983 site plan drawing was not provided in the County documentation.</p> <p>Open Item(s): None</p> <p><u>Republic Comments:</u> The landfill site has changed substantially since 1983, so it likely impossible to determine what was done or not done in 1983.</p>			
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>			
<ul style="list-style-type: none">For this and other statements regarding "updates of the narrative, the Solid Waste working group has not been supplied with sufficient information to evaluate compliance. This same comment applies to all entries below. We are being asked to opine on these things without adequate information. I suggest that we should not be giving a rubber stamp of approval to statements that we have not actually had opportunity to examine fully -- it's both meaningless and likely to be abused in future CUP applications.impossible to assess with missing narrative			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager/</u>			
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			
<u>Republic Comment:</u> 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.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	L-83-07	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)).	
Conditions of Approval		Current Status	
Basis: Analysis was provided and is still being performed on leachate sent offsite for disposal. Per Republic, leachate use for onsite irrigation ceased many years ago.			
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			
<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 Committee</u> <ul style="list-style-type: none">For this and other statements regarding "updates of the narrative, the Solid Waste working group has not been supplied with sufficient information to evaluate compliance. This same comment applies to all entries below. We are being asked to opine on these things without adequate information. I suggest that we should not be giving a rubber stamp of approval to statements that we have not actually had opportunity to examine fully -- it's both meaningless and likely to be abused in future CUP applications.impossible to assess with missing narrative, where are the 10 acres proposed for addition? need drawings			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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 <u>Republic Comment:</u> Republic Agrees with staff for some of the reasons stated above.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
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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 <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 Committee</u> <ul style="list-style-type: none">For this and other statements regarding "updates of the narrative, the Solid Waste working group has not been supplied with sufficient information to evaluate compliance. This same comment applies to all entries below. We are being asked to opine on these things without adequate information. I suggest that we should not be giving a rubber stamp of approval to statements that we have not actually had opportunity to examine fully -- it's both meaningless and likely to be abused in future CUP applications.impossible to assess with missing reclamation plans (which would probably be in the form of drawings, not “narrative”) <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. <u>Republic Comment:</u> 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 <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 Committee</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1983	PC-83-07 L-83-07	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)).	BOC Approved.
Conditions of Approval		Current Status	
<ul style="list-style-type: none">For this and other statements regarding "updates of the narrative, the Solid Waste working group has not been supplied with sufficient information to evaluate compliance. This same comment applies to all entries below. We are being asked to opine on these things without adequate information. I suggest that we should not be giving a rubber stamp of approval to statements that we have not actually had opportunity to examine fully -- it's both meaningless and likely to be abused in future CUP applications.Impossible to assess with missing pond protection plans (note: presumably not in compliance since the small ponds currently appear to be buried below a large pile of waste) <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Compliance Status Unclear</p> <p>Basis:</p> <p>Notes:</p> <p>From pages 6-8 (REFERENCE?)</p> <p>“The small ponds will remain as at present for the next ten years. At the end of this period the use of the ponds and surroundings will be reevaluated and, if anything is to be done, state of the art engineering practices will be employed in conformance with the standards in effect at that time. A modified site development plan will be submitted for County review when appropriate.”</p> <p>Explanation: Pond location unclear.</p> <p>Notes: None</p> <p>Open Item(s): Address DEQ primacy question</p> <p><u>Republic Comment</u>: Republic agrees with staff.</p>			
8. The current DEQ operational permit will expire on January 31, 1984. Valley Landfills, Inc. has been requested to submit an updated, long-term leachate control plan as part of the permit renewal process. This plan must contain provisions for a leachate storage facility so leachate irrigation will not occur on pasture lands from November 1 through May 1 of each year. The control plan must also provide for a soil study that designates present and future leachate irrigation areas. This plan must show that the amount of irrigation area available is compatible with future leachate generation volumes so metal or nutrient accumulations in the soils will remain fat below any toxicity levels.		Consensus: Majority Opinion: Minority Opinion:	
Comments			
<u>Staff</u> 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.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1983	PC-83-07	Amendments to the Benton County Comprehensive Plan and Plan Map (Ordinance 251), and amendments to the Zoning Ordinance and Zoning Map (Ordinance 261).	BOC Approved.
	L-83-07	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)).	
Conditions of Approval		Current Status	
<p>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.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">• DEQ does not monitor soil toxicity• request has been made of Brian fuller, DEQ to find out if DEQ monitors soil toxicity• there has never been a cup submitted to Benton County that included off-haul of all leachate generated at the landfill for treatment at municipal facilities & release into the Willamette. all cup's (1974/1983/2003) where documentation is available have contained, in the application, assertions that all leachate would be treated on-site.• This statement is not adequate to confirm that these conditions were met, or that they were fully evaluated by DEQ. Certainly, in the case of "irrigation area," any such plan did not work and as a result the leachate is being hauled to wastewater treatment plants rather than being irrigated. It would be more accurate to characterize this as a failure of design that led to non-compliance, which required alternative methods to maintain DEQ permitting.• Republic: Republic Services maintains an active solid waste permit with the Oregon Department of Environmental Quality and is in compliance with that permit. Further, leachate irrigation ceased in the late 1990s, as a result of new regulatory rules. All leachate is sent to a local wastewater treatment plant. <p><u>Subcommittee Members</u> Edward Pitera, Catherine Biscoe, Mark Yeager</p> <p>MARK YEAGER: The effort to absolve the County of any responsibility for ensuring proper management and treatment of leachate ignores the County's duty to ensure compatible land use in Benton County. Leachate generation is a by-product of approving the hosting a landfill in the County. Ignoring the fate of leachate generated by the landfill is akin to approving a residential subdivision without any consideration of how and where the sewage generated is safely disposed.</p> <p>The fate of leachate generated by the landfill should not simply be ignored by the County and delegated to DEQ. Trucking of leachate to Corvallis' sewage treatment plant does not result in effective treatment or insure against pollution of nearby waterways. Many of the toxic pollutants contained in leachate (PFAS, heavy metals, pharmaceuticals, personal care products, etc.) simply pass through the treatment plant with very little or no pollutant removal and end up in the Willamette River. The Willamette River is a key recreation asset (boating, fishing, swimming, etc.) for residents of Benton County, and a source of drinking water supply for downstream residents e.g., Adair Village</p> <p>Compliance Opinion: County Requirement Superseded (Specific requirement no Longer Relevant)</p> <p>Basis: Leachate storage exists on site for holding leachate prior to trucking to off-site locations. No leachate is currently being land applied on landfill properties. No soil study needed</p> <p>Note: Leachate processing at a wastewater treatment facility may not be an appropriate or effective treatment for leachate and subcommittee recommends further evaluation</p> <p>Open Item(s): Management and effectiveness of current leachate transfer/treatment at city treatment works.</p> <p><u>Republic Comments:</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.</p>			
9. As the site expands eastward, additional monitoring wells will be required. Depending on DEQ budget limitations, the permittee may have to share in the responsibility for sampling and monitoring of these wells.		Consensus: Majority Opinion: Minority Opinion:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
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	L-83-07	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)).	
Conditions of Approval		Current Status	
Comments			
<u>Staff</u>			
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.			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none">• Republic: Republic Services has added additional monitoring wells as required and continues to be in compliance with its DEQ permits.• As above, there should be a check of whether DEQ has actually evaluated this. Just because DEQ approved a permit does not necessarily mean that this condition was met.• domestic wells have been contaminated. current subchapter part “d” dual landfill liners have been required since 1993. this technology is less than 30 years old and may have to continue to perform for hundreds of years, during which time the liner can become brittle. the EPA has concluded that all landfills will eventually leak "no liner ... can keep all liquids out of the ground for all time. eventually liners will either degrade, tear, or crack and will allow liquids to migrate out of the unit. some have argued that liners are devices that provide a perpetual seal against any migration from a waste management unit. EPA has concluded that the more reasonable assumption, based on what is known about the pressures placed on liners over time, is that any liner will begin to leak eventually. "citation: EPA, 1988• is any leachate collected in the secondary collection system? if so, the liner is already leaking			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
Compliance Opinion: Compliance Status Unclear			
Basis: Documentation unclear as to what wells involved and which organization is to provide it. Presumed in Republic Annual Report.			
Explanation: Presumed in Republic Annual Report. Needs further information on how the reports are reviewed for compliance with site groundwater contamination goals.			
<u>Republic Comment</u> : Republic agrees with Staff. Monitoring wells are within the jurisdiction of DEQ. The County can exercise no oversight of DEQ’s responsibilities. Republic has a DEQ approved Environmental Monitoring Plan that includes a map of all monitoring wells.			
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			
<u>Staff</u>			
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.			
<u>Workgroup Committee</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1983	PC-83-07 L-83-07	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)).	BOC Approved.
Conditions of Approval		Current Status	
<ul style="list-style-type: none">• Republic: Republic Services’ records are incomplete, as this amendment is nearly 40 years old, and the company was neither the owner, nor the operator of the landfill at that time. However, Republic Services has planted trees to screen the landfill from Highway 99. Based on the age of the condition and the changing site conditions over the past four decades, Republic disagrees with the conclusion that this condition has not been completed.• not in compliance document not included letter from the Oregon justice department regarding screening requirement per the 1967 highway beautification act• There should be a more clear statement that the applicant is not in compliance with this requirement. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Mark Yeager: The revised narrative submitted by the applicant is very detailed. None of the requirements have been completed or maintained. The County has not taken any enforcement action to ensure that these requirements be met.</p> <p>Compliance Opinion: Not In Compliance</p> <p>Basis: Personal observations</p> <p><u>Republic Services:</u> Our comments remain the same. The site has changed so much since 1983 it is impossible to determine what might have done and any screening requirements imposed then would no longer be relevant to the current operation. And required screening will be addressed at the time of the new CUP (as occurred in the 2021 process.)</p>			
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 adhered to.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>The landfill uses an alternative daily cover approved by DEQ, which includes Covanta Ash material. The landfill also uses temporary cover.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">• Republic: Republic Services generally agrees with this assessment but would like the record to reflect that we do use site soils as daily cover, in addition to alternative daily covers.• land use requirement not addressed by staff: this is a land use requirement; DEQ is not mentioned, and does not have override authority need more information: does the area of open fill exceed 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. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Using highly toxic Covanta Ash material to cover the garbage is another example of the County absolving itself from any obligation to protect Benton County residents from incompatible land uses. Oregon DEQ does not have a stellar record for effectively preventing pollution (air or water) through their permit processes.</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1983	PC-83-07 L-83-07	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)).	BOC Approved.
Conditions of Approval		Current Status	
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.			
Republic Comments: 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 not 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			
<ul style="list-style-type: none">• Republic: This condition was put in place prior to today’s highly engineered landfill design requirements. At the time, landfill liners were not required. Republic Services complies with all current regulatory requirements, which include liners. Leachate does not seep through perimeter berms.• disagree with staff: DEQ not mentioned, therefore DEQ does not have regulatory authority. question: does leachate seep through site berms? is not answered• 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			
Republic Comment: Republic complies the current DEQ requirements for leachate management.			
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.			
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:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
1983	PC-83-07 L-83-07	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)).	BOC Approved.
Conditions of Approval		Current Status	
<p>Comments</p> <p><u>Staff</u></p> <p>This is an advisory to the applicant rather than a condition that needed to be met.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">• s mentioned therefore it is appropriate to refer to DEQ compliance, although if the LUCS is not current, the permit may not be valid <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: Compliance Status Unclear</p> <p>Basis: Compliance not demonstrated. Need DEQ solid waste permits from period 1983 to 2000. (Note: Make sure dates in DEQ request)</p> <p><u>Republic Comment</u>: This condition is no longer relevant. There have been multiple iterations of subsequent DEQ permits since 1983.</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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 <u>Staff</u> Superseded by subsequent expansion approval. Original generator building 3,900 square feet <u>Workgroup Committee</u> <ul style="list-style-type: none">missing information: application materialsThis 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?) <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> Compliance Opinion: None given as of 12/11/22 Basis: Low Priority <u>Republic Comments</u> : Republic agrees with staff.			
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 <u>Staff</u> Noise testing completed in 1997. <u>Workgroup Committee</u> <ul style="list-style-type: none">noise is an issue at the landfill and 1997 was a long time ago -- ensure the facility is still in compliance; verify that noise standards have not been updatedWas there ever a follow-up study after the facility was expanded? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<p>Basis: County staff represent that compliance with noise limits is driven by resident complaints. More detailed information on the County process for receiving, managing, and resolving complaints of this nature is needed to establish if this condition is being met.</p> <p><u>Republic Comments:</u> Republic agrees with staff. The condition required compliance at approval. Whether other members of the committee think the condition was inadequate can't be collaterally attacked after 18 years and isn't relevant to whether the power plant complied.</p>			
3. The applicant is responsible for ongoing monitoring of noise levels. Upon request of the Planning Official, the applicant shall provide the County with sufficient information to determine whether the facility is in compliance with Condition 2 of this permit.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>Noise testing completed in 1997. Available records do not indicate any such requests by the Planning Official.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">• Republic: Republic Services agrees with the County's assessment. Our available records do not indicate any such requests by the Planning Department.• County has not monitored.• noise is an issue at the landfill: ask the applicant to demonstrate that the facility is in compliance <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: To ensure land use compatibility, compliance with noise requirements cannot be a snapshot in time. Periodic testing and monitoring to ensure continued compliance is required and the County does not monitor or enforce land use (e.g., noise impacts) requirements.</p> <p>Compliance Opinion: Compliance Status Unclear</p> <p>Basis: County staff represent that compliance with noise limits is driven by resident complaints. More detailed information on the County process for receiving, managing, and resolving complaints of this nature is needed to establish if this condition is being met.</p> <p><u>Republic Comment:</u> This condition is only triggered if the Planning Official so requests. If there is no evidence that the Planning Official ever made such a request, then the power plant has been in compliance.</p>			
4. The applicant shall obtain and comply with all applicable permits from Oregon Department of Environmental Quality (DEQ). The applicant shall provide copies of all DEQ permits to the County.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit.</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<u>Workgroup Committee</u> <ul style="list-style-type: none">when was the most recent LUCS on file at DEQ completed? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>Compliance Opinion: Compliance Not Demonstrated</p> <p>Basis: No record of required action provided.</p> <p><u>Republic Comment:</u> This condition was imposed on the power plant.</p>			
5. Expansion of the generating capacity of the facility is authorized under this permit as long as all conditions of approval, including those specifying building size and noise levels, are met. The Planning Official may require that the applicant obtain a new conditional use permit in order to expand the facility if, in his judgment, conditions existing at the time of the proposed expansion warrant a conditional use review.		Consensus: Majority Opinion: Minority Opinion:	
Comments <u>Staff</u> <p>A new CUP was submitted and approved to expand the size of the facility.</p> <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>Compliance Opinion: Compliance Not Demonstrated</p> <p>Basis: No record of required compliance with noise levels provided.</p> <p>Note: need to add CUP document reference as notated above in staff comment</p>			
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 <u>Staff</u> <p>Monitoring of this condition is complaint driven. Staff has no records of complaints regarding lights at the landfill.</p> <u>Workgroup Committee</u> <ul style="list-style-type: none">County has not monitoredNot enough information to determine if this condition is met.staff comment is non-responsive; check the facility at night			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<ul style="list-style-type: none">While we are on the landfill tour on Saturday, I heard you [Ian] talking with Joel Geier, and the subject of the arc lamps on the scene came up (photo attached). You told Joel that the lamps were not used mornings, only in afternoons. However, I went out this morning at 6 am and saw that the lights were indeed already on atop Coffin Butte, and there appeared to be operations going on, as I could see the red taillights of trucks moving around up there also. So it seems you are mistaken about the use of the arc lamps, and have been for some time. All last winter, for example, the lights were on every workday morning. I know this because I can see them from where I live when I go out to get the paper, weather permitting. They were on even if I got up at 5 am. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Can the County describe the system for documenting, responding to, and resolving complaints received? A complaint driven system of enforcement is unsatisfactory, particularly when Benton County residents are unaware of specific requirements and certainly rely on Benton County staff to monitor and enforce land use requirements.</p> <p>Compliance Opinion: Compliance Not Demonstrated</p> <p>Basis: No record of addressing compliance with lighting complaints provided.</p> <p><u>Republic Comments:</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.”</p>			
7. Obtain all required septic, access, building, plumbing, mechanical, electrical, and other applicable permits prior to construction.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>This building permit(s) is finalized [Electrical - C9500565, C9501197, C9600514, C9600852]</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">septic/ada/building/plumbing/mechanical? certificate of occupancy? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Compliance Opinion: None given as of 12/11/22</p> <p>Basis: Low Priority</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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	
<p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> believe that the record and rational of this land use proceeding is relevant to the evolution of the Coffin Butte Landfill.</p> <p>Review of the record in this land use proceeding provides important historical context. The public comments and the Notice of Decision in this matter are critical to understanding the history of the landfill and the sentiment of the residents of Benton County at that time.</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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 <u>Staff</u> The expansion added 4,300 square feet to the original building. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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 <u>Staff</u> Zoning compliance reviewed completed along with building permits – completed [Permit B0700147 Phase I expansion & Permits B0700323, B0700416, B0700415, F0600068, B1400497] <u>Workgroup Committee</u> <ul style="list-style-type: none">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			
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:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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			
<u>Staff</u>			
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).			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none">• And were complaints received? Not enough information to determine if this condition was met.• County has not monitored subsequent• Is this document available to the public?• noise is an issue at the landfill; ensure the facility is still in compliance; verify that noise standards have not been updated			
<u>Subcommittee Members</u> 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 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>Republic Comments:</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>			
<ul style="list-style-type: none">• Republic: Republic Services agrees with the County’s assessment. Our available records do not indicate any such requests by the Planning Department.• County has not monitored• noise is an issue at the landfill; ensure the facility is still in compliance			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<ul style="list-style-type: none">Not enough information <p><u>Subcommittee Members</u> Edward Pitera, Catherine Biscoe, Mark Yeager</p> <p>MARK YEAGER: Requiring the Applicant to self-monitor and regulate without any oversight by the County is ineffectual and a disservice to the residents of Benton County to whom County staff and the Board of Commissioners are accountable.</p> <p>Compliance Opinion: Compliance Status Unclear</p> <p>Basis: County staff represent that compliance with noise limits is driven by resident complaints. More detailed information on the County process for receiving, managing, and resolving complaints of this nature is needed to establish if this condition is being met.</p> <p><u>Republic Comments:</u> The Planning Official has never asked for additional information, so the Power Plant is in compliance or that there is no evidence of non-compliance.</p>			
5. The applicant shall continue to provide sanitation facilities for the generation plant employees that are located on site. The facilities shall include: <ul style="list-style-type: none">a) Drinking water within the generating plant building by a potable water container, refilled periodically;b) A portable toilet located at the generating plant site;c) Plumbed restroom facilities, with water closets and hot and cold running water shall be available for use by employees at the Coffin Butte Landfill office;d) Generating plant employees shall have vehicles available for trips to the Coffin Butte Landfill office restroom facilities;e) The maximum number of generating plant employees shall be five (5).		Consensus: Majority Opinion: Minority Opinion:	
Comments			
<p><u>Staff</u></p> <p>OSHA letter from September 29, 1997 included relating to the toilet facilities and drinking water being compliant with OSHA standards for sanitation.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">applicant “shall continue” ...is the facility still in compliance? is potable water still available, are the other conditions complied with? portable toilet/available vehicles/5 maximum employees? <p><u>Subcommittee Members</u> Edward Pitera, Catherine Biscoe, Mark Yeager</p> <p>Compliance Opinion: None given as of 12/11/22</p> <p>Basis: Low Priority</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
6. The application 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 <u>Staff</u> This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit. <u>Workgroup Committee</u> when was the most recent LUCS on file at DEQ completed? <u>Subcommittee Members</u> Edward Pitera, Catherine Biscoe, Mark Yeager Compliance Opinion: Compliance Not Demonstrated Basis: No record of required actions provided <u>Republic Comment</u> : 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 <u>Staff</u> Monitoring of this condition is complaint driven. There are no records of any complaints. <u>Workgroup Committee</u> <ul style="list-style-type: none">• check the facility at night• County has not monitored• Not enough information <u>Subcommittee Members</u> 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 with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<p>Compliance Opinion: Compliance Not Demonstrated</p> <p>Basis: No record of addressing compliance with lighting complaints provided.</p> <p><u>Republic Comments</u>: If there is not record of complaints and, ergo, no record that the power plant has failed to respond to complaints, then there is no basis for a conclusion that the Power Plant has done anything other than comply.</p>			
8. The property owner shall submit a declaratory statement to be recorded in the Benton County Deed Records for the subject property that recognizes the rights of adjacent forest uses, consistent with BCC 620.220().		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Completed.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">provide copy in documentation <p><u>Subcommittee Members</u> Edward Pitera, Catherine Biscoe, Mark Yeager</p> <p>Compliance Opinion: No compliance opinion</p> <p>Basis: Low priority</p>			
9. The applicant shall prepare a site-specific development plan addressing emergency water supplies for fire protection. The plan shall be submitted to the local fire protection agency for review. The plan approved by the local fire protection agency shall be 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:		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>a) Emergency access to the local water supply in the event of a wildfire or other fire-related emergency;</p> <p>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</p> <p>c) Emergency water supplies shall be clearly marked along the access route with a Fire District approved sign.</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
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Conditions of Approval		Current Status	
Comments <u>Staff</u> Additional research needed, compliance with this condition is not confirmed. <u>Workgroup Committee</u> <ul style="list-style-type: none">• 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>Republic Services</u> : This condition was imposed on expansion of the power plant, not on the landfill. We note that the landfill maintains n 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:	
Comments <u>Staff</u> Completed for Phase 1. Phase 2 of the expansion has not been utilized by the applicant. <u>Workgroup Committee</u> <ul style="list-style-type: none">• CO for Phase 1? CO for Phase 2?• Republic Services’ records do not show any non-compliance issues with Phase II. While the owner/operator of Coffin Butte Landfill was the applicant for this CUP request, primary responsibility for compliance would have been with Pacific Northwest Generating Cooperative, an independent third-party contractor and not a Republic Services’ subsidiary.• What about Phase 2?			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
Compliance Opinion: No compliance opinion			
Basis: Low priority			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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			
<u>Staff</u> This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit. <u>Workgroup Committee</u> <ul style="list-style-type: none">extraction believed to be completed, see next permit request, staff should verify. is there a CUP closeout process at Benton County CDD? <u>Subcommittee Members</u> 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. <u>Republic Comment:</u> 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.			
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			
<u>Staff</u> Public roads serving primarily quarry traffic are paved. Complete. <u>Workgroup Committee</u> <ul style="list-style-type: none">extraction believed to be completed, see next permit request, staff should verify. is there a CUP closeout process at Benton County CDD?			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
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Conditions of Approval		Current Status	
<ul style="list-style-type: none">Is there no equivalent condition about dropping rocks which create road hazards on the highway? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: This is a classic example of an unenforceable condition of approval – who or how will the “primary cause” of traffic be determined? Then the requirement that the applicant or quarry lease holder “endeavor” to use only roads designed for truck traffic, what does that mean? A meaningless condition that does not have any chance of being enforced. Issuing a land use approval to a property owner binds the property owner and that obligation cannot be transferred to the lease holder.</p> <p>Compliance Status Unclear. No record of required action provided.</p> <p><u>Republic Comment.</u> There is no quarry traffic on any unpaved roads. The primary road that the quarry traffic uses is paved (Coffin Butte Rd). An occasional truck might use one of the roads to the north of the site to deliver gravel to a homeowner or if the county is doing maintenance on a gravel road, but is not very common. Rock trucks are not the primary traffic on any of the gravel roads surrounding the site. This condition has never been triggered.</p>			
3. The applicant or lease-holding operator shall provide screening to partially obscure the mining site from view by adjoining occupied property and public roads in Soap Creek Valley and north Benton County to the extent reasonable and practicable to do 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 <u>Staff</u> Staff will need to field verify but it appears through comments that the applicant is not in compliance with this condition. <u>Workgroup Committee</u> <ul style="list-style-type: none">Republic: Republic Services did not own Coffin Butte Landfill at this time. Therefore, we do not have detailed records about any screening that was done. While the owner/operator of Coffin Butte Landfill was the applicant for this CUP request, primary responsibility for compliance with these and other requirement would have been the third-party quarry contractor. It appears from Google Earth historical photos that the third-party contractor did make an attempt to construct some berms and screening, but Republic Services do not have access to those records.extraction believed to be completed, see next permit request, staff should verify. is there a CUP closeout process at Benton County CDD?Not in compliance. The quarry is visible for miles around. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Further, making an attempt to provide screening is not compliance. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless.</p> <p>Compliance Status Unclear. Field verification needed.</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
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 <u>Staff</u> 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. <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD? <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. No record of required action provided. <u>Republic Comment</u> : 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:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<div>Comments</div> <div>Staff</div> <div>Additional Research Needed</div> <div>Workgroup Committee</div> <div><ul style="list-style-type: none">Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?In compliance</div> <div>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</div> <div>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.</div> <div>Condition No. 5</div> <div>No Compliance Opinion</div>			
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.		<div>Consensus:</div> <div>Majority Opinion:</div> <div>Minority Opinion:</div>	
<div>Comments</div> <div>Staff</div> <div>Additional Research Needed</div> <div>Workgroup Committee</div> <div><ul style="list-style-type: none">Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?In compliance</div> <div>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</div> <div>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.</div> <div>No Compliance Opinion</div>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
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 <u>Staff</u> Additional Research Needed <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?• The provision for screening has not been met, as noted above. <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. 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 <u>Staff</u> Additional Research Needed <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?• 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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<p>Mountain Landfill. That landfill only serves commercial account holders, yet they seem to be able to restrict those haulers to their stated operating hours (7 AM to 5 PM weekdays and Saturdays). Seems like there's a lesson for Benton County our working group in there.</p> <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless.</p> <p>Limiting “quarry operations” to 7:00 am to 5:00 pm creates a potential conflict with prior condition #4. [Republic comment – Condition 4 applies to blasting; this condition applies to all operations.]</p> <p>In Compliance: Periodic County inspections are suggested to address resident concerns.</p>			
9. The applicant shall retain the dual-access road system to provide for emergency service access to the subject site.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>Additional Research Needed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?• There is only one serviceable route in to the quarry site for emergency service. The bridge over Soap Creek is no longer passable for emergency vehicles (both structurally unsound and with barriers in place). <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless.</p> <p>Compliance Status Unclear</p>			
10. The quarrying activity shall be limited to the 600-foot contour elevation and below, as shown by the applicant on Attachment 2 to the application.		Consensus: Majority Opinion: Minority Opinion:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
Comments			
<u>Staff</u>			
Additional Research Needed			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none">Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?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.			
Republic Comment: 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			
<u>Workgroup Committee</u>			
<ul style="list-style-type: none">Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?This explanation of status cannot be accepted until the topic has been researched.			
<u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u>			
MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless.			
Compliance Status Unclear. County records need to be reviewed			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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			
<u>Staff</u> Additional Research Needed <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: As noted above, the owner/operator of Coffin Butte Landfill was the applicant for this CUP only because it was the property landowner. Primary responsibility for compliance with these and other requirements would have rested with the third-party quarry contractor.• extraction believed to be completed, see next permit request, staff should verify. is there a cup closeout process at Benton County CDD?• This explanation of status cannot be accepted until the topic has been researched. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> MARK YEAGER: As the property owner, RS or any previous landowner cannot delegate their responsibility to comply with conditions of approval to a third-party. It is the responsibility of the landowner to comply. Again, County inability or unwillingness to monitor or enforce conditions of approval makes the whole land use review and approval process meaningless. Compliance Status Unclear. County records need to be reviewed.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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 <u>Staff</u> This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit. <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services has obtained all the necessary approvals and permits from the Oregon Department of Environmental Quality and remains in compliance with these conditions and approvals.• does the most recent LUCS on file with DEQ predate• this cup application? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. <u>Republic comment:</u> 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 <u>Staff</u> No longer applicable. Coffin Butte Road is entirely paved. The county considers this condition to be completed. <u>Workgroup Committee</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<ul style="list-style-type: none">See previous comment on this issue re: Robison Rd. and Wiles Rd.The public section of Coffin Butte Road is entirely paved.there continue to be unpaved public roads in the vicinity of the landfill. does the landfill contribute to traffic on those roads? if so, how much? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: This is a classic example of an unenforceable condition of approval – who or how will the “primary cause” of traffic be determined? Many roads in the vicinity of the landfill are unpaved and are likely to receive traffic headed to the landfill.</p> <p>No Compliance Opinion</p> <p><u>Republic Services</u>: This condition is moot. There are no unpaved public roads serving the landfill; this condition is not applicable.</p>			
3. The applicant or lease-holding operator shall ensure that the landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>County monitoring of this condition is complaint-based.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">noise is an issue at the landfill; ensure the facility is still in complianceNot enough information.Not monitored by the county. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: How and when does the County ensure that the maximum sound level has not been exceeded. Since this is another example of complaint-based enforcement, what system is in place to document, respond to, and resolve noise related complaints? The landowner cannot delegate regulatory compliance or accountability with these types of requirements to a lease-holding operator.</p> <p>Compliance Not Demonstrated. No evidence of County process to capture / respond to action provided</p> <p><u>Republic Comment</u>: There is no evidence that Republic is not in compliance.</p>			
4. Provide on-site parking for employees, customers, and visitors to the landfill site.		Consensus: Majority Opinion: Minority Opinion:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
<div>Comments</div> <div><div>Staff</div><div>Completed.</div><div>Workgroup Committee</div><div><ul style="list-style-type: none">truck traffic to the landfill begins backing up HWY 99 beginning before 4:30am; ensure that traffic to the landfill does not pose a safety hazard</div><div>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</div><div>No compliance opinion</div><div>Republic comment: Republic has multiple parking spots at its office and scale house.</div></div>			
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.		<div>Consensus:</div> <div>Majority Opinion:</div> <div>Minority Opinion:</div>	
<div>Comments</div> <div><div>Staff</div><div>Security fence is present</div><div>Workgroup Committee</div><div><ul style="list-style-type: none">check fence perimeter to ensure fencing is intact and surrounds the entire perimeter; from a casual inspection, it appears deferred maintenance may be in order</div><div>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</div><div>No Compliance Opinion</div><div>Republic comment: The subject property is more than 200 feet from any public road.</div></div>			
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.		<div>Consensus:</div> <div>Majority Opinion:</div> <div>Minority Opinion:</div>	

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Conditions of Approval		Current Status	
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			
<ul style="list-style-type: none">• Republic: Republic Services is in compliance with this requirement, which governs landfill operations. However, it's important to note that internal operations, which include the arrival of field personnel on-site, begins at 4:30 a.m., Monday through Friday, and at 7:30 a.m. on Saturday. Additional operations not governed by the conditional use permit include work by third party contractors on landfill infrastructure, and commercial customers, who have 24-hour access to the Landfill.• "Operating hours" seem to be where there is most reluctance to make a clear statement that the landfill is out of compliance. Three or four special kinds of "operations" are mentioned that take place outside of the operating hours that were stated as conditions for the permits. On this last issue, for comparison I took a look at Lane County's Short Mountain Landfill. That landfill only serves commercial account holders, yet they seem to be able to restrict those haulers to their stated operating hours (7 AM to 5 PM weekdays and Saturdays). Seems like there's a lesson for Benton County our working group in there.• How does 24 hour access work with compliance to noise complaints?• Not in compliance• Not in compliance. See previous note regarding operating hours.			
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			
Republic comment: 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.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
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 <u>Staff</u> Complete <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services is in compliance with this requirement and has made a dual-access road system. Access is available via Highway 99 and Tampico Road.• good candidate for Chapter 77 review• This explanation of status cannot be accepted until the topic has been researched. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion <u>Republic Comment:</u> 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 <u>Staff</u> The applicant indicates they are in compliance with this condition. <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services is in compliance and operating within the 600-foot contour elevation as specified in the Site Development Plan.• applicant should provide lidar, coordinate & verify with county GIS• Not in compliance. The south face of Coffin Butte is scarred/eroded by excavations above the landfill up to approximately 675 ft elevation, per GoogleEarth images dated 8/13/2020 <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> MARK YEAGER: Compliance Not Demonstrated. Did the staff do any independent verification that the landfill is operating within the 600-foot contour? Compliance Opinion: Compliance Status Unclear			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
<u>Republic Comment:</u> Republic is in compliance with 600 foot limit; the condition does not apply to parts of the landfill outside of the 1.43 acrea.			
PLACEKEEPER: NEED TO CONFIRM ELEVATIONS CB Check USGS Topo Map, Benton County GIS			
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 <u>Staff</u> The county regularly receives copies. Appendix I https://www.co.benton.or.us/cd/page/materials-management-document-library <u>Workgroup Committee</u> <ul style="list-style-type: none">• 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 “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 <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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>Republic comment:</u> 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			

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Conditions of Approval		Current Status	
<p><u>Staff</u></p> <p>The county regularly receives copies. https://www.co.benton.or.us/cd/page/materials-management-document-library</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">• Are these available for inspection, and if so, where?• see CUP LU-15-001 the area zoned LS is inadequate to fully contain landfill operations and as a result ancillary landfill operations spill out onto properties not zoned for landfill operations (forest conservation/exclusive farm use/rural residential). this is why the landfill has had so many applications for non-by-right land uses over the past 50 years. this is a question that should be addressed holistically, not piecemeal. once landfill operations begin to be allowed on non-landfill parcels, those non-landfill parcels, over time, become indistinguishable from landfill parcels. this incrementally blights the neighborhood and should be addressed in a bcc code revamp <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Are the reports reviewed? Any independent verification by staff that the monitoring requirements for both air quality and water quality are being met and reported as required?</p> <p>Compliance Status Unclear. County records need to be reviewed</p> <p><u>Republic comment:</u> Republic is in compliance with this condition. The condition does not require (nor does the County have the authority to require) oversight of DEQ’s administration of its permits.</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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 <u>Staff</u> 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. <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services has obtained all the necessary approvals and permits from the Oregon Department of Environmental Quality and remains in compliance with these conditions and approvals.• when was the most recent LUCS on file at DEQ completed? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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 <u>Staff</u> No longer relevant. <u>Workgroup Committee</u> <ul style="list-style-type: none">• See previous notes re: Robison Rd. and Wiles Rd.• there continue to be unpaved public roads in the vicinity of the landfill. does the landfill contribute to traffic on those roads? if so, how much? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> MARK YEAGER: Compliance Not Demonstrated. Same comment as before – who and how is “primary cause” defined and enforced? Compliance Opinion: Compliance Status Unclear.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
<u>Republic Comment:</u> 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 <u>Staff</u> County monitoring of this condition is complaint-based. <u>Workgroup Committee</u> <ul style="list-style-type: none">County does not monitor.noise is an issue at the landfill; ensure the facility is still in compliance <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. <u>Republic Response.</u> 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 <u>Staff</u> Complied with. <u>Workgroup Committee</u> <ul style="list-style-type: none">truck traffic to the landfill begins backing up hwy 99 beginning before 4:30am; ensure that traffic to the landfill does not pose a safety hazard <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
<u>Republic Comment:</u> 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 <u>Staff</u> Complied with. <u>Workgroup Committee</u> <ul style="list-style-type: none">• check fence perimeter to ensure fencing is intact and there are no deferred maintenance issues <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion. <u>Republic Comment:</u> 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:	
Comments <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services is in compliance with this requirement, which governs landfill operations. However, it's important to note that internal operations, which include the arrival of field personnel on-site, begins at 4:30 a.m., Monday through Friday, and at 7:30 a.m. on Saturday. Additional operations not governed by the conditional use permit include work by third party contractors on landfill infrastructure, and commercial customers, who have 24-hour access to the Landfill.• not in compliance• Not in compliance, see previous notes on operating hours. <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			

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Conditions of Approval		Current Status	
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 <u>Republic Comment</u> : 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 <u>Staff</u> Additional Research Needed <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services is in compliance with this requirement. The eastern haul access road was relocated, per county regulations, during the construction of Cell 4 in 2012. Access is maintained today.• good candidate for chapter 77 review• This explanation of status cannot be accepted until the topic has been researched <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion <u>Republic Comment</u> : Republic is in compliance.			
8. Copies of water quality, stormwater runoff, and air quality permits; and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way with the Benton County Community Development Department for public inspection.		Consensus: Majority Opinion: Minority Opinion:	
Comments <u>Staff</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
<p>The county regularly receives copies. Appendix I https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">• Are these documents available for public inspection, and if so, where?• landfill not in compliance with June surface emission methane monitoring required by DEQ; Benton County should obtain an independent assessment of overall methane emissions, arsenic levels in monitoring wells are high, odor: per public records requests, odor complaints to DEQ are not documented/investigated/logged to the extent that residents have given up on making complaints to DEQ, annual report to DEQ: for many years, the reports required by Benton County DSAC to DEQ “documenting local citizens’ concerns and the manner in which the owner or operator [of the landfill] is addressing those concerns” (ORS 459.325) have not been completed and submitted as required by Oregon statute. even now, there is no DSAC meeting dedicated to this required activity. as a result, DEQ has not been informed of many of the problems that citizens experience at coffin butte landfill. contamination: domestic wells have been contaminated <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Are the reports reviewed? Any independent verification by staff that the monitoring requirements for both air quality and water quality are being met and reported as required? The June 2022 report of methane exceedances and re-testing looks suspect – 7 hours to perform first test, just over an hour for the re-test?</p> <p>Compliance Status Unclear. County records need to be reviewed</p> <p><u>Republic Comment:</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.</p>			
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:	
<p>Comments</p> <p><u>Staff</u></p> <p>Not completed</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">• Republic: Republic Services was unable to find records relating to this requirement, nor does it have any indication that there was any enforcement action from the County. Republic Services did plant a mitigating/vegetative buffer in 2016.• Not in compliance• not in compliance <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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Conditions of Approval		Current Status	
<p>MARK YEAGER: Not In Compliance. The County freely admits that it does no monitoring or enforcement of its adopted conditions of approval, and the County states that it relies on the applicant to comply with the requirements. Republic says they can't find their records related to the screening requirements and states further "nor does it have any indication that there was any enforcement action from the County." Review of this extensive record of land use actions for the landfill demonstrates this exact circumstance over and over. Apparently, the conditions of approval have absolutely no meaning and cannot be relied on to mitigate the impacts of incompatible land use activities performed at the landfill.</p> <p>Compliance Opinion: Not In Compliance</p> <p>Basis: Visual inspection.</p> <p><u>Republic Response:</u> As noted previously, Republic did plant a buffer in 2016.</p>			
10. Approval shall be obtained from the Oregon Division of State Lands for any activities on the subject property that affect designated wetlands.		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">• Republic: Republic Services has obtained all the necessary approvals and permits from the Oregon Department of Environmental Quality and remains in compliance with these conditions and approvals.• 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 <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>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?</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of required action provided.</p> <p><u>Republic Response.</u> Republic has obtained approval from DSL for any wetland disturbances on sit. Republic did construct mitigation wetlands as required and DSL gave their full approval that the wetlands met all requirements in 2017. That concluded Republic obligations under the permit</p>			

WORK IN PROGRESS

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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			
<u>Staff</u> Standard condition requiring the applicant to implement the conditional use permit as described in their application. Compliance is not actively monitored. <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services believes it is in compliance with the terms of the 2011 conditional use permit.• narrative not provided, attachment A not provided• Why doesn't the county monitor compliance. considering that the county receives \$X million per biennium which originally was supposed to be dedicated to issues associated with hosting a landfill? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. <u>Republic Comment:</u> 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			
<u>Staff</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<p>Completed.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">has staff verified documentation <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>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?</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of required action provided.</p>			
3. The applicant shall demonstrate compliance with the applicable siting standards specified in BCC 60.405 through materials submitted for issuance of building permits.		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Completed.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">certificate of occupancy? ADA compliance? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion</p>			
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.		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>Completed.</p> <p><u>Workgroup Committee</u></p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<ul style="list-style-type: none">certificate of occupancy? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion			
Conditions of Approval from PC-03-11 that remain applicable and should be continued (as of the time of this decision):		Note” The conditions for LU-11-016 are the conditions from PC-03-11 that remain applicable plus 4 new ones	
1. Obtain necessary approvals from the Oregon Department of Environmental Quality for landfill operations on this site.		Consensus: Majority Opinion: Minority Opinion:	
Comments <u>Staff</u> 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. <u>Workgroup Committee</u> <ul style="list-style-type: none">Republic: Republic Services is in compliance with the DEQ requirement.DEQ permit approvals should be listed here. Are all of them up to date?when was the most recent LUCS on file at DEQ completed? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. <u>Republic comment:</u> 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. 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:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
Comments <u>Staff</u> No longer applicable. Coffin Butte Road is entirely paved. <u>Workgroup Committee</u> <ul style="list-style-type: none">• The status assessment here does not address whether unpaved public roads were kept dust-free prior to paving. For example, Tampico Road has only been fully paved within the past 3 years, and received frequent landfill traffic. Did the applicant demonstrate compliance by performing dust suppression on that road prior to the recent paving by the county? Robison Road, 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? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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) <u>Republic Comment:</u> Republic agrees with staff; 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 <u>Staff</u> County monitoring of this condition is complaint-based. <u>Workgroup Committee</u> <ul style="list-style-type: none">• 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 <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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 with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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 County process to capture / respond to complaints provided.			
Republic Response: 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. 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)			
Republic: Republic is in compliance; all staff and visitors have space to park on site.			
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			
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))			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<u>Republic:</u> Republic is in compliance. The closest public road (HW 99) is more than 200 feet away from the public drop off facility.			
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 <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic Services: Republic Services is in compliance with this requirement, which governs landfill operations. However, it's important to note that internal operations, which include the arrival of field personnel on-site, begins at 4:30 a.m., Monday through Friday, and at 7:30 a.m. on Saturday. Additional operations not governed by the conditional use permit include work by third party contractors on landfill infrastructure, and commercial customers, who have 24-hour access to the Landfill.• Clearly not in compliance. if landfill operations routinely start at 4:30 am M-F. Operations are operations, no way to spin this.• Not in Compliance <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>MARK YEAGER: Not In Compliance (121622) Staff and RS do not get to interpret operating hours to mean something different than what was imposed as a written condition of approval. The words are the words. By definition the industrial activity of operating an active landfill is an incompatible use in an agricultural, forest and rural residential area. As such, operating hours are critical to mitigation of the numerous deleterious effects of the landfill operation. Requiring the landfill to limit operations to mitigate impacts “The landfill operation hours shall occur between 8:00 a.m. and 5:00 p.m. Monday through Saturday, and 12:00 p.m. through 5:00 p.m. on Sundays, with 24-hour access for commercial customers” means what it says, and the condition of approval was adopted by the Planning Commission. The public has a right to expect the operating hours to be enforced as approved and adopted. Beginning operations at 4:30 a.m. is a violation of this condition of approval. Under staff and RS interpretation, could the landfill operate 24 hours a day?</p> <p>In Compliance_EDWARD PITERA (112322)</p> <p><u>Republic Comment:</u> Same comment as above; the Staff interpretation is more plausible than Mark’s when read in context (and the County does in fact get to interpret its conditions in the first instance).</p>			
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 <u>Staff</u> <p>In compliance.</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services is in compliance with this requirement. The eastern haul access road was relocated, per county regulations, during the construction of Cell 4 in 2012. Access is maintained today.• good candidate for chapter 77 review• This assessment of status is not possible for the working group to confirm until research has been completed. <u>Subcommittee Members</u> Edward Pitera, Catherine Biscoe, Mark Yeager No Compliance Opinion (MARK YEAGER 121622 & EDWARD PITERA (112322)) <u>Republic:</u> Republic agrees with staff.			
8. OMITTED		N/A	
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 <u>Staff</u> 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 <u>Workgroup Committee</u> <ul style="list-style-type: none">• landfill not in compliance with June surface emission methane monitoring required by DEQ; Benton County should obtain an independent assessment of overall methane emissions, arsenic levels in monitoring wells are high, odor: per public records requests, odor complaints to DEQ are not documented/investigated/logged to the extent that testimony has been given that residents have given up on making complaints to DEQ, annual report to DEQ: for many years, the reports required by Benton County DSAC to DEQ “documenting local citizens’ concerns and the manner in which the owner or operator [of the landfill] is addressing those concerns” (ORS 459.325) have not been completed and submitted as required by Oregon statute. even now, there is no DSAC meeting dedicated to this required activity. as a result, DEQ has not been informed of many of the problems that citizens experience at coffin butte landfill. contamination: domestic wells have been contaminated• These have not all been made available for public inspection. Whether this is the fault of the applicant, or the county is impossible to judge, as a member of the interested public. During the 2021 CUP process, I had to use Public Information Request procedures to obtain information from DEQ that was not available from Benton County. <u>Subcommittee Members</u> 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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<p>Basis: Insufficient information provided to demonstrate compliance e.g. a documented work process, summary reports, etc.</p> <p><u>Republic Comment:</u> Republic is in compliance and the committee review the County records at the link provided by staff. The condition does not purport to give the County any oversight role with regard with DEQ's administration of its owner permits and the County has no jurisdiction to do so.</p>			
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.		<p>Consensus:</p> <p>Majority Opinion:</p> <p>Minority Opinion:</p>	
<p>Comments</p> <p><u>Staff</u></p> <p>The county regularly receives copies.</p> <p>https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">During the July 2022 DSAC meeting, Applicant's representative stated that runoff reports for the PRC composting facility were provided to DEQ but not to Benton County, because the county had never requested those explicitly. This needs to be clarified. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated. Are the reports reviewed? Any independent verification by staff that the monitoring requirements for both air quality and water quality are being met and reported as required?</p> <p>Compliance Opinion: Compliance Status Unsure</p> <p>Basis: Insufficient information provided to demonstrate compliance e.g. a documented work process, summary reports, etc.</p> <p><u>Republic Comment:</u> Republic is in compliance and the Committee can review the County records at the link provided by staff. The condition does not purport to give the County any oversight role with regard with DEQ's administration of its owner permits and the County could not do so.</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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			
<u>Staff</u> Complied with. <u>Workgroup Committee</u> <ul style="list-style-type: none">• narrative not provided, attachment a not provided <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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 <u>Republic Comment:</u> In the absence of any evidence that Republic in not in compliance, the assumption should be that it is in compliance.			
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			
<u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services understands this requirement. At this juncture, no building permits have been issued for this area.• This explanation of status cannot be accepted until the topic has been researched.• unknown compliance <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
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 <u>Staff</u> Advisory <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services has not added or requested additional access and understands the stated requirement.• have changes in landfill access received a public works permit? <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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 <u>Staff</u> Advisory <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: Republic Services has not added or requested additional access and understands the stated requirement.• have there been construction activities that disturb one acre or more? if so, have NPDES permits been obtained?• No evidence of compliance. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> 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. <u>Republic Comments:</u> The access and NPES are independent permitting requirements; Republic must comply with these requirements regarding of whether they are imposed as a condition of approval. That is why staff call them “advisory.” The purpose of these kinds of condition is put the applicant on notice that could be additional permitting requirements. As noted above, Republic’s operation hasn’t triggered either of these permitting requirements, so we shouldn’t be expected to prove a negative.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
Conditions of Approval from prior approvals that remain in effect (as of the time of this decision):			
1. 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			
<ul style="list-style-type: none">• Republic: This is not part of the Landfill and DEQ permits are not required. If such approvals become necessary in the future, Republic Services will obtain them.• when was the most recent LUCS on file at DEQ completed? if the landfill is not compliant with land use conditions of approval, would DEQ still approve all necessary permits?			
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.			
Compliance Opinion: Compliance Not Demonstrated.			
Basis: No record of required action provided.			
Republic comments: 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. 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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<ul style="list-style-type: none">No evidence of compliance.there continue to be unpaved public roads in the vicinity of the landfill. does the landfill contribute to traffic on those roads? if so, how much? <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated. Many previous comments submitted regarding this condition of approval. Many unpaved roads still exist in the vicinity of the landfill.</p> <p>MARK YEAGER: Compliance Not Demonstrated (121622) The comments above capture the concern – there are several unpaved roads in the vicinity of the landfill that receive landfill traffic. Who determines “primary cause” and what does the County do about it?</p> <p>No Compliance Opinion EDWARD PITERA (112322)</p> <p><u>Republic comment:</u> Republic agrees with staff. The public roads are paved; this condition is moot.</p>			
3. The applicant or lease - holding operator shall ensure that the Landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.		Consensus: Majority Opinion: Minority Opinion:	
<p>Comments</p> <p><u>Staff</u></p> <p>County monitoring of this condition is complaint-based.</p> <p><u>Workgroup Committee</u></p> <ul style="list-style-type: none">Republic: Republic Services has no record of complaints on this parcel.County cannot confirm compliance.noise is an issue at the landfill; ensure the facility is still in compliance <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Compliance Not Demonstrated. Property owner cannot delegate compliance to 3rd party This list of standard conditions that never get reviewed for compliance or enforced does not build confidence in the land use planning process in Benton County.</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of County process to capture / respond to complaints provided.</p> <p><u>Republic Comment:</u> As noted above, there is no evidence complaint or violation of this standard.</p>			
4. Provide on-site parking for employees, customers, and visitors to the Landfill site.		Consensus: Majority Opinion: Minority Opinion:	

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
Comments <u>Staff</u> In compliance. <u>Workgroup Committee</u> <ul style="list-style-type: none">truck traffic to the landfill begins backing up HWY 99 beginning before 4:30am; ensure that traffic to the landfill does not pose a safety hazard <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion EDWARD PITERA (112322) <u>Republic Comment:</u> Republic agrees with Staff.			
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 <u>Staff</u> In compliance. <u>Workgroup Committee</u> <ul style="list-style-type: none">check fence perimeter to ensure fencing is intact and there are no deferred maintenance issues <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> No Compliance Opinion (MARK YEAGER 121622 & EDWARD PITERA (112322)) <u>Republic:</u> Republic agrees with staff.			
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.			
Comments <u>Workgroup Committee</u>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<ul style="list-style-type: none">• Republic: This is not part of Coffin Butte Landfill operations. It is a material storage facility. There are no operating hours here.• Clearly not in compliance• not in compliance <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>MARK YEAGER: Not In Compliance (121622) Staff and RS do not get to interpret operating hours to mean something different than what was imposed as a written condition of approval. The words are the words. By definition the industrial activity of operating an active landfill is an incompatible use in an agricultural, forest and rural residential area. As such, operating hours are critical to mitigation of the numerous deleterious effects of the landfill operation. Requiring the landfill to limit operations to mitigate impacts “The landfill operation hours shall occur between 8:00 a.m. and 5:00 p.m. Monday through Saturday, and 12:00 p.m. through 5:00 p.m. on Sundays, with 24-hour access for commercial customers” means what it says, and the condition of approval was adopted by the Planning Commission. The public has a right to expect the operating hours to be enforced as approved and adopted. Beginning operations at 4:30 a.m. is a violation of this condition of approval. Under staff and RS interpretation, could the landfill operate 24 hours a day?</p> <p>In Compliance <u>EDWARD PITERA (112322)</u></p> <p><u>Republic Comment:</u> Republic references our prior comments on the same condition.</p>			
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 <u>Workgroup Committee</u> <ul style="list-style-type: none">• Awaiting additional research.• Republic: Republic Services is in compliance with this requirement. The eastern haul access road was relocated, per county regulations, during the construction of Cell 4 in 2012. Access is maintained today. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>No Compliance Opinion (MARK YEAGER 121622 & EDWARD PITERA (112322))</p> <p><u>Republic Comments:</u> Republic is in compliance.</p>			
8. OMITTED		N/A	
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			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
<u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: There are no permits or monitoring data as this relates to a material storage facility.• As noted above, these are not available for public inspection as required.• landfill not in compliance with June surface emission methane monitoring required by DEQ; Benton County should obtain an independent assessment of overall methane emissions, arsenic levels in monitoring wells are high, odor: per public records requests, odor complaints to DEQ are not documented/investigated/logged to the extent that testimony has been given that residents have given up on making complaints to DEQ, annual report to DEQ: for many years, the reports required by Benton County DSAC to DEQ “documenting local citizens’ concerns and the manner in which the owner or operator [of the landfill] is 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 <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>MARK YEAGER: Compliance Not Demonstrated Material storage areas can and do generate stormwater runoff unless they are completely covered. How and when does the County know if permits for this facility are procured from DEQ?</p> <p>Compliance Opinion: Compliance Status Unsure</p> <p>Basis: Insufficient information provided to demonstrate compliance e.g., a documented work process, summary reports, etc.</p> <p><u>Republic Comment:</u> The enumerated permits and monitoring information is on file at the link previously provided by staff, which is all this condition requires. The County has no authority to conduct oversight over DEQ’s permitting requirements. Further, this condition is not currently relevant to this CUP because the subject property is a grassy field that Republic might need to use someday for storage. In addition, the way the methane monitoring works is that if a methane detector registers over a certain level, Republic has to complete remediation within a set period of time and then re-monitor several times at that location. As long as the landfill follows these prescribed steps it is not out of compliance. The whole point of surface monitoring is to try to find detections and fix them. This is why the permit is structured that way.</p>			
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 <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: There are no permits or monitoring data as this relates to a material storage facility.• As noted above, these are not available for public inspection as required. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>MARK YEAGER: Compliance Not Demonstrated. Material storage areas can and do generate stormwater runoff unless they are completely covered. How and when does the County know if permits for this facility have been issued by DEQ?</p> <p>Compliance Opinion: Compliance Status Unsure</p>			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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	
Basis: Insufficient information provided to demonstrate compliance e.g. a documented work process, summary reports, etc.			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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			
<u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: This development condition was at the County’s discretion. However, as it relates to stormwater system construction and monitoring, Republic Services has all the DEQ permits necessary and is in compliance.• attachment a is not provided• We are missing a clear statement from the county on whether the site is in compliance, independent of DEQ. See previous comments. <u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u> <p>MARK YEAGER: Compliance Not Demonstrated. Nonagricultural uses in the EFU zone are specifically limited by ORS. Whether the continuation and alteration of a non-conforming use in the EFU zone is appropriate may be beyond the scope of this review. However, that fact that this action was approved at the staff level, and apparently at the behest of the department, requires further review. More time is needed to review the record. Was Oregon Department of Land Conservation and Development (DLCD) notified of this land use action?</p> <p>Compliance Opinion: Compliance Not Demonstrated.</p> <p>Basis: No record of required action provided.</p> <p><u>Republic comment:</u> Republic is in compliance</p>			
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			
<u>Staff</u> <p>The Comm. Dev. Department does not confirm and inspect records to ensure that conditions such as these are completed. It is a DEQ permit and if the DEQ does not approve the permit then the applicant could not continue the use and would be out of compliance.</p> <u>Workgroup Committee</u> <ul style="list-style-type: none">• Republic: This development condition was at the County’s discretion. However, as it relates to stormwater system construction and monitoring, Republic Services has all the DEQ permits necessary and is in compliance.• the stormwater system is in an area identified as “wetlands” – does this trigger additional permitting requirements			

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

- 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

Republic comment: Republic is in compliance.

WORK IN PROGRESS

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

Date	File #	Request	Result
2021	LU-21-047	<p>Conditional Use Permit to expand Coffin Butte Landfill. Republic Services proposed: to create a new disposal cell for the Coffin Butte Landfill which will extend from the current cell south of Coffin Butte Road; close Coffin Butte Road to public traffic (vacate the right-of-way*) so the new cell can cover the road; relocate a replacement roadway (for landfill and quarry traffic only) around the area of the new disposal cell; relocate the leachate ponds south of Coffin Butte Road, and move some other structures.</p> <p>Closing Coffin Butte Road will likely require improvement of at least one other roadway in the area to accommodate increased traffic—potentially Tampico Road or Wiles and Robison Roads.</p>	Planning Commission Denied; PC Decision Appealed; Application Withdrawn
<p>Comments</p> <p><u>Workgroup Comments</u></p> <ul style="list-style-type: none"> Republic Services appealed the Planning Commission's decision, but voluntarily withdrew that appeal to engage with the community and participate in the Oregon Consensus process. Republic Services and Coffin Butte Landfill remain committed to the Oregon Consensus process and this group's work. We look forward to being part of Benton County's long-term solid waste management and diversion solution strategy. <p><u>Subcommittee Members Edward Pitera, Catherine Biscoe, Mark Yeager</u></p> <p>Use Decision Provided for Background</p> <p>Subcommittee believes that the record and rational of this land use proceeding is relevant to the evolution of the Coffin Butte Landfill.</p> <p>Review of the record in this land use proceeding provides important historical context. The public comments and the Notice of Decision in this matter are critical to understanding the history of the landfill and the sentiment of the residents of Benton County at that time.</p> <p>Open Items: Subcommittee needs to review this documentation</p> <p><u>Republic Comments:</u> Any new CUP application filed by Republic will be a new application accompanied the appropriate studies and justifications.</p>			

WORK

Compliance with Past Land Use Actions and Their Status A.2 Subcommittee Discussion Work in Progress

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.

List of Revisions

Development Documents

Revisions:

Compliance with Past Land Use Approvals - 11-14-22 Draft EDWARD PITERA Input (As base document)

Mark Yeager's Entries added from Inga Williams' Compliance with Past Land Use Approvals - 11-28-22 Draft

Compliance with Past Land Use Approvals - 11-14-22 Draft EDWARD PITERA Input Mark Catherine Zoom

Compliance with Past Land Use Approvals - 11-14-22 Draft EDWARD PITERA Input Mark Catherine Zoom 120722

Compliance with Past Land Use Approvals - 11-14-22 Draft EDWARD PITERA Input Mark Catherine Zoom 121022

Compliance with Past Land Use Approvals - 11-14-22 A2 Small Group Markup 121222 v1

Compliance with Past Land Use Approvals - 11-14-22 A2 Small Group Markup 121222 v2

Compliance with Past Land Use Approvals - 11-14-22 A2 Small Group Markup 121222 v3 EDWARD PITERA MY

Subcommittee Working Drafts

Compliance with Past Land Use Approvals - A2 Small Group Markup 121922 Working v1

List of Appendices

- 1 Figure IV-7 from Chemeketa Regional Solid Waste Program Report 1974
- 2 Figure from Count Code

WORK IN PROGRESS

References

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.