

January 15, 2025

Petra Schuetz, Interim Community Development Director
Benton County Community Development
4500 SW Research Way
Corvallis, OR 97330-1139

Subject: File No. LU-24-027

Dear Ms. Schuetz:

As you know, we represent Valley Landfills, Inc. (“VLI”). Please accept the attached electronic copy of our revisions to the above-noted application. These revisions are intended to address Benton County’s comments and suggestions with regard to the revised application and exhibits that VLI submitted on October 30, 2024. New or amended documents are as follows:

- A revised Burden of Proof (“BOP”). This document replaces the current document on file with the County.
- An Addendum to Exhibit 20 (Fire Risk Assessment). This document should be appended to the current document on file with the County.
- A revised Exhibit 21 (Applicant Proposed Conditions of Approval). This document replaces the current document on file with the County.
- A revised Exhibit 27 (Leachate Management Summary). This document replaces the current document on file with the County.
- An Addendum to Exhibit 28 (Methane Emissions). This document should be appended to the current document on file with the County.
- An Addendum to Exhibit 29 (Arsenic). This document should be appended to the current document on file with the County.

- A new Exhibit 31 (farm lease between VLI and Agri-Industries, Inc., dated January 15, 2020).
- A new Exhibit 32 (photos of Farm and Forest Uses on Adjacent Properties).

In addition to the above-noted documents, attached is a letter dated January 15, 2025, from Jeff Shepherd of Civil & Environmental Consultants, Inc. (“CEC”) responding to technical issues raised by the County’s engineering consultant, Maul Foster Alongi.

Following is a brief response to the land use follow-up items prepared by the County’s consultant, Winterbrook Planning, that we received on Friday, December 27, 2024. These follow-up items are addressed in detail in the revised BOP.

Follow-up Item A.1. There was some question in the BOP as to the location and nature of the proposed shop/maintenance area. The shop/maintenance area will include an enclosed structure and will be located on Tax Lot 1200 and not on Tax Lot 1101. See Ex. 2, Sheet 5. The revised BOP has been amended to remove the inconsistent references, and Section V has been amended to address this use more fully.

Follow-up Item A.2. Winterbrook asked VLI to confirm that the land use map attached as Exhibit 2, Sheet 2, accurately shows the location of properties owned by VLI. The map is accurate but is not complete. We should have also included three properties owned by Peltier Real Estate Company, a wholly owned subsidiary of Republic Services, Inc. Those properties are shown on Exhibit 2, sheets 2 and 2A. The Peltier properties are managed by VLI as buffer areas but are not currently used or proposed to be used for landfill operations. We have revised Section III of the BOP to clarify ownership and use and will update the land use map to reflect the Peltier properties during the 150-day waiver period requested below.

Follow-up Item B.1. Winterbrook asked for some revisions to Applicant’s Exhibit 14 odor modeling maps to make them easier to read. Applicant will revise these exhibits during the 150-day waiver period requested below.

Follow-up Item C.1. Winterbrook asked for some additional information regarding the uses of adjacent properties and to correct some incomplete or inaccurate references to tax lots. Applicant has revised BOP Section III to do so.

Follow-up Item C.2. Winterbrook asked for additional information about how changes to the Project site would affect farm and forest use on site and on adjacent properties. Applicant has revised BOP Section V to address these issues.

With the submittal of the above information, it is the Applicant's position that the application is complete for purposes of review within the meaning of ORS 215.427. Please consider this letter Applicant's written notice under ORS 215.427(2)(b) that no additional completeness information will be submitted. Applicant requests that that the County initiate review of the application.

Although the application is complete for the purposes of review, Applicant requests a 58-day extension of the 150-day local action deadline as authorized under ORS 215.427 to allow Applicant to make some of the technical adjustments noted above and in the CEC letter. Applicant will further provide additional information on odor modeling and other issues. This extension would expire on March 14, 2025. The Benton County Code permits Applicant to submit new information up until close of the record and then again on appeal, if necessary, to the Board of Commissioners. Taking time to submit these documents before the start of the local hearings process, rather than submitting them during that process, will give the County and interested parties more opportunity to review any new information.

VLI would be pleased to answer any questions that you may have. Thank you for your consideration.

Very truly yours,



Jeffrey G. Condit

Attachment: January 15, 2025, letter from CEC Responding to Maul Foster comments

January 15, 2025

Benton County

Dear Ms. Petra Schuetz:

Subject: Response to Comments
Maul Foster Alongi
Coffin Butte Conditional Use Permit
CEC Project No.: 322-142

This letter represents Civil & Environmental Consultants (CEC) response to comments from Maul Foster Alongi (MFA) concerning a third-party completeness review of the Conditional Use Permit (CUP) Application for the Coffin Butte Landfill. For convenience, we have listed the comment from MFA (*italics*) and then our response directly below.

Exhibit 2: Engineering Plans

MFA has the following comments on this exhibit:

- *Multiple Sheets:*
 - *Grading and other proposed landfill-related improvements are shown extending past the property lines of the Applicant's site and into what appears to be the right-of-way of Coffin Butte Road. All landfill-related improvements and ground-disturbing activities should be completely contained on the Applicant's site, including adequate room for the temporary erosion and sediment controls and best management practices that would be needed during future construction. Any drainage components or conveyance features needing to be in the road right-of-way to maintain the existing drainage patterns—such as culverts, ditches, or swales—would need to be coordinated and approved through the appropriate County permit process.*

Response: CEC will correct the drawings that show landfill improvements in the Coffin Butte Road right of way. However, the application is proposing to expand the width of a portion of Coffin Butte Road to include a left turn lane so the expanded width of Coffin Butte Road includes some items that will be constructed within the expanded Coffin Butte right of way. Coffin Butte Landfill, when working on the improvements to Coffin Butte Road, will work with Benton County to follow all applicable regulations and requirements and will follow the appropriate permitting process.

- *Drawing No. 6:*
 - *The detail shows a 6-inch-thick gravel underdrain layer meant to collect and convey groundwater away from the rest of the liner system. An analysis for determining this thickness was not provided. As hydrostatic pressures can cause damage to the liner system, this analysis should be completed and provided in the revised engineering plans.*

Response: CEC will provide a detailed engineering analysis and calculation brief for the underdrain system to the Oregon Department of Environmental Quality (ODEQ) during the solid waste permitting process.

- *Information on the extent of the bottom liner and liner termination (i.e., anchor trench alignment, section) details are missing in the submittal package.*

Response: CEC will provide these details with the updated CUP application drawings.

- *Information on the material type and thickness for the proposed geomembrane was not provided.*

Response: CEC will provide the material type and thickness in the updated CUP application drawings.

- *Specifications for the underdrain and leachate collection and recovery layer gravel were not provided.*

Response: CEC will provide the material type and thickness in the updated CUP application drawings.

- *Drawing No. 9:*
 - *This drawing shows a proposed septic tank; however, no supporting information (test holes, calculations, etc.) was provided in the material supplied to MFA to evaluate the feasibility, sizing, or location of this proposed septic tank.*

Response: CEC will provide a detailed design of the septic holding tank when Coffin Butte Landfill applies for a building permit to construct or install the proposed employee building.

- *Drawings Nos. 11 and 12:*
 - *The total surplus cut volume presented on these drawings is approximately 3.5 million cubic yards and the notes state that this excess material will be hauled to the neighboring quarry and stockpiled for future use. A more detailed soil management plan should be developed for the site using the estimated volumes. The soil stockpile location as shown on Drawing No. 19 does not appear to represent the volumes stated in stated in Drawings Nos. 11 and 12. Also, Exhibit 16, Environmental and Operational Considerations, quotes a much smaller amount on page 13. A more detailed description of how surplus soils will be managed would help the County better understand how the stockpile plan will work.*

Response: CEC will show an additional stockpile area in the quarry area and will also increase the area shown on Drawing 19. We will also provide a detailed stockpile plan

during the solid waste permitting process and will submit that plan to the ODEQ for their review and approval. Furthermore, Exhibit 16 will be corrected with the correct estimate of the excavation quantity.

- *Additional information on the Applicant's plans for upgrading the existing landfill gas (LFG) management facility should be provided. This would include detailing any proposed connections to the existing LFG management facility as well as the LFG collection and conveyance for the proposed expansion area.*

Response: The current LFG management facility will continue to operate as shown on the CUP application drawings. During the detailed design of the new leachate storage ponds, which will be submitted to the ODEQ during the solid waste permitting process, all leachate piping and landfill gas piping will be shown on drawings to ensure that they meet the requirements of the ODEQ.

- *Drawing No. 17:*
 - *The Applicant should provide additional information on the anticipated capacities of the drainage pathways indicate by the series of flow arrows on this sheet. Erosion protection, such as riprap, may be necessary and should be sized appropriately.*

Response: CEC will adjust the CUP drawings and remove the drainage pathways as shown. A detailed stormwater design will be completed during the solid waste permitting process and the drainage system design will be submitted to the ODEQ for review and approval.

- *Calculations supporting the sizing of the riprap protection for the emergency overflow and the Manhole No. 1 (MH-1) discharge should be provided.*

Response: CEC will adjust the CUP application drawings.

- *Drawing No. 21:*
 - *The Applicant should provide additional information as to how the pond outlet is intended to function with pipes running to and from MH-1 and the single valve on the lower pipe. In addition, the rim elevation of MH-1 is several feet lower than the detention pond maximum water surface elevation. There may be additional detail needed to determine whether there is a potential for slope erosion downhill from the rim of MH-1.*

Response: CEC designed the stormwater pond, including using the correct rainfall intensity, in accordance with the Benton County requirements. CEC will review the design calculations and make the appropriate corrections based on our engineering judgement. Furthermore, all design work will be submitted to ODEQ for review and approval during the solid waste permitting process and will further be submitted to the County.

Exhibits 5, 6, and 30

A review of this group of documents was provided by Columbia West Engineering, Inc. (CWE), as a geotechnical subconsultant to MFA. MFA's and CWE's comments are summarized below, while the entire CWE letter is provided as Attachment A.

- *Exhibit 5:*
 - *The scope of the subsurface exploration and laboratory testing programs described is generally aligned with the planned analysis. However, we recommend completing at least one seismic survey at the site to evaluate shear wave velocity to a minimum depth of 100 feet below ground surface. Collecting this additional data will help the design team perform a more accurate assessment of the seismic hazard at the site.*

Response: The following is a response from our Geotechnical Engineering subconsultant, Wallace Group.

We assumed that the seismic site class is D. Site class D is based on a range of shear wave velocities (V_s) between 600 to 1,200 ft/s in the upper 100 feet. Our CPT V_s measurements of the upper 20-ft (soil) ranged from 833 to 1,393 ft/s and we do not have V_s measurements in rock below. We expect that the V_s in the rock will be in the range of 1,200 ft/s (soft rock). Based on these assumptions, the geometric mean of V_s in the upper 100-ft is approximately 1,080 ft/s. If we do a ReMi V_s test, we expect that it will confirm our site class assumption. A change in site class from D to C will not change our slope stability calculations since a site class D is more conservative.

- *Exhibit 6:*
 - *This exhibit appears to be sufficiently complete for proceeding with technical review. Note that CWE does not recommend using these logs to estimate parameters for geotechnical engineering analysis or design. MFA, however, finds that these logs are useful for reviewing existing groundwater conditions from a land use perspective.*

Response: Noted.

- *Exhibit 30:*
 - *The landfill seismic design memorandum provides a high-level overview of the proposed seismic design methodology sufficient for a pre-design review process.*

Response: Noted.

Exhibit 11: Noise Study

MFA has the following comments on this exhibit:

- *This exhibit appears to be sufficiently complete for proceeding with technical review. The report does not explicitly state that the noise sampling methods conform with the Oregon Department of Environmental Quality (DEQ) Sound Measurement Procedures Manual*

(NPCS-1) per OAR 340- 035-0035(3)(a). The content appears generally consistent with the rules; however, NPCS-1 is over 40 years old and doesn't consider modern technology. MFA recommends that the Applicant verify that the proposed noise study methodology is consistent with DEQ's protocols and requirements and state that in the report.

Response: The measurements made were generally consistent with NPCS-1. However, as noted, NPCS-1 is old and portions of NPCS-1 are no longer applicable due to the use of modern equipment. Measurements were not made 25 feet from noise sensitive buildings as noted in NPCS-1 4.2.1 because we did not have permission to access these properties. Our subconsultant will not be updating the noise report based on the comment and their response.

Exhibit 12: Findings on Odor

This exhibit appears to be sufficiently complete for proceeding with technical review, with any updates needed to reflect comments provided for Exhibit 14.

Response: Noted.

Exhibit 13: Memo Regarding Odor, Methane, and Hydrogen Sulfide Control

This exhibit appears to be sufficiently complete for proceeding with technical review.

Response: Noted.

Exhibit 14: Odor Dispersion Modeling Study for Landfill Expansion

MFA has the following comments on this exhibit:

- *AERMOD dispersion model input, (*.ADI), output (*.ADO file), and plot (*.PLT) files are required to verify the setup and results of the Study.*
- *Raw surface and upper air meteorological data files for the on-site weather station, Corvallis Municipal Airport, and the Salem-McNary Regional Airport for the period from January 1, 2018, to December 31, 2023, are required to verify the completeness of the meteorological datasets included in the study.*

The following elements in Exhibit 14 require further review and analysis:

- *Although there are no regulatory frameworks or required protocols for odor evaluations in Oregon, MFA disagrees with the odor emission rates included in the study. The odor emission rates included in the study were derived by multiplying a conservative dilutions-to-threshold ratio of 500 by an estimated LFG fugitives flow rate of 0.0001 meters per second. The resulting value (0.05 meters per second) does not represent an emissions rate that can be modeled to predict off-site concentrations that can be compared to published odor detection thresholds by individual compound. MFA recommends the study be reevaluated using actual/predicted emission rates in units of grams per second for volatile organic compounds and potentially odorous toxic air contaminants from each of the permitted emission units included in the Title V Operating Permit issued to the landfill. Using actual/predicted emission rates will result in predicted off-site concentration*

isopleths that can be directly evaluated against published odor detection thresholds by individual compounds to determine whether emissions from the landfill may be detectable in residential or commercial land use areas.

- *Only LFG fugitives from the working face were included in the study. MFA recommends the study incorporate emissions from each permitted emissions unit at the landfill, including, but not limited to, the LFG flares, the diesel-fueled tipper, leachate ponds, and petroleum contaminated soils.*
- *Each emissions unit added to the study will require new source parameters to be modeled. If point source representations are added (e.g., the LFG flare and/or diesel-fueled tipper) to the dispersion model, nearby buildings and structures will need to be evaluated for potential downwash impacts.*
- *MFA recommends correlating the meteorological data collected from the on-site weather station to historical odor complaints to identify potential correlations and trends in weather patterns leading to past odor complaints.*

Response: Applicant believes that its submitted odor analysis is sufficient for purposes of completeness review but is working with its odor consultant to review these comments and recommendation and anticipates providing responses to the County during the application review process.

Exhibit 16: Environmental and Operational Considerations
MFA has the following comments on this exhibit:

- *As noted above, the Applicant should address the discrepancy in the reported volume of excavated material to be stockpiled.*

Response: This will be corrected in the updated version.

- *Page 3: There are multiple references to Tampico Ridge in this document. However, Tampico Ridge is not shown on Figure 4. It would be helpful to show this location in the figure.*

Response: The figures will be updated accordingly.

- *Pages 7–9: Water Quality Monitoring Program.*
 - *The expanded monitoring network section in Chapter 8 lists multiple new monitoring networks and shows them in Figure 4. The section also discusses leak detection sampling locations beneath the leachate ponds but does not provide nomenclature for them nor show them on Figure 4. Consider either including this information or adding a sentence clarifying that the locations of these are yet to be determined.*

Response: Noted.

Exhibit 17: Preliminary Drainage Report

MFA has the following comments on this exhibit:

- *The comments noted on Exhibit 2 above should also be addressed in this document.*

Response: Noted.

- *The pond design elevations noted in Exhibit 2 (specifically Drawings Nos. 17 and 20) do not match the elevations presented in this report and should be revised to be consistent throughout.*

Response: CEC will update the drainage report accordingly.

- *The drainage discussion does not address what happens with excess water from storms larger than the 25-year 24-hour design storm. The plans show a riprap slope leading to a natural drainage system but there is no discussion about the downstream capacity of the drainage system leading to a proposed 12-inch culvert under Coffin Butte Road. Considering the likelihood that rain events will exceed the design storm, this should be addressed in the application.*

Response: The stormwater drainage pond was designed in accordance with the Benton County requirements using a 25-year 24-hour design storm. The Benton County requirements do not address any design storm greater than that. The elevations shown in the pond and the layout of the pipes to MH-1 are, again, in accordance with the Benton County requirements. CEC will continue its design work in accordance with the Benton County requirements will adjust the drawings accordingly as appropriate.

- *A drainage basin map should be provided to clarify the evaluated drainage basins. It would be helpful to include similar relevant information in the Current Surface Water Drainage section of Exhibit 16.*

Response: Noted.

- *Hydrological calculations should be provided for the estimation of run-on flow (from upstream of the proposed expansion area) as well as for the sizing of the culvert (24-inch) to demonstrate that there is available capacity in the conveyance swale that is proposed to divert run-on flow from the expansion footprint and routing it to the proposed stormwater pond.*

Response: Noted.

Exhibit 18: Aerial Renderings of Coffin Butte Landfill

This exhibit appears to be sufficiently complete for proceeding with technical review.

Response: Noted.

Exhibit 20: Fire Risk Assessment of Coffin Butte Landfill

MFA and our subconsultant, Dr. Tony Sperling of Landfill Fire Control Inc. (LFCI), have the following comments on this exhibit:

- *Page 2: History of Prior Landfill Fires*
 - *This report only references three fire events occurring at the landfill since 1999. However, the County has indicated that there have been at least two additional fire events on this site in the past year or so. The cause of these recent fires and the actions taken should be included in this portion of the document.*

Response: Applicant's revised Fire Assessment report addresses these comments.

- *Page 3: Fire Mitigation Plans*
 - *The first paragraph indicates that water would be used as the primary means of extinguishing a fire. LFCI notes that the most effective and current industry standard for the primary method of fire suppression for a landfill fire is smothering with 12 inches of soil. The Applicant should provide justification for the primary use of water for their initial response.*

Response: Applicant's revised Fire Assessment report addresses these comments.

- *With consideration to the preceding comment, LFCI recommends that the second paragraph describe the action plan in the case of a landfill fire to first control the fire (using soil or water), then assess and take further steps to extinguish the fire.*

Response: Applicant's revised Fire Assessment report addresses these comments.

- *The document refers to the availability of public water on site, but the narrative does not indicate the amount of on-site stored volume and/or refilling capacity of the water system available for fire suppression activities. This information should be included to better understand the firefighting capabilities of the existing system, as no improvements appear to be proposed. LFCI recommends a minimum sustained flow of 1,000 gallons per minute be available for fire suppression and further information be provided on how the Applicant will provide the logistics for maintaining this flow rate (e.g. available hydrant connections, tanker shuttles).*

Response: Applicant's revised Fire Assessment report addresses these comments.

- *Page 4: Landfill Fire Sources, Risk Profiles, and Specific Mitigation Measures*
 - *Battery fires are increasingly becoming a source of landfill fires and should be addressed in this document. Reactive and banned materials should be identified.*

Response: Applicant's revised Fire Assessment report addresses these comments.

- *For Working Face Fires, LFCI recommends the inclusion of bar hole punch for monitoring the subsurface carbon monoxide (CO) and temperature, as well as infrared camera inspections.*

Response: Applicant's revised Fire Assessment report addresses these comments.

- *For Grassland Fires, LFCI recommends that this document specify a measurable fire buffer distance between the landfill and surrounding grasslands. This fire buffer should be adequately maintained at all times. In addition, fire watch provisions or infrared monitoring should be implemented to manage ignition risks during off hours.*

Response: Applicant's revised Fire Assessment report addresses these comments.

- *For Gas Well Fires, LFCI recommends preventive monitoring, including monitoring for CO levels, targeted maximum oxygen concentrations, and balancing gas levels to prevent aerobic decomposition. In addition, the Applicant should provide standard operating procedures for handling high-temperature wells and specify operating temperature thresholds.*

Response: Applicant's revised Fire Assessment report addresses these comments.

- *Other recommendations from MFA and LFCI include the following:*
 - *Spontaneous combustion fires are not addressed in this document, except in relation to gas wells. LFCI notes that spontaneous combustion on slopes is a fire risk that should be included.*

Response: Applicant's revised Fire Assessment report addresses these comments.

- *Typical landfill construction has an inherent risk of capturing LFG at the edges of geomembrane sheets and should be addressed in this document.*

Response: Applicant's revised Fire Assessment report addresses these comments.

- *Smoking should only be allowed in designated areas and prohibited elsewhere on site.*

Response: Applicant's revised Fire Assessment report addresses these comments.

- *The use of bird deterrent flares should be avoided.*

Response: Applicant’s revised Fire Assessment report addresses these comments.

- *Annual fire safety and firefighting training should be undertaken for all employees who would respond to a fire along with regular cross-training with Adair Rural Fire & Rescue.*

Response: Applicant’s revised fire assessment report addresses these comments.

Exhibit 22: Reclamation Plan for Expansion Area

This exhibit appears to be sufficiently complete for proceeding with technical review, other than that the comments provided for Exhibit 2 above still apply and may require revisions to the sheets provided with this document.

Response: Noted.

Exhibit 27: Leachate Management Summary

MFA has the following comments on this exhibit:

- *The summary does not address the quantitative aspects of leachate generation, storage, and disposal. The addition of a new cell and new leachate storage ponds should be addressed with specific information on peak generation, storage requirements, transportation capacity, and disposal.*

Response: We have updated Exhibit 27 to include this information.

- *Discussion on decommissioning of the existing leachate collection and treatment system, rerouting of the existing leachate collection/conveyance system, and construction of the new facility is missing. Provide details for proposed sequencing for leachate storage ponds, rerouting of the leachate conveyance, and then the decommissioning of the existing facilities.*

Response: We have updated Exhibit 27 to include this information.

- *While the document references agreements with local wastewater treatment plants in Corvallis and Salem, Oregon, to take the excess leachate, the terms of those agreements are not included in the document. The Applicant should specifically note any expiration dates or limitations on quantity in these agreements and address any further contingency plan that would be needed for leachate disposal.*

Response: We have updated Exhibit 27 to include this information.

- *Page 2:*
 - *Paragraph 1: The text of reads “since MSW leachate is not found on any of the four [listed waste] lists, it would have to be characterized as a listed hazardous waste.”*

Please confirm whether the statement should be rewritten to say, “it would not have to be characterized as a listed hazardous waste.”

Response: Exhibit 27 will be updated accordingly.

- *Paragraph 3: The referenced toxicity sample is from August 2023. It would be helpful if the Applicant provided a more recent data point or data trend from prior tests noting any exceedances.*

Response: Exhibit 27 will be updated using sampling data from September 2024.

*Exhibit 28: Letter to County Regarding Methane Emissions
MFA has the following comments on this exhibit:*

- *At the time of the 2022 U.S. Environmental Protection Agency inspection (EPA), Coffin Butte Landfill was in the middle of a construction project to install new horizontal and vertical collection wells. It would be helpful to provide a list or figure showing how many of the 61 exceedances documented by the EPA during the inspection were in the construction area.*

Response: During the 2022 EPA inspection, the Coffin Butte Landfill was undergoing a landfill gas collection and containment system (GCCS) expansion. Out of the 61 exceedances documented, approximately 10 of these exceedances were within the construction area. It is important to note that during GCCS construction, portions of the GCCS system outside of the construction can be temporarily impacted due to isolation of certain sections landfill gas header and lateral piping to allow piping tie-ins and commissioning of new vertical and horizontal gas extraction wells.

Further, the Applicant will submit an addendum to Exhibit 28.

*Exhibit 29: Letter to County Related to Arsenic
MFA has the following comments on this exhibit:*

- *Consider including a table comparing background concentrations for this constituent to the exceedances discussed throughout the letter.*
- *The letter states that MW-59 was due to be sampled in calendar year 2024. If this sampling has taken place, consider discussing the findings.*

Response: Applicant believes that “MW-59” was a typographical error by the Reviewer and is instead referencing “MW-9S” which is has a quintennial sampling schedule (every 5 years). Groundwater monitoring samples were collected and sent to a third-party laboratory to be analyzed in accordance with the State Groundwater Regulations in 2024, however data compilation

and statistical analyses of the results is currently being completed and will be submitted in March of 2025 as part of the Annual Environmental Monitoring Report (AEMR) per State Regulations.

Further, the Applicant will submit an addendum to Exhibit 29.

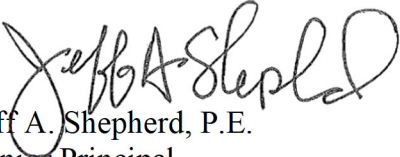
General Observations

DEQ would be expected to require an update to the current Operations Plan as part of any solid waste permit modification process. The document provides detailed information about the facility's proposed solid waste operations in the landfill expansion area and could be valuable for the County to review in assessing compliance with the permitted use and in understanding the potential impacts on neighboring properties as a result of operational changes. It was not included in the review package provided to MFA. In lieu of submitting a draft Operation Plan, a narrative description of the proposed changes to the Operation Plan could be prepared by the Applicant for review and concurrence with the County.

Response: MFA is correct in that the ODEQ will require an updated Operations Plan be submitted with the solid waste permit application. CEC will complete a new Operations Plan that will be reviewed and approved by the ODEQ.

Sincerely,

CIVIL & ENVIRONMENTAL CONSULTANTS, INC.



Jeff A. Shepherd, P.E.
Senior Principal

Burden of Proof

**2024 Conditional Use
Application**

January 15, 2025, Submittal

Submitted by:

Valley Landfills, Inc.

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Burden of Proof Narrative

Conditional Use Permit – Landfill Development South of Coffin Butte Road

APPLICANT: Valley Landfills, Inc.
Ryan Lawler, Area President
28972 Coffin Butte Rd
Corvallis, OR 97330

OWNER: Valley Landfills, Inc.
28972 Coffin Butte Rd
Corvallis, OR 97330

ATTORNEY: Miller Nash LLP
Jeffery Condit
1140 SW Washington St, Ste 700
Portland, OR 97205

CIVIL ENGINEER: Civil & Environmental Consultants, Inc.
Jeff Shepherd, P.E.
11811 N Tatum Blvd, Ste 3057
Phoenix, AZ 85028

**GEOLOGIST /
HYDROLOGIST:** Tuppan Consultants, LLC
Eric Tuppan, R.G
460 Second St, Ste 103
Lake Oswego, OR 97034

**TRAFFIC
ENGINEER:** Transight Consulting, LLC
Joe Bessman, P.E.
61271 Splendor Ln
Bend, OR 97702

**WILDLIFE
BIOLOGIST:** Turnstone Environmental Consultants, Inc.
PO Box 83362
Portland, OR 97283

ARCHEOLOGIST: Archaeological Investigations Northwest, Inc.
Eva Hulse, Ph. D., R.P.A
3510 NE 122nd Ave
Portland, OR 97230

**NOISE
ENGINEER:** The Greenbusch Group, Inc.
1900 W Nickerson St, Ste 201
Seattle, WA 98119

**PLANNING
CONSULTANT:**

Blackmore Planning and Development Services, LLC
Greg Blackmore, Principal Planner
19454 Sunshine Way
Bend, OR 97702

**FIRE
CONSULTANT:**

SCS Engineers
Jim Walsh, PE, BCEE
625 Eden Park Dr, Ste 425
Cincinnati, OH 45202

**ODOR
MODELING:**

SCS Engineers
5963 La Place Ct, Ste 207
Carlsbad, CA 92008

I. INTRODUCTION

A. Applicant’s Request. Applicant requests approval of a conditional use permit (CUP) review to expand the area on which landfill activities will be conducted to the south side of Coffin Butte Road (the “Development Site”).¹ The landfill itself is proposed to be situated within the Landfill Site (LS) zone. In addition to using the Development Site for the landfill, the proposal includes an 1,800-square-foot employee building and parking on land to the west of the landfill that is zoned Forest Conservation (FC), access road modifications on lands to the north that are zoned LS and FC, and the relocation of leachate ponds, leachate loadout, leachate sump, an outbound scale, portions of the perimeter landfill road, the shop/maintenance area, cut activities for landfill, and leachate ponds to support the landfill onto the property to the east, which is zoned FC (collectively, the “Project”).²

B. Background and Overview of the Project. Valley Landfills, Inc. (a wholly owned subsidiary of Republic Services, Inc.) (“VLI” or “Applicant”), is submitting this CUP application to expand Coffin Butte Landfill to an area south of Coffin Butte Road. This application takes into account the concerns and issues raised during the 2021 CUP application³ and the subsequent Oregon Consensus process entitled “Benton County Talks Trash” (“BCTT”), in which VLI and multiple other stakeholders participated. As a result, the 2024 application is substantially different from the 2021 application.

The chief difference is that the current proposal does not include the closure of Coffin Butte Road. Instead, Coffin Butte Road will be retained and widened in the area adjacent to the Development Site to allow for ease of use for both landfill users and through traffic. During proceedings on the 2021 application, various stakeholders expressed concern about the effect of closing Coffin Butte Road on emergency ingress and egress, notwithstanding the multiple improvements to alternative routes proposed as part of VLI’s 2021 application.

¹ See Application, attached as Exhibit 1.

² See Civil & Environmental Consultants, Inc. (“CEC”) engineer plans and drawings, attached as Exhibit 2.

³ The Benton County Planning Commission (the “Planning Commission”) denied the 2021 CUP application in December of that year. VLI appealed that decision to the Benton County Board of Commissioners (the “County Commissioners”) but withdrew that appeal in order to participate in BCTT.

VLI originally proposed the closure of Coffin Butte Road to be able to utilize the airspace over the roadway for landfilling.⁴ The retention of Coffin Butte Road means that the life span of the landfill where waste will be deposited will be approximately six years, as opposed to twelve,⁵ and the volume of waste to be disposed of in the landfill will be reduced by approximately half. The long-term visual impact will also be reduced as a result.

When the Development Site is ready for waste disposal operations, the working face⁶ of the landfill will move from north of Coffin Butte Road to the Development Site. Disposal of waste will not be occurring north of Coffin Butte Road during the operation of the Development Site. The size of the working face at the Development Site will be roughly the same as the existing operation, and there will be only one working face operating at a time.

The area where disposal will take place will be entirely located on the LS-zoned area south of Coffin Butte Road. Some of the supporting infrastructure (the access road, the relocated leachate ponds, the employee building, and the shop/maintenance area) will be located on FC-zoned adjacent tax lots. (See detailed discussion and maps below.) In contrast to the 2021 application, no portion of the working face or supporting infrastructure will be located on any properties zoned for other uses. All of the Development Site properties are owned by VLI.

A landfill is an outright permitted use in the LS zone, although any project south of Coffin Butte Road requires CUP approval from Benton County (the “County”) under Benton County Code (“BCC” or the “Code”) Chapter 53. A landfill is allowed as a conditional use in the FC zone, subject to CUP approval under BCC Chapter 53 and some additional criteria related to impacts on farm and forest use in BCC Chapter 60.

A conditional use is a use that is allowed in the zone, but one which may have adverse impacts on surrounding properties or on public infrastructure that may require mitigation. Applicant must demonstrate that the proposed expansion will not “seriously interfere” with uses on adjacent property, the character of the area, or the purpose of the zone. Applicant must also demonstrate that the proposed expansion will not impose an “undue burden” on public facilities and services in the area. The entire focus of the County’s review is thus on the potential impacts of the expansion and mitigation of any significant impacts. This review must take into

⁴ “Airspace” is essentially the measure of the volume of solid waste that can be disposed on a site.

⁵ As the BCTT Site Life Subcommittee discovered, it is difficult to predict site life because it is based on a large number of factors out of VLI’s control. This is VLI’s estimate based upon its current model.

⁶ The “working face” of the landfill is the area of active disposal of solid waste. At Coffin Butte, it is approximately half an acre in size.

account the existing conditions, which include the fact that a landfill has been operating on this site for over 50 years, and that the current landfill operation is fully approved and permitted by both the County and the State of Oregon.

During the BCTT process, several participants argued that the landfill should be closed and that all expansions should be denied. A landfill is an allowed use in the LS and FC zones. These were either expressly created for landfill uses (LS zone) or allowed for landfill use in order to permit the Coffin Butte Landfill to continue and to expand (FC zone). Applicant is entitled to have the expansion approved as long as it demonstrates compliance with the criteria in those zones. The need to continue or expand the landfill is not relevant to the approval criteria.

The evidence will show that the proposed expansion will not have significant adverse impacts on the uses of adjacent properties, the character of the area, or the purpose of the zone as compared to existing conditions. It will also show that the proposed expansion will not place an undue burden on infrastructure or services as compared to existing conditions.

Approval of a CUP by the County is only the initial step in the process to expand the landfill. VLI must also obtain permits from the Oregon Department of Environmental Quality (DEQ). DEQ regulates the environmental aspects of the landfill and has exclusive jurisdiction over those issues. (See further discussion below.) As a result of the state coordination requirement in ORS 197.180, DEQ will not accept a permit application from VLI until the expansion has received land use approval from the County. Many of the environmental concerns raised during the 2021 application and the BCTT process (groundwater protection, methane/air quality, seismic resiliency, leachate disposal, wildlife impacts, and archeological issues) are regulated by DEQ or other state agencies. VLI will continue to work with all regulators to comply with the applicable laws and will further comply with any future changes to the applicable regulations as they are implemented.

Although the environmental issues listed in the previous paragraph are not within the jurisdiction of the County under its land use regulations, Applicant responds to these issues as part of this application so the County and other interested parties can see how they will be addressed by DEQ or other applicable agencies.

C. Applicable Benton County Code Provisions.

1. Chapter 53 (General Review Criteria and Procedures)
2. Chapter 60; Forest Conservation (FC)
3. Chapter 77; Landfill Site (LS)

-
4. Chapter 87; Goal 5 Resources
 5. Chapter 99; General Development Standards

D. Other Issues Addressed.

1. Wildlife Impacts
2. Archeological Resources
3. Leachate
4. Methane
5. Arsenic
6. Seismic Resilience
7. Wetlands

II. FACTUAL BACKGROUND

A. Location of Development Site.

The Development Site is located approximately 6.5 miles north of Corvallis on the west side of Highway 99W. The proposed improvements are situated on five tax lots of the Benton County Tax Assessor's Map 10-41-80 and the abutting Coffin Butte Road right-of-way.⁷

B. Description of the Project.

The Project relocates the working face to the Development Site on the south side of Coffin Butte Road. The working face and all of the waste disposal area will be situated entirely within the Landfill Site (LS) zone. In addition to the working face, the Project includes an 1,800-square-foot employee building and parking on land to the west that is zoned Forest Conservation (FC), access road modifications on lands to the north that are zoned LS and FC, and the relocation of leachate ponds, leachate loadout, leachate sump, an outbound scale, portions of the perimeter landfill road, a shop/maintenance area, cut activities for landfill, and a shop/maintenance area supporting the landfill to the area east of the working face on land that is zoned FC.

C. The Development Site/Zoning.

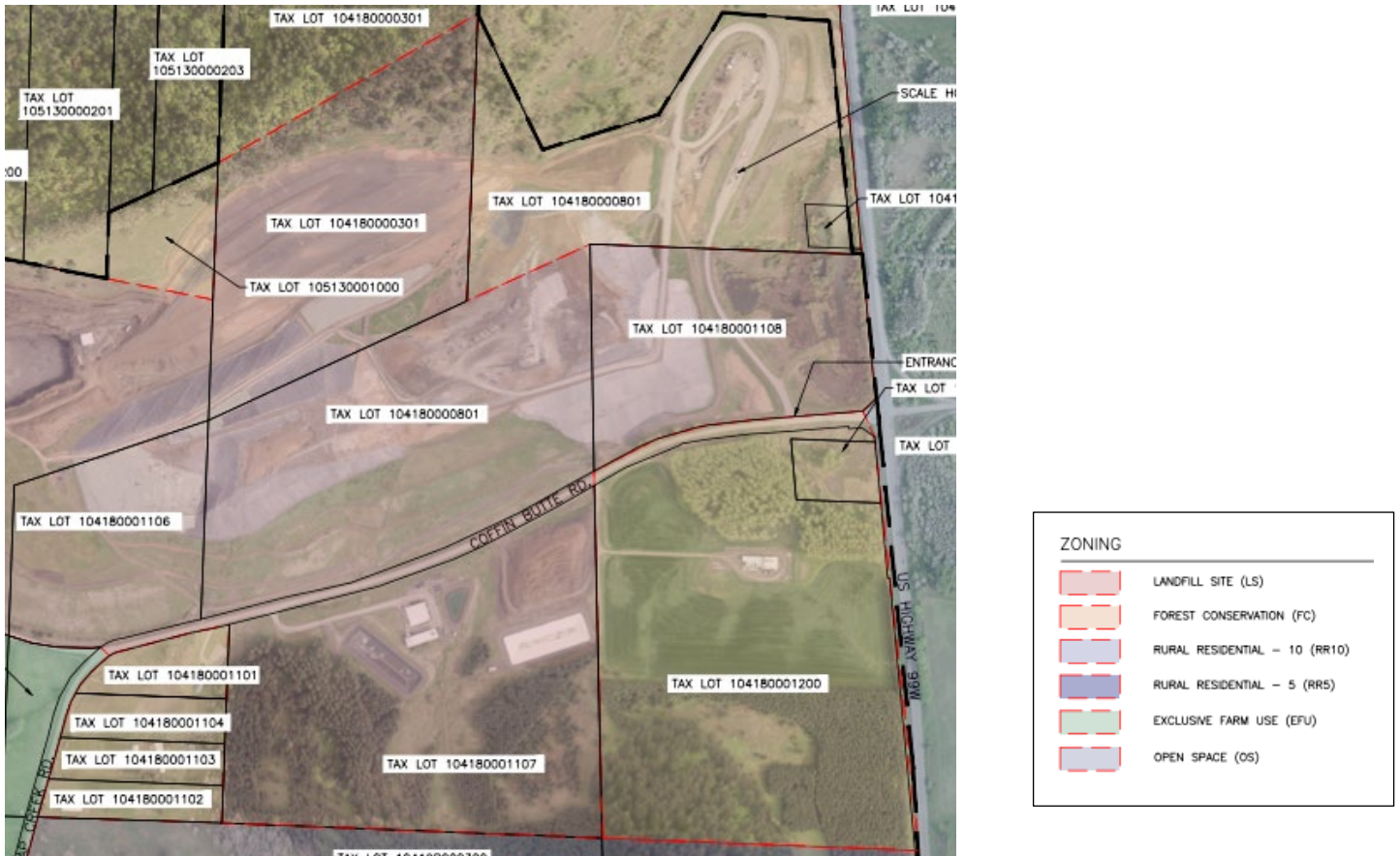
The Development Site on which the Project is located includes the following tax lots:

- Tax Lot 1107 (29000 Coffin Butte Road)—landfill area. This tax lot is zoned LS.
- Tax Lot 801 (29175 Coffin Butte Road)—access road modifications on part of the landfill area. This tax lot is zoned LS and FC; the access road improvements are on the portions zoned FC.
- Tax Lot 1101 (28972 Coffin Butte Road)—employee building and parking. This tax lot is zoned FC.
- Tax Lot 1108 (no address)—access road modifications are also located on this tax lot, which is part of the existing landfill. This tax lot is zoned LS.
- Tax Lot 1200 (29160 Coffin Butte Road)—relocated leachate ponds, leachate loadout, leachate sump, outbound scale, portions of the perimeter

⁷ The deeds to the properties are attached as Exhibit 3.

landfill road, cut activities for landfill, and the shop/maintenance area. This tax lot is zoned FC.

[Note: the tax lot numbers are the last four numbers shown on the Assessor's Map below.]



D. Development Site Description by Tax Lot.

- Tax Lot 1107.** The area of the proposed landfill development is located on the south side of Coffin Butte Road. It is 59 acres and currently developed with an access drive, leachate pretreatment and treatment buildings, parking and maneuvering areas, leachate ponds, and a permeate pond. Aside from the leachate ponds, the improvements on this tax lot are obsolete infrastructure that has not been used since the early 2000s.

The existing improvements on Tax Lot 1107 are situated on the northern portion of the Development Site, which is relatively level. From the currently developed area, the site

slopes upward to the south, with an elevation change of 60-160 feet (to different points along Tampico Ridge). The undeveloped portions of the site are vegetated with grasses and trees. This tax lot contains a likely abandoned⁸ but mapped Great Blue Heron rookery (#2683) in the northwest quadrant, along with a small area of Palustrine Emergent Wetland in the northeast corner.

2. **Tax Lots 1108 and 801.** The area north of Coffin Butte Road, which will include minor access-road improvements, is already in use for the existing landfill area. The area of proposed improvement contains access roads, a scale house, and scales. These tax lots also contain Palustrine Emergent Wetland on the eastern portion.
3. **Tax Lot 1101.** The western tax lot, which is planned to accommodate the employee building and parking adjacent to the existing landfill office, is gently sloping (except for a steep eastern edge). The majority of this property is grass, while the eastern edge is treed. This tax lot is currently developed with VLI offices. This tax lot also contains Palustrine Emergent Wetland on the western and northwestern edge.
4. **Tax Lot 1200.** The eastern parcel, which will accommodate the relocated leachate ponds, leachate loadout, leachate sump, a shop/maintenance area, outbound scale, portions of the perimeter landfill road, and cut activities for landfill is relatively level in the northeast corner and slopes upward to the southwest. The northeast portion of the site contains native vegetation and trees. There is also a buffer of trees along the eastern property line, abutting Hwy 99W. The center portion of the site is currently developed with a gas-to-energy plant, gas blowers and flares, parking areas, and drive aisles. The approximately 20-acre center area that surrounds the gas-to-energy plant is leased by VLI to Agri-Industries, Inc., and has historically been farmed for grass. The lands south of the fields is steep, sloping topography that is vegetated with Douglas fir surrounded by native trees. This tax lot also contains a mapped but likely abandoned Great Blue Heron rookery #2716 in the north central area

⁸ See Wildlife Habitat Assessment and Surveys, attached as Exhibit 4.

quadrant,⁹ along with Palustrine Emergent Wetland and Palustrine Forested Wetlands.

With the exception of the 20-acre section location on Tax Lot 1200, none of the property that makes up the Development Site is in commercial farm or forest use.

E. Geotechnical Suitability of the Development Site for Landfill Use.

The Wallace Group, Inc., of Bend, Oregon, completed geotechnical engineering explorations of the Development Site for the proposed expansion, attached as Exhibit 5. The subsurface exploration generally encountered 6 to 25 feet of fine-grained alluvium (Willamette Silt) underlain by weathered basalt and basalt in the lower elevations. Competent basalt was encountered in the lower elevations at depths ranging between 22 and 65 feet below ground surface (bgs). The higher elevations of the site are underlain by fine-grained to coarse-grained colluvium and volcanic saprolites, which are generally coarser with increasing elevation. These soils are underlain by brecciated and altered basalt bedrock, with the depth to rock generally decreasing with increased elevation. On the western hillside of Tampico Ridge, basalt was encountered at depths ranging between 10 and 25 feet bgs. On the eastern hillslope, surface soil was generally weaker than the western hillslope, and basalt was encountered at depths ranging between 19 and 45 feet bgs. In the valley formed between the two hillsides, the depth to basalt ranged from 21 to 23 feet bgs. Based on this exploration, the Wallace Group concludes that the Development Site is suitable for the expected development from a geotechnical perspective.

F. Description of the Area Surrounding the Development Site.

Coffin Butte Landfill is bordered by Highway 99W to the east. The area east of the highway is zoned Open Space (OS) and owned by the Oregon Department of Fish and Wildlife; it is part of the E.E. Wilson Wildlife Area, and it is managed for wildlife habitat.

Land to the south of Coffin Butte Landfill is zoned Forest Conservation (FC), Rural Residential (RR-10), and/or Exclusive Farm Use (EFU). The Rural Residential lands are separated from the landfill operations by Tampico Ridge, which is approximately 250 feet higher than the surrounding area. VLI owns the RR-10-zoned lands between the landfill and residential uses to the south, and with the exception of one property to the west¹⁰, VLI owns all of the LS-zoned land in the area and all of the properties surrounding the LS-zoned land. The adjoining FC- and EFU-zoned lands are also owned by VLI and managed for

⁹ See Ex. 4.

¹⁰ 38691 Soap Creek Road (104180001103). This property appears to be used for residential and storage use only and not in commercial farm or forest use. See Ex. 32, pages 2-3.

farm and forest uses. VLI leases approximately 80 acres of land to Agri-Industries, Inc., which farms the lands for grass seed and row crops. Lease attached as Exhibit 31.¹¹ These lands were acquired by VLI to provide resource/open space buffers between the landfill and nearby lands that are owned by others.

Lands to the west of Coffin Butte Landfill west of the lands owned by VLI are zoned EFU and being used for commercial agriculture, primarily grass seed farming. The lands that are owned by VLI to the west of the landfill are farmed and managed to provide a buffer between the landfill and lands that are owned by others.¹²

Properties to the north are zoned FC, and with the exception of four properties situated northwest of the landfill, the LS-zoned lands are buffered by FC-zoned lands that are owned by VLI. The land to the northeast is owned by the State of Oregon; this land is separated from LS-zoned land by over 100 feet of FC-zoned land that is owned by VLI. Properties to the north are buffered by the forested northern slope of Coffin Butte.

There was concern expressed during BCTT that the acquisition of buffer areas by VLI was taking the land out of farm and forest use. This is not the case; these lands are being actively managed for farm and forest use by others under leases from VLI.

G. Public Facilities and Services.

1. Sewer.

The landfill is not currently served by sewer service. Sewerage is not needed for the proposed landfill development. The existing VLI offices on Tax Lot 1101 are served by a septic system. The planned new employee building/locker room is proposed to be served by a holding tank and will not connect to the existing septic system.

2. Water.

The new landfill development area is not currently served by a domestic water service, and domestic water is not needed to accommodate the proposed landfill development. The existing building and planned employee building are, and will

¹¹ Most of these leased lands are located west of the Development Site and west of Soap Creek Road, but as noted above, approximately 20 acres of these leased lands are located on Tax Lot 1200.

¹² There was some question during the BCTT process about whether DEQ had mandated that VLI acquire lands to buffer the landfill. With the exception of one parcel to the west of the current landfill, where DEQ required VLI to decommission a well as part of a remediation plan, VLI purchased surrounding lots of its own volition in order to provide a buffer.

continue to be, served by a well. There are two wells that are currently used for water production at the landfill: the Berkland well, which is used for the office plumbing, irrigation, and drinking water, and the PW-2 well, which was located north of Coffin Butte Road and used for the scale house plumbing, but not for drinking. The well logs are attached as Exhibit 6.

3. Streets; Access; Transportation.

Coffin Butte Landfill is currently accessed from Coffin Butte Road, which connects to Hwy 99W to the east and Soap Creek Road to the west.

4. Fire Protection.

The Project is within the Adair Fire Protection District.

5. Police Protection.

The Project is within the Benton County Sheriff Service Area.

H. History of Coffin Butte Landfill.

The Coffin Butte landfill site was established as a disposal site in 1948 (as an open burning dump) that was formerly part of the Camp Adair U.S. Army post. In 1973-74, the site was designated as a regional solid-waste disposal site in the Chemeketa Region Solid Waste Management Plan, a coordinated, multi-agency planning effort for waste disposal in Linn, Benton, Polk, Marion, and Yamhill counties. In 1983, the County amended its comprehensive plan and zoning map to apply an LS zone to the area. The LS zone was a recognition by the County Commissioners that the site had been developed as a disposal site for nearly 40 years and the County was committed to the continued use of the site as a solid-waste disposal site. With the adoption of the LS zone, the County established that LS-zoned lands are required to operate under an approved Site Development Plan, which requires approval by the Planning Commission, after receiving a recommendation from the Benton County Solid Waste Advisory Committee (SWAC). Coffin Butte Landfill is currently operating under a Site Development Plan that was last updated in 2003, via Benton County Decision PC-03-11. The property owners were granted conditional use approvals in

1994,¹³ 1997,¹⁴ 2011,¹⁵ 2013.¹⁶ and 2015¹⁷ for areas that were not approved for landfilling or uses other than a landfill site.

The landfill is considered a “regional landfill” under ORS 459.005(23), and it is the primary solid-waste disposal facility for Benton County. The landfill was acquired by VLI in 1974. In 2000, Allied Waste Transportation, Inc., a wholly owned subsidiary of Allied Waste Industries, Inc., purchased the stock of Waste Control Systems, Inc., which included its wholly owned subsidiary VLI.¹⁸

Over time, the landfill site has undergone periodic modifications and upgrades; the facilities have been subject to continual improvement and modernization in order to maintain high standards of technical design, operational efficiency, environmental quality, regulatory compliance, and safety. Improvements that have occurred over time include disposal of refuse in engineered cells, installation of bottom liners to protect groundwater, leachate collection and treatment systems, landfill gas collection and treatment systems, monitoring wells, and stormwater conveyance and detention.

Coffin Butte operations include more than just a landfill. The site contains recycling operations, processing, a recovery center offering commercial and public recycling for wood waste, and a nearby composting facility for yard debris. A rock-quarrying operation produces aggregate for community needs. Adjacent to Coffin Butte Landfill operations is the Coffin Butte Resource Project, a landfill gas-to-energy plant that is owned by a consortium of 12 Northwest Cooperative electric utilities. Landfill gas is harvested from decaying organic matter in the landfill and used to power generators that produce enough energy to serve an estimated 4,000 households annually. As required by the disposal franchise between Applicant and the County, Applicant maintains an environmental trust fund currently valued at \$16.1 million to safeguard long-term environmental health at the site and surrounding area. Under ORS 459.272, Applicant is also responsible for providing financial assurance for the cost of closure, post-closure, and any needed corrective action. Applicant posts a bond to cover this cost,

¹³ S-94-3, approval of a 2.2-megawatt power-generation facility on T10S, R4W, Section 18, Tax Lot 1100.

¹⁴ S-97-58, approval to expand the generating capacity of the power-generation facility.

¹⁵ LU-11-016, approval for the construction of a recycling and refuse transfer facility on T10S, R4W, Section 18, Tax Lot 801.

¹⁶ LU-13-061, approval to use [T10S, R4W, Section 18] Tax lots 1101 and 1104 as a stockpile and staging area.

¹⁷ LU-15-001, approval to enhance a stormwater-treatment facility on T10S, R6W, Section 13, Tax Lot 800.

¹⁸ In 2008, Republic Services, Inc., merged with Allied Waste Industries, Inc.

which must be recertified annually with DEQ under OAR 340-094-0140(6) to ensure that the bond is sufficient to cover the estimated costs of closure.

I. The Role and Authority of DEQ.

Applicant needs approval of the County land use permit and approval of the necessary DEQ permits before it may begin construction on the Project. As a result of the state coordination requirement in ORS 197.180, DEQ will not accept a permit application from Applicant until the expansion has received land use approval from the County.

DEQ regulates the environmental impacts of landfills, including air quality requirements (methane, hydrogen sulfide, odor), leachate production and disposal, protection of both ground and surface water, as well as protection for floodplains, wetlands, geotechnical/seismic considerations, and critical habitat. DEQ also regulates closure and reclamation of landfills. Applicant will have to demonstrate compliance with all of these criteria to obtain modifications to the required permits. See Feb. 26, 2024, letter from Jeffery Shepherd and Paul Burns of CEC, Applicant’s engineering consultants, attached as Exhibit 7, for the specific permitting standards and requirements.

DEQ has exclusive jurisdiction over the areas that it regulates. ORS 459.095 provides that “[n]o ordinance, order, regulation or contract affecting solid waste management shall be adopted by a local government unit if such ordinance, order, regulation or contract conflicts with rules adopted by the Environmental Quality Commission under ORS 459.045 or 459A.025 * * *.”

J. List of Exhibits.

This application relies on the following exhibits:

1. Application form and fees.
2. Engineer Plans, CEC, dated December 2023.
 - Cover Sheet (Sheet 1)
 - Benton County Tax Lots and Zoning (Sheets 2 and 2A).
 - Existing Conditions (Sheet 3)
 - Demolition Plan (Sheet 4)
 - Overall Development Plan (Sheet 5)
 - Development Area Layout (Sheet 6)

-
- Left Turn Traffic Plan (Sheet 7)
 - North Road Plan (Sheet 8)
 - Parking Infrastructure Plan (Sheet 9)
 - Development Area Top of Waste Grades (Sheet 10)
 - Development Area Phase 1 (Sheet 11)
 - Development Area Phase 2 (Sheet 12)
 - Top of Waste Phase 1 (Sheet 13)
 - Top of Waste Phase 2 (Sheet 14)
 - Top of Waste Phase 3 (Sheet 15)
 - Top of Waste Phase 4 (Sheet 16)
 - Wetpond-Detention Pond Combination Plan (Sheet 17)
 - Landscape Plan (Sheet 18)
 - Stockpile Plan (Sheet 19)
 - Wetpond-Detention Pond Combination Profiles (Cross-Sections AA and BB) (Sheet 20)
 - Wetpond-Detention Pond Combination Profiles (Cross-Sections CC and DD) (Sheet 11)
 - Cross-Sections (Sheets 22 and 23)
 - Traffic Details (Sheet 24)
3. Vesting deeds to the tax lots contained in the Development Site.
 4. Wildlife Habitat Assessment and Surveys, Turnstone Environmental Consultants, Inc., dated February 27, 2024, and Addendum to the Final 2024 Report dated August 6, 2024.
 5. Phase II Geotechnical Exploration Report, Coffin Butte Landfill South Expansion Area, The Wallace Group, dated July 2024.
 6. Well logs for PW-2 and Berkland wells.

-
7. Letter from Jeffery Shepherd and Paul Burns of CEC regarding the applicable Oregon DEQ permits and regulations, dated February 26, 2024.
 8. Map and List of Adjacent and Nearby Properties.
 9. Map defining the Analysis Area, showing odor complaints.
 10. Aerial Image of topography and roads surrounding the landfill area.
 11. Noise Study, The Greenbusch Group, dated September 25, 2023.
 12. Weaver Consulting Group Findings on Odor, dated March 8, 2024.
 13. November 19, 2021, memorandum from Ian Macnab regarding odor, methane, and hydrogen sulfide control at Coffin Butte Landfill.
 14. Coffin Butte Landfill Expansion Odor Dispersion Modeling Study, SCS Engineers, dated October 8, 2024.
 15. Traffic Report, Transight Consulting, LLC, dated February 26, 2024.
 16. Environmental and Operational Considerations, Tuppan Consultants, dated February 22, 2024.
 17. CEC Preliminary Drainage Report dated January 2024.
 18. Aerial Renderings of Coffin Butte Landfill showing proposed expansion area view corridors.
 19. Site Lighting Summary, CEC, dated July 2024.
 20. Fire Risk Assessment of Coffin Butte Landfill, SCS Engineers, dated November 29, 2023, and updated September 24, 2024, and the addendum to the Fire Risk Assessment Report dated January 14, 2025.
 21. Applicant Proposed Conditions of Approval.
 22. Reclamation Plan for Expansion Area, CEC, dated April 2022.
 23. Oregon DEQ Permit #306 Materials.
 24. Oregon DEQ Permit Work Plan.
 25. Oregon DEQ Approval of Work Plan.

-
26. Archaeological Report, Archaeological Investigations Northwest, Inc., dated December 19, 2023.
 27. Leachate Management Summary, CEC, dated January 15, 2025.
 28. Republic Services letter to the Benton County Board of Commissioners regarding methane emissions at Coffin Butte Landfill, dated 2/23/2024, and Addendum dated January 15, 2025.
 29. Republic Services letter to the Benton County Board of Commissioners relating to arsenic, dated February 15, 2024, and Addendum dated January 15, 2025.
 30. Proposed Coffin Butte Landfill Seismic Design, CEC, dated July 9, 2024.
 31. Farm lease between Valley Landfills and Agri-Industries, Inc., dated January 15, 2020.
 32. Photos of Farm and Forest Uses on Adjacent Properties.

III. COMPLIANCE WITH BENTON COUNTY CODE 53.205 TO 53.235 (CONDITIONAL USES)

As noted above, any landfill project south of Coffin Butte Road on land zoned LS or FC requires approval of a conditional use permit under BCC 53.205 to 53.235 approved by the Planning Commission.

A. BCC 53.205 (Purpose). This section states:

Conditional uses are land uses which may have an adverse effect on surrounding permitted uses in a zone.

Applicant Response: This section provides a general statement; it does not contain any measurable development standards or approval criteria. Compliance with the applicable provisions of this section will ensure conformance with the purpose stated in this section.

B. 53.210 (Permit Required). This section states:

A person shall obtain a conditional use permit from the County in order to establish a conditional use. The decision to issue a conditional use permit is discretionary.

Applicant Response: The proposal includes the expansion of a landfill and associated site improvements. As detailed in sections 60.215 and 77.305, the proposed use (including the associated site improvements) requires a CUP, along with review by the Planning Commission. Applicant understands that the decision whether to issue the CUP is discretionary, depending on whether Applicant can demonstrate compliance with the applicable criteria.

C. 53.215 (1) (Criteria) (The proposed use “does not seriously interfere”). This criterion states:

The decision to approve a conditional use permit shall be based on findings that:

(1) The proposed use does not seriously interfere with uses on adjacent property, with the character of the area, or with the purpose of the zone[.]

Applicant Response: In order to address this criterion, it is necessary to interpret the components of this criterion and then apply them to the facts.

1. Meaning of “Seriously Interfere.”

The Benton County Code does not define “seriously interfere.” The use of the modifier “seriously” indicates that at least some level of interference is acceptable. During BCTT, staff indicated that “seriously interfere” has generally been applied to mean more than an inconvenience or irritation, but less than rendering the uses on adjacent property impossible. Staff reported that county decision-makers have considered factors such as whether the proposed use makes it difficult to continue uses on the adjacent property; whether the proposed use creates significant disruption to the character of the area; and whether the proposed use conflicts, in a substantive way, with the purpose of the zone.

There has been an approved landfill in this area for over 50 years. This analysis has to be conducted in the context of the existing approved landfill operation: whether the proposed expansion creates additional, different, or increased impacts as compared to the existing operation, and whether these impacts, if any, when viewed through the lens of the existing operation, “seriously interfere” with adjacent properties.

2. Definition of “Adjacent Properties.”

The Benton County Code does not define the term “adjacent.” Absent a special definition, the courts ordinarily resort to the dictionary definitions, assuming that the legislature (or, in this case, the County Commissioners) meant to use a word of common usage in its ordinary sense.

Webster’s Third New International Dictionary defines “adjacent” as “not distant or far off * * *: nearby but not touching * * *relatively near and having nothing of the same kind intervening: having a common border: ABUTTING, TOUCHING; living nearby or sitting or standing close relatively near or close together: immediately preceding or following with nothing of the same kind intervening.” (Capitalized emphasis in the original.)¹⁹

Because the application is to expand the existing landfill operation, Applicant started with a base site that includes all tax lots on which existing landfill operations and accessory uses are located, plus all tax lots constituting the Development Site on which the Project will be located (the “Landfill Boundary”). Applicant then identified properties abutting the Landfill Boundary (the “Adjacent Properties”) and the properties abutting the Adjacent Properties (the “Nearby Properties”). See Figure 1, below.

¹⁹ Webster’s Third New International Dictionary of the English Language Unabridged, Merriam-Webster Inc., Publishers, Springfield Massachusetts, USA, Copyright 2002.

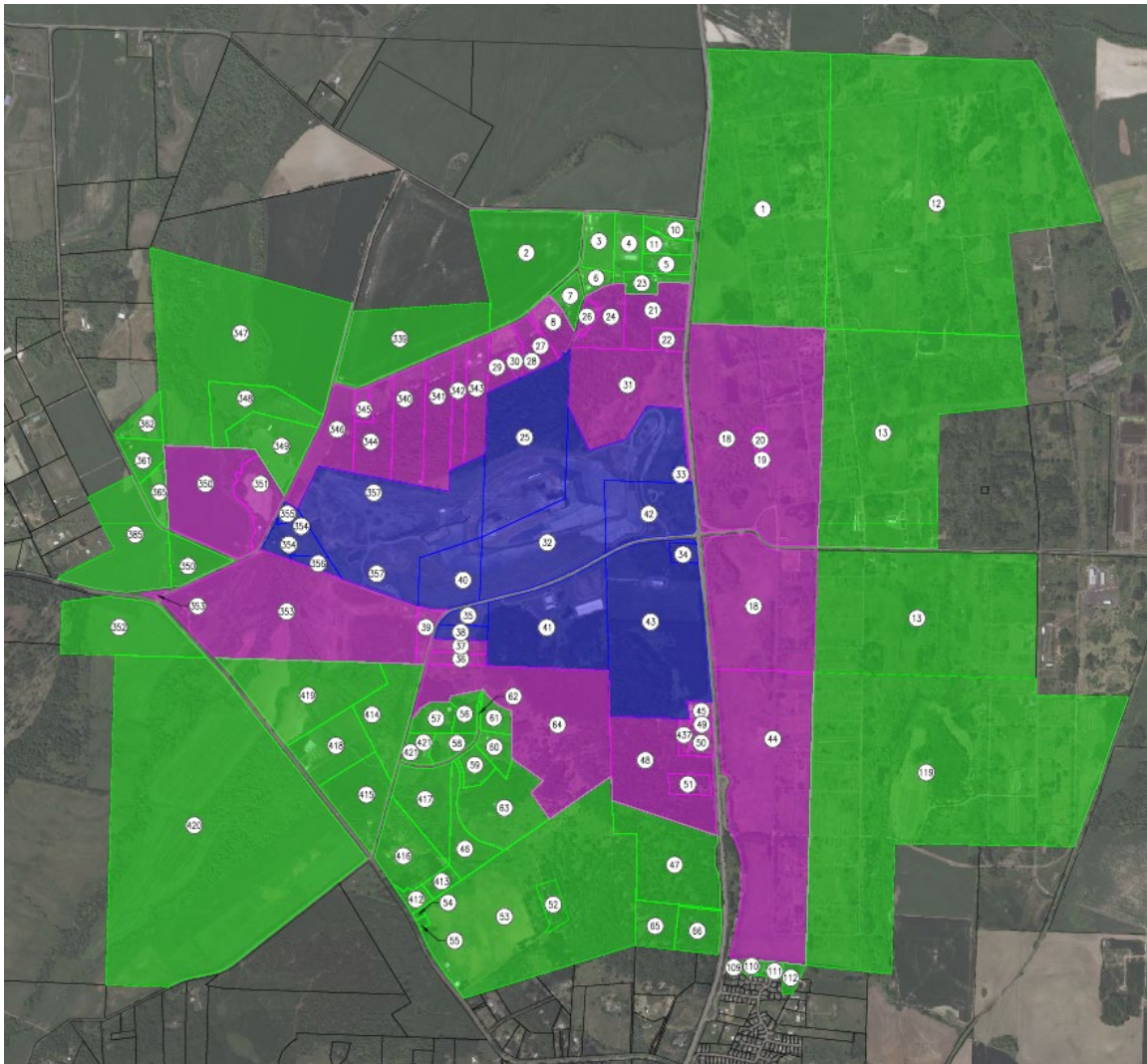


Figure 1 (Adjacent and Nearby Properties). Full-size version and tax lot list attached as Exhibit 8.

This analysis covers both the Adjacent Properties and the Nearby Properties. Although Applicant does not believe that the text of the criterion requires it to look beyond the Adjacent Properties, the Nearby Properties are included to demonstrate compliance with the criteria even in the context of a broader scope of review.

3. Uses on Adjacent and Nearby Properties.

The 16 tax lots that consist of the existing and proposed landfill areas and accessory uses are owned by VLI.²⁰ These properties are zoned LS and FC.

²⁰ Tax lots labeled 25, 32, 33, 34, 35, 38, 40, 41, 42, 43, 354, 355, 356, and 357 on Exhibit 8.

The Adjacent and Nearby Properties east of Highway 99W are predominately in public ownership, are zoned OS, and are managed as the E.E. Wilson Wildlife Area.²¹ The Wildlife Area is open to the public year-round for birding, hiking, limited hunting, and fishing. There are four small rural residential (RR-5) Nearby Properties owned by individual property owners at the very south end of the adjacent property.²² These properties are occupied by dwellings and some outbuildings.

The Adjacent and Nearby Properties north of the landfill and east of Wiles Road are generally on the north side of Coffin Butte and are shielded from the landfill by the ridge. The Adjacent Properties to the landfill are zoned FC and are generally owned by individuals and trusts and appear to be in small woodlot management or small-scale farming or livestock operations.²³ Ex. 32, pages 12-20. Several of these properties have residences and farm outbuildings, but it is unclear from observation whether they are being operated for commercial farm or forest operations within the meaning of BCC 51.020 (15) or (24). Ex. 32, pages 12-20. The large parcel northwest of the landfill is owned by the Oregon Department of Fish and Wildlife and is operated as a part of the E.E. Wilson Wildlife Area.²⁴ Ex. 32, pages 34-35. The FC-zoned properties north of the Wildlife Area appear to be vacant or used for small-scale farming operations.²⁵ Ex. 32, pages 21-23. These are owned by individuals, except for Tax Lot 0300, which is owned by Peltier Real Estate Company, a wholly owned subsidiary of Republic Services, Inc.²⁶ The Peltier property is vacant and is not being used or proposed for use by VLI for the existing landfill or the proposed Project. The Nearby Properties to the north of these Adjacent Properties are zoned RR-5 and owned by individuals²⁷ or are zoned EFU and owned by an LLC and appear to be in commercial farm use (grass seed, row crops).²⁸

The Adjacent and Nearby Properties east of the landfill and west of Wiles Road are zoned EFU and owned by individuals and trusts and appear to be in commercial farm use within the meaning of BCC 51.020.²⁹

²¹ Tax lots labeled 1, 12, 13, 18, 19, 20, 44 and 119 on Exhibit 8.

²² Tax lots labeled 109, 110, 111, and 112 on Exhibit 8.

²³ Tax lots labeled 8, 27, 28, 29, 30, 340, 341, 342, 343, 344, 345, and 346 on Exhibit 8.

²⁴ Tax lot labeled 31 on Exhibit 8.

²⁵ Tax lots labeled 21, 22, 24, and 26 on Exhibit 8.

²⁶ Tax lot labeled 21 on Exhibit 8.

²⁷ Tax lots labeled 3, 4, 5, 6, 7, 10, 11, and 23 on Exhibit 8.

²⁸ Tax lots labeled 2 and 339 on Exhibit 8.

²⁹ Tax lots labeled 347, 348, 349, 350, 351, 361, 362, 365, and 385 on Exhibit 8.

The Adjacent and Nearby Properties to the southwest of the landfill between Wiles Road and Soap Creek Road are zoned EFU and owned by individuals³⁰ or are owned by VLI or Peltier Real Estate Company, a wholly owned subsidiary of Republic Services, Inc., and leased to Agri-Industries, Inc., for farm use.³¹ See Ex. 31, page 8. The Nearby Properties southwest of Tampico Road are zoned EFU and are owned or controlled by Oregon State University and are used for research farm use.³²

The Adjacent Properties to the south of the landfill are zoned FC or RR-10 and are owned by individuals,³³ Peltier Real Estate Company, a wholly owned subsidiary of Republic Services Inc.,³⁴ or VLI.³⁵ These parcels are vacant or are in residential use. The Nearby Properties to the south of these Adjacent Properties are zoned EFU³⁶ or RR-10³⁷ and are owned by individuals or VLI.³⁸ These lots appear to be vacant, in residential use, or in farm use.

4. Establishing the “Area” for Impact Assessment.

The Benton County Code also does not define the term “area” for CUP purposes. During BCTT, staff reported that the County has considered the following factors in determining the extent and character of the “area”:

- a. The particular attributes of the geographic setting (including existing operations in the vicinity).
- b. Whether there is a distinct change in the area’s physical characteristics beyond a certain point.
- c. The features or elements give the area its character, i.e., homogenous or heterogeneous characteristics and the degree of similarity.

³⁰ Tax lots labeled 39, 415, and 418 on Exhibit 8.

³¹ Tax lots labeled 39, 353, 414, and 419 on Exhibit 8. Peltier Real Estate Company owns the tax lot labeled 39 on Exhibit 8.

³² Tax lots labeled 352, 411, and 420 on Exhibit 8.

³³ Tax lots labeled 37, 45, 48, 49, 50, 51 and 437 on Exhibit 8.

³⁴ Tax lot labeled 56 on Exhibit 8.

³⁵ Tax lots labeled 36, 38 and 64 on Exhibit 8.

³⁶ Tax lots labeled 46, 52, 53, 54, 55, 412, 413, 416, and 417 on Exhibit 8. (A portion of Tax Lot 52 is zoned RR-10.)

³⁷ Tax lots labeled 47, 56, 57, 58, 59, 60, 61, 62, 63, and 421 on Exhibit 8.

³⁸ Tax lot labeled 62 is owned by VLI.

-
- d. The likely extent of the effects of the proposed land use. This may differ by particular effect—for example, the impact of noise might extend farther than visual impact (or vice versa).

Based upon the prior application and discussion, Applicant has identified five potential off-site impacts of the landfill: Noise, odor, water/groundwater, traffic, and visual impacts. Each of these off-site impacts has a differential effect on the surrounding area based upon proximity. As discussed in more detail below, the potential impact of odor extends farther from the landfill than the other potential impacts and thus has been used to identify the area of analysis under this criterion (the “Analysis Area”).

In order to establish the Analysis Area for purposes of BCC 53.215(1), VLI compiled all the odor complaints from June 2021 to August 2024 for which it had an address or location, plotted those locations on a map, and then drew a box around them. See Figure 2, below.

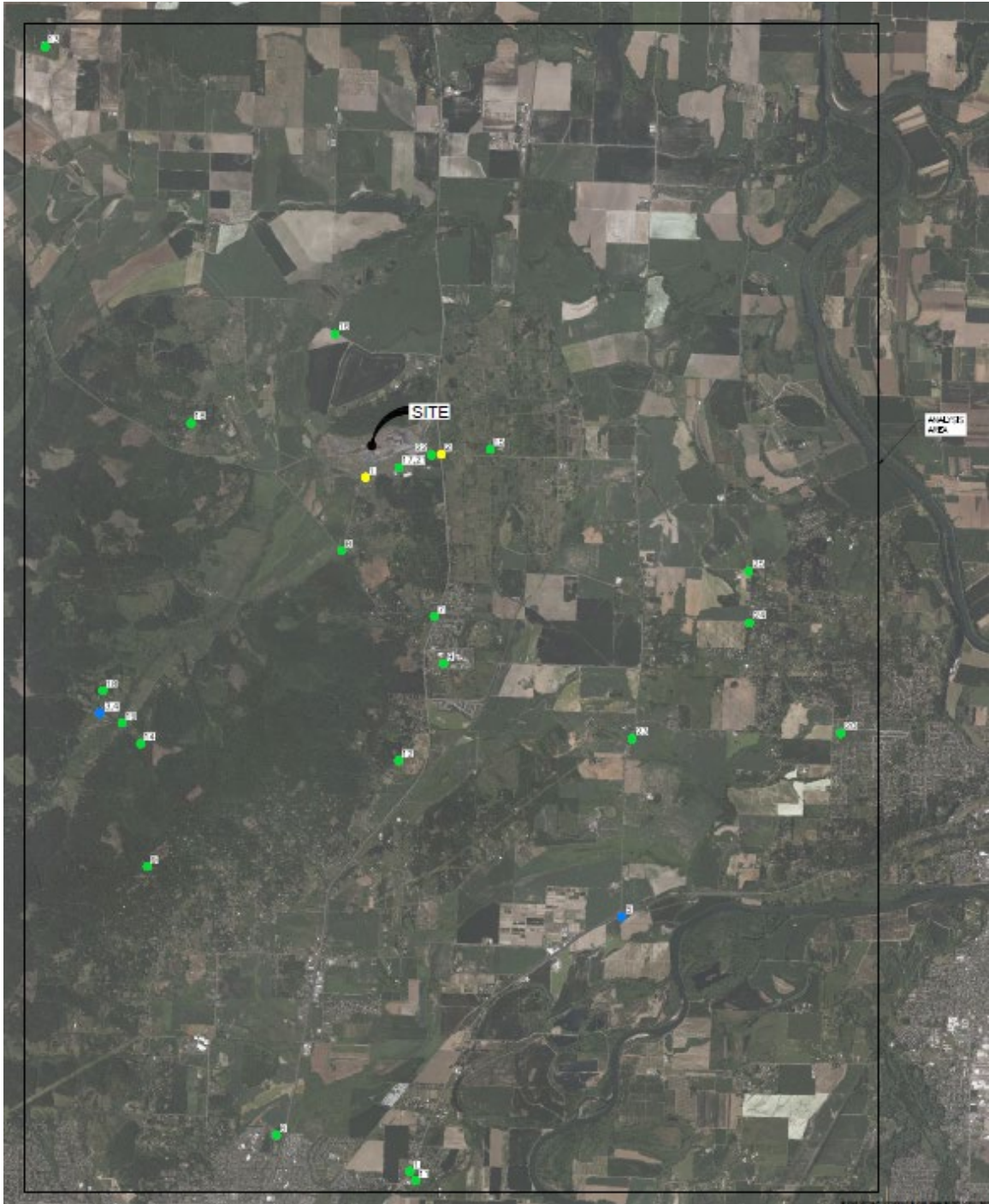


Figure 2 (The Analysis Area showing locations of odor complaints). (Full-size version and odor complaint list attached as Exhibit 9.)

VLI sometimes receives odor complaints that do not identify an address or location and notes that it did not consider these unlocated complaints to establish the Analysis Area. For these purposes, Applicant has also assumed that all the complaints were caused by odor from Coffin Butte Landfill without confirming the

actual source of the odor. Although these odor complaints are therefore over-inclusive in terms of establishing the outer limits of the potential odor impact and not required by the text of the criterion, for the purposes of the application VLI will consider this area for determining the outer limits of odor impact. Further, because odor is the impact with the farthest reach, the outer limits of odor impact provide an over-inclusive analysis area for the assessment of all other off-site impacts.

The land within the Analysis Area is not a distinct geographic setting, does not have unified physical characteristics, and is heterogenous and not homogenous. In this sense, it reflects a much larger “area” than would be determined using the other characteristics considered by the County in past applications, but Applicant is considering this “area” to demonstrate compliance with the criteria beyond what is arguably required under the code.

5. Establishing the Character of the Analysis Area.

As noted, the Analysis Area does not have a uniform character; it consists of almost 90 square miles and includes farm and forest lands, rural residential lands, the City of Adair Village, and small portions of Corvallis and North Albany.

The portion of the Analysis Area in the vicinity of the landfill is defined by two prominent topographic features: Coffin Butte and Tampico Ridge. These two topographic features are primarily surrounded and intersected by the roadways of Highway 99W on the east boundary, Robison Road to the north, Wiles and Tampico roads to the west, and Coffin Butte Road between the features. The interior flanks of Coffin Butte and Tampico Ridge are defined by Coffin Butte Landfill, while outer flanks are established with buffer areas and scattered rural residences, along with small-scale farming and forest operations. The higher elevations within the Analysis Area are well treed, while many of the lower/flatter elevations have been cleared. See Figure 3.



Figure 3 (Character, uses, and topography of the Analysis Area). (Full-size version attached as Exhibit 10.)

The portion of the Analysis Area beyond the immediate vicinity includes the City of Adair Village to the southeast. Adair Village is a small city in Benton County, with a population of approximately 1,005. To the east is the E.E. Wilson Wildlife Area, which is a 1,788-acre preserve that provides hunting, fishing, hiking,

wildlife viewing, shooting, and archery amenities; and to the west/southwest is Soap Creek Valley, which contains a number of rural residences.

The portion of the Analysis Area even farther afield includes larger-scale farm and forest operations, including the Starker Forest to the west, which is used for logging operations and recreation opportunities.

Current conditions in the Analysis Area include impacts from the current landfill operations, commercial farm and forest uses, urban development, and a major transportation corridor (Highway 99W).

6. Establishing the Purpose of the Applicable Zone(s).

The purpose of the LS zone is set forth in the Code as follows:

77.005 Purpose. The Landfill Site Zone shall establish a specific landfill area in Benton County.

The purpose of the FC zone is established in the Code as follows:

PURPOSE

60.005 Forest Conservation Zone.

- 1. The Forest Conservation Zone shall conserve forest lands, promote the management and growing of trees, support the harvesting of trees and primary processing of wood products, and protect the air, water, and wildlife resources in the zone. Resources important to Benton County and protected by this chapter include watersheds, wildlife and fisheries habitat, maintenance of clean air and water, support activities related to forest management, opportunities for outdoor recreational activities, and grazing land for livestock. Except for activities permitted or allowed as a conditional use³⁹, non-forest uses shall be prohibited in order to minimize conflicts with forest uses, reduce the potential for wildfire, and protect this area as the primary timber producing area of the County.*
- 2. The provisions of this Chapter are not intended to regulate activities governed by the Forest Practices Act and Rules.*
- 3. The provisions of this Chapter are based on the mandatory standards related to land use activities on forest land specified*

³⁹ Landfill uses are specifically allowed as a conditional use under BCC 60.205(11).

under Oregon state statutes, and Goal 4 of the Oregon Land Use Planning Program and the implementation requirements adopted by the Land Conservation and Development Commission pursuant to Chapter 660, Division 6 of the Oregon Administrative Rules.

The purpose of the LS zone is to host a landfill. The purpose of the FC zone is to conserve forest lands, promote forestry and timber uses, and protect natural resources. The specific provisions of the FC zone recognize that landfill uses are consistent with these purposes and expressly permit a landfill use as a conditional use. BCC 60.205(11).

7. Assessment of Impacts of the Proposed Project on the Adjacent Properties.

As noted above, the following off-site impacts from the Project may potentially affect the Adjacent Properties: (a) noise; (b) odor; (c) traffic; (d) water (well capacity/groundwater impacts); and (e) visual impacts. These impacts are primarily generated by the working face, which will move from north of Coffin Butte Road to the Project area south of Coffin Butte Road. Once moved, the landfill area to the north of Coffin Butte Road will not be used for disposal operations. There will be only one working face in operation at any time.

Current conditions on the Adjacent and Nearby Properties include the off-site impacts from the existing Coffin Butte Landfill. The question is thus whether the anticipated off-site impacts resulting from the Project differ from the current off-site impacts in a way that will “seriously interfere” with the uses of the Adjacent and Nearby Properties.

a. Noise. Greenbusch Group, Inc. (“Greenbusch”) assessed the noise impacts from the proposed expansion (Ex. 11). Greenbusch applied OAR 340-035-0035, which regulates sound emissions from commercial and industrial uses (the “DEQ Noise Rule”).⁴⁰ As explained below and in Exhibit 11, Greenbusch determined that the predicted sound levels from the Project will “comply with the applicable regulatory criteria without the inclusion of noise mitigation.”⁴¹

As noted by Greenbusch, the Project will not change the character of operations at the landfill. Accordingly, noise impacts from the Project will be similar in kind to current conditions, where noise is produced by equipment such as dozers, excavators, compactors, tipping machines,

⁴⁰ DEQ has adopted noise standards but does not enforce them itself.

⁴¹ In its 2021 study, Greenbusch concluded that the prior application would require mitigation measures in order to comply with the DEQ Noise Rule. The updated study, attached as Exhibit 11, concludes that no such measures are required by the 2024 proposal.

and truck traffic. When the Development Site is opened, active landfill operations will move from north of Coffin Butte Road to the Development Site, so overall noise impacts will not appreciably change as compared to the current conditions (and could even diminish).

The DEQ Noise Rule establishes sound-level limits as measured from “noise sensitive property.” Noise sensitive property, in turn, means property “normally used for sleeping, or normally used as schools, churches, hospitals or public libraries.” OAR 340-035-0015(38). The closest noise-sensitive uses to the Project are shown on Exhibit 11, Figure 5.1.⁴²

Applying the DEQ Noise Rule, noise impacts would be measured 25 feet toward the landfill from the point of noise-sensitive building closest to the landfill or the point on the noise-sensitive property line closest to the landfill (whichever is farthest from the landfill).

Greenbusch applied stricter standards than those required by the DEQ Noise Rule as follows:

(i) The DEQ Noise Rule imposes different limits for commercial and industrial sound sources depending on whether the site has been previously used as a commercial or industrial site. Limits are stricter for sites that have not been previously used as a commercial or industrial site. The Project would be considered a new sound source located on a previously used site, and thus subject to the less-stringent limit. Nonetheless, Greenbusch evaluated the anticipated increase over existing sound levels using the limits that apply to previously unused sites.

(ii) Motor vehicle sound emissions are measured within 1,000 feet of the noise-sensitive use. OAR 340-035-0030. As explained by Greenbusch, the type of motor vehicle use at the Project is exempt from the sound limits in OAR 340-035-0030. Nonetheless, Greenbusch evaluated the sound levels from anticipated motor vehicle use at the Project and determined that they would fall under the sound-level limits imposed by OAR 340-035-0030

(iii) Operating hours at the landfill extend into both daytime and nighttime hours for purposes of the DEQ Noise Rule. Greenbusch assessed compliance using the more stringent nighttime sound-level limits.

⁴² The closest noise-sensitive use is the residential home on Tax Lot 1104.

Greenbusch took a number of measurements of existing sound levels and used those measurements to model two different scenarios to analyze anticipated noise impacts from the Project. Based on these models, Greenbusch concluded that “[p]redicted sound levels from trucks using the landfill and on-site equipment comply with OAR sound limits at all nearby noise sensitive properties under both modeling scenarios.” Because Greenbusch analyzed the noise-sensitive properties closest to the Development Site and because sound dissipates over distance, these conclusions necessarily apply to all noise-sensitive properties that are Adjacent or Nearby Properties to the Landfill Boundary.

In addition, although not required by the DEQ regulations, Applicant has replaced back-up alarms on its on-site equipment with ambient sensing broadband back-up alarms as a voluntary noise-mitigation measure.⁴³

Finally, the Greenbush analysis demonstrates that anticipated off-site noise impacts from the Project will not be materially different from existing conditions.

Given that the proposal does not materially change the off-site noise impacts from current conditions and complies with all regulatory criteria even without mitigation, and further given that Applicant has engaged in additional mitigation measures, the off-site noise impacts of the Project will not “seriously interfere” with the use of Adjacent and Nearby Properties.

b. Odor. Weaver Consultants Group (“Weaver”) assessed the odor impacts from the proposed expansion (Ex. 12) and the comprehensive set of infrastructure and practices already in place to control and manage odors is outlined in Exhibit 13. As explained below and in Exhibit 12, Weaver determined that “there has not been a significant impact to human health and environment related to [landfill gas] or odors.”

The Adjacent and Nearby Properties have been in proximity to an active landfill for over 50 years. And, although the Project is a proposed “expansion,” the nature of landfill operations means the Project will not result in a material expansion of odor-producing uses.

As explained in Exhibit 12, the two primary sources of odor from a landfill are the solid waste in the active landfill area (with odors similar to household waste) and the biogas produced as the solid waste begins to decompose (“landfill gas” or “LFG”). Also, as explained in Exhibit 12, the working face of a landfill is much smaller than its overall size. At Coffin

⁴³ Hauling trucks and other trucks coming to the site will still use standard back-up alarms.

Butte Landfill, the day-to-day active area is less than one-half acre under current conditions and will continue to be a similar size when the Development Site is opened and prior active landfill area north of Coffin Butte Road is no longer used for disposal. Consistent with best industry practice, VLI covers the active area at the end of each day with a six-inch layer of soil or alternative daily cover, which is a proven method for effective odor mitigation in all climatic regions (as noted in Exhibit 12).

As described in Exhibits 12 and 13, VLI currently employs aggressive methods for control of landfill gas, including an extensive system of landfill gas collection and control, surface emissions monitoring (“SEM”), and daily odor monitoring.

Weaver also noted that VLI employs several odor-mitigation measures in excess of what is required by applicable regulations, including: (i) the use of a plastic liner in addition to soil cover; (ii) the installation of “final cover” over nearly 40 percent of the landfill surface (when final cover is not required until the landfill is no longer accepting waste); and (iii) the installation of LFG extraction wells for waste that has been in place for only one year (when LFG extraction wells are not required until waste has been in place for five years).

A review of odor complaints over the past 20 years demonstrates that VLI’s odor-control methods have been effective. Odor issues are regulated by DEQ, and the complaints to DEQ, the landfill, and local authorities have been minimal (see Findings on Odor, Ex. 12).⁴⁴

Because the perception of odor is subjective and has been the subject of questions during the prior application and the BCTT process, the County asked Applicant to provide further analysis related to landfill odor. Applicant retained Greg Hauser, CIEC, of SCS Engineers to conduct an odor analysis. (See Coffin Butte Landfill Expansion Odor Dispersion Model Study, attached as Exhibit 14). SCS employed the American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD) methodology accepted by the EPA and DEQ. SCS examined wind patterns (direction and speed) over time, odor-causing landfill activities, and topography.

As noted in the report, per ASTM standards, odor concentration is defined as the dilution of an odor sample with odor-free air, at which point only 50 percent of an odor panel (or population) will detect or recognize the odor. This point is expressed in units of “dilutions-to-threshold” or “D/T”.

⁴⁴ The uptick in 2021-22 occurred during the time of the contested CUP application and appears to be anomalous. Nonetheless, VLI investigates each of the complaints and takes action accordingly.

By definition, odor threshold is equal to 1 D/T. Typically, odors are considered a nuisance at or above 7 D/T.

SCS examined odor dispersion at both the current landfill operation and the proposed Project. The report concludes:

- Peak, off-site, one-hour odor concentrations were below 7 D/T (the numeric threshold of significance for nuisance odors) for all scenarios modeled.
- For existing operations (Source #1), the modeled peak, off-site, one-hour odor concentration was north of the landfill (in two different locations depending upon the meteorological data used) and ranged from 0.42 to 1.21 D/T. Impacts above 1 D/T (the point at which only 50 percent of the population is expected to smell any odor) extended only a small distance off site. None of the complaint locations from Figure 10 were within the 1 D/T contour.
- For proposed operations (Source #2), the modeled peak, off-site, one-hour odor concentration was either along Coffin Butte Road or south of the landfill (in two different locations depending upon the meteorological data used) and ranged from 0.64 to 2.04 D/T. Impacts above 1 D/T (the point at which only 50 percent of the population is expected to smell any odor) were either along Coffin Butte Road or extended only a small distance off site. Only one complaint location from Figure 10 was within the 1 D/T contour.
- Moving operations to the proposed expansion area will move the predicted peak, off-site, one-hour impact location, but impacts would remain well below the 7 D/T threshold.
- While off-site odors can occur as a result of the current and future landfill operations, these potential impacts are less than significant and expected to be short lived (i.e., only occur under weather conditions with poor atmospheric dispersion).

The SCS Study thus corroborates the Weaver assessment. Based upon the above evidence, the Project will not materially increase off-site odor impacts over the current operation, and certainly not in a way that would “seriously interfere with uses on adjacent properties.”

Because certain temporary landfill operations and weather conditions can temporarily increase odor and given the complaints and concerns about odor expressed during the prior application and during BCTT, Applicant is proposing a condition of approval to provide a more structured and objective process for monitoring odor. Applicant proposes an ongoing

odor-monitoring condition in the proposed conditions of approval. Ex. 21, Condition OA-10.

c. Traffic. Transight Consulting, LLC (“Transight”) prepared a Transportation Impact Analysis (“TIA”) for the proposed expansion (Ex. 15). Similar to the other off-site impacts, although the Project is a proposed “expansion,” the nature of landfill operations means the Project will not result in a material increase in traffic impacts.

Coffin Butte Landfill and the proposed improvements are served from Coffin Butte Road. Coffin Butte Road is a Major Collector Street and is identified as a Freight Route on the County TSP.

As discussed in the TIA, the anticipated changes to traffic are limited and consist of the following:

“Private passenger vehicles using the landfill will continue to use the scales and services on the north side of Coffin Butte Road, with these consolidated materials then hauled by commercial truck to the expansion site for disposal. Commercial account users will also be required to use the current scales to weigh in, then will be directed to the expansion area to dispose of materials. These private and commercial vehicles will use a new outbound scale near the expansion site exit, will pay the appropriate fees, and will then exit onto Coffin Butte Road.

* * * *

“As a result of retaining the scales on the north side of Coffin Butte Road for the expansion there will be internal trips between the north and south sides of Coffin Butte Road.”

As further discussed in the TIA, trip generation for landfill uses is not determined by landfill size, but rather by the population of the areas served.

VLI is expanding Coffin Butte Road to include bicycle lanes and shoulders and a westbound left-turn lane to avoid impacts to through traffic on Coffin Butte Road.⁴⁵

The TIA is based on four sets of traffic counts taken from 2021 to 2023. These counts all reflect very low traffic volumes in the vicinity of the landfill. In addition, future traffic increases attributable to the landfill are based on projected population growth, which is minimal (approximately

⁴⁵ The preliminary turn-lane design includes enough queue storage for four semitrucks.

1 percent annually in the Linn-Benton area, 1 percent or lower in Linn County, and approximately 1.7 percent statewide in Oregon).

The TIA concludes as follows:

“This report shows that the proposed landfill expansion provides minimal impacts to Benton County and ODOT transportation facilities. The proposed expansion site will not alter public trip routing, emergency ingress or egress, and it will retain the current landfill access routes. This layout maintains current functional designations identified in the County’s Transportation System Plan and the design optimizes travel safety for patrons and employees.”

The TIA analyzes the expected traffic impacts from the Project as far as those impacts extend from the Landfill Boundary (which is not far) and found that transportation facilities in the area will continue to function well within applicable County standards. Thus, the additional trips generated from the expansion, if any, and the minor changes in traffic patterns will not “seriously interfere” with the use of Adjacent Properties or Nearby Properties.

d. Water—Well Capacity and/or Groundwater

Impacts. Tuppan Consultants, LLC (“Tuppan”) assessed environmental and operational considerations related to the Project (Ex. 16), and Civil & Environmental Consultants, Inc. (“CEC”) prepared a preliminary drainage report for the proposed expansion (Ex. 17). These documents outline the natural dynamics of groundwater flow in the area, the groundwater use associated with the Coffin Butte Landfill, and the existing and proposed drainage systems serving the landfill. As explained below and in Exhibits 16 and 17, the proposed expansion will have no effect on the landfill’s use of groundwater in the area and will not materially change off-site impacts on groundwater quality.

As described by Tuppan, current surface-water drainage from the operations areas of the landfill drain through a number of systems designed to remove site-related compounds from stormwater before it discharges to creeks that flow off site. These systems include a settlement pond and a bioswale that was recently upgraded to include a subsurface flow wetland (SSFW) that discharges at a sampling point.

As further described by Tuppan, groundwater supply in the area is limited and disconnected in nature.

(i) Impact on groundwater supply (well capacity). As noted by Tuppan, landfill construction and the bulk of landfill operations use water supplied by Adair Village, not groundwater

from wells. The only groundwater used from wells is for the existing office and the scale house, and the volume of groundwater consumed at these two locations will not change. The Project will thus have no impact on groundwater supply in the area (as compared to current conditions).

(ii) Impact on groundwater quality. Tuppan and CEC describe a number of features and systems that protect groundwater resources, including the groundwater divide created by Tampico Ridge, the existing combined detention and wetpond facility, the requirement to install a “state-of-the-art” landfill liner system at the Development Site, stormwater diversion facilities, and a comprehensive water-quality monitoring program. Monitoring of stormwater is required by both the site’s solid waste permit and its NPDES industrial stormwater discharge permit. The systems outlined above meet or exceed all regulatory requirements for groundwater protection, and to the extent they fail to function as designed, the monitoring programs will ensure that potential contamination is identified and mitigated before entering the off-site groundwater supply. The new landfill liner system planned for the Development Site is state of the art and will provide even more protection than the current system. Given that comprehensive mitigation and monitoring occurs on site, the potential impacts of the proposed expansion on the off-site groundwater supply will not “seriously interfere” with the use of Adjacent Properties or Nearby Properties.

e. Visual Impacts. Exhibit 18 is a collection of renderings showing the view corridors west along Highway 99W and east along Coffin Butte Road as they currently exist and would appear after development of the Project and the opening of the Development Site.

Figures 1, 2, and 3 show the northwest and southwest view from Highway 99W toward the landfill. As shown in Figure 1, the Project will retain the trees and vegetation at the southwest corner of the intersection of Coffin Butte Road and Highway 99W and will retain the buffer trees along the eastern property line. The Project will modify the topography of the area behind the trees shown in Figure 1; however, with the line of sight from this location, the visual impacts will be mostly unnoticeable (the top of Tampico Ridge is not visible).

Moving to a slightly higher elevation (north on Highway 99W) as shown in Figure 2, the top of Tampico Ridge is visible; thus, from this line of sight the Project may be visible.

Figure 4 shows the southwest view from the intersection of Coffin Butte and Soap Creek Road, demonstrating that the Development Site will be screened by vegetation along that corridor.

Applicant proposes installing additional screening vegetation consistent with the County's proposed condition in the 2021 Staff Report, plus additional screening. See Ex. 2, sheet 18. While the proposed landfill improvements on the Development Site may be visible at buildout along Coffin Butte Road within the landfill area owned by VLI and traffic traveling south on Highway 99W, the improvements will not be visible from the nearby streets, other rights-of-way, and properties that are not at higher elevations.

Overall, while the expansion may be visible from some locations around the area, it will not be highly visible, and a westerly visual corridor will be retained. In the future and in compliance with closure/post-closure plans, the current landfill area will be covered and reclaimed, reducing the off-site visual impacts that exist under current conditions. The overall effect of relocating disposal operations to the Development Site will be to reduce off-site visual impacts from those caused by the current operation.

One of the Planning Commission's reasons for denying the 2021 application was that the proposal would essentially create a new hill by filling up the gap between Tampico Ridge and Coffin Butte and therefore substantially interfere with the character of the area in a negative way. The 2024 application preserves Coffin Butte Road and the valley between Tampico Ridge and Coffin Butte. The Development Site, when completed, will change the topography on the north slope of Tampico Ridge, but will be substantially lower than the ridgeline and will be 175 feet lower in height and similar in character to the closed and to-be-closed areas north of Coffin Butte Road. See topographical cross-section attached as part of Exhibit 2, Sheets 22 and 23; Exhibit 18, Build-out of Coffin Butte Landfill, with approved expansion. As noted above, the LS zone contemplates landfill use, so some elevation changes are to be expected.

Applicant's lighting plan for the overall site will minimize additional light and glare. See Sight Lighting Summary, attached as Exhibit 19.

For these reasons, the off-site visual impacts of the Project will not "seriously interfere" with the use of Adjacent or Nearby Properties.

8. Assessment of Whether the Potential Impacts Constitute "Serious Interference" with the Character of the Area.

As established above, the character of the Analysis Area is heterogenous, but in the immediate vicinity of the landfill, it consists primarily of higher-intensity resource land that provides farm, forest, resource extraction, landfill operations,

and open spaces surrounded by scattered rural residences and small-scale farm and forest operations. The Analysis Area is currently impacted by occasional odors, sounds, noises, and trips from the existing landfill operation and surrounding resource-extraction uses.

a. Noise. The Analysis Area includes the Adjacent and Nearby Properties addressed in Section III.C.7 above, as well as a large area beyond those properties. As established above, the projected off-site noise impacts will not seriously interfere with the use of the Adjacent and Nearby Properties. It follows that any noise impacts on the Analysis Area beyond those properties will only be more attenuated and will not “seriously interfere” with the character of the Analysis Area.

b. Odor. The Analysis Area includes the Adjacent and Nearby Properties addressed in Section III.C.7 above, as well as a large area beyond those properties. As established above, the projected off-site odor impacts will not seriously interfere with the use of the Adjacent and Nearby Properties. It follows that any odor impacts on the Analysis Area beyond those properties will only be more attenuated and will not “seriously interfere” with the character of the Analysis Area.

c. Traffic. The Analysis Area includes the Adjacent and Nearby Properties addressed in Section III.C.7 above, as well as a large area beyond those properties. As established above, the projected off-site traffic impacts will not seriously interfere with the use of the Adjacent and Nearby Properties. It follows that any traffic impacts on the Analysis Area beyond those properties will only be more attenuated and will not “seriously interfere” with the character of the Analysis Area.

d. Water—Well Capacity and/or Groundwater Impacts. The Analysis Area includes the Adjacent and Nearby Properties addressed in Section III.C.7 above, as well as a large area beyond those properties. As established above, the projected off-site water impacts will not seriously interfere with the use of the Adjacent and Nearby Properties. It follows that any water impacts on the Analysis area beyond those properties will only be more attenuated and will not “seriously interfere” with the character of the Analysis Area.

e. Visual Impacts. The Analysis Area includes the Adjacent and Nearby Properties addressed in Section III.C.7 above, as well as a large area beyond those properties. As established above, the projected off-site visual impacts will not seriously interfere with the use of the Adjacent and Nearby Properties. It follows that any visual impacts on the area beyond those properties will only be less noticeable and will not “seriously interfere” with the character of the Analysis Area.

9. Assessment of Impacts on the Purpose of the Zone(s).

The Development Site is located across two zones: the LS zone and the FC zone.

As established in Section III.C.6 above, the purpose of the LS zone is to host a landfill. Allowing for landfill expansion in the Landfill Site Zone will *fulfill* rather than “seriously interfere” with the stated purpose of the zone.

The purpose of the FC zone is to conserve forest lands, promote forestry and timber uses, and protect natural resources. The specific provisions of the FC zone recognize that landfill uses are consistent with these purposes and expressly permit a landfill use as a conditional use. BCC 60.205(11).

No solid-waste disposal is proposed for the FC-zoned land. Instead, the proposed improvements on the FC-zoned land include an 1,800-square-foot employee building, parking, access road modifications, and the relocation of leachate ponds, leachate loadout, leachate sump, an outbound scale, portions of the perimeter landfill road, cut activities for landfill, and a shop/maintenance area. All uses proposed as part of the Project (i.e., disposal site for solid waste approved by the County Commissioners and DEQ, together with equipment, facilities, or buildings necessary for its operation) are permitted in the FC zone, so long as Applicant demonstrates compliance with all applicable CUP approval criteria. The elements of the Project that are proposed on the FC-zoned land are associated with the existing, approved Coffin Butte Landfill. These uses are explicitly allowed and therefore consistent with the stated purpose of the zone, and CUP review will minimize conflicts with forest uses, reduce the potential for wildfire, and protect this area as the primary timber-producing area of the County. Thus, the elements of the Project that are proposed on the FC-zoned land will not “seriously interfere” with the purpose of the FC zone.

As detailed above, the proposal satisfies this approval criterion.

D. **BCC 53.215 (2) (Criteria) (The proposed use “does not imposed an undue burden” on public facilities and services).**

This criterion states:

The decision to approve a conditional use permit shall be based on findings that:

(2) The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area; and

Applicant Response: Coffin Butte Landfill serves the public. The development is proposed so that the landfill can continue to accommodate public needs for an additional six years beyond the life of the current approved landfill. As noted above, when the Development Site is opened, the working face will move from north of Coffin Butte Road to the Development Site. As detailed in the traffic report (Ex. 15), trip growth (transportation impacts) will grow with overall population, but not because of the relocation of the working face to the Development Site. As noted in Exhibit 15, trips generated to and from the working face will remain substantially the same and well within the capacity of the existing road system. Because the 2024 CUP application does not include closure of Coffin Butte Road, none of the surrounding road systems will be impacted, and the new turn lanes and bike paths will improve safety and access along Coffin Butte Road. The Project does not necessitate any additional water or sewer services, so will not affect public water or sewer service. The property is served by the Adair Fire District and the Benton County Sheriff's Department. The Fire District expressed concern about the impact of closure of Coffin Butte Road on emergency ingress and egress during prior 2021 application; the 2024 CUP application does not change that access. Applicant's Fire Risk Assessment Report, attached as Exhibit 20, details how Applicant's fire mitigation plan prevents or addresses fires, and concludes that operations at Coffin Butte Landfill do not present a significant fire risk. There is no evidence or history that suggests that the landfill creates significant law enforcement issues. The proposed development is not projected to increase impacts to these providers.

For the above-noted reasons, the proposed expansion does impose an undue burden on any public facilities or services.

E. BCC 53.215 (3) (Criteria) (The proposed use “complies with any additional criteria”). This criterion states:

The decision to approve a conditional use permit shall be based on findings that:

(3) The proposed use complies with any additional criteria which may be required for the specific use by this code.

Applicant Response: Additional criteria are included in BCC chapters 60 and 77. This narrative addresses how the proposal complies with the additional criteria of those sections; the proposal therefore complies with this referenced provision.

F. BCC 53.220 (Conditions of Approval). This section states:

The County may impose conditions of approval to mitigate negative impacts to adjacent property, to meet the public

service demand created by the development activity, or to otherwise ensure compliance with the purpose and provisions of this code. On-site and off-site conditions may be imposed. An applicant may be required to post a bond or other guarantee pursuant to BCC 99.905 to 99.925 to ensure compliance with a condition of approval. Conditions may address, but are not limited to:

- 1. Size and location of site.**
- 2. Road capacities in the area.**
- 3. Number and location of road access points.**
- 4. Location and amount of off-street parking.**
- 5. Internal traffic circulation.**
- 6. Fencing, screening and landscape separations.**
- 7. Height and square footage of a building.**
- 8. Signs.**
- 9. Exterior lighting.**
- 10. Noise, vibration, air pollution, and other environmental influences.**
- 11. Water supply and sewage disposal.**
- 12. Law enforcement and fire protection.**

Applicant Response: Applicant understands that this section of the Code allows for the imposition of conditions of approval to address compliance with the applicable criteria, if warranted. This Code section does not add any additional substantive review criteria for approval.

Applicant expects the County to impose conditions of approval. Applicant has prepared draft conditions of approval for the County's consideration. See Draft Conditions, attached as Exhibit 21. The draft conditions of approval are based upon the evidence and recommendations contained in Applicant's exhibits and the analysis in this burden of proof, as well as the County's relevant recommended conditions in 2021.

One condition that was at issue in the 2021 application and was an area of disagreement during BCTT is a limitation on the hours of operation. Applicant requests a condition that would allow it to continue the current hours of operation. Prior to opening, Applicant currently must begin internal operations to prepare for opening. The landfill opens to commercial hauling traffic at 5 a.m. and opens to the general public at 8:00 a.m., except on Sundays, when it opens at 12:00 p.m. The site closes to both commercial and public traffic at 5:00 p.m. all days, with internal operations continuing thereafter to properly close the landfill for the day. The landfill has been observing these hours since 2002. This is in accordance with PC-02-07 2002, in which the County imposed the following condition regarding hours of operation:

“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 Sunday, with 24-hour access for commercial customers.”

The question during BCTT was whether Applicant was violating this section by having staff on site before 8:00 a.m. and after 5:00 p.m. Applicant had always interpreted “landfill operation hours” to mean hours that it is open to the public. Applicant noted that since the condition allows 24-hour access for commercial customers⁴⁶, the County must have contemplated that at least some staff would be on site outside the hours that it was open to the public.

From an off-site impact standpoint, having staff on site to prepare for opening and closing of the landfill has no impact on the Adjacent or Nearby Properties or the Analysis Area. In contrast, limiting the hours of operation would concentrate landfill traffic into the peak hours, resulting in increased congestion and the potential for more user conflicts. See Ex. 15, pages 22-23.

For these reasons, Applicant respectfully requests that any condition of approval relating to hours of operation permit Applicant to continue its long-standing practice. Exhibit 21 contains a draft condition of approval (OA-1) addressing hours of operation. The impacts to Adjacent or Nearby Properties or to the Analysis Area will not increase as compared to the existing operation, and it will avoid the unintended consequences of limiting those hours.

G. BCC 53.225 (Modification of a Conditional Use Permit). This section states:

An original applicant or successor in interest may request that a conditional use permit be modified if a change in circumstance has occurred since approval which would justify a change in the permit. Such application shall be processed as a new request for a conditional use permit.

Applicant Response: The landfill site was previously granted approval, and the current proposal is a modification of the prior approval. However, whether a modification of a CUP or a new CUP, this section establishes that the application shall be processed as a new request for a CUP. Applicant anticipates that the application will be processed accordingly.

⁴⁶ Historically, the site did operate 24 hours a day for commercial customers. At its own discretion, Applicant limited hours in the early 2000s to 5:00 a.m. to 5:00 p.m. for commercial customers.

H. **BCC 53.230 (Period of Validity).** This section states:

Unless otherwise specified at the time of approval, a conditional use permit for a single-family dwelling shall be valid for ten (10) years from the date of decision and other conditional use permits shall be valid for a period of two (2) years from the date of decision.

Applicant Response: This section establishes a time limit within which a new CUP must be initiated unless otherwise specified at the time of approval. Applicant notes that the County's final decision may be appealed, and Applicant must also obtain DEQ permits prior to constructing the landfill, which cannot begin until the County has approved the CUP. For these reasons, Applicant has proposed a longer period in its draft conditions of approval attached as Exhibit 21 to account for these exigencies.

I. **BCC 53.235 (Extension of Permit).** This section states:

A conditional use permit may be extended for good cause at the discretion of the approving authority responsible for the original decision. The applicant shall submit the request for extension in writing to the Planning Official prior to expiration of the original permit.

Applicant Response: Applicant intends to initiate the development as provided in the draft conditions of approval. However, in the event of unexpected circumstances, Applicant recognizes that an extension may be granted under this section.

IV. COMPLIANCE WITH BENTON COUNTY CODE CHAPTER 77 (LANDFILL SITE)

A. BCC 77.005 Purpose. This section states:

The Landfill Site Zone shall establish a specific landfill area in Benton County.

Applicant Response: This section establishes a purpose but does not provide any development standards or approval criteria. Compliance with the standards of this section and the criteria of the Code will ensure that this purpose is implemented.

B. BCC 77.010 Application. This section states:

The Landfill Site Zone recognizes the existing site in the Coffin Butte area, and allows for its continued use pursuant to Oregon Department of Environmental Quality (DEQ) permits, Benton County Code Chapter 23, and an approved Site Development Plan.

Applicant Response: The current development area that is located within the LS zone is operating under Oregon DEQ Permit # 306. Upon approval, Applicant will seek to modify the existing DEQ permit to include the Development Site. The LS zone was expressly created to accommodate and permit the continued use of the landfill that had existed in this area since the 1940s.

C. BCC 77.105 Permitted Uses. This section states:

The following uses are allowed in the Landfill Site Zone:

(1) Municipal solid waste disposal, in accordance with a Solid Waste Disposal Franchise and an approved Site Development Plan.

(2) Recycling facilities.

(3) Forestry and agricultural use as a conversion factor leading to reclamation of the site in the future.

(4) Aggregate and mineral resource use in accordance with Oregon Department of Geology and Mineral Industry Permits.

(5) Structures normally associated with the operation of a landfill.

(6) Operation of equipment in conjunction with landfill operations.

(7) Installation and operation of monitoring devices as required by DEQ such as leachate sample equipment, leachate treatment facilities, and vector control systems.

(8) Landfill gas monitoring and recovery systems.

Applicant Response: This section establishes that solid waste disposal is a permitted use. The Project is a permitted use in the zone.

D. BCC 77.205 Prohibited Uses. This section states:

The following uses are prohibited in the Landfill Site Zone:

(1) Hazardous waste disposal.

(2) Disposal of materials prohibited by the Solid Waste Disposal Franchise.

Applicant Response: The Project does not include any of these prohibited uses.

E. BCC 77.305 Conditional Uses Approved by the Planning Commission. This section states:

Any proposal to expand the area approved for a landfill within the Landfill Site Zone is allowed by conditional use permit approved by the Planning Commission. 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 Oregon Department of Environmental Quality shall be given an opportunity to review and comment on any proposal which may affect this site.

Applicant Response: The application includes a proposal to expand the area approved for a landfill within the LS zone to the Development Site located south of Coffin Butte Road; this section therefore requires review and approval by the Planning Commission. This section further establishes that the Planning

Commission will review comments from the Benton County Environmental Health Division, the Solid Waste Advisory Council, and DEQ. Applicant anticipates that the application will be processed accordingly.

F. BCC 77.310 Conditional Use Review. This section states:

(1) The applicant for a conditional use permit shall provide a narrative which describes:

(a) Adjacent land use and impacts upon adjacent uses[.]

Applicant Response: A comprehensive review of lands that are Adjacent or Nearby to the LS-zoned properties and impacts thereupon was included above. The findings from the above-noted sections are incorporated herein.

(b) Future use of site as reclaimed, and impacts of that reclamation on adjacent uses[.]

Applicant Response: The post-closure future use of the LS-zoned development area will be consistent with the rest of Coffin Butte Landfill. As documented in Exhibit 22 (Reclamation Plan), page 5:

The final closed surface of the completed landfill will appear to be a sloped grassy savanna that blends with, and appears to be part of, the adjacent butte. Planned land use for the property will be open space grassland. Any development over filled areas of the CBLF should not include permanent enclosed structures where differential settlement and/or methane gas may cause risk.

Like the rest of Coffin Butte Landfill, the future (post-closure) use of the Development Site is not anticipated to have any impacts on Adjacent or Nearby uses.

(c) Provisions for screening of the site from public roads and adjacent property[.]

Applicant Response: This section does not require screening or provide a specific standard for screening. This section requires only that an applicant describe “provisions for screening the site from public roads and adjacent properties.” Applicant owns and manages the majority of the surrounding properties, and the eastern portion of Tax Lot 1200 is and will continue to be well treed and will provide a substantial buffer from the planned improvements. Furthermore, the 83.7-acre parcel south of the landfill development area is maintained as an open-space area, along with areas to the north and west. The

areas owned by Applicant that are maintained as open spaces and/or engaged in commercial farming operations will continue to provide sufficient buffers from public roads and the majority of the Adjacent Properties. The closest Adjacent Property to screen is Tax Lot 1103 at 38691 Soap Creek Road. This nearby residence is and will continue to be buffered from the disposal site development area by a sloped and treed grade. Additionally, Applicant is proposing installation of additional screening consistent with the County's proposed condition in 2021. See Ex. 2, sheet 18. Overall, the planned improvements will be screened by the existing grades and vegetation existing and to be installed on the property and surrounding area.

(d) Egress and ingress[.]

Applicant Response: The proposal modifies the access points on the south side of Coffin Butte Road; it closes the access point to the existing leachate pond and relocates the access point to the gas-to-energy plant, making it the main access point to the southern area. The new access design will be served by an improved Coffin Butte Road, which includes a new left-turn lane and bike lanes. The existing and new access points, along with the overall functionality of the proposed access design, has been studied by the traffic engineer. As detailed in Exhibit 15, the access design and proposed configuration are safe and efficient and can accommodate the proposed development.

(e) Other information as required by the Planning Official.

Applicant Response: To date, the Planning Official has not requested any additional information.

(2) A site plan map shall accompany a conditional use permit application. The map shall contain at least a scale, north arrow, assessor map numbers, location of existing landfill, access, proposed alteration, leachate treatment or monitoring areas surface water systems, and existing and proposed screening (location and types of materials). A statement shall be placed on the map that the site plan map and narrative together are considered as the Site Development Plan. A signature block shall be included for the date the approval is given and the signature of the Planning Official indicating approval.

Applicant Response: The application packet is supported by a site plan that contains all of the elements noted in this section. See Ex. 2, sheets 5-9.

(3) A conditional use permit application shall contain a reclamation plan describing present efforts and future reclamation plans related to the site.

Applicant Response: The application packet is supported by a reclamation plan that contains all of the elements noted in this section. See Ex. 22.

(4) The following environmental and operational considerations shall be reviewed prior to changes in the documents referenced above:

- (a) Geology;**
- (b) Groundwater and surface water;**
- (c) Soil depth and classification, and erosion control factors;**
- (d) Slope; and**
- (e) Cover material availability, transportation, and use.**

Applicant Response: The application packet is supported by Exs. 9, 10, and 22. These engineering documents contain, address, and review all of the elements noted in this section.

G. BCC 77.405 Review of DEQ Permits. This section states:

Copies of materials submitted to the Oregon Department of Environmental Quality as a part of any permit process shall be submitted to the Planning Official. If at any time the Planning Official determines that permit application materials or conditions of DEQ permit are judged to merit public review, a Public Hearing before the Planning Commission shall be scheduled.

Applicant Response: A copy of the existing DEQ Permit #306 is included with the submittal items, along with correspondence related to the expansion work plan). Upon approval by the County, Applicant will apply to DEQ for the currently proposed development (to ensure conformance with all DEQ requirements) and will provide the DEQ submittal materials to the Planning Official (to determine whether the materials merit additional public review). If the future DEQ permit changes are judged by the Planning Official to merit additional public review, Applicant understands that an additional Public Hearing before the Planning Commission may be scheduled at that time.

**V. COMPLIANCE WITH BENTON COUNTY CODE
CHAPTER 60—FOREST CONSERVATION**

A. BCC 60.005 (Purpose). This section states:

(1) The Forest Conservation Zone shall conserve forest lands, promote the management and growing of trees, support the harvesting of trees and primary processing of wood products, and protect the air, water, and wildlife resources in the zone. Resources important to Benton County and protected by this chapter include watersheds, wildlife and fisheries habitat, maintenance of clean air and water, support activities related to forest management, opportunities for outdoor recreational activities, and grazing land for livestock. Except for activities permitted or allowed as a conditional use, non-forest uses shall be prohibited in order to minimize conflicts with forest uses, reduce the potential for wildfire, and protect this area as the primary timber producing area of the County.

(2) The provisions of this Chapter are not intended to regulate activities governed by the Forest Practices Act and Rules.

(3) The provisions of this Chapter are based on the mandatory standards related to land use activities on forest land specified under Oregon state statutes, and Goal 4 of the Oregon Land Use Planning Program and the implementation requirements adopted by the Land Conservation and Development Commission pursuant to Chapter 660, Division 6 of the Oregon Administrative Rules.

Applicant Response: The provisions of this section establish the purpose of the FC zone. This section does not establish any measurable development standard or approval criteria. Conformance with the established standards of this chapter and the conditional use approval criteria will implement the purposes stated in this section.

B. BCC 60.020 (Standards for Application for the Forest Conservation Zone). This section states:

The Forest Conservation Zone is applied to areas designated Forestry on the adopted Comprehensive Plan Map in compliance with Statewide Planning Goal 4 and OAR 660. This zone consists of areas containing forest soils which are not otherwise subject to an exception of the statewide planning goals. The Forest Conservation Zone is also applied to other lands necessary to preserve and maintain forest uses consistent with existing and future needs for forest management. Forest land capability is indicated by the nature and type of soil, slope, size and location of the property, the suitability of the terrain, and other similar factors. The Forest Conservation Zone is also applied to intervening lands which are suitable for forest management related uses or needed to protect forest land.

Applicant Response: This section establishes how the FC zone is to be implemented; it does not establish any measurable development standard or approval criteria.

C. BCC 60.030 Definitions. This section states:

As used in this chapter * * * [.]

Applicant Response: It is understood that the definitions of this section will be used in the review of this application.

D. BCC 60.050 Notice of Pending Action. This section states:

Notice of all land use applications for new permanent dwellings and land divisions in the Forest Conservation Zone shall be mailed to the Department of Land Conservation and Development and the Department of Forestry at their Salem office at least ten (10) days prior to the date of decision or permit issuance. The information shall contain the information set forth in BCC 51.615.

Applicant Response: The proposal does not include any new dwellings or a land division; this provision is therefore not applicable.

E. BCC 60.075 Period of Validity of Discretionary Decisions. This section states:

(1) When a discretionary decision under ORS 215.416 approves a dwelling pursuant to BCC 60.105(14) or (17), 60.108, or 60.109, the approval shall be void four years from the date of final decision if the development action is not initiated in that period. “Development action” typically means the property owner has submitted a complete application for a building permit for the dwelling or manufactured dwelling placement permit.

(a) One extension may be granted for two additional years.

(b) Five additional one-year extensions may be granted. Extensions shall only be granted if:

(A) The applicant makes a written request for the extension prior the expiration of the final approval or a previous extension, whichever is applicable;

(B) The applicable residential development statute has not been amended following the issued land use decision, except the amendments to ORS 215.750 Forest Dwelling Template Test by section 1, chapter 433, Oregon Laws 2019 (Enrolled House Bill 2225); and

(C) An applicable rule or land use regulation has not been amended following the issuance of the land use decision, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.

(c) Approval of an extension is not a land use decision and is not subject to appeal as a land use decision.

(2) A discretionary decision, other than a dwelling identified in subsection (1) of this section or a land division, approving a proposed development on Forest Conservation land outside an urban growth boundary is void two years from the date of final decision if the development action is not initiated in that period.

Applicant Response: This section establishes a time limit within which a new CUP must be initiated. Applicant understands the period of validity that is established in this section and plans to develop the site as provided in the draft conditions of approval, attached as Exhibit 21.

F. BCC 60.080 Soils Designations. This section states:

(1) For purposes of determining the “cubic feet per acre per year” in the review of an application for a dwelling pursuant to BCC 60.108(2), the county shall use the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service/Natural Resources Conservation Service (NRCS) soil survey information, USDA Forest Service plant association guides, Oregon Department of Revenue western Oregon site class maps, or other information determined by the State Forester to be of comparable quality. Where such data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data as explained in the Oregon Department of Forestry’s Technical Bulletin entitled “Land Use Planning Notes Number 3 dated April 1998” or successor document and be approved by the Oregon Department of Forestry.

(2) For purposes other than those described in subsection (1), the County shall use the soil designation most recently published by the Natural Resources Conservation Service, except that the County may use more detailed soils data provided it is related to the NRCS land capability classification and is prepared by a soils scientist certified for changing soil designations by the Oregon Department of Agriculture.

Applicant Response: In the event that soil designation is necessary, Applicant understands that the County shall use the soil designation most recently published by the NRCS, except that the County may use more detailed soils data, provided it is related to the NRCS land capability classification and is prepared by a soils scientist certified for changing soil designations by the Oregon Department of Agriculture.

G. BCC 60.105 Permitted Uses Allowed in the Forest Conservation Zone.

Applicant Response: The Project is not a permitted use in the zone and so this section does not apply.

H. BCC 60.106 to 60.109 Dwellings In Forest Conservation Zone.

Applicant Response: The Project does not include a dwelling and so these sections do not apply.

I. BCC 60.205 Conditional Uses Subject to Approval by the Planning Official.

Applicant Response: As detailed below, the proposed uses on the FC-zoned properties require review and approval by the Planning Commission, not the Planning Official; therefore, this section does not apply.

J. BCC 60.215 Conditional Uses Subject to Review by the Planning Commission. This section states:

The following uses may be allowed in the Forest Conservation Zone by a conditional use permit approved by the Planning Commission in conformance with the criteria set forth in BCC 60.220, 53.215, and 53.220.

(11) 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.

Applicant Response: Whether serving the existing or proposed disposal site, the proposed Project elements on the FC-zoned land fall into the category of equipment, facilities, or buildings necessary for the landfill operation. Coffin Butte Landfill has been approved by the County Commissioners and is operating under DEQ Permit #306 (Exs. 23-25). For the above-noted reasons, a CUP can be approved by the Planning Commission for the FC-zoned portions of the property.

K. BCC 60.220 Conditional Use Criteria. This section states:

(1) A use allowed under BCC 60.205 or 60.215 may be approved only upon findings that the use:

(a) Will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands[.]

Applicant Response: Applicant notes that this section by its terms only applies to the development on the FC-zoned property. As noted above, however, the existing farm and forest uses on the Adjacent Properties and in the area have developed over the years while operating adjacent to Coffin Butte Landfill and its subsidiary operations. Based upon the above findings, the relocation of the working face south of Coffin Butte Road will not materially affect or increase negative impacts on surrounding properties, whether in farm or forest or residential use. Most of the FC-zoned property that is part of the Project is currently being used for equipment, facilities, or buildings accessory to the landfill use; they are simply being relocated to accommodate the new working face.

The new or relocated elements that are proposed on the FC-zoned lands are an 1,800-square-foot employee building and parking, access road modifications, the relocation of leachate ponds, leachate loadout, leachate sump, an outbound scale, portions of the perimeter landfill road, cut activities for landfill, and a shop/maintenance area to support the landfill. These elements will slightly reduce the amount of land that is available for farm and forest uses; however, except as noted below the farm use on Tax Lot 1200, the area of these improvements is not actively engaged in commercial farm or forest activities within the meaning of BCC 51.020(15) and (24)(a) and is currently used for landfill operations or other non-forest or non-agricultural use. The majority of the surrounding properties are owned by Applicant and are engaged in commercial farming operations and/or open space/buffer uses.⁴⁷ For reasons stated previously, the proposal will not substantially impact public roads that serve the area or substantially interfere with uses on Adjacent and Nearby Properties. Furthermore, the primary access to the site will continue to be from Coffin Butte Road. Other than slightly reducing the amount of land that can be used for farming or forest practices, the proposal will not impact farming or forestry activities in the area; thus, it will not force a change or increase the cost of these activities. The proposal therefore conforms to this approval criterion.

⁴⁷ Applicant notes that use of forest land for buffer areas or visual separation of conflicting uses is a “forest use” within the mean of BCC 51.020 (24) (b).

(b) Will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel[.]

Applicant Response: The elements that are proposed on the FC-zoned lands include an 1,800-square-foot employee building and parking, access road modifications, the relocation of leachate ponds, leachate loadout, leachate sump, an outbound scale, portions of the perimeter landfill road, cut activities for landfill, and a shop/maintenance area to support the landfill. Furthermore, the roadway system will not be significantly altered by the design (a left-turn lane and bike lanes will be added, as well as stormwater management facilities).

The Fire Risk Assessment Report, attached as Exhibit 20, details the lack of fire risks and describes Applicant's Fire Mitigation Plan and protocols for the entire landfill operation. The conclusion of the report is that "operations at Coffin Butte Landfill do not present a significant fire risk."

For the above-noted reasons, the proposed improvements on the FC-zoned land will not significantly increase fire hazard or suppression costs or significantly increase risks to fire-suppression personnel.

(c) Complies with criteria set forth in BCC 53.215 and 53.220.

Applicant Response: A comprehensive review of the referenced sections was included above. The above-noted findings are incorporated herein.

(2) As a condition of approval of a conditional use permit, the owner shall sign the following declaratory statement to be recorded into the County Deed Records for the subject property on which the conditional use is located that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules, and that recognizes the hazards associated with the area:

The property herein described is situated in the Forest Conservation Zone in Benton County, Oregon. The purpose of such zone is to conserve forest land, promote the management and growing of trees, support the harvesting of trees and primary processing of wood products, minimize conflicts with forest and farm uses, and protect the air, water, and wildlife resources in the zone. Residents may be subjected to customary forest or farm management practices

which produce noise, dust, fumes, smoke, and other impacts. The resource nature of surrounding properties can result in herbicide and pesticide spraying, slash burning, timber cutting, farm operations, crown fires, hunting, use by big-game, bears, and cougar, and other accepted resource management practices. (Crown fires are fast-moving, high-intensity forest fires in which the fire spreads from one tree crown to the next rather than only along the ground.) Resource uses are the preferred uses in this zone. Activities by residents can create management difficulties or increased costs for nearby farm or forest operations. Grantee acknowledges the need to avoid activities that negatively impact nearby farm or forest uses.

In consideration for the approval by Benton County of the following use: _____, the grantee, including heirs, assigns and lessees, recognizes that such impacts are likely to occur, and agrees therefore that no action shall be brought at law or before any governmental body or agency involving the non-negligent utilization or continuation of accepted resource-management practices such as, but not limited to, the examples noted above. As used in this section, “accepted resource management practices” means a mode of operation that is authorized under the Forest Practices Act or necessary to a farm or forest operation to obtain a profit in money.

Applicant Response: Upon approval and as required by this section, Applicant will execute the above-noted declaratory statement and have it recorded in the Benton County deed records. This requirement is included as a condition of approval in Exhibit 21.

L. BCC 60.305 to 60.330 (Creation of New Parcels or Lots; Property Line Adjustments).

Applicant Response: The proposal does not include the creation of new lots or parcels, or a property line adjustment; therefore, these sections do not apply.

M. BCC 60.405 Siting Standards and Requirements. This section states:

All new structures allowed in the Forest Conservation Zone shall be sited in compliance with BCC Chapter 99 and the following standards designed to make such uses compatible

with forest operations and agriculture, to minimize wildfire hazards and risks, and to conserve values found on forest lands:

(1) The owner of any new structure shall maintain a primary and secondary fuel-free fire-break surrounding the structure on land that is owned or controlled by the owner, in accordance with the provisions in “Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads” dated March 1, 1991, and published by the Oregon Department of Forestry.

Applicant Response: The only proposed new structures are the employee building on Tax Lot 1101 and the proposed shop on Tax Lot 1200. Applicant owns the property upon which these structures are proposed, along with all surrounding properties. Applicant proposes structures that conform to the provisions of this section. See Ex. 2, sheets 5, 11, and 12. The final design of the shop building has not been determined, but it can be sited in the designated area in compliance with the requirements of this section. See Ex. 2, sheet 5.

(2) Non-residential structures shall be located at least twenty (20) feet from a parcel or lot line, except no setback is required for a structure of 120 square feet or less. A required side or rear setback for a non-residential structure may be reduced to three (3) feet if the structure:

- (a) Is detached from other buildings by five (5) feet or more;**
- (b) Does not exceed a height of twenty (20) feet; and**
- (c) Does not exceed an area of 500 square feet.**

Applicant Response: As detailed on the site plan, the new employee building and shop proposed to be located at least 20 feet from all property lines, which conforms to the provisions of this section. See Ex. 2, sheets 5 and 6.

(3) A structure which is not a water dependent use shall be placed at least fifty (50) feet from the ordinary high water line of any river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least twenty-five (25) feet from the ordinary high water line.

Applicant Response: The structures are not water-dependent and there is not a river or major stream in the vicinity of the proposed buildings; the buildings therefore conform to this standard.

(4) All new development approved by Benton County shall have a site specific development plan addressing emergency water supplies for fire protection which is approved by the local fire protection agency[.]

Applicant Response: Coffin Butte Landfill is currently served by the Adair Fire Protection District and therefore has access to water in emergency circumstances. In addition, as noted in the Fire Risk Assessment Report (Ex. 20), the landfill has a site-specific fire mitigation plan. As noted in the report, Applicant maintains a 4,000-gallon water truck with spray bar and hose attachment on site that is used routinely in dry weather for dust control and can be used as an emergency water supply for firefighting. Applicant is in compliance with this requirement.

(5) All buildings shall have roofs constructed of materials defined under the Uniform Building Code as either Class A or Class B (such as but not limited to composite mineral shingles or sheets, exposed concrete slab, ferrous or copper sheets, slate shingles, clay tiles or cement tiles).

Applicant Response: Upon approval, Applicant will finalize the building plans and will ensure that roof design conforms to the requirements of this section.

(6) All new structures shall be sited on the lot or parcel so that:

(a) They have the least impact on forest operations and accepted farming practices on nearby or adjoining lands[.]

Applicant Response: While the employee building and the shop/maintenance area are the only new structures, the proposal also includes access roads, a scale, and leachate ponds to which this section may apply. The new employee building is located near the existing office building and surrounded by the disposal site and/or buffer lands. The proposed location will not impact farming or forest activities on any nearby or adjoining lands. The employee building is designed to add supporting facilities for the current employees, so will not materially increase traffic or parking on the site. The leachate ponds and shop/maintenance area are proposed to be located in an area of Tax Lot 1200 that is currently farmed under lease; however, the property also contains a gas-to-energy plant and the properties to the west and north are zoned LS, to the east is Highway 99W, and to the south is additional land that is owned by

Applicant and maintained as open space. As noted above, the lessee leases other farmland from VLI west of Soap Creek Road, so the loss of some of the lands on Tax Lot 1200 for farming could have some impact on the lessee's farming operations on those lands in terms of economies of scale. That impact is mitigated by the fact that the other leased properties are located over three quarters of a mile away. Also, the lease specifically provides for termination if VLI needs any of the lands for landfill operations. See Ex. 31. Finally, the improvements are located on the western side of the farmed portion of Tax Lot 1200, leaving approximately 40 percent of the farmed portion of the property available for farming. The leachate ponds and the shop/maintenance area on the subject property will not significantly impact farming or forest operations on any nearby or adjoining lands.

Overall, the proposed design will not significantly impact forest operations and accepted farming practices on nearby or adjoining lands and will be sited to have the least impact. The proposal complies with this criterion.

(b) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

As noted above, the new structures are clustered on the western boundary of Tax Lot 1200, minimizing the loss of farmed property to the degree practicable. The lease provides for termination by VLI upon 30 days' notice if VLI determines that it needs the property for use or development of the landfill. The lease further provides, however, that the tenant is not required to surrender the property until the harvesting of any crops planted prior to the date of the notice of termination. This mitigates the impact of the termination on the farming operation.

(c) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized[.]

Applicant Response: These provisions generally require that the Project be sited to minimize the impacts on forest lands. The relocated leachate ponds have been sized to accommodate the needs of the site and are not oversized. Furthermore, rather than utilizing the majority of the flatter land, these have been designed into the existing slope, which will lessen the amount of grading needed and lessen the amount of currently farmed land that will be impacted. Regarding the employee building, this is proposed to be as small as needed and clustered near the existing office and nearest to the existing road and access drive, so that additional driveways and parking areas are not needed. Lastly, the access-road modifications are not located in any area where farm or forest operations are occurring.

Overall, the building, access drives, and leachate pond locations have been designed and proposed to sizes and in locations that will minimize their impacts on farm and forest operation on the subject property in conformance with these approval criteria.

(d) The risks associated with wildfire are minimized.

Applicant Response: The elements that are proposed on the FC-zoned lands are an 1,800-square-foot employee building and parking, access road modifications, the relocation of leachate ponds, leachate loadout, leachate sump, an outbound scale, portions of the perimeter landfill road, cut activities for landfill, and a shop/maintenance area to support the landfill. Although this criterion applies only to land in the FC zone, Applicant conducted a fire risk assessment for the entire landfill operation, attached as Exhibit 20. After assessing Applicant's Fire Mitigation Plan and the types of fires that could occur, the report concludes that "operations at the Coffin Butte Landfill do not present a significant fire risk." The Project is in conformance with this approval criterion.

(7) To satisfy the criteria in BCC 60.405(6), the Planning Official may require that new structures be sited close to existing roads, clustered near existing structures, and sited on that portion of the parcel least suited for growing trees.

Applicant Response: As documented on the site plan, the new employee building is proposed in close proximity to the current Coffin Butte Road and office building. Furthermore, it is served by the existing drive. As proposed, the application conforms to this criterion.

N. BCC 60.410 Additional Siting Standards and Conditions for Dwellings.

Applicant Response: The Project does not include a dwelling; therefore, this section does not apply.

VI. COMPLIANCE WITH BCC CHAPTER 87—GOAL 5 RESOURCES.

A. **BCC 87.010 Application (Wetland Overlay Zone).** This section states:

The Wetland Overlay Zone shall apply to the Jackson-Frazier Wetland as inventoried in the February 1991 ESEE Analysis adopted into the Natural Resources and Hazards Background Report of the Benton County Comprehensive Plan.

Applicant Response: While the landfill site contains wetlands, it is not part of the Jackson-Frazier Wetland and is not located within the Wetland Overlay zone, and there are no other Goal 5-designated wetlands on the Development Site. For these reasons, this section does not apply.

B. **BCC 87.200 Purpose (Sensitive Fish and Wildlife Habitat Zone).**

This section states:

The Sensitive Fish and Wildlife Habitat Overlay Zone shall protect sensitive habitats not protected by other programs such as the Willamette River Greenway Program, the Oregon Forest Practices Act or the “Cooperative Agreement between the Board of Forestry and the Fish and Wildlife Commission.” The zone shall protect areas that have been identified by Oregon Department of Fish and Wildlife or Oregon Department of Forestry as containing a significant nesting, or roosting site or watering habitat for species that are classified as threatened or endangered and areas designated as sensitive bird nesting, roosting, or watering sites. Habitat protection shall be achieved through the use of site specific management plans that ensure that proposed uses and activities will not destroy or result in the abandonment of these areas.

Applicant Response: The subject property is not located in the labeled Sensitive Fish and Wildlife Habitat Overlay on the Benton County Zoning Map. This section does not apply to the Project.

VII. COMPLIANCE WITH BCC CHAPTER 99—GENERAL DEVELOPMENT STANDARDS

A. **BCC 99.005 Scope.** This section states:

All development within Benton County, including land partitions, subdivisions and associated land development, and the construction of residential dwellings, industrial, commercial, or public buildings and other accessory structures shall conform to applicable standards of this chapter.

Applicant Response: The proposal includes development within Benton County; this chapter therefore applies. The applicable sections of this chapter are noted below.

B. **BCC 99.105 to 99.115.** These sections state:

BCC 99.105 Description of Sensitive Land.

Certain land characteristics may render a site "sensitive" to development. Sensitive land includes, but is not limited to:

(1) Land having geologic hazard potential or identified by the Oregon Department of Geology and Mineral Industries in Geologic Hazards of Eastern Benton County or Preliminary Earthquake Hazard and Risk Assessment and Water-Induced Landslide Hazard in Benton County, Oregon, hereby incorporated by reference.

(2) Land containing soils subject to high erosion hazard when disturbed, or lands containing soils subject to high shrink-swell potential as identified by the USDA Soil Conservation Service in the Soil Survey of Benton County Area, Oregon, or the Soil Survey of Alsea Area, Oregon, hereby incorporated by reference, or by a successor document produced by the USDA Soil Conservation Service or a successor agency.

Applicant Response: There appear to be sensitive lands located in areas of the development site.

BCC 99.110 Consideration.

An applicant for a land division or building permit shall consider the geology, topography, soils, vegetation and hydrology of the land when designing a parcel or lot, or siting improvements. The Planning Official or Building Official may impose conditions or modifications necessary to mitigate potential hazards or otherwise provide for compliance with adopted Comprehensive Plan policies, and may require an erosion and sediment control permit. The Planning Official or Building Official shall consider the recommendation of the County Engineer, municipal officials within urban growth boundaries, and other technical sources in the determination of sensitive land conditions and mitigating measures.

Applicant Response: The Application does not include any land divisions but does include structures that will require building permits. As noted previously in this Burden of Proof, Applicant has submitted significant geotechnical, groundwater, and drainage analyses that demonstrate that the Project may be safely sited as designed on the development. See Exs. 5, 16, and 17. Applicant expects to be required to obtain an erosion control permit at the time of any ground disturbance to construct site improvements.

BCC 99.115 Mitigating Sensitive Land Conditions.

The following guidelines shall be considered in the establishment of conditions and mitigating measures:

- (1) Roads should be located in upland areas on benches, ridge tops and gentle slopes as opposed to steep hillsides and narrow canyon bottoms.**
- (2) Native vegetation removal or soil disturbance should be minimized on moderate and steep slopes and hillsides. If possible, avoid such activities during winter months.**
- (3) Surface water runoff should be minimized or provide appropriate means for handling surface water runoff.**
- (4) Techniques should be utilized that minimize erosion, such as protective groundcover.**
- (5) Engineering assessment of hazard potential should be required for land development.**

(6) Geotechnical investigations should be required for roads and foundations in slide-prone areas.

Applicant Response: Again, Applicant has submitted significant geotechnical, groundwater, and drainage analyses that demonstrate that the Project may be safely sited as designed on the development. See Exs. 5, 16, and 17.

BCC 99.225 Development Activities in Wetlands. This section states:

(1) If the subject property is situated wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory on file in the office of the Benton County Community Development Department, and if a permit from the Department of State Lands has not been issued for the proposed activity, the Planning Official shall provide notice to the Division of State Lands, the applicant, and the owner of record within five days of receipt of the following types of applications:

(a) Subdivisions planned unit developments.

(b) Building permits for new structures.

(c) Conditional use permits and variances that involve physical alterations to the land or construction of new structures.

(d) Other development permits and approvals that allow physical alteration of the land, including development in the floodplain.

(2) Benton County shall process the land use application and respond to comments from the Department of State Lands consistent with the policies and procedures of that Department.

Applicant Response: The subject property contains wetlands; therefore, Applicant understands that notice may be sent to DSL. Applicant will conduct a wetlands delineation, and if a wetland is impacted, it will be mitigated through coordination with DSL. There is a mitigation wetland located on site that was protected by covenants in 2017 as result of a prior fill/removal permit approved by DSL, which required mitigation. The proposed expansion does not impact this mitigation wetland. The draft conditions of approval require Applicant to complete a wetland delineation in compliance with DSL requirements. See Ex. 21.

D. BCC 99.405 General Rule of Frontage. This section states:

(1) Every new dwelling and new structure designed for commercial, industrial, or public occupancy which is not part of an existing use on a parcel or lot shall be sited on a parcel or lot which has a minimum of twenty-five (25) feet of frontage along an improved public road.

Applicant Response: The only new structures is the employee building which will be located on property with frontage on Coffin Butte and Soap Creek roads. There will be over 25 feet of frontage on both roads. The proposal therefore complies with this standard.

E. BCC 99.505 Dedication of Right-of-Way. This section states:

(1) An applicant for a partition within an urban growth boundary may be required to dedicate right-of-way as a condition of approval to provide for the future development or improvement of existing and planned transportation facilities in accordance with adopted Comprehensive Plan policies and requirements.

(2) Where an existing road right-of-way does not comply with the minimum County standard for the applicable road classification, an applicant for a partition located in a non-resource zone shall dedicate to the County sufficient right-of-way to meet the minimum County road standard along the frontage of the parcel or lot being divided. Such dedication shall occur prior to final approval of the partition. Such dedication will not be required:

(a) Where the applicant signs a covenant to be recorded in County Deed Records waiving building rights until such time as sufficient right-of-way is dedicated or otherwise acquired; or

(b) Where the partition does not result in the creation of one or more developable parcels or lots. A newly created parcel or lot shall not be considered developable if no new dwelling or use can be located on the parcel or lot without further partitioning or without first obtaining a conditional use permit.

(3) Property acquired for public road purposes shall be surveyed and monumented by the County.

Applicant Response: The provisions of this section apply to partitions. The proposal is not for a partition; the majority of this section is therefore not applicable. In the event that survey work or monumentation for the Coffin Butte Road improvements are needed, Applicant will complete such survey and monumenting work.

F. BCC 99.510 Road Approach Permits. This section states:

(1) If a new road approach is proposed, the applicant shall obtain a road approach permit prior to construction of the road approach. If the proposed road approach would connect to a State highway, the permit shall be obtained from the State Highway Division. If the proposed road approach would connect to any other public road, the permit shall be acquired from Benton County. A road approach permit is not required for the construction of an approach connecting with a private road or street.

(2) A new road approach shall be constructed in accordance with the specifications prescribed by the County Engineer or the State Highway Division. The specifications shall be related to the use of the driveway, the nature of the adjoining public road, and the characteristics of drainage structure at the selected location.

(3) An occupancy permit or final inspection approval required in accordance with the State Building Code shall not be issued for any structure on a parcel or lot with a road approach which was installed in violation of permit requirements, specifications, or conditions. [Ord 90-0069]

Applicant Response: The proposal will modify the access point on the south side of Coffin Butte Road, removing the access point serving the existing leachate ponds and relocating the access point serving the power facility (to serve the southern development area). Applicant will obtain all permits needed for these modifications prior to initiating the use.

G. BCC 99.515 Road Design and Construction Standards. This section states:

(1) Schematic layout of proposed public and private roads or streets shall adhere to the following general guidelines:

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- (a) Streets should be aligned to join with planned collector and arterial streets and/or existing streets.
- (b) Streets should be designed to respect topography and meet all applicable engineering standards.
- (c) Intersections shall be approximate or actual right angles.
- (d) Surface drainage shall be toward the intersecting street or through a drainage easement on abutting parcels or lots.
- (e) Cul-de-sacs shall end with a minimum turning radius of 45 feet; however, for cul-de-sacs less than 200 feet in length within areas zoned for single-family residential use, an alternative design (“T”, “Y”, or other) or location may be approved by the County Engineer.
- (f) Cul-de-sacs in excess of 900 feet in length within commercial or industrial areas or which serve more than 20 residential parcels or lots shall provide a secondary means of access for emergency use (fire lane).
- (g) Dead-end streets shall be designed to connect with future streets on adjacent property. A temporary turn-around may be required.
- (h) The County may reserve a one foot wide strip of public road right-of-way adjoining private land for the purpose of controlling access.
- (i) Development containing more than twenty (20) parcels or lots shall contain multiple points of access into the development.
- (j) Geometric design will follow AASHTO: A POLICY ON GEOMETRIC DESIGN OF HIGHWAYS & STREETS, 1984 ED., standards, except when the County Engineer finds terrain or other conditions making it impossible or unfeasible to do so.

Applicant Response: The proposal includes improvements to Coffin Butte Road. As documented on the site plans, the design includes adding bike lanes and a left-turn lane, and related storm-drainage improvements. The proposed improvements conform to County standards and the provisions of this section.

No dead-end streets or cul-de-sacs are proposed. The proposed improvements conform to the standards of this section. See Ex. 2, sheets 5, 7, 8, and 24.

(2) All roads within existing or proposed public right-of-way located outside of an Urban Growth Boundary shall be designed and constructed pursuant to the Rural Design Criteria identified in Table I and Figure II. Plans and construction shall be approved by the County Engineer.

TABLE I, RURAL DESIGN STANDARDS

Local road standards are designated as RL-1, RL-2 and RL-3. Collector standards are designated as RC-1 and RC-2. Arterial standards are designated as RA-1 and RA-2.

<u>Standard</u>	<u>Zones</u>	<u>Projected ADT</u>	<u>Projected DHV</u>	<u>Minimum ROW</u>	<u>Surface Width</u>	<u>Paving Material</u>	<u>Crushed Base Equivalent</u>
RL-1	Resource	0-100	<30/hr	50 ft	18 ft	AC,PCC, APM	18 inches
RL-2	Dead end RR	0-200	<30/hr	50 ft	18 ft	AC,PCC APM	18 inches
RL-3	Resource, RR <1,000ft	100-750	<100/hr	60 ft	20 ft	4 inch AC,PCC	18 inches
RC-1	Resource	100-750	<100/hr	60 ft	20 ft	4 inch AC,PCC	18 inches
RC-2	Resource, RR	750-2000	<300/hr	60-70ft	24 ft	4 inch AC,PCC	20 inches
RA-1	All zones	1000-5000	<900/hr	80 ft	24-34ft	6 inch AC,PCC	20 inches
RA-2	All zones	>5000	>900/hr	100 ft	50-70ft	6 inch AC,PCC	24 inches

<u>Standard</u>	<u>Shoulder</u>	<u>Maximum Grade</u>	<u>Bike Path</u>	<u>Min. Curve Radius</u>	<u>Design Speed</u>	<u>Parking</u>	<u>Road Approach</u>
RL-1	4 ft gravel	17%	None	200 ft	30 mph	Limited Emergency	Shared 400ft gap
RL-2	4 ft gravel	15%	None	200 ft	30 mph	Parking Allowed	Shared 250ft gap
RL-3	5 ft paved	15%	RR Zone Class III	250 ft	30 mph	Limited Emergency	Shared 450ft gap
RC-1	5 ft paved	12%	RR Zone Class III	500 ft	45 mph	Emergency Only	Shared 400ft gap
RC-2	5 ft paved	10%	RR Zone Class III	760 ft	45 mph	Emergency Only	Shared 400ft gap
RA-1	6 ft paved	5%-8%	All zones Class III	800 ft	50 mph	Emergency Only	None
RA-2	6ft-12ft paved	4%-6%	All zones Class III	800 ft	50 mph	Emergency Only	None

Applicant Response: The improvements to Coffin Butte Road include only a left-turn lane and bike lanes. The proposed improvements conform to the requirements of this section and the County TSP. See Exs. 2 and 15.

The standards of this section are consistent with the cross-section of the County TSP; therefore, the proposed design and planned improvements are consistent with this section.

(3) All roads within existing or proposed public right-of-way located within an Urban Growth Boundary shall be designed and constructed pursuant to Urban Design Criteria identified in Table II and Figure III. Plans shall be reviewed and approved by the County Engineer in consultation with public works staff of the appropriate city.

Applicant Response: The property is not located within a UGB; therefore, this section does not apply.

(4) A private road or street created by partition, or an existing private or public road which provides for access to parcels or lots created by partition shall be improved to the following County Secondary Road Standards. Required plans and construction of improvements shall be inspected and approved by the County Engineer, and the applicant shall pay an engineering review fee[.]

Applicant Response: No partitions are proposed; therefore, this section does not apply.

(5) For the protection of the public interest, the County Engineer may require improvements in excess of adopted standards, if terrain or other conditions warrant such a change.

Applicant Response: The proposed roadway improvements have been designed by an engineering firm licensed in the State of Oregon, along with a traffic engineer licensed in the State of Oregon. The qualified professionals working on the Project have designed roadway improvements that conform to County standards and engineering best practices. Applicant understands that this section allows the County Engineer to require additional improvements, if warranted.

(6) Additional off-site improvements may be required as a conditions of land division if it is found by the Planning Official, County Engineer, Planning Commission or Board of Commissioners that the land division will have a significant impact on the level of service or maintenance costs for existing roads, drainage, or other public facilities.

Applicant Response: The proposal does not include a land division; therefore, this section does not apply.

H. BCC 99.520 Improvements in a Public Right-of-Way. This section states:

An applicant intending to construct or upgrade a roadway within a public right-of-way shall be responsible for design and installation of all improvements within the public road right-of-way. Such improvements shall commence from an existing improved public roadway and continue to the subject property and twenty-five (25) feet along the frontage of the proposed parcel or lot, or to the private driveway serving the building site, whichever is greater. Required plans and construction of improvements shall be inspected and approved by the County Engineer.

Applicant Response: The proposal includes improvements in Coffin Butte Road (left-turn lane, bike lanes, and related stormwater improvements). Applicant understands that it will be responsible for design and installation of all improvements and plans to do so in accordance with the provisions of this section. See Ex. 2, sheets 5, 7, and 8.

I. BCC 99.605 Annexation to Fire District Required. This section states:

If a proposed parcel or lot in a non-resource zone abuts a rural fire protection district, the applicant shall petition for and obtain annexation to the district prior to final approval of a land division.

Applicant Response: The application does not propose creating a new parcel or lot, and the entire Project is currently within the Adair Fire District, so annexation is not necessary.

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- J. BCC 99.650 Definitions.** As used in BCC 99.650 through 99.680 (Stormwater Management).

Applicant Response: The definitions of this section are used through this narrative, and Applicant understands that the definitions will be used through the review of this application.

- K. BCC 99.660 Erosion and Sediment Control.** This section states:

(1) Purpose: The purpose of this section is to:

(a) Preserve and enhance the health, safety, welfare, financial investment in public and private infrastructure, private property value, and the quality of life of the inhabitants of Benton County by minimizing the risk of flooding, erosion, sedimentation, and other stormwater impacts; and

(b) Maintain or improve water quality within Benton County as required under State and Federal National Pollution Discharge Elimination System law.

Applicant Response: This section establishes a purpose; however, it does not contain any measurable development standards or approval criteria. Applicant understands that conformance with the standards of this section will ensure consistency with the purpose stated in this section.

(2) Applicability. The provisions of this section shall apply to all unincorporated areas of Benton County.

Applicant Response: The subject property is within an unincorporated area of Benton County; this section therefore applies. Upon approval of this CUP and prior to construction activities, Applicant plans to apply for all required additional development permits, including those related to erosion and sediment control, described in this section.

- L. BCC 99.670 Long-Term Stormwater Management.** This section states:

99.670 Post-Construction Stormwater Management

(1) Purpose. Establish stormwater management requirements and controls to protect and safeguard the health, safety, welfare, financial investment in public and private

infrastructure, and private property value, and minimize flooding and sedimentation in areas where structural and non-structural stormwater management is required to improve water quality and manage post construction runoff from new development and redevelopment projects that result in the creation or replacement (re-development) of 0.25 acres (10,890 square feet) or more of impervious surface.

(2) Applicability. Land development within unincorporated Benton County shall comply with the requirements of this section.

(3) Permit Required. A property owner increasing or replacing the impervious surface on a property shall comply with this section and the technical standards outlined in the Stormwater Support Documents. An individual construction that does not exceed the 0.25-acre threshold on its own shall nonetheless contribute to the cumulative threshold as described in subsection (a)(B) of this section.

(a) An approved Post-Construction Stormwater Permit shall be obtained prior to initiation of ground-disturbing activities if both (A) and (B) are met (exceptions are listed in subsection (b):

(A) The plan of development or redevelopment is associated with:

(i) Construction or land uses that require a permit or other review by Benton County; and

(ii) Any of the following:

(1) Construction of a public or private road, driveway, or structure; or

(2) Site preparation, associated installations (such as a septic system drainfield, ground-source heat pump, or tennis court), landscaping, clearing vegetation and other ground-disturbing activities related to new development or redevelopment construction.

(B) The total area of proposed new and replaced impervious surface combined with the cumulative total of all impervious surface established since March 1, 2023, will be 0.25 acre (10,890 square feet) or more. For subdivisions

and partitions, impervious surface area that will be established through construction on resulting lots/parcels shall be addressed through a Post-Construction Stormwater Permit approved prior to final plat approval, as described in subsection (4)(b).

(b) Exempt Activities. The following activities are exempt from the permit requirement in subsection 3(a):

(A) Accepted farm practices;

(B) Construction of buildings used exclusively for agricultural purposes and located outside the MS4. The applicant shall demonstrate to the satisfaction of the Planning Official that the structure will be used only for agricultural purposes. The Planning Official may require a deed restriction acknowledging and notifying future property owners of the limitation on use of the structure;

(C) Forest practices performed pursuant to the Oregon Forest Practices Rules. Upon completion of such forest practices or expiration of Forest Practices authorization, a Benton County Post-Construction Stormwater Permit is required unless the land has been replanted at stocking levels consistent with Oregon Department of Forestry standards;

(D) Excavations for gas or oil facilities for which the operator demonstrates compliance with 40 CFR § 122.26;

(E) Emergency measures to protect life, property, public infrastructure, or essential services, in which case a Stormwater Site Plan approval shall be obtained as soon as possible after-the-fact;

(F) Fish passage, stream enhancement, and wildlife habitat projects that comply with local, state and federal standards and permit requirements, provided that evidence of such compliance is submitted to Benton County Public Works prior to initiation of the activity;

(G) Repairs to any stormwater facility as deemed necessary by Benton County;

(H) Mining activities performed pursuant to applicable state permit requirements;

(l) Activities, conducted by public agencies, that meet or exceed state or federal standards for post-construction stormwater management.

(4) Permit Procedures and Requirements.

(a) The property owner shall submit all of the following:

(A) Post-Construction Stormwater Permit Application form.

(B) Post-Construction Stormwater site plan and additional documentation deemed appropriate by the County Engineer and/or Planning Official to demonstrate compliance with this section. Stormwater detention and treatment shall be:

- (i) Designed in accordance with the Stormwater Support Documents, as interpreted by the County Engineer. Within the urban growth boundary of an incorporated city, structural and non-structural requirements will be consistent with the current standards of the pertinent city; and**
- (ii) Designed to accommodate the cumulative total of all impervious surface established since March 1, 2023, including the proposed additional impervious surface.**

(C) Fee(s) established by the Board of County Commissioners.

(D) The Post-Construction Stormwater Management Plan shall be designed, stamped and signed by a engineering geologist or engineer licensed in the State of Oregon.

(b) Subdivision or Partitions. The Post-Construction Stormwater site plan and permit application shall address all impervious surface that will be established by the subdivision or partition, including but not limited to roads and other infrastructure, dwellings, accessory structures and driveways. Maximum impervious surface area that may be established on each lot or parcel shall be specified and shall be memorialized in a deed restriction running with the lot or parcel or on the plat. Stormwater treatment and detention for the entire buildout of impervious surfaces shall be designed and constructed prior to final plat approval.

(c) A Post-Construction Stormwater Permit may be issued upon determination by the County Engineer that the submitted materials demonstrate compliance with the requirements of this section and the property owner has entered into a Stormwater Management Facilities Long-Term Maintenance Agreement pursuant to subsection (6) of this section. To address specific conditions of a given site, the County Engineer may require modification to the proposed Site Plan and/or to the standard requirements of this section.

(d) Issuance or denial of a Post-Construction Stormwater Permit is not a land use decision and is not subject to the requirements of a land use decision including but not limited to BCC 51.535, BCC 51.605 through 51.625, and BCC 51.805 through 51.840.

(e) The County Engineer may, pursuant to the Stormwater Support Documents and in response to mitigating actions proposed by the applicant, determine that stormwater detention and treatment that would otherwise be indicated pursuant to subsection (3) of this section is not required. The County Engineer shall take such actions as necessary to ensure the long-term viability of such mitigations, including but not limited to requiring a long-term maintenance agreement or similar document.

(5) Improvements Agreement. Required stormwater infrastructure shall be subject to the Improvements Agreement provisions of BCC 99.905 through 99.925.

(6) Long-term Maintenance and Repair of Stormwater Facilities.

(a) Required stormwater facilities shall be constructed and maintained by the property owner.

(b) Stormwater facilities shall be maintained to current Benton County stormwater facility maintenance standards.

(c) The property owner shall enter into a Stormwater Management Facilities Long-Term Maintenance Agreement as required by the County Engineer. The Maintenance Agreement may, at the discretion of the County Engineer, include any or all of the following:

(A) Require the property owner to maintain and repair the stormwater facilities serving the property and located on the property or other private property;

(B) Require proper disposal of accumulated sediment;

(C) Authorize Benton County to enter the property to inspect and to effect emergency repairs or maintenance;

(D) Authorize the County Engineer to require that the property owner effect necessary repairs and maintenance;

(E) Authorize Benton County to bill the property owner for any costs incurred by the County to repair or maintain the facilities;

(F) Authorize the County to record a lien against the property to secure the County's costs in making corrections, plus interest and penalties;

(G) Run with the land as a covenant binding on current and future interest holders; and

(H) Establish other terms or provisions deemed necessary by the County Engineer to ensure the long-term functioning of the facility.

(d) For a stormwater facility serving a single property:

The stormwater facility shall be located on the property that is being served. As an alternative, the applicant may propose an off-site location but shall, through submitted design materials, easements, maintenance agreements and other mechanisms, demonstrate to the satisfaction of the County Engineer that the long-term viability of the facility will be preserved at the alternate location. The County Engineer's determination will be documented in issued Post-Construction Stormwater Permit.

Applicant Response: Stormwater controls have been designed to address the additional impervious areas as a result of the improvements to Coffin Butte Road, the new cell on the Development Site, and the new access roadway. See Ex. 2. See *also* Ex. 17 (CEC Preliminary Drainage Report). Applicant acknowledges that these improvements are subject to the Post-Construction Stormwater regulations under BCC 99.670 (1) to (3) and will be required to obtain a post-construction stormwater permit under subsections (3) and (4), and

Applicant will be required to enter into an infrastructure improvement agreement under subsection (5) and a Stormwater Management Long-Term maintenance agreement, if required by the County engineer, under subsection (6). Applicant understands that issuance of a post-construction stormwater permit is not a land use decision under subsection (4)(d) and therefore is not a criterion for approval of the CUP. However, in recognition that the requirement will be applicable to the stormwater improvements, Applicant has included in the draft Conditions of Approval a condition of approval requiring it to obtain the permit at the time of ground disturbance as required by subsection (3)(a).

M. BCC 99.705 to 99.850 Sewage Disposal and Water Supply.

Applicant Response: Water and sewer is not proposed to be extended to the development area. In the event that the employee building needs water and sewer accommodations, it will be served by the same well and subsurface facilities that serve the existing office building. These sections do not apply

N. BCC 99.905 to 99.925 Improvements Agreement. These sections provide:

99.905 Improvements Agreement. When required as a condition of development for a conditional use, partition, subdivision, planned unit development, or stormwater management permit, the applicant shall execute a standard improvements agreement provided by the County Engineer guaranteeing the construction of any required public improvements. The Agreement shall be recorded to put all purchasers and interested parties on notice. The agreement shall provide that:

(1) If at any time there is a breach in the agreement, the Building Official shall withhold issuance of all building permits within the subdivision or partition until such breaches have been satisfactorily corrected.

(2) The applicant shall be responsible for installing all required improvements, including, but not limited to, streets, storm drainage, pedestrian ways, water system, sewage system, etc., to the standards and specifications approved by the County Engineer and/or Board of Commissioners. All work shall be completed to the County Engineer's approval within 18 months of final plat approval, or when building permits have been issued on fifty percent (50%) of the parcels or lots, whichever comes first.

99.910 Review and Inspections. Plans for public improvements required as a condition of development shall be submitted for review and approval by the County Engineer. During the installation of improvements, the County Engineer shall conduct periodic inspections of work-in-progress. The County Engineer shall charge a fee for plans review and inspection services as established by Order of the Board of Commissioners.

99.915 Performance Guarantee.

(1) The applicant shall file with the County Engineer a performance guarantee to assure full and faithful performance. The guarantee shall be made in one of the following forms:

(a) An escrow of funds, irrevocable sight draft, letter of credit, franchised guarantee or other certification by a reputable lending institution. Such lending institution shall not be directly owned or controlled by the applicant. The amount of funds shall be released only upon authorization of the County Engineer.

(b) A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the County Counsel. The bond shall guarantee to the County that the financial backing is available so that all improvements will be completed and paid for within the time specified in BCC 99.905.

(2) The guarantee shall ensure that the applicant has funds committed in the amount determined by the County Engineer for the purpose of covering the cost of the improvements and repairs, including related engineering and incidental expenses. In the event of default by the applicant, the guarantee shall ensure that the County shall have, upon demand, funds to construct, complete or pay for all improvements or incidental expenses, including improvements full or partially constructed by the County, and bills which are outstanding for work done thereon by any party. [Ord 90-0069]

99.920 Calling the Guarantee. If the applicant fails to carry out provisions of the agreement and the County has unreimbursed costs or expenses resulting from such failure, the County shall call on the guarantee for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expense incurred, the remainder shall be released. If the amount of the bond or

cash deposit is less than the costs and expense incurred, the applicant shall be liable to the County for the difference.

99.925 Warranty. Upon completion of roadways and other public facilities to County standards and specifications, there shall be a minimum of three year warranty period prior to County consideration of acceptance of maintenance. Before this acceptance, maintenance and repair of public facilities shall be the duty of the applicant, developer, property owner, or of the homeowners association.

Applicant Response: The proposal includes public and private improvements. In the event that the County requires an improvement agreement, Applicant understands that the provisions of this section will apply.

VIII. OTHER ISSUES

Some who participated in the prior CUP request or BCTT raised issues on topics that are outside the jurisdiction of the County under the CUP criteria and/or are governed by DEQ or other state agency rules. In keeping with the spirit of the BCTT process, Applicant addresses those issues in this section.

A. Wildlife Habitat.

As noted above, the subject property is not within an environmental overlay zone as a designated Goal 5 resource and so is not subject to regulation by the County. Applicant does have to address wildlife habitat under state law as part of the DEQ permitting process. Applicant therefore engaged Turnstone to conduct Wildlife Habitat Assessment and Surveys (Ex. 4). Turnstone has assessed the wildlife needs/uses of the site. The report surveyed two historic blue heron rookeries (the “Western Rookery” and the “Eastern Rookery”) on the property from 2022 to 2024. No nesting pairs were observed in the Western Rookery, and so Turnstone determined that it is an abandoned Great Blue Heron Resource Site. Turnstone concluded that the Eastern Rookery is likely abandoned but recommends continuing surveys in 2025 to determine if the Eastern Rookery is inactive for a third consecutive year. If the Eastern Rookery is inactive in 2025, it will be deemed officially abandoned. See Ex. 4, Addendum. The draft conditions of approval provide for a survey in 2025 and require protection of the Eastern Rookery unless and until it is determined to be officially abandoned. The Turnstone Report documents that no other critical habitat exists on the site for bald eagles, deer and elk, or any other animal. The proposed expansion therefore does not impact any significant wildlife features of the site. Applicant’s lighting plan for the overall site will minimize additional light and glare in a way that will not negatively affect habitat. See Sight Lighting Summary, attached as Exhibit 19.

B. Archeological/cultural resources.

The subject property does not contain any County-designated historic or cultural resources under Goal 5 and is thus not subject to regulation by the County as part of the CUP process. Applicant is required to survey for such resources under state and federal law as part of the DEQ permitting process. Applicant has therefore contracted with Archeological Investigators Northwest Incorporated (“AINW”) to conduct an archeological assessment of the property and coordinate with the State Historic Preservation Office (attached as Exhibit 26). AINW did discover artifacts on site but recommends a finding that the landfill expansion will have “No Adverse Effect on Historic Properties,” subject to compliance with certain conditions. See Ex. 26. The draft conditions of approval require Applicant to comply with these requirements.

C. Leachate Management.

The Planning Commission denied the 2021 application in part based upon a finding that the increase in tanker-truck loads will burden the transportation corridor and place an undue burden on the Corvallis wastewater treatment plant. In addition, it was suggested that treated leachate creates water quality problems. There is no evidentiary basis for these conclusions. As outlined in the Leachate Management Summary, attached as Exhibit 27, leachate collection, transport, and treatment is regulated by DEQ under the Clean Water Act. Leachate is not “hazardous waste” within the meaning of the law, and testing at the landfill indicates that the level of regulated contaminants in leachate generated by Coffin Butte Landfill are either nondetectable or well under the EPA thresholds. See Ex. 27. As noted in the traffic study attached as Exhibit 15, the traffic generated by the landfill is well within the capacity of the street system, and leachate tankers have to comply with the same weight limits and taxation requirements as any other commercial truck. The leachate generated by the expansion will therefore put no “undue” burden on the transportation system. There are many other commercial trucks with heavier or more hazardous loads that regularly traverse the corridor (e.g., fuel tankers). The Project will initially generate more leachate from the landfill overall, but volumes will decrease over time as older cells are closed and will be minimized by Coffin Butte Landfill’s state-of-the-art leachate management system. See Ex. 27. Leachate is currently transported for treatment to the City of Corvallis and City of Salem wastewater-treatment plants, although Applicant is exploring a transition to a different facility to improve overall efficiencies. The City of Corvallis treatment permit expires December 31, 2025, and the City of Salem treatment permit expires on December 31, 2027.

Applicant recognizes that leachate regulation by the EPA and DEQ is likely to change during the lifetime of the Project. Applicant will be required to comply with any such regulations or Applicant will not be able to continue to operate. Approval of the Project will not materially change that obligation because it will apply equally to the leachate generated by current and future landfill operations. Environmental and other regulations applicable to landfill operations evolve over time, and Applicant will remain in compliance.

Leachate collection and disposal resulting from the Project will have no measurable impact on Adjacent Properties or Nearby Properties or the Analysis Area, and do not place an undue burden on any public facility or service.

D. Methane.

As noted, methane regulation is under the jurisdiction of DEQ. See CEC Report (Ex. 7). The CEC report details the permit modifications that will be required to move into the new cell and the requirements for compliance and ongoing monitoring. The CEC report also attaches DEQ’s guidance document. DEQ

regulates air quality requirements (methane, hydrogen sulfide, odor), leachate regulation, and protection of both ground and surface water, as well as protection for floodplains, wetlands, geotechnical/seismic considerations, and critical habitat. Applicant will have to demonstrate compliance with DEQ's air quality requirements to obtain modifications to the required permits to relocate the working face to the Development Site. These regulations and ongoing monitoring will ensure that the Development Site will not have off-site environmental impacts that will seriously interfere with surrounding uses or unduly burden public facilities or services. A report from Ian Macnab, Environmental Manager at Coffin Butte Landfill, attached as Exhibit 13, details the regulatory requirements and Applicant's practices to ensure that landfill gas is collected. These practices are also covered in Weaver Consulting Group Findings, attached as Exhibit 12. Attached to Exhibit 13 is the current Coffin Butte DEQ Title V Permit that includes emission limits, how emissions are monitored, methane-collection requirements, and the extensive reporting requirements to ensure ongoing compliance. Also attached to Exhibit 13 is a 2019 Hydrogen Sulfide Test Report that shows very low to nondetectable levels of hydrogen sulfide in Coffin Butte's landfill gas.

In February 2024, the Benton County Board of Commissioners raised some questions with regard to methane emissions and recent inspections by EPA of Coffin Butte Landfill. EPA is focusing on landfills across the country as a part of EPA's Strategic Plan to mitigate climate change by reducing methane emissions. As part of this enhanced focus on landfill emissions, Coffin Butte was inspected in June 2022 and again in June of 2024. The 2022 inspection has been the subject of numerous news stories, and Applicant worked with the EPA to take corrective measures. Applicant provided a comprehensive memorandum to the County about the 2022 inspection and Applicant's response. See Ex. 28. A final report from the 2024 EPA inspection is not yet available, but Applicant is aware that the inspectors found exceedances while conducting surface emissions monitoring. Applicant is addressing each exceedance as allowed in the regulations. Applicant will continue to work closely with regulators to demonstrate compliance and implement solutions, including, potentially, final capping on portions of the landfill.

The takeaways are that future operations at the Development Site must comply with all laws regulating methane and that it is Applicant's priority and practice to do, and the appropriate regulatory authorities have and will ensure that Applicant remains in compliance.

E. Arsenic.

Some stakeholders have expressed concern over arsenic in the drinking water. VLI had a seepage event in 1994 that resulted in elevated arsenic readings. VLI took various and appropriate corrective measures to correct the issue. Readings taken from compliance wells installed in 2011 have been stable with averages consistent with the background concentrations of arsenic in the Willamette

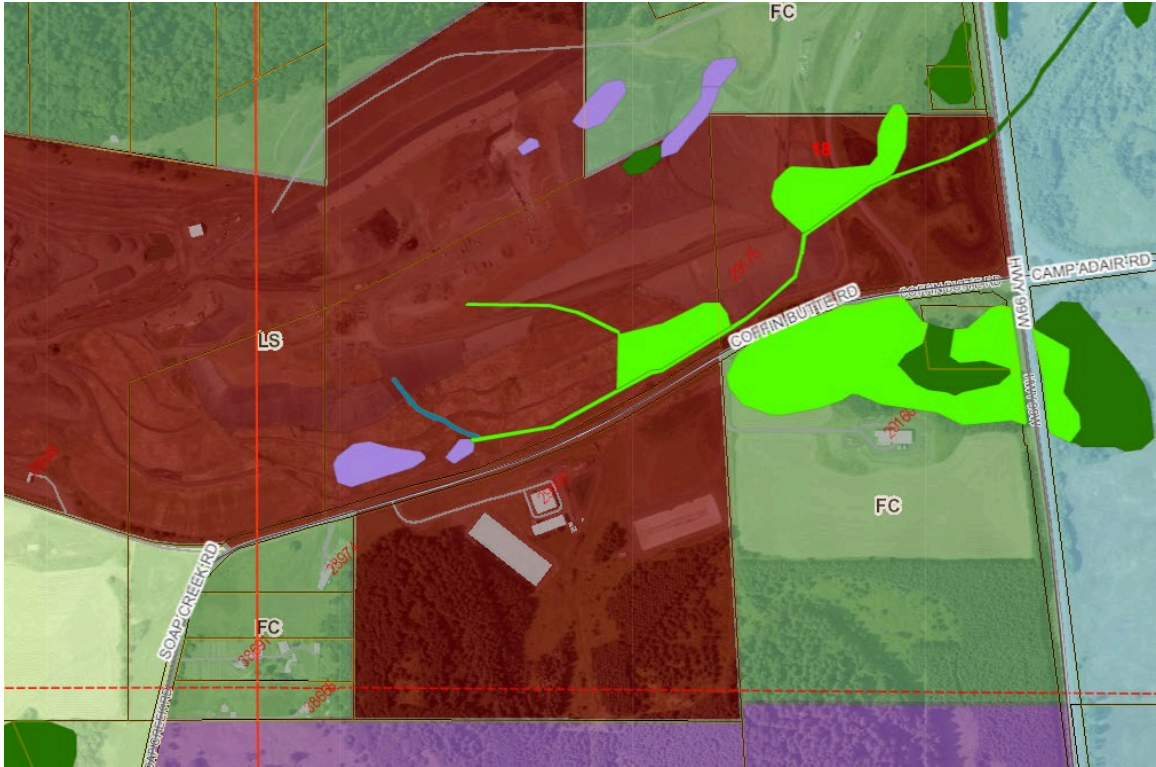
Valley. These steady readings indicate that there have been no leachate releases or impacts on groundwater. See Ex. 29.

F. Seismic Resiliency.

Some stakeholders have expressed a concern about the impact of a significant seismic event on the landfill. As noted in the CEC report on seismic design (Ex. 30), the proposed expansion must address seismic design requirements under both state and federal law as part of the DEQ permitting process. Thus, as part of the application submission to DEQ, additional engineering analyses will be submitted to demonstrate that landfill containment structures (i.e., including base liner and final cover systems), leachate-collection systems, and surface-water-control-systems structures are designed to resist the maximum horizontal acceleration anticipated at the site. As noted in Exhibit 30, the Seismic Hazard Analysis considers a range of previously recorded earthquakes, both near and far from the facility, and calculates parameters to use in the seismic stability models that represent the worst-case seismic loadings for the site. In 2021, a seismic analysis for Cell 6 derived a design moment magnitude of 8.48 for that site. The proposed expansion will be designed consistent with all applicable regulations to withstand a significant earthquake.

G. Wetlands.

USFWS National Wetlands Inventory Maps (attached below) indicate that the wetlands exist on tax lots 1200, 1108, and 801. None of these are designated as County Goal 5 resources, so the County has no authority to regulate the wetlands on site. At least some of the wetlands would be subject to the jurisdiction of the Oregon Department of State Lands (DSL), and so Applicant will be required to conduct a wetlands delineation prior to construction and mitigate for any disturbance to those wetlands due to the proposed expansion. The proposed conditions of approval so provide.



IX. CONCLUSION

As documented throughout this narrative, the proposed relocation of the working face to the Development Site complies with the applicable development standards.

- The impacts from the proposed development will not “seriously interfere” with uses on Adjacent or Nearby Properties.
- The proposed development will not “seriously interfere” with the character of the Analysis Area or the purposes of the zones. Both the LS and the FC zones provide for and contemplate landfill uses in the zones, and a landfill has operated in this Analysis Area for over 50 years. The substantially reduced size of the proposed development as compared to the 2021 application, in combination with the proposed screening and mitigation measures, limits the impact of the proposed development on the Analysis Area.
- The proposed development will not impose an “undue burden” on any public improvements, facilities, utilities, or services available to the Analysis Area. The retention of and improvements to Coffin Butte Road will eliminate any transportation or emergency access impacts to the surrounding area and will improve access and safety along Coffin Butte Road. Applicant’s fire prevention and mitigation plan will continue to provide protection to the site and not create a burden for the Adair Fire District. Hauling of leachate is well within the capacity of the roadway system, and leachate will continue to be disposed of per DEQ/EPA regulations. The proposed development has no other impact on public facilities and services.
- Development of the FC-zoned properties will not significantly impact forest or farm uses on Adjacent Properties.
- General environmental impacts, such as groundwater protection, leachate transport and disposal, and methane generation, will continue to be managed and regulated under the permits required by DEQ.

For these reasons, Applicant respectfully requests that the Planning Commission approve the CUP.

**ADDENDUM TO
FIRE RISK ASSESSMENT OF COFFIN BUTTE LANDFILL, CORVALLIS, OREGON
PREPARED BY JAMES J. WALSH, P.E., BCEE
SCS ENGINEERS
JANUARY 14, 2025**

MFA and subconsultant, Dr. Tony Sperling of Landfill Fire Control Inc. (LFCI), reviewed and commented on a report entitled Fire Risk Assessment of Coffin Butte Landfill by James Walsh of SCS Engineers. Their comments are inserted below. In collaboration with staff from Coffin Butte Landfill, James Walsh has prepared responses to each comment, also inserted below. This document can be considered an Addendum to the latest report of September 24, 2024.

PAGE 2: HISTORY OF PRIOR LANDFILL FIRES

1. MFA/LFCI Comment: This report only references three fire events occurring at the landfill since 1999. However, the County has indicated that there have been at least two additional fire events on this site in the past year or so. The cause of these recent fires and the actions taken should be included in this portion of the document.

SCS Response: The updated report of September 24, 2024 had already referenced a total of five fire events, consistent with the above comment. We believe the comment above was based on an earlier version of the report.

PAGE 3: FIRE MITIGATION PLANS

2. MFA/LFCI Comment: The first paragraph indicates that water would be used as the primary means of extinguishing a fire. LFCI notes that the most effective and current industry standard for the primary method of fire suppression for a landfill fire is smothering with 12 inches of soil. The Applicant should provide justification for the primary use of water for their initial response.

SCS Response: It is agreed that soil is to be the initial and primary means of extinguishing fires at the working face of the landfill. Water is secondary and would be used only if appropriate and needed. This is the fire extinguishment practice known to landfill operating personnel and is reflected accordingly in the Landfill's Operating Standards and Best Practices.

3. MFA/LFCI Comment: With consideration to the preceding comment, LFCI recommends that the second paragraph describe the action plan in the case of a landfill fire to first control the fire (using soil or water), then assess and take further steps to extinguish the fire.

SCS Response: As stated above, soil will be the initial and primary fire extinguishment method at the working face, with water to supplement such soil only if appropriate and needed.

4. MFA/LFCI Comment: The document refers to the availability of public water on site, but the narrative does not indicate the amount of on-site stored volume and/or refilling capacity of the

water system available for fire suppression activities. This information should be included to better understand the firefighting capabilities Of the existing system, as no improvements appear to be proposed, LFCI recommends a minimum sustained flow of 1,000 gallons per minute be available for fire suppression and further information be provided on how the Applicant will provide the logistics for maintaining this flow rate (e.g. available hydrant connections, tanker shuttles).

SCS Response: The clean water supply is from a Village of Adair water stand located near the site. The site has a 4,000-gallon water truck which is loaded and ready for fire extinguishment. Water can also be pumped from fresh water on-site ponds into the water truck, and thence applied to any fire as appropriate and needed. Pump rates into and from the water truck are sufficiently robust to extinguish any fire on site. Pumper fire trucks from Adair or Corvallis can also be employed to supply and apply sufficient water at appropriate rates.

PAGE 4: LANDFILL FIRE SOURCES, RISK PROFILES, AND SPECIFIC MITIGATION MEASURES

5. MFA/LFCI Comment: Battery fires are increasingly becoming a source of landfill fires and should be addressed in this document. Reactive and banned materials should be identified.

SCS Response: Vehicle batteries are banned from disposal in the landfill. Signage at the landfill entry lists vehicle batteries among other items as banned from landfill disposal. The landfill site has a separately designated recycling center for collection of vehicle batteries and used oil. Any materials collected at this center are removed from the landfill for recycling or disposal elsewhere.

Signage at the entry to the landfill lists the following as banned from disposal at Coffin Butte Landfill:

- Hazardous Waste
- Liquid Waste
- Chemicals
- Used Oil
- Tires
- Vehicle Batteries
- Motor Vehicles
- Electronic Waste
- Burning Material
- Infectious Medical Waste

6. MFA/LFCI Comment: For Working Face Fires, LFCI recommends the inclusion of bar hole punch for monitoring the subsurface carbon monoxide (CO) and temperature, as well as infrared camera inspections.

SCS Response: Coffin Butte Landfill has detailed procedures for identifying and extinguishing working face fires, as described in the report of September 24, 2024. The landfill also abides by Standard Operating Procedures (SOPs) that address the identification and extinguishment of

landfill working face fires. These SOPs were developed by the landfill's parent Republic Services for use at its hundreds of landfills. In total, these procedures have proven effective and sufficient.

7. MFA/LFCI Comment: For Grassland Fires, LFCI recommends that this document specify a measurable fire buffer distance between the landfill and surrounding grasslands. This fire buffer should be adequately maintained at all times. In addition, fire watch provisions or infrared monitoring should be implemented to manage ignition risks during off hours.

SCS Response: A gravel-covered fire buffer has been installed in and around the blower/flare station, to prevent any sparks from the flare from igniting grassed areas. It should be noted that sparks from the site's flares are rarely if ever observed.

Perimeter roads around several of the landfill's cells serve as buffers as they now exist. Going forward, the landfill will endeavor to implement additional buffer separations around future landfill fill areas.

8. MFA/LFCI Comment: For Gas Well Fires, LFCI recommends preventive monitoring, including monitoring for CO levels, targeted maximum oxygen concentrations, and balancing gas levels to prevent aerobic decomposition. In addition, the Applicant should provide standard operating procedures for handling high-temperature wells and specify operating temperature thresholds.

SCS Response: Current procedures or preventive monitoring to detect developing gas well fires in place now, are extraordinarily robust and more than sufficient to detect and prevent gas well fires. First, the site abides by the U.S. EPA's NSPS regulations. These rules prescribe routine monthly monitoring of all gas wells for pressure, temperature, and oxygen. NSPS sets limits for each of those three parameters as a way to detect early on the potential to develop a gas well fire. Second, the landfill's parent Republic Services has a 205-page SOP document specifically for landfill gas management. Several sections in that SOP address the prevention, detection, and mitigation of gas well fires. Coffin Butte Landfill follows that SOP. Third, all Republic Services landfills including Coffin Butte enter all landfill gas monitoring results into an advanced database system for monitoring and managing landfill gas systems. That software is SCSeTools, and it automatically detects any exceedances of the NSPS Standards on gas well fires, and in fact also spots early trends toward a possible gas well fire before actual exceedances occur, so that mitigation measures can be employed early on.

OTHER RECOMMENDATIONS FROM MFA AND LFCI:

9. MFA/LFCI Comment: Spontaneous combustion fires are not addressed in this document, except in relation to gas wells. LFCI notes that spontaneous combustion on slopes is a fire risk that should be included.

SCS Response: Spontaneous combustion can potentially occur at the landfill's working face. Working face fires are not sourced only to the entry of a hot load. Detection, prevention, and extinguishment of such fires at the working face follow the same robust procedures already in

place for working face fires. Gas well fires are exclusively sourced to a spontaneous combustion event as an overdrawn gas extraction well pulls atmospheric oxygen into an anaerobic environment deep in a landfill. Such fires usually first manifest themselves on the ground surface immediately around the gas well's wellhead. But if the well is located near a sideslope, the gas well's zone-of-influence can also break through laterally and manifest itself on the sideslope some distance from the gas wellhead. Such breakthroughs would be observed by gas operations personnel on the monthly rounds.

It should be noted that for all the reasons under #7 above, the sound management practices applied on the gas system at Coffin Butte ensure that such gas well fires manifesting themselves anywhere will not occur. In fact, Coffin Butte personnel report that a gas well fire has never occurred at the site. That clean record is expected to continue, considering all the sound management practices applied at this site.

10. MFA/LFCI Comment: Typical landfill construction has an inherent risk of capturing LFG at the edges of geomembrane sheets and should be addressed in this document.

SCS Response: It is assumed that the reference here is to geomembrane sheets applied as part of any given landfill cell's final cover system. Such membrane sheets are tied into the bottom liner in the cell's perimeter anchor trench, thus allowing no gas to escape and no fire associated with any escaping methane can occur. If geomembrane sheets are applied atop fill areas without such an airtight connection, the landfill's operating personnel will properly secure the perimeter to contain that gas under the sheet, not allowing any venting of landfill gas around its edges.

11. MFA/LFCI Comment: Smoking should only be allowed in designated areas and prohibited elsewhere on site.

SCS Response: Smoking is banned everywhere on-site, with posted signage to that effect. There are two designated smoking areas outside, atop gravel-covered or paved areas. One is outside the landfill office and one is adjacent to employee lockers.

12. MFA/LFCI Comment: The use of bird deterrent flares should be avoided.

SCS Response: Bird deterrent flares are not used at the site.

13. MFA/LFCI Comment: Annual fire safety and firefighting training should be undertaken for all employees who would respond to a fire along with regular cross-training with Adair Rural Fire & Rescue.

SCS Response: Management at the landfill conducts fire safety training once per year. This training is usually in the summer months. The training usually takes around 30 minutes. Topics covered in such training include:

- Understanding the components of a fire
- The different types of fire extinguishers, and when/how to use them
- Landfill fires / what landfill heavy equipment to use / what material to use to fight the landfill fire/who to contact / etc.

- When and where to gather during an evacuation.

Coffin Butte Landfill and Adair Fire have a plan on how to work together. That plan is reviewed and updated through regular communication between the parties. Adair Fire has responded to a fire at the Coffin Butte Landfill previously, and the planned coordination worked successfully in practice.

PROPOSED CONDITIONS OF APPROVAL

January 15, 2025, Update

Applicant's proposal is hereby granted Preliminary Conditional Use Approval. Operating (Final) Approval is subject to completion of all Preliminary Approval Conditions listed below. Applicant shall adhere to the following conditions under the terms of approval of this conditional use permit.

Until Applicant completes the Preliminary Approval Conditions, Applicant shall not:

- (A) Construct the internal haul road;
- (B) Construct the leachate ponds;
- (C) Construct the employee building;
- (D) Construct the new landfill cell.

Upon Applicant submitting documentation demonstrating that the Preliminary Approval Conditions have been met, the Planning Official will issue a written notice of Operating Approval at which time Applicant may initiate construction of items (A) through (D) above, subject to the Operating Approval Conditions below.

Operating Approval Conditions shall remain in effect for the duration of the Project. Failure by Applicant to comply with the Operating Approval Conditions may result in revocation of the Conditional Use Permit.

Preliminary Approval Conditions

The following Preliminary Approval Conditions shall be completed during the four-year period that begins on the later of: (a) the date of final decision (including resolution of any appeals) of the Conditional Use Permit; or (b) from the date of Oregon Department of Environmental quality ("DEQ") approves of all required environmental permits ("Preliminary Approval Period"). The Planning Official may grant one extension for up to a year prior to the expiration of the Preliminary Approval Period if Applicant makes a written extension request stating the reasons preventing completion within the approval period. Failure to commence the Preliminary Approval Conditions within the Preliminary Approval Period shall render this Conditional Use Permit void.

Phase 1 Preliminary Approval Conditions – Only those activities necessary to complete the following conditions are authorized until all of these Phase 1 Preliminary Approval Conditions have been met.

PA-1 Wetlands. On Tax Lot 1200, Applicant shall prepare and obtain approval from the Oregon Department of State Lands of a wetland delineation. Applicant shall not locate any portion of the project within the mitigation wetland and required buffer of the mitigation wetland as shown in Applicant's Exhibit 2.

PA-2 Site Plan Map. Applicant shall submit to the Planning Official a final site plan map of the approved proposal. The map shall contain a scale, north arrow, assessor map numbers, location of existing landfill, access, proposed alteration, leachate treatment or monitoring areas surface water systems, and existing and proposed screening (location and types of materials). A statement shall be placed on the map that the site plan map and narrative together are considered as the Site Development Plan. A signature block shall be included for the date the approval is given and the signature of the Planning Official indicating approval.

PA-3. Covenant. If not already completed, the property owner shall sign a declaratory statement to be recorded into the County Deed Records for the subject property on which the conditional use is located that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules, and that recognizes the hazards associated with the area.

PA-4. Screening. Applicant shall install the landscape screening as shown in Applicant Exhibit 2 and the Site Development Plan. The trees shall be at least 8 feet tall upon planting and be of a species to reach a height of at least 40 feet upon maturity.

Phase 2 Preliminary Approval Conditions – Upon completion of the Phase 1 Preliminary Approval Conditions, Applicant may initiate the ground-disturbing activities identified in the following Phase 2 Preliminary Approval Conditions. Elements of this phase that do not include ground disturbance may be initiated in Phase 1.

PA-5 Public Works.

(A) Applicant shall provide calculations, design, and specifications for all proposed public infrastructure to Benton County Public Works staff for review and approval.

(B) Prior to receiving operating approval of this conditional use permit, Applicant shall fulfill ONE of the following TWO options to meet the conditions for improvements noted above:

(i) Applicant shall construct the improvements noted above as required,
OR

(ii) Applicant shall enter into an Agreement for Improvements (AFI) with the County. The AFI will require security for the full amount of the work to be performed plus a 20% contingency. The security may take the form of a bond, a conditional irrevocable line of credit, or a cash deposit. The security serves to assure faithful performance of the required improvements, as outlined above, within 18 months of execution of the AFI.

(C) Upon completion of the proposed improvements to Coffin Butte Road as shown in the Engineer Plans attached as Applicant Exhibit 2 and acceptance

by the County Engineer, Applicant shall dedicate the improvements and any necessary additional right-of-way to the County.

(D) Applicant shall apply for and obtain a Post-Construction Stormwater Permit as required by BCC 99.670.

Operating Approval Conditions (to be met for the duration of the Project):

OA-1. Hours of Operation. Operating hours for disposal of waste in the landfill shall be as follows:

(A) Monday through Saturday, the site may open to vehicles using the commercial tipping area starting at 5 a.m. and to all other customers starting at 8 a.m. The site shall close to both commercial and other customers at 5 p.m. Internal operations, including but not limited to leachate hauling, infrastructure construction, disposal area activities and site maintenance is permitted to occur prior to and after these hours.

(B) On Sunday, the site will not open before 12 p.m. and will close no later than 5:00 p.m. Internal operations, including but not limited to leachate hauling, infrastructure construction, disposal area activities, and site maintenance, are permitted to occur prior to and after these hours.

(D) During an emergency or when requested by a State, Federal, or County agency, Applicant may open the landfill outside of these hours.

OA-2. Vehicle Noise. All Applicant vehicles being used for operations on the new site shall be outfitted with white noise back up alarms.

OA-3 Noise Study Updates. Applicant shall provide an updated noise study prepared Applicant's noise consultants once every three years. Applicant will implement mitigation measures to bring any non-compliant noise levels into compliance with DEQ noise regulations.

OA-4 Maintenance of Tree Buffer. Applicant shall maintain the existing tree buffer along Hwy 99W and the new screening measures required in PA-4 above. Applicant will replace any dead trees during the rainy season.

OA-5 Eastern Blue Heron Rookery. Applicant shall continue to monitor the eastern Great Blue Heron Rookery in 2025 as recommended in Applicant's Addendum to the Final 2024 Wildlife Habitat Assessment and Surveys attached as Applicant's Exhibit 3. Applicant shall protect the eastern rookery and buffer areas as set forth in Exhibit 3 unless and until it is determined to be abandoned under the rules of the Oregon Department of Fish and Wildlife following the 2025 survey.

OA-6. Outdoor Lighting. On all outdoor lighting, Applicant shall install light shields or use lights with the correct beam angle encased above and to the sides in order to channel the light downward and reduce the amount of light pollution.

OA-7. Maximum Elevation. The final grade of the new landfill cell shall not exceed 500 feet in elevation.

OA-9. Compliance with Application Materials. Applicant shall construct and operate the expanded landfill as described in the application materials, except as modified by these conditions of approval.

OA-10 Odor Monitoring and Mitigation. After Applicant completes construction of the new landfill cell, but prior to commencing disposal operations, Applicant shall determine a minimum of four odor survey points located on the perimeter of the Development Site boundary. Applicant shall designate two site personnel to be trained to detect odors on an n-butanol scale by using a Nasal Ranger Field Olfactometer or comparable technology. Each working day, one of the trained personnel will conduct at least one odor survey at each odor survey point and record the observations on a survey form, including data about the time, location, weather conditions, and intensity and description of any odor. If odors are detected, steps shall be taken to attempt to identify the source. If it is determined to be attributable to the Project, Applicant shall mitigate the source of the odor consistent with the practices set forth in Applicant's Exhibits 12 and 15. Applicant shall maintain the survey documentation and documentation about steps taken to mitigate odors detected at the survey points for a minimum of four years. A summary format of the information will be provided in Applicant's annual report to the County. In addition, while site personnel is conducting the daily odor patrol, he/she will wear a portable gas monitor (or similar portable device) set to measure the level of hydrogen sulfide ("H₂S"), which at certain thresholds can indicate the presence of landfill gas odors. The monitor will be set to an appropriate threshold and if the monitor detects levels of H₂S above the threshold, it will be recorded in the survey documentation and site personnel will promptly attempt to identify and mitigate the source of the elevated level if it is determined to be attributable to the Project. .

OA-11. Maintenance of Other Require Permits. Applicant shall obtain and maintain all required federal, state and Benton County permits for construction and operation of the landfill.

QA-12 Compliance with Archeological Report Conditions. Applicant will comply with the operational conditions set forth in Applicant's Exhibit 26.

Advisory Notices:

Advisory 1. Endangered Species Act. Federal law requires that Applicant comply with the federal Endangered Species Act and is responsible for obtaining any required permit approvals from the U.S. Fish and Wildlife Service. Failure to do so may be a violation of federal law.

Advisory 2. Public Works.

(A) Existing survey monuments must be preserved and protected. Any survey monuments disturbed during construction must be replaced at the expense of Applicant or Applicant's contractor.

(B) All public improvements shall be subject to a 3-year warranty period. At the start of the 3-year warranty period, Applicant shall provide Public Works with a warranty bond in the amount of 15% of the value of the work performed within the Benton County right-of-way.

(C) Applicant shall apply and obtain approval for a Permit to Perform Work in the County right-of-way for all work within County rights of way. The permit will be issued when construction drawings are approved and all supporting documentation has been provided to the County.

(D) Applicant shall provide the County with a unit price cost estimate for the work to be performed within Benton County rights of way. This estimate shall include trenching, backfilling, paving, striping, signing, grading/restoration, seeding, mulching, fence replacement, and any required landscaping. Permit fees will be 4.0% of the estimate provided.

(E) Applicant shall obtain a DEQ 1200-C permit, and a Benton County ESC permit prior to start of land disturbing activities.

(F) Applicant shall obtain approval for all required local, state and federal permits prior to start of land disturbing activities.

(G) Construction and post-construction storm drainage discharge shall conform to the standards and tenets established by Oregon Drainage Law and shall conform to all Oregon Department of Environmental Quality and Benton County stormwater quality standards using Oregon Department of Transportation erosion and sediment control details and best management practices.

Advisory 3. Wetlands. Prior to ground disturbance, Applicant shall prepare and obtain approval from Oregon Department of State Lands of a wetland delineation and removal fill permit. Any amount of disturbance to a compensatory mitigation area requires a removal-fill permit. A Federal permit may be required by the Army Corps of Engineers.

LEACHATE MANAGEMENT SUMMARY

March 2024

Updated January 15, 2025

Leachate is a liquid generated when water comes into contact with waste placed in a landfill. Leachate flows down through the waste and is collected in a series of drainage layers and piping installed within the landfill as part of the lining system.

The proposed expansion area will not be open to waste placement at the same time that the existing landfill is accepting waste. When the expansion area is open, the leachate generation from waste disposal operations will most likely be less as it is smaller in size than the existing landfill area. Leachate generation from the existing landfill will decrease as waste placement operations cease. Furthermore, detailed calculations regarding leachate generation will be developed and submitted to the Oregon Department of Environmental Quality (ODEQ) during the solid waste permitting process.

When Coffin Butte Landfill (CBL) is ready to construct the expansion area, the new leachate storage ponds will be constructed and new leachate discharge piping will be installed and connected to the existing piping on the north side of Coffin Butte Road. Once the new leachate storage ponds are installed and operating correctly, the existing leachate ponds will be decommissioned and removed. Decommissioning might include, but will not be limited to, the removal of some sediments that would be disposed of in the existing landfill and the liner system will be removed and disposed of in the existing landfill. The design details for this will be submitted to the ODEQ during the solid waste permitting process.

Currently, 50% of the leachate is disposed of at the City of Corvallis wastewater treatment plant and the permit for that operation expires December 31, 2025. The remaining 50% is disposed of at the City of Salem wastewater treatment plant and the permit for that operation expires December 31, 2027.

At CBL, leachate is collected in the leachate collection sumps and is pumped via pipelines to the existing leachate storage ponds. CBL has an agreement with the Corvallis wastewater treatment plant (CWWTP) to dispose of its leachate at their plant. CBL also has an agreement with the City of Salem wastewater treatment plant (SWWTP) to dispose of its leachate at their plant.

CBL is focused on minimizing water entering the landfill and thus reducing leachate generation. CBL uses multiple methodologies to minimize inflow:

- Grading of landfill surfaces to promote runoff and minimize water entering the landfill;
- Grading areas surrounding the landfill to divert water before it enters the landfill;
- Installation of a synthetic covers over areas of the landfill to significantly reduce infiltration of stormwater into the landfill. The synthetic covers are held in place using both anchor trenches and a sand bag/rope ballast system.

Stormwater runoff at the facility is captured in multiple on-site stormwater management ponds.

The current methodology of filling areas in the landfill to grade, covering with soil (for short term inactive areas) or synthetic covers (for longer term inactive areas) will continue with the new cell. In addition, CBL

will formally close portions of the existing Coffin Butte Landfill that have reached final approved grades. By installing the ODEQ approved final cover system, stormwater infiltration will be negligible in those areas. In the short term, the leachate quantity will increase slightly with the additional liner system installed. However, CBL is currently evaluating potential closure activities on portions of the landfill and that will reduce the leachate quantity. Furthermore, as CBL continues to add final cover materials over the older parts of the landfill the leachate generation will continue to decrease.

Leachate from the new cell will be managed using similar collection systems (drainage layers and piping) as now implemented in the existing landfill. Leachate will be pumped to and stored in the new leachate storage ponds. The leachate will be transported by tanker truck to the CWWTP or SWWTP. It should be noted that CBL is limited to the amount of leachate that can be transported to the CWWTP and once that amount is reached, the remaining amount of leachate is transported to the SWWTP. Furthermore, if the CWWTP is phased out, the leachate will be transported to the SWWTP or other approved facility. Applicant must and will comply with all EPA and ODEQ regulations related to leachate management.

The US Environmental Protection Agency (EPA) defines hazardous waste as a waste with properties that make it dangerous or capable of having a harmful effect on human health or the environment. The leachate produced by CBL is not a hazardous waste since the landfill does not accept hazardous waste and the leachate does not meet either of the two criteria used to classify a hazardous waste. A waste is determined to be a listed hazardous waste if it is specifically listed on one of four lists, the F, K, P and U lists found in Title 40 of the Code of Federal Regulations (CFR) part 261. Municipal Solid Waste (MSW) leachate is not found on any of the four lists. Since MSW leachate is not found on any of the four lists, it would not have to be characterized as a listed hazardous waste.

Currently, CBL does not test their leachate for the PFAS contaminants as they are currently not regulated by State of Oregon or the US EPA. However, once the State of Oregon and the US EPA establish the requirements for testing and reporting of the PFAS contaminants then CBL will comply with those requirements.

The federal regulation 40 CFR 261.24 defines the toxicity levels of characteristic hazardous waste. It specifies the test method and the contaminate levels that determine if a waste is toxic. Table 1 is the Maximum Concentration of Contaminates for the Toxicity Characteristic, from 40 CFR 261.24. If the leachate from CBL contains any of the contaminants listed in Table 1 at the concentration equal to or greater than the respective value given in Table 1, then it becomes a characteristic hazardous waste. The column titled VLF.L1 are the actual results from leachate sampled from the existing leachate storage pond dated August 30, 2023. As you can see, the results show that the leachate is not hazardous as none of the contaminants tested equaled or exceeded the regulatory level as shown in Table 1.



EXPIRES: 06/30/2026

TABLE 1
MAXIMUM CONCENTRATION OF CONTAMINANTS FOR THE TOXICITY CHARACTERISTIC
 From CFR 261.24

EPA HW No.*	Contaminant	Regulatory Level (mg/L)	VLF.L-1 (mg/L)
D004	Arsenic	5	0.13
D018	Benzene	0.5	ND
D006	Cadmium	1	0.00026
D019	Carbon tetrachloride	0.5	ND
D020	Chlordane	0.03	ND
D021	Chlorobenzene	100	ND
D022	Chloroform	6	ND
D007	Chromium	5	0.19
D027	1,4-Dichlorobenzene	7.5	ND
D028	1,2-Dichloroethane	0.5	ND
D030	2,4-Dinitrotoluene	0.13**	ND
D012	Endrin	0.02	ND
D031	Heptachlor (and its epoxide)	0.008	ND
D032	Hexachlorobenzene	0.13**	ND
D033	Hexachlorobutadiene	0.5	ND
D034	Hexachloroethane	3	ND
D008	Lead	5	ND
D013	Lindane	0.4	ND
D009	Mercury	0.2	ND
D036	Nitrobenzene	2	ND
D037	Pentachlorophenol	100	ND
D010	Selenium	1	ND
D011	Silver	5	ND
D015	Toxaphene	0.5	ND
D042	2,4,6-Trichlorophenol	2	ND
D043	Vinyl chloride	0.2	ND

VLF.L1 = Analytical test results from sampling leachate on August 29, 2023

ND = Non Detect

* Hazardous Waste Number

** Quantitation limit is greater than the calculated regulatory level. The quantitation limit therefore becomes the regulatory level.



January 15, 2025

To: Petra Schuetz, Benton County Community Development Department

Re: Methane Memo Addendum

Dear Director Schuetz:

As you're aware, Coffin Butte Landfill was inspected by the Environmental Protection Agency in June of 2022. During that inspection, the agency noted 61 exceedances during its surface emissions monitoring for methane.

Benton County's consultant, Maul Foster Alongi, requested that Coffin Butte Landfill provide additional information about how ongoing improvements to the Landfill's gas collection system may have impacted the methane emissions monitoring. Specifically, Maul Foster asked if we could provide detailed information about which of the 61 exceedances were in the construction zone.

During the 2022 inspection, DEQ walked two separate "loops" – one on the western side of the landfill, and a broader, wider loop that encompassed the eastern border and central sections of the landfill.

After the inspection and during a meeting with DEQ, Republic Services' personnel noted that the construction work would have impacted the areas that included flags #48 through #58.

Further review of that area, which includes wells 3V74, 2H86, and 2H94 in the central part of the landfill, indicates that there were at least 22 exceedance points in the general vicinity, or about 36 percent of the total.

It is important to note that during GCCS construction, portions of the system outside of the construction area can be temporarily impacted. This typically occurs when we have to isolate portions of landfill gas header and lateral piping to allow tie-ins and commissioning of new vertical and horizontal gas extraction wells.

As noted in our attached memo to Benton County, Republic Services took immediate corrective action following the 2022 EPA inspection, including adding cover soil and additional soil around the edges of tarps.

We also strengthened seals around the gas collection piping and completed work on an expansion of the Landfill's gas collection and control system, adding 6 new vertical wells and 9 horizontal well collectors.

In June 2024, Coffin Butte was the subject of a no-notice inspection by the EPA. Once again, inspectors conducted surface emissions monitoring at the landfill. While we have not received a formal report from the EPA, at the time of the June 2024 emissions monitoring, EPA inspectors said Coffin Butte was not the subject of an enforcement action. In addition, the landfill has made additional improvements since the inspection, including patching tears in the cover tarps and, once again, expanding the Landfill's gas collection and control system.

At this time, we have not received notification from the EPA that our corrective actions were insufficient, nor have we received notification from the agency that Coffin Butte is the subject of any pending enforcement action.

We continue to invest in the gas collection and control system and have another \$1 million enhancement project scheduled for later this year. That project will add 14 new vertical wells, seven new horizontal wells and approximately 12,000 new feet of header, force, and air lines.

Meanwhile, Coffin Butte continues to partner with PNGC power to generate electricity from gas produced at the site – enough to power 4,000 homes. Discussions with PNGC to draw additional gas from the Landfill are ongoing.

Coffin Butte has also updated its flare system, installing a closed flare in October, to comply with DEQ's latest regulations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ginger D. Richardson", is centered on a light gray rectangular background.

Ginger D. Richardson
Director, Public Affairs
Republic Services



**REPUBLIC
SERVICES**

28972 Coffin Butte Rd Corvallis, OR 97330
o 541.745.5792 f 541.230.5534 republicservices.com

January 15, 2025

To: Petra Schuetz, Benton County Community Development Department

Re: Arsenic Memo Addendum

Dear Director Schuetz:

Benton County's consultant, Maul Foster Alongi, requested that Coffin Butte Landfill consider sharing the most recent findings available as it relates to arsenic levels in groundwater monitoring well "MW-59."

We believe this to be a typographical error and that Maul Foster Alongi is requesting information about well MW-9S. This well has been subject to a quintennial sampling schedule (every 5 years) since 1991, as set by the Oregon Department of Environmental Quality.

Groundwater monitoring well MW-9S is located on the landfill's northeast side and has historically had arsenic readings above what is considered the normally occurring "background concentrations" typically found in this geographic region.

Arsenic concentrations in groundwater well MW-9S have ranged from 27 to 41.8 micrograms per liter over the past 30 years. Natural background concentrations for arsenic in the South Willamette Valle (where Coffin Butte is located) is 18 milligrams per kilogram.*

Coffin Butte Landfill conducts groundwater sampling twice a year, in April and October. As part DEQ's split-sampling, well MW-9S was sampled in October 2024. These samples were sent to a third-party laboratory for statistical analysis and it was determined that arsenic concentrations were at 27 micrograms per liter, which is consistent with previous years. The results will be submitted to ODEQ in March as part of our state-required Annual Environmental Monitoring Report (AEMR.)

Well MW-9S was previously sampled in 2019.

**As noted in the attached arsenic memo, dated February 13, 2024.*

Respectfully submitted,

Ginger D. Richardson
Director, Public Affairs
Republic Services

FARM LEASE

THIS FARM LEASE (“Lease”), made and entered into as of the 15th day of January, 2020 (the “Effective Date”), by and between **VALLEY LANDFILLS, INC.**, an Oregon corporation (“Landlord”), and **AGRI-INDUSTRIES, INC.**, an Oregon corporation (“Tenant”).

WITNESSETH:

WHEREAS, the Landlord is the owner of certain real estate located in the City of Corvallis, Benton County, Oregon, more particularly described on Exhibit A attached hereto and incorporated herein (the “Land”); and

WHEREAS, Landlord operates a solid waste disposal landfill on the Land which is known as the Coffin Butte Landfill (the “Landfill”); and

WHEREAS, the Landlord desires to lease to Tenant a portion of the Land consisting of approximately 80 acres, as generally shown on Exhibit A attached hereto and incorporated herein, (the “Premises”) in accordance with the terms and provisions of this Lease; and

WHEREAS, Tenant desires to lease from Landlord the Premises, in accordance with the terms and provisions of this Lease; and

WHEREAS, Landlord and Tenant are parties to that certain Compost Processing Agreement dated as of the Effective Date (the “Compost Agreement”).

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, the parties agree as follows:

1. Lease and Term. (a) The Landlord leases to the Tenant and the Tenant leases from the Landlord the Premises for a term commencing on the Effective Date and terminating on the earlier to occur of (1) September 30, 2030, or (2) the expiration or earlier termination of the Compost Agreement (the “Term”) commencing on the Effective Date. The Term of this Lease may be extended upon the mutual written agreement of Landlord and Tenant. In the event Tenant desires to extend the Term of this Lease, Tenant shall provide Landlord with prior written notice at least 60 days prior to the expiration of the Term.

(b) Notwithstanding anything to the contrary set forth herein, in the event that Landlord determines in its sole discretion that all or any portion of the Premises is needed in connection with the use or development of the Landfill, Landlord shall have the right to terminate this Lease with respect to all or any portion of the Premises upon 30 days prior written notice to Tenant. In the event of a termination of this Lease by Landlord in accordance with this Section, Tenant shall not be required to surrender possession of the Premises to Landlord until after the harvesting of any crops which were planted on the Premises prior to the date of Landlord’s notice of termination to Tenant.

2. Rent; Use. (a) Landlord acknowledges that the amounts paid by Tenant pursuant to the Compost Agreement include the rent for the Term of this Lease, provided, however, that all costs of maintenance, repairs, utilities, insurance and any and all other expenses necessary in connection with the operation or maintenance of the Premises by Tenant will be paid solely by Tenant during the Term of this Lease, except as expressly set forth herein.

(b) Tenant shall use the Premises solely for the purpose of growing crops, and for no other use or purpose without the prior written consent of the Landlord, which may be withheld in Landlord's sole discretion.

3. Tenant's Duties. The Tenant shall till the Premises in a good and husbandlike manner, consistent with sound agricultural practices. The Tenant shall maintain at all times liability insurance with limits of not less than \$1,000,000.00 for injuries to one person in each accident and not less than \$1,000,000.00 for injuries to more than one person in each accident and \$500,000.00 property damage. The liability insurance shall name the Landlord as an additional insured and the Tenant shall provide to the Landlord a certificate of insurance evidencing that this requirement has been met, on or before the Effective Date. Such policy shall provide that it shall not be amended or terminated without providing Landlord with 30 days advance written notice.

4. Taxes and Maintenance. (a) Landlord shall pay, as the same shall become due and payable, all taxes, assessments and charges of any kind whatsoever accruing during the Term that may at any time be levied or assessed against or with respect to the Premises. Tenant shall be solely responsible for the payment of any taxes, assessments or charges of any kind whatsoever accruing during the Term that may at any time be levied or assessed on the rent, the harvesting of crops thereon, or Tenant's machinery, equipment or other property installed or brought onto the Premises.

(b) Tenant shall, at its sole cost and expense, keep and maintain the Premises in good repair and appearance during the Term of this Lease, and will make all changes and repairs of every kind or nature which may be required to be made upon or in connection with the Premises or any part thereof in order to keep and maintain the Premises in such good repair and appearance. Landlord shall not be required to maintain, repair or rebuild, or make any alterations, replacements or renewals of any kind or nature to the Premises or any part thereof, whether ordinary or extraordinary, foreseen or unforeseen, or to maintain the Premises or any part thereof in any way, and Tenant hereby expressly waives any right to make repairs at the expense of Landlord which may be provided for in any statute or law in effect at the time of the execution of this Lease, or any statute or law which may thereafter be enacted.

5. Carryover. As part of the consideration, Landlord and Tenant acknowledge that a residue may exist from the nutrients applied by the Tenant and they have considered such residue in arriving at the rental arrangement. Consequently, the parties agree that the Landlord will not be indebted to the Tenant in any amount due to the existence of such residue.

6. Surrender at End of Term. Any crops or personal property remaining on the Premises or the Real Estate shall be removed by Tenant at its expense, prior to the expiration of the Term or the sooner termination hereof, failing which, such crops or personal property shall be deemed abandoned and shall immediately become the property of the Landlord. Upon the expiration of the Term or earlier expiration thereof, Tenant shall deliver the Premises to Landlord in as good a condition as existing on the date hereof, in compliance with all laws, and free of any hazardous or toxic substances.

7. Transfers. Tenant shall not sublease or assign its interest in this Lease without the prior written consent of Landlord, which may be withheld in Landlord's sole discretion. Landlord shall have the right to assign its interest in this Lease to any party in Landlord's sole discretion. If Landlord sells the Premises or assigns its interest in this Lease, Landlord shall be released from all obligations and liabilities accruing thereafter under this Lease, provided Landlord's successor has assumed in writing Landlord's obligations under this Lease.

8. Events of Default. The occurrence of any one or more of the following shall constitute an "Event of Default" hereunder: (a) Failure of Tenant to pay any amount required hereunder, which

failure shall not be cured by Tenant within 10 days of written notice from Landlord; or (b) Failure of Tenant to perform any other covenant, condition, agreement or provision contained herein within 20 days after receipt by Tenant of written notice of such failure; or (c) Commencement of bankruptcy, insolvency, assignment for the benefit of creditors or receivership proceedings in respect of Tenant; or (d) a breach or default under the Compost Agreement, which is not cured within the applicable notice and cure periods set forth in the Compost Agreement.

9. Remedies. Upon the occurrence and continuance of an Event of Default the Landlord may, at its option and without any obligation to do so, elect any one or more of the following remedies: (a) Terminate and cancel this Lease; (b) Cure such Event of Default and recover the costs thereof, together with interest thereon at the "Default Rate" (hereinafter defined), from Tenant; or (c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the State of Oregon. For purposes of this Lease, the "Default Rate" shall mean 12% percent per annum upon any such amount, and if any such amount shall remain unpaid after 6 months of receipt of notice, such rate shall increase to 18% percent per annum; provided, however, that such interest rate shall in no event exceed the maximum rate of interest permitted under the governing law of this Lease.

10. Access to Premises. Landlord may, at anytime, enter the Premises to make an examination of the same, provided Landlord does not and shall not unreasonably interrupt the farming operation or damage any growing or standing crops.

11. Relationship of Parties. The relationship between the parties hereto shall be solely as set forth herein. Neither party shall be deemed the employee, agent, partner or joint venturer of the other.

12. Brokers. Each party represents and warrants that it has not dealt with any real estate brokers and that there are no claims for brokerage commissions of finders' fees due and owing in connection with this Lease. Any party that defaults under this Section (the "Defaulting Party") agrees to indemnify and hold harmless the other party from any and all liabilities, costs and expenses (including attorneys' fees) arising from any such claim by any real estate broker or other party that has dealt with the Defaulting Party.

13. Separability. Each and every covenant and agreement herein shall be separate and independent from any other. The breach of any covenant or agreement shall in no way discharge or relieve the performance of any other covenant or agreement. Each and all of the rights and remedies given to either party by this Lease or by law or equity are cumulative, and the exercise of any such right or remedy by either party shall not impair such party's right to exercise any other right or remedy available to such party under this Lease or by law or equity.

14. No Waiver. No delay in exercising or omission of the right to exercise any right or power by either party shall impair any such right or power or shall be construed as a waiver of any breach or default or as acquiescence thereto. One or more waivers of any covenant, term or condition of this Lease by either party shall not be construed by the other party as a waiver of a continuing or subsequent breach of the same covenant, provision or condition. The consent or approval by either party to or of any act by the other party of a nature requiring consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

15. Entire Lease. This Lease together with any Exhibits or attachments hereto constitutes and represents the entire agreement between the parties hereto and supersedes any prior understandings or agreements, written or verbal, between the parties hereto respecting the subject matter herein. This Lease may be amended, supplemented, modified or discharged only upon an agreement in writing executed by all of the parties hereto.

16. Governing Law, Venue, and Jurisdiction. This Lease and all acts and transactions pursuant or relating hereto, and all rights and obligations of the parties hereto shall be governed, construed, and interpreted in accordance with the laws of the State of Oregon. In order to induce the parties to accept this Lease, and as a material part of the consideration therefore: (a) the parties hereto agree that all actions or proceedings arising out of this Lease shall be litigated in courts located within Multnomah County, Oregon; (b) the parties hereto consent to the exclusive jurisdiction of such court and consent to the service of process in any such action or proceeding by personal delivery or any other method permitted by law; and (c) the parties waive any and all rights they may have to transfer or change the venue of any such action or proceeding.

17. Subordination; Release. This Lease is and shall be subject and subordinate, at all times, to the lien of any mortgages for deeds of trust which now affect the Premises, or any ground leases hereinafter entered into by Landlord. Tenant acknowledges that Landlord or its affiliate will be developing and using the Real Estate and certain property contiguous or adjacent thereto for purposes of operating a landfill or for the handling, transportation, recycling or disposal of solid waste, and any other uses or activities in connection therewith, and Tenant (which for purposes hereof shall include any person or entity which owns or controls Tenant) agrees and hereby releases Landlord and its affiliates from any liability, damages, claims, causes of action associated with such development and use of the Real Estate and any property contiguous or adjacent thereto. Further, in the event Landlord or its affiliate requires the cooperation or execution of any documents from Tenant in connection with its use and development of the Real Estate, Tenant agrees to cooperate with any such request made by Landlord or its affiliate.

18. Notices. All notices and other communications under this Lease shall be in writing and shall be deemed to have been given 3 business days after deposit in the mail, designated as certified mail, return receipt requested, postage-prepaid, or one business day after being entrusted to a reputable commercial overnight delivery service. All notices and other communications under this Agreement shall be given to the parties hereto at the following addresses:

To Landlord:	Valley Landfills, Inc. c/o Republic Services, Inc. 18500 North Allied Way Phoenix, AZ 85054 Attn: Chief Legal Officer
And a copy to:	Spotts Fain PC 411 E Franklin Street, Suite 600 Richmond, VA 23219 Attn: David A. Reed, Esq.
To Tenant:	Agri-Industries, Inc. 3405 NE Garden Avenue Corvallis, OR 97330 Attn: Tim Winn, President

Any party hereto may change the address to which notices shall be directed under this Section 18 by giving written notice of such change to the other parties.

19. Binding Effect. All of the terms, covenants, conditions and provisions of this Lease, whether so expressed or not, shall be binding upon, inure to the benefit of, and be enforceable by he

parties and their respective administrators, executors, other legal representatives, heirs and permitted assigns.

20. Remedies Cumulative. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

21. Attorneys' Fees. In the event of any controversy arising under or relating to this Lease, the prevailing party shall be entitled to payment for all costs and attorneys' fees (both trial and appellate) incurred in connection therewith.

22. Liens. Tenant shall discharge any lien, encumbrance, or charge arising out of the work of any contractor, mechanic or material contracted for by Tenant or any subtenant, or on behalf of Tenant or any subtenant. If any lien on account of an alleged debt or any notice of contract shall be filed against the Real Estate or Premises, Tenant shall, within 5 days after the notice of the filing thereof, cause the same to be discharged of record by payment, deposit or bond.

23. Compliance with Laws; Environmental. (a) Tenant agrees, at its sole cost and expense, to comply with all laws, orders and regulations of federal, state and municipal authorities and with any lawful direction of any public officer which shall impose any duty upon Tenant with respect to work to be performed by Tenant on the Premises, the Premises, or Tenant's use thereof. Tenant shall, at its own expense, obtain and maintain all required licenses or permits necessary for any work to be performed by Tenant on the Premises or its use of the Premises.

(b) Tenant shall not use the Premises for the storage, use treatment, or disposal of any hazardous or toxic substances or petroleum products. Tenant agrees to indemnify, defend and hold Landlord and its officers, partners, directors, shareholders, employees and agents harmless from any claims, judgments, damages, fines, penalties, costs, liabilities (including sums paid in settlement of claims) or loss including attorney's fees, consultant's fees, and expert fees which arise during or after the Term in connection with the presence or suspected presence of hazardous or toxic substances in the soil, groundwater, or soil vapor on or under the Premises. Without limiting the generality of the foregoing, this indemnification shall survive the expiration of this Lease.

24. AS IS; WAIVER OF WARRANTIES. Tenant agrees to accept the Premises in its "AS IS" condition with all faults. TENANT AGREES THAT NEITHER LANDLORD NOR ANY AGENT OF LANDLORD HAS MADE ANY REPRESENTATION OR WARRANTY AS TO THE SUITABILITY OF THE PREMISES FOR TENANT'S USE. TENANT AGREES THAT NEITHER LANDLORD NOR LANDLORD'S AGENTS HAVE MADE ANY REPRESENTATIONS OR PROMISES WITH RESPECT TO THE PHYSICAL CONDITION OF THE LAND OR ANY OTHER MATTER OR THING AFFECTING OR RELATED TO THE PREMISES, AND NO RIGHTS, EASEMENTS OR LICENSES ARE ACQUIRED BY TENANT BY IMPLICATION OR OTHERWISE. TENANT HAS INSPECTED THE PREMISES AND IS THOROUGHLY ACQUAINTED WITH THEIR CONDITION, AND AGREES TO TAKE THE SAME "AS IS", AND ACKNOWLEDGES THAT THE TAKING OF POSSESSION OF THE PREMISES BY TENANT SHALL BE CONCLUSIVE EVIDENCE THAT THE PREMISES WERE IN GOOD AND SATISFACTORY CONDITION AT THE TIME SUCH POSSESSION WAS SO TAKEN.

25. Recording. Tenant shall not record this Lease, or any short form or memorandum hereof.

26. **Time of the Essence.** Time shall be of the essence in interpreting the provisions of this Lease.

27. **Eminent Domain.** If any portion of the Premises shall be appropriated or taken under the power of eminent domain by any public or quasi-public authority, then the Lease shall terminate as to affected portion as of the date of such taking. In no event shall Tenant have any right or claim to any award or compensation in connection therewith.

28. **Indemnification.** Tenant agrees to indemnify and hold harmless Landlord and its affiliated companies and their agents, servants, directors, officers, shareholders, and employees (“Indemnitees”) from and against any and all liabilities, losses, damages, liens, claims, suits, causes of action, costs (including court costs, attorneys' fees and costs of investigation), and actions of any kind arising out of, caused by, resulting from or alleged to arise by reason of injury to or death of any person or damage to or loss of property occurring on, in, or about the Premises or by reason of any other claim whatsoever of any person or party occasioned or alleged to be occasioned in whole or in part by any act or omission on the part of Tenant or any invitee, licensee, employee, director, officer, servant, contractor, subcontractor or Tenant of Tenant, or by any breach, violation, or nonperformance of any covenant of Tenant under this Lease. If any action or proceeding shall be brought by or against any Indemnitee in connection with any such liability or claim, Tenant, on notice from Landlord, shall defend such action or proceeding, at Tenant's expense, by or through attorneys reasonably satisfactory to Landlord.

29. **Counterparts.** This Lease may be executed in counterparts, each of which shall be deemed an original and all of which shall be one Lease. A signature received by electronic mail in “portable document format” (“.pdf”) or facsimile shall be deemed an original.

30. **Assignment.** Tenant shall not assign, sublet or otherwise transfer its interest in this Lease, or permit the use or occupancy of the Premise by any other person or entity, without the prior written consent of Landlord, which may be withheld in Landlord's sole discretion.

[Signatures appear on the page following]

[Signature page for Farm Lease]

In Witness Whereof, the Landlord and the Tenant have signed this Lease on the day and date first set forth above.

LANDLORD:

VALLEY LANDFILLS, INC., an Oregon corporation

Adrienne Wilhoit

By: _____

Printed Name: Adrienne Wilhoit

Title: Vice President

TENANT:

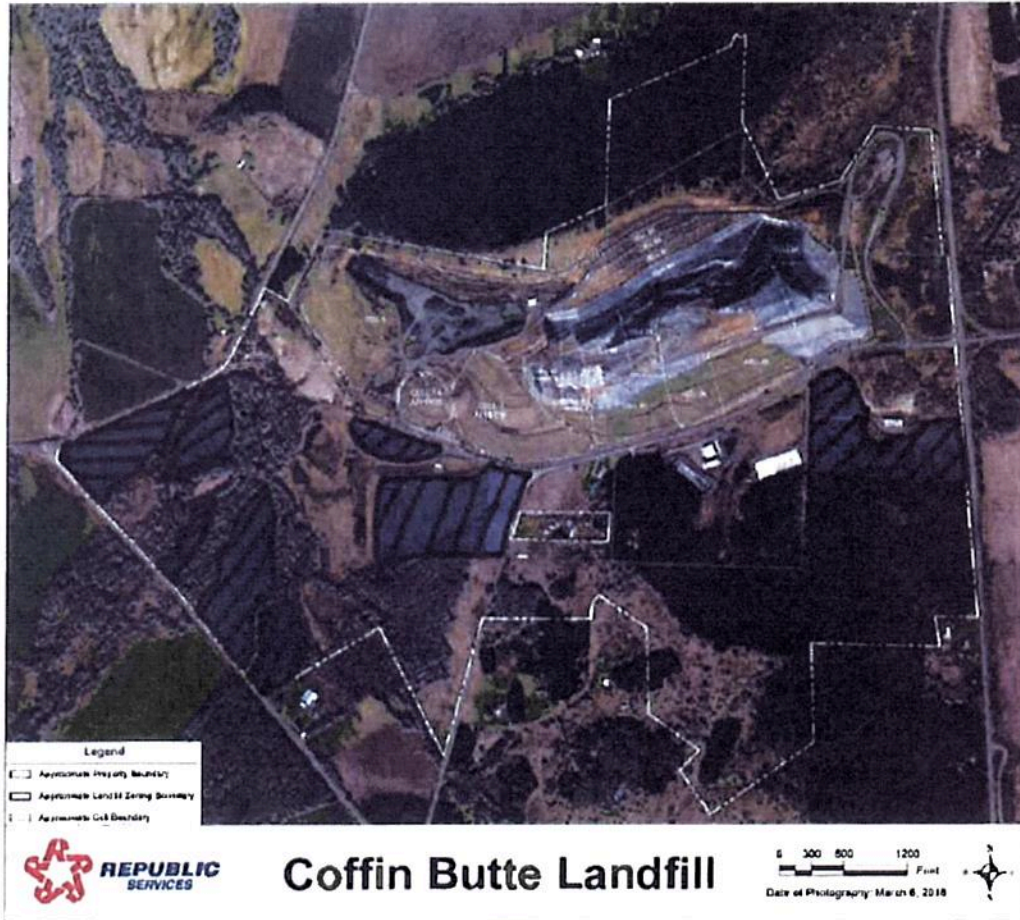
AGRI-INDUSTRIES, INC., an Oregon corporation

By: *Timothy E. Winn*

Printed Name: Timothy E. Winn

Title: President

EXHIBIT "A"



Lot 1105.



Lot 1103 from the office on Lot 1100.



Lot 1103 from Soap Creek Road.



Lot 0103.



Lot 0190.



Lot 0104.



Lot 0200.



Lot 0200.





Foreground is Lot 0220 and distance is Lot 0880.



Lot 0800.



Lot 0400.





Lot 0300.



Lot 0200.



Lot 0201.



Lot 0202.



Lot 0203.



Lot 0301.



Lot 0301 vicinity.



Lots 0900, 0500, and 0600 vicinity.



Another view of lots 0900, 0500, and 0600.



View toward Lot 0200.



Lot 0800.



Lot 0800.

