

# Compilation of Illustrative Monitoring and Compliance Enforcement Issues

## Lessons Learned: Monitoring and Compliance Enforcement Issues

OBSERVATIONS	RECOMMENDATIONS for Post BCTT Consideration
In assessing the status of compliance with past land use documents, there are numerous instances where supporting evidence may not or is not available in County records.	The Board of Commissioners update or establish an easily understandable policy concerning how the County is to require, manage, and interpret regulatory related information from RSI and DEQ.
Over time the format and wording of what information is being requested has changed.	Review language describing what an applicant is required to do to be considered in compliance. (NEEDS BETTER EXPLANATION)
In several documents (NEED CITATIONS), 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.	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.
ADD OTHERS???	

## Supporting Information

<p><u>Format of Table</u>  <u>Entry with:</u>  <b>Table Of Contents Number    Date    File Number</b> followed by            Description of document from the Table of Contents.            Followed by specific Conditions of Interest.</p>	<p>Staff Comment as in “Compliance with Past Land Use Approvals – 11-14-22 Draft”</p>
<p><b>#2    1983    PC-83-07/L-83-07</b>            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))</p>	
<p>8. The current DEQ operational permit will expire on January 31, 1984. Valley Landfills, Inc. has been requested to submit an updated, long-term leachate control plan as part of the permit renewal process. This plan must</p>	<p>Relevant Excerpt:            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</p>

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<p>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.</p>	<p>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>9. As the site expands eastward, additional monitoring wells will be required. Depending on DEQ budget limitations, the permittee may have to share in the responsibility for sampling and monitoring of these wells.</p>	<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><b>#5 1994 PC-94-03</b>  <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></p>	
<p>4. The applicant shall obtain and comply with all applicable permits from Oregon Department of Environmental Quality (DEQ). The applicant shall provide copies of all DEQ permits to the County.</p>	<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>6. Lighting shall be located so that it does not face directly, shine or reflect glare onto an adjacent street or property.</p>	<p>Monitoring of this condition is complaint driven. Staff has no records of complaints regarding lights at the landfill.</p>
<p><b>#8 1997 S-97-58</b>  <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></p>	
<p>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>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>4. The applicant is responsible for ongoing monitoring of noise levels. Upon request of the Planning Official, the applicant shall provide the County with</p>	<p>Available records do not indicate any such requests by the Planning Official.</p>

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<p>sufficient information to determine whether the facility is in compliance with Condition 3 of this permit.</p>	
<p>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>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>7. Lighting shall be located so that it does not face directly, shine, or glare onto an adjacent road or property.</p>	<p>Monitoring of this condition is complaint driven. There are no records of any complaints.</p>
<p>9. The applicant shall prepare a site specific development plan addressing emergency water supplies for fire protection. The plan shall be submitted to the local fire protection agency for review. The plan approved by the local fire protection agency shall be submitted to the Community Development and Parks Department prior to the issuance of building permits for the structure for Phase 1. A revised site specific development plan shall be completed prior to issuance of construction permits for the Phase 2 expansion. The site development plan shall address:</p> <ul style="list-style-type: none"> <li>a) Emergency access to the local water supply in the event of a wildfire or other fire-related emergency;</li> <li>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</li> <li>c) Emergency water supplies shall be clearly marked along the access route with a Fire District approved sign.</li> </ul>	<p>Additional research needed, compliance with this condition is not confirmed.</p>
<p><b>#9 1999 PC-99-06</b>  <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</i></p>	
<p>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>This is a standard type of condition that ties a County permit to a permit issued by another agency. The County does not actively monitor compliance with outside agency permitting requirements, but if the outside agency</p>

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	determines that their permitting requirements have not been met then the applicant is also out of compliance with the Benton County permit.
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.	Staff will need to field verify but it appears through comments that the applicant is not in compliance with this 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, not withstanding 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.	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.
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.	None
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.	Additional Research Needed
<b>#10 2002 PC-02-07</b>	

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<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>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>County monitoring of this condition is complaint-based.</p>
<p>9. Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.</p>	<p>The county regularly receives copies. Appendix I  <a href="https://www.co.benton.or.us/cd/page/materials-management-document-library">https://www.co.benton.or.us/cd/page/materials-management-document-library</a></p>
<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>	<p>The county regularly receives copies.  <a href="https://www.co.benton.or.us/cd/page/materials-management-document-library">https://www.co.benton.or.us/cd/page/materials-management-document-library</a></p>
<p><b>#12 2003 PC-03-11</b>  <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>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>County monitoring of this condition is complaint-based.</p>
<p>8. Copies of water quality, stormwater runoff, and air quality permits; and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file in a timely way with the Benton County Community Development Department for public inspection.</p>	<p>The county regularly receives copies. Appendix I  <a href="https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf">https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</a></p>
<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>	<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</p>

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	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><b>#13 2011 LU-11-016</b>  <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>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>	Standard condition requiring the applicant to implement the conditional use permit as described in their application. Compliance is not actively monitored.
<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>1. Obtain necessary approvals from the Oregon Department of Environmental Quality for landfill operations on this site.</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>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>	County monitoring of this condition is complaint-based.
<p>9. Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.</p>	The county regularly receives copies. Appendix I <a href="https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf">https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</a>
<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>	The county regularly receives copies. <a href="https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf">https://www.co.benton.or.us/sites/default/files/fileattachments/community_development/page/8136/2021_cbl_site_development_plan_appendix_g_i.pdf</a>

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<p><b>#14 2013 LU-13-061</b>  <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><b>Conditions of Approval from prior approvals that remain in effect (as of the time of this decision):</b>            1. Obtain necessary approvals from the Oregon Department of Environmental Quality for Landfill operations on this site.</p>	<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>
<p>3. The applicant or lease – holding operator shall ensure that the Landfill operation does not exceed the maximum sound level permitted by the Oregon Department of Environmental Quality.</p>	<p>County monitoring of this condition is complaint-based.</p>
<p>9. Copies of water quality and air quality permits, and data produced from associated monitoring programs, required of the applicant by the Oregon Department of Environmental Quality, shall be placed on file, in a timely way, with the Benton County Community Development Department for public inspection.</p>	<p>None</p>
<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>	<p>None</p>
<p><b>#15 2015 LU-15-001</b>  <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></p>	
<p>1. Development shall substantially comply with the plans and narrative in the applicant’ s proposal identified as Attachment A. Significant modifications to the construction or operation of the stormwater system other than those addressed through this decision shall require additional approval.</p>	<p>None</p>
<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.</p>	<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>

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END

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