

**BCTT Work Group Report Draft #3:
Comments by the Individual Members of the
Benton County Solid Waste Advisory Council
February 10, 2023**

Submitted to the BCTT Work Group. Aggregation by Ken Eklund.

Vetting completed: by BCTT Work Group staff by the Solid Waste Advisory Council

Section Title	Page	Feedback	No.
<i>I. Process Context and Background</i>			
THE OTHER SECTION E: History of Coffin Butte pp. 13–29			1
	all	Just noting here that it's evident that this section is a work-in-progress, and has too many issues extant for me to comment on individual ones here at this point. (which is not at all a slam on its authors, because the work is impressive; it's just a note on the current state of the document)	2
	all	Historical information about expected lifetimes of the landfill should be incorporated throughout; this information can be found in the A1 subcommittee's work. The key issue is that at any point in time, the landfill's expected lifetime/closure date was an important factor in how the area around the landfill developed. Someone who bought local land in 1985, for example, did so under an expectation the landfill would close in 2000, because that was the county's official narrative at the time. (not sure those numbers are exactly correct, but you get the point) This is vital context when viewing the landfill history.	3
	all	A) what I learned from the background that there was good local, county, and state involvement from the '70s onward to clean up and get from 'dump' to managed landfill	4

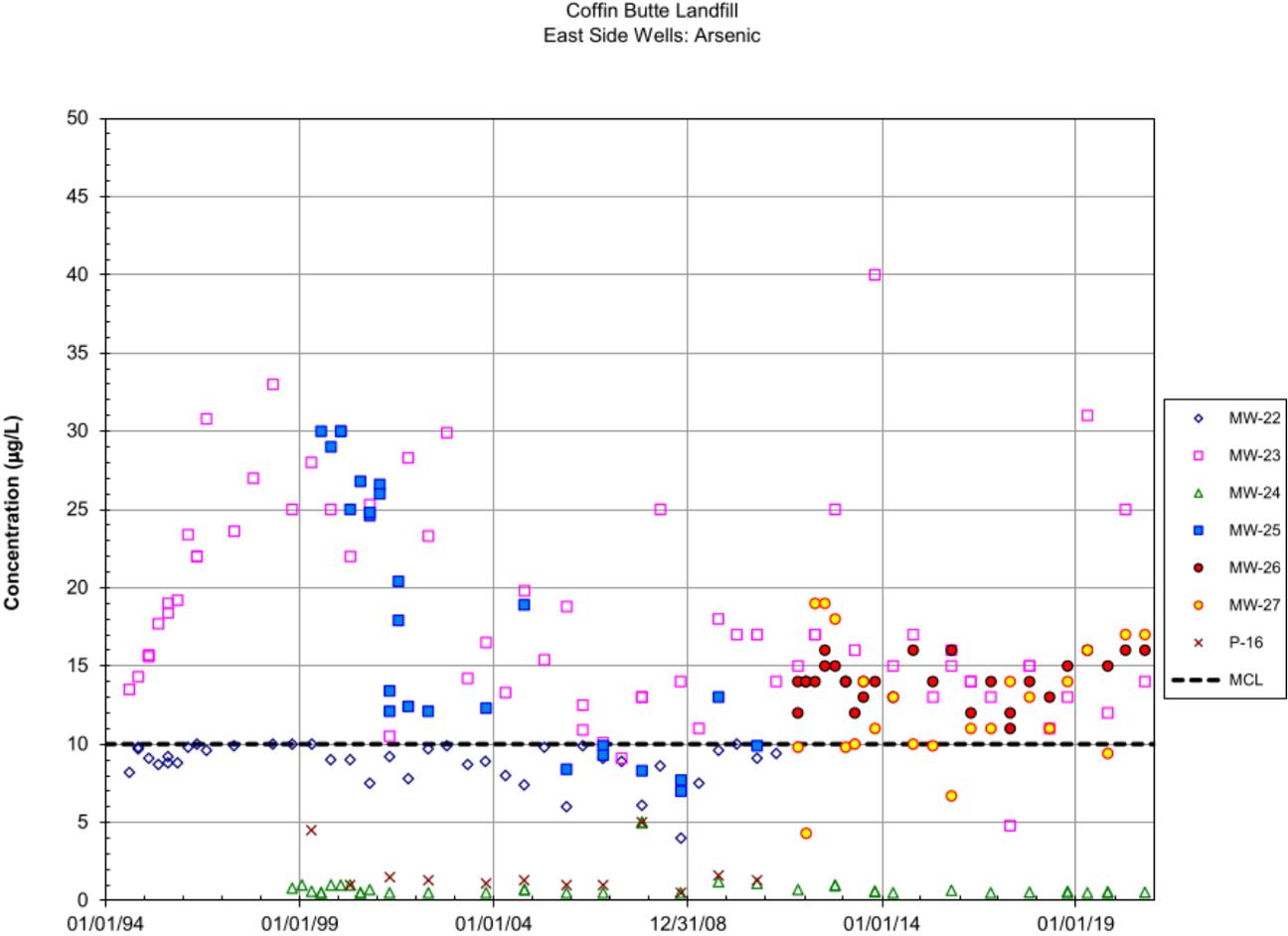
		B) understand that historic decisions were made by county officials but can't reverse many of those decisions whether or not the public was properly informed	5
		C) disagree with the opinion that the franchise agreement sole purpose was to promote expansion. The tiered agreement was based on business sense related to waste inflow.	6
			7
	p. 24	If at all possible, I'd like to see a follow-up to the note about "SWAC being very active in the 2000s" – because it's my perception that SWAC/DSAC's level of activity diminished thereafter. At some point in the 2010s, DSAC apparently stopped filing the citizen complaint compendiums with DEQ that it is required to do by state law, for example. That level of neglect extends to the present moment, when DSAC is being prevented from filing these compendiums by the County, and is also prevented from hearing complaints brought to them by the community.	8
	p. 25	On community tour #2 the firefighter spoke with participants at the Soap Creek Schoolhouse, not Santiam Christian School.	9
	p. 27	C) disagree with the opinion that the franchise agreement sole purpose was to promote expansion. The tiered agreement was based on business sense related to waste inflow.	10
	p.27	D) p27 pdf disagree with the case-closed comment. Just because an expansion was denied in the 1994 session, it does not mean case closed. I can speculate several reasons why Republic withdrew the appeal in 2022. I also speculate that Republic will apply again for an expansion so the county officials must have a policy and a strategy that meets county needs	11
	p.14	This timeline contains multiple errors and many misleading statements. Native Kalapuyans inhabit Coffin Butte-Soap Creek area for over 14,000 years comment #1: (1) Why the emphasis on Soap Creek? Coffin Butte faces into the main Willamette Valley, and is part of the larger Luckiamute River watershed. The impact area for the current landfill includes areas that are even beyond the boundaries of that watershed.	12
	p. 14	Timeline notes. Native Kalapuyans inhabit Coffin Butte-Soap Creek area for over 14,000 years comment #2: (2) According to contemporary tribal historians, Kalapuya people moved through a larger area in a seasonal round, residing part of each year in the same places, in a practice referred to as placekeeping. The word "inhabit" makes them sound much more sedentary and does not reflect what tribal historians say about their own culture.	13

	p. 14	<p>Timeline notes. Native Kalapuyans inhabit Coffin Butte-Soap Creek area for over 14,000 years comment #3:</p> <p>(3) The 14,000 year figure is debatable and has been a subject of contention between Native people and Anglo-American archaeologists, who have recently come to acknowledge that Native claims of much longer presence in western North America might be right, extending back as far as 23,000 years. See for example this essay by Nick Martin: https://www.hcn.org/issues/53.11/indigenous-affairs-archaeology-the-white-sands-discovery-only-confirms-what-indigenous-people-have-said-all-along</p>	14
	p. 14	<p>Native Kalapuyans inhabit Coffin Butte-Soap Creek area for over 14,000 years: I suggest stating more simply: "Native Kalapuya people have been resident in the area that includes Coffin Butte since time immemorial."</p>	15
		<p>Timeline notes. Early 1900s: Farming begins...</p> <p>European-style farming in the area began much earlier, starting with French-Canadian settlers in the French Prairie area in the 1820s, and by the 1840s, settlers from the eastern USA. Arguably the Kalapuya were "farming" long before that, but using Indigenous methods rather than European methods.</p> <p>I suggest just deleting the words "Farming begins" so this becomes "Roads built to transport produce to markets."</p>	16
		<p>Timeline notes. 1947: Coffin Butte Landfill is purchased ... for waste disposal and incineration</p> <p>(1) Was it really called "Coffin Butte Landfill" then? Or "the Coffin Butte dump site"?</p>	17
		<p>Timeline notes. 1947: Coffin Butte Landfill is purchased ... for waste disposal and incineration</p> <p>(2) Was waste being "incinerated"? Incineration implies a controlled and relatively complete combustion process. "Open-air burning" would be more accurate for what has been described in historical accounts of the burn dump.</p>	18
		<p>Timeline notes. 1950s: Illegal dumping leads to health and environmental issues include rats, vermin and odor</p> <p>(1) Why is this at this point in the timeline? Were there no rats in Benton County prior to the 1950s? No illegal dumping? I thought there were news reports of problems all the way back to the 1800s.</p>	19
		<p>Timeline notes. 1950s: Illegal dumping leads to health and environmental issues include rats, vermin and odor</p> <p>(2) "Rats and vermin" is redundant because rats in this context are a type of vermin.</p>	20

	<p>Timeline notes. 1950s: Illegal dumping leads to health and environmental issues include rats, vermin and odor</p> <p>(3) Didn't "legal dumping" at Coffin Butte also produce odors affecting nearby residents?</p>	21
	<p>Timeline notes. 1950s: Illegal dumping leads to health and environmental issues include rats, vermin and odor</p> <p>(4) It might be more relevant to mark this point in time as the advent of plastic trash and numerous toxic chemicals.</p>	22
	<p>Timeline notes. 1992: DEQ begins investigating...</p> <p>Contamination was not limited to Teledyne Wah Chang, per DEQ's investigation, but included residue from the burn dump.</p> <p>Suggest giving Teledyne Wah Chang its own spot in the timeline higher up, and just stating here that DEQ begins investigating groundwater contamination from the older part of the dump/landfill.</p>	23
	<p>Timeline notes. 1994: CUP granted for 2.2 megawatt facility...</p> <p>Should state clearly that this facility is using methane generated by the landfill.</p>	24
	<p>Timeline notes. 1994: Benton County Board of Commissioners [unanimously] deny VLI's expansion request</p> <p>Should state clearly in this timeline that this request was to expand south of the road.</p>	25

	<p>Timeline notes. 1994-1995: <u>Timeline is missing any mention of leachate seepage event significant enough to cause groundwater contamination</u></p> <p>Per Republic's 2020 Annual Environmental Monitoring Report (AEMR) submitted to DEQ, seepage of leachate occurred from the newer, "modern" section of landfill and began to show up in monitoring well MW-23 soon after its construction. The date of construction of MW-23 is not stated, but according to the plot of arsenic for MW-23 and other "east-side wells" later in the same report (included below), this appears to have been during or shortly after 1994.</p> <p>Here is the relevant text from the 2020 AEMR:</p> <p><i>Early in its history, detection well MW-23 had shown increases for bicarbonate alkalinity, chloride, hardness, total dissolved solids (TDS), for five of the major dissolved metals, and for arsenic. This had been attributed to localized seepage of leachate from the south side of the landfill; that seepage was remedied soon thereafter. Since 2000 to 2001, the upward trends for bicarbonate, chloride, TDS, calcium, iron, magnesium, manganese, sodium, and arsenic have peaked, and after about 2009 to 2011, most of these constituents declined to within or just above the range of background concentrations. With the exception of chloride, which is a few milligrams per liter higher than background, the concentrations in 2020 were at these lower values near or within background levels.</i></p> <p>Note that the last sentence is not consistent with the plot of data for arsenic in east-side wells, as a sample in early 2020 showed arsenic concentrations of 25 micrograms per liter, similar to those noted in the late 1990s and early 2000s. A sample from early 2019 was even higher (about 32 micrograms per liter). (continues in Comment 27)</p>	26
--	--	----

Timeline notes. **1994-1995: Timeline is missing any mention of leachate seepage event significant enough to cause groundwater contamination** (continued from comment 26)



MW-23-27.xls/Arsenic

C-144

	<p>Timeline notes. 1999: "'Hot load' spurs large Coffin Butte Landfill fire</p> <p>Is there any documentation (e.g. from an independent investigation by the fire marshall) that this was definitely caused by a "hot load"? Or is that just an explanation given by company staff from that time?</p> <p>I suggest just stating more factually "Adair Rural Fire responds to large fire on Coffin Butte Landfill," perhaps with a few more words on how long it took to bring it under control. This fire was discussed at length as part of the Neighborhood Tour.</p>	28
	<p>Timeline notes. 2005: DEQ issues record of decision on Coffin Butte groundwater remediation: site in compliance</p> <p>DEQ's 2005 Record of Decision <u>does not</u> say anywhere that the "site is in compliance," so that phrase should be deleted.</p> <p>The record of decision <u>does</u> specify remedial actions that still needed to be completed after 2005, including decommissioning of the Helms well within a year, and prescription of a long-term monitoring plan to check that contaminated groundwater doesn't travel outside of the "compliance boundary."</p>	29
	<p>Timeline notes. 2021: Wildfire debris causes tonnage to increase again. Annual tonnage continues to be just under cap</p> <p>The suggestion of "continuing to be just under cap" is misleading. Graphs later in the report (e.g. Figure 3.5 on p.160) indicate that the annual tonnage cap under the 2000 franchise agreement was violated in 2017, 2018, and 2019, then dipping below the cap in 2020 before continuing on the same upward trend. The tonnage for 2021 only stayed within compliance because the cap had been raised in the new franchise agreement.</p> <p>Thus there is no pattern of "continuing to be" just under the cap. The one recent year (2020) when the landfill was in compliance with the previous franchise agreement was an anomaly, apparently due to reduced consumer waste during the first year of the covid-19 pandemic.</p> <p>I suggest replacing this with "2021: Wildfire debris causes tonnage to increase again after reduced tonnage due to pandemic." And then delete the misleading statement, "Annual tonnage continues to be just under cap."</p>	30
	<p>Timeline notes. 2021: Republic files CUP ... then denied by Planning Commission.</p> <p>Should note, "denied <u>unanimously</u> by Planning Commission" as this indicates there were significant problems with the CUP application.</p>	31
	<p>Timeline notes. 2022: Republic Services withdraws CUP proposal. Benton County Talks Trash Workgroup formed</p> <p>Add, "Regular meetings of SWAC and DSAC suspended."</p>	32

p. 15	<p><i>p. 15 Geography, Geology and Climate of the Coffin Butte Area</i></p> <p>Should state that CBL is on the west edge of the main Willamette Valley. Again, way too much focus on Soap Creek Valley.</p>	33
	<p><i>p. 15. "While the needs and concerns regarding waste disposal and associated issues affect the entire county, the area most impacted by Coffin Butte operations are the neighboring areas to the north and south along Highway 99W, Soap Creek Valley, the E.E. Wilson Wildlife Area, and agricultural areas to the east and north."</i></p> <p>There are not just "agricultural areas" to the east and north. This leaves out residential areas to the east (Palestine, Springhill, Skyline etc.) and north (Suver, Rolling Hills Rd.) which are in the "odor-shed," "litter-shed" and also in many cases, the viewshed of the landfill.</p> <p>Independence Hwy is also impacted. Why is Adair Village not mentioned specifically?</p> <p>This was all pointed out during the Neighborhood Tour.</p>	34
p. 16	<p><i>p.16 regarding earthquake hazards</i></p> <p>The Corvallis Fault should be mentioned, as another potential source of earthquakes very close to Coffin Butte. Surface ruptures were observed in the Lewisburg/Arboretum Road area after the Corvallis earthquake in the 1940s. See Chris Goldfinger's M.Sc. thesis (OSU), also a map posted on the Benton County sheriff's web page for emergency preparedness. The surface trace of this fault runs within 2 miles of the landfill.</p> <p>As part of an older regional thrust fault extending as far as Coos Bay, if still active it could potentially produce quakes up to around M 6.5 or 7. Although this is lower magnitude than the recurring M 9 quakes on the Cascadia Subduction Zone, it is also much, much closer with potential for an epicenter as close as Kings Valley -- so could produce stronger shaking than considered in seismic models based on a more distant source.</p>	35
	<p><i>p. 16 Coffin Butte Landfill meets state and federal requirements regarding seismic activity.</i></p> <p>Cited document not found. This appears to have been an analysis by the company's consultant. Has it been independently reviewed by a qualified seismological expert?</p>	36

	<p><i>p. 16 Republic Services hired a third-party consultant to conduct the study, and it is currently underway.</i></p> <p>Minor change in wording but significant: Republic Services hired a third-party consultant to conduct <u>a</u> study (not "the" study). Whether it meets the recommended level of investigation will need to be assessed.</p> <p>Also have all appropriate tribes been consulted, as recommended in 2022 by the Oregon State Archeologist, John Pouley?</p>	37
p. 17	<p><i>p. 17 Letitia Carson is one of the most notable pioneers to settle in Soap Creek Valley</i></p> <p>Letitia Carson was one of the most notable pioneers to settle in what is now Benton County, period. Also in the entirety of western Oregon, as she was the first Black woman to "prove up" a homestead claim in Oregon Territory. Please don't diminish her historical stature by relegating her to a Soap Creek Valley footnote.</p>	38
p. 18	<p><i>p. 18 The Coffin Butte Area Today: Wildlife Habitat and Protection</i></p> <p>This section should also mention e.g. Adair Village and Palestine as local communities (alongside of Soap Creek Valley).</p> <p>McDonald Forest, Dunn Forest (OSU), and Luckiamute State Natural Area (OPRD) should also be mentioned at the top of this section as important wildlife habitat and human recreational areas, all within 2-3 miles of the landfill site. A couple of these are mentioned lower down, but note that LSNA is not a "refuge," but a designated "natural area." Landfill traffic (including leachate trucks) affects recreational access to LSNA via Springhill Drive, for North Albany residents.</p>	39
	<p><i>p. 18 The wildlife area covers approximately 1,788 acres of oak woodland, upland shrub and grassland habitats.</i></p> <p><u>Wetland</u> habitats are integral to the wildlife area, and should be mentioned here, right up front. This becomes all the more significant in view of the "legal issues" subcommittee's obfuscations regarding wetlands in the vicinity of the landfill.</p>	40

	p. 21	<p><i>p. 21 Valley Landfills, Inc., Coffin Butte’s owner and operator, purchased several properties around the existing Landfill site during the 1980s.</i></p> <p>This should be restated as, "Valley Landfills, Inc., Coffin Butte’s owner and operator, <u>began to purchase</u> properties around the existing Landfill site, <u>starting in</u> the 1980s."</p> <p>According to a map of property acquisitions later in the report, the Helms family's property was not acquired until 2001 -- long after contamination of their well by the landfill was discovered, and water treatment efforts proved inadequate.</p> <p>As described in the account in this draft, one could easily get the impression that contamination was only discovered after VLI purchased the property, and before the property's value was impacted by the threat of groundwater contamination.</p>	41
	p. 22	<p><i>p. 22 Today, Coffin Butte is capable of powering 4,000 homes with clean energy</i></p> <p>Landfill gas is not "clean energy." There are still carbon emissions and possibly also incomplete combustion of methane. Much of the methane is simply flared off, as can be easily observed by driving by the site at night.</p> <p>Not to mention, the volume of this potent greenhouse gas that leaks directly from the landfill to the atmosphere every year has yet to be quantified by aerial or satellite surveys.</p> <p>The biased phrase "with clean energy" should be deleted, or replaced by "with landfill-generated methane."</p>	42
	p. 22	<p>The gas-to-energy plant does not use “clean energy.” Its output is carbon dioxide, same as a coal-fired plant in terms of greenhouse gases. Plus it also does not burn all its methane, especially when flaring, and methane is a very potent greenhouse gas.</p>	42b

p. 23	<p><i>p. 23 This fire, never a danger to local residents, was contained to the landfill site and was likely caused by a 'hot load' delivered to the landfill and no damage was reported to any property outside the landfill zone.</i></p> <p>There are several dubious statements and/or outright whoppers in this sentence.</p> <p>(1) Local residents responded as volunteer firefighters with Adair Rural Fire. During the Neighborhood Tour, Kevin Higgins spoke at length about the conditions that they faced as they battled VLI's fire for more than 24 hours without relief.</p> <p>He mentioned that volunteers experienced respiratory problems for weeks afterwards, and also that no one from the landfill company ever contacted them to ask how they were doing after their hazardous service. This was part of a Workgroup event, even if no one from Republic Services attended. Please ask Kevin Higgins for his notes to include in the record (the cursory notes by ICM staff did not capture any of the most significant parts of his account).</p> <p>(2) Local residents within at least a 2-mile radius were exposed to smoke of unknown composition for several days, depending on the wind direction. As one of those local residents (living 2 miles away at the time), I recall it well. The incident led to the phrase "Coughin' Butte" gaining some currency on the limited social media at the time.</p> <p>(3) Evacuation plans for Adair Village were at least considered by local officials at the time, although thankfully the wind directions remained favorable to push smoke out toward less densely populated areas.</p> <p>Again, please contact Kevin Higgins (currently with the Benton County Sheriff's Department) for a first-hand description of this event and the risks faced by local residents, especially volunteer firefighters.</p>	43
p. 34	<p><i>p. 34 Neighborhood tour</i></p> <p>Please use full names of the tour organizers, Joel Geier and Nancy Whitcombe.</p> <p>Elizabeth Patte's name is misspelled.</p> <p>The last bullet point is misleading.</p>	44
p. 35	<p><i>p. 35 Neighborhood tour</i></p> <ul style="list-style-type: none"> • archery range • We discussed visual impacts of the landfill even at 3+ miles distant, litter, and impacts on residential property values. 	45

	p. 35	<p><i>p. 35 At the Santiam Christian School, Kevin Higgins, a firefighter with the Sherriff's office gave a talk on growing up in the area, landfill fires, types of items in landfill, and DEQ. This was followed by ... resident Elisabeth Pott. The discussion on the bus ride back focused on affordable housing and local buildings.</i></p> <p>Soap Creek Schoolhouse, not "Santiam Christian School."</p> <p>Kevin Higgins was a volunteer with Adair Rural Fire, but works for the Sheriff's office. His talk was primarily focused on the landfill fires, their unpredictable aspects due to what goes into a landfill, and the resulting hazards faced by local volunteer firefighters.</p> <p>Elizabth Patte's name is misspelled.</p> <p>Discussion on the ride back included mention of a house constructed by Habitat for Humanity.</p>	46
		Priya Thakkar's name is misspelled.	47
IV. Key Workgroup Findings & Recommendations			
SECTION A: Legal issues & Land Use Review PDF page 37-43, Word page 39-45	all	What are the limiting Federal rules?	48
	all	I note that throughout this section, there is no reference made to Benton County's values such as the 2040 Thriving Communities Initiative, which I believe are intended to apply context to situations described here, such as "seriously interfere" (LLU F-10) and SWAC deliberations about the "health, safety and welfare" of the community and residents, and so on.	49
	all	I note that throughout this section, there is the presumption that SWAC needs to be guided, it needs to have recommendations made to it, etc. This presumption is not correct. It has been chartered by the county (and DSAC, chartered by the state) to provide input from a different perspective than the county's – in particular, from a community perspective. It is capable of referring to the legislative sources of its authority and defining its own mission. All of the language based on this "infantilizing" presumption should be deleted.	50

	all	I note that throughout this section, there is the presumption that SWAC needs to be guided, it needs to have recommendations made to it, etc. This is language that is designed to exploit the lack of institutional memory that the county has engineered in the Council in recent years. This sort of predation upon SWAC’s autonomy are inappropriate, and all of the language based on this presumption should be deleted.	51
	all	I note that throughout this section, there is the presumption that SWAC needs to be guided, it needs to have recommendations made to it, etc. This sort of non-legal “guiding” language only appears in context to SWAC. This is the subcommittee diverging from its charter into an attempt to influence, and this language should be deleted.	52
	p. 37	Members: Note participation by additional Republic attorneys besides Condit.	53
	p. 41 on	<p><u>LLU F-3.</u> Up-front and ongoing financial assurance to cover the cost of closure, post-closure, and corrective actions are required by DEQ. Where this preliminary line of defense fails, Oregon statute holds any person owning or controlling the disposal site liable for closure and post-closure maintenance.</p> <p>Republic Services has created a separate, stand-alone corporate entity (Valley Landfills, Inc.) as the owner of the landfill. As has happened many times throughout corporate America, VLI could easily declare bankruptcy in the event of a major environmental situation wherein the resources available were not sufficient and VLI would simply walk away.</p>	54
		LLU F-3. What happens in the event of bankruptcy of the company holding the landfill after closure? This question was raised very specifically but never answered.	55
		LLU F-5. “Collaterally attacked” -- what does this mean?	56
		LLU F-6. Add “...under the current terms of the franchise agreement. Such control has been ceded by the county.”	57
		LLU F-9. Replace last sentence with “Coffin Butte thus meets the definition of a regional landfill per ORS.”	58
			59

	<p>p. 41 <i>p. 41 SWAC should review the proposal and provide input from a solid waste management perspective. The Planning Commission's role is to review the proposal from a land use perspective, relative to specific criteria listed in the Development Code, and to make a decision.</i></p> <p>The position of this "legal issues" committee, comprised of Republic attorneys, County Counsel, and one former Planning Official, to put sideboards on SWAC's role, is dubious at best.</p> <p>SWAC can and should review the proposal not just from a solid waste management perspective, but also from the broader aspect of sustainable materials management.</p> <p>We note that the "legal issues" committee discussed this extensively, with a very apparent bias toward limiting the role of SWAC.</p>	60
	<p><u>LLUF-5.</u> In reviewing a CUP for landfill expansion, the County has jurisdiction over only the proposed expansion. Existing and past operations are not within the County's scope of review. Prior decisions are final and cannot be revisited or collaterally attacked as part of the CUP application for the expansion.</p> <p>Existing and past performance of Benton County in monitoring and enforcement of any proposed conditions of approval must be considered. The County readily admits that it did not and does not actively monitor and enforce conditions of approval designed to mitigate adverse impacts on adjacent land uses.</p>	61

	<p><u>LLU F-13.</u> BCC 77.305 directs the Solid Waste Advisory Council (SWAC) to review and make recommendations on a landfill-expansion CUP; however, the code does not specify what criteria or considerations that recommendation should be based on. SWAC’s overall role as articulated in its bylaws: “assist the Board of Commissioners (Board) in Planning and implementation of solid waste management, pursuant to BCC Chapter 23, the Benton County Solid Waste Management Ordinance.” As such, SWAC should review the proposal and provide input from a solid waste management perspective. The Planning Commission’s role is to review the proposal from a land use perspective, relative to specific criteria listed in the Development Code, and to make a decision.</p> <p>This is an inappropriate attempt by the Legal Issues subcommittee to muzzle the SWAC. Chapter 77.305 states "The Benton County Environmental Health Division and the Solid Waste Advisory Council shall review and make recommendations through the Planning Official to the Planning Commission regarding the Site Development Plan Map and narrative." The Site Development Plan Map and narrative include all aspects of the proposed development.</p>	62
p. 45	<p>LLU F-13. I question the “should” in this section, as it appears to be suggesting one interpretation of BCC Chapter 23 over others. I suggest deleting the “should” statement, because what SWAC “should” do is refer to BCC Chapter 23 rather than rely on this subcommittee’s interpretation.</p>	63
p. 45	<p>LLU F-13. I question the phrase “from a solid waste management perspective,” since it could imply that there is some expertise required in the discipline of solid waste management, which is not part of SWAC’s mission. It brings up the specter of someone other than SWAC itself opining on what is “solid waste management” and what isn’t, for purposes of limiting SWAC from outside.</p>	64
	<p>LLU F-13. “...sustainable materials management perspective”, not solid waste management, here and throughout.</p>	65
	<p>LLU F-16. “...according to county officials, based on the degree of oversight at the time, whether or not they were fully informed.”</p>	66
p. 45	<p>LLU R-1: see above comments on LLU F-13 (63, 64, 65)</p>	67

p. 45	<p><u>LLU R-1.</u> SWAC’s role in reviewing a landfill-expansion CUP should be from the perspective of solid waste management (see LLU F-13). The workgroup may wish to recommend specific areas of consideration by SWAC. For example: Is the proposed expansion consistent with long-term plans for the landfill site? Is the proposal consistent with principles of responsible solid waste management? What (solid waste management) benefits do you see to the proposed expansion? What potential (solid waste management) negative effects do you see? Are there ways to minimize or mitigate those effects?</p> <p>This is an inappropriate attempt by the Legal Issues subcommittee to muzzle the SWAC. Chapter 77.305 states "The Benton County Environmental Health Division and the Solid Waste Advisory Council shall review and make recommendations through the Planning Official to the Planning Commission regarding the Site Development Plan Map and narrative." The Site Development Plan Map and narrative include all aspects of the proposed development.</p>	68
p. 45	<p><u>LLU R-2.</u> Amendments to the Development Code may be needed in order to create a clear and legally consistent process for SWAC’s involvement in review of a CUP. Pursuant to the Development Code as written, the only criteria that a CUP decision can be based upon are those of BCC 53.215, and the Planning Commission is the decision-making body; yet the code states an ambiguous role for SWAC in that process and seems to imply that other considerations beyond those of BCC 53.215 should go into the decision-making process. This needs clarification.</p> <p>Until any role modifications are adopted in Code, the existing role for SWAC described in Chapter 73 stands.</p>	69

p. 45	<p>“For example: Is the proposed expansion consistent with long-term plans for the landfill site? Is the proposal consistent with principles of responsible solid waste management? What (solid waste management) benefits do you see to the proposed expansion? What potential (solid waste management) negative effects do you see? Are there ways to minimize or mitigate those effects, <u>or do you think the proposal should be rejected?</u>” I note that an earlier draft of LLU R-1 contained the underlined phrase, but that after lobbying by Greg Verret it was deleted. With its deletion, all of the examples given in this paragraph would support a yes recommendation for a new CUP application. This evident bias questions the legitimacy of the entire paragraph of LLU R-1; it should be deleted.</p>	70
p. 45	<p>“For example: Is the proposed expansion consistent with long-term plans for the landfill site? Is the proposal consistent with principles of responsible solid waste management? What (solid waste management) benefits do you see to the proposed expansion? What potential (solid waste management) negative effects do you see? Are there ways to minimize or mitigate those effects, <u>or do you think the proposal should be rejected?</u>” I note that an earlier draft of LLU R-1 contained the underlined phrase, but that after lobbying by Greg Verret it was deleted. In fact, about 15 minutes of the subcommittee’s time was devoted to this lobbying and deletion. My concern here is wheelspin: as a county taxpayer, I am paying for Greg Verret’s time, for Vance Croney’s time, for Sam Imperati’s time, and for Ginny Lucker’s time, all to make sure that none of the examples given in LLU R-1 explicitly inform SWAC that it has the power to recommend rejecting an application such as the next CUP. If the Board of Commissioners or the County are concerned with the cost of BCTT, they might want to look first at the time-wasting being created by their own employees.</p>	71
p. 45	<p>“For example: Is the proposed expansion consistent with long-term plans for the landfill site? Is the proposal consistent with principles of responsible solid waste management? What (solid waste management) benefits do you see to the proposed expansion? What potential (solid waste management) negative effects do you see? Are there ways to minimize or mitigate those effects, <u>or do you think the proposal should be rejected?</u>” I note that an earlier draft of LLU R-1 contained the underlined phrase, but that after lobbying by Greg Verret it was deleted. My question is: where was the community representation during this episode? Where is the example language that actually reflects what the community is thinking, or what examples would be good to pass on to the citizens on SWAC? Until there actually is that sort of representation, I ask the subcommittee to withdraw this biased example language or the Workgroup to ask for its deletion.</p>	72
p. 46	<p>LLU R-3. As written, it seems the Planning Official can require other information in the applicant’s narrative, and this other information thus becomes part of the “applicable criteria.” Therefore, the workgroup has wider latitude with its recommendations for “other information” than is conveyed here. If so, the last sentence should be deleted.</p>	73
p. 46	<p>Topics which Benton County can and cannot regulate: it’s unclear what these results mean in the context of land use operation and oversight, because it’s unclear what it means when Benton County regulates a topic area (or not). If you mean “topic areas that enable Benton County to regulate the landfill (or not)” then maybe you should say that.</p>	74

p. 47	Table 2. The wetlands topic is not clearly written. It would be clearer to say that the wetlands on and in the vicinity are not currently designated as “significant”. The E.E. Wilson Wildlife Area is a significant wetland by any common understanding of that term, and included as such in wetland inventories; what you mean to say is that it has not been put on the specific inventory that gives the County to regulate it.	75				
	<p>Table 1: Rights and Obligations Relative to Franchise Agreements</p> <table border="1"> <tr> <td data-bbox="426 362 510 743">10.5</td> <td data-bbox="510 362 1077 743">Section 4(c), 4 (c)(i), and 4(c)(ii) describe how the host and franchise fees will be modified ONCE the expansion is approved. Contrary to the wording in these sections, Republic has no right to an expansion, and Benton County is under no obligation to grant an expansion.</td> <td data-bbox="1077 362 1423 743">Landfill Franchise Agreement §4(c), 4(c)(i), 4(c)(ii)</td> <td data-bbox="1423 362 1833 743">The language in these sections is written such that the decision regarding granting of an expansion has been pre-judged and it is only a matter of timing as to when it will be granted.</td> </tr> </table> <p>Add the above row below Row 10 in this table.</p>	10.5	Section 4(c), 4 (c)(i), and 4(c)(ii) describe how the host and franchise fees will be modified ONCE the expansion is approved. Contrary to the wording in these sections, Republic has no right to an expansion, and Benton County is under no obligation to grant an expansion.	Landfill Franchise Agreement §4(c), 4(c)(i), 4(c)(ii)	The language in these sections is written such that the decision regarding granting of an expansion has been pre-judged and it is only a matter of timing as to when it will be granted.	76
10.5	Section 4(c), 4 (c)(i), and 4(c)(ii) describe how the host and franchise fees will be modified ONCE the expansion is approved. Contrary to the wording in these sections, Republic has no right to an expansion, and Benton County is under no obligation to grant an expansion.	Landfill Franchise Agreement §4(c), 4(c)(i), 4(c)(ii)	The language in these sections is written such that the decision regarding granting of an expansion has been pre-judged and it is only a matter of timing as to when it will be granted.			
p. 45	<p><u>CUP F-1 C.1:</u> Condition #3, establish efficient leachate collection and treatment and wells to monitor any potential seepage into underground aquifers. The fate of leachate generated by the landfill should not simply be ignored by the County and delegated to DEQ. The requirement to “insure against pollution of nearby waterways” is very much still relevant. Compliance Assessment: yet to be determined.</p> <p>Seepage into groundwater resulting in significant contamination has occurred, including Helms well and MW-23.</p>	77				

p. 45	<p><u>CUP F-1 F.1:</u> <i>Condition #6, Phase landfill operations so that only a small acreage is used for fill at one time and return to grazing. Landfill operations and closure are governed by DEQ requirements. Some of the landfill areas have not received wastes since the 1990s, others since 2011. RSI has determined areas of the landfill are “In Closure” under Federal rules. Approximately 41.7 planimetric acres have already received Final Closure. This area should already have a 1.5 feet thick Vegetative Cover per Federal requirements and be suitable for reuse. Compliance Assessment: yet to be determined.</i></p> <p>Native species? grazing land?</p>	78
p. 46	<p>CUP F-2 D.1: <i>Condition #8, Submit an updated, long-term leachate control plan as part of the DEQ permit renewal process. Leachate storage exists on site for holding leachate prior to trucking to off-site locations. No leachate is currently being land applied on landfill properties. No soil study needed. Compliance Assessment: yet to be determined.</i></p> <p>Leachate was formerly applied to land but resulted in groundwater contamination that has only gradually attenuated, some contaminants still detectable in monitoring wells.</p>	79
p. 46	<p>CUP F-2 F.1: <i>Condition #10, Screen the landfill operation with fencing or berms so it cannot be seen from the County Road or adjacent properties. The screening may have been done but has eroded or died in the interim. It should be recreated and maintained to be in compliance with the requirement. Compliance Assessment: yet to be determined.</i></p> <p>This is clearly not in compliance. Frequently visible from County Road and properties as far away as 3 miles.</p>	80
p. 46	<p><u>CUP F-2 G.1:</u> <i>Condition #11, Adhere to daily compaction of refuse and limit exposed refuse areas to 2 acres during the periods of October 15 to June 1 and to ¾ of an acre during all other periods. The landfill uses an alternative daily cover approved by DEQ, which includes Covanta Ash material. The landfill also uses temporary cover. Compliance Assessment: yet to be determined.</i></p> <p>Google Earth images show that this has been exceeded.</p>	81

p. 46	<p><u>CUP F-2 H.1:</u> <i>Condition #12, Channel occasional leachate seeps into the leachate collection system within a timely period. Republic Services complies with all current regulatory requirements, which include liners. Leachate does not seep through perimeter berms. Compliance Assessment: yet to be determined.</i></p> <p>Refer to 2000 leachate seepage event that resulted in long-term contamination of groundwater as detected in MW-23.</p>	82
p. 47	<p><u>CUP F-3 C.1:</u> <i>Condition #3, The applicant is responsible for ongoing monitoring of noise levels. Available records do not indicate any noise monitoring requests by the Planning Official. Compliance Assessment: yet to be determined.</i></p> <p>But applicant is "responsible" whether or not the Planning Official requested it.</p>	83
p. 48	<p><u>CUP F-5 B.1:</u> <i>Condition #2, Keep unpaved, main access roads dust-free. Coffin Butte Road is now paved, Compliance Assessment: yet to be determined.</i></p> <p>Dust and mud from landfill now spreads to paved roads up to a mile from site.</p>	84
p. 48	<p><u>CUP F-5 F.1:</u> <i>Condition #6, The landfill operation hours 8:00 a.m. and 5:00 p.m. Monday through Saturday, 12:00 p.m. through 5:00 p.m. on Sundays, 24-hour access for commercial customers. Condition is written poorly and would be improved with better clarification on Hours of Operation. Compliance Assessment: yet to be determined.</i></p> <p>"Operation hours" are clear enough. Access by commercial customers outside of operation hours seems pointless.</p>	85

	<p><i>Legal Issues Table 2: Topic: Wetlands</i></p> <p>County Allowed to Regulate? Yes, if the County has identified significant wetlands at the site in a wetland inventory adopted through the Statewide Planning Goal 5 procedure.</p> <p>Notes No significant wetlands are identified in the vicinity of the landfill on the County's adopted inventory.</p> <p>A wetlands expert sent me these comments:</p> <p>The National Wetland Inventory shows many wetlands in the vicinity of the landfill but does not address their significance. That responsibility legally belongs to the cities (with approval by the associated County) whenever a city opts to prepare a more detailed Local Wetland Inventory (LWI) using procedures prescribed by Oregon Department of State Lands. The "cities" of Corvallis (2004) and Adair Village (2012) did choose to prepare LWI's and identified Locally Significant Wetlands (LSW's) as part of their LWI using a now-superseded procedure. HOWEVER, neither plan covered anything close to the landfill, so the situation should be described as NO DATA, not "no significant wetlands". Clearly the committee's statement is disingenuous.</p> <p>Even if Corvallis or Adair Village's LWI or some subsequent inventory I don't know about had extended to include areas closer to the landfill, according to updated regulations (OAR 141-085-0685), cities are no longer legally allowed to use the procedure that was prescribed in 2004 and 2012 to identify LSW's. see item (g) at https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=350) In most cases they must now use the more science-based ORWAP procedure as adopted by the Department of State Lands to determine what is a "significant" wetland. Although federal (Corps of Engineers) regulations under section 404 of the Clean Water Act also apply, they include no provision for distinguishing which wetlands shall be identified as "significant" so their silence on that topic does not imply insignificance.</p> <p>Further clarification could be sought from the Department of State Lands who are responsible for reviewing LSW determinations.</p>	86
<p><u>SECTION B:</u> <u>Past Land</u> <u>Use</u> <u>Application</u> <u>Conditions</u> PDF page 44-51, Word page 46-53</p>		87

	<p>Key Findings</p> <p>The listing of Key Findings highlighting specific land use actions beginning on page 47 with CP-74-01 were chosen by Benton County staff without any input from subcommittee members. The rationale for why some actions were chosen and some actions were left out is unclear. In several cases, the manner in which the findings are excerpted and summarized mischaracterize the subcommittee discussions.</p>	88
	<p>A review of the extensive number of land use decisions and associated conditions of approval reveals some overarching key findings with regard to how land use decisions are implemented in Benton County:</p> <p>These overarching key findings are presented for subcommittee consideration.</p>	89
	<p>CUP F-1 A.1 This is a main concern to me. When was the county not allowed to limit where landfill could come from? Who were the county commissioners? Why? I saw when Lincoln County was allowed to bring trash here but missed how local control ended.</p>	90
	<p><i>Condition #1 defined the original area to be served by the landfill. Current federal rules prohibit the county from limiting access to the landfill. Compliance Assessment: yet to be determined.</i></p> <p>This is a finding the County staff added without consultation with the subcommittee. This federal limitation (Commerce Clause court ruling) was not in effect at the time of the 1974 land use action. The County and Republic could mutually agree to limit landfill service area. Republic has the right to limit access to the landfill.</p>	91

	<p>CUP F-2 A.1: <i>Condition #1, Cross reference the narrative and the map in both documents; Condition #2, Expand the narrative statement on reclamation; Condition #3, In the narrative, describe the method of screening in more detail; Condition #4, Include in the narrative the anticipated chemical composition of any leachate material to be used for irrigation; Condition #5, Include in the narrative review of the Environmental and Operational Factors for 10-acre addition.</i> The narrative was updated to provide information related to all of these conditions. The updated narrative is found in the document titled "PC-83-07-C(3)" starting on Page 3 of 60. Compliance Assessment: yet to be determined.</p> <p>This is a complete and total misrepresentation of the opinion of the majority of members of the subcommittee. The County and Republic are taking the position that all the applicant had to do was submit a narrative and that the operator was not required to complete any actions outlined in the narrative, or to complete any of the required visual screening. The Board of Commissioners order expressly adopted these requirements and they have not been superseded by subsequent land use approvals. Further, the County has never taken any enforcement action against the operator to have the required screening completed.</p>	92
	<p><i>Condition #6, Provide a detailed reclamation plan.</i> There is a very detailed description of the promised screening in the narrative. There is no evidence in the record that any screening was ever done, and clearly there is no screening existing today. Compliance Assessment: yet to be determined.</p> <p>See immediately preceding comment. Also applicable here.</p>	93

	<p><u>CUP F-2 H.1:</u> <i>Condition #12, Channel occasional leachate seeps into the leachate collection system within a timely period. Republic Services complies with all current regulatory requirements, which include liners. Cells 1 and 1a, the oldest cells are unlined and are still generating leachate. Compliance Assessment: yet to be determined.</i></p> <p>This excerpt does not represent the depth and breadth of the subcommittee review and narrative. It completely ignores the rest of the discussion in the assessment of compliance completed by members of the subcommittee. This statement was made by Republic Services and was not vetted by other members of the subcommittee. No evidence has been presented to confirm leachate seep claim. This is not in the subcommittee findings and this statement has not been verified.</p>	94
	<p style="text-align: center;">CUP F-3 (PC-94-03)</p> <p><i>Approved in 1994. A Conditional Use Permit for approval of a 2.2-megawatt gas generated power facility.</i></p> <p><u>CUP F-3 A.1:</u> <i>Condition #1, The facility shall be housed in a structure approximately 50 by 100 feet or less in size. None</i></p> <p>This should not be here as a "Key Finding" since there is no finding whatsoever.</p> <p>What does None mean?</p>	95
	<p><u>CUP F-3 B.1:</u> <i>Condition #2, Noise levels shall comply with the New Industrial and Commercial Noise Standards. Noise testing completed in 1997. Compliance Assessment: yet to be determined.</i></p> <p>"shall comply" does not mean the operator can test once and then proceed to violate the Standards. Benton County did not and does not monitor or enforce ongoing conditions of approval.</p>	96
	<p><u>CUP F-3 C.1:</u> <i>Condition #3, The applicant is responsible for ongoing monitoring of noise levels. Available records do not indicate any noise monitoring requests by the Planning Official. Compliance Assessment: yet to be determined.</i></p> <p>See comment immediately above</p>	97

		<p><u>CUP F-3 F.1:</u> Condition #6, Lighting shall not impact streets or adjacent property. There is no record of complaints received by the County. Compliance Assessment: yet to be determined.</p> <p>Benton County did not and does not monitor or enforce ongoing conditions of approval. There is no "system" in place in Benton County to track and follow up with any complaints that may have been filed.</p>	98
	p. 50	<p>CUP R-2 <u>CUP R-2:</u> Consider the impact of leachate management on traffic safety, road maintenance, wastewater treatment plant, and the Willamette River (water, sediments, wildlife, etc.) in future assessment of the impact of landfilling in Benton County.</p> <p>Yes. These are hidden costs that must be accounted for</p>	99
	p. 50	<p>CUP R-11 <u>CUP R-11:</u> Benton County should actively monitor and enforce prior land use decision conditions of approval for the landfill or any other land use decisions.</p> <p>How much revenue has Benton County received as a host site? Why was none of this used to "actively monitor"?</p>	100

CUP F-3 F.1. “No record” does not mean that complaints have not been received. This complaint was submitted to Republic and to the BCTT in September and to the County in December. The county placed it into the backlog of complaints received by SWAC but apparently did not record it. Full document here: <https://www.dropbox.com/s/48k2zdgk3duqyig/CBL-lightspill-lightsout.pdf?dl=0>

The complaint: Coffin Butte Landfill turns bright lights on atop the landfill in the early morning, and this light pollution is causing environmental damage, especially to migrating birds.

While on the workgroup tour of the landfill I saw generator-fed light towers stationed at work areas atop the landfill (Exhibit 1). Previously, from afar I had seen lights on up there in the early morning, and the environmental manager for the landfill, Ian Macnab, later confirmed that these lights come on at about 4:45 am to support weekday operations at the landfill’s active cell (Exhibit 2).

That morning I had seen a post on social media asking neighbors in the Willamette Valley to turn out their yard lights at night, to prevent undue mortality in the population of migrating birds. That post is part of a national program called Lights Out (Exhibit 3), which is trying to prevent the bird deaths that result when bright lights at night disorient the birds, so that they go off course, fly into things, and otherwise perish along the way. An estimated one billion birds are killed this way during migration in the U.S. every year, according to the New York Times and other sources (Exhibit 4). On the day I saw the light towers, there were over 5 million birds migrating through Oregon.

The light towers atop the landfill (there are at least 4) sit on a plateau about 270 feet above the surrounding terrain. These are big industrial units, throwing half a million lumens each from masts which are 30 feet tall. As you can see from the photograph in Exhibit 1, the light they produce is not necessarily down-directed but instead spills across the landscape. The lights are bright even from five miles away.

The lightspill problem at Coffin Butte Landfill is not new; mitigation for light pollution has been a condition for landfill use in its permits; “downhoods” and other less intrusive lighting was discussed during Republic’s permit application last year. The lights may be in violation of the Migratory Bird Treaty Act, which holds industries accountable for the incidental take of birds due to operations. The lights may be in violation of the landfill’s current use permit, as they come on every weekday morning at 4:45 am, well before official operating hours. Yet still the bright lights come on even at the height of bird migration. When will the landfill’s operators address this situation and implement mitigations to lessen the landfill’s risk to wildlife?

Ken Eklund
futureeverything@writerguy.com

	<p><u>CUP F-4 C.1:</u> <i>Condition #3, Noise levels for both Phase I and Phase 2 shall comply with the Noise Control Regulations for Industry and Commerce. Noise Compliance Monitoring memorandum submitted on June 11, 1997, by Pacific Northwest Generating Cooperative. Compliance Assessment: yet to be determined.</i></p> <p>"shall comply" does not mean the operator can test once and then proceed to violate the Standards. Benton County did not and does not monitor or enforce ongoing conditions of approval.</p>	102
	<p><u>CUP F-4 E.1:</u> <i>Condition #5, Provide sanitation facilities for the generation plant employees. None</i></p> <p><u>CUP F-4 F.1:</u> <i>Condition #6, The applicant shall obtain and comply with all applicable permits from the DEQ. None</i></p> <p>There are no findings much less any Key Findings</p> <p>Please remove all these similar statements with no findings</p>	103
	<p><u>CUP F-4 H.1:</u> <i>Condition #8, Declaratory statement to be recorded that recognizes the rights of adjacent forest uses. None</i></p> <p>There are no findings much less any Key Findings</p> <p>Please remove all these similar statements with no findings</p>	104
	<p><u>CUP F-4 I.1:</u> <i>Condition #9, The applicant shall prepare a site-specific development plan addressing emergency water supplies for fire protection. No information related to this condition has been found. Compliance Assessment: yet to be determined.</i></p> <p>Fire protection in and around the landfill site is a key fire-life-safety requirement and there is no evidence in the record as to whether this has ever been or is being complied with today</p>	105

	<p><u>CUP F-5 A.1:</u> Condition #1, Obtain approval from the DEQ. None.</p> <p>The County has no mechanism for ensuring that any required permits are actually procured.</p>	106
	<p><u>CUP F-5 B.1:</u> Condition #2, Keep unpaved, main access roads dust-free. Coffin Butte Road is now paved, Compliance Assessment: yet to be determined.</p> <p>Here is the actual condition: 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.</p> <p>There are many unpaved roads that lead to the landfill for which this condition has not been monitored or enforced.</p>	107
	<p><u>CUP F-5 C.1:</u> Condition #3, Ensure that the landfill operation does not exceed the maximum sound level permitted by DEQ. Available records do not indicate any noise monitoring requests by the Planning Official. Compliance Assessment: yet to be determined.</p> <p>Of-peated condition of approval that is never monitored or enforced.</p>	108

	<p><u>CUP F-5 F.1 –</u></p> <p>Subcommittee Member – 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?</p> <p>This was a note, not a finding</p>	109
	<p style="text-align: center;">CUP F-6 (PC-03-11)</p> <p><i>Approved in 2003, A Conditional Use Permit for excavation and landfilling of 9.45 acres adjacent to the existing landfill operation.</i></p> <p>Placement of solid waste in the FC zone is a conditional use, but must be approved by the Board of Commissioners (60.215(11)):</p> <p>"Disposal site for solid waste approved by the Benton County Board of Commissioners and the Oregon Department of Environmental Quality together with equipment, facilities, or buildings necessary for its operation."</p> <p>This land use action was never approved by the BOC.</p>	110
	<p><u>CUP F-6 B.1:</u> Condition #10, Obtain DSL approval for activities that effect wetlands. Advisory.</p> <p>The County has not a system in place to track or verify that the applicant obtains and maintains required State agency permits.</p>	111

<p>SECTION C: Landfill Size/ Capacity/ Longevity PDF page 52-56, Word page 54-58</p>			112
		<p>A) disagree with the climate crisis sections in the Subcommittee A.1 Landfill Size/Capacity/Longevity document. Methane generation can be captured and turned into energy. The reported effort of climate activists to close Riverbend Landfill in Yamhill County did nothing to achieve the goal that the climate activists set out to do. It merely added to the cost and energy required to move the waste to a different landfill. What should be learned from this is to not repeat the same mistake with Coffin Butte.</p>	113
		<p>B) disagree with section of theoretical flood event at the landfill. This point was hypothetical and not realistic based on geography and weather data. The landfill has a leachate capture design that has been through significant rain events. There has not been a disastrous rain event at the site.</p>	114
		<p>C) Post-operational policy is driven at the state level. The state has post-closure monitoring and protocols for leakage. The county can and should be involved in the post-closure future use of the facility. Other states have made nonoperational landfills into parks and winter recreation sites</p>	115
		<p>C2) Citing the Yamhill litigation on landfill closure shows the unintended consequences of abruptly passing short-sighted legislation. Had there been a realistic strategy with the landfill owner, then both owner and community could have come to common ground. Let us hope Benton County does not make the same mistakes proposed by the Yamhill activists.</p>	116
p. 53		<p>LSCL F-10. LSCL-F-10: In an official 2018 presentation to Benton County Board of Commissioners, Benton County represented the 2000 Franchise Agreement intake threshold as “Annual Maximums Specified in Franchise Agreement.” However, the 2000 Franchise agreement does not describe the tonnage threshold as a “limit” or “maximum”, and allows for exceedances over the listed threshold.</p> <p>Who is/was "Benton County" -- was this County Counsel or the Development Division staff, or who???</p>	117

p. 54	<p>LSCL F-14. LSCL-F-14: The 2000 Landfill Franchise Agreement imposed a ramping intake threshold to be applied during the term of the agreement (CY2001-2019), giving the County the option to perform an updated impact assessment if the threshold was exceeded, denoted in the chart by the blue line (“Threshold to update Baseline Study”), which then could result in increases to the landfill fees paid to the county. The County did not perform an updated impact assessment as a result of the 2017-2019 tonnage threshold exceedances.</p> <p>Exceedances or violations of the contract?</p>	118
p. 54	<p>LSCL F-15. LSCL-F-15: Due to an expected additional influx of volume in 2017 resulting from the disruption onset of the closure process for Riverbend landfill in Yamhill County, in December 2016 the franchisee and Benton County executed a MOU acknowledging an expected increase in Coffin Butte intake volume “for a term of 1-2 years.”</p> <p>Was there any public process for this MOU, as a modification of the Franchise Agreement?</p>	119
p. 54	<p>LSCL F-16. LSCL-F-16: The 2020 Landfill Franchise Agreement states that the total tonnage deposited at the Landfill shall not exceed 1.1M tons per calendar year until “application to expand the Landfill on to the Expansion Parcel are granted (following any and all appeals to final judgement).” The 2020 intake limit is denoted in the chart by the dashed red line (“2020 FA Limit.”)</p> <p>UNLESS and until</p>	120

p. 54	<p>LSCL F-18. LSCL-F-18: The drop in volumes to Coffin Butte in 2020 is due to the global COVID-19 pandemic, coupled with diversion of tonnage from Riverbend Landfill to other landfills besides Coffin Butte. However, tonnage volumes increased again in 2021 due in part to changes in lifestyle/development/at home shopping patterns as a result of the pandemic, as well as debris from the Oregon wildfires.</p> <p>What role did Republic's contracts play?</p>	121
p. 55	<p>LSCL F-23. LSCL-F-23: Benton County received approximately \$3.1M of incremental revenue from the increased intake volumes over the 2017-2019 period. Of this, approximately \$1.08M was the result of intake volume in excess of the annual limits over the three-year period. This equates to roughly \$11.50 total per Benton County resident for the three-year period.</p> <p>What portion goes to enforcement/monitoring?</p>	122
	<p>LSCL F-32. LSCL-F-32: The quarry dynamics are construction of the needed cells for future disposal areas. The herculean construction task is to excavate basalt rock to form the excavated design dimensions for construction of future disposal cells. The assumption is that the excavated rock and the construction of future cells keep pace with the demands of increased volumes of refuse needed for disposal without interruption.</p> <p>Herculean? Seems like normal mining to me.</p>	123

<p>SECTION D: Sustainable Materials Managemen t Plan (SMMP) PDF page 57-61, Word page 59-63</p>		124
	<p>SMMP: This project is way too big to be a part of common understanding for the tight current time frame. Perhaps this section say "County will continue to develop SMMP with cooperation from landfill franchisee."</p>	125
	<p>A) diverting waste needs to balance the effort with economic benefit.</p>	126
	<p>B) The SMMP should state that any mandate to divert waste should show a cost vs benefit to the consumer (customers of landfill). Many regulations push the cost burden to the consumer. Material diversion actions should be self-funding.</p>	127
	<p>with regard to the environment, resource conservation and the climate problem, things cannot go on like they have been. According to the current international level of knowledge, the only solution to this problem is a circular economy with an IWMS (Integrated Waste Management System) in connection with an energy supply based on renewable energies. The SMMP should have that as an underlying understanding.</p>	128
	<p>the RFP should proceed with the understanding that a SWMS (Solid Waste Management System) with the technology available today can be a major step towards attaining a CO2-free (waste) economy.</p>	129
	<p>planning the financial effort associated with a progressive approach to waste should be a key part of the RFP. This includes an analysis of how this financial effort compares to landfilling the waste. You want the entity that will work on the RFP to have the necessary international experience and knowledge.</p>	130
	<p>Benton County seems to be in a struggle between business as usual and a new path forward, a path of benefit to the county and its citizens, and the RFP applicant should be able to assist the County in navigating that struggle.</p>	131

		<p>SMMP-R-4. SMMP-R-4: Bring “lessons learned” into the process from other sources, including feedback from other counties, lessons from past Benton County experiences, examples from California, Washington, or international examples. See full report for more sources.</p> <p>(green highlight) and, not or. Important that lessons learned come from beyond our region</p>	132
<p>SECTION E: Community Education & Outreach PDF page 62-67, Word page 64-69</p>			133
	p. 63	<p>CO F-1 Insure language accessibility for at least the County’s most used languages. (English, Spanish, and Chinese.)</p> <p>"Chinese" is a not a language, but a group of languages. Do you mean Mandarin? Or Cantonese?</p>	134
<p>Feedback for sections not addressed above Please reference section names and page numbers.</p>			
Section Name	Page #	Feedback	135
SECTION A: Legal issues & Land Use Review pp. 393–456			136
	p. 419	<p>“...Is the proposed expansion consistent with long term plans for the landfill site, with responsible solid waste management? What are benefits, negative effects and mitigating opportunities?” – I understand that SWAC must make recommendations based on the limits of our role.</p>	137

p. 447	<p>Comments regarding Legal Issues Subcommittee assertions re: 2002 MOU:</p> <p>Question: How does the 2002 Memorandum of Understanding fit into the Workgroup considerations?</p> <p>Answer: The 2002 Memorandum clarifies authorization for landfill activities within the Landfill Zone and establishes a point in time at which the landfill was operating in compliance with state and local requirements.</p> <p>Nowhere in the 2002 MOU does it state that the landfill was operating in compliance with all past land use decisions and/or applicable conditions of approval. The sole purpose of the agreement was to establish that Valley Landfills can move within the landfill boundary (north of Coffin Butte Road only) without getting land use permits.</p>	138
p.447	<p>Comments regarding Legal Issues Subcommittee assertions re: 2002 MOU:</p> <p>Discussion: In 2002 Benton County and Valley Landfills, Inc. (VLI) executed a Memorandum of Understanding (MOU) Relating to Land Use Issues. The purpose of this document was to clarify the parties’ understanding of how VLI could expand landfill activities into cells within the landfill area.</p> <p>The MOU was created because knowledgeable, involved personnel, at both Benton County and VLI had changed such that little institutional memory remained to guide land use issues at the landfill site. More specifically, without knowledgeable individuals familiar with the history of the various land use approvals, it was unclear whether VLI had authority to expand landfill disposal operations within either the landfill areas or the landfill zone. The MOU clarified those questions.</p> <p>On page 3, Item 13.1 of the Meeting Minutes for November 5, 2002, it states:</p> <p>“Croney provided a staff report. He explained that this agreement is for the sole purpose of establishing that Valley Landfills can move from cell to cell within the landfill boundary without getting any land use permits.”</p> <p>Execution of the MOU was not a land use decision. No discussion of review and/or evaluation of prior land use conditions of approval is contained in the MOU or in the staff report.</p>	139

p. 447	<p>Comments regarding Legal Issues Subcommittee assertions re: 2002 MOU:</p> <p>4. “Based upon the LUCS statement, DEQ has reviewed and found that the operations of the landfill are in compliance with the state law. The last approval from DEQ was granted in 2000.” MOU, pg. 3, §(15).</p> <p>Sections 14 and 15 of the MOU only reference compliance with Benton County ordinances and state law. No mention of land use decisions or conditions of approval.</p>	140
p. 447	<p>Comments regarding Legal Issues Subcommittee assertions re: 2002 MOU:</p> <p>5. The MOU was reviewed by the Solid Waste Advisory Council (SWAC) on Aug. 27 and Sept. 24, 2022. The Benton County Board of Commissioners considered the MOU at its Nov. 5, 2002 meeting at which the MOU was “placed on the agenda * * * for public discussion prior to signature.” MOU, pg. 4, §§(16)(g) and (h).</p> <p>This paragraph adds no additional heft to the "conclusion" drawn at the end of this memo. The SWAC has no role in monitoring of or determining compliance with Planning Department conditions of approval.</p>	141
p. 447	<p>Comments regarding Legal Issues Subcommittee assertions re: 2002 MOU:</p> <p>Thus, the MOU acknowledges VLI’s authority to utilize existing or future cells within the 194-acre landfill area north of Coffin Butte Road without additional approval from Benton County. Conversely, County and State approval are required before VLI may dispose of waste on the 56 acres in the Landfill Zone south of Coffin Butte Road. Related landfill activities such as collection and management of leachate are permitted, without additional County approval, on the 56 acres south of Coffin Butte Road. MOU, pg. 3, §(16)(c).</p> <p>This, in fact, was the sole purpose of the MOU as stated in the staff report presented by Mr. Croney.</p>	142

		<p>Comments regarding Legal Issues Subcommittee assertions re: 2002 MOU:</p> <p>Additionally, section 14 states Benton County signed LUCS documents verifying the landfill was operating in compliance with local ordinances. DEQ acted upon that verification to find Coffin Butte was operating in compliance with local land use regulations and state laws and regulations as of 2000. Sections 14 and 15 of the MOU provide evidence that as of 2000, there were no land use violations at the landfill as of November 5, 2002, when the Benton County Board of Commissioners executed the MOU.</p> <p>The final paragraph of the document is without merit. One cannot determine a lack of violations from the prior contents of the document.</p> <p>It should be pointed out that the issuance of Land Use Compatibility Statements (LUCS) is almost universally pro forma. It involves no investigation or review. It is almost never a land use decision. There is almost never a notice or public process unless citizens sniff it out and send comments. The fact that this document was discussed at a public meeting is meaningless.</p> <p>You can be certain that Benton County simply rubber stamped the LUCS upon receipt from the landfill operator and sent it in to DEQ. DEQ review upon receipt of a LUCS is just about as cursory, as one would expect.</p> <p>Thus, <i>no reasonable person with knowledge of these processes would draw the conclusions presented in this memo prepared by Vance Croney</i></p>	143
SECTION B: Past Land Use Application Conditions pp. 236–392			144
	p. 360	I agree that many past compliance/non-compliance issues are irrelevant now. Instead, county issued permits need to specify what monitoring means. No franchise permit should prevent the county from requiring sustainable materials management decisions.	145
	p. 391	"The county may impose conditions of approval to CUP application". I agree that the wording is so vague that it can be interpreted too many ways. What is "seriously interfere" and "undue burden"?	146

SECTION C: Landfill Size/ Capacity/ Longevity pp. 105–192			147
	all	Just noting here that it's evident that this section is a work-in-progress, and has too many issues extant for me to comment on individual ones here at this point. (which is not at all a slam on its authors, because the work is impressive; it's just a note on the current state of the document)	148
	p. 112	<div data-bbox="430 495 1837 609" style="border: 1px solid black; padding: 5px;"> <p>Figure 4: 2008 aerial view, from the 2008 Coffin Butte Landfill Annual Report, Republic Services, Inc.</p> </div> <p>Not 2008. This must be much older.</p>	149
	p. 149	<p>“Unknown Impacts to Landfill lifespan” (Question Mark symbol) – this is water-muddying/deceptive. All of the factors listed here are unknown in individual ways, so strictly speaking the symbol should apply to each one. Instead the symbol is applied selectively, and seems to be done expressly to influence the reader to think that a particular item is more unknown than it actually is, for partisan reasons. “Landfill Expansion” (p. 149) is question-marked, for example, even though a Landfill Expansion is one of the most well-defined factors in this array: we know for near-certain an application to expand will be filed, for example, and zoning factors put a definite shape to what volume will be sought, and the effect of the removal of the tonnage cap is a business opportunity that is readily modeled. This sort of skewed data presentation occurs throughout the “D. Events and Factors with Potential Lifetime Impact” array.</p>	150
	p. 151	<p>“Natural Disasters.” This item is a good example of a problem that characterizes many items in this array: it groups things together which are actually quite separate factors. In this case, it lumps together a natural disaster in the region that generates debris (a very likely event over the next 20 years) and a natural disaster to the landfill itself that is serious enough to cause a loss of waste intake for a while but not so serious as to prevent the landfill from closing entirely, which is a much less likely event. But yet those two very different possibilities/events are presented as being equal and related, because of this array's choice of content aggregation & formatting. This sort of muddying data presentation occurs throughout the “D. Events and Factors with Potential Lifetime Impact” array.</p>	151

	p. 156	“Legal Action.” This item is a good example of a problem that characterizes many items in the “D. Events and Factors with Potential Lifetime Impact” array: it contrives a counterindicator which is presented as equivalent to the other, but in fact is not. In this case, one item is environmental lawsuits, which exist already and are gaining prevalence and power statewide, nationally and internationally. The other item is settled law and has been for some time, so it is no change over the status quo. Yet through selective formatting and aggregation, this array implies that the two counterbalance each other, a misrepresentation seemingly meant to diminish the potential of environmental lawsuits. You can contrast how this is handled versus the source material in the “E. Additional Events and Factors with Potential Lifetime Impact” array, which is the original source material: it’s on page 165.	152
	pp. 148–166	“D. Events and Factors with Potential Lifetime Impact” and “E. Additional Events and Factors with Potential Lifetime Impact” – conflicting versions. There appear to be two iterations of the same basic material?	153
SECTION D: Sustainable Materials Management Plan (SMMP) pp. 193–235			154
	p. 181	Why isn't the SMMP prioritized more in the BCTT report as a whole? It seems to me to be the most important part of the BCTT process over the long term?	155
	p. 183	Page 183 Table of Findings: SMMP-F-1: Many best practices and model SMMPs exist in Oregon and beyond. When we say 'best practices' I think we should be specific that we are talking about best practices at a level beyond regional.	156
	p. 183	Important for buy-in: The plan should be developed with active participation of citizens, including modifications introduced by the citizens.	157
	p. 184	Page 184: SMMP-R-8: Recruitment for the RFP needs to be extensive, and selection of successful proposal should be careful and thorough. Qualities of a successful applicant should include those listed in the full subcommittee report. Comment: Bid evaluation should not depend solely on the bid price, the qualification of the bidder should be decisive.	158

	p. 185	Page 185: SMMP-R-16: Applicants should include various scope/cost options for one year, two years, and three-year timelines. The report should be released in sections, based on timeline and content priorities. Working out the basic concept, which should be a holistic approach possibly with different options/variants, shouldn't take longer than 1 year (the planned budget doesn't really afford more than that IMO). However, the implementation of the individual steps may take several years.	159
	p. 187	This whole page doesn't make a lot of sense.	160
	p. 188	Page 188: Benefits and costs were covered throughout the _____ as it related to various topics and discussions, Word missing.	161
		Page 188 cont.: Benefits and costs were covered throughout the ____ as it related to various topics and discussions, and are largely included in the overall approach of sustainable materials management approach, which evaluates the impacts across the full life cycle of materials, weighing the “costs and benefits” in the decision-making process. Biogenic materials have life cycles; the lifespan of other materials is basically unlimited if they can be recovered, ideally in circular economy. Landfilling is not circular; it is not material management, but material disposal.	162
		Overall, the current document is incomplete, and we believe lacks proper focus on the SMMP.	163
SECTION E: Community Education & Outreach pp. 457–474			164
			165
			166
			167
			168
OTHER SECTIONS			169

	p. 5	<i>p. 5. Sections labeled "Key Findings" and "Key Recommendations"</i> Note for the record: We are being asked to comment on an incomplete document, without even a first draft of the key findings / key recommendations that will go here. I suggest that SWAC/DSAC should be given an opportunity to review a more mature version of this document.	170
	p. 6	<i>p. 6. Workgroup members</i> Affiliations of workgroup members should be noted here, and throughout (whether Republic staff/officers, DEQ, representatives of Planning Commission or SWAC/DSAC, or Benton county residents at-large). This should be right at the front of the document so that the composition of the workgroup is clear, rather than leaving it for later.	171
	p. 6	Nancy Whitcombe's name is misspelled.	172
	p. 6	For county staff, departments and positions should be noted.	173
	p. 6	Facilitation team is missing Adam Meyer, who attended the Neighborhood Tour and several other early meetings.	174
	p. 7	<i>p. 7 Land acknowledgement</i> Good to have this up front in the document, but some of the language is awkward, particularly the references to "Kalapuya Tribe" since there are multiple Kalapuya tribes, see e.g.: https://en.wikipedia.org/wiki/Kalapuya Why not "Kalapuya People" or simply "the Kalapuya"? As an example of alternative wording, here is what the Marys Peak Alliance has been using: <i>"I live within Champinefu, the traditional homeland of the Ampinefu Band of Kalapuya. Following the Willamette Valley Treaty of 1855 (Kalapuya ...Treaty), Kalapuya people were taken to Corvallis and concentrated into an encampment along the Marys River for 5 months and then forcibly removed from Corvallis to the Grand Ronde.. Today, Kalapuya live within tribal lands or tribally-ceded lands throughout the region. Many Kalapuya are active members of the sovereign nations of the Confederated Tribes of the Grand Ronde or the Confederated Tribes of Siletz Indians. Kalapuya culture is alive."</i>	175
			176
	p. 9-10	Chuck Gilbert should be listed as the Alternate for SWAC	177

	p. 9-10	SWAC (only) sent representatives to the Workgroup, not DSAC	178
	p. 11	<i>p. 11 Scope & Charge: "The WORKGROUP, with concurrence of the County staff, prioritized the following topics..."</i> This statement is misleading. The workgroup did not decide on these priorities. These were assigned as part of the "charge," and enforced by the facilitator. In fact the original workgroup, when polled, twice indicated an interest in higher prioritization of planning for an SMMP. It would be more honest to say that these priorities were set by the Board of Commissioners acting on the recommendation of ICM.	179
	p. 14	<i>p. 14 Timeline labeled "Coffin Butte: Key dates and ownership changes"</i> This timeline has many problems. I have sent detailed comments separately.	180
	pp. 43 etc.	Under Key Findings, the mechanism of "bookmarks" is introduced, such as LLU F-1. This mechanism is not explained and can be mystifying to the reader, as a bookmark often takes you to a page that has no clear reference point back to the original point. Also, to the reader, this may look like a type of footnote or legal citation which would take them out of the document entirely.	181
	pp. 43 etc.	The bookmark mechanism is not fully implemented, which is user-unfriendly. There should be a "landing" reverse-bookmark or other mechanism by which a reader who jumped from a Key Findings page to an interior page can jump back. As it is, the reader is left somewhere else in the document, often with no idea of whether to scroll up or down to get back to the Key Findings page they were on.	182
General Feedback			
		Large sections of the text are incomplete. Others are sprinkled with editorial notes.	183
		Whole thing seems like a moving target -- how do we know what we're reviewing? Do we need to review the post-it notes suggesting changes, as well as the current text?	184
		This document is too long to be considered "common understandings." A lot of repetition and some not very useful charts. I recognize the huge volunteer and staff time and effort involved.	185
		This document is still a mess, and not in a mature stage for review. What's the rush, and whose purposes does it serve?	186
		Some text that Republic objected to has already been replaced, in some cases with wholesale revisions rather than adjustments in wording -- what was the process?	187

		I think the county officials need to make strategic vision and plan for current operation and eventual closure of the landfill. I think this plan needs to have a north and a north-south scenario. What I understand from this document is the south expansion is still on the table.	188
		If I heard correctly, there was discussion in a committee meeting of spending \$0.5M for a climate study. I think this is wasted money. Would this not be duplicate work already regulated or at least monitored by the state? This proposed spending should be revisited.	189
		My conclusion: If indeed Benton County has relinquished its ability to limit where the landfill operator can bring trash from, then DO NOT ALLOW THE TONNAGE CAP TO BE LIFTED.	190
		This document is weirdly organized. I go from Process Background to History to Workplan, for example. It seems to not appreciate that readers may want to find all the process documentation in one (skippable) place, actual findings and reports all together and in a logical order, etc.	191
		This document is difficult to navigate due to poor formatting. Example: on page 48 an entire new section begins; however, the header for it is in 12 point type, scarcely differentiable from body subheads.	192
		The document is difficult to navigate because the footer has not been correctly installed. On page 47 for example, it reads "BCTT Subcommittee A.1" but that is not which subcommittee report is being looked at.	194
			195
		Note: some feedback was not able to be formatted before collection deadline; some but not all of that feedback was able to be included in this table before aggregation deadline.	