

0 Table of Findings

Key Findings:

TBD – include most important Findings here for emphasis

The Site Life subcommittee proposes xx findings as part of its overall charge. The committee is not in agreement on all findings. Non-consensus items are noted. To help guide the reader, the findings are generally grouped by topic.

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

LSCL-F-2. In 2013 EOL was projected to be 2064, with a Landfill Life estimate of 51 years (EPA records). Ten years later EOL is projected to be 2037-2039 with a Landfill Life of 14.5-16 years, a reduction of approximately 36 years of estimated life in 10 elapsed years.

Expansion and Site Life:

- a. LSCL-F-TBD: Because the 2020 Intake Limit is eliminated if expansion is approved onto the Expansion Parcel, approval of such an **expansion does not guarantee an increase in landfill life** and/or a delay in the EOL date. For example, if an expansion onto the Expansion Parcel resulted in an increase of 30% in available airspace but intake volumes increased by 50% the landfill life would be approximately 87% of the expected pre-expansion lifetime.
- b. LSCL-F-TBD: Because the 2020 Intake Limit is eliminated if expansion is approved onto the Expansion Parcel, approval of such an **expansion does not guarantee an increase in landfill life** and/or a delay in the EOL date. For example, if an expansion onto the Expansion Parcel resulted in an increase of 30% in available airspace but intake volumes increased by 50% the landfill life would be approximately 87% of the expected pre-expansion lifetime.

EOL Estimate Versions:

Baseline EOL:

- a. LSCL-F-31: Current (1Q2023) estimate for landfill EOL = CY 2037 – 2039 based on an annual intake level of 1.0 – 1.1 MTons/year and a density of 0.999 Tons/yd³, assuming the quarry area will be fully excavated by the time the current disposal areas are full. The franchisee has represented that this nominal life projection (“baseline”) is derived from a few data points in annual measurements, and is the product of a modeling process that is standard in the landfill industry. The franchisee acknowledges that a

Commented [YM1]: Not sure how the order of these findings was determined, but my view is that they should be reorganized and prioritized with most important findings at the beginning. For example, the remaining life finding is now buried near the bottom of this list - that should be moved up

Commented [RD2]: Categories and organization of findings from Paul

Commented [RG3]: Propose removing this sentence because our charge is not to opine or otherwise speculate on a future CUP application. We do not currently have an expansion application pending with Benton County.

Commented [RD4]: Addition from Ken Eklund

variety of factors, including human factors, can impact landfill site life, but it is unknown which of these factors if any have been part of this baseline calculation. As of this writing, the franchisee represents that there will be no more information provided about how the baseline was derived, as their model and modeling process are proprietary.

- b. LSCL-F-5.LSCL-F-34. The landfill owner projects the landfill EOL to be CY 2037 – 2039 based on an annual intake of 1.0 – 1.1 MTons/year and a density of 0.999 Tons/yd³. The other assumptions behind this projection are not available to be examined.
- c. LSCL-F-45. The franchisee’s baseline projection of 2037-2039 is based upon an intention to keep intake rates as high as possible.
- d. LSCL-F-35. For all expressed purposes, Coffin Butte sanitary landfill at the end of Year 2022 has a size of 194 acres. Within the acreage resides the Department of Environmental Quality’s (DEQ) permitted primary totaling 6 cells of which some are further divided into compartmental cells. The compartmental cells are identified with the primary number along with its sequential alpha-suffixes. Nonetheless, the projected remaining airspace ending with Year 2022 is 16,008,557 CY using a density average of 0.999 Tons/CY produces a site life range of 14.54 years or 15.99 years, when using a disposal rate of either 1,100,000 or 1,000,000 tons per year, respectively.

Also, various site life scenarios follow to further demonstrate complexities of projecting sanitary landfill cell life and longevity.

Site Development Plan:

- e. LSCL-F-TBD. The 2021 Site Development Plan projected a 2039 EOL based on an annual intake of approximately 846,000 Tons/year, but this document is not considered binding or controlling by either ODEQ or the franchisee in regard to these figures.
- f. LSCL-F-32. The 2021 Site Development Plan filed by the landfill owner with the Oregon Department of Environmental Quality projects the landfill EOL to be CY 2039, based on an annual intake of 846,274 Tons/year and a density of 0.8 Tons/yd³. Other assumptions behind this projection are not available to be examined.
- g. LSCL-F-44. Within the 2034-2045 range, the landfill’s 2021 Site Development Plan estimates the closure year to be 2039 and the EPA shows a closure year of 2044. The franchisee’s baseline projects a closure range of 2037-2039.

Other EOL:

- h. LSCL-F-31. The U.S. Environmental Protection Agency projects the landfill EOL to be CY 2044. The assumptions behind this projection are not available to be examined.
- i. LSCL-F-43. The possibility space shows landfill closure as early as 2034 and as late as 2045. Closure outside of this date range is possible, but seen as less likely.

Notes on Scenario Factors for Site Life:

Commented [RD5]: Addition from Ken

Commented [RD6]: Addition from Chuck, 2/5/23

Commented [RD7]: Acreage is already expressed in another proposed finding in the "footprint" section below, so perhaps remove this sentence, and include the next sentence in another finding in the "footprint" section?

Commented [RD8R7]: Added a duplicate to the footprint section for consideration.

Commented [RD9]: Two findings from Paul

Commented [RD10]: Two findings from Ken

- a. **LSCL-F-41.** The subcommittee has generated a List of potential factors impacting site life; this list is not exhaustive and its characterizations are limited.
- b. **LSCL-F-42.** Human factors are all relevant to understanding the possible longevity of Coffin Butte Landfill. Each factor has its own likelihood of being significant to landfill longevity and its own effect over time, and each joins with other factors to determine the actual longevity.
- c. **LSCL-F-46.** Intake-increasing factors such as population growth and debris from disasters may drive up intake rates and thus shorten landfill life within the 2034-2045 range; intake reduction factors such as recycling and waste diversion, plus emerging factors such as extended producer responsibility (EPR) incentives and climate crisis legislation, may drive down intake rates and thus lengthen landfill life within the 2034-2045 range and beyond.
- d. **LSCL-F-38.** The below referenced Coffin Butte: Site Life Scenarios submitted by Republic Services is also a subject of the full Subcommittees Report that represents an array of elements for assumptions that can provide a correlation of topics in order to better analyze the capacity, size and longevity of Coffin Butte Landfill projections, especially within the short-term analysis of needing additional landfill disposal capacity during the current transitional bridge period with the BCTT Committee.
 For example, the assumption that the “positive” element of Landfill expansion (CUP) alone against the net effects of the “negative” elements of “population growth and wildfires/natural disasters” will within the economies of scope and economies of scale will likely exceed tonnage cap disposal limitation that are reflected in the current landfill franchise agreement.
 Likewise, the assumption of “positive” elements of “Landfill expansion (CUP)” and “Transfer Station/Disposal alternatives” against the net effects of all of the “negative” elements of the array will in all likelihood within the economies of scope and the economies of scale produce a better-balanced cost effective and economical result of refuse disposal for Benton County and neighboring municipalities and counties.
 The intent above is not to imply an either/or solution, but assure that an evolving array of elements examined with sound economic principles along with savvy layman thought and professional understanding can produce a matrix that best support a circular economy that is still heavily reliant on a sanitary engineered landfill refuse disposal site during the embryonic stages of the circular economy development being considered by BCTT’s sustainable material management sub-committee.

Commented [RD11]: Five key findings from Ken

Commented [RD12]: These are not necessarily “intake increasing factors”, as established later in the document.

Commented [RD13]: From Chuck

Commented [RD14]: From Paul regarding “tonnage cap” generally, not this section specifically: Daniel also advised caution in the use of the term “Tonnage Cap” in the context of the 2020 agreement. We now agree this refers not to the top-line 1.1M T/yr. value, but to the remainder of that value once Benton County’s reserve tonnage is subtracted (i.e. 1.1M - 75k = 1.025M Tons/yr.) For this reason we will attempt to work wherever possible with the “2020 Limit on Solid Waste” referenced above, which is the normally-understood 1.1M Ton/yr. limit and avoid use of the “Tonnage Cap” term.

Landfill Size: Capacity

Total Capacity:

LSCL-F-TBD: It is important to recognize that there is a significant difference between “total permitted airspace” at Coffin Butte Landfill and “total available airspace.” A significant portion of the permitted capacity is currently unavailable due to unexcavated rock in the “Quarry” also known as Cell 6.

- a. **LSCL-F-4:** Landfill total capacity increased by approximately 9,000,000 yd3 (68.5%) in 2003 with the addition of the West and East triangle areas. The addition of Cell 6 (in TBD) added approximately 13,400,000 yd3, for a total of approximately 35,500,000 yd3.
- b. **LSCL-F-4:** Landfill total capacity increased by approximately 9,000,000 yd3 (68.5%) in 2003 with the addition of the West and East triangle areas. The addition of Cell 6 (in TBD) added approximately 13,400,000 yd3, for a total of approximately 35,500,000 yd3.
 Proposed rewrite: **Total permitted landfill capacity increased by 29 percent in 2004, with the addition of the West and East triangles. The quarry area (Cell 6) has been part of the Landfill’s overall footprint since 1983.** (Need to reconcile whether there was airspace added in 1996 with switch to commercial operations.)

Remaining Airspace:

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

Landfill Size: Intake Tonnage

LSCL-F-24: The amount of waste placed into the landfill has grown dramatically over the past 40 years. In 1983, 375 tons per day were placed into the landfill (117,000 tons per year). By 1993, the tonnage volume increased to 310,000 tons per year. In 2003 550,000 tons were placed into the landfill. By 2013, the waste tonnage was 479,000, and in 2021, 1,046,000 tons were emplaced.

2000 Franchise Agreement:

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

Commented [RG15]: Adding this as a proposed finding for the group’s consideration. It is noted elsewhere in the body of Section 3.

Commented [YM16]: Different portions of the property have been designated as Cell 6 at separate times. So this needs to identify when Cell 6 was identified in the quarry location.

Commented [RD17R16]: From Paul: Date of formal approval of permitted space still needed.

Commented [PN18]: Date of formal approval of permitted space still needed.

Commented [RG19R18]: Noted in proposed new language.

Commented [RG20]: Republic Services believes this finding is inaccurate. Per Ian: Our records and our annual reports to the county show 39.6M CY of airspace in 2004. If we remove 9M CY that means we had 30.6M CY of airspace before the West and East triangle areas were added. This is a 29% increase in size, not 68%.

Commented [RG21R20]: From Ian: I found a letter from the state that listed that the quarry had been operated in a limited fashion since 1975 and then received a full commercial permit in 1996. The quarry area has also been part of the landfill since the 1983 zoning change. So, this sentence is fairly inaccurate. It didn’t add airspace after the east and west triangles, has been part of the overall landfill footprint since 1983 and the only point that may have added airspace was the switch to a commercial quarry in 1996.

Commented [RG22]: Removed given Ian’s data above.

Commented [RD23]: Feedback from Legal Subcommittee:

The 2016 MOU did not create a new allowance, it was just Republic and the County informing/acknowledging. The threshold in the 2000 franchise agreement is a number of tons beyond which the County is able to require another baseline study. The threshold is not a limit.

Also, regarding the regulation of where waste comes from: Because the interstate commerce clause and case law extending that to intra-state commerce (Michigan case) prevent the County from limiting where waste comes from, the County negotiated the tonnage of ... [1]

Commented [YM24]: This needs to be further explained. Once the tonnage was exceeded, the franchise agreement explains that the County could have required a new baseline study of the impacts ... [2]

- b. The 2000 Landfill Franchise Agreement states that if the volume of waste accepted exceeds a set number of tons during defined time periods, the County may perform a new Baseline Assessment to evaluate any adverse impacts of the additional tonnage.
- c. LSCL-F-6: The 2000 Landfill Franchise Agreement mandated that the County was to perform a "Baseline" study as a reference for measuring potential future adverse effects (completed in 2001), and defined a ramping intake tonnage threshold to be applied during the term of the agreement (CY2001-2019). Intake volumes in excess of this threshold granted the County clear right to pursue specific remedies: a) the County, at its expense, could perform an updated Baseline assessment, and b) if the County determined that the new assessment indicated an adverse impact on "the Baseline," the County could then reopen negotiations on the Franchise Fee and/or Host Surcharge.
- d. LSCL-F-6: ~~The 2000 Landfill Franchise Agreement mandated that the County was to perform a "Baseline" study as a reference for measuring potential future adverse effects (completed in 2001), and defined a ramping intake tonnage threshold to be applied during the term of the agreement (CY2001-2019). Intake volumes in excess of this threshold granted the County clear right to pursue specific remedies: a) the County, at its expense, could perform an updated Baseline assessment, and b) if the County determined that the new assessment indicated an adverse impact on "the Baseline," the County could then reopen negotiations on the Franchise Fee and/or Host Surcharge.~~ **The 2000 Franchise Agreement states that if the volume of waste accepted exceeds a set number of tons during defined time periods, the County may perform a new Baseline Assessment to evaluate any adverse impacts of the additional tonnage.**
- e. LSCL-F-14: The 2000 Landfill Franchise Agreement imposed a ramping intake ~~limits~~ threshold to be applied during the term of the agreement (CY2001-2019), giving the County the option to perform an updated impact assessment if the threshold was exceeded, denoted in the chart by the blue line ("Threshold to update Baseline Study"), which then could result in increases to the landfill fees paid to the county. The County did not perform an updated impact assessment as a result of the 2017-2019 tonnage threshold exceedances.

Commented [RG25]: Language per Republic Services' legal.

Commented [PN26]: Reworded prior to Republic comments received 7Feb. Not updated with Republic's suggested wording.

Commented [RG27]: Added language.

2018 BOC Presentation Regarding 2000 FA Intake

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

Commented [RG28]: Language per Republic Services' legal.

- c. In an official 2018 presentation to Benton County Board of Commissioners, Benton County represented the 2000 Franchise Agreement intake threshold as “Annual Maximums Specified in Franchise Agreement.”
- d. [LSCL-F-10](#): In an official 2018 presentation to Benton County Board of Commissioners, Benton County represented the 2000 Franchise Agreement intake threshold as “Annual Maximums Specified in Franchise Agreement.” However, the 2000 Franchise Agreement does not describe the tonnage threshold as a “limit” or “maximum” and does not limit the number of tons that can be accepted.

Commented [PN29]: Republic proposed edits to a sentence that was deleted from this version.

Commented [PN30]: LSCL-F-11 was deleted; Republic legal had suggested edits to this Finding.

Commented [PN31]: I believe we should keep this statement as documentation of what has been presented to the Commissioners on this subject. Other Findings edits make clear this is not a “limit.”

Commented [PN32]: I believe we should keep this statement as documentation of what has been presented to the Commissioners on this subject. Other Findings edits make clear this is not a “limit.”

Commented [RG33]: Added language.

Commented [PN34]: This is explained in the text, but wording needs to be improved here for clarity.

2000 Threshold Exceedances:

- a. [LSCL-F-23](#): Benton County received approximately \$3.1M of incremental revenue from the increased intake volumes over the 2017-2019 period. Of this, approximately \$1.08M was the result of intake volume in excess of the annual limits over the three-year period. This equates to roughly \$11.50 total per Benton County resident for the three-year period.
- b. [LSCL-F-21](#): The annual Coffin Butte intake tonnage exceeded the ~~limits~~ threshold defined in the 2000 Landfill Franchise Agreement as the tonnage ~~limits~~ threshold at which the County had the option to perform an updated baseline analysis of landfill impacts in calendar years 2017, 2018, and 2019.
- c. [LSCL-F-TBD](#): The 2000 intake tonnage threshold was exceeded in calendar years 2017, 2018 and 2019.
- d. [LSCL-F-TBD](#): Benton County did not utilize either of the contractual remedies available to it as a result of the intake tonnage exceeding the threshold in 2017-2019. No updated Baseline study was performed, and no renegotiation of the landfill fee structure was undertaken.
- e. [LSCL-F-22](#): Benton County did not perform an updated baseline analysis of landfill impacts as the result of the exceeded intake volume that occurred in 2017, 2018 and 2019. Specifically, the County was allowed to reassess infrastructure and environmental impacts relative to a baseline established in 2001, and, if adverse impact was found, to force a renegotiation of the Franchise Fee and/or Host Fee.

Commented [RD35]: Two findings from Paul

Commented [RG36]: Republic Services needs to check on this language.

Commented [RD37]: From Ginger

Comparing 2000 and 2020 Franchise Agreements:

- a. [LSCL-F-8](#): Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement acknowledge the potential for “adverse effects to the County’s infrastructure and environmental conditions due to increased annual volumes of Solid Waste accepted at the Landfill.”
- b. [LSCL-F-8](#): Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement include a section stating that “The parties acknowledge that there may be adverse effects to the County’s infrastructure and environmental conditions due to

Commented [PN38]: Reworded prior to Republic comments received 7Feb for LSCL-F-9. LSCL-F-9 has been deleted as a result of consolidation and rephrasing of other findings.

increased annual volumes of Solid Waste accepted at the Landfill.” In both agreements this section of the agreement then stipulates terms regarding intake volumes.

- c. [LSCL-F-9](#): Both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement define landfill solid waste intake **limits** thresholds immediately following and in the same document section as the acknowledgement of the potential for adverse effects.
- d. The 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement Identify a number of accepted tons that, if exceeded, the County may perform new Baseline Assessments. The 2020 Landfill Franchise Agreement contains a Limit on Solid Waste (as described above). These clauses appear immediately following and in the same document section as the acknowledgement of the potential for adverse effects.
- e. [LSCL-F-11](#): The intake **limits** thresholds defined in both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement were **instantiated** as contractual provisions, with negative consequences explicitly defined in the 2000 agreement and implicit (violation of contract) consequences in the 2020 agreement.
- f. The intake **limits** thresholds defined in both the 2000 Landfill Franchise Agreement and the 2020 Landfill Franchise Agreement were instantiated as contractual provisions, resulting options explicitly defined in the 2000 agreement and implicit (violation of contract) consequences in the 2020 agreement.

Commented [YM39]: The 2020 FA language is a limit on waste, not a threshold.

Commented [RG40]: Language per Republic Services' legal.

Commented [YM41]: Not sure this is the right word for this sentence

Commented [RG42]: This is not accurate. Section 8 of the Agreement gives the County options if more volume is accepted over the 600k/1.2M amount identified,

2020 Franchise Agreement:

- a. [LSCL-F-7](#): The 2020 Landfill Franchise Agreement does not allow for exceedances over the listed tonnage threshold (described as a “Limit on Solid Waste”, which the landfill “shall not exceed”), not applying to fire, flood, natural disaster, or Force Majeure event materials.
- b. [LSCL-F-7](#): The 2020 Landfill Franchise Agreement defined a 2020 Intake Limit of 1.1M Tons/year which the landfill “shall not exceed”, not applying to fire, flood, natural disaster, or Force Majeure event materials.
- c. [LSCL-F-16](#): The 2020 Landfill Franchise Agreement states that the total tonnage deposited at the Landfill shall not exceed 1.1M tons per calendar year until “application to expand the Landfill on to the Expansion Parcel are granted (following any and all appeals to final judgement).” The 2020 intake limit is denoted in the chart by the dashed red line (“2020 FA Limit.”)
- d. [LSCL-F-TBD](#): The 2020 Tonnage Cap **Limit on Solid Waste** does not apply to Solid Waste generated from fire, flood, other natural disaster or any Force Majeure event.
- e. **Some** residents near the landfill are concerned that the landfill will accept more waste than the allowed Intake Limit of 1.1M tons, and are unsure if the 2020 Franchise Agreement’s enforcement mechanisms will do enough to prevent agreement violations.

Commented [PN43]: Daniel: strictly speaking, these qualifications are applied to the Tonnage Cap, not the Limit on Solid Waste

Commented [YM44]: The link for this Finding does not take you to the page that has the chart - so either reference the chart page or include the chart here

Commented [PN45]: Daniel: strictly speaking, these qualifications are applied to the Tonnage Cap, not the Limit on Solid Waste

Commented [RD46]: Daniel added to capture this feedback from Paul. Paul, please review and let the group know if this does not accurately reflect your feedback, and edit or correct as needed.

2020 Intake Limit and Expansion:

- a. **LSCL-F-TBD:** The 2020 Intake Limit of 1.1M Tons per year is eliminated under the terms of the 2020 agreement if/when expansion of the landfill is approved on the Expansion Parcel.
- b. **LSCL-F-TBD:** The 2020 Limit on Solid Waste of 1.1M Tons per year is **eliminated** under the terms of the 2020 agreement if/when expansion of the landfill is approved on the Expansion Parcel.

Commented [RD47]: Paul proposes this version instead of his previous version above.

Explanation of Tonnage Intake:

LSCL-F-12: The landfill operator generally chooses how much tonnage to accept, based on demand and their contracts with various jurisdictions and haulers. Some of the increasing tonnage accepted at the landfill from 1993-2021 reflect the increase in business development.

LSCL-F-17: The slow downward trend in intake volume in the 2006-2010 period is explained by the franchisee as resulting from the economic downturn of 2008.

LSCL-F-18: The drop in volumes to Coffin Butte in 2020 is due to the global COVID-19 pandemic, coupled with diversion of tonnage from Riverbend Landfill to other landfills besides Coffin Butte. However, tonnage volumes increased again in 2021 due in part to changes in lifestyle/development/at home shopping patterns as a result of the pandemic, as well as debris from the Oregon wildfires.

Commented [YM48]: Again, no real data to support this claim. Also, it is interesting that there is no mention of Republic's efforts to gain additional contracts for hauling and disposal of trash from other counties and jurisdiction. It deliberately ignores the increased tonnage from those sources.

Washington County Waste:

- a. **LSCL-F-26:** Washington County waste tonnage accepted at the landfill increased by over 400% between 2016-2017, with the increased tonnage continuing through 2019.
- b. **LSCL-F-26:** Washington County waste tonnage accepted at the landfill increased by over 400% between 2016-2017, with the increased tonnage continuing through 2019. **As previously mentioned, Riverbend Landfill was a regional landfill that accepted waste from many counties, including Washington County.**

Commented [RG49]: Added for context and clarity.

Human Factors:

- a. **LSCL-F-38:** Human factors – decisions and agreements such as business and legal obligations, legislation, enforcement, civic action and attitudes, technological advances, risk assessments and risk taking, individual and collective values and choices, and so on –drive the landfill's actual longevity, because they determine the inflow of material that fills up the landfill's actual volume.
- b. **LSCL-F-39:** A range of human factors have been seen to influence the landfill's intake rate and therefore its operating life in the past. These include business factors such as

Commented [RD50]: Three findings from Ken

expansions or contractions of the watershed, social factors such as recessions and population growth, and environmental factors such as recycling and other initiatives that divert materials out of the wastestream.

- c. LSCL-F-40. More human factors are emerging that will influence the landfill's intake rate and therefore its operating life in the future. These include newly enacted state legislation assigning responsibility for disposal costs to the producers of waste material, newly enacted national legislation addressing food waste, and national legislation being rolled out that targets methane and other greenhouse gas pollution.

2016 MOU and Yamhill/Riverbend Intake:

- a. **LSCL-F-13:** Representatives of the franchisee have indicated that the approximately 70% year-over-year increase in CY2016-2017 was primarily due to redirected flow from Riverbend to Coffin Butte. 2017-2019 volume increases are primarily due to the diversion of waste from Riverbend Landfill and rapid population growth in Willamette Valley and Western Oregon (the population of the 6-county area defined in the 2000 Landfill Franchise Agreement only grew 3.6% total in the period 2016-2017).
- b. **LSCL-F-19:** The 2016 MOU between Benton County and Republic Services acknowledged "Coffin Butte Landfill will be accepting municipal solid waste currently being delivered to Waste Management's Riverbend Landfill for a term of 1-2 years, beginning in January of 2017."
- c. **LSCL-F-19:** A 2016 MOU between Benton County and Republic Services acknowledged "Coffin Butte Landfill will be accepting municipal solid waste currently being delivered to Waste Management's Riverbend Landfill for a term of 1-2 years, beginning in January of 2017." This agreement does not appear to preclude Benton County from exercising its rights under the 2000 Landfill Franchise Agreement (see Recommendations).
- d. **LSCL-F-19:** A 2016 MOU between Benton County and Republic Services acknowledged "Coffin Butte Landfill will be accepting municipal solid waste currently being delivered to Waste Management's Riverbend Landfill for a term of 1-2 years, beginning in January of 2017." This agreement does not appear to preclude Benton County from exercising its rights under the 2000 Landfill Franchise Agreement (see Recommendations).
- e. **LSCL-F-15:** Due to an expected additional influx of volume in 2017 resulting from the disruption onset of the closure process for Riverbend landfill in Yamhill County, in December 2016 the franchisee and Benton County executed a MOU acknowledging an expected increase in Coffin Butte intake volume "for a term of 1-2 years."

Commented [RD51]: Feedback from Legal Subcommittee:

The 2016 MOU did not create a new allowance, it was just Republic and the County informing/acknowledging. The threshold in the 2000 franchise agreement is a number of tons beyond which the County is able to require another baseline study. The threshold is not a limit.

Also, regarding the regulation of where waste comes from: Because the interstate commerce clause and case law extending that to intra-state commerce (Michigan case) prevent the County from limiting where waste comes from, the County negotiated the tonnage cap. It leaves to the operator the decisions about from where and how much waste to accept, but does impose a form of limitation that is constitutional.

Commented [YM52]: Where is the actual data to support this claim? I cannot accept this as a Finding without supporting documentation other than "the franchisee" claims.

Commented [RG53]: Finding 19 appears to be redundant/same as finding 15. Eliminate one or the other.

Commented [PN54]: Republic noted redundancy with LSCL-F-15, which was deleted.

- f. [LSCL-F-25](#): Due to an expected additional influx of tonnage in 2017 (approximately 70% year-over-year increase in CY2016-2017 was partially due to redirected flow from Riverbend to Coffin Butte(approximately 70% year-over-year increase in CY2016-2017 was due to redirected flow from Riverbend to Coffin Butte), in December 2016 the franchisee and Benton County executed a MOU acknowledging that Coffin Butte would be accepting waste currently being delivered to Riverbend Landfill “for a term of 1-2 years.” The slow downward trend in intake volume in the 2006-2010 period is explained by the franchisee as resulting from the economic downturn of 2008. The decreased intake volume in 2020 is attributed to the Covid-19 outbreak.
- g. [LSCL-F-25](#): Due to an expected additional influx of tonnage in 2017 (approximately 70% year-over-year increase in CY2016-2017 was partially due to redirected flow from Riverbend to Coffin Butte), in December 2016 the franchisee and Benton County executed a MOU acknowledging that Coffin Butte would be accepting waste currently being delivered to Riverbend Landfill “for a term of 1-2 years.” The slow downward trend in intake volume in the 2006-2010 period is explained by the franchisee as resulting from the economic downturn of 2008. The decreased intake volume in 2020 is attributed to the Covid-19 outbreak.
- h. [LSCL-F-25](#): Due to an expected additional influx of tonnage in 2017 (approximately 70% year over year increase in CY2016-2017 was partially due to redirected flow from Riverbend to Coffin Butte(approximately 70% year over year increase in CY2016-2017 was due to redirected flow from Riverbend to Coffin Butte), in December 2016 the franchisee and Benton County executed a MOU agreeing to an expected increase in Coffin Butte intake volume “for a term of 1-2 years.” The slow downward trend in intake volume in the 2006-2010 period is explained by the franchisee as resulting from the economic downturn of 2008. The decreased intake volume in 2020 is attributed to the Covid-19 outbreak.
- i. [LSCL-F-20](#): The 2016 MOU does not contain language preventing Benton County from exercising its rights under the 2000 Landfill Franchise Agreement in the event of violations of the intake limit.

Commented [RD55]: From Ginger

Commented [RD56]: Deleted the duplicate sentence “approximately 70% year-over-year increase in CY2016-2017 was due to redirected flow from Riverbend to Coffin Butte),”, highlighting the differences between this version and the one above.

Commented [PN57]: Change requested by Republic 7Feb.

Commented [RD58]: Already captured in a separate finding above, so I recommend removing this sentence.

Commented [RD59]: Already captured in a separate finding above, so I recommend removing this sentence.

Commented [RG60]: Finding 25 appears to be redundant with Finding 13, Finding 17 and Finding 18. Remove this one??

Commented [YM61]: This links do not take the reader to the discussion section in the full report - the only link to the exact same statement on another page later in the report. These links to be changed to get the reader to the correct spot in the main subcommittee report.

Landfill Size: Footprint and Structure

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

Acreege and disposal locations:

- a. [LSCL-F-28](#): The overview map included in the Benton County & Valley Landfills MOU Relating to Land Use Issues (2002) document, included here as **Error! Reference source not found.**, clarifies the zoning boundaries. Of these 266 acres, 194 acres Thi, all on the north side of Coffin Butte Road, were approved for waste disposal

Commented [RD62]: This sentence overlaps with content from the two below.

- b. [LSCL-F-1](#): The 1983 rezoning action defined 194 acres as Landfill Size (LS) zone. An additional 56-acre parcel south of Coffin Butte Road, while zoned LS, would not be used for disposal of solid waste unless approved by a conditional use permit and Department of Environmental Quality permit for solid waste landfill use. The site map included in this action restricted “fill” activity to the north side of Coffin Butte Road.
- c. [LSCL-F-35](#). For all expressed purposes, Coffin Butte sanitary landfill at the end of Year 2022 has a size of 194 acres. Within the acreage resides the Department of Environmental Quality’s (DEQ) permitted primary totaling 6 cells of which some are further divided into compartmental cells. The compartmental cells are identified with the primary number along with its sequential alpha-suffixes.

Commented [RD63]: Addition from Chuck, 2/5/23

Commented [RD64]: Added this as duplicate from EOL section: Acreage is already expressed in another proposed finding in the “footprint” section below, so perhaps remove this sentence, and include the next sentence in another finding in the “footprint” section?

[LSCL-F-3](#): ~~23~~ **Twenty-three** tax lots are owned by landfill-affiliated entities. Six of these taxlots are zoned LS, and the 5 LS tax lots on the north side of Coffin Butte Road contain landfill cell disposal areas. The most recent tax lots associated with the landfill were purchased in 2001 (non-disposal areas).

Visual Change:

- a. [LSCL-F-2](#): The landfill has changed visually over time.
- b. [LSCL-F-2](#): The landfill has changed visually over time. **Coffin Butte Landfill has changed visually since it’s designation as a regional landfill in 1974, growing in both height and size. However, the overall landfill acreage, most notably permitted airspace, hasn’t changed significantly since 1983; it has filled in more of its footprint.**

Commented [YM65]: What is meant by this? The landfill has grown in both area and height - it has gotten much larger particularly recently.

Commented [RD66R65]: From Paul: Need something more definitive/meaningful here.

Commented [PN67]: Need something more definitive/meaningful here.

Commented [RG68R67]: Are we trying to say it’s grown or gotten taller? Republic Services is Ok with such phrasing. Made an attempt to address.

Specific Locations

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

[LSCL-F-33](#): The complexities of demand and availability of refuse disposal is the crux of the puzzle to provide a viable sustainable material management process under consideration. , including the preservation of the existing valuable resources of the Coffin Butte disposal site as well as the Knife River Quarry site which is also at Coffin Butte.

Commented [RD69]: Chuck’s addition 2/5/23

1983 Rezoning:

- a. [LSCL-F-29](#): Approval of the 1983 rezoning was recommended by SWAC and CAC with on the condition that “No landfill be allowed on property south of Coffin Butte Road.”
- b. [LSCL-F-30](#): The recommended condition prohibiting landfill south of Coffin Butte Road was not included not included in the 1983 rezoning ordinance through a change recommended by Benton County Staff. The process for approving landfill south of Coffin Butte Road was subsequently changed to “allowed by conditional use permit” apparently via Ord. 90-0069 (BCC 77.305)
- c. [LSCL-F-30](#): The recommended condition prohibiting landfill south of Coffin Butte Road was not included in the 1983 rezoning ordinance through a change recommended by Benton County Staff. The process for approving landfill south of Coffin Butte Road was subsequently changed to “allowed by conditional use permit” apparently via Ord. 90-0069 (BCC 77.305) **Based on a county staff recommendation, however, the condition prohibiting a landfill south of Coffin Butte Road was not included in the final ordinance of the Board of Commissioners’ approval of the Comprehensive Plan and Zoning amendments (adopted June 15, 1983.)** The process for approving landfill activities south of Coffin Butte Road was subsequently changed to “allowed by conditional use permit” apparently via Ord. 90-0079- (BCC77.305). **This change was memorialized in the 2002 Memorandum of Understanding executed by Valley Landfills and Benton County.**
- d. Based upon a county staff recommendation, however, the recommended condition prohibiting a landfill south of Coffin Butte Road was not included in the final ordinance of the Board of Commissioners approving the Comprehensive Plan and Zoning amendments adopted on June 15, 1983. The process for approving landfill south of Coffin Butte Road was subsequently changed to “allowed by conditional use permit” apparently via Ord. 90-0069 (BCC 77.305). This change was memorialized in the 2002 Memorandum of Understanding executed by Valley Landfills and Benton County.

Commented [PN70]: Underline emphasis added (original text stated “eliminated”)

Commented [PN71]: Republic suggests alternate (milder) language here 7Feb, and notes memorialization of the CUP procedural requirement in the 2002 MOU. Needs discussion.

Commented [PN72]: Underline emphasis added (original text stated “eliminated”)

Commented [PN73]: Underline emphasis added (original text stated “eliminated”)

Commented [RG74]: Republic Services would like to add the language in red.

Commented [RG75]: New wording in this graf per Republic Services’ legal and land use attorney Jeff Condit.

1 Table of Recommendations

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

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

LSCL-R-X: Benton County should explain enforcement mechanisms of the 2020 Landfill Franchise Agreement, including outlining the consequences of violating the tonnage limit.

Commented [RD76]: Daniel added based on the related Finding.

Feedback from Legal Subcommittee:

The 2016 MOU did not create a new allowance, it was just Republic and the County informing/acknowledging. The threshold in the 2000 franchise agreement is a number of tons beyond which the County is able to require another baseline study. The threshold is not a limit.

Also, regarding the regulation of where waste comes from: Because the interstate commerce clause and case law extending that to intra-state commerce (Michigan case) prevent the County from limiting where waste comes from, the County negotiated the tonnage cap. It leaves to the operator the decisions about from where and how much waste to accept, but does impose a form of limitation that is constitutional.

This needs to be further explained. Once the tonnage was exceeded, the franchise agreement explains that the County could have required a new baseline study of the impacts of the growing landfill, but the County chose not to require the study be done.